

Professor Richard H. McLaren, O.C.

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Alternative Dispute Resolution

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HONORARIUMS AND DISTINCTIONS

Named as an Officer of the Order of Canada by appointment of the Governor General of Canada.

Recipient of: Master of the Game Award, National Sports Law Institute, Marquette University Law School (2017); Honorary Doctor of Divinity Degree (HDD) Huron University College (2017); Ivan Rand Alumni Award, Western University Canada (2016); Board of Governors' Recognition of Achievement Award, Canada Awards for Excellence (2016); Joseph E. O'Neill Award, Marquette University Law School (2015); Huron University College Distinguished Alumni Award (2014); Lionel J. McGowan Award for Excellence in ADR in Canada (2010); Feeney Memorial Public Lecture, University of Ottawa (2010).

ACADEMIC TEACHING SUBJECTS

Teaching duties have involved instructing in the following areas of Canadian and International Law: Business Law including Bankruptcy & Corporate Insolvency Restructuring; Commercial Law; Contracts; Corporate Finance & Governance; and, Secured Financing including real and personal property financings. Dispute Resolution including arbitration in labour law, sports and commercial matters. Labour Law including the basic courses in the subject area together with labour arbitration procedure and related dispute resolution techniques.

ACADEMIC PUBLICATIONS

Major Books & treatises

Catzman, McLaren et al *Personal Property Security Law in Ontario* Carswell (1976)

McLaren & Rayner *Falconbridge: The Law of Mortgages* (4th Ed.) Canada Law Book (1977)

Secured Transactions in Personal Property Security in Canada Carswell (1979) (1992 2nd Ed; 2009 3rd Ed.) A five volume loose leaf service.

McLaren & Palmer *Commercial Arbitration Law* Carswell (1982)

McLaren & Sanderson *Innovative Dispute Resolution: The Alternative!* Carswell (1994), loose leaf
Canadian Commercial Reorganization: Preventing Bankruptcy Canada Law Book (1994) a two volume loose leaf service. A second edition is in progress.

Annotated Ontario Personal Property Security Act 2015 published annually since 1993 Carswell

Alberta Personal Property Security Thomson Canada Limited (2007), (2009)

British Columbia Personal Property Security Thomson Canada Limited (2007) (2nd Ed. 2009)

Editor of the Personal Property Security Act Cases a law report service P.P.S.A.C. (4th)

Law Journal Articles

I have published over 70 law journal articles. A list can be supplied if required.

VISITING ACADEMIC APPOINTMENTS

- Oxford University, UK (1978/79)
- Stanford University, USA, Visiting Scholar (1986/87 and 1997/98)
- London School of Economics & Political Science, Law Faculty Visiting Professor, (2003/2005)
- Melbourne University, Faculty of Law, Melbourne, Australia-Visiting Professor (2011, 2012, 2014, 2016 and 2018)

ARBITRATION EXPERIENCE

30 Years of Domestic Labour and Commercial Arbitration Experience

Domestic Labour Arbitration

- selected by mutual consent of employers and unions as chair or sole arbitrator of 30 to 40 ad hoc labour arbitrations per year
- a member of the permanent panel of arbitrators for employers and trade unions
- salary arbitrator for NHL/NHLPA 1993 - 2000, did in excess of 25 cases
- player agent arbitrator for NHLPA, its agents and players 2001- present
- arbitrator for Canadian Football League
- interest arbitrator in contract negotiations, disputes involving police, firefighters and essential health care workers

Domestic Commercial Arbitration

1. Panels with British Columbia International Commercial Arbitration Centre (BCICAC)

- Sole arbitrator for its securities panel, one arbitration between Merrill Lynch and one of its customers. Award was in excess of \$100,000 (1998)
- Ad Hoc Appointment under BCICAC Rules Arbitration involved sale of Mobile Elevating Devices and Breach of Financial Arrangements (2000)
- Arbitrator involving the breach of sale of a business

2. Panelist ADR Institute of Ontario Inc.

- appointed as an arbitrator in the sale of a telecom company
- arbitrated a dispute between a national charitable organization and its provincial subsidiaries
- arbitrated the sale of a dental practice
- party appointed arbitrator involving the breach of sale of an industrial company to a third party
- Appointed to American Express Dispute Resolution Roster of Arbitrators (2007)
- KPMG overtime Class Action panel of arbitrators (2008-09)

3. Mutual Agreed Ad Hoc Appointments

- mutually agreed sole arbitrator exclusive sales territorial compensation dispute (2004)
- sole arbitrator in a share purchase dispute about the assignment of rights and the exclusion of certain liability (2005)
- sole arbitrator executed employment agreement terminated for good reason and related share purchase pricing options and rights of setoff (2006)
- sole arbitrator shareholder dispute and representation agreement determination of legal rights and then a mediation of dispute (2006-2007)
- sole arbitrator technology company dispute involving unanimous shareholder agreement (2008)
- party appointed arbitrator to a panel to determine financial issues in a hotel management agreement (2010-2012)

4. Pipeline Arbitration Committee of Natural Resources Canada

- appointed arbitrator under the *National Energy Board Act* (2012 – present)

