

Arbitration

Clients sometimes choose arbitration for cases involving complex or confidential matters that can be resolved more efficiently, expeditiously and predictably behind closed doors. In other cases, clients turn to arbitration for cross-border disputes or cases involving multiple jurisdictions, where the legal issues are typically complex and often involve competing jurisdictions and conflicting substantive law. In either case, the unrivalled trial experience that makes Lenczner Slaght a litigation leader serves our clients equally well in arbitration.

We have acted in both domestic and international arbitrations across a wide range of business sectors, including infrastructure, mining, oil and gas, technology and financial services. We've represented Canadian and international clients in disputes governed by all of the widely recognized rules of arbitration, including:

- International Chamber of Commerce (ICC)
- London Court of International Arbitration (LCIA)
- United Nations Commission on International Trade Law (UNCITRAL)
- American Arbitration Association (AAA)
- International Institute for Conflict Prevention and Resolution (CPR Institute)

When a complicated, high-stakes dispute must be tried and brought to a timely resolution, our lawyers guide you through the arbitration process using the strengths that define Lenczner Slaght as Canada's leading litigation practice: a proven talent for effective advocacy backed by a wealth of experience in successfully taking cases to trial.

RECOGNITION

- Chambers Canada (2020)
Dispute Resolution: Arbitration (Nationwide – Canada)
- Chambers Canada (2016-2020)
Dispute Resolution: Most in Demand Arbitrators (Nationwide – Canada)
- Chambers Canada (2016-2020)
Litigation: General Commercial (Ontario); Dispute Resolution: Most in Demand Arbitrators (Nationwide – Canada)

- **Benchmark Canada (2012-2019)**
Litigation Star - Arbitration, Class Action, General Commercial, Insolvency, Securities and Tax
- **Benchmark Canada (2012-2019)**
Litigation Star - Class Action, General Commercial, Insolvency and Securities
- **Benchmark Canada (2012-2019)**
Top 50 Trial Lawyer in Canada and Litigation Star - Arbitration, Class Action, General Commercial, Intellectual Property and Professional Liability
- **Benchmark Canada (2014-2015)**
Local Litigation Star - Arbitration, General Commercial, Intellectual Property
- **Best Lawyers in Canada (2006-2020)**
Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, International Arbitration, Legal Malpractice, Securities
- **Canadian Legal Lexpert® Directory (2012-2019)**
Class Actions (2018), Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Professional Liability
- **Canadian Legal Lexpert® Directory (2012-2019)**
Class Actions, Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Product Liability (2018), Litigation - Public Law, Litigation - Securities, Medical Negligence, Professional Liability,
- **Canadian Legal Lexpert® Directory (2014-2019)**
Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Defamation & Media, Litigation - Public Law, Professional Liability
- **Chambers Global (2017-2019)**
Dispute Resolution: Most In Demand Arbitrators
Dispute Resolution: Arbitration (2017)
- **Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2013-2018)**
Commercial Arbitration, Class Actions, Corporate Commercial Litigation
- **Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2014-2017)**
Commercial Arbitration, Corporate Commercial Litigation, Defamation & Media Litigation
- **Lexpert® Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada (2014)**
International Commercial Arbitration, Corporate Commercial, Defamation & Media
- **Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada (2015-2019)**
Arbitration; Corporate Commercial Litigation

SELECT CASES

- **Confidential Arbitration** – Counsel to a general contractor in an arbitration relating to the construction of a major Canadian transmission line.
- **Presley v Van Dusen** – Counsel to the homeowners in a successful appeal to determine a question of law that the limitation period did not expire prior to the commencement of the action based on the appropriateness requirement of the discoverability provisions in the *Limitations Act, 2002*.

