

RALPH CUERVO-LORENS



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Ralph Cuervo-Lorens is a leading lawyer practising environmental law and regulatory compliance and dispute resolution for clients in primarily the manufacturing, municipal, construction, transportation, energy and mining industries.

In his environmental law practice, Ralph focuses on regulatory matters, corporate social responsibility and environmental risk-management, mitigation, permitting, impact assessment and compliance. He provides expert counsel on risk assessment, disclosure, issue management, reporting, decommissioning, Aboriginal consultation and accommodation, emergency responses, as well as remedial and clean-up obligations and plans. In addition, Ralph provides support at a senior level in the environmental area to the firm's M&A, real estate, insolvency and securities practices including due diligence and negotiation and drafting of complex environmental provisions such as representations and warranties, indemnities and limitation of liability in all types of corporate, commercial and banking agreements.

Ralph's advocacy and dispute resolution practice focuses on the management and resolution of complex business and commercial matters across a broad spectrum of areas, including white collar fraud, taxation, procurement, and Aboriginal. He acts as defence counsel in quasi-criminal prosecutions under a wide range of federal and provincial regulatory and taxation statutes. Trained in ADR and a fellow of The Chartered Institute of Arbitrators (U.K.), Ralph has served as court-appointed independent supervising counsel and has been appointed by parties as settlement counsel in complex commercial litigation.

Appearing regularly before the Ontario Provincial Court, Ontario's Superior Court of Justice and Court of Appeal, Ralph also appears before the Federal Court of Canada, the Tax Court of Canada, various regulatory boards and tribunals as well as municipal planning boards and councils in provinces across Canada.

Email: ralph.cuervo-lorens@mcmillan.ca

Expertise: Environment, Litigation & Dispute Resolution, Tax

Language Spoken: English, Spanish

Location: Toronto

Phone: 416.865.7880

Position/Title: Partner, Environment | Litigation & Dispute Resolution

Community Involvement:

- Judge, Wilson Moot Competition
- Practice Judge, VIS International Commercial Arbitration Moot
- Pro Bono work for a variety of organizations

Directorships & Affiliations:

- Attends the invitation-only, closed-door annual *Cambridge Forum* for senior environmental practitioners on environmental law
- Institute of Corporate Directors
- Law Society of Ontario
- Ontario Bar Association
- American Bar Association

- Energy Bar Association
- The Chartered Institute of Arbitrators (U.K.)
- Canadian Council of the Americas
- Editor-in-chief, Faculty of Law, Queen's Law Journal (1988- 1989)
- Contributing Editor, Carswell's Practice Cases

Publications:

- "[Fueling the Future: Canada's Plan to Reduce Greenhouse Gas Emissions under the Clean Fuel Regulations](#)", Ontario Bar Association – Environmental Law Section (April 5, 2021)
- "[Expropriation of Contaminated Land and its Fair Market Valuation](#)", INSTI-NEWS Fall/Winter 2020, p.17
- "Can the Application of Blockchain Technology Broaden the Horizons for Arbitration?", (Summer 2018)
- "How Does Arbitration Intersect with the Blockchain Technology that underlies Cryptocurrencies?," (May 5, 2018)
- "Changes to CRA's Voluntary Disclosure Program coming," (February 6, 2018)
- "No More Mining - Reflections from Pacific Rim Cayman v El Salvador (ICSID)" (February 16, 2017)
- "Continuing Developments in Tax Law" (March 14, 2016)
- "New Rules for Resources Sector Financial Reporting Aim to Help Reduce Corruption" (December 3, 2014)
- "Doing Business 2015 – Going Beyond Efficiency" (October 31, 2014)
- "A better response to Mexico's new mining taxes" (February 24, 2014)
- "Doing Business 2014 – Understanding Regulations for Small and Medium Size Enterprises," (October 31, 2013)
- "Tax Evasion (Textbook)," (1995)

Education & Admissions:

Degree: Called to the Ontario bar

Year: 1991

Degree: FCI Arb

University: The Chartered Institute of Arbitrators (U.K.)

Year: 2018

Degree: "Get on Board" Governance Program

University: Canadian Board Diversity Council

Year: 2012

Degree: Advanced Mediation Training

University: JAMS

Year: 2006

University: Arbitration and Mediation Institute of Ontario Inc.

Year: 2003

Degree: MA

University: University of Toronto

Year: 1995

Degree: LLM (cand.)

