

ARBITRATOR/MEDIATOR SPOTLIGHT

The Honourable Frank Newbould, K.C.



ARBITRATION PLACE

An all-encompassing approach

CAREER & BACKGROUND

Each stage of my career has been a joy for me. I had a lengthy and broad counsel practice for many years that involved corporate and commercial disputes, banking and insolvency matters, class actions, re-insurance disputes, real estate, and estate matters. I was appointed to the Ontario Superior Court of Justice in 2006, spending a large part of my time doing commercial work on the Commercial List, including being head of the Commercial List from 2013 until my retirement in June 2017. I joined Arbitration Place in July 2017. As a counsel I was involved in countless mediations and arbitrations as counsel and as an arbitrator. On the bench mediations were a big part of the story. Since I left the bench, I have been heavily engaged as a mediator and arbitrator. I am also a part time counsel to Thornton, Grout, Finnigan LLP, a member of South Square, U.K., and a member of several international arbitration associations, including the London Court of International Arbitration, the International Centre for Dispute Resolution (ICDR) of the American Arbitration Association, the Singapore International Arbitration Centre and the BVI Arbitration Centre. I am a member of P.R.I.M.E. Finance, INSOL International and the International Insolvency Institute.

ARBITRATOR/MEDIATOR PRACTICE

I do what comes in the door. Much involves corporate and commercial disputes, financial disputes, estate corporate disputes, real estate disputes, energy disputes in Canada and off-shore, construction and engineer design disputes.

BENEFITS OF ARBITRATION/MEDIATION

Both mediation and arbitration permit the parties and their counsel to choose someone with experience in the area, something not generally available in the court system.

Choosing mediation is obviously helpful to litigating parties to settle disputes before they get out of hand financially. It also assists in settling issues in a way that a court cannot accomplish, such as beneficial tax attributes to both parties.

Arbitration permits disputes to be confidential and out of the public arena, often which is desired by both parties. It permits the parties and the arbitrator to fashion a streamlined procedure to have the arbitration heard quickly and efficiently, which is extremely important. This type of procedure, such as hybrid trials, is very similar to what is done in the Commercial List in Toronto. It is possible to reduce the cost of an arbitration if the arbitral agreement permits one arbitrator or the parties agree to it rather than having three arbitrators as agreements often call for.



TIPS FOR COUNSEL TO BE MORE EFFECTIVE IN ARBITRATION/MEDIATION

Good counsel know what works and what doesn't work. Candour is essential, as are good manners and a willingness to try to achieve a good result for the client. Sometimes it is necessary, as in court, to help clients along to be reasonable. Keeping it simple stupid is a great skill to have, which includes material that is easily understood. Good arbitral skills in a hearing are no different than in a court. The three Cs of communication, cooperation and courtesy should be in every counsel's toolbox.