

# Kayla Theeuwen

Partner

## Toronto

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## Practice Areas

Caribbean & Offshore

Commercial Litigation

Competition

Corporate & Commercial

Fraud & Anti-Corruption

International/Cross Border

Litigation & Dispute

Resolution

Kayla Theeuwen is a partner in the Commercial Litigation Practice Group and Chair of the Caribbean Practice Group at WeirFoulds LLP.

Kayla helps clients resolve complex commercial and multi-jurisdictional disputes in Canada, Central America and the Eastern Caribbean.

Kayla has litigated and advised clients on a wide range of matters, including those involving urgent injunctive relief, corporate disputes concerning shareholder rights and duties of directors, challenges to restraint orders made pursuant to criminal mutual legal assistance treaties (MLATs), forensic investigations, the enforcement of judgments and arbitral awards, and complex offshore trusts and estates litigation. She has also acted as counsel on constitutional matters in the Caribbean.

Kayla appears before all levels of court in Ontario. She also frequently appears in the Eastern Caribbean Supreme Court and the Eastern Caribbean Court of Appeal.

As part of her litigation practice, Kayla assists a wide variety of clients with their offshore and correspondent banking needs, including economic substance and conducting or responding to enhanced client due diligence.

Kayla received her Juris Doctor from the University of Ottawa in 2014, and her Legal Education Certificate from the Norman Manley Law School in Kingston, Jamaica in 2019. She is called to the Bars of Ontario, the British Virgin Islands, St Kitts & Nevis, Grenada and Jamaica.

## WeirFoulds LLP

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Called to the Bar	Education	Affiliations
<ul style="list-style-type: none"> <li>• Ontario (2015)</li> <li>• British Virgin Islands (BVI)</li> <li>• St. Kitts and Nevis</li> <li>• Grenada</li> <li>• Jamaica</li> </ul>	<ul style="list-style-type: none"> <li>• J.D., University of Ottawa, 2014</li> <li>• Legal Education Certificate, Norman Manley Law School, Jamaica, 2019</li> <li>• B.Sc (Hons), McMaster University, 2010</li> </ul>	<ul style="list-style-type: none"> <li>• Canadian Bar Association</li> <li>• Ontario Bar Association</li> <li>• The Advocates' Society</li> <li>• Toronto Lawyers Association</li> <li>• Commonwealth Lawyers Association</li> <li>• Commercial Bar Association of England and Wales (Honorary Overseas Member)</li> </ul>

## Notable Mandates

Litigated the discharge of extra-territorial freeze orders registered in the Eastern Caribbean pursuant to anti-money laundering legislation and advised on Mutual Legal Assistance Treaty (MLAT) enforcement, and treaty rights and obligations in these areas in relation to the *Lava Jato* investigation.

Challenged a worldwide *Mareva* injunction obtained by a Singaporean corporation against an African sovereign in BVI, and advised on how to resist the registration and enforcement of the injunction in Canada and the UK.

Successfully set aside a *Mareva* injunction obtained by a Singaporean corporation against an African sovereign in Ontario, Canada. Leave to appeal was denied by the Supreme Court of Canada.

In an urgent appeal before the Eastern Caribbean Court of Appeal, successfully discharged an *ex parte* injunction restraining the construction of a luxury beachfront hotel in St Kitts and Nevis.

Retained to register and enforce a UK judgment for over US\$40 million in Ontario. The litigation settled prior to enforcement proceedings.

Acted for one of Belize's leading contractors in a dispute with a Central Bank-regulated financial institution about provisioning and reserve ratios involving multi-million-dollar loan facilities.

Successfully resisted an award of damages sought against a broadcasting company in a constitutional matter in the Eastern Caribbean involving access to public airtime during an election.

Represented a government employee in an Eastern Caribbean country who faced disciplinary charges for exercising her Constitutional right to freedom of conscience and religion in the workplace. After appearing at several disciplinary hearings, successfully obtained an accommodation for the employee from her employer.

