



Denny Chung

Associate

Infrastructure, Construction & Procurement
Insurance
Aviation

604 643 3167

dchung@cwilson.com

Profile

Denny's practice focuses on complex infrastructure and construction, insurance risk management, and aviation matters. Denny has appeared before all levels of court in British Columbia, various administrative tribunals, and in commercial arbitrations. He represents clients in multi-party mediations, applications for final relief in summary judgment or summary trials, trials, appeals, and commercial arbitrations. His experience includes matters involving multibillion-dollar infrastructure projects, and disputes involving amounts in excess of \$50 million. Denny is recognized in the inaugural edition of Best Lawyers' Ones To Watch 2022.

In construction matters, Denny acts in complex construction disputes for clients throughout the construction pyramid, including lenders, developers, owners, consultants, and contractors. Denny has represented clients in disputes over delay, cost overruns, builders' liens, bonding disputes, and other realization matters relating to force majeure, market price escalation, changed site conditions, scope of work changes, and owner interference. Denny also works with clients on matters involving biomass plants, universities, hospitals, commercial and residential developments, P3 projects, hydroelectric infrastructures and mega-dams, and other infrastructure assets. Denny has experience with receiverships and insolvencies under the Bankruptcy and Insolvency Act in relation to construction projects and disputes. Denny has also assisted owners and developers to enforce insurance coverage in connection with infrastructure projects when issues of design and construction arise.

Additionally, Denny provides contract advice - he reviews, drafts, and negotiates standard form and non-standardized construction contracts for owners, developers, and contractors.

In matters of insurance risk management and aviation, Denny has acted for international insurers and policyholders focusing on professional liability, directors and officers' liability, errors and omissions, product liability, nationwide class action, and mass tort litigation involving claims under the Competition Act and Business Practices and Consumer Protection Act. He has acted for policy holders directly in enforcing insurance coverage in respect of course-of-construction policies and specialized London-Engineering-Group (LEG3) endorsements. Denny has successfully prosecuted claims for a Canadian airline in relation to breaches of aircraft charter agreements.

Denny is particularly experienced with the intricacies and strategies in defending professionals including architects and engineers. In respect to class action defence, his focus is to win early - the goal being to defeat putative class actions at the outset either at class certification or on applications to dismiss. If settlement makes the best business sense, he will secure the most favourable settlement and defeat vigorous objectors.

Work Highlights

Prosecution of breach of airline charter agreement

- > Counsel for a Canadian airline in a successful prosecution of contract and tort claims in respect of an aircraft charter agreement.

Defence of delay and extras claims

- > Arbitration of delay and extras claims on a commercial construction project seeking relief in excess of CAD\$34 million.

Prosecution of delay and deficiency claims

- > Counsel for a waste-management company in respect of a Public-Private-Partnership (PPP) biofuel facility prosecuting claims for delay and deficiencies seeking relief in excess of CAD\$13 million.

[Additional work highlights below](#)

Services

- > Construction disputes and litigation, including performance bonds, labour & material payment bonds, and contract price disputes
- > Builders' liens
- > Property claims
- > Delay claims
- > Bad faith claims
- > Contract disputes
- > Policy drafting and product development
- > Advancing and defending claims for extras
- > Insurance coverage advice

- > Construction deficiency claims
- > Professional indemnity claims
- > Product liability
- > Aviation litigation
- > Class action defence, mass tort litigation
- > Public-Private Partnerships (P3 Projects)
- > Construction contract advice, including reviewing, drafting, and negotiating contract terms
- > Commercial Arbitrations

When a dispute arises and litigation is the only way forward, businesses need to establish a clear strategic path that addresses both their immediate dispute and overall business goal. Denny has a dual ability to dissect and master the facts while keeping sight of the big picture - the goal is to solve the client's immediate issue in such a way that preserves or enhances their overall business objectives. When working with his clients, Denny believes an ongoing and organic dialogue is the best way to achieve success. He ventures to work in partnership with his clients to develop collaborative strategies aligned with their overall business objectives.

Denny's primary focus is risk management - whether that means trial or negotiating a settlement. At the outset, he develops a proactive plan to tackle the problem going forward in the most effective and economical way. In any case, in collaboration with the client, Denny will develop and master the evidence to marshal the client's best case with a view to succeeding at trial at first instance. However, he appreciates there are times when the best result may mean a negotiated settlement and proceeding to trial is not in the client's best interest. At such times he will fight to secure the most favourable settlement that would otherwise not be available.

