Caldwell & Co. Law Corp.

401-815 Hornby Street
Vancouver, B.C.
V6Z 2E6
CANADA

Telephone (604) 689-8894
Email: bcaldwell@admiraltylaw.com

Brad M. Caldwell

Curriculum Vitae: Brad M. Caldwell

PRACTICE AREAS

Maritime litigation including: marine insurance, arrest and seizure of vessels, mechanical failure disputes, vendor/purchaser disputes, marine surveyor's errors and omissions defences; assertion of necessaries claims, licence disputes, sale of goods, salvage, collisions, and defence of fisheries prosecutions.

Maritime commercial practise including: vessel purchases, charter party agreements, and shipbuilding contracts.

Administrative law including: ***Member of the Transportation Appeal Tribunal of Canada***, licence appeals, coroner's inquests, judicial inquiries, and judicial review proceedings in the Federal Court.

Aboriginal including: acting as solicitor and litigation counsel for a coastal First Nation (20 plus years) and acting as litigation counsel in aboriginal fishing rights litigation.

PROFESSIONAL ORGANIZATIONS

Chair of the Canadian Bar Association (B.C. Branch) sub-committee that successfully obtained an amendment to the British Columbia *Personal Property Security Act* allowing for encumbrances against fishing licenses.

West coast co-chair of Fisheries Sub-Committee of the Canadian Maritime Law Association (1997 to present).

Member – Executive Committee of the Canadian Maritime Law Association

Member - Law Society of British Columbia.

Member - Marine Insurance Association of British Columbia.

Member – Vancouver Maritime Arbitrators Association.

Past chair of the Maritime Law subsection of the B.C. branch of the Canadian Bar Association (1998-2000).

LOCATION

Located in downtown Vancouver within two blocks of the Federal Court of Canada, the Supreme Court of British Columbia, and the Supreme Court law library.

EDUCATION

LL.B. (1984), University of Victoria Law School, Victoria, British Columbia.

Insurance Institute of British Columbia (2005) - Marine Claims Course.

Advanced Mediation Certificate, C.L.E. 1998.

MARITIME EXPERIENCE

Prior to and during law school worked as towboat worker in the coastal waters of B.C., fisher harvester, commercial diver, shore worker, and stevedore.

SPECIAL LECTURES AND SEMINARS

Lecture at the University of British Columbia Law School: *Defence of Fisheries Prosecutions* (March 2015; November 2006; 19 October 2004).

Lecture at the Seminar of the Transportation Appeal Tribunal of Canada (Ottawa 3 June 2011): *Hip Pocket Guide to Search and Seizure*.

Lecture at the Federal Court and Federal Court of Appeal Judge's Seminar jointly sponsored by the Judicial Institute of Canada and the Canadian Maritime Law Association (Ottawa 15 April 2011): *Federal Court Fisheries Issues: A Survey of Fisheries Cases Commonly Heard in the Federal Court of Canada*.

Lecture to the Marine Insurance Association of British Columbia (Vancouver 29 May 2006): *Marine Insurance Coverage for Negligence*.

Lecture to Continuing Legal Education - Federal Court Practice Update and presented paper: *Crown Liability* (Co-written by Robert Whittaker from the Department of Justice) - also participated in panel on J*udicial Review* (Vancouver 19 September 2003).

Lecture at Federal Court Judge's Seminar jointly sponsored by the Federal Court of Canada and the Canadian Maritime Law Association: *Federal Court Fisheries Issues: A Survey of Fisheries Cases Commonly Heard in the Federal Court of Canada - Judicial Review, In Rem Actions Against Fishing Vessels and Damage Actions* - (Ottawa 12 April 2002).

Lecture to the market committee of the Association of Marine Underwriters: *Liabilities of Marine Underwriters to Insureds and co-insureds* (Vancouver 13 January 2000).

Lecture to the Association of Marine Underwriters: *Surveyor's Negligence* (Vancouver 26 May 1999).

Lecture to the Association of Marine Surveyors: *Surveyor's Negligence* (Vancouver June 1999).

Attended panel debate of the *Pacific Salmon Treaty* to Dartmouth College Lawyer's Association Continuing Legal Education Association Seminar (Whistler September 1998).

Lecture to the International Bar Association: *Pacific Salmon Treaty* (Vancouver September 1998).

Lecture to Continuing Legal Education Fisheries Law course: *Licence Appeals* (Vancouver May 1991).

PUBLICATIONS

Underlined titles in blue contain links to the article. A more frequently updated list of publications with links is located at http://www.admiraltylaw.com/fisheries/Fpapers.php Readers are cautioned that these papers are not updated to reflect current developments.