Assisted with the settlement of a multi-million dollar trust in the BVI, which involved drafting and reviewing various trust documents, sourcing an institutional trustee, and engaging in enhanced due diligence.

Acted against Canada's major music publishers in a private action before the Canadian Competition

Tribunal, and successfully advanced a novel claim involving the intersection between intellectual property law and competition law.

Brought a private action before the Competition Tribunal (which reached the Federal Court of Appeal) against a competitor regarding a dispute involving digital marketplaces for online vehicle advertisements.

## Reported Cases

### Canada

- *Midland Resources Holding limited v Shtaif*, 2023 ONSC 865
- *Midland Resources Holding Limited v Shtaif*, 2022 ONSC 3161
- *Gaya v Law Society of Ontario*, 2022 ONLSTH 53
- *Murphy et al v Penney et al*, 2022 ONSC 1320, 2022 A.C.W.S. 377, 28 B.L.R. (6th) 131
- *Midland Resources Holding Limited v Bokserman*, 2022 ONCA 73
- *Midland Resources Holdings Ltd (a British Virgin Islands Company) v Bokserman et al*, 2021 ONSC 3762
- *Midland Resources Holdings Ltd (a British Virgin Islands Company) v Bokserman et al*, 2021 ONSC 3077
- *Elliott v Montemarano*, 2020 ONSC 6852, 29 R.P.R. (6th) 288, 329 A.C.W.S. (3d) 442
- *Tribecca Finance Corporation v Tabrizi*, 2018 ONSC 2577, 147 W.C.B. (2d) 178, 293 A.C.W.S. (3d) 67
- *CarGurus, Inc v Trader Corporation*, 2017 FCA 181, 283 A.C.W.S. (3d) 76

### Caribbean

- *KHT Land Holdings Limited v St. Kitts-Nevis-Anguilla National Bank*, SKBHCVAP2021/0005 (ECCA)
- *St. Kitts-Nevis-Anguilla National Bank v KHT Land Holdings Limited*, SKBHCV2020/0013, [2021] ECSCJ No 512
- *Blue Lagoon Management Ltd v Petrodel Investment Advisers (Nevis) Ltd and another*, NEVHCV2019/0103, [2020] ECSCJ No 412
- *The Attorney General of Grenada v Muhammed Ehsan*, GDAHCVAP2019/0020, [2020] ECSCJ No 389 (ECCA)
- *Liburd et al v the Attorney General of St Christopher and Nevis and ZIZ Broadcasting Corporation Ltd*, SKBHCV2020/0090, [2020] ECSCJ No 360

## Awards

- Repeatedly recognized by *Best Lawyers in Canada: Ones to Watch* as an upcoming leading practitioner in Corporate and Commercial Litigation
- MBM Intellectual Property Law Scholarship for academic excellence
- McMaster University (Senate) Scholarship for academic excellence
- McMaster University Honour Award

## Professional Activities

- Volunteer with Pro Bono Ontario's Law Help Centre and Free Legal Advice Hotline

## Community Involvement

- [Girls E-Mentorship](#): Scholarship Committee Member, [Scholarship Sponsor](#)
- [WeirFoulds Women](#): Co-lead, Girls E-Mentorship partnership (2018-2020); Co-lead, Dress for Success Toronto's Bay Street Suit Challenge (2018-present); [#CommunityOverCOVID](#) fundraiser for the Daily Bread Food Bank
- [WeirFoulds EDI Committee](#): Chair, Hiring Subcommittee; Chair, Communications Committee
- McMaster University: Alumni Advisor

