

THE HONOURABLE

# Frank J.C. Newbould, K.C.

Mr. Newbould was appointed to the Ontario Superior Court of Justice in 2006. Until his retirement on June 1, 2017, he was from 2013 the head of the Commercial List in Toronto, the country's leading commercial court tasked with hearing a wide variety of complex cases including domestic and cross-border insolvency matters, corporate amalgamations and reorganizations, proceedings for relief under business corporation legislation, and oppression actions. In 2014, he presided over the first cross-border joint trial with the Delaware Bankruptcy Court in the Nortel insolvency litigation involving the allocation of \$7.3 billion.

Prior to his appointment to the bench, Mr. Newbould was a partner at Borden Ladner Gervais in Toronto with a broad litigation and arbitration practice involving corporate and commercial disputes, banking and insolvency matters, class actions, re-insurance disputes, real estate and estate matters.

Mr. Newbould is counsel to the firm of Thornton Grout Finnigan LLP in Toronto, a panel member of Arbitration Place in Toronto, an Associate Member of South Square Chambers in the UK, a member of the London Court of International Arbitration User's Council, a panel member of the International Centre for Dispute Resolution (ICDR) of the American Arbitration Association, a panel member of the Singapore International Arbitration Centre, a panel member of the BVI Arbitration Centre, a member of the ICC Canada Arbitration Committee, a panel member of P.R.I.M.E. Finance, a member of INSOL International (International Association of Restructuring, Insolvency & Bankruptcy Professionals), a member of the International Insolvency Institute, and a former fellow of the American College of Trial Lawyers. He is a director of Firm Capital Mortgage Investment Corporation, a TSX listed company.

As a judge of the Superior Court of Ontario, Justice Newbould released a large number of reported decisions. The following is a short sample of his decisions:

- 1. Fairfield Sentry Ltd. v PricewaterhouseCoopers LLP**  
*Fairfield Sentry Ltd. was the largest feeder fund to the Madoff business. It claimed damages of \$5 billion for auditor's negligence arising from the Madoff fraud.*
- 2. Re Nortel, 2015 ONSC 2987**  
*A joint hearing was held by the Superior Court of Justice (Commercial List) with the U.S. Bankruptcy Court, a first of its kind, to decide the allocation of \$7.3 billion amongst the Canadian, U.S. and EMEA estates of Nortel.*
- 3. U.K. Pension Claimants v Nortel**  
*Claims were made by the UKPC based on the FSD provisions of the U.K. Pensions Act for in excess of \$3 billion, a claim of £495.25 million under a guarantee made by Nortel and a claim of \$150 million under another guarantee made by NNL.*

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#### 4. Barclays Bank v. Metcalfe & Mansfield

*Claim by Barclays for \$1.2 billion arising from the collapse of the asset backed commercial paper market in Canada for an alleged breach of an ISDA agreement relating to leveraged synthetic swap credit agreements between the parties.*

#### 5. Computershare Trust Co. of Canada v. Crystallex International Corp., Noteholders of Crystallex holding US\$100 million of bonds twice claimed mandatory redemptions based on the inability of Crystallex to develop the Las Cristinas gold project in Venezuela as a result of the takeover of the property by the Venezuelan government.

#### 6. Re Crystallex International Corp Insolvency

*Crystallex obtained creditor protection under Canadian insolvency provisions, and obtained debtor in possession financing to successfully pursue international arbitration against Venezuela for effectively expropriating Crystallex's right its right to develop the Las Cristinas gold project in Venezuela.*

In July 2017, Mr. Newbould joined Arbitration Place and has since been appointed to many arbitrations and mediations involving energy projects, offshore wind projects, commercial and financial services disputes, partnership and shareholder disputes, construction and engineering design, real estate development and ground lease disputes.



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