



WESTERN
CANADA
COMMERCIAL
ARBITRATION
SOCIETY

Panel 4: “Hot Topics”

8th Annual WCCAS Conference

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Calgary, Alberta

Speakers

- **Tina M. Cicchetti**, Counsel
FASKEN MARTINEAU DUMOULIN LLP, Vancouver
- **Murray A. Clemens, Q.C.**, Partner
NATHANSON, SCHACHTER & THOMPSON LLP, Vancouver
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- **E. David D. Tavender, Q.C.**, Partner Emeritus
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Topic Selection #1

- **Use of prepared written evidence**

- Should fact witnesses provide statements?
- Should there be direct?
- Warming up the witness

or

- **Expert Witnesses**

- Expert witness conferencing before hearing
- Hot tubbing
- Presenting opposing witnesses jointly to be examined by Tribunal

Topic Selection #2

- **Appeals from Arbitral Awards**

- Should there be appeals at all?
- If “yes” should they be limited to appeals on law or jurisdiction?
- Ought there to be an appeal to an arbitral appeal panel?

or

- **The Cost vs. Process Trade-off**

- What is the right balance for arbitration?
- Who gets to decide: the Parties or the Tribunal?
- When and how ought this to be dealt with?

Topic Selection #3

- **Arbitrator Fees**

- Should they be protected from non-payment?
- How best to do so?
- What effect on arbitrator independence/impartiality?
- Can arbitrators withhold issuance of an award until fees are paid?
- Are cancellation fees now the norm?
- When and how to establish the protocol for cancellation fees

or

- **Defaulting or Non-Participating Parties**

- Can the arbitration proceed?
- What safeguards can be taken?
- How can arbitrators be paid when a party does not participate?