International Commercial & Sports Arbitration Experience

4. International Centre for Settlement of Investment Disputes

- party appointed arbitrator (case in progress)

5. ICC International Court of Arbitration

- appointed Chairman of the Arbitral Tribunal involving ownership and operation of a men's professional sports tournament

6. International Council for Commercial Arbitration

- Recent member

7. American Arbitration Association

- appointed foreign national arbitrator, whose nationality is not that of any disputants on three large complex commercial arbitrations by the AAA involving an: (1) American automotive diagnostics company and its Swiss and other European distributors, award was in excess of two million U.S. dollars, based on breach of contract and piracy of technology and intellectual property; (2) involving an American trustee in bankruptcy and a Dutch wholesale grocery company, for breach of an agreement to sell real estate and grocery business; claim in excess of ten million U.S. dollars, during the hearings the matter was settled; (3) arbitrator of a dispute involving an American medical equipment manufacturer alleging breach of contract with a Canadian medical technology company to supply and distribute its products in Eastern Canada - settled before hearing.
- party appointed arbitrator for a Canadian pulp and paper company in a dispute with the Republic of China as a joint venture partner, involving alleged event of default of the joint venture agreement; employment severance agreement involving a key executive officer of a company - payment claim is in excess of two million dollars. Settled.
- appointed arbitrator of Franchise Disputes - three cases involving different franchises. All cases involved alleged breaches of franchise agreement and damages claims or franchise was terminated.

8. United States Anti-Doping Agency (USADA)

- selected as one of twenty-nine arbitrators to hear cases for the USADA, cases being administered by the AAA sports arbitration administrator in Atlanta, Georgia (completed 15 cases)
- Arbitrator in Floyd Landis case (winner of Tour de France 06) arbitrated 2007

9. Court Appointment Arbitrator

- Ontario General Court as a sole arbitrator in a dispute involving a Canadian Company and Netherlands Company engaged in the business of thermal insulation, roofing and distribution of insulation, claim in excess of three million dollars. The award dismissed the claim of several million dollars.

10. Court of Arbitration for Sport, Lausanne, Switzerland

Since 1993 - Member of the Court of Arbitration for Sport (International Adjudication Body of the International Olympic Committee based in Lausanne, Switzerland)

- Arbitrator on the Panel in Chand v IAAF and AFI in 2014-15
- President of the Panel in BOA v WADA Bye-Law case 2012
- President of the Panel in the USOC v IOC matter (the "Osaka" Rule) in 2011

- done a number of international sports doping arbitration cases including tennis star Peter Korda and the International Tennis Federation; chair of the panel involving an American cyclist and the cycling union; member of three neutral arbitration panels involving alleged doping cases with Spanish and Yugoslavian long distance swimming athletes
- member of the CAS Ad Hoc Arbitrator Panel for Winter Olympic Games in 1998 in Nagano, Japan and in 2006 Turino, Italy; for the Summer Olympic Games in 2000 in Sydney, Australia; in Athens, Greece in 2004 and in 2008 Beijing, China. Appointed as an ad hoc arbitrator for the 2002 Commonwealth Games, Manchester, England
- did an Advisory opinion on "shark" suit technology and the International Swimming (FINA) Rules

International Commission Holocaust Era Insurance Claims (ICHEIC)

- selected in 2001 as one of thirty candidates to serve as an arbitrator for the International Commission on Holocaust Era Insurance Claims Appeal Tribunal
- did 70 cases with awards 2001-2007 under the English Arbitration Act
- appointed to Appeals Panel, 2006, did 6 cases under Swiss Arbitration Act
- did more than 40 cases under the English Arbitration Act

Professional Sport

Independent Person appointed by WADA to conduct an investigation and review of the allegations made in relation to the 2014 Sochi Olympic Games (2016)

Chief Arbitrator for the Ultimate Fighting Championship (UFC), under USADA as the results management and prosecuting body (2015 – present)

Chief Arbitrator for World Triathlon Corporation o/a IRONMAN (2015 – present)

One of three Commissioners on the WADA Independent International Commission that examined allegations of systemic doping and cover-ups in Russian sportspersons (2014 – present)

Chairman of the Anti-Doping Panel of the International Cricket Council-Dubai (2015 – present)

Chairman of the Doping Hearing Panel of the West Indies Cricket Board (2013 – present)

Court Judge, International Court of Appeal of the Fédération Internationale de l'Automobile (FIA) (2012 – present)

President of the Basketball Arbitral Tribunal (BAT) dealing with professional basketball monetary issues in Europe (2011 – present)

Anti-Corruption Hearing Officer for the Professional Tennis Integrity Unit (comprised of: ATP; WTA; ITF and Grand Slam Board)

World Chairman of the ATP Tour Anti-Doping Tribunal, 25 Cases

Co-chief arbitrator for the ADRsportRED/Sports Dispute Resolution Centre for Canada, Canadian national sports arbitration program, a sports alternative dispute resolution system for amateur sport

Assisted Senator Mitchell in the Major League Baseball inquiry into the use of performance enhancing steroids in professional baseball. Report December 2007

By special appointment by the United States Olympic Committee - USA Track & Field - I chaired the Independent International Review Commission on Doping Control - USA Track & Field from October, 2000 to July, 2001, report was made in July, 2001. Counsel to the Commission - Bob Bennett (Skadden, Arps (Washington, D.C.))

