



HEATHER C. DEVINE

PARTNER

BIOGRAPHY

Heather is the leader of the firm's Transportation + Logistics industry group and is a member of the Business Disputes and Insurance Practices.

Heather Devine is one of Canada's leading Transportation lawyers and Advocates. Her most recent success in the (Ontario) Superior Court of Justice (Commercial Court) enabled her client to retain possession of a private jet over which her client claimed a lien. Her success in the Federal Court of Canada resulted in a permanent injunction being granted in one of Canada's few mechanical patent trials, as well as clarification of the role of experts in the Federal Court and the successful defence of a spoliation claim. Justice Manson highlighted Heather's cross-examination of an expert at trial by noting that the expert was "shredded on cross-examination".

Having gained a reputation as being a 'fixer' in the field of commercial litigation for businesses and insurers, she develops and implements the strategy, budgeting and case management of complex litigation for private and public, national and international clients. Some of her significant victories, aside from the permanent injunction in the Federal Court of Canada, include an arbitration judgment regarding breach of contract claims arising from the construction of an emergency hospital in Libya for € 6 million against the Government of Libya at the ICC (Paris) and successful judicial review of an error by the Patent Commissioner, to compel the granting of a mechanical patent on a truck bumper.

In her role as a commercial litigator, Heather has defended product liability claims regarding pipes, medical devices, lighting fixtures, transformers and aerospace materials, among others. She has also litigated claims involving general construction issues including delay, construction liens, and breach of contract as well as on property management issues, condominium law

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EDUCATION

- J.D. [Queens University](#)
- M.A. (with Distinction) Journalism, [Carleton University](#)

BAR ADMISSIONS

- 1999 Admitted to the Ontario Bar
- 1998 Admitted to the Nova Scotia Bar

PRACTICE AREAS

BUSINESS

- Maritime
- Business Disputes
- Cannabis
- Mergers + Acquisitions
- Franchise
- Insolvency + Restructuring
- Intellectual Property + Technology
- Labour Relations
- Employment Law

and commercial tenancy, which included removing directors from a condominium board, damages for breach of a commercial lease, reserve fund claims, personal injury and environmental contamination.

In 2009, Heather learned to fly single-engine planes. Her love and admiration of aviation led her to an interest in Transportation law. Since 2013, Heather has been included in the peer-reviewed publication *Best Lawyers®* in Canada for Transportation Law. She combined her interest in technology, transportation and intellectual property to advise brokers, freight forwarders, carriers, 3PLs and 4PLs on all aspects of supply chain logistics and the movement of goods locally and internationally. She has advised clients generally regarding cargo claims, liens, warehousing, bills of lading, multi-modal, NVOCC issues, spoilage and more specifically advised International manufacturer/shipper clients regarding Third Party Logistics Services, Cross Border Long Haul issues (incl. NAFTA) and customs and excise tax issues.

In Halifax and Hamilton, Heather also advised hospitals, manufacturers and various carriers and brokers on issues regarding labour and employment law, conducting many successful labour arbitrations, advising on human rights issues and how to enforce (or invalidate) executive non-competition agreements.

Heather has obtained letters rogatory, enforced foreign judgments and won several injunctions and mandatory orders. She is very familiar with the issues of enforcement and contempt law and has litigated these issues through the all levels of the Courts; applying twice for leave to appeal to the Supreme Court of Canada.

Recently, Heather has capitalized on her understanding of litigation, and expanded her focus to assist clients with contracts and agreements to minimize their risk. She 'Canadianized' the TIA shipper-broker, broker-carrier agreements as part of her work on the Transportation Intermediaries Association Contract Committee. She has experience advising clients with respect to the risk management of the movement of bulk commodities, foodstuffs, perishables and hazardous materials. Whether last mile or movement of goods by sea, Heather enjoys all aspects of servicing clients in the transportation industry.

