

ARBITRATOR SPOTLIGHT

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CAREER & BACKGROUND

I act as a neutral arbitrator and as an advisor to arbitration counsel. I bring to this role more than 25 years of experience as counsel in commercial litigation, including in both international and domestic commercial arbitrations. For example, I represented intervenor Arbitration Place before the Supreme Court of Canada in *Peace River Hydro Partners v Petrowest Corporation*, 2022 SCC 41. I am a partner at Lerner LLP and a roster arbitrator with Arbitration Place. I am also on the ICDR, ICC Canada, VanIAC, TCAS, and ADRIIC rosters. My expertise includes commercial/business/contractual disputes, including shareholder disputes. I developed skills in decision making, business judgment, and conflict resolution during my 12 years as a member of the Lerner LLP Executive Committee and as Managing Partner (Toronto). I am a Fellow of the Chartered Institute of Arbitrators (FCIArb) and have obtained the Qualified Arbitrator (Q.Arb) designation from ADRIIC. I am also a member of the board of directors of CIArb Canada and ADRIIC and a former member of the Executive Committee of TCAS. I am recognized by my colleagues for my expertise in arbitration; in 2022, I was selected by Best Lawyers in Canada, Lawyer of the Year (ADR) – Toronto.

ARBITRATOR PRACTICE

My arbitration practice includes work as:

- the Editor of and a Contributor to “Arbitration Matters” (www.arbitrationmatters.com), which posts regular brief summaries of, and commentary on, recent decisions on commercial arbitration issues as they are released by courts across Canada and which are sent to almost 700 worldwide subscribers (for free);
- the host of the regular webinar series, “Arbitration Boot Camp”, in which I discuss common arbitration topics and their practical application to both arbitration counsel and arbitrators;
- one of the primary faculty who teaches the TCAS Gold Standard Course in Commercial Arbitration, the successful completion of which allows students to achieve their ADRIIC Qualified Arbitrator (Q.Arb) designation;
- a contributor to the *Canadian Journal of Commercial Arbitration*; and
- a regular speaker on arbitration topics for TCAS, CIArb Canada, Osgoode Professional Development, OBA, and Advocates’ Society.

BENEFITS OF ARBITRATION

The benefits of arbitration are often unknown to commercial litigation counsel, many of whom consider it nothing more than “private litigation”. However, it offers far more:

1. **Speed.** An entire arbitration, including a final award on the merits, may be completed before an interlocutory motion will be heard by the courts.
2. **Flexibility.** A process more streamlined or customized for a particular dispute is possible without sacrificing due process.
3. **Control.** Parties choose not only their arbitrator, but also have more control over process. For example, parties may choose to have only part(s) of their dispute arbitrated to allow them to “jump the queue” to get on the trial list for a merits determination by a court.

Arbitration is a solution to court backlogs. In my experience, when counsel participate in their first arbitration process that fully utilizes its benefits, they change their views and become advocates of arbitration.



TIPS FOR COUNSEL TO BE MORE EFFECTIVE IN ARBITRATION

1. See session 9 of my “Arbitration Boot Camp” webinar “Advocacy in Arbitration” (available on YouTube!);
2. Change your court litigation “mindset” by taking advantage of arbitration’s benefits from the beginning;
3. Choose an arbitrator who will work with you to reduce the time and cost of the dispute resolution without sacrificing due process;
4. Choose institutional rules to give you process structure (and comfort) if you are not experienced in arbitration;
5. Investigate, prepare, and strategize your case up front, rather than waiting for discovery;
6. Take advantage of the flexibility of arbitration: “pleadings” that allow for law and argument; limited documentary production; limited or no oral discovery;
7. Use the First Procedural Meeting as your first advocacy opportunity;
8. Prepare your client for a different process and more up-front costs; and
9. Cooperation with opposing counsel is expected and allows for greater control over the process.