



**Jennifer Biernaskie, Partner**

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In her commercial litigation practice, Jennifer has defended and prosecuted a wide range of contractual disputes, including shareholder issues, commercial and residential tenancy breaches, employment/service agreements, and much more. She has unique experience in complex, multi-party litigation such as long-tail environmental losses, pipeline failures, intellectual property disputes, construction negligence, and class action litigation. Because of Jennifer's experience in eastern and western Canada, she has represented clients in a wide range of industries and settings, from aquaculture and off-shore oil and gas in the Atlantic, to ski resorts and land-based oil and gas in the Prairies.

Jennifer's experience in insurance defence includes claims involving professional liability, sexual abuse, property loss and injury claims. She has also acted for insurers in Alberta and Nova Scotia as both defence and coverage counsel.

Jennifer's administrative law experience includes land use planning disputes, medical staff privileges issues, and professional negligence/disciplinary issues.

Jennifer has appeared before the Alberta Court of Appeal, Alberta Court of Queen's Bench, Nova Scotia Supreme Court, Nova Scotia Court of Appeal, Provincial Courts of Nova Scotia and Alberta, Nova Scotia Labour Board, Nova Scotia Utility and Review Board, the Nova Scotia Police Review Board and various other boards and tribunals. When practicing in Nova Scotia, Jennifer was appointed as a member of the Regional Assessment Appeal Court.

**Education:**

- Intensive Trial Advocacy Workshop, Osgoode Hall Law School

- LL.B., Dalhousie University
- BFA., University of Lethbridge

## **Awards and Recognition**

- Corporate and Commercial Litigation, *Best Lawyers® in Canada*, 2021
- Lawyer to Watch, Litigation - Corporate Commercial, *Canadian Legal Lexpert Directory*
- Lawyer to Watch, Litigation - Commercial Insurance, *Canadian Legal Lexpert Directory*

## **Professional Associations, Affiliations and Community Activities:**

- Board Member, The Lung Association, Alberta & NWT
- Member, Canadian Bar Association
- Insurance Section
- Civil Litigation Section
- Member, Ethics & Professional Responsibility Subcommittee, The Canadian Bar Association
- Member, Canadian Defence Lawyers
- Member, Defence Research Institute
- Former Board Member, Calgary Immigrant Women's Association (2011-2013)

## **COMMERCIAL LITIGATION**

- *Geophysical Service Incorporated v Encana Corporation et al.*, 2016 ABQB 230  
Represented an oil company in an intellectual property dispute relating to use of licensed technical data; the claimant alleged that our client breached the terms of license agreements and the claimant's copyright in certain data.
- *Heikkila v Apex Land Corporation*, 2016 ABCA 126  
Successfully represented a developer in relation to a construction worker's claim arising from personal injuries sustained during the construction process, dealing with issues that included the interplay of tort liability, the Workers' Compensation scheme and the *Occupier's Liability Act*. Also successfully applied to have the WCB pay trial and appeal costs of this action.
- Acted for multiple oil and gas operators in relation to failures in oil and gas facilities, such as well-sites, oil batteries and in natural gas compressors.
- Successfully obtained judgment in case involving fraudulent misuse of investment funds.
- Has represented plaintiffs and defendants in many class action lawsuits; issues include survivor benefits, construction negligence; and product liability.
- Successfully defended claims against various sporting groups, such as ski resorts and skydive facilities.

- Successfully represented media groups in publication ban issues.
- Appointed as regional litigation counsel for large fast-food chain.
- Represents many different sub-trades and contractors in relation to construction negligence and contractual breach claims.
- Defended companies in shareholder disputes involving verbal shareholder agreements.
- Acted for a minority shareholder in a dispute involving the misuse of funds and mismanagement of a lobster pound.
- Regularly acted for two Dioceses in relation to various allegations of sexual abuse by church leaders.
- Acted for a Health Authority in relation to staff privileges issues at both the administrative board hearing and in related civil suits.
- Acted for a Health Authority in relation to a contractual dispute arising from the termination of a contract by legislation.
- Preparing a Billing Services Agreement for a third party vendor engaged in the business of health billing, including management of personal health data collected as a result.
- Representing physicians in contractual disputes upon departure from clinic employment.
- Representing physiotherapists in medical malpractice claims involving occipital injuries.

## **PUBLICATIONS**

- "New Public Trustee Fees for Review of Minors' Settlements", Jennifer Biernaskie, *McLennan Ross E-Mail Alert*, 2020
- "Recent Decisions Support Increased Powers for Condo Boards in Restricting Commercial Activity within Individual Units", Erina Sato and Jennifer Biernaskie, *McLennan Ross E-Mail Alert*, 2020
- "Significant SCC Decision Increases All Risk Insurance Coverage", Jennifer Biernaskie and Will Johnston, *McLennan Ross E-Mail Alert*, 2016
- "Land Developer Vindicated in Occupiers' Liability Case", Alexis Moulton and Jennifer Biernaskie, *McLennan Ross E-Mail Alert*, 2016
- "Court Clarifies Proportionate Liability of Lessor, Lessee", *The Lawyers Weekly*, June 10, 2016
- "A Rose By Any Other Name?...Not Quite", *McLennan Ross E-Mail Alert*, 2010
- International Social Services, *International and Domestic Adoptions - Nova Scotia*, (Geneva, Kluwer: 2002) (chapter in loose-leaf textbook, co-authored with Prof. Vaughan Black)

## **INSURANCE & RISK MANAGEMENT**

- Regularly defends insureds in claims involving allegations of excess force, professional negligence, property losses, pollution claims, motor vehicle accidents, and slip and falls.

- Regularly advises insurers and their insureds on a variety of risk management issues, including avoidance of Occupier's Liability and Directors'/Officers' Liability claims.
- Provides coverage opinions to insurers in number of contexts, including aviation, auto, commercial general, and wrap-up insurance policies.
- Acted for insureds in many pollution/contamination claims, including the release of home heating oil, dry cleaning fluids, brine, and crude oil.
- Acted for an insurer in a subrogated product liability claim in excess of \$3 million.
- Acted on behalf of a victim's family in a Fatality Inquiry.

## **PRESENTATIONS**

- "Hindsight 2020: Insurance Year in Review", McLennan Ross Seminar, 2020
- "Contributor, Truth Be Told: an Anthology of Inspirational Stories by Women in the Law", 2018
- "Practical Tips on Forming a Litigation Strategy", (Legal Education Society of Alberta conference on Litigation Strategies, Calgary/Edmonton), 2018
- "A Cross-Canada Look at Coverage for Innocent Co-Insureds", (Canadian Defence Lawyers' 14th Annual Coverage Symposium, Toronto), 2018
- "CGL Coverage for Cyber Risks", Canadian Defence Lawyers 10th Annual Insurance Coverage Symposium, 2014
- "Litigation Management for In-House Counsel", Canadian Corporate Counsel Association Conference

Jennifer also presents at various in-house insurance seminars on topics such as Directors' and Officers' insurance, commercial general liability (CGL) Policies and for several years taught Civil Trial Practice at Schulich School of Law, Dalhousie University.