



Robert Wisner

Co-Chair, International Arbitration
Toronto

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education and year of call

- Called to the Ontario bar - 1996
- University of Toronto, LLB - 1994
- Queen's University, MA - 1990
- University of Ottawa, B.Soc.Sci. - 1989

practice areas

litigation
international arbitration
arbitration
international trade
competition and antitrust
administrative law
business litigation

industries

mining
energy
transportation
telecommunications
infrastructure

profile

Robert Wisner is a Litigation partner at McMillan LLP and its Co-Chair, International Arbitration. His practice focuses on international dispute resolution and corporate litigation.

Robert has argued numerous cases before arbitral tribunals seated in venues throughout Canada, the United States, Asia and Europe. He has also appeared at all levels of court in Ontario and in other Canadian jurisdictions.

Many of Robert's cases have involved matters of international law, including disputes relating to foreign investment protection, the jurisdiction of Canadian courts and the enforcement of arbitral awards and foreign judgments. He has also handled a wide range of disputes relating to corporate governance, shareholder remedies or complex commercial contracts, including M&A, joint venture, shareholder, partnership, supply and services agreements.

Legal directories have consistently recognized Robert's work in international arbitration, cross-border business litigation and disputes relating to the global mining sector. *Chambers Canada* (2020) ranks Robert in Band 1 of the leading individuals nationwide in arbitration, reporting that market sources regard him as "*tenacious, smart and readily available.*" Robert has also been described "*as 'a leader in his field'*" through his premier international commercial and investor state arbitration work" (*Who's Who Legal* 2012). Robert has also served as arbitrator in domestic and international commercial disputes.

Many of Robert's clients are involved in the mining, energy, aviation, infrastructure or telecommunications sectors. He has assisted clients seeking litigation financing as well as leading litigation funders conducting due diligence on potential claims.

directorships and professional associations

- Co-Chair, Canada Advisory Board, International Institute for Conflict Prevention and Resolution
- Officer, North American Users' Council, London Court of International Arbitration
- Founding Member, Arbitration Roundtable of Toronto
- Past Chair, Business Dispute Resolution Committee, International Law Section, Canadian Bar Association

representative matters

Counsel in international and domestic commercial arbitrations involving parties in Canada, Europe, Asia and Africa:

- LCIA (Toronto): Defending a claim for a 50% interest in a mining project in Africa arising from an Earn-in agreement
- ICC (Geneva): Acting for Brilliant Resources Inc. against the Republic of Equatorial Guinea in a dispute arising from an exploration services agreement. The company has publicly disclosed receipt of US\$31.5 million in compensation
- ICC (Paris): Representing a major international mining company in a \$100 million dispute arising out of a joint venture with a West African state owned entity
- ICC (Paris, Vancouver): Defending claims in excess of \$12 million against a Canadian aviation company
- ICC (Montréal): Acting for a major Canadian energy company defending claims in excess of US\$115 million arising out of a long-term supply agreement
- Ad Hoc (Toronto): Acting for a minority shareholder in a major Canadian company in a dispute involving claims of oppression and breaches of a shareholders' agreement
- Acting in complex commercial disputes seated in Asia under the arbitration rules of the HKIAC (Hong Kong), SIAC (Singapore) and KLRAC (Kuala Lumpur)

Counsel in investment treaty arbitrations against states in Latin America and Central Asia. Recent matters include:

- UNCITRAL (The Hague): Successfully representing Copper Mesa Mining Corporation, which obtained an award of US\$24 million against the government of Ecuador for expropriation of mining concessions
- NAFTA: Advising Primero Mining Corp. regarding potential claims against the government of Mexico

Appearing before all levels of court in Ontario and other Canadian jurisdictions. Recent matters include:

- Successfully representing international corporations in

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applications relating to the enforcement of arbitral awards and foreign judgments

- Appearing before the Commercial List of the Ontario Superior Court and before the Ontario Court of Appeal in disputes relating to beneficial ownership of shares, corporate governance and securities litigation
- Leading litigation in British Columbia and Ontario by minority shareholders alleging oppression and breaches of directors' fiduciary duties

awards and rankings

Robert has been consistently recognized in a number of legal directories for his work in international arbitration and cross-border business litigation, including:

- *Chambers Canada*
- *Chambers Global*
- *Who's Who Legal*
- *Best Lawyers in Canada*
- *Benchmark Litigation*
- *Lexpert*
- *Canadian Legal Lexpert Directory*
- *Legal Media Group's Guide to the World's Leading Experts in Commercial Arbitration*