ON A PERSONAL NOTE

Heather continues to fly, C-152, C-172, Piper Supercub and when in Scottsdale, AZ works with an instructor to perform simple aerobatics in the Pitts Special S-2A. She also rides her Kawasaki Ninja on the Nelson and Calabogie Tracks.

- Administrative Law
- Construction + Engineering
- Corporate / Commercial

INSURANCE

- Cannabis
- Employment Practices
- Maritime
- Construction + Engineering

INDUSTRIES

- Cannabis
 - Franchise
 - Technology
 - Construction
 - Transportation + Logistics
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RECOGNITION

- 2014 - 2022 Best Lawyers® in Canada Transportation Law
- 2020 - 2022 Canadian Legal Lexpert® Directory repeatedly recommended in Transportation (Road and Rail)
- 2020 Transportation Lawyers Association Distinguished Service Award
- 2022 International Association of Defense Counsel Joan Fullam Irick Award

REPRESENTATIVE EXPERIENCE

Heather has appeared in all levels of Provincial and Federal Courts, in Ontario, Nova Scotia and Alberta, Some of her reported cases include:

- *Uponor AB v. Heatlink Group Inc.*, 2016 FC 320 (CanLII) (Manson J.)
- *Bartley v. Canada (Commissioner of Patents)*, 2011 FC 873 (Hughes, J.)
- *Graci v. New Steel Roofers Inc.*, 2011 ONSC 4792
- *Sonnenberger et al v. Creamer et al*, 2010 ONSC 1736
- *Redmond v. Hamilton (City)*, 2008 CanLII 67892 (ON SCDC) (Karakatsanis J.)
- *Hamilton Health Sciences Corporation v. Canadian Union of Public Employees, Local 4800*, 2004 CanLII 54976 (ON LA)
- *Bajurny v. College of Denturists*, 2004 CanLII 48683 (ON SCDC)
- *Dysart (Municipality) v. Reeve*, 2000 CanLII 16841 (ON CA)

PUBLICATIONS

- June 27, 2022 “[Dividing the pie in the gig economy](#)”, *Canadian HR Reporter*, Co-Author
- June 9, 2022 “[Top trucking legal issues of 2022](#)” *Truck News*, Featured
- June 9, 2022 “[Avoid Winning Battles but Losing The War](#)”, Private Motor Truck Council of Canada 2022 Conference, Speaker
- Summer 2022, “[Formula 1 and MotoGP Supply Chain Interruptions in the 2022 Season!](#)”, *Private Motor Carrier*, Co-Author
- Spring 2022, “[The Stakes Just Got Higher!](#)” *Private Motor Carrier*, Vol. 10,



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Issue 1, Page, 37, Co-Author

- March 31, 2022, “[Misclassification of Employees: Pitfalls and Predictions for the Modern Employer](#)“, Employment Webinar, Co-Presenter
- December 2021, “[Overloaded with Data? Telematics and the Importance of a Clear Telematics Data management Policy \(TDMP\) in the Trucking Industry](#)“, *Private Motor Carrier*, Co-Author
- October 22, 2021, “[Hottest Ticket in Town: M&A Events in the Rail Industry Today](#)“, *Canadian Transport Lawyers Association (CTLA) – 2021 Annual General Meeting & Educational Conference*, Moderator
- October 21, 2021, “[Drafting Effective Commercial Contracts Post COVID-19](#)“, Toronto Chapter of *Fleet Safety Council*, Co-Presenter
- October 20, 2021, “[Playing Catch-Up: The Intersection of Technology & Law](#)“, *Transportation Intermediaries Association (TIA), 2021 3PLXTEND Hybrid Experience*, Co-Presenter
- August 6, 2021, “[Contracting \(During\) COVID: Top 5 Tips to Ensure Your Business is Immunized from COVID-19-Related Risks](#)“, *Private Motor Carrier (p.49)*, Co-Author
- July 15, 2021, “[The Transportation Industry, COVID-19, and IADC Membership](#)“, *IADC Speaks*, Speaker
- June 23, 2021, “[East-West, North-South: Toronto Regional Meeting Anticipates the Transformation of Business and Law in a Post-COVID World](#)“, *IADC Regional Meeting*, Moderator
- December 2020, “[Running Hot with Cold: Top Contracting Tips to Succeed in the COVID-19 Vaccine Supply Chain](#)“, *Private Motor Carrier*, Co-Author
- November 12, 2020, “[Cross-Border Trade](#)“, *Transportation Law Institute*, Transportation Lawyers Association, Speaker
- November 4, 2020, “[Modernising the Workplace](#)“, *Critical Uncertainties Webinar Series Autumn 2020*, Speaker
- September 16, 2020, “[Forager: Maniacally Focused on Cross Border Truckloads](#)“, *Freight Waves*, Speaker (Watch video [here](#))
- June 7, 2020, “[Back to Business: Protect Your Business in the New Normal!](#)“, *TIA Virtual Lunch & Learn*, Speaker
- June 5, 2020, “[Litigation Issues Arising from the Global Crisis](#)“, *Ontario Bar Association*, Speaker
- June 2020, “[Back to Business: Protect your Business – Five Top Legal Practices to Implement Now](#)“, *Private Motor Carrier*, Author