University: Osgoode Hall Law School

Year: 1993

Degree: LLB

University: Queen's University

Year: 1989

Degree: BA

University: University of Victoria

Year: 1986

Media Mentions:

- Mining for the Truth in Guatemala, Maclean's, July 8, 2014
- Ralph Cuervo-Lorens Quoted in SNL Metals & Mining, March 13, 2014

Speaking Engagements:

- Panelist, Lease Arbitration Clauses, ICSC Annual Conference
 - April 28, 2017
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- Judge, Willms & Shier Environmental Law Bi-annual Moot Court Competition
- March 4, 2017

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- Panelist, Cambridge Environmental Law Forum
 - January 27, 2016

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- Advanced Environmental Law Practitioner Roundtable, Canadian Bar Association
 - June 4, 2015

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- Panelist, Lease Arbitration Clauses, ICSC Annual Conference 2015
 - April 14, 2015

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- Practice Judge, Willms & Shier Environmental Law Moot
 - March 1, 2015

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- Speaker, Spills Response – Legal Liability Issues and Strategies
 - April 28, 2014

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- Speaker, Negotiating Leases in High Risk Sites
 - March 27, 2014

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- Speaker, Responses to 21st Century Resource Nationalism in Mexico, PDAC
 - March 3, 2014

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- Speaker, Advisors, Advice and Professionalization, Advocis Annual Conference
 - October 28, 2013

Representative Matters: Regulatory & Dispute Resolution

- Defence counsel in federal prosecution in connection with ocean cargo terminal works
- Litigation counsel to public mining company in multi-million dollar lawsuit against Province of Ontario arising from failure to discharge aboriginal duty to consult in context of mineral exploration
- Counsel to commodity supplier in Target Canada CCAA proceedings
- Counsel in Charter of Rights and Freedoms application arising from improper interrogation of corporate directors
- Counsel to commodity supplier in Sears Canada CCAA proceedings
- Counsel in breach of non-competition agreement litigation in municipal contracting

- Litigation counsel to affected property owners in first time challenge of wind farm project on heritage grounds before Environmental Review Tribunal and related Judicial Review
- Canadian litigation counsel to Direct Energy
- Litigation counsel to Spanish multi-national in defence of multi- million product liability case arising from tainted health supplements
- Litigation counsel to Italian medical equipment retailer in dispute over termination of distributorship agreement
- Litigation counsel on behalf of professional athlete in lawsuit against financial advisor and mutual fund company
- Counsel to Canadian public mining company on federal environmental assessment issues arising from re-opening of historic gold mine
- Environmental, regulatory and country risk counsel to Northgate Minerals in bid for competitor and subsequent sale to AuRico Gold involving gold and silver mines in Mexico
- Regulatory counsel to Ontario's largest waste management and diversion firm
- Co-counsel to Asea, Brown, Boveri (ABB) in connection with environmental (and related Freedom of Information) matters relating to manufacturing operations, PCB storage and divestitures
- Environmental counsel to TD Bank
- Defence counsel to multinational consultant firm in federal environmental prosecution that resulted in withdrawn charges
- Environmental and litigation counsel to marquee Canadian fast food company
- Defence counsel on behalf of insurer in favourable resolution of charges under Ontario's Safe Drinking Water Act against camp operator
- Counsel to Domtar Inc. in connection with landfill closure, environmental enforcement proceedings, environmental assessments, audits, approvals, control orders, risk management and environmental audit work
- Counsel to U.S. client in defence of regulatory proceeding before Environmental Review Tribunal arising from recycler contamination of Rouge River Watershed in national park sensitive environmental area
- Environmental and litigation counsel to international lending consortium in connection with financing of electric power generating station
- Environmental counsel to buyer on purchase of electrical utility
- Aboriginal duty to consult and environmental counsel to one of the winners in Ontario's renewable energy supply contract bid process, in connection with wind farm development
- Represented Ministry of the Environment provincial officer at Walkerton Inquiry into deaths by contaminated town water supply

- Represented U.S.-based lenders in environmental aspects of financing of pulp and paper and steel mills with wide-scale environmental impacts
- Environmental compliance advice to a variety of companies such as IBM, Pratt & Whitney, Bank of Montreal, BP Canada, Schlumberger and Eaton Corporation
- Environmental counsel to a large Canadian oil and gas distribution client regarding Ontario pipeline relocation
- Environmental counsel in wind farm and water treatment plant portfolio acquisitions
- Advising a variety of clients in connection with the remediation and disposition of contaminated lands, including warranty, clean up, risk assessment, and other contract and tort claims
- Acting as litigation plaintiff and defence counsel on soil contamination claims, including contaminated development properties, service stations, industrial land and brownfield developments
- Advising IBM Inc., Eaton-Yale, and Logitech Inc. in connection with environmental regulated product issues
- Advising Hyundai Auto Canada in federal emission standards case
- Advising Toyota North America in connection with environmental export/import compliance issues
- Environmental Counsel to Goldcorp Inc. in a variety of environmental regulation and litigation issues including provincial prosecutions arising from mine expansion at Red Lake, Ontario
- Counsel for Domtar Inc. in prosecutions under the federal Fisheries Act arising from waterway pollution
- Counsel to Salvation Army in a variety of contaminated land cases
- Counsel to Chicago-based client in resolution of multi-million dollar litigation against Dow Chemical arising from the largest PCB contaminated area in the province involving clean-up costs in the range of \$20 to \$90 million
- Defence Counsel in challenge to Fire Marshall's order arising from fire at recycler facility
- Defence counsel to large Canadian mining company in resolution of environmental prosecution on the eve of public announcement of large acquisition on the part of the client
- Defended regulatory proceedings at trial and appellate levels on behalf of Domtar
- Acted in litigation against Ministry of the Environment arising from improper registration on title of notice certificate in connection with industrial clean-up site
- Advised U.S. investment bank in negotiating with Ministry of Environment in connection with purchase and re-start of chemical plant out of insolvency
- Represented waste disposal transfer station client in environmental appeal by adjacent land owners including Environmental Bill of Rights issues
- Advised international computer companies on blue box, e- waste, recycling and the management of toxic substances

