



## **Jack Marshall, Q.C., Senior Counsel**

*Arbitration • Mediation • Litigation*

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Jack's legal career began in 1966 when he commenced articles with Macleod Dixon. His practice included litigation, regulatory and alternative dispute resolution. He headed the firm's Litigation Practice Group for many years and served as Chairman from 2000 to 2007. Following a career of more than 45 years with Macleod Dixon, Jack left the firm on December 31, 2011, prior to its merger to form Norton Rose Canada, now Norton Rose Fulbright.

Jack practices as an independent Arbitrator and Mediator in both domestic and international disputes. In addition, he acts as Senior Counsel in litigation matters. His focus is on disputes in the resource section (including oil and gas, mining and electricity), securities and corporate/commercial disputes.

### **Education**

- Royal Canadian Naval Reserve, Commissioned Sub-Lieutenant, 1963
- University of Alberta, B.A., 1963
- University of Toronto, LL.B, 1966
- Attended ICC workshop on international commercial arbitration, Paris, 1977
- Alberta Arbitration and Mediation Society, completed Arbitration Course, 1994
- Attended ICC conference on new arbitration rules, 1997
- CRP Institute Mediation Course, Chicago, 2003

### **Call to Bar**

- Alberta, 1967
- Northwest Territories, 1974

### **Languages**

- English

## **Affiliations/Memberships**

- Member, Law Society of Alberta
- Member, Calgary Bar Association
- Fellow, American College of Trial Lawyers
- Co-founder and Past President, Western Canada Commercial Arbitration Society ([WCCAS](#))
- Member, Toronto Commercial Arbitration Society (TCAS)
- Member, ICDR Energy Arbitrators List
- Member, ICDR Canadian Advisory Committee
- Member, London Court of International Arbitration (LCIA)
- Member, CPR Institute Energy Panel
- Member, ICC Canadian Panel of International Commercial Arbitrators
- Past Member, ICC Canada Nominating Committee
- Member, Calgary Energy & Commercial Arbitrators ([CECA](#))

## **Publications and Presentations**

- Speaker, Oil & Gas Disputes Course, *"US and Canada Disputes"*, Texas Bar CLE (2016)
- Author, 'Time is Money: Arbitrate don't Litigate', ADR Perspectives, (2014)
- Speaker AIPN/ICDR oil and gas dispute resolution conference, Calgary (2014)
- Conference Chair and Speaker, WCCAS 8<sup>th</sup> Annual Energy and Mining Conference, Calgary (2014)
- Speaker, Arbitration Ethics teleconference, Calgary (2013)
- Speaker, Toronto Commercial Arbitration Society, Toronto (2013)
- Chair and Speaker, WCCAS 7<sup>th</sup> Annual Energy & Mining Dispute Conference, Calgary (2013)
- Speaker, Arbitrate don't Litigate, Regulatory Conference, Cambridge, Ontario (2013)
- Speaker, "Ethics in Arbitration - Witness Preparation", Video Conference, Calgary (2012)
- Conference Chair, WCCAS 6<sup>th</sup> Annual Energy & Mining Dispute Resolution Conference, Calgary (2012)
- Lecturer, Arbitration Awards, University of Calgary, Faculty of Law (2011)
- Conference Chair and Speaker, WCART 5<sup>th</sup> Annual Energy Dispute Resolution Conference, Calgary (2011)
- Speaker, "Energy Arbitration," Energy Law Forum, Salt Spring Island (2011)
- Conference Chair and Speaker, 4<sup>th</sup> Annual Energy Dispute Resolution Conference, Calgary (2010)
- Speaker, "Recent Developments in Energy Arbitration," Association of International Petroleum Negotiators/ICDR Conference, Houston (2010)

\* Indicates amounts in issue exceeded \$50,000,000

- Panelist, "ADR in Alberta: Where We've Been, Where We're Going and What We've Learned," ADR 2010: Resourceful ADR Conference (2010)
- Speaker, "Developments in Arbitration Law and Practice," TCAS Conference, Toronto (2010)
- Speaker, "Recent Developments in International Arbitration in Canada and England: A Comparative Review British Institute of International and Comparative Law", London, England (2009)
- Conference Chair, Western Canada Arbitrators Roundtable, 3rd Annual Energy Dispute Resolution Conference, Calgary (2009)
- Panelist, "Canada and The United States: A Comparison of Trends in Arbitration Practice North and South of the 49th," ICC and The Canadian Chamber of Commerce, International Arbitration Committee Annual Conference, Toronto (2009)
- Moderator, Western Canada Arbitrators RoundTable, 2nd Annual Energy Dispute Resolution Conference, Calgary (2008)
- Speaker, AAMS Conference and AGM, Edmonton (2008)
- Author, "Six Degrees of Separation: Arbitrator Independence in International Arbitration," Transnational Dispute Management.Com (2008)

