

# Carol Ann Albert

**Citizenship: Canadian**

**Education:**

- 1998 LL.M. in Alternative Dispute Resolution, Osgoode Hall Law School, York University
- 1995 Certificate in Mediation, The Mediation Academy
- 1982 Admitted to Ontario Bar
- 1980 J.D., Osgoode Hall Law School, York University
- 1975 B. Music (Honours Music Theory), McGill University

**2019 to present:**

- Mediator and Arbitrator, ADR Chambers, Toronto

**1998 to 2018:**

- Case Management Master, Superior Court of Justice, Ontario
- Full time construction lien master since 2005, presiding over reference trials, pretrials and motions

**1982 to 1998:**

- Associate and subsequently partner, Gardiner, Roberts LLP, Toronto practicing in litigation and conducting mediations

**Experience:**

Carol Albert has over 30 years of experience working within Ontario's justice system, as a practising lawyer, a legal educator and dispute resolution trainer, an arbitrator, a mediator and a judicial officer specialized in case management and dispute resolution. As a Master of the Superior Court of Ontario Carol Albert incorporated alternative dispute resolution and case management techniques in references in construction lien actions.

**Service in and Knowledge of Developing Countries:**

Through her work with the Canadian Bar Association's International Development Committee and the World Bank, Carol Albert has an understanding of the challenges and issues that need to be addressed in a wide range of legal reform initiatives in countries as diverse as Uganda, Tanzania, Kenya, Ethiopia, South Africa, Bangladesh, Cambodia, Vietnam and China. Master Albert has participated in mediation training and law reform missions in Uganda, Tanzania, Kenya and Bangladesh.

**Membership in Associations:**

Honourary Fellow, Canadian College of Construction Lawyers, 2014 to present

- Invited to join a college of leading construction lawyers in Canada dedicated to excellence in the specialized practice of construction law.

Member, Canadian Bar Association, 1983 to 2018

- International Development Committee, 1999 to 2009
- Civil Justice Task Force – Implementation Committee and Chair, Working Group on Alternative Dispute Resolution

- Executive Member, Alternative Dispute Resolution Section, 1997-1998
- Member of Council, 1987 to 1998
- Chair, Ontario Continuing Legal Education Committee and Member of Executive, 1993-1995
- Executive Member, Ontario Alternative Dispute Resolution Section, 1996-1999
- Member of Council, 1987-1998

Other organizations:

