



Heather Picken Named 2016 Business Person of the Year



Lawrences is delighted to announce that the Brampton Board of Trade recently named our co-managing partner, Heather Picken, as its Business Person of the Year for 2016. In announcing the award, Todd Letts, CEO of the Brampton Board of Trade, commented: "Heather Picken exemplifies the community-building excellence the Brampton Board of Trade looks for when selecting Business Person of the Year."

"Heather has always exemplified the Lawrences core values of giving excellent client service and giving back to the community."

initiatives, including the United Way of Peel and the Princess Margaret Ride to Conquer Cancer. Heather received the Queen's Jubilee Medal for her volunteer work in 2013.

In congratulating Heather on the award, her co-managing partner William Sirdevan noted: "Heather has always exemplified the Lawrences core values of giving excellent client service and giving back to the community. We are extremely pleased that her service has been recognized with this prestigious award."

When told that she had been named Business Person of the Year for 2016, Heather commented: "I'm both humbled and honoured by this wonderful recognition. Giving back to the community has always been part of Lawrences' mission since the firm was founded in 1924 and I'm very proud to be part of that mission."

The Brampton Board of Trade has been helping local businesses achieve prosperity and economic growth for Peel Region since 1887. The Business Person of the Year Award was instituted 17 years ago to recognize those who make an outstanding impact on business excellence and leadership in Brampton. Heather will receive her award at The 2016 Business Excellence Awards Gala, which takes place at 6:00 p.m. on April 28 at Pearson Convention Centre in Brampton.

In this issue:

Heather Picken Named
2016 Business Person of
the Year

Tax Changes: Time to
Update your Will and
Estate Plan

Obtaining an Injunction:
Stop in the Name
of the Law!

Life at Lawrences

- 1
- 2
- 3
- 4

Heather has been with Lawrences since being called to the Bar of Ontario in 1987. She heads the firm's Real Estate Group and has been a prominent part of Brampton's growth and development for many years. Heather has also been extremely active in the community, as Chair of the William Osler Health Centre Foundation, Vice-Chair of the Board of Governors for Sheridan College, and President of the Brampton Board of Trade, among her many other community roles. She has been a dedicated fundraiser for many community

Tax Changes: Time to Update your Will and Estate Plan



MICHAEL J. PRSA

New tax rules took effect January 1, 2016 that may affect existing wills and estate plans.

Testamentary Trusts

Under the previous tax rules, many individuals created testamentary trusts (trusts that take effect on death) for their spouses or children to receive the residue of the estate or to receive life insurance proceeds after they die, since income earned in testamentary trusts could be taxed at graduated rates. Such trusts were typically set out in the Will or in the case of insurance proceeds, in a stand-alone document (insurance trust). Effective January 1, 2016, all income earned in a testamentary trust but not distributed to beneficiaries will be taxed in the trust at the highest marginal rate (about 50%), with two exceptions: the Qualified Disability Trust and the Graduated Real Estate (see below). In summary, the new tax rules eliminate the ability to split income with a testamentary trust.

While some tax benefits of testamentary trusts have been removed, testamentary family trusts may still be used for income splitting purposes if, for example, the trust gives the family member the ability to allocate income of the trust to his or her spouse, children, or other family members. In that case, income paid to the family members can be taxed in their hands at their marginal tax rates.

The new tax rules will also apply to testamentary trusts left by persons who have already died. Trusts with non-calendar tax year ends will be deemed to have a December 31 year-end from 2015 onwards. All such trusts must make quarterly tax instalments starting in 2016.

Qualified Disability Trust (QDT) Under the new rules, income earned in such trusts as Henson trusts for disabled family members can still be taxed at graduated rates, provided the trust is a Qualified Disability Trust (QDT). Various technical rules apply and the beneficiary must file a joint election with the trustee to treat the trust as a QDT. The disabled person may need a legal guardian who can file the election on his or her behalf. Each disabled person may have only one QDT. Additional planning may be required if there is more than one disability trust for the same disabled person.

Graduated Rate Estate (GRE) An "estate" may still be entitled to graduated tax rates for 36 months after the individual has died. There can be only one GRE per person. The estate must be testamentary and the executor must designate the estate as a GRE in order to qualify. Individuals with two wills as part of their estate plan may have to choose which of the two estates will be designated as the GRE.

Charitable Giving

The new tax rules create additional planning benefits for charitable gifts on death.

Conclusion

While we recommend that all estate plans be reviewed and updated, we would especially recommend doing so in any of the following situations:

- You set up a spouse trust for your spouse in your will
- You created testamentary trusts for your adult children
- You created an insurance trust
- You established a life interest trust, such as an alter ego or joint partner trust
- You used the dual will strategy and the executors or beneficiaries are not the same in each will
- A special needs family member will be receiving part of your estate
- You are planning charitable gifts on death

This is not intended as a comprehensive commentary, but as general information only, to raise awareness. The Wills, Trusts, and Estates Group at Lawrences has extensive experience with all forms of estate planning and can advise on wills and estate plans for many different circumstances.