Selected as arbitrator/mediator on the Domain Name Dispute Resolution panel for eResolution (dispute resolution service provider) governed by ICANN.

MEDIATION EXPERIENCE

My training has been of a practical nature born out of my work as an arbitrator. In the course of doing labour and commercial arbitration, I have found over the past ten years the need to engage more and more frequently in mediation. I have also had specific assignments as a mediator.

- mediation of engineering specification in a specially designed product for use in the Persian Gulf War
- mediator of road property constructions joint venture Dallas Texas area
- mediator Bankruptcy and insolvency dispute involving defaulted sale of Business (\$6 million involved)
- construction dispute on roof collapse of large agricultural building (\$2 million)
- sale of a business purchase shares (\$5 million)
- aside from my practical experience I teach a course on Alternative Dispute Resolution at Western University Canada (London, Ontario) where I am a full time Law Professor. Part of that course is directly on mediation
- co-authored a book *Innovative Dispute Resolution: The Alternative!* published by Carswell in December of 1994
- mediation in association with and independently of arbitration over the past 25 years
- appointed by Bank of Nova Scotia to its panel of mediators dealing with small business credit mediation program
- over the past 20 years have handled over 100 mediations, some specific assignments include:
 - mediation of a community dispute between a medical dental clinic, its professional staff and its constituent native community
 - mediation between authors of television scripts for Henson International in connection with its children television program Fraggle Rock over the royalty entitlement for foreign residuals
 - mediation between the Ontario Hospital Association and OPSEU with respect to the reclassification of 10,000 medical technicians
 - mediation of civil litigation Maritime marine accident and deaths
 - mediation of civil litigation between a large commercial landlord and its tenant in a shopping mall
 - mediation of civil litigation between a private business school and an accounting firm
 - mediation of libel and slander cases
 - mediation of engineering specifications
 - numerous mediation/arbitrations assignments in labour law area

LEGAL EXPERIENCE

- teach bankruptcy and insolvency law; banking and commercial law; contracts and secured transactions and corporate finance at Western University Canada - Faculty of Law
- counsel McKenzie Lake Lawyers LLP, London Law firm 2005-present
- law firm of MacKewn Winder Kirwin where I did appellate litigation and consultative trial work, as well as legal opinions in the fields in which I teach and have written books, 1984-2005
- litigation and commercial law experience as a practicing lawyer for the past 30 years; was full time lawyer 1983/84 with London law firm of Harrison, Elwood; counsel to MacKewn Winder Kirwin of London, Ontario, 1984/05
- worked on the consultative group for the drafting of the revised and original Personal Property Security Acts in Ontario; currently a member of the Federal government's Bankruptcy & Insolvency Committee making recommendations on the revision of the Bankruptcy & Insolvency Act and the Companies Creditors Arrangement Act
- Canadian co-reporter and special consultant on the transnational insolvency project, through the American Law Institute, involving the bankruptcy and insolvency laws of Canada, Mexico and the United States. The aim of this project is to develop cooperative procedures for use in business insolvency cases involving companies with assets or creditors in more than one of the three NAFTA countries

EDUCATION

Trinity College School (1964)
University of Western Ontario, H.B.A. (1968)
University of Western Ontario, LL.B. (1971)
University of London, LL.M. (1972)
Barrister and Solicitor Law Society of Upper Canada (1974)
National Academy of Arbitrators (N.A.A.) (U.S.A.) (1980)
Arbitrator's Institute of Canada Inc. - Chartered Arbitrator (C.Arb.) (1989)

MEMBERSHIPS

The Arbitrator's Institute of Canada; Former Governor - The National Academy of Arbitrators (United States); The London Court of International Arbitration (North American Council); ICC Canada Arbitration Committee (The Canadian Chamber of Commerce); Law Society of Upper Canada; Canadian Bar Association/Ontario Bar Association; Ontario Labour-Management Arbitrator's Association; Former Director, ADR Institute of Ontario; founder, creator and member of ADR program for amateur sport (ADRsportRED), Past Co-Chief Arbitrator for the Sports Dispute Resolution Centre for Canada; Member of Court of Arbitration for Sport panel of arbitrators, based in Lausanne, Switzerland; American Express Cardholder Dispute Resolution Roster; on the panel of arbitrators, for the Beijing Arbitration Commission (BAC); on the panel of arbitrators for the Dubai International Arbitration Centre; Fédération Equestre Internationale (FEI) Commission- Anti Doping & Medication - Legal Group; Chairman Emeritus of the Advisory Board National Sports Law Institute at Marquette University Faculty of Law and Special Advisor to Straus Institute, Council of Distinguished Advisors for Dispute Resolution, Pepperdine University and the Canadian Association of Law Teachers (CALT).