

## **John Lorn McDougall, Q.C., FCIArb.**

**Arbitration Place**  
**Toronto, Canada**

**3 Verulam Buildings**  
**London, U.K.**

**Experience** Practice has encompassed almost all aspects of corporate/commercial dispute resolution, with expertise in trial and appellate advocacy. As one of the leading civil litigation lawyers in Canada, he has appeared in wide variety of complex cases in the courts and in arbitration. Has particular experience in securities, competition and energy related matters, as well as class actions and insolvency. Has extensive experience in cross-border cases. Appointed Queen's Counsel, a Fellow of the American College of Trial Lawyers, Fellow of the Chartered Institute of Arbitrators and elected an honorary bencher of the Middle Temple in 2013.

**Alternative Dispute Resolution Experience** Has served as chairman and as panel member in numerous international and domestic commercial arbitrations involving a wide range of subjects. Member of panel of International Centre for Dispute Resolution; past chairman of the Canadian National Arbitration Committee of the International Chamber of Commerce as well as being a Canadian representative to the International Chamber of Commerce Commission on Arbitration and ADR, in Paris. Member of the British Columbia International Arbitration Panel and of the International Panel; London Court of International Arbitration; Arbitration Association of Ontario; CPR Institute for Dispute Resolution.

**Professional Licences** Admitted to the Bar: Ontario, Alberta, Northwest Territories, Yukon, and Nunavut.

**Professional Associations** Advocates Society (Past Director); County of York Law Association (Past Trustee); Canadian Bar Association; Canadian Council of Business; International Law Association; Canadian Institute for International Affairs; International Bar Association; Osgoode Society; Law Society of the Northwest Territories (Vice-Chairman, Discipline Committee); Commercial Bar Association of England and Wales (Honorary Member); Association of the Bar of the City of New York.

**Education** Carleton University (BA, Economics); Osgoode Hall Law School (LL.B).

## Arbitration Appointments

Past cases have involved contracts, franchises, securities, insurance and reinsurance, joint ventures, oil and gas, heavy equipment, IT technology, source codes, fiduciary obligations and general corporate disputes. Significant cases in the last several years include:

Chair of an arbitration tribunal in a major re-insurance arbitration subject to New York law held in Bermuda under the Bermuda International Conciliation and Arbitration Act. Issues included the role and function of the Financial Services Administration in the sale of life insurance in Britain and the interpretation of the relevant insurance and re-insurance contracts.

Chair of an arbitration tribunal constituted under the rules of the International Centre for Dispute Resolution (ICDR) involving a dispute between the Canadian partially-owned subsidiary of a New York brokerage firm. The case involved issues of fiduciary responsibilities and contract interpretation.

Chair of the ICC arbitration arising out of frauds at an Austrian Bank, subject to New York law, seated in New York City.

Chair of an ICDR arbitration arising out of claims between reinsurance and medical insurance providers in the USA. Subject to California law seated in New York City.

Member of an arbitration tribunal convened to appraise the value of two properties under long term leases in the premier rental area of Toronto.

Member of an arbitration tribunal constituted under ICDR rules which heard a dispute between a Swiss based commodities broker and a U.S. based aluminum smelter. The issue was centred on the question whether the feedstock supplier was entitled to declare force majeure with respect to its contractual obligations because of the prevailing economic condition. The case was conducted under New York law and was seated in New York City.

Member of the arbitration tribunal involving a dispute between a Saudi Arabian investor in a venture capital firm arising from allegations of improvident investments and misrepresentation. The hearings were held in San Francisco and London, England and the arbitration was conducted under California law.

Chair of an *ad hoc* arbitral tribunal hearing a dispute between a major US-based global vendor of office hardware and a European-based vendor of software. The issues included the ownership and alleged misuse of source codes.

## Publications and Papers

2012 PLC Dispute Resolution Handbook/Arbitration Handbook 2010-2012

2011 International Arbitration & Dispute Resolution Guide – Canada, Global Business Magazine.

2011 New ICC Rules on Arbitration: Emergency Arbitrator Provisions, 6<sup>th</sup> Annual ICC Conference, New York, September 10-20, 2011