Michael J. Prsa chairs Lawrences' Wills, Trusts, and Estates Group. A member of the Society of Trusts and Estate Practitioners, Mike focuses on estate planning and estate administration. He can be reached at (905) 452-6880 or mjprsa@lawrences.com.

Obtaining an Injunction: Stop in the Name of the Law!



SAHAR CADILI

Sameer and his brother Mahesh created a product and found investors to help them market it. Just as the business becomes successful, they learn that one of their investors misappropriated confidential information and is in talks with another company to create a product that they believe uses their invention. They contemplate a lawsuit, but by the time the case comes to court, the rival company will already be selling their product. What can they do?

Awaiting trial of a lawsuit can take years, sometimes defeating the purpose. Injunctions are legal tools for obtaining immediate and temporary relief in such circumstances. An injunction either restrains the other party from doing something or compels the other party to do something. Injunctions are commonly sought to:

- stop the publication of obviously defamatory material.
- prohibit the use of confidential information and trade secrets.
- stop conduct that constitutes a nuisance.
- remove individual(s) from premises and prohibit entry.
- stop certain dealings with customers and suppliers.
- compel production of information, documentation, or personal property.

Injunctions are typically ordered on a temporary basis pending trial of a lawsuit. In some cases, the injunction may be all that is needed. In other circumstances, a plaintiff may proceed to trial, to have a permanent injunction ordered.

To obtain an injunction, Sameer and Mahesh must show that there is a serious issue to be tried, that they will suffer irreparable or immeasurable damage if the injunction is not granted, and that all factors weigh in favour of granting the injunction. Sameer and Mahesh need to act quickly, gathering all relevant documents so that their lawyer can do a full review of the evidence.

Because injunctions require decisions without the benefit of a full trial, Sameer and Mahesh must undertake to pay any damages the

defendants suffer if it is later determined that the injunction should not have been granted.

The courts require that the other party to an injunction must be given notice when possible. Where an injunction is brought without notice, the plaintiff must disclose all material facts relating to the case, even those that are harmful to its position. The penalty for not making full and frank disclosure is removal of the injunction and possibly payment of the defendant's damages and legal costs.

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The terms of injunctions vary from case to case. Some include confidentiality restrictions requiring the defendant not to disclose the terms of the injunction or discuss it with other co-defendants; others may require that the public be informed of the injunction.

Since injunctions are typically sought on an urgent basis and require that a large amount of evidence be reviewed and presented to the court in a tight timeline, they tend to be expensive. The benefits of this powerful remedy must therefore be weighed against the costs.

Lawrences' litigators have extensive experience with injunctions and can advise you whether they are an appropriate remedy in your case.



Sahar Cadili is an associate in Lawrences' Litigation Group. Her practice is focused on corporate/commercial, real estate, and estates litigation, including injunctions and emergency motions. Sahar can be reached at (905) 452-6888 or scadili@lawrences.com.

Life at Lawrences

Lawrences' lawyers lead active lives in the profession and in the community. Here are some of their latest achievements.

Welcome, Partner!

The partners at Lawrences are pleased to announce that **Damien Buntsma**, head of the firm's Labour & Employment Group, is now a partner in the firm. Before joining Lawrences as an associate in 2012, Damien had experience with a large national law firm and as in-house counsel for a large financial services corporation.



In announcing the new partner, the firm's co-managing partner **Bill Sirdevan** commented: "Many more of our business clients are now turning to us for assistance with labour and employment law issues. Damien's experience and expertise have enabled us to expand this much-needed service."

Damien looks forward to helping clients prevent problems before they arise: "So many labour and employment matters can be headed off by having sound policies and contracts in place. I like to help our clients ensure smooth growth and transitions in their business by anticipating potential problems and ensuring that employment policies, procedures, and documentation support their business goals."

Estates Group Adds Expertise

As demand grows for its services, Lawrences' Wills, Trusts & Estates Group is adding associate **Kiran Gill** to the group. Kiran, who articulated with Lawrences, has been part of the firm's Litigation Group since she was called to the Bar in 2011. Her practice will now consist of estate planning, estate administration, and estate litigation. Lawrences is one of the very few firms in Peel Region that has a dedicated Wills, Trusts & Estates Group. In announcing the change, Lawrences' co-managing partner Heather Picken commented: "We're really pleased that Kiran is expanding her practice experience into the very busy field of Wills, Trusts & Estates. Lawrences has long been known for its specialized expertise in this field and Kiran's litigation experience will add to that expertise, as will her fluency in Punjabi and Hindi."



Master of Ceremonies

When the Missionary Oblates of Mary Immaculate celebrated the Order's 200th anniversary in January at a gala banquet with 800 people in attendance, they looked to Lawrences' head of Business Law **Michael Luchenski** as their Co-Master of Ceremonies. The Oblate Order was founded in France shortly after the French Revolution and began its ministry in Canada in 1841. Today, there are almost 4,000 members worldwide. The Oblates in Canada provide pastoral care for people in their native language across the country, including the far north. Among others, they serve Canadians of Polish descent. Michael, who is of Polish descent, served as chair of the Building Committee for St. Eugene de Mazenod Church in Brampton, which is named after the founder of the Oblates.



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