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- May 26, 2020, “[From Golden Handcuffs to Non-Competes: Understanding Employment Contracts & Restrictions](#)”, *TIA Virtual Lunch & Learn*, Speaker
- April 2020, “[Frustrated by COVID-19: Recovering and Preventing Business Losses](#)”, *Private Motor Carrier*, Co-Author
- March 2020, “[Frustrated by COVID-19: Recovering and Preventing Business Losses](#)”, *IADC Committee Newsletter*, Co-Author
- February 2020, “[Hacked or cracked? A practical guide to cyber security for private motor carriers](#)”, *Private Motor Carrier*, Author
- February 2020, “[Truck parking lot shooting, Amazon counterfeits, surviving cancer and more – WTT?!? \(with video\)](#)”, *What the Truck !?!*, *Freight Waves*, Speaker
- Winter 2019, “[Hacked or Cracked? A Practical Guide to Cybersecurity for Private Motor Carriers](#)”, *Private Motor Carrier*, Volume 7 Issue 5, Author
- December 2019, “[Hacked or Cracked? A Practical Guide to Cybersecurity for Private Motor Carriers](#)”, *International Association of Defense Counsel (IADC), Transportation Committee Newsletter*, Author
- Fall 2019, “[Be Careful When you Complete the ROE: You may incur costly, unintended consequences](#)”, *Private Motor Carrier*, Issue 3, Author
- October 17, 2018, “Droning On...Following the Rules and Future Fun”, *CIFFA Conference Toronto*, Co-presented with Michelle L. Staples
- October 17, 2018, “Drones and the Future of Freight”, *CIFFA Conference in Toronto*, Co-presented with Michelle L. Staples
- Winter 2018, “Classification of Drivers as Independent Contractors”, *Private Motor Carrier*, Issue 4, Author
- Fall 2018, “Thriving in Business in 2018: Simply, The Art of War”, *Private Motor Carrier*, Issue 3, Author
- Summer 2018, “My Driver Just Got A Ticket In Ontario: How Can I Protect My Safety Rating?”, *Private Motor Carrier*, Issue 2, Author
- Spring 2018, “Fighting Employee Misclassification In the Ontario Trucking Industry”, *Private Motor Carrier*, Issue 1, Author
- Winter 2017, “From Bay Street to the Road: Converting Theoretical Transportation Laws Into Commercial Reality”, *Private Motor Carrier*, Issue 4, Author
- Fall 2017, “Canada Moves From A Self-Education Approach to No Drone Zone”, *Private Motor Carrier*, Issue 3, Author



