



Keith Marlowe

Partner | Calgary

keith.marlowe@blakes.com

Calgary: 403-260-9632

Keith is a Partner in the Litigation and Dispute Resolution Group. Keith practices corporate/commercial litigation with a special focus on all aspects of insurance coverage and defence, franchise disputes, intellectual property litigation, and class actions. Keith also maintains an active advisory practice in connection with the procurement and renewal of insurance programs for clients, including conducting independent program reviews regarding the comprehensiveness and appropriateness of insurance coverage and recommended enhancements.

Keith has appeared as lead counsel at all levels of court in Alberta, including on trials, appeals and chambers applications. Keith has also appeared for clients in the State of New York (state and federal courts) and the State of Texas (federal courts).

SELECT EXPERIENCE

A representative sample of recent experience includes:

Commercial/Energy Cases

- Counsel to Pembina Pipeline Corporation in the Court of Appeal of Alberta in its successful defense of a challenge to the license authorizing its construction and operation of two pipelines from Fox Creek to Namao, Alberta
- Acted for a major, multinational oil and gas company with respect to equipment failures and resultant fires at an Alberta oil sands facility
- Provided strategic advice to several United States corporations regarding the applicability of Canadian unclaimed property legislation

Insurance Matters

- Successfully represented two insureds in a precedent-setting case involving the scope of, and exceptions to, an insurer's right and duty to defend. In an Alberta first, the Court concluded that, in an appropriate case, an insurer may have to surrender its right and duty to defend to its insured, thereby permitting the insured to control his or her own defence and to appoint defence counsel of his or her own choosing, at the insurer's cost
- Representing a Canadian energy company and its insurers with respect to a pipeline failure and spill in Manitoba
- Conducting annual independent insurance program reviews for several utilities, energy producers, pipeline companies, and oil field service providers

Franchise Cases

- Acting for a franchisor regarding the breach of a franchise agreement and theft of intellectual property by a former franchisee
- Defending a franchisor with respect to allegations made by a franchisee that the franchisor violated the *Franchises Act*

Intellectual Property Cases

- Successfully defended Nexen at trial and on appeal with respect to a C\$50-million claim involving allegations of breach of confidence (theft of intellectual property), employment discrimination and defamation

Class Actions

- Counsel in a proposed class action in the airline industry alleging breaches of the *Competition Act* and various other economic claims

Recent reported decisions in which Keith has been involved include:

- *Temple Insurance Company v. Sazwan*, 2018 ABQB 156
- *Tundra Oil & Gas Limited v. Enbridge Bakken Pipeline Company Inc. and Surerus Pipeline Inc.*, 2018 MBQB 39
- *Correa v. 368753 Alberta Ltd*, 2017 ABQB 103
- *Bokenfohr v. Pembina Pipeline Corporation*, (2017 ABCA 40 and 2016 ABCA 382)
- *Pembina Pipeline Corporation*, Alberta Energy Regulator Costs Order 2016-003
- *Seyedi v Nexen*, 2016 ABCA 24 (leave to appeal to the SCC dismissed 10-06-2016)
- *Milavsky v. Milavsky*, (2016 ABQB 410, 2016 ABQB 347, 2016 ABQB 333, 2015 ABQB 395, and 2014 ABQB 321)
- *Linde Canada Limited v. Luff Industries Ltd*, 2016 ABQB 298
- *HOOPP Realty Inc v. The Guarantee Company of North America*, 2015 ABQB 270, affirmed 2015 ABCA 336
- *Matter of Marcelina M.-G. v. Israel S.*, 112 AD3d 100 (2d Dep't 2013)

AWARDS & RECOGNITION

In 2016, Keith was recognized as the "Direct Service Volunteer Lawyer" Volunteer of the Year by the Children's Legal & Education Resource Centre "for outstanding service and commitment to CLERC's mission."

In 2012, he received the Matthew G. Leonard Partner in Justice Award for Pro Bono Excellence from MFY Legal Services, Inc. in recognition and appreciation for his efforts with the Kinship Caregiver Law Project, which provides bono services to low-income residents of the State of New York in adoption, guardianship and custody matters in Family Court and Surrogate's Court.

PUBLICATIONS

Co-author: [Alberta Court Releases Precedent-Setting Decision on Insurers' Right and Duty to Defend](#)

Blakes Bulletin on Litigation & Dispute Resolution, March 14, 2018.

[Co-author: Alberta Court of Appeal Expands Availability of Equitable Limitations Defence](#)

Blakes Bulletin on Litigation & Dispute Resolution, May 1, 2017.

[Co-author: Alberta Court Decision Addresses Drop Dead Rule, Chronic Delays in Civil Litigation](#)

Blakes Bulletin on Litigation & Dispute Resolution, June 15, 2016.

PROFESSIONAL APPEARANCES

Speaker: Alternative Dispute Resolution and Bad Faith Claims

Panel, Calgary Risk and Insurance Education Forum: Claims - The Good, The Bad & The Ugly, Blakes and Charles Taylor Adjusting, Calgary, Alberta, February 28, 2018.

Co-speaker: Charter of Rights - Amending the Process

Panel, Calgary Risk and Insurance Education Forum: Claims - The Good, The Bad & The Ugly, Blakes and Charles Taylor Adjusting, Calgary, Alberta, February 28, 2018.

Speaker: Moving Oil in Canada

Panel, Toronto Risk and Insurance Education Forum: Environmental - Spills, Thrills and Insurance, Blakes and Charles Taylor Adjusting, Toronto, Ontario, November 2, 2017.

Speaker: The Life of an Asset

Panel, Toronto Risk and Insurance Education Forum: Environmental - Spills, Thrills and Insurance, Blakes and Charles Taylor Adjusting, Toronto, Ontario, November 2, 2017.

Co-speaker: Cross-Border Discovery

2017 Lex Mundi Litigation, Arbitration, and Dispute Resolution Practice Group, North America Regional Meeting, Montreal, Quebec, October 20, 2017.

Speaker: Claims & Coverage Panels

Toronto Risk and Insurance Education Forum: Construction - Cranes, Claims & Insurance, Blakes and Charles Taylor Adjusting, Toronto, Ontario, November 10, 2016.

MEDIA APPEARANCES

Quoted: 37 Canadian law students killed in WWI called to bar 100 years later

Global News, November 9, 2018.

Quoted: A piece of closure: Law students killed in First World War called to bar 100 years later

Article by Lauren Krugel, The Canadian Press, November 9, 2018.

Quoted: Alberta bar call offers closure for families of law students killed in Great War

Article by Ian Burns, The Lawyer's Daily, November 6, 2018.

PROFESSIONAL ACTIVITIES

Keith teaches civil procedure at the University of Calgary, Faculty of Law, as a sessional instructor.

He is a member of the advisory board of the Dual JD Program at the University of Windsor, Faculty of Law and the University of Detroit Mercy, School of Law.

EDUCATION

Admitted to the England and Wales Bar - 2013

Admitted to the Alberta Bar - 2012

Admitted to the Ontario Bar - 2009

Admitted to the New York State Bar - 2009

Admitted to the District of Columbia Bar - 2009

Admitted to the Massachusetts Bar - 2008

J.D. (Summa Cum Laude), University of Detroit Mercy, School of Law - 2008

LL.B. (Board of Governors' Medal), University of Windsor, Faculty of Law - 2008