

# Kara L. Smyth

**Partner**

Calgary

ksmyth@mccarthy.ca

**t.** +1 403-260-3724

**Bar Admission**

Alberta 2001

**Law School**

University of Saskatchewan

**Practices**

Litigation and Dispute Resolution
Class Actions
Corporate Commercial Litigation
Competition Litigation
IP Litigation
Alternative Dispute Resolution

**Industries**

Energy & Resources
Pharmaceutical
Technology
Food, Beverage & Agribusiness

**US and International Markets**

United States

## With a proven record of success, Kara delivers sharp, strategic, and value-added advice for clients' most sophisticated business challenges.

Kara is a partner in the Litigation Group in Calgary and a member of the firm's Board of Partners. Recognized for her innovative approach to handling complex business disputes, Kara's practice focuses primarily on corporate commercial, class action, and public law litigation. A member of the firm's International Arbitration Group and Class Action Group, Kara also has extensive experience in arbitration and has represented clients with respect to matters concerning data compensation for pesticide registrations, market rent and land valuations, and significant contractual disputes in the energy sector.

**...very sharp [Kara] always comes across as better prepared than the other party**

— CHAMBERS CANADA, LITIGATION: GENERAL COMMERCIAL - ALBERTA, CLIENT INTERVIEW

Kara represents a broad scope of clients from a wide range of industries including oil and gas, wind farm development, agribusiness, commercial real estate, retail, and technology in disputes concerning commercial contracts, class actions, departing fiduciary obligations, product liability, and a variety of other matters concerning complex commercial transactions. Kara is familiar with the sensitivities often associated with court actions that receive media attention and has worked closely with in-house and outside public relations persons to tailor her court submissions accordingly.

**...solid and practical litigator**

— CHAMBERS CANADA

Clients appreciate Kara's creativity, responsiveness, and deep industry knowledge as well as her ability to tailor her approach to best suit their business needs. Most of her engagements have been settled outside the litigation process by adopting an aggressive, thorough strategy of early

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preparation and case development. Kara has appeared before all levels of court in Alberta and the Federal Court, for complex interlocutory motions, judicial reviews, trials, and appeals. Some of her recent reported cases include:

- *The Semex Alliance v Hi Tech Dairy Equipments Inc*., 2019 ABQB 70;
- *Aquatech v Alberta (Minister of Environment and Parks)*, 2019 ABQB 62;
- *Four20 Premium Markets Ltd. v Development Authority of The City of Calgary*, 2018 CGYSDAB52;
- *David Suzuki v Syngenta*, [2017] FC 682, 13 C.E.L.R. (4th) 215;
- *Clearview Plumbing & Heating Ltd. and Giraffe Corp v Clockwork IP, LLC et al*, [2018] FC 169, 156 C.P.R. (4th) 321
- *Potvin v Prowse et al* (8 Jul 2018), Calgary T-83-18 (FC)
- *City of Edmonton v Uber*, 2015 ABQB 214;
- *Wenzel Downhole Tools Ltd. v National Oilwell Canada Ltd.*, 2012 FCA 333, [2014] 2 FCR 459, [2012] FCJ No 1654;
- *Balm v Aikins MacAuley & Thorvaldson LLP*, 2011 ABQB 650, 562 A.R. 82 (Q.B.); 2012 ABCA 96, 522 A.R. 402 (C.A.); and
- *Leon's Furniture Limited v Alberta* (Information and Privacy Commissioner), 2011 ABCA 94, 45 Alta. L.R. (5th) 1 (C.A.); [2011] S.C.C.A. No. 260.

Some of Kara's additional representations include:

- *The City of Medicine Hat and LGX Oil + Gas Inc. v Attorney General of Canada, The Minister of the Environment and the Governor General in Council*, FC No. T-12-14; ABQB No. 1401-10147 – counsel for the City of Medicine Hat in a judicial review and constitutional challenge of the first-ever emergency protection order (the "EPO") that was issued by the Minister of Environment under the Species at Risk Act, which has the effect of sterilizing or significantly limiting the oil and gas assets of the applicants. Kara also acts on behalf of the City in the ABQB Action, seeking compensation based on de facto expropriation and injurious affection principles;

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- *Allergan Inc. v Alberta (Minister of Justice and Solicitor General) et al*, ABQB No. 1701-05590 – counsel for Allergan on judicial review of a decision of the Alberta Minister of Health regarding the interchangeability of certain glaucoma drugs;

- Shell Canada – member of transaction team in Shell's C$11.5 billion disposition of 50% of its interest in the Athabasca Oil Sands Project to Canadian Natural Resources Ltd. And its concurrent US$2.5 billion co-acquisition with CNRL of Marathon Oil Canada Corporation;

- *Dow AgroSciences Canada Inc. v Canada (Minister of Health)*, FC No. T1478-08 – counsel for Dow in a judicial review of two decisions of the Pest Management Regulatory Agency;

- *Debby Allen v Direct Energy Marketing Ltd*, ABQB No. 0901-12817 – defence and resolution of a $60 million class action on behalf of Direct Energy regarding its late payment penalty practices;

- *Alzu et al v Smucker Foods of Canada Corp. et al*, ABQB No. 1703-07203 – counsel for Smucker in putative class action involving alleged E.coli contamination of flour; and

- *Dione Setoguchi v Uber Canada Inc. et al*, ABQB No. 1701-16003 – counsel for Uber in a national class action involving alleged damages for a third party data breach.

Outside of the courtroom, Kara contributes to industry publications and blogs. She is also a contributing author of the fifth edition of *Defending Class Actions in Canada*, published by LexisNexis. She is a member of the Canadian Advisory Board to the International Institute for Conflict Prevention & Resolution. She also acts as a mentor both within the firm and as a part of the Martin Family Initiative, a program that is committed to improving education outcomes for Indigenous people in Canada. Kara is involved in the Alberta soccer community including in her role as Secretary and Board member for the Calgary Villains FC.

Kara graduated from the University of Saskatchewan and was called to the Alberta bar in 2001.

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## Awards & Rankings

### Chambers Canada

Band 3: Litigation: General Commercial - Alberta

### The Legal 500 Canada

Leading Lawyer: Dispute Resolution - Alberta

### Benchmark Litigation Canada

Litigation Star: Class Action, Commercial, Public Law

### The Canadian Legal Lexpert Directory

Leading Lawyer: Class Actions; Litigation - Corporate Commercial

### Lexpert Special Edition: Agribusiness and Cannabis

Leading Lawyer

### Lexpert Special Edition: Litigation

Leading Lawyer

### Best Lawyers in Canada

Leading Lawyer: Class Action Litigation

### Best Lawyers in Canada

Leading Lawyer: Corporate and Commercial Litigation

## Recent Experience

- **Athabasca Oil Corporation sells non-core light oil assets for C$160M**
  September 14, 2023
- **Sanofi wins product liability class action**
  May 11, 2023

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- **Uber successfully defends against putative class action related to a third party data breach**
  February 7, 2022

## Recent Insights

- **SCC Rejects Data Breach Class Action Appeals**
  August 9, 2023
- **Appellate Quarterly 05/02/2023 – Key Takeaways**
  May 4, 2023
- **Alberta Court of Appeal upholds dismissal of certification application in proposed data breach class action**
  February 28, 2023
- **Exceptional Circumstances: Court of Appeal for British Columbia Finds New Exception to Reasonableness Review**
  February 7, 2022

## Events

- **Appellate Quarterly**
  May 2, 2023
- **Appellate Quarterly**
  October 13, 2022
- **Canada Class Actions Year in Review – What Happened in 2021 and What to Watch for in 2022**
  April 26, 2022