- Editor of the Fisheries Law section of Admiraltylaw.com
- "B.C. Provincial Sales Tax On Boats": A Refresher" Western Mariner (June 2013)
- "Amendments to *Personal Property Security Act* Take Effect 1 September 2012: Banks Permitted to take Security over Fishing Licences" Western Mariner (July 2012)
- "Shipbuilding Contracts: Allocating Risk Between Purchaser and Builder" Western Mariner (June 2012)
- "Province of BC Amends Personal Property Security Act to Allow Encumbrances Against Fishing Licences" Western Mariner (January 2012)
- "Federal Court Fisheries Issues: A Survey of Fisheries Cases Commonly Heard in the Federal Court of Canada" - Judicial Review, In Rem Actions Against Fishing Vessels and Damage Actions - Presented to the Federal Court in April of 2011 (Sponsored by the Canadian Judicial Council and the Canadian Maritime Law Association)
- "Hip Pocket Guide to Search and Seizure" Western Mariner (October 2010) See also digest of *R. v. Mission Western Developments*, 2011 BCSC 1378.
- "CONDUCT OF CANADIAN PUBLIC INQUIRIES and the COHEN COMMISSION" Western Mariner (March 2010)
- " CONSTITUTIONAL CHALLENGE TO BRITISH COLUMBIA WCB REGULATION OF FISHING INDUSTRY FAILS" Fisherman Life (Spring 2009)
- "TAX TREATMENT OF FISHING LICENCES RETIRED PURSUANT TO GOVERNMENT BUY BACK PROGRAMS" Fisherman Life (April/May 2008)
- "A REFORMULATION OF THE INTERJURISDICTIONAL IMMUNITY DOCTRINE - Case Comment on Canadian Western Bank v. Alberta and British Columbia (A.G.) v. Lafarge" Presented to the maritime subsection of the B.C. branch of the Canadian Bar Association (25 October 2007)
- "CONFLICTS WITH MARINA OPERATORS - THE PUBLIC RIGHT OF NAVIGATION AND RIPARIAN RIGHTS COLLIDE" Fisherman Life (October 2007), Mariner Life (October 2007)
- "BILL C-45 COMPLIANCE PROVISIONS" Fisherman Life (April 2007)
- "CAPITAL GAINS AND TRANSFERS OF FISHING PROPERTY : 2006 FEDERAL BUDGET PROPOSALS" Fisherman Life (January 2007)
- "MARINA OPERATOR'S LIENS" Mariner Life (October 2005), Fisherman Life (October 2005)
- "IGNORANCE OF THE LAW IS NO EXCUSE . . . OR IS IT? The Defence of Officially Induced Error" Fisherman Life (July 2006)