- The Advocates Society, the Toronto Lawyers Association and the Women's Law Association.

### **Sample of Published Decisions (Construction Cases)**

- *Vestacon Limited v. ARC Productions Ltd.*, 2018 ONSC 5366
- *Ken Tulloch Construction Ltd. v. 1684567 Ontario Inc.* (2018), 2018 ONSC 2071, 2018 CarswellOnt 5007
- *Roni Excavating Limited v. Plus Development Group Corp.*, 2018 ONSC 2219
- *Dominion Drywall Systems Limited v. Volta Lofts Inc.* (2018), 2018 CarswellOnt 4355, 2018 ONSC 1918, C.
- *Perfect Plastering Limited v. 863704 Ontario Ltd.*, 2017 ONSC 7433
- *MGI Construction v. Donset Construction and Venture Excavating v Donset Construction*, 2017 ONSC 4134
- *Walsh Construction/ Bondfield Partnership v Chartis Insurance Company of Canada*, 2017 ONSC 3985
- *Dirm 2010 Inc. v. Prestressed Systems Incorporated*, 2017 ONSC 2174
- *Dolvin Mechanical Contractors Ltd. v. Edge on Triangle Park Inc., (Pacific Hardwood Limited, moving party)* 2016 ONSC 5461; costs: 2016 ONSC 7012
- *Diamond Drywall Contracting Inc. v. Ikram*, 2016 ONSC 5411
- *Limen Group Ltd. v Allform Group Ltd.* (2016), 2016 CarswellOnt 10590, 2016 ONSC 4344
- *Becerra v. Ronchin*, 2016 ONSC 4232; 69 C.L.R. (4<sup>th</sup>) 152
- *Clarkway Construction Ltd. v. 2247129 Ontario Inc.*, 2016 ONSC 3991
- *JMCC Ltd. v. Buttcon Limited*, 2016 ONSC 3202
- *D & M Steel Ltd. v. 51 Construction Ltd. and Jing Yin Temple*, 2015 ONSC 1335
- *Balmoral Custom Homes Ltd. v. Biggar*, [2016] O.J. No. 224; 2016 ONSC 319; motion to oppose confirmation dismissed May 11, 2016 (Matheson, J.), appeal dismissed [2016] O.J. No. 6639 (C.A.)
- *Khalimov v. Hogarth* (2015), 2015 ONSC 6244, 2015 CarswellOnt 15551; appeal dismissed April 8, 2016 (Sachs, J.); leave to appeal to Court of Appeal dismissed August 23, 2016 (Feldman, Simmons, Lauwers, JJ.A., file M46418)
- *Beta Construction Inc. v He-Xing Chiu and Kin-Hung Chiu*, 2015 ONSC 5288; (2015), 2015 CarswellOnt 12694, additional reasons (2015), 2015 CarswellOnt 12959, 2015 ONSC 5353
- *Carillion Construction Inc. v. Imara (Wynford Drive) Limited*, 2015 ONSC 3658
- *Provincial Partitions Ltd. v. Toronto (City)* (2015), 2015 CarswellOnt 6264, 2015 ONSC 2839
- *4361814 Canada Inc. v Dalcour Inc., Unimac-United*, 2015 ONSC 1481; costs: 2015 ONSC 2486; judicial review dismissed: (2015), 2015 CarswellOnt 11914, 2015 ONSC 4760 (Div. Ct.); 2015 ONSC 4874, 2016 CarswellOnt 12249 (Div.Ct. costs)
- *Hydrastone Inc. v. Clearway Construction Inc.*, 2015 ONSC 2669
- *Butko.v.Ratayeva*, 2015 ONSC 1102

