

# Caldwell & Co. Law Corp.

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***Brad M. Caldwell***

## Curriculum Vitae: Brad M. Caldwell

### PRACTICE AREAS

***Maritime litigation*** including marine insurance, tug and tow; arrest and seizure of vessels, mechanical failure disputes, vendor/purchaser disputes, joint venture disputes, marine surveyor's errors and omissions defences; assertion of necessities 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: Past member of the Transportation Appeal Tribunal of Canada (2011 – 2020), 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 for government 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.

Member of the *Transportation Appeal Tribunal of Canada* 2011-2020

Chair of the CMLA Salvage and Wreck Committee (2018 to 2022)

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

Member - Law Society of British Columbia.

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

## 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

Appearance at the Standing Senate Committee on Transport and Communications (Ottawa 4 Dec 2018) to make submissions on behalf of the CMLA regarding *BC-64 Wreck Abandoned or Hazardous Vessels Act*.

Lecture to the CMLA Education Seminar: *Bill C-64: Wreck Abandoned or Hazardous Vessels Act* (Vancouver 2018).

Lecture to the Education Seminar of the Canadian Maritime Law Association (Halifax 17 June 2016) *Due Diligence Defences to Maritime Offences*.

Lecture at the University of British Columbia Law School: *Defence of Fisheries Prosecutions* (March 2016; 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 *Judicial 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

- Editor of the [Fisheries Law section](#) of Admiraltylaw.com
- "[Wreck Abandoned or Hazardous Vessels Act](#)" Western Mariner (January, 2018)
- "[Due Diligence Defences to Maritime Offences](#)" Presented to the Education Seminar of the Canadian Maritime Law Association (Halifax 17 June 2016).
- "[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)