- **Commercial Arbitration** – Counsel to a landlord in an arbitration to determine fair market rent over a renewal term.
- **Commercial Arbitration** – Counsel in an arbitration concerning the division of profits from a successful architectural firm.
- **Commercial Arbitration** – Counsel in an arbitration concerning a Project Management Agreement governing the development of a 150 unit condominium complex in midtown Toronto.
- **Commercial Arbitration** – Counsel to the respondent in an arbitration concerning a contractual dispute and the appropriate methodology for the valuation of foreign oil reserves.
- **Partnership Arbitration** – Counsel to the largely successful law firm respondent at an arbitration involving a partnership dispute.
- **Commercial Arbitration** – Counsel to a mining company in an arbitration regarding liability and indemnification for historical environmental contamination.
- **Commercial Arbitration** – Counsel to a mining company in a commercial arbitration relating to a joint venture.
- **Commercial Arbitration** – Counsel to the successful respondent at an arbitration involving a commercial real estate dispute.
- **Sky Solar (Canada) Ltd v Marnoch Electrical Services Inc** – Counsel to the claimant in an appeal of an arbitration decision relating to installation of electrical transformers.
- **International Commercial Arbitration** – Counsel to a UK-based energy company in a series of international commercial arbitrations relating to the sale of a nuclear power generation facility.
- **International Commercial Arbitration** – Counsel to a patent licensing company in an international commercial arbitration relating to a patent license agreement and related US multi-jurisdictional patent litigation.
- **Construction Arbitration** – Counsel to a provincial government agency in an arbitration relating to a province-wide construction project.
- **Commercial Arbitration** – Counsel to the successful plaintiff in an arbitration involving a commercial contract dispute.
- **The Board of Regents of Victoria University v GE Canada Real Estate Equity** – Counsel to GE Canada Real Estate Equity in an appeal to the Superior Court of Justice and to the Court of Appeal from an arbitration award over the determination of ground lease rent for a prominent Bloor Street property.
- **Alfred Wegener Institute v ALCI Aviation Ltd** – Counsel to Alfred Wegener Institute in a successful defence of an appeal before the Court of Appeal after obtaining an Order recognizing and enforcing an international commercial arbitral award.
- **International Commercial Arbitration** – Counsel to a German-based nuclear energy company in an international commercial arbitration relating to a long-term uranium supply agreement.
- **Construction Arbitration** – Counsel to a project manager in a series of disputes involving the design and construction of a mining project, including processing and power generation facilities. These disputes involved complicated engineering, project management and construction issues.

- **International Commercial Arbitration** – Counsel to a software distributor in an international commercial arbitration relating to a breach of a distribution agreement.
- **International Commercial Arbitration** – Counsel to the respondent technology company in an international commercial arbitration relating to alleged non-payment of invoices and a priorities dispute in a multi-jurisdictional insolvency.
- **Commercial Arbitration** – Counsel in a successful arbitration to enforce an oral contract between partners of a closely held corporation.
- **407 ETR Concession Co v Ontario** – Counsel to the successful 407 ETR in an arbitration and appeal concerning the entitlement of the 407 ETR to raise tolls without the province's approval.
- **Partnership Arbitration** – Counsel to the largely successful law firm respondent at an arbitration involving a partnership dispute.

SELECT PUBLICATIONS AND PRESENTATIONS

- **ADR Advocacy: Advanced Techniques** – Ian Binnie will be at The Advocates' Society's *ADR Advocacy: Advanced Techniques* program. The program will feature an exclusive fireside chat with Ian Binnie himself.
- **Arbitration: An Update for Litigators** – Paul-Erik Veel will be speaking at the Law Society of Ontario's program *Arbitration: An Update for Litigators*. His panel will discuss the *Analysis of the Case Law Relating to Interpretation and Enforcement of Arbitration Agreements*.
- **Reviewing Commercial Arbitration** – Tom Curry spoke at OsgoodePD's 13th Annual National Forum: *Administrative Law & Practice*. He spoke on the topic of "Reviewing Commercial Arbitration" where he explored how reasonableness review operates in the arbitration context.
- **Arbitration appeals becoming more of a gamble** – Mark Venezianos article appeared in the June 19, 2015 issue of the *Lawyers Weekly* published by Lexis Nexis Canada Inc. The article discussed a recent British Columbia Court of Appeal decision *Boxer Capital Corporation v. JEL Investments Ltd.*, which deals with grounds for reviewing arbitral awards.
- **How ADR and court actions can actually work together** – Lawrence Thackers article appears in the April 3, 2015 issue of the *Lawyers Weekly* published by Lexis Nexis Canada Inc. This article describes the use of Alternative Dispute Resolution in combination with, or supplementary to court proceedings.
- **One chance to choose arbitrator** – Rebecca Jones article was published in the February 13, 2015 issue of the *Lawyers Weekly* published by LexisNexis Canada Inc.
- **Bound by the legal chain of events** – Eli Lederman's article appeared in the June 20, 2014 issue of the *Lawyers Weekly*.
- **Arbitration (International) Recent Developments of Importance** – Thacker, L. and Laxer, J. "Arbitration (International) Recent Developments of Importance". The 2012 *Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada*.

BLOG POSTS

- **Once more unto the breach: the Supreme Court of Canada weighs in again on arbitration clauses and class actions** – The question of whether and when arbitration clauses will preclude a class proceeding is seemingly continually litigated. In some circumstances—such as in the consumer protection context—legislatures have clarified that certain claims cannot be subject to arbitration. In other cases, however, it is up to courts to craft the appropriate rules. The recent decision of *TELUS Communications Inc v Wellman* shows that the question of what rules are appropriate can attract significant disagreement. In a 5-4 split decision, the majority of the Supreme Court of Canada held that valid arbitration clauses in contracts should generally be given effect and that persons with such contracts should not be included in class proceedings.
- **Despite Heller Decision, Superior Court Affirms Preference for Enforcing Arbitration Agreements** – A recent decision of the Ontario Superior Court of Justice affirms the preference of Ontario courts for enforcing arbitration provisions between parties to commercial agreements.
- **Justice Perell Stays Proposed Class Proceeding against Uber, in Favour of Arbitration in the Netherlands - Heller v Uber Technologies Inc.** – A long-standing issue in Canadian class actions law relates to the ability of parties to contract out of class actions and instead require that any disputes be submitted to arbitration. For class counsel and class members, such clauses are anathema, representing an attempt by sophisticated organizations to thwart class actions by requiring individual claims to proceed to arbitration. For businesses, such clauses have significant value; they can result in individual cases being resolved quickly and efficiently, without the complications and attendant costs of a class action.
- **Ontario Updates International Commercial Arbitration Act** – Ontario's new legislation governing international commercial arbitration, the *International Commercial Arbitration Act, 2017*, came into force on March 22, 2017, replacing the *International Commercial Arbitration Act* previously in place.