- Ontario environmental counsel to Pratt & Whitney Canada

Risk Management and CSR

- Risk management advice in Fire Marshall investigation and third party litigation arising from catastrophic fire at manufacturing facility
- Advice on risk management issues at Mexican subsidiary of mid-sized Canadian gold producer
- Crisis management and crisis supervision to major Canadian public company in connection with spill that threatened town drinking water supply
- Risk management counsel in relation to environmental impacts from fire at recycler facility
- Country risk counsel to Canadian public mining company in bid for competitor and subsequent sale involving several mines in Mexico
- Preparation of environmental risk management programs for manufacturing, property development and banking clients
- Acting for national property management companies as environmental and risk management counsel
- Advised Ontario's Independent Electricity System Operator on case arising from interplay between electricity supply obligations and prevention of harm to the environment
- Providing general advice regarding electromagnetic radiation and other nuisances in connection with transmission lines

White Collar Fraud

- Counsel to large municipality in the GTA in prosecution of \$20M civil fraud case against manager and third parties, including advising on issues arising from related criminal prosecution
- Counsel in municipal procurement litigation arising from provincial Auditor's Report
- Counsel to purchaser, director and shareholder in civil litigation case against former shareholder and director alleging fraud and misrepresentation in the share sale of manufacturing business
- Counsel to US based clients in B.C. Mareva injunction proceedings in payments processing industry
- Court-appointed Independent Counsel in Anton Piller injunction proceedings arising from theft of confidential business information
- Counsel to Lite-On, a Taiwanese computer multinational, in multimillion dollar fraud at its Mexican subsidiary
- Counsel to Salvation Army in enforcement of civil fraud judgement arising from multimillion dollar employee defalcation
- Counsel to international hotel chain in employee defalcation case

Tax Dispute Resolution

- Litigation counsel to multi-national European manufacturer in taxation dispute
- Litigation counsel to Canadian affiliate of US manufacturer in internal fraud case resulting in historical underpayment of income tax
- Counsel to industrial property owner in successful realty tax appeal on the basis of historical environmental contamination
- Counsel to industrial manufacturer and one of its officers in multi-million dollar audit and tax evasion prosecution
- Litigation counsel to commercial property developer in multi-million dollar land transfer tax dispute
- Litigation counsel to shareholders of entertainment company in income attribution case
- Counsel to manufacturing company in defence of tax assessment arising from incorrect expense reporting
- Defence counsel in successful defence at trial and appeal of retail sales tax prosecution of transportation company and one of its directors
- Tax litigation counsel to property developer in challenge of property tax assessment arising from sale of commercial property portfolio
- Defence counsel in tax evasion prosecution against manufacturing company in relation to improper posting of company expenses
- Litigation counsel in multi-million dollar realty tax appeals arising from incorrect valuation on account of contamination

Aboriginal Law

- Environmental and regulatory counsel to First Nations in relation to land claim treaty negotiation with Canada and Ontario
- Aboriginal duty to consult counsel to Renewable Energy Systems Canada, winners in Ontario's renewable energy supply contract bid process, in connection with development of two wind farms
- Counsel to First Nations in pipeline related proceedings before the National Energy Board
- Litigation Counsel to Metis Nation of Ontario, Metis Nation of Alberta, Metis Nation of B.C. and Metis Nation of Saskatchewan on national Metis governance issues

Alternative Dispute Resolution - neutral

- ADR counsel in a variety of insurance, environmental, banking and commercial disputes
- Settlement Counsel in multi-million dollar contaminated land case
- International commercial chartered arbitrator
- Court appointed supervising counsel



Practices: Environment, Litigation & Dispute Resolution, Tax