- *Cleanol Integrated Services Ltd. v. Johnstone*, 2015 ONSC 768 (trial decision); 2014 ONSC 3783 (CanLII)
- *Govan Brown & Associates Limited v Equinox 199 Bay Street Co. et al*, 2014 ONSC 3924 (CanLII)
- *Galrich Restoration Inc. v. 1597181 Ontario Inc.*, 2014 ONSC 1933 (CanLII)
- *Emily Creek Woodworking Ltd. v Disi-Peri Mgt Inc*, 2014 ONSC 1294 (CanLII)
- *Canada-Wide v. ABCO One Corporation, City of Toronto and TTC*, 2014 ONSC 1044 (CanLII)
- *Strong Foundation Inc. v. City of Toronto and ABCO One Corporation*, 2014 ONSC 1043 (CanLII)
- *Volvo Rents v. ABCO One Corporation and City of Toronto*, 2014 ONSC 1045 (CanLII)
- *2101641 Ontario Corporation v. Devdas Suvarna et al*, 2013 ONSC 7247
- *Webb & Lashbrook Inc. v. Sorbara*, 2013 CarswellOnt 16011; 2013 ONSC 7278
- *Pegah Construction Ltd. v. Panterra Mansions Joint Venture* [2013] O.J. No. 2543; 2013 ONSC 3226
- *Homewood Development Inc. v 2010999 Ontario Inc. and Meridian Credit Union Limited*, 2013 ONSC 4441
- *Advanced Precast Inc. v. Brown Daniels Associates Inc.* [2013] O.J. No. 2101; 2013 ONSC 2768
- *Thyssenkrupp Elevator (Canada) Ltd. v. 1147335 Ontario Inc.* [2013] O.J. No. 1851; 2013 ONSC 2452
- *1269016 Ontario Ltd. v. Ellis* [2013] O.J. No. 1677; 2013 ONSC 2185
- *Cohen v. Brin* [2013] O.J. No. 905; 2013 ONSC 1302
- *1269016 Ontario Ltd. v. Ellis* [2013] O.J. No. 568; 2013 ONSC 846
- *Thyssenkrupp Elevator (Canada) Ltd. v. 1147335 Ontario Inc.* [2013] O.J. No. 294; 2013 ONSC 485
- *Lido Cabinet Ltd. v. Joy* [2012] O.J. No. 4190; 2012 ONSC 5058; 2012 CarswellOnt 11114; 220 A.C.W.S. (3d) 320; 17 C.L.R. (4th) 158
- *D'Urzo Demolition Inc. v. Damaris Developments Inc.* [2012] O.J. No. 3217; 2012 ONSC 3938; 15 C.L.R. (4th) 229; 220 A.C.W.S. (3d) 23; 2012 CarswellOnt 8750
- *Rosedale Kitchens Inc. v. 2114281 Ontario Inc.* [2012] O.J. No. 2470; 2012 ONSC 3161; 15 C.L.R. (4th) 67; 2012 CarswellOnt 6816; 216 A.C.W.S. (3d) 830
- *D'Urzo Demolition Inc. v. Damaris Developments Inc.* [2012] O.J. No. 1298; 2012 ONSC 1912; 15 C.L.R. (4th) 210; 213 A.C.W.S. (3d) 888; 2012 CarswellOnt 3535
- *Jorcel Construction Ltd. v. Vinet* [2012] O.J. No. 1050; 2012 ONSC 1583
- *Schindler Elevator Co. v. 1147335 Ont. Inc.* [2012] O.J. No. 218; 2012 ONSC 505; 11 C.L.R. (4th) 132; 212 A.C.W.S. (3d) 371; 2012 CarswellOnt 609
- *Dazz Construction Inc. v. Sergyeyeva* [2011] O.J. No. 5744; 2011 ONSC 7482; 12 C.L.R. (4th) 175; 2011 CarswellOnt 14263; 210 A.C.W.S. (3d) 369
- *Gokdenz Construction Ltd. v. Dalakis* [2011] O.J. No. 5393; 2011 ONSC 7135; 14 C.L.R. (4th) 303; 2011 CarswellOnt 13395; 211 A.C.W.S. (3d) 19
- *Thyssenkrupp Elevator (Canada) Ltd. v. 1147335 Ontario Inc.* [2011] O.J. No. 3884; 2011 ONSC 5144
- *Thyssenkrupp Elevator (Canada) Ltd. v. 1147335 Ontario Inc.* [2011] O.J. No. 3847; 2011 ONSC 5073
- *Sherwood Custom Homes Inc. v. Ulanov* [2011] O.J. No. 3682; 2011 ONSC 4712; 8 C.L.R. (4th) 312; 2011 CarswellOnt 8109

