



## Scott Griffin

### Partner

Vancouver

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t. +1 604-643-7959

### Bar Admission

British Columbia 1985

### Law School

University of Victoria

### Practices

Disputes  
Corporate Commercial Litigation  
Real Estate

The most senior litigator in the Vancouver office and one of the most well-respected real estate litigation counsel in town, Scott Griffin\* has over 30 years of experience in high-stakes complex commercial and real estate litigation. He regularly advises owners and developers of land and commercial properties and has particular expertise in resolving complicated business disputes.

### Scott's cases include the following: Real Estate Litigation

- obtaining the equitable remedy of the forfeiture of a co-owner's half interest in land by reason of his breach of fiduciary duty when misusing a power of attorney in its acquisition: **Wang v. Wang** 2020 BCCA 15 – Court of Appeal;
- obtaining the cancelation of a registered easement on land which prevented its development, the court finding that by changes in the neighbourhood, the land's reasonable use was impeded: **Prior Holdings Ltd. v. The Source Enterprises Ltd.** 2019 BCSC 1871 – Supreme Court;
- enforcing a land purchase contract after a vendor reneged on the sale and obtaining an order for specific performance, with the court concluding that the vendor's witnesses gave false evidence and a fictional narrative in trying to frustrate the sale: **De Cotiis v. Hothi** 2018 BCSC 2271, 2019 BCCA 472 – Court of Appeal;
- obtaining a judgment declaring land easements to be valid and enforceable and enjoining anything that restricts their use: **Birch v. Brenner**, 2015 BCSC 466 – Supreme Court, 2017 BCCA 22 - Court of Appeal;
- obtaining a judgment upholding a lease termination as lawful based on the discovery of an unauthorized marijuana grow operation on the premises and a judgment dismissing a claim for relief from forfeiture, with all of the Landlord's legal costs paid: **07654673 BC Ltd. v. Amacon Dawson Development Partnership**, 2014 BCSC 930 – Supreme Court (Summary Trial with Cross Examinations before the Court);
- trial judgment to specifically enforce a developer's right to exercise an option to purchase land and to confirm the proper interpretation of that contract: **588526 B.C. Ltd. v. Shell Canada Limited**, 2010 BCSC 1559; appeal dismissed 2011 BCCA 306;
- obtaining numerous judgments and orders in the Hotel Le Soleil litigation leading up to the successful final judgment for specific performance,

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- damages and costs, including:
- the trial judgment enforcing an agreement to buy 30 strata lots in the prestigious Hotel Le Soleil in Vancouver, with an order for specific performance to convey the properties together with payment of damages and full legal costs of approximately \$8 million arising from the defendants' deceit, fraud, forgery, manipulated computer records and perjury, including \$200,000 in punitive damages: **Le Soleil Hospitality Inc. Louie**, 2010 BCSC 1183; appeal dismissed 2011 BCCA 305;
- a mareva injunction to prevent sale or dissipation of assets: **567 Hornby Apartments Ltd. v. Le Soleil Hospitality Inc.**, 2009 BCSC 711 — Supreme Court;
- a declaration that a letter of intent was legally enforceable: **Le Soleil Hospitality Inc. v. Louie**, 2006 BCSC 1920 — Supreme Court, 2007 BCSC 595 — Supreme Court; upheld on appeal **Le Soleil Hospitality Inc. v. Louie**, 2008 BCCA 206 — Court of Appeal;
- an interim injunction restraining any breach of the covenant in the letter of intent not to support litigation: **Le Soleil Hospitality Inc. v. Louie**, 2008 BCSC 943 — Supreme Court;
- an order for a stay of related proceedings: **Peh v. The Owners, Strata Plan LMS 3837**, 2008 BCSC 291;
- an order to examine under oath the former lawyers for defendant: **Le Soleil Hospitality Inc. et al. v. Louie et al.**, 2006 BCSC 303 — Supreme Court; and
- various orders for forensic search of computers leading to the discovery of hidden documents.
  
