

ARBITRATOR/MEDIATOR SPOTLIGHT

Gavin MacKenzie



CAREER & BACKGROUND

Gavin MacKenzie was called to the Bar in 1977. He has acted as counsel in well over 200 reported cases in many fields, including commercial, administrative, and tort litigation. At present his counsel practice concentrates on civil appeals and professional responsibility matters, including representing parties before the Law Society Tribunal. Mr. MacKenzie is frequently retained to provide expert evidence and opinions on standard of care and ethical issues. He is the author of *Lawyers and Ethics: Professional Responsibility and Discipline*. Mr. MacKenzie was elected as a bencher four times and was elected or acclaimed as Treasurer of the Law Society on three occasions. Among other recognitions he was honoured by induction as a Fellow of the American College of Trial Lawyers in 2000 and was awarded an Honourary Doctor of Laws Degree by the Law Society in 2010 in recognition of his contributions to the legal profession.

ARBITRATOR/MEDIATOR PRACTICE

In recent years Mr. MacKenzie has increasingly been retained as an arbitrator and mediator. He became a Member Arbitrator at Arbitration Place in 2020. He has served both as a sole arbitrator and a member of a three-arbitrator panel, including in contract and commercial disputes in various industries, and in law firm partnership and costs disputes.

BENEFITS OF ARBITRATION/MEDIATION

Civil litigation can and usually does take an eternity. It fails to meet the chief expectations of parties, which include the timely, effective, and final resolution of disputes. Civil cases are treated as a low priority by our courts, subordinated in importance to criminal prosecutions and family law issues. Not all judges have specialized expertise or experience in the fields of commercial and tort litigation. Trials and decisions become public, often causing embarrassment or harm to the reputation of one or more of the parties. Arbitration enables parties to select qualified adjudicators to resolve disputes promptly, effectively, and privately. The parties can agree to adapt procedures and potential terms of resolution to satisfy the particular features of the case. Many disputes may be resolved with the assistance of a skilled mediator, either before or during litigation or arbitration.



TIPS FOR COUNSEL TO BE MORE EFFECTIVE IN ARBITRATION/MEDIATION

Be creative. Be realistic. Be candid. Be committed. Keep an open mind. Be respectful of all persons involved, including adverse parties and witnesses. Empathize with adverse parties and counsel; consider the events giving rise to the dispute from their vantage point. Consider whether the parties have common interests that may be obscured by acrimony occasioned by their dispute.