

SERVICE

Domestic and International Arbitration

Our experience in all arbitration stages, in Canada and internationally, affords our clients a clear strategic advantage.



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Osler has one of the most sophisticated and diverse arbitration practices in Canada. Arbitration is a highly specialized area of law, and is not simply a private court procedure. It requires technical, strategic and creative thinking. Osler has extensive experience in all stages of both domestic and international arbitration that affords our clients a clear strategic advantage.

Our expertise can be leveraged before a problem arises. We will help you anticipate business-critical challenges and craft an arbitration clause that facilitates an arbitration procedure that best achieves anticipated business objectives, should a dispute materialize. If an arbitration is required, our clients obtain the best procedure possible for the case at hand. This could mean an efficient, streamlined process to get to a decision on an expedited basis, or determining how best to execute a large-scale, high-stakes arbitration. We navigate that procedure, use arbitration-specific advocacy skills at the hearing, and advise on enforcement considerations to realize successful results. Arbitration is unique, and having specialized arbitration counsel is critical for clients who want the best chance at success.

Depth and breadth of arbitration experience

An arbitration may be governed by different procedural rules, or may be *ad hoc*, where the rules are designed by the parties. Osler has experience with a wide range of major international institutional arbitration rules including

- the International Chamber of Commerce (ICC)
- the London Court of International Arbitration (LCIA) and the International Centre for Dispute Resolution (ICDR)
- the ICDR Canada and the American Arbitration Association (AAA) (including the AAA and ICDR Canada)
- other rules commonly used in Canada such as ADR Institute of Canada (ADRIC) and the Canadian Arbitration Association (CAA) expedited rules.

We also have experience conducting arbitrations using the International Bar Association (IBA) Rules on Taking of Evidence in International Arbitration, which are widely used in the

international context.

Osler also has designed numerous sets of bespoke procedural rules in *ad hoc* arbitrations. We understand the strategic implications of the various potential procedural steps in an arbitration, and regularly advocate to achieve arbitration procedures that best position our clients for a successful outcome. Our substantial expertise allows us to be creative, and we have experience working with opposing counsel and arbitrators to design procedures ranging from emergency expedited hearings based on minimal documentation and testimony, to complex mega-arbitrations in both Canada and foreign jurisdictions involving extensive documentary production and dozens of witnesses. International arbitration often requires virtual advocacy, and we have an extensive background in conducting procedural hearings and the taking of evidence on a virtual basis.

We have conducted arbitrations for our clients where the seat of arbitration is in various locations in Canada or many international cities including London, Tokyo, New York, Geneva, Rome, Warsaw and Hong Kong.

Our arbitration team is made up of thought leaders who are involved both domestically and internationally with key arbitral institutions, and regularly speak and write on critical developments and trends in arbitration.

Using arbitration strategically

Arbitration expertise is important not only when the dispute arises, but in determining how to direct the resolution of the dispute before it even happens. We help to identify business-critical issues you should be considering, and provide strategic advice on dispute resolution mechanisms that can have a dramatic impact on outcome. Osler has extensive experience in drafting and providing advice on mediation and arbitration clauses, including negotiating clauses that will best achieve clients' objectives in the most appropriate forum. We regularly provide strategic advice on new and existing dispute resolution clauses and procedures so that our clients are ready in the event of a dispute, as well as to evaluate dispute resolution options that best achieve an organization's objectives.

If a case is extremely time sensitive, or complete privacy is a business requirement, arbitration may be your only option. In many such cases, the civil justice system is not equipped to achieve resolution. We have resolved business-critical disputes by conducting an arbitration through to an arbitral award in as little as 72 hours from the inception of the dispute.

Arbitrations with a cross-border component

In addition to our extensive experience with various international institution arbitration rules, we also have a deep background in arbitrations with a cross-border component.

We regularly work collaboratively with foreign counsel who require local representation for their clients who have arbitration clauses where the seat of arbitration is located in Canada. We understand what this partnership requires, and have extensive experience acting as local arbitration counsel for U.S. and other foreign law firms.

Osler also has significant experience with international trade and investment disputes involving the application of trade laws and regulations and the enforcement of treaties. Osler has acted on investment arbitrations under Canada's bilateral investment promotion and protection treaties, including appearances before the London Court of Arbitration, NAFTA

dispute resolution panels, the Federal Court of Canada and international and Canadian administrative agencies. Osler also has experience against a member state of the European Union under the terms of a bilateral investment treaty.

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