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- Summer 2017, “Terminating Federally-Regulated Employees“, *Private Motor Carrier*, Issue 2, Author
- Spring 2017, “LAWYERS AREN’T JUST AN EXPENSE: Using Legal Advice to Increase Business Value“, *Private Motor Carrier*, Issue 1, Author
- April 9, 2016, “Did you Hear the One About the Attorney?“, Plenary Sessions at the *Transportation Intermediaries Association*, San Antonio, Tx, Co-presented with M. Payne and S. Penninger
- April 7, 2016, , “The In’s and Out’s of Freight Brokering in Canada: It’s the Wild West up North“, *Transportation Intermediaries Association*, San Antonio, TX, Co-presented with G. Hearn
- October 2, 2015, , “Cross-Border Issues in Warehousing“, *Canadian Transportation Lawyers Association*, Kelowna, BC, Co-presented with B. Oland, C. Lockwood and S. Block
- June 27-30, 2019, “There is a Drone Outside My Window and I’m Going to Shoot It“, *Association of Transportation Law Professionals*, Boston, MA, Speaker
- May 12-16, 2015, “One If by Air, Two If By Sea (Three If by Rail): Cargo Does Not Only Move by Truck“, *Transportation Lawyers Association Annual Conference*, Scottsdale, AZ, Panelist
- March 1-3, 2015, “Protecting Your Company: An Overview of the Legal Landscape for Companies Transporting Cargo“, *Air Cargo Conference*, New Orleans, LA, Co-presented with N. Bluth and N. Saylor
- February 2015, “Know the Ropes When Flagging Your Vessel: A Comparison of the Three of the Worlds Du Jour Vessel Registries“, *Transportation Lawyer*, Co-authored with S. Penninger,
- November 6-8, 2014, “There is a Drone Outside My Window and I’m Going to Shoot It“, *Transportation Lawyers Institute*, St. Louis, MO, Presenter
- October 27-28, 2014, R. Prisbach, “Electrical Cars and the Protections of Green Intellectual Property“, *Electrical Vehicle Symposium and Exhibition*, Vancouver, BC, Co-presented with R. Prisbach
- October 5, 2014, “Rail Safety Regulations and Transport Broker Liability“, *Richard Lande Conference* in Burlington, ON, Presenter
- June 12-13, 2014, “But you Said You Knew What You Were Doing“, *Claims Litigation Management Conference on Product Liability Conference*, Columbus, OH, Co-presented with M. Brady, A. Yeboah and E. Zalud
- May 13-14, 2014, “Electric Vehicles and Intellectual Property Protection“, Presented at the Translog Conference hosted by McMaster University,



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Burlington, ON, , Presenter

- April 29 – May 3, 2014, “IP and How Intellectual Property Moves Your Business”, *Transportation Lawyers Association 2014 Annual Conference*, St. Petersburg, FL, Presenter
- April 12, 2014, “Nearshoring: A Canadian Perspective”, *Transportation Intermediaries Association Meeting*, Tucson, AZ, Presenter
- April 10, 2014, “Controlling Your Destiny and Playing in Your Home Court: How Personal Jurisdiction, Venue, Choice of Forum and Choice of Law Can Minimize Your Product Liability Risk”, *Claims Litigation Management Conference*, Boca Raton, FL, Presenter
- March 7, 2014. “Examining Discoveries: Practical Tips to Success”, *Ontario Bar Association Conference* on “Divine Discoveries: Building a Great Case”, Toronto,
- February 26, 2014, “Getting Paid: Taking Security for Fees”, *Hamilton Lawyers Association Conference*, Hamilton, Presenter
- January 25, 2014, “Update: Shipping Oil by Rail”, *Conference of Freight Counsel Meeting*, San Francisco, CA, Presenter
- January 17, 2014, “What Should a Transportation Lawyer Do? The Three C’s: Competence, Confidentiality, and Conflicts”, *Transportation Lawyers Association Chicago Regional Seminar*, Chicago, IL, Presenter May 2013, “Broker Liability: A Canadian Perspective, Eh?” *Transportation Lawyers Association 2013 Annual Conference and Canadian Transportation Lawyers Association (CTLA) Mid-Year Meeting*, Napa, CA, Presenter
- 2013, “Litigation Management – Avoiding the Dangers of Loss of Privilege in Cross-Border Litigation, And Other Pratfalls on the Litigation Highway” *Claims Litigation Management Alliance (CLM) – Annual Conference*, San Antonio, TX, Co-presented with T. Best, J. Shelonko and E. Zalud
- 2013, “Preparation for Trial and Procedural Tips” *Ontario Bar Association Young Lawyers Division – Your First Civil Trial*, Toronto, ON, Co-presented with H. Khanijoun
- 2013, “What Others Know About Your Client’s Case: What you (Maybe) Have to Tell Opposing Counsel and Hot to Go About It”, *Hamilton Law Association, 8th Annual Emerging Issues in Commercial Litigation Seminar*, Hamilton, ON, Co-presented with E. Rockefeller
- 2013, “Carrier Liability and Class Action Certification”, *Conference of Freight Counsel Winter Meeting*, Dallas, TX, Presenter
- October, 2012, “US Companies Can Protect their Confidential Information in Cross Border Litigation”, *Transportation Lawyer*, Co-authored with J.