- various judgments in favour of many major Vancouver-based property developers with respect to claims arising from contracts of purchase and sale, including the following judgments:
- a Court of Appeal judgment supporting developer Concord Pacific's entitlement to a \$125,500 deposit against a defaulting purchaser under a contract of purchase and sale of a condominium in Vancouver: **Hinkson Holdings Ltd. v. Silver Sea Developments Limited Partnership**, 2007 BCCA 408 — Court of Appeal; and
- judgment for \$150,000 USD deposit for Intrawest's Blackcomb Skiing Enterprises from a defaulting purchaser under a contract of purchase and sale of a resort condominium in Whistler: **Blackcomb Skiing v. Schneider**, 2000 BCSC 720 — Supreme Court;
  
- a mediated settlement for shopping centre developer Smart Centres for damages for a vendor's failure to deliver site environmentally clean as

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contractually obligated, using evidence of aerial survey of land;

- various judgments in favour of investors in disputes involving Faye Leung and Bill Vander Zalm's Fantasy Gardens company Van's Nurseries Inc., including:
- judgments against Faye Leung for damages for fraud and misappropriation, contempt findings and for the right to recover her million-dollar "commission" on the sale of Fantasy Gardens for investors;
- obtaining an order charging Mr. Vander Zalm's Fantasy Gardens payment to pay for the investors' damages and costs found by the court to be payable to Scott's clients by Ms. Leung;
- judgments include ***Lin v. Leung***, 1992 CanLII 780 (BCSC) — Supreme Court; ***Lin v. Leung***, 1992 CanLII 1400 (BC S.C.) Supreme Court; ***Van's Nurseries Inc. v. Leung***, 1992 CanLII 143 (BCSC) — Supreme Court; ***Van's Nurseries Inc. v. Leung***, 1992 CanLII 463 (BC C.A.) — Court of Appeal; ***Van's Nurseries Inc. v. Leung***, 1992 CanLII 615 (BCSC) — Supreme Court;
- various judgments in favour of landlords under commercial leases, including:
- acting for the Granville Island Hotel to successfully terminate a commercial lease of restaurant/ nightclub tenant;
- the dismissal of tenant's attempt to impose *Residential Tenancy Act* obligations on a landlord's live/work premises: ***Gardiner v. 857 Beatty Street Project***, 2007 BCSC 1393 — Supreme Court; appeal dismissed ***Gardiner v. 857 Beatty Street Project***, 2008 BCCA 82 — Court of Appeal; and
- enforcing a landlord's right under a lease to renovate: ***Ostry v. Warehouse on Beatty Cabaret Ltd.*** (1992), 21 R.P.R. (2d) 1 (BCSC);
- judgment to discharge wrongful caveat and certificate of litigation registered against land of British Columbia Buildings Corporation, with an award of solicitor client costs for abusive use of courts: ***Is. Entertainment v. Rotherham Holdings***, 2005 BCCA 586 — Court of Appeal; leave to appeal to Supreme Court of Canada dismissed with special costs; see also ***Vancouver Island Entertainment Inc. v. Rotherham Holdings Ltd.***, 2005 BCCA 526 — Court of Appeal;
- judgment for a joint venture partner to profits in a land assembly, with the court finding that the other joint venture partner had acted deceptively and in bad faith, with an award of damages and punitive damages for breach of duty to act fairly and in good faith: ***WHA 820 Holdings et al. v. Daymax Management et al.***, 2003 BCSC 1873 — Supreme Court; order staying appeal pending payment of security ***Daymax Management Inc. v. WHA 820 Holdings Ltd.***

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, 2004 BCCA 414 — Court of Appeal;

- an injunction to preserve a hotel management company's right to use strata common property as a hotel front desk in a strata corporation: ***Powder Resort Properties Ltd. v. Friday***, 2001 BCSC 577 — Supreme Court;
- a Court of Appeal judgment enforcing a joint venture agreement to develop land for a group of investors: ***Langley Lo-Cost Builders Ltd. v. 474835 Ltd.***, 2000 BCCA 365 — Court of Appeal; also cited *Langley Lo-Cost Builders Ltd. 474835 B.C. Ltd.*, (2000), 76 B.C.L.R. (3d) 278); and
- a declaration for Intrawest Development Corporation that a right of first refusal was unenforceable: ***Baykey v. North West Office Furniture Ltd.***, 1992 CanLII 568 (BCSC) — Supreme Court.