SELECT NEWS ARTICLES

- **Chambers Canada Recognizes Lenczner Slaght as a Top-Tier Litigation Firm** – Canada's leading litigation firm and its expert litigators continue to advance their position in the latest edition of world-renowned directory, Chambers Canada, with nine new rankings.
- **Best Lawyers in Canada Recognizes Lenczner Slaght with 100 Rankings** – In the latest edition of *Best Lawyers in Canada*, 28 Lenczner Slaght lawyers earned a total of 100 rankings, up from 86 in 2019.
- **Arbitration Advantages** – Nina Bombier is quoted in the Lexpert article *Arbitration Advantages* on November 30, 2018. This article discusses the value of arbitration.

- **Lenczner Slaght Litigators Lead in the 2018 Lexpert/ALM 500 Rankings** – Canada's leading litigation firm is one of two firms with the highest number of lawyers ranked in Corporate Commercial Litigation in the 2018 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Arbitral Authority** – Lawrence Thacker is quoted in the 2017 Lexpert/ROB Special Edition: Canada's Leading Litigation Lawyers article *Arbitral Authority* where he discusses the implications of the ruling in *Teal Cedar Products v. BC* and the scope of appeals stemming from arbitral decisions.
- **International Commercial Arbitration Harmony** – Shara Roy was quoted in the Lexpert Magazine article *International Commercial Arbitration Harmony* on October 16, 2017 regarding Ontario's new legislation governing international commercial arbitration and what it means for Ontario as a venue for future arbitrations and the desirability of harmonization with other Canadian arbitration centres.
- **Lenczner Slaght Ranked Among the Best** – Almost half of the leading litigation firm's lawyers are recognized in the *Best Lawyers in Canada*.
- **Lenczner Slaght is the Unrivaled Litigation Boutique in Chambers Global 2017** – The firm's litigators earned the top rankings alongside full-service, national and international counterparts in the litigation categories.
- **Lenczner Slaght lawyers recognized in Lexpert ALM 500 Guide** – Canada's leading litigation boutique leads all firms with 10 lawyers ranked in litigation practice areas in the 2017 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada ("ALM 500")
- **Lenczner Slaght Scores Bull's Eye in Leading 500 Lawyers in Canada** – Canada's leading litigation practice once again tops the list of litigation firms in the 2016 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **Lenczner Slaght Leads in Cross-Border Litigation** – Recognition of Lenczner Slaght lawyers as Canada's Leading Cross-Border Litigators Endures
- **Lenczner Slaght Lawyers Repeatedly Ranked Among the Best** – Half of the firm's lawyers are ranked as leading practitioners and three named "Lawyer of the Year" in the latest Best Lawyers in Canada Directory.
- **20 Lenczner Slaght Lawyers Recognized in 2015 Lexpert Directory** – Recognized by Canadian Legal Lexpert® Directory as leading practitioners.
- **Lenczner Slaght - "a fortress inhabited by litigation royalty"** – 13 Lenczner Slaght lawyers recognized in the 2015 Benchmark Litigation Directory.
- **Lenczner Slaght Remains at the Centre of the Lexpert Bull's-Eye** – Canada's leading litigation practice is once again ranked #1 in The 2015 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada.
- **A Leader in Cross-Border Litigation** – 14 Lenczner Slaght litigators ranked in Lexpert 2014 Guide to the Leading U.S./Canada Cross-Border Litigation Lawyers in Canada.
- **Lexpert Magazine - Big Deals - Union Carbide v. Bombardier Inc.** – William McDowell, Jon Laxer and Katie Petney, counsel to the intervenor in *Union Carbide v. Bombardier Inc.* were mentioned in Lexpert Magazine's July 2014 issue.

- **Lenczner Slaght Increases Rankings in 2014 Lexpert Directory –**
Canada's leading litigation practice continues to add new names to the list.
- **Lenczner Slaght is at the Centre of the Lexpert Bull's-Eye –**
Canada's leading litigation practice is once again ranked #1 in *The 2014 Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada*.
- **Lenczner Slaght in Top Tier and 11 Lawyers Ranked as Stars –**
Canada's leading litigation practice also wins two national impact cases.