## **Representative Work**

### *Oil and Gas – International*

- advice to international energy company relating to defence of judgment entered in Ecuador\*
- advice to Canadian energy company on operations in France
- advice to energy company on operations in Sudan\*
- representation of drilling contractor in dispute with Indonesian subsidiary of Canadian company
- advice to exploration company relating to offshore boundary dispute South America
- advice to energy company on operations in Kurdistan\*
- advice to energy company relating to operations in Peru
- advice to energy company relating to operations in Ecuador

### *Securities/Corporate*

- representation of Alberta Securities Commission in Court of Appeal in proceedings relating to Confidentiality Order
- representation of Corporate Trustee in dispute relating to removal of surplus from pension
- representation of major securities dealer in various matters including fairness opinion, alleged negligence in preparation of research report and alleged interference with economic relations\*
- representation of international banking syndicates in plans of arrangement relating to Dome Petroleum and Canadian Airlines\*
- representation of numerous corporate clients in re-organization and arrangement proceedings under *Business Corporations Act*, including, Talisman, EnCana and Suncor\*
- representation of mining company in listing dispute with stock exchange
- representation of independent directors in Alberta Securities Commission proceedings
- representation of chemical company in dispute relating to operation of ethylene plants\*

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### *Other Litigation*

- representation of auditors in litigation relating to foreign exchange transaction losses\*
- representation of energy client in dispute relating to hedging losses\*
- frequent advice to senior management personnel relating to termination of employment and severance arrangement
- representation in various litigation matters relating to alleged misappropriation of business opportunity
- representation of mining company in dispute with environmental group relating to development of diamond mine, NWT\*
- representation chemical company in products liability litigation\*
- counsel to international mining company in dispute relating to the Canadian/United States Mutual Legal Assistance Treaty\*
- representation of developer in dispute relating to sale of land
- representation of mining companies in dispute in Federal Court and Federal Court of Appeal relating to diamond claims, NWT, Canada
- representation of energy company in trial relating to misuse of confidential well test data
- representation of energy company in dispute relating to pollution from oil and gas activities
- counsel to gas aggregator in pricing dispute relating to sale of gas to U.S. buyers under long term contract
- counsel to oil sands company in proceedings related to wildfowl deaths
- representation of public company in action arising from dismissal of senior executive for violation of computer policies pertaining to offensive material

### *Regulatory*

- representation of regulated utility in proceedings relating to Fuel Adjustment Mechanism audit
- from 1973-77 served as counsel to Canadian Arctic Gas Studies Limited in Northern Pipeline Hearings in Yellowknife and NEB hearings in Ottawa\*
- appeared frequently in proceedings before the NEB and the ERCB (EUB) on facilities applications, export applications, tariff applications and broad based reviews of gas supply, demand and deliverability\*
- appeared as counsel to TransAlta Utilities in rate and related matters proceedings before ERCB\*
- counsel to TransAlta Utilities in proceedings before ERCB related to de-regulation of electricity generation\*

### *Arbitration*

#### Arbitrator: Administered

- Chair of Panel in LCIA dispute relating to financing of Mexican Mining Project (London)
- Chair of Panel in LCIA dispute relating to cost overruns on LNG project in New Brunswick (St. John, New Brunswick)
- party-appointed arbitrator in ICC dispute relating to supply of uranium to European utility \*(Geneva)
- party-appointed arbitrator in ICC dispute relating to oil and gas operations in Columbia (Calgary)

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- sole arbitrator in ICC dispute relating to sale of goods between U.S. supplier and Korean purchaser (San Francisco)

Arbitrator: UNCITRAL

- party-appointed arbitrator in UNCITRAL proceedings relating to operating agreement for offshore oil and gas development\* (St. John's, Newfoundland & Labrador)
- Chair, UNCITRAL arbitration relating to worldwide sale of drilling fluids (Calgary)
- party-appointed arbitrator in UNCITRAL proceeding relating to cost overrun dispute involving gas processing plant construction in British Columbia \* (Calgary)
- party-appointed arbitrator in UNCITRAL dispute between Canadian and Czech corporations involving an aircraft manufacturing business (Stockholm)

