

A white line-art architectural drawing of a modern convention center is set against a teal background. The drawing shows a long, multi-story building with a series of columns and a flat roof. In the foreground, there are several rows of steps leading up to the building. A red square is overlaid on the center of the drawing, containing the white text 'SHK'.

SHK

— TRUSTED LEGAL ADVICE —

CIVIL 402 CONTRACTS

J. Marc MacEwing
September 17, 2020

SHK



DEFINITION

A promissory agreement between two or more parties that creates, modifies or destroys a legal relationship.

FUNDAMENTALS

1. Offer
2. Acceptance (*consensus ad idem*)
3. Consideration
4. Privity - Only a party to a contract can sue or be sued under it

ISSUES

1. Pre-contractual/contractual - invitation to treat
2. Verbal/written
3. Express/implied

UNENFORCEABLE CONTRACTS

1. Misrepresentation
2. Mistake
3. Duress/undue influence
4. Illegal/immoral
5. Lack of capacity

BREACH OF CONTRACT

1. Damages - The amount required to put the non-breaching party in the position it would have occupied had there been no breach
2. Foreseeability
3. Proximity/remoteness

QUANTUM MERUIT AND PERFORMANCE UNDER PROTEST

1. "What it is worth"
2. Entitlement in the absence of contract - in lieu/ceased to exist
3. Section 62 of the British Columbia *Law and Equity Act*

J. Marc MacEwing

PRACTICE AREAS

Bonding
Builders Liens
Construction
Insurance
Tendering and Procurement

INDUSTRIES

Construction
Corporate Development

EDUCATION

LLB, University of British Columbia (1979)
BA, History (with distinction), Victoria University (1975)

BAR ADMISSION

British Columbia, 1980

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Marc graduated from the University of British Columbia Law School in 1979 and was admitted to the British Columbia Bar in 1980.

Since 1982, he has practiced extensively in the area of construction law, focusing on builders liens, tendering disputes, the preparation and analysis of contract documents and construction-related litigation.

Marc has been "Repeatedly Recommended" by the Lexpert Directory as a Leading Practitioner in the construction law practice area for BC, Peer Review Rated "Very High" for Ethical Standards and Legal Ability by LexisNexis Martindale-Hubbell and included in The Best Lawyers in Canada and Who's Who Legal in the Construction Law practice area, and is a Fellow of the Canadian College of Construction Lawyers. He is a member of the editorial board and a contributor to The Continuing Legal Education Society British Columbia Builders Liens Practice Manual.

Marc is also the author of more than 175 published articles on construction law topics and is a frequent lecturer to design professional and construction trade bodies, educational institutions and business and trade seminars.

Marc brings his wealth of construction law experience to every legal task, and is committed to providing the most practical and cost-effective advice for avoiding or minimizing legal problems and resolving construction disputes.





THANK YOU
FOR YOUR TIME

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