- "MARINE INSURANCE COVERAGE FOR NEGLIGENCE" Presented to the Marine Insurance Association of British Columbia (29 May 2006)
- "FISHING LICENCES AS SECURITY FOR LOANS: An Incremental Step Forward by the Nova Scotia Court of Appeal" Fisherman Life April 2006
- "MARINE INSURANCE COVERAGE FOR NEGLIGENCE" Mariner Life (December 2005), Fisherman Life (December 2005) Note: See the above paper of the same title presented to the M.I.A.B.C. For a more complete paper with footnotes (link).
- "MARINE INSURANCE COVERAGE FOR MACHINERY DAMAGE CLAIMS" Mariner Life October 2005; Fisherman Life (October 2005)
- "LICENCE TRUSTS AND FRUSTRATION OF CONTRACT" Fisherman Life (July 2005)
- "SENTENCING FOR VIOLATIONS OF THE FISHERIES ACT PART II" Fisherman Life(April 2005)
- "SENTENCING FOR VIOLATIONS OF THE FISHERIES ACT" Fisherman Life (January 2005)
- "APPLYING CANADIAN ENVIRONMENTAL ASSESSMENT ACT TO FISHERIES" Fisherman Life (Oct. 2004)
- "Comite Maritime International Meets in Vancouver" Western Mariner (July 2004)
- "LEGAL STATUS OF CREW MEMBERS IN THE WEST COAST FISHING INDUSTRY" Western Mariner/Western Fish and Seafood (Winter 2003/4)
- "CROWN LIABILITY" C.L.E. of British Columbia FEDERAL COURT PRACTICE UPDATE - 2003 by Brad Caldwell and Robin Whittaker
- "Salvour of Zodiac Receives $240 Salvage Settlement and $77,000 Damage Award for False Imprisonment Caused by Ungrateful Vessel Owner" Western Fish and Seafood (August 2003)
- " THE TREATMENT OF FISHING LICENCES AS FAMILY ASSETS UPON THE BREAKUP OF A MARRIAGE" Western Fish and Seafood (June 2003)
- LAST NAIL IN THE COFFIN OF CARPENTER FISHING V. THE QUEEN Western Fish and Seafood (March 2003)
- " FEDERAL COURT FISHERIES ISSUES: A SURVEY OF FISHERIES CASES IN THE FEDERAL COURT" Presented to the Federal Court Judge's Seminar 12 April 2002 (Sponsored by the Federal Court of Canada and the Canadian Maritime Law Association) See updated 2011 paper above.
- "LICENCE TRUSTS: DISPUTES OVER ENTITLEMENT" Fisherman Life (July 2002)
- "SHIPBUILDING CONTRACTS" Mariner Life September 2002; Fisherman Life October 2002; Reprinted Mariner Life March and April 2006
- "UNCLOS: UNITED NATIONS FISHING AGREEMENT" Mariner Life (March 2002)
- "MEDIATION" Fisherman Life (October 2001)
- "The Representational Agreement Act: Planning For The Future Mental Incapacity" Fisherman Life (July 2001)
- "When Licence Trades Go Wrong: Appealing The Licence Appeal Board" Fisherman Life (April 2001)
- "Agreements For Sale Of Ships - Must They Be In Writing" Westcoast Fisherman (February 2000)
- "Liabilities Of Marine Underwriters To Insureds And Co-Insureds" Presented To The Market Committee Of The Association Of Marine Underwriters Of B.C. (13 January 2000)
- "Licence Swaps" Westcoast Fisherman (May 2000)
- "The Pacific Salmon Treaty: A Brief Truce In The Canada/U.S. Pacific Salmon War" (1999) 57 Advocate 379
- "R. V. Marshall" Westcoast Fisherman (February 1999)
- "Surveyors Negligence" Presented To The Association Of Marine Underwriters Of B.C. 26 May 1999; Published Westcoast Fisherman (November 1998)

- "Licence Sanctions: A Court Imposes Limits On The Minister's Discretion" Westcoast Fisherman (August 1999)
- "Nothing Is Certain In Life Except Death, Taxes And The Government Looking After Itself" Westcoast Fisherman (May 1999)
- "Canada's Salmon And Turbot Wars" Westcoast Fisherman (February 1999)
- "Ocean Pasturage And The Pacific Salmon Treaty" Westcoast Fisherman (August 1998)
- "Arrest Of Fishing Vessels" Westcoast Fisherman (May 1998)
- "Carpenter Fishing Overturned On Appeal" Westcoast Fisherman (February 1998)
- "Drawn Out Court Battle Expected Over Alaska Ferry Dispute" Westcoast Fisherman (November 1997)
- "Suing The Minister" Westcoast Fisherman″ (August 1997)
- "Post Season Price Adjustments" Westcoast Fisherman (July 1997)
- "Extras" Westcoast Mariner (June 1997)
- "More Extras" Westcoast Mariner (July 1997)
- "Bill C-62 An Act To Amend The Fisheries Act" Current (February 1997)
- "Liability Waivers Should Protect All Parties Fairly" Vancouver Sun 4 June 1996)
- Book Review Of "Golden Sails - The Story Of The Pacific Mutual Marine Insurance Company Current (1996)
- "Administrative Sanctions in B.C." Current (September 1995
- "Marina Operator's Liens" Westcoast Mariner (June 1995)
- "Charter's Risk Insurance" Current (December 1995)
- "Ship Repairer's Possessory Liens" Westcoast Mariner (September 1994)
- "The Kelleher Report" Current (June 1994)
- "Fish Boat Brokers: Real Estate Agents Who Sell Boats?" Current (April 1994)
- "Marina Operator's Liens" Current (December 1994)
- "Employment Standards Act - Can Crew Members Have Their Cake And Eat It Too" Current (June 1993)
- "Business Partnership Disputes - An Ounce Of Prevention Is Worth A Pound Of Cure" Westcoast Fisherman (February 1993)
- "British Columbia Court Of Appeal Says No To Sales Of Aboriginal Food Fish" Current (October 1993)
- "Bill C- 129" Current (December 1993)
- "The Workers Compensation Board - A Recent Decision By The Appeal Division Could Signal A New Era For Fisherman" Westcoast Fisherman (January 1992)
- "Licence Appeals" *Fisheries Law* C.L.E. (1991)
- "Proposed Legislation May Help With Financing For B.C. Fish Farms" *Canadian Aquaculture* (Jan/Feb 1989)
- "Predator Control" *Canadian Aquaculture* (Winter 1987)