Arbitrator: *Ad Hoc*

- sole arbitrator in an *ad hoc* arbitration in a dispute between a shipper and operator of an oil terminalling facility
- sole arbitrator in an *ad hoc* arbitration in a dispute relating to misuse of confidential information in the sale of a chain of drug stores (Edmonton)
- party-appointed arbitrator in *ad hoc* proceeding relating to right to terminate commercial leases due to flood damage\* (Calgary)
- Chair of Tribunal in *ad hoc* dispute relating to mining project development in Ontario (Toronto)
- sole arbitrator in domestic *ad hoc* arbitration to establish royalties for coal bed methane production (Calgary)
- sole arbitrator in *ad hoc* arbitration relating to construction of nuclear power plant in China (Toronto)
- sole arbitrator in dispute between large independent oil company and income trust relating to valuation issues under *Alberta Arbitration Act* (Calgary)
- sole arbitrator in domestic *ad hoc* arbitration relating to cost overrun on highway construction project in Manitoba \* (Winnipeg)
- sole arbitrator in *ad hoc* arbitration relating to share valuation under unanimous shareholder agreement \* (Calgary)
- party-appointed arbitrator in *ad hoc* arbitration relating to cost of services for electric distribution company\* (Calgary)
- sole arbitrator in *ad hoc* domestic proceeding concerning a commercial dispute between companies in lumber industry (Calgary)
- party-appointed arbitrator in BCICAC arbitration relating to mining development in Canada\* (Vancouver)
- Chair of *ad hoc* arbitration of dispute relating to oilfield services (Calgary)
- Chair, *ad hoc* arbitration relating to compressor station cost dispute (Calgary)
- party-appointed arbitrator in *ad hoc* arbitration relating to royalty dispute between energy company and Province\* (Calgary)
- party-appointed arbitrator in BCICAC dispute between mining companies relating to the exercise of option under an option and joint venture agreement (Vancouver)

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- party-appointed arbitrator in BCICAC dispute between mining companies relating to breach of a shareholders agreement (Vancouver)
- sole arbitrator in domestic arbitration regarding termination of a gas transportation and processing agreement (Calgary)

#### Arbitration: Counsel:

- counsel to Venezuelan parties in royalty dispute with Canadian mining company
- counsel to electric utility in two arbitrations relating to coal royalties\*
- counsel to energy company in dispute with Government of Canada relating to project cost guarantees \*
- counsel to energy company in dispute with Government of Canada relating to project abandonment costs under UNCITRAL Model Law\*
- counsel to gas aggregators in five UNCITRAL proceedings involving pricing of Canadian gas sold to U.S. purchasers \*
- counsel to oil and gas producer in Philippines in arbitration relating to offshore drilling dispute under ICC rules
- advice to senior oil producer on dispute in Venezuela governed by ICC arbitration rules\*
- counsel to electric utility on various arbitration matters relating to Power Purchase Agreements under *Alberta Arbitration Act*\*
- counsel to U.S. electricity trading company in arbitration relating to forward sales of electricity under BCICAC Rules
- counsel to Canadian oil sands developer in series of arbitrations governed by Model Law and litigation relating to production delay, fire and cost overrun claims\*
- counsel to gas aggregator in dispute with producer over contractual interpretation
- counsel to gas utility in pricing dispute governed by Model Law for purchase of offshore gas \*
- counsel to co-generator in pricing dispute in Ontario for sale of steam under long term contract\*
- counsel to industrial contractor in cost overrun dispute relating to fertilizer plant in Manitoba
- advice to energy service contractor relating to nationalization of Venezuelan operations
- counsel to energy company in dispute under LCIA Rules with contract operator in Argentina

#### Mediation

- mediator in a dispute relating to valuation of inventory in Texas warehouse fire and related insurance issues
- counsel to chemical company in dispute with co-owner relating to ethylene plant operations\*
- counsel to large energy company related to options backdating claims\*
- counsel to energy company in mediation of pipeline cost overrun claims
- counsel to gas aggregator in dispute over gas deliveries by producer
- mediator in oil and gas litigation
- mediator in dispute between EPMC Contractor and supplier relating to power project in North Africa
- mediator in dispute between pipeline and engineering contractor

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- mediator in dispute involving supply of equipment in forestry industry
- mediator in dispute involving failure of shoring in major construction project
- mediator in dispute involving recreational property in Alberta
- mediator in dispute involving soil contamination by refinery
- mediator in dispute involving breaches of Consulting Agreement
- mediator in dispute involving termination of senior officer by public company
- mediator in dispute relating to breach of shareholder agreement