- *August Contracting Ltd. v. 1298781 Ontario Inc.* [2011] O.J. No. 3016; 2011 ONSC 4055; 4 C.L.R. (4th) 65; 2011 CarswellOnt 5737
- *Voka Steel Inc. v. Edgecon Construction Inc.* [2011] O.J. No. 2436; 2011 ONSC 3231
- *Hayes v. Silva* [2011] O.J. No. 2315; 2011 ONSC 3109; 6 C.L.R. (4th) 156; 2011 CarswellOnt 3575
- *Heritage Construction Group Ltd. v. Cao* [2011] O.J. No. 2138; 2011 ONSC 2921
- *Thyssenkrupp Elevator (Canada) Ltd. v. 1147335 Ontario Inc.* [2011] O.J. No. 2078; 2011 ONSC 2823; 1 C.L.R. (4th) 96; 2011 CarswellOnt 3087
- *Hayes v. Silva* [2011] O.J. No. 1945; 2011 ONSC 2665; 6 C.L.R. (4th) 147; 2011 CarswellOnt 2783
- *Colonnade Plumbing & Mechanical Contractors Ltd. v. Jerry Hefner Holdings Ltd.* [2011] O.J. No. 1847; 2011 ONSC 2541; 2 C.L.R. (4th) 86; 2011 CarswellOnt 2712
- *Voka Steel Inc. v. Edgecon Construction Inc.* [2011] O.J. No. 1430; 2011 ONSC 1938
- *Lomoth v. Maslo* [2011] O.J. No. 699; 2011 ONSC 1074
- *Thyssenkrupp Elevator (Canada) Ltd. v. 1147335 Ontario Inc.* [2010] O.J. No. 5884; 2011 ONSC 998
- *Lomoth v. Maslo* [2010] O.J. No. 5568; 2010 ONSC 7055
- *N.K.P. Painting Inc. v. Burnac Holdings Ltd.* [2010] O.J. No. 5400; 2010 ONSC 6902; 100 C.L.R. (3d) 116; 2010 CarswellOnt 9568
- *Juddav Designs Inc. v. Cosgriffe* [2010] O.J. No. 5117; 2010 ONSC 6597; 99 C.L.R. (3d) 137; 2010 CarswellOnt 8955
- *Schindler Elevator Co. v. 1147335 Ont. Inc.* [2010] O.J. No. 3936; 2010 ONSC 5234
- *1508270 Ontario Ltd. v. Prusky* [2010] O.J. No. 3515; 2010 ONSC 4484
- *Schindler Elevator Co. v. 1147335 Ontario Inc.* [2010] O.J. No. 3186
- *Landmark II Inc. v. Aquino* [2010] O.J. No. 3180; 2010 ONSC 4122
- *1508270 Ltd. v. Prusky* [2010] O.J. No. 2786; 2010 ONSC 3523
- *JV Mechanical Ltd. v. Steelcase Construction Inc.* [2010] O.J. No. 1600; 2010 ONSC 2274; 93 C.L.R. (3d) 123; 2010 CarswellOnt 2359; 93 C.P.C. (6th) 85
- *1022423 Ontario Ltd. (c.o.b. Trace Electric) v. Metcap Living Management Inc.* [2010] O.J. No. 1190; 2010 ONSC 1782
- *Federated Contractors Inc. v. Ann-Maura Developments Inc.* [2010] O.J. No. 1072; 2010 ONSC 1664
- *JV Mechanical Ltd. v. Steelcase Construction Inc.* [2010] O.J. No. 1073; 2010 ONSC 1443; 93 C.L.R. (3d) 109; 2010 CarswellOnt 1522; 93 C.P.C. (6th) 71
- *Vaughan-Scape Landscape Contractors Inc. v. Watermark Developments Ltd.* [2010] O.J. No. 853; 2010 ONSC 1365
- *Hull Enterprises v. 924920 Ontario Inc.* [2010] O.J. No. 820; 2010 ONSC 892
- *Federated Contractors Inc. v. Ann-Maura Developments Inc.* [2010] O.J. No. 303; 2010 ONSC 346
- *Donenfeld v. Goldman* [2010] O.J. No. 236; 2010 ONSC 677
- *Janamian v. Riocan (Empress Walk) Holdings Ltd.* [2010] O.J. No. 1360; 2010 ONSC 2022
- *Brian T. Fletcher Construction Co. v. 1707583 Ontario Inc.* [2009] O.J. No. 5978; 93 C.L.R. (3d) 128; 2009 CarswellOnt 8879
- *1306474 Ontario Inc. v. Sharpe*, [2009] O.J. No. 6350; 2 C.L.R. (4th) 337; 2009 CarswellOnt 9739
- *Brian T. Fletcher Construction Co. v. 1707583 Ontario Inc.* [2009] O.J. No. 2049; 80 C.L.R. (3d) 143; 2009 CanLII 25134; 2009 CarswellOnt 2805