## Speaking Engagements

- Panelist, "Putting wellbeing into action", The Commercial Bar Association (COMBAR) North American and Offshore Meeting, Boston, 1 June 2023
- Guest Lecturer, "Lawyer Mobility in a National and Global Context", Lincoln Alexander School of Law, Toronto, April 6, 2022
- Speaker, "Social Media and the Practice of Law: Opportunities and pitfalls in the use of social media while practising law", Litigating in the New Normal: What's Next, WeirFoulds LLP, Online, November 30, 2021
- Speaker, "Enforcing Foreign Judgments and the Reach of Canada's Courts", Institute Across Borders: Legal Issues and Best Practices for Ontario Lawyers from Around the World, Ontario Bar Association, Online, November 10, 2021
- Speaker, "How Do I Get That Tweet Admitted: Litigating in the Age of Social Media", Virtually Together Conference, OECS Bar Association, Online, September 17, 2021
- Speaker, "Law and Borders", Ryerson University Law and Business Student Association, Webinar, August 11, 2021
- Speaker, "EDLS Workshop on Remote Hearings", Eugene Dupuch Law School, Online, January 15, 2021
- Speaker, "Have Zoom, will... practise? Not so fast...", Organization of Commonwealth Caribbean Bar Associations (OCCBA), 29 October 2020
- Speaker, "Law and Borders: A Discussion on International Business Law, From Canada to the Caribbean", Ryerson University Law and Business Student Association, Webinar, July 15, 2020
- Presenter, "Technology, Insider Trading and Client Confidentiality: Managing your Professional Obligations", Jamaican Bar Association (JAMBAR), Kingston, Jamaica, May 18, 2019
- Moderator, "Is Arbitration the Future of Dispute Resolution?", WeirFoulds, May 7, 2018
- Panelist, "Choice of Law and Choice of Jurisdiction Clauses", WeirFoulds Beware of Boilerplate Seminar, May 1, 2018
- Guest Lecturer, "Prosecuting, Defending and Adjudicating White Collar Crime", McMaster University, Hamilton, November 22, 2017
- Co-Presenter, "Practical Considerations for Lawyers Involved in or Managing Multi-Jurisdictional Litigation", Canadian Bar Association, April 18, 2017
- Co-Presenter, "Whistleblowing Policies & Anti-Corruption Strategies" December 7, 2016

## Published Works

- [Enforcement of Arbitral Awards in Canada: Overview](#), Thomson Reuters, November 2022
- [Enforcement of Judgements in Canada: Overview](#), Thomson Reuters, September 2022 (updated annually)
- Litigation and Dispute Resolution Module on Enforcing foreign judgments, Lexis Practice Advisor Canada, May 2020 (updated annually)
- Litigation & Dispute Resolution module, Lexis Practice Advisor Canada, September 2017 (updated annually)
- Has Reasons Review Risen Again? with Raj Anand, published in the Regulatory Boards and Administrative Law Litigation journal – Volume XII, No.2, 2015

## Web Series

- [Leading Questions](#): Presented by WeirFoulds Women

## Publications

- Web Series: Leading Questions – Presented by WeirFoulds Women, October 27, 2022
- Enforcement of Judgments in Canada: Overview, Thomson Reuters, September 14, 2022
- The Privy Council gives wings to the *Black Swan*: A welcome decision for litigants seeking to freeze assets and enforce foreign judgments, October 29, 2021
- Webinar Series: Beware of Boilerplate, February 05, 2020
- Enforcing foreign judgments in Ontario: here comes the story of the hurricane, February 05, 2020
- The Caribbean Court of Justice and Appealing to Accession, December 17, 2019
- Webinar: Beyond Boilerplate – Choice of Law and Choice of Jurisdiction Clauses, December 16, 2019
- Jamaica's Charter of Fundamental Rights and Freedoms: An ineffective safeguard for oppression, January 29, 2019
- The *Mareva* Injunction: A “vital arrow” for fraud victims, according to Ontario's Divisional Court, May 22, 2018
- British Overseas Territories Faced with Push for Transparency by UK Government, May 04, 2018
- International Anti-Corruption Day: 9 December, December 08, 2017
- Chambers Global Practice Guide: Cartels 2018 Canadian Chapter, October 11, 2017
- Litigation & Dispute Resolution module, September 01, 2017
- “Umbrella Damages” Forecast for Canada: Cross Border Sellers Beware, August 28, 2017
- A Discussion on the Delivery of Infrastructure through Public-Private Partnerships: the Importance of Policy Architecture – PUNUKA Annual Lecture, Lagos, Nigeria, May 31, 2017