## Business Litigation

- successfully obtained appeal ruling that solicitor-client privilege had been waived by a party who claimed an agreement was unenforceable by reason of it being signed under duress without legal advice: ***Do Process LP v. Infokey Software Inc.***, 2015 BCCA 52
- defeating injunction application brought against a national distributor: ***Polar Bear Ice Services Inc. v. Arctic Glacier Inc.***, 2010 BCSC 314 — Supreme Court;
- ruling for a national ceramics manufacturer confirming proper litigation procedure on claim: ***School District No. 41 (Burnaby) v. Crane Canada Co.***, 2009 BCSC 1840 — Supreme Court;
- judgment for strata owners against a strata council for breach of the *Strata Property Act*, with the Court finding that in bad faith, the strata council members had abused their power and position so as to misuse money belonging to the strata corporation to fund litigation, ordering the strata council member to personally pay the claimants' legal costs of \$200,000 and pay back to the strata corporation a further \$190,000 in legal fees which they had wrongfully caused the strata corporation to incur: ***Dockside Brewing Co. Ltd. et al. v. The Owners, Strata Plan LMS 3837 et al.***, 2005 BCSC 1209 — Supreme Court; upheld on appeal, ***Dockside Brewing Co. Ltd. v. Strata Plan LMS 3837***, 2007 BCCA 183 — Court of Appeal; leave to apply to Supreme Court of Canada dismissed with costs 2007 3 S.C.R. XV;
- injunction against departing employee: ***B. Constantini Ltd. v. Slozka et al.***, 2006 BCSC 1210 — Supreme Court;
- acting in litigation against investment advisor Ian Thow to enforce rights to accounting: ***James v. Thow et al.***, 2005 BCSC 809 — Supreme Court;

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- successful appeal of property transfer tax litigation by TimberWest Forest Corp. of taxes levied on property registrations arising from amalgamation: **Canadian Forest Products Ltd. et al. v. Her Majesty the Queen (British Columbia) et al.**, 2004 BCSC 1188 — Supreme Court;
- acting for developer against employee for failure to account for development property proceeds and wrongful filing of caveat and certificate of pending litigation, with case settled for complete return of development property proceeds;
- judgment for a shareholder in a software company to enforce an agreement for shares: **Payne v. Memex Software Inc.**, 1998 CanLII 3146 (BCSC) — Supreme Court;
- declaration that breach of lawyer's undertaking of confidentiality in litigation constitutes contempt of court: **Sandbar Construction Ltd. v. Howon Industries Ltd.**, 1998 CanLII 6562 (BCSC)— Supreme Court;
- summary judgment for Preston Gates & Ellis LLP (now K&L Gates LLP) to collect substantial legal fees, recovered by garnishing order: **Preston Gates & Ellis v. NRS Block Bros. Realty Ltd.**, 1996 CanLII 2153 (BCCA) — Court of Appeal; and
- judgment to enforce loan representations of financial institution: **Hong Kong Construction Ltd. v. Nanaimo Credit Union**, 1994 CanLII 2655 (BCSC) — Supreme Court.

## Scott acts as faculty on various legal education courses, recently serving as an instructor for:

- the Continuing Legal Education Society (“Real Estate Fundamentals for Lawyers: When Things Go Wrong - Litigation”);
- the Advocates Society (“Managing the Difficult Witness”);
- the Trial Lawyers Association of British Columbia (“Terminating Commercial Relationships”); and
- the Allan McEachern Course in Trial Advocacy taught at the University of British Columbia Faculty of Law.

## Work in the Community

Scott is a volunteer member of the Board of Directors of the First United Church Community Ministry Society which delivers programs and services in the inner-city Downtown Eastside community of Vancouver. One of the key programs of the Society is legal advocacy work, providing legal assistance, advice and representation to low income and vulnerable people in the Downtown Eastside.

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*\*denotes Law Corporation*

## Awards & Rankings

### Benchmark Litigation - Canada

Litigation Star: Dispute resolution, commercial and real estate

### The Definitive Guide to Canada's Leading Litigation Firms & Attorneys

A local litigation star (British Columbia) in the areas of general commercial and real estate litigation.

## Recent Insights

- **Purchasers Cannot Walk Away: British Columbia Court of Appeal Confirms Unpaid Deposits must be Paid**

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