



David McCutcheon, LLB, C.Arb.

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In June 2017, David McCutcheon joined Arbitration Place as a Resident Arbitrator. His ADR practice has a broad range of disputes including commercial contracts, real estate and development matters, construction, franchise, shareholder, professional liability, franchise, condominium, agriculture, and environmental matters. His ADR practice includes acting as Arbitrator, Mediator and Mediator-Arbitrator.

Commercial ADR Qualifications

Chartered Arbitrator

Past President and Director of the ADR Institute of Canada Inc.

Past President of the ADR Institute of Ontario

Past Chair and member of the Rules Committee of the ADR Institute of Canada

Arbitration Panel Member, ADR Institute of Canada and ADR Institute of Ontario

Canadian Member NAFTA 2022 Committee to 2020

Past Chair and member of the Rules Committee for ADR Institute of Canada;

Arbitration Panel Member BCICAC

Past Director of the Advocates' Society

Member Toronto Commercial Arbitration Society

A founding member of the Toronto Arbitration Roundtable

"AV" Peer Review Rating from Martindale-Hubbell

Listed in Best Lawyers

Acting as Arbitrator, Mediator and ADR Counsel in numerous disputes including:

1. Arbitrating numerous rent renewal and valuation provisions in commercial leases, and ground leases of major Canadian properties, including office buildings, mixed use buildings, residential and industrial properties
2. Counsel for landlord and tenants in numerous commercial ground lease and lease cases including rent, use and construction issues.
3. Arbitration and mediation of construction and infrastructure disputes.
4. Arbitration Mediation and Med-Arb of condominium disputes,
5. Arbitration Mediation and Med-Arb of farming and agriculture disputes,
6. Arbitration of false and misleading advertising disputes.
7. ADR neutral for disputes arising Agreements of Purchase and Sale of land, shares and assets, Franchise Agreements, Commercial Lease Transactions, Shareholders Claims and Employment Agreements.
8. Acting for the City of Toronto in connection with the arbitration of the ground rent for Union Station in Toronto, including subsequent appeal proceedings in court and on appeal.
9. Mediator in environmental disputes concerning site remediation claims, site management agreements, and representations and warranties.

10. Arbitration Counsel for the determination of closing working capital arising from a purchase and sale transaction;
11. Arbitrator mediator and Med Arbitrator for dissolutions of partnerships.
12. Arbitrator and mediator in shareholder and oppression disputes.
13. Acting for vendors and purchasers on damage and indemnity claims, post closing adjustments, representations and warranties and other disputes arising from corporate and real estate transactions.
14. Acting for a toll highway owner in negotiating and establishing the statutory arbitration program for the toll highway.
15. Arbitration counsel in regulatory disputes including environmental law and farm products marketing.
16. Arbitration counsel on the determination of values on an expropriation basis for commercial properties.

Representative Litigation Practice

Acted as counsel in numerous commercial and real estate litigation matters in all levels of court including Commercial Court, the Supreme Court of Canada and tribunals, including:

1. Counsel for a national food processor and distributor successfully defending a \$35 million claim.
2. Counsel to a major Canadian racetrack and entertainment company in connection with horse racing and gaming issues
3. Counsel for Canada Mortgage and Housing Corporation at the Gomery Commission Inquiry into the Federal Sponsorship Program.
4. Counsel for Ontario Realty Corporation in various actions including those arising from the proposed Pickering land exchange and Class E.A.
5. Counsel for Ontario Realty Corporation in connection with court challenges to its Class Environmental Assessment process.
6. Counsel for Industrial Commutator Company Limited in obtaining an injunction to prevent sales of generic aircraft parts.
7. Counsel in connection with a product liability action by an international company claiming damages of \$220,000,000 concerning allegedly defective computer components.
8. Appearing before Administrative Tribunals including the Ontario Municipal Board, the Ontario Racing Commission and conducting appeal and judicial review proceedings arising from administrative decisions.
9. Acting in connection with expropriation of commercial properties including expropriation proceedings for properties in York Region and properties expropriated by Metrolinx and along the Sheppard Subway and at the Airport under the Greater Toronto Airport Authority.
10. Acting as real estate litigation counsel in numerous disputed sale and lease transactions for commercial and development properties.
11. Acting in numerous shareholder cases including oppression actions and related proceedings.

Environmental

Appearing as counsel in hearings, trials, arbitrations and mediations and giving advice with respect to the environmental aspects and remediation of acquisitions, divestitures, and financial transactions, including the following examples:

1. Acting as corporate environmental counsel for numerous clients in mining, pulp and paper and the manufacturing and processing industries;
2. Acting for a Canadian pipeline company with respect to First Nation consultations during pipeline construction including mitigation measures and site management;
3. Advising on regulations of hazardous products, changes in regulatory requirements and compliance issues including import and export of substances;
4. Acting as counsel on soil contamination claims, including contaminated development properties, service stations, industrial land and brownfield developments;
5. Advising public corporations and other government clients in connection with the remediation and disposition of contaminated lands, including warranty, other contract and tort claims;
6. Advising pulp and paper companies on environmental matters and transactions involving conveyances of operating plants under environmental regulation, control orders, environmental audits, risk management;
7. Counsel in environmental liability claims including contaminated site clean-up strategies and multi party risk assessments and records of site condition;
8. Product Liability Counsel in numerous cases including recalls of consumer products, injury claims and defective chemical products.
9. Preparation of environmental management programs for manufacturing and other clients, including legal review of environmental reports.
10. Environmental counsel with respect to aboriginal matters arising from the assertion of treaty rights and aboriginal rights with respect to several development and manufacturing projects.
11. Supervising the decommissioning of major industrial plants in Newfoundland and British Columbia, including negotiating with governmental and regulatory agencies and with purchasers of manufacturing operations.
12. Providing crisis management and crisis supervision in connection with spills and fatalities, including chemical spills to soil and water.

Other Affiliations

Past Director and Member Advocates' Society

Independent Reviewer for International Mediation Institute