## **Awards and Recognition**

- *Best Lawyers in Canada* (10<sup>th</sup> Ed) in the areas of: Alternative Dispute Resolution, Bet-the-Company Litigation, Corporate and Commercial Litigation, Director and Officer Liability, Energy Regulatory Law, International Arbitration, Natural Resources Law, Product Liability Law and Securities Law
- *The 2016 Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada*
- *Who's Who Legal: Arbitration 2015/Who's Who Legal 2015 – Compendium edition*
- *Best Lawyers' 2015 Calgary Director and Officer Liability Practice "Lawyer of the Year"*
- *Expert Guides – Guide to the World's Leading Commercial Arbitration Experts*
- *Best Lawyers' 2015 Calgary Director and Officer Liability Practice "Lawyer of the Year"*
- *Best Lawyers in Canada* (9<sup>th</sup> Ed) in the areas of: Alternative Dispute Resolution, Bet-the-Company Litigation, Corporate and Commercial Litigation, Director and Officer Liability, Energy Regulatory Law, International Arbitration, Natural Resources Law, Product Liability Law and Securities Law
- *The International Who's Who of Commercial Arbitration 2014/The International Who's Who of Business Lawyers 2014*
- *Chambers Global, 2014 (Canada)* in the area of Dispute Resolution: Arbitration, Band 1 – Canada
- *Best Lawyers in Canada* (8<sup>th</sup> Ed) in the areas of: Alternative Dispute Resolution, Bet-the-Company Litigation, Corporate and Commercial Litigation, Director and Officer Liability, Energy Regulatory Law, International Arbitration, Natural Resources Law, Product Liability Law and Securities Law
- *Best Lawyers "Lawyer of the Year" for 2014* in the area of Bet-the-Company Litigation
- *Who's Who Legal: 2013 - Expert* in the area of Commercial Litigation
- *Canadian Legal Lexpert Directory 2013*, Recommended in the areas of Arbitration; Litigation - Corporate Commercial; Litigation - Directors' & Officers' Liability; Litigation – Securities
- *Chambers Global, 2012 (Canada)* in the area of dispute resolution - Arbitration (Band 1)
- *Benchmark Canada 2012*, recommended as litigation star in Alberta
- *Best Lawyers "Lawyer of the Year" for 2012* in the area of Bet-the-Company Litigation

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- *Best Lawyers 2012* in the areas of Bet-the-Company Litigation, Commercial Litigation, Director and Officer Liability, Dispute Resolution, Energy Regulatory Law, International Arbitration, Natural Resources Law and Product Liability Law
- *Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada 2011*, Most Frequently Recommended in the area of Arbitration and Corporate Commercial Litigation
- *Best Lawyers 2011* in the areas of Alternative Dispute Resolution, Bet-the-Company Litigation, Corporate and Commercial Litigation, Director and Officer Liability, Energy Regulatory, International Arbitration, Natural Resources Law and Product Liability Law
- *Canadian Legal Lexpert Directory 2011*, Consistently Recommended in the area of Litigation - Securities; Most Frequently Recommended in the areas of International Commercial Arbitration, Litigation - Directors' & Officers' Liability, Litigation - Corporate Commercial; Repeatedly Recommended in the area of Litigation - Product Liability
- *Chambers Global 2011* (Canada) in the area of Dispute Resolution: Alberta (Band 2)
- *Chambers Global 2011* (Canada) in the area of Dispute Resolution: Arbitration (Band 1)
- *Expert Guide 2011* in Commercial Arbitration
- *PLC Which Lawyer 2011* (Alberta) in the area of Dispute Resolution
- *PLC Which Lawyer 2011* (Canada) in the area of Dispute resolution: international arbitration
- *The International Who's Who of Commercial Litigation Lawyers 2011*
- *Who's Who Legal: Canada 2011* in the area of Commercial Litigation
- Listed in *Global Counsel 3000* as highly recommended in fields of Litigation and Arbitration
- Martindale & Hubble rating AV
- Fellow, American College of Trial Lawyers

### **Representative Clients**

Among the clients Jack has represented are Imperial Oil Limited, Talisman Energy Limited, Murphy Oil, BP, TransAlta, Shell Canada, Cargill, Nova Chemicals, Agrium, Vermillion Resources, Petro Canada, Ernst and Young, El Paso, Burlington Resources, EnCana, Bechtel, Western Oil Sands, Churchill Corporation, Syncrude, Pan-Alberta Gas, Chevron and Alberta Securities Commission.

### **Community Involvement**

- Member, Board of Directors, Norlien Foundation, Calgary
- Founding Member, Canadian Foundation for Dispute Resolution (CFDR)
- Past Chairman and Board Member, Fort Calgary Preservation Society
- Member, Board of Governors, St. Mary's University College, Calgary
- Founding Member and Past-President of Western Canada Commercial Arbitration Society (WCCAS)
- Member, Southern Alberta Pioneers Association

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