

# Cobi Dayan

## Partner

### Vancouver

#### OFFICE

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## Industries & Expertise

#### EXPERTISE

Commercial Litigation

## Biography

#### BAR ADMISSION

British Columbia, 2016

#### EDUCATION

- J.D. (with Distinction), University of Alberta, 2015
- B.F.A. (Theatre), University of Victoria, 2011

#### LANGUAGES SPOKEN

English

Cobi practices in corporate, commercial and construction litigation and has represented businesses and individuals on a wide range of matters. He has a diverse litigation practice and regularly appears in court, including the British Columbia Supreme Court, the Provincial Court of British Columbia and the British Columbia Court of Appeal, as well as the Alberta Court of Queen's Bench and Federal Court of Appeal. Cobi has experience in a broad range of complex civil and commercial matters including contractual disputes, debt

collection and recovery, lease disputes, product liability claims, construction litigation and builders liens, real property litigation, and civil conspiracy and fraud. He also has experience appearing in mediation and arbitration proceedings. Cobi takes a value and results-based approach to pragmatically, efficiently and strategically achieve his clients' objectives.

## Industry involvement

### Recognition

- *The Best Lawyers in Canada: Ones to Watch* – Corporate and Commercial Litigation, 2022

### Notable matters

#### Trial Decisions

- *CIT Financial Ltd. v Gee Force Logistics Inc.*, 2020 BCSC 18 – Plaintiff awarded damages and special costs against a corporate lessee and individual guarantor for breach of a commercial lease financing agreement for two commercial trucks. *Trial length: 8 days.*
- *Pattison Outdoor Advertising Limited Partnership v Zon LED LCC*, 2018 BCSC 555 – Plaintiff brought a claim for damages arising from the systemic failure of thousands of newly purchased LED lighting units sold by the Defendant. The primary issue was whether the implied warranty of fitness for purpose under the *International Sale of Goods Act*, RSBC 1996, c. 236 and the *United Nations Convention on Contracts for the International Sale of Goods* (Vienna, 1980) applied. Trial judge found in favour of the Plaintiff and awarded judgment for US \$4.9 million. *Trial length: 5 days.*

#### Court of Appeal

- *LBEL Inc. v. Gee Force Logistics Inc.*, 2022 BCCA 210 – The trial judge found the appellant company and individual guarantor were jointly and severally liable for breach of a commercial lease financing agreement for two commercial trucks. At issue in the appeal were the trial judge's findings on ostensible authority and the personal nature of the guarantee. Appeal dismissed. The trial judge's factual findings were supported in the evidence and entitled to deference. No palpable and overriding error was demonstrated.
- *Forjay Management Ltd. v. Peeverconn Properties Inc.*, 2018 BCCA 251 – Appeal from an order in a receivership proceeding disclaiming multiple condo pre-sale contracts was dismissed. *Hearing length: 1 day.*

#### Petitions and Chambers Decisions

- *Amer Sports Canada Inc. v Adidas Canada Limited*, 2024 BCSC 3 – The Plaintiff commenced a claim against the Defendant for breach of its registered trademark ARCTERYX. The plaintiff successfully obtained an interlocutory injunction restraining the Defendant from using the name TERREX as the name of its retail store located in Vancouver, BC. *Application length: 3 days.*

- *MacKenzie Delta Industrial Ltd. v North American Enterprises Ltd.*, 2019 BCSC 1980 – The claim against the Defendant was held not suitable for summary trial adjudication. *Application length: 2 days.*
- *5277095 Manitoba Ltd. v Morrison Creek Commons Limited Partnership*, 2018 BCSC 1798 – The Plaintiff successfully applied to strike Defendants’ response to civil claim for failure to disclose document pursuant to court orders and obtained an order for default judgment and special costs against them. *Application length: 1 day.*

### **Federal Court and Federal Court of Appeal**

- *Goswami v. Canada*, 2019 FC 1268 – Appeal of a order striking out the Plaintiff’s claim was dismissed.
- *Trademark Tools Inc. v. Miller Thomson LLP*, 2017 FCA 98 – Appellant’s trademark registration was expunged by the Registrar of Trademarks due to failure to provide evidence of use over the preceding three-year period. Appeal to overturn the Registrar of Trademarks’ decision was dismissed with costs. *Hearing length: 1 day.*

### **Community roles**

- Board Member, Jewish Community Centre of Greater Vancouver, November 2017 – Present
- Committee Member, Chutzpah! Festival Advisory Committee, 2021 – Present
- Actor, The Lawyer Show, Vancouver, 2015 – Present

### **Memberships & affiliations**

- Law Society of British Columbia
- Canadian Bar Association