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Katsuno

- 2012, “Modal Updates: Compliance with Canada’s Air Cargo Security Measures”, *The Canadian Transportation Lawyers Association Conference*, Toronto, ON, Presenter
- 2012, “Update: Costs and Security in International Freight Cases” *Conference of Freight Counsel Conference*, Baltimore, MA, Presenter
- 2012, “Five Key Canadian Developments Affecting Cross-Border Business” *Transportation Lawyers Association Annual Conference and Canadian Transportation Lawyers Association: Mid-Year Meeting*, Naples, FL, Presenter
- 2012, “Protecting Trade Secrets in Cross Border Discovery, *Ontario – New York State Bar Association Conference: 1 Legal System + 2 Jurisdictions = Infinite Opportunity*, Buffalo, NY, Presenter
- 2012, “Bullies, Showboats and other bad apples: Dealing with Difficult Lawyers”, *Hamilton Law Association 7th Annual Issues in Commercial Litigation Seminar*, Hamilton, ON, Co-presented with E. Rockefeller
- October 19, 2011, “In Canada, A Consignee May be Liable to Pay Twice for the Same Shipment of Goods”, *Transportation Lawyer*, Author
- July 2011, “Article 29 of the Warsaw Convention extinguishes a plaintiff’s claim commenced beyond the two-year limitation”, 2011, *Transportation Lawyer*, Author
- 2008, “The Test of Litigation-Will Your Records Management Practices Stand Up to Close Scrutiny?” *Document Retention and Destruction Conference*, Toronto, Ontario, Co-presented with R. Campbell
- 2008, “Faces of the City”, *Hamilton Magazine*, p.54, Author
- 2006, “Enforcement of Interim Orders: Letters Rogatory and the Deemed Undertaking Rule”, *Commercial Litigation Review*, Volume 4, No. 1, Co-authored with C. Porretta
- 2006, “The Oppression Remedy: A Catalogue Of Oppressive Conduct” *Ontario Bar Association Conference “The Commercial List: What’s in the Future and What Litigators Need to Know”*, Co-presented with F. Ricci
- 2006, “How a Non-Director Guarantor Can Obtain Access to Corporate Records”, *The Lawyers Weekly*, Volume 26, No. 11, Author
- 2005, “Foreign Judgments in Hand? How to collect in Canada”, *Commercial Litigation Review*, Volume 3, No. 4, Co-authored with C. Porretta
- 2005, “Getting Results Sooner Than Later: Motions Prior to



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Commencement of Proceedings, and Applications“, *The Advocates’ Brief*, Volume 16, No. 2, Author