- *Ledcor Construction Ltd. v. Canalfa Liberty Village Homes Inc.* [2009] O.J. No. 1142; 79 C.L.R. (3d) 269; 2009 CarswellOnt 1475
- *Schindler Elevator Co. v. 1147335 Ont. Inc.* [2009] O.J. No. 5980
- *Salit Steel, a division of Myer Salit Ltd. v. Mondiale Development Ltd.* [2009] O.J. No. 958; 78 C.L.R. (3d) 54; 176 A.C.W.S. (3d) 336; 2009 CarswellOnt 1234
- *JV Mechanical Ltd. v. Steelcase Construction Inc.* [2009] O.J. No. 5904; 85 C.L.R. (3d) 285; 2009 CarswellOnt 3560
- *Khatachadourian v. Roopchand* [2009] O.J. No. 5979 (Civil action)
- *JV Mechanical Ltd. v. Steelcase Construction Inc.* [2008] O.J. No. 5777; 85 C.L.R. (3d) 276; 2008 CarswellOnt 9062
- *Funrooms.ca Inc. v. Wong* [2008] O.J. No. 5888
- *Lucas v. Marin* [2008] O.J. No. 5884
- *Ledcor Construction Ltd. v. Canalfa Liberty Village Homes Inc.* [2008] O.J. No. 5854
- *1598490 Ontario Ltd. v. Ter-Con Forming Ltd.* [2008] O.J. No. 5677; 77 C.L.R. (3d) 80; 2008 CarswellOnt 7346
- *David J. Cupido Construction Ltd. v. Humphrey Funeral Home & Chapel Ltd.* [2008] O.J. No. 2911; 168 A.C.W.S. (3d) 708; 73 C.L.R. (3d) 238; 2008 CarswellOnt 4382
- *Canadian Affordable Roofing Ltd. v. Law* [2008] O.J. No. 3817
- *D.C. Group (Ontario) Inc. v. Wong* [2008] O.J. No. 5887
- *Lewis Builds Corp. v. Printing Factory Lofts Inc.* [2008] O.J. No. 5889
- *Classic Millwork Co. v. Zharnitsky* [2008] O.J. No. 5886
- *Bayan Construction Ltd. v. Cusimano* [2008] O.J. No. 1513; 70 C.L.R. (3d) 123; 2008 CarswellOnt 2210; 169 A.C.W.S. (3d) 950
- *Classic Millwork Co. v. Zharnitsky* [2008] O.J. No. 5885
- *Shaaravi (c.o.b. Floor Covering Supplies) v. Kreshtopova* [2008] O.J. No. 742; 73 C.L.R. (3d) 116; 2008 CarswellOnt 1061; 164 A.C.W.S. (3d) 949
- *Belavin Group Inc. v. Muller* [2008] O.J. No. 595; 164 A.C.W.S. (3d) 966; 75 C.L.R. (3d) 238; 2008 CarswellOnt 816
- *C.A.P. Concrete Forming Ltd. v. Cochren Contractors and Engineers Inc.* [2007] O.J. No. 5711; 2007 CarswellOnt 10021
- *Classic Millwork Co. v. Zharnitsky* [2007] O.J. No. 5712
- *1508270 Ontario Ltd. (c.o.b. Arya Kitchens) v. Laudervest Development Ltd.* [2007] O.J. No. 5434
- *Schindler Elevator Co. v. 1147335 Ontario Inc.* [2007] O.J. No. 3772; 65 C.L.R. (3d) 110; 161 A.C.W.S. (3d) 478; 2007 CarswellOnt 6253; 2007 CanLII 41280
- *1508270 Ontario Ltd. (c.o.b. Arya Kitchens) v. Laudervest Development Ltd.* [2007] O.J. No. 5438
- *Rebelo (c.o.b. Contour Construction) v. Borody* [2007] O.J. No. 5713
- *Greyfield Construction Co. v. Dyck* [2007] O.J. No. 5715
- *JCP Construction Co. v. 1520705 Ontario Inc.* [2007] O.J. No. 3093; 64 C.L.R. (3d) 144; 159 A.C.W.S. (3d) 345; 2007 CarswellOnt 5121
- *Greyfield Construction Co. v. Dyck* [2007] O.J. No. 5716
- *Rebelo (c.o.b. Contour Construction) v. Borody* [2007] O.J. No. 5714; 89 C.L.R. (3d) 204; 2007 CarswellOnt 10019
- *Rebelo (c.o.b. Contour Construction) v. Borody* [2007] O.J. No. 1103; 61 C.L.R. (3d) 154; 156 A.C.W.S. (3d) 29; 2007 CarswellOnt 1694
- *1557675 Ontario Ltd. v. Dang* [2007] O.J. No. 486; 155 A.C.W.S. (3d) 535 (civil)

- *Dirm Inc. v. Dalton Ltd.* [2006] O.J. No. 3355; 67 C.L.R. (3d) 59; 2006 CarswellOnt 5091
- *Crownwood Construction Ltd. v. Omartech Construction Inc.* [2006] O.J. No. 2466; 55 C.L.R. (3d) 134; 149 A.C.W.S. (3d) 193; 2006 CanLII 20683; 2006 CarswellOnt 3715; [2006] O.T.C. 231
- *Crownwood Construction Ltd. v. Omartech Construction Inc.* [2006] O.J. No. 2481 (report)
- *Dixon v. Toronto Transit Commission* [2006] O.J. No. 3289
- *Crownwood Construction Ltd. v. Omartech Construction Inc.* [2006] O.J. No. 873; 54 C.L.R. (3d) 86; 146 A.C.W.S. (3d) 414; 2006 CarswellOnt 1337; [2006] O.T.C. 231