In all cases, Denny brings ambition, adaptability, and an unstoppable work ethic. He is incredibly detail-orientated. He takes the necessary time to fully understand all of the key details of a dispute, as well as the motivations of each stakeholder in order to tailor his approach to meet his clients' goals. He is highly perceptive, versatile, and fiercely loyal to his clients - Denny is committed to exhausting all efforts to help his clients make the best-informed decisions for their immediate and long-term goals.

Credentials

Industry Involvement

- > Law Society of British Columbia
- > The Lawyers' Inn Society, Board Director, Apr 2018 - June 2020

Education & Call to Bar

- > Call to Bar: British Columbia, 2018
- > Juris Doctor (JD), University of Alberta , 2017

Languages

- > English and Cantonese

Publications

- > The Sky's The Limit: Inconsistent Policy Drafting Results In Unlimited Coverage, 29 Mar 2021
- > Contractor Consistency: The Scope Of A Contractor's Work And All-Risk Policies, 15 Dec 2020
- > Keeping On The Straight And Narrow: Scope Of Faulty Workmanship Exclusions In All-Risk Policies, 12 Nov 2020
- > Lien Claims On Multi-Parcel Projects, 27 Aug 2020
- > COVID-19: Health And Safety Protocols For Construction Sites, 09 Apr 2020
- > Abuse Exclusion - Not A Straight Road To Denial Of Coverage, 11 Mar 2020
- > Do Liability Waivers Even Work?, 26 Feb 2020

Awards & Distinctions

- > Best Lawyers in Canada: Ones to Watch, Insurance Law, 2022

Additional Work Highlights

Prosecution of extras claims

- > Counsel for contractor on multibillion dollar construction project involving extras exceeding CAD\$11 million.

Defence of environmental contamination claims

- > Defence of land contamination claims for breach of contract, nuisance, negligence, and strict liability under Rylands v. Fletcher in respect of alleged contamination spanning multiple decades of lands purchased for commercial development. The claims sought relief exceeding CAD\$5 million including for remediation costs as well as diminution in value of property, marketability, and resale.

Class Action Defence

- > Defence of a multinational supermarket chain in a proposed multi-jurisdictional class action seeking recovery including under the Competition Act and Business Practices and Consumer Protection Act, as well as for unjust enrichment and disgorgement.

Prosecution of lien claim

- > Counsel for trade contractor in claim for unpaid fees and extras, resulting in full payment of lien claims.

Defence of pipeline deficiency claims

- > Counsel for pipeline contractor in defence of claims of construction deficiencies in respect of an oil pipeline.

Defence of geotechnical deficiency claims

- > Counsel for excavation trade contractor in defence of construction deficiencies claims, resulting in favourable settlement and extrication from the action.

Defeating petition for injunctive and declaratory relief to restrict marketing of property

- > Resisting petition for injunctive and declaratory relief against a Strata Corporation to restrict the potential marketing and listing for sale of the common assets, common property or lands of the strata plan: *Buckerfield v The Owners of Strata Plan VR. 92*, 2018 BCSC 839.

Dismissal of action for malicious prosecution

- > Successful in summary dismissal of action against a remanufacturer for claims of malicious prosecution in relation to issues of vicarious liability, and a novel interpretation of the law on malicious prosecution: *Degen v British Columbia*, 2019 BCSC 2498

Dismissal of action for financial misconduct and overcharges

- > Successful dismissal of action against a Strata Corporation for claims of financial misconduct and overcharge in relation to Strata Property Act and corporate Strata bylaws: *Gutmann v. The Owners, Strata Plan LMS 13*, 2019 BCCRT 235

Extrication from action for breach of contract and negligent claims-adjusting

- > Successfully extricated independent adjusting company with zero payment from claims of breach of contract and negligent claims-adjusting

Drafting of cannabis policies and practices for commercial host regulator

- > Redrafting of a provincial commercial-host mandatory training program governing commercial-host policies and procedures in respect to responsible service of alcohol, to reflect the legalization of recreational cannabis in Canada