- 2004, “Reasonable Apprehension of Bias?” *Ontario Bar Association, Young Lawyers’ Division*, Volume 12, No. 2, Author
- 2004, “Controlling Bad Memories: Proving Documents at Trial” *Commercial Litigation*, Volume 1 – Number 6, Author
- 2003, “Controlling Bad Memories: Proving Documents at Trial”, *The Advocates’ Brief*, Volume 15, No. 2, Author
- 2003, “Admissions to the OSC: Protection Against Use in Subsequent Civil Proceedings”, In-house publication for Gowlings, Author
- 2003, “Payment of Benefits to Insured Pending Trial – A Matter of Proof and Circumstance”, In-house publication for Gowlings, Author
- 2003, “Are There Limits to Disclosure of Experts’ Findings?” *The Lawyers Weekly*, Volume 23, No. 22, Author
- 2003, “Judicial Trends in Insurance Law: Great Expectations”„Gowlings Insurance Conference, Author
- November 2002, “Use it or Lose it: Avoiding Class Actions By Means of Arbitration Clauses”, invited lecture at *CILS Conference: Media Technology & Communications* in Austria, Presenter
- March 2001, “Securities Law and Class Proceedings in Canada: Some Promise, Some Deliver”, *CILS* in Salzburg, Austria, Co-presented with J.S.Leon and D. Hausman
- 2001, “Have You Considered Mediation!” In-house publication for clients, Author
- 1999-2000, “The Use of Medical Evidence at Arbitration: A Management Perspective”, *Labour Arbitration Yearbook Vol. II*, p. 151-174, Co-authored with R. Macpherson and D. Palayew
- 1998, “Be Wary of Independent Contractors” *Canadian Employment Law for U.S. Companies*, Vol. 5, No. 10 at p. 3, Author
- 1998, “Writers: 1 Publishers: 0 Will a recent U.S. victory influence Canadian media law?”, In-house publication for clients, Author
- 1998, “Defining Your Legal Obligation within the Context of Undue Hardship and Reasonable Accommodation” *Infonex Seminar*, Co-Presented with N. Eber
- 1998, “Using Computer and Video Surveillance to Monitor Employees: Are the benefits worth the cost?”, In-house publication for clients, Co-authored with J. Noonan



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- 1998, & “Consideration of Legal Importance of Employee Loyalty”, in *Executive Employment Vol. 5. No. 1* at p. 245, Co-authored with E. Durnford and C. Gorman
- May 1998, “Super Liens: The Iron Fist of Revenue Canada”, *CBA Construction Law Conference Materials*, Co-authored with G. MacDonald
- 1998, “Safety and Seniority: the effects of accommodation on fellow workers”, in *Management Rights*, Co-authored with R. Macpherson

EVENTS

- 09/06/2022, Avoid Winning Battles But Losing The War – Formula 1 Teams Teach PMTCs How to Make the Best of a Bad Season
- 31/03/2022, Misclassification of Employees: Pitfalls and Predictions for the Modern Employer
- 24/02/2021, Labour + Employment Webinar: COVID Continued
- 16/01/2020, Promoting Successful Business Transactions and Avoiding Litigation in the U.S. and Canada

PROFESSIONAL & COMMUNITY AFFILIATIONS

- [Canadian Bar Association](#), Member
- [Canadian Transport Lawyers Association \(CTLA\)](#), Past President
- [Transportation Lawyers Association](#) Annual Program Committee for TLA Annual, Co-Chair, 2020
- [Transportation Lawyers Association](#) (TLA – Air), Co-Chair
- [International Association of Defence Counsel \(IADC\)](#)
 - 2023 Annual Meeting CLE Steering Committee Chair
 - Transportation Committee, Chair
 - Social Justice Pro Bono Committee Vice Chair of International
 - Intellectual Property Committee Vice Chair of International
- [National Tank Truck Carriers](#), Member
- [Royal Yachting Association](#), Member & Completed the RYA Competent Crew Course



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