- 2010 Avoiding Dysfunctional Tribunals – Chemistry Compromise and Dissent, WCART 4<sup>th</sup> Annual Energy Arbitration Conference, May 12, 2010
- 2009 Approaches to Fairness & Efficiency in International Arbitrations, ICC Commission on Arbitration, October 16, 2009
- 2009 Recent Developments in Securities Class Actions, OBA Class Actions Colloquium, December 1, 2009
- 2009 Doing Arbitrations Under ICC, ICDR or LCIA Rules: Special Differences You Won't Want to Miss, International Arbitration Symposium, Toronto, June 5, 2009
- 2009 Why a Defendant-Proposed Alternative Dispute Resolution Process Can and Sometimes Should be the Preferable Procedure, with Timothy Banks, 6<sup>th</sup> National Symposium on Class Actions, Osgoode Hall Law School, York University, April 2-3, 2009
- 2008 Distribution of Powers in the Canadian Legal System: What US Lawyers Should Know, with Timothy Banks, published in Lexpert Magazine, November 2008 (pp. 106 – 111)
- 2008 Challenge of Arbitrators: Institutional Issues, member of faculty at ITA-CBA Joint Conference on International Arbitration, Sao Paulo, Brazil, September 21 – 23, 2008
- 2008 Update on Enforcement and Challenges to Arbitral Awards, member of faculty at ICDR North American Dispute Resolution Series “ADR After NAFTA”, Chicago, Illinois, April 24 – 25, 2008
- 2008 The Internationalization of International Commercial Arbitration, delivered at Pacific Rim Advisory Council's Paris Conference, April 15, 2008
- 2008 Last Impressions: The Role of Closing Argument, delivered at The Advocates' Society's Civil Litigation Skills Certificate Program, A Trial from A to Z, April 3, 2008
- 2007 Behaviour Modification in Class Actions: A Chimera?, published in Butterworth's Class Action Defence Quarterly, Volume 2, Number 2, December 2007
- 2007 Trends in International Commercial Arbitration, delivered at the Law Society of Upper Canada “Advanced Commercial Arbitration” Conference, Toronto, Ontario, April 30, 2007
- 2007 Some Thoughts on Problem Areas in International Commercial Arbitration, delivered at The International Law Section of the State Bar of Texas, San Antonio, Texas, March 30, 2007
- 2006 The Role of ADR in Cross-Border Canadian Corporate Restructuring, delivered at the International Bar Association's “Restructuring Among the Ruins”, Athens, Greece, May 7 – 9, 2006
- 2006 What Can Be Learned from Procedures in International Commercial Arbitration, delivered at The Canadian Institute's “Managing Complex Litigation”, Toronto, April 24 – 25, 2006 and published in The Advocates' Society Journal, Spring 2007, pp. 21-23.
- 2006 Thoughts on Discovery in International Arbitration, delivered at the ICC International Commercial Dispute Resolution Conference, Charleston, South Carolina, March 26 – 28, 2006

and delivered at the Commercial Bar Association's North American Meeting 2006, Rome, Italy, June 2, 2006

- 2005 Establishing Economic Loss, published in Special Lectures, Law Society of Upper Canada, 2005: The Modern Law of Damages, Toronto, April 20 & 21, 2005
- 2004 New Developments in Securities Litigation. Understanding and Minimizing Your Clients' Exposure in Light of Recent Decisions, with James A. Hodgson and Susan Kushneryk, presented at The Canadian Institute's 4<sup>th</sup> Annual Advanced Forum on Securities Litigation, Toronto, November 29 & 30, 2004
- 2004 Vanishing Borders? Recent Developments in U.S. and International Class Actions, presented at The Canadian Institute's 5<sup>th</sup> Annual National Forum on Litigating Class Actions, Toronto, October 1, 2004
- 2004 Privilege Issues and the Barrister's Brief, with Earl Cherniak, Susan Kushneryk and Christine Snow, presented at The Advocates' Society's Advocacy: The Art of Persuasion, Toronto, April 2, 2004 and to the Commercial Bar Association of England and Wales, Barcelona, June 2004.
- 2004 Supreme Court of Canada Affirms International Comity in Enforcement of Judgments, with Brian Leonard and Meghan Thomas, published in the International Law Office Legal Newsletter, April 2004.
- 2003 The Nature of Class Actions: Some Thoughts on Recent Developments, with Randy Bennett, presented at The Canadian Institute's 4<sup>th</sup> Annual National Forum on Litigating Class Actions, Toronto, September 30, 2003.
- 2003 Assessing Your Case Before Trial: A Reality Check, presented at The Art and Science of Trial Advocacy conference, co-sponsored by the American College of Trial Lawyers and the Advocates' Society, Toronto, May 2, 2003.
- 2003 Disputes and Alternative Dispute Resolution in Today's Business Environment, Canadian Business Magazine.
- 2002 Product Liability: Recent Developments in Canadian Law, with Meghan Thomas, published in Lexpert Magazine, 2003.
- 2002 The Role of the Forensic Accountant in International Commercial Arbitration, with Michael D. Schafler, presented at the Alliance for Excellence in Investigative and Forensic Accounting Conference, Toronto, September 9, 2002
- 2000 International Jurisdiction Through the Surrender of Sovereignty: A Critical Analysis of the Canadian Approach, with R.S. Bennett, The Commercial Bar Association of England and Wales, presented at Lincoln's Inn, London, May 12, 2000
- 2000 What Happens to the Rights of Canadian Creditors in Cross-Border Insolvencies with Michael D. Schafler, North American Corporate Lawyer; Vol. V, No. 3

**Named in:**

- PLC Which Lawyer? Dispute Resolution Guide, 2014
- Chambers' Guide to the World's Leading Business Lawyers, 2015
- Who's Who Legal; The International Who's Who of Business Lawyers, 2015
- Canadian Who's Who, 2014
- The World's Leading Lawyers, 2014, published by Chambers Global
- PLC Cross-border Dispute Resolution Handbook, 2014
- Guide to World's Leading Litigation Lawyers, 2014
- Guide to World's Leading Experts in Commercial Arbitration, 2014
- Lexpert: Leading 500 Lawyers in Canada, 2014