

ARBITRATOR/MEDIATOR SPOTLIGHT

Peter Ruby, FCIArb



CAREER & BACKGROUND

Since 1996, as counsel I have handled arbitration and litigation disputes focused on the technology and energy sectors, as well as other corporate/commercial disputes and insolvency litigation. In addition to my counsel practice at Goodmans LLP, since 2018 I have acted as an arbitrator and mediator with Arbitration Place.

Concerning the technology sector, I have balanced between representing multinational and entrepreneurial vendors of technology services and representing users of technology. With respect to data protection, I have acted on data breach incidents and other cybersecurity matters. I am also the President of the International Technology Law Association. For over a dozen years, I was a Professor of Law (adj.) at the University of Toronto and Osgoode Hall Law School teaching internet law.

Concerning the energy sector, I have handled disputes related to electricity generation (including renewable power), transmission, electricity and gas distribution, mergers and acquisitions, rates adjudication, access to infrastructure, joint ventures, leases, real estate development, investment and regulatory issues.

I also have extensive experience with respect to the arbitration of shareholder, joint venture, and M&A-related and insolvency disputes.

In 2021, one of my clients endowed a Dispute Resolution Award in my name at Osgoode Hall Law School.

ARBITRATOR/MEDIATOR PRACTICE

I act as a sole and panel-member arbitrator and mediator with a focus on the technology and energy sectors. In 2023, bringing together my expertise about energy and technology, I acted as a co-arbitrator with respect to a failed green energy project. I have arbitrated and mediated disputes between a variety of contracting parties in these sectors.

I am often asked to act as arbitrator or mediator for disputes where the parties value familiarity with the industry involved, the substantive law beyond contract law (such as intellectual property law or energy regulation), or the laws of multiple jurisdictions. Through my extensive international work, I am familiar with the technology-related law of many countries. With respect to mediation, I am often called upon to find creative solutions to multi-dimensional problems.

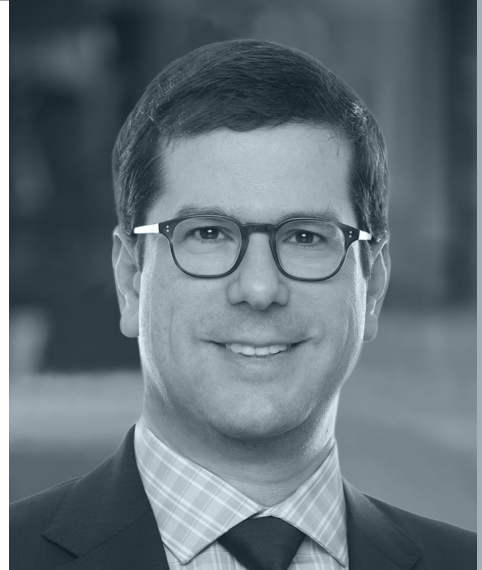
I am a Fellow of the Chartered Institute of Arbitrators, on the International Centre for Dispute Resolution (ICDR) International Panel of Arbitrators and Mediators, on the VANIAC roster, and co-lead the North America committee of the Silicon Valley Arbitration & Mediation Center. I am recognized for my expertise in many legal publications, including *Chambers Global*, *Lexpert*, *Benchmark Canada*, *Who's Who Legal*, and *Best Lawyers in Canada*.

BENEFITS OF ARBITRATION/MEDIATION

No matter the arbitration regime or applicable arbitration rules, arbitration offers at least two benefits: a custom choice of arbitrator and an at least somewhat bespoke process.

Arbitration has matured so that arbitrators are available with a wide variety of expertise and skills, from generalist to specialist. Parties can choose arbitrators who are well up the learning curve, open minded and have experience running a fair and efficient arbitration process.

An arbitrator almost always has discretion to fashion a process that fits the dispute at hand. Doing so involves listening carefully to the parties' proposals, suggesting options drawn from the arbitrator's experience and otherwise, and, if the parties are at odds, crafting a process that respects as far as possible what the parties agree upon while imposing a holistic approach to the arbitration.



TIPS FOR COUNSEL TO BE MORE EFFECTIVE IN ARBITRATION/MEDIATION

Arbitration and mediation are human exercises. Arbitrators and mediators best absorb facts through narrative, supported by advocacy tools such as chronologies and visuals. So do not substitute advocacy efficiency in place of compelling and accurate storytelling. Weave the facts into a tapestry, while avoiding repetition and rhetorical flourishes.

Also, obviously, witnesses are people. Experienced arbitrators and mediators can generally tell when a person is parroting the party line and when the witness is expressing their own view of events. In drafting a witness statement or preparing a witness to testify, do not hide the witness' own voice. A consistent witness, no matter who is asking the questions, is a more powerful witness.

Finally, good analogies drive home an argument. There is a reason why authors use similes and metaphors – when well done they work on conscious and subconscious levels. Carefully plan out analogies so they advance, but cannot be used to undermine, your case.

A personal favourite: Renowned counsel calling factual matrix evidence "Hamburger Helper".