

Hot Topics #1

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Is the role the expert in arbitration any different from the trial process?

To what extent is the arbitrator to exercise a gate keeper role on the qualification of the expert and the admissibility of the report (*White Burgess et al v. Abbott and Haliburton* (2015) 2 SCR 182)?

Is an expert's file producible in arbitration the same way it is in trial (*Blake Moore v. Dr. Tajedin Getahun et al* (2015 ONCA 55)).

Preserving assets to satisfy a future arbitration award – are there differences between the US and Canada, and how may that affect strategy?

How far can a defendant allow litigation to proceed before applying for a stay in favour of arbitration (*A.G. Clark Holdings v. Hoopp Realty* (2013 ABCA 101))

Arbitrator disclosure – how detailed must it be, and are we returning to a zone of reasonableness (*Atlantic Industries Limited v. SNC-Lavalin Constructors (Pacific) Inc.*, 2017 BCCA 433)?

Obtaining documents or other evidence for use in arbitration – are there Canadian counterparts to 28 USC 1782, and are they being used?



Does an arbitration agreement in a contract always survive termination of the contract, and is that question to be answered by the arbitrator or the court (*Husky Oil v. Saipem*, 2017 ABQB 489)?

Should parties be able to contract into limited or broader rights of appeal (*McHenry Software Inc. v. ARAS 360 Incorporated*, 2018 BCSC 586)? Why or why not?

Arbitration and class proceedings: what to do with the arbitration agreements (*TELUS Communications Inc. v. Avraham Wellman*, 2017 ONCA 433)?