Under Robert's leadership, *Global Arbitration Review* has consistently ranked McMillan's International Arbitration Group amongst the world's top 100 practices. Robert has also been recognized by *Lexpert* as a leading Global Mining Lawyer.

teaching engagements

- Lecturer, Osgoode Hall Law School, Certificate in Mining Law
- Lecturer, Osgoode Hall Law School, LL.M. in Alternative Dispute Resolution

media mentions

- "[Proposed rule changes could speed up investor-state dispute arbitration](#)", *Law Times*, May 31, 2019
- "[Trudeau approves Trans Mountain pipeline, kills Northern Gateway](#)" by Nelson Bennett, *Business in Vancouver*, November 30, 2016
- [Robert Wisner discusses the advantages of enforcing arbitration clauses in shareholder agreements](#)
- "[Enforce arbitration agreements: ruling](#)" by Alex Robinson, *Law Times*, November 21, 2016

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- "[Gold Reserve reaches arbitration settlement with Venezuela, stock soars](#)" by Peter Koven, *Financial Post*, August 8, 2016
- "[Copper Mesa Mining Awarded US\\$24 Million for Expropriation of Ecuador Mining Projects](#)", *Copper Investing News*, June 1, 2016
- "[Canadian miners face uphill battle to collect on arbitration wins](#)" by Peter Koven, *Financial Post*, April 11, 2016
- "[Gold Reserve deal with Venezuela a potential turning point for Canadian miners with arbitration wins](#)" by Peter Koven, *Financial Post*, March 1, 2016
- "[The Alternative to Litigating](#)" by Bev Cline, *Lexpert*, November 27, 2015
- Quoted in *Law360* regarding the Supreme Court's decision in *Chevron* on the enforcement of foreign judgments, September 11, 2015
- Quoted in *The Northern Miner*, *The National Post*, *Lexpert*, the Canadian Bar Association's *National Magazine*, and the *Canada-China Business Forum* regarding international arbitrations against states
- Interviewed on CBC Radio regarding foreign investment disputes involving Canadian mining companies
- Quoted in the *National Post* and the *Toronto Star* for his appearance on behalf of the Prospectors and Developers Association of Canada before the House of Commons Standing Committee considering the proposed Bill C-300 (seeking to regulate the activities of Canadian mining, oil & gas companies in developing countries)

publications

April 2019

No "Piggybacking" to Avoid B2B Arbitration: Supreme Court of Canada Affirms Enforceability of Arbitration Clauses despite Related Class Action
Litigation Bulletin

October 2018

What's in a name – the USMCA is the new NAFTA
International Trade Bulletin

January 2018

Canada's Global CSR Cop? The Proposed Canadian Ombudsperson for Responsible Enterprise
Litigation and International Trade Bulletin

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October 2017

NAFTA

Here Today, Gone Tomorrow?
International Trade Bulletin

April 2017

New Act Modernizes Ontario's International Arbitration Regime
Litigation Bulletin

February 2017

No Easy Way Around Separate Corporate Personality: Ontario
Court Releases its Decision in *Yaiguaje v. Chevron*
Litigation Bulletin

October 2016

Arbitration Clauses and Shareholder Disputes: Clarity from the
Ontario Court of Appeal
Litigation Bulletin

November 2015

British Columbia Lawsuit by Guatemalan Plaintiffs Against
Tahoe Resources Inc. Stayed on *Forum Non Conveniens*
Grounds
Litigation Bulletin
TerraLex

September 2015

No Canadian Connection? No Problem! Supreme Court Permits
Actions to Enforce Foreign Judgments Without Proof of
Canadian Assets or Other Links
Litigation Bulletin

August 2015

Arbitration Clauses and Shareholder Disputes: Are "Fussy
Distinctions" Undermining Efficient Dispute Resolution?
Litigation Bulletin

presentations

September 2019

Recent Developments in Corporate Governance in Canada
Annual Meeting, International Bar Association, Seoul, Korea

July 2018

Dispute Resolution in Canada
European Advisory Board Annual Meeting, Institute for Conflict
Prevention and Resolution, Rome, Italy

July 2017

Squeezing Blood from a Stone: Identifying and Seizing State
Assets to Enforce Arbitral Awards
63rd Annual Rocky Mountain Mineral Law Institute, Santa Fe,
New Mexico

September 2016



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TransCanada v. USA
2016 Mid-Year Energy Forum, Energy Bar Association,
Washington, DC

February 16, 2016

Third Party Litigation Financing: Recent Canadian
Developments

CPR 2016: The Dispute Resolution Divide. Harmonizing Global
Approaches, New Orleans

November 2014

Arbitration Advocacy: The Legal Framework
Advocates Society, Toronto