

JSS BARRISTERS

Jensen Shawa Solomon Duguid Hawkes LLP

PARTNER

**Carsten Jensen
QC, FCI Arb**

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**PRACTICE AREAS**

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BAR ADMISSIONS**MEMBERSHIPS****TEACHING ROLES****AWARDS & RECOGNITION**

Carsten Jensen QC, FCI Arb

Class Action Litigation
Calgary, Canada

Carsten is a founding partner of JSS Barristers, and a former managing partner of the firm focuses exclusively on dispute resolution, with an emphasis on corporate and commercial including commercial class actions, oil and gas disputes, shareholder disputes, multi-party arbitrations. Carsten has represented governments, airlines, major and independent oil and gas companies and individuals. He acts for the Alberta Lawyers Indemnity Association in defence of professional negligence claims and on insurance coverage issues.

Carsten is a former bencher (director) of the Law Society of Alberta, which is the governing body for lawyers in Alberta, and President of the Law Society for a one-year term commencing February 2013. He was previously Chair of Finance, Chair of Compensation and Education, and for two years Chair of Conduct. Carsten previously served on the Advisory Board of ALIEX, which was the first company providing coverage to Alberta lawyers.

In 2018 Carsten was appointed by the Law Society of Alberta to be its representative to the Federation of Law Societies of Canada.

Experience

Carsten is a member of the Canadian and Calgary Bar Association and has been accepted as a Fellow of the London-based Institute of Arbitrators (FCI Arb). In 2018 Carsten was appointed as a member of the Professional Conduct Committee of the Chartered Institute of Arbitrators. In 1998, Carsten commenced a two-year leave of absence during which time he acted as senior legal officer and team leader at the United Nations Compensation Commission (UNCC) in Geneva, Switzerland. The UNCC was established to process and resolve compensation claims arising from Iraq's invasion and occupation of Kuwait. During Carsten's first year with the UNCC, he worked on a large Oil Company claim for oil losses resulting from the Kuwait oil well fires. Carsten was responsible for overseeing the quantification of oil lost, with the assistance of reservoir engineering experts. This claim is possibly the largest single oil and gas loss ever.

Subsequently, Carsten was responsible for overseeing development of a consistent method for resolving the thousands of individual loss claims filed with the UNCC as a result of the war. The methodology which Carsten and his team developed was adopted by the UNCC and he was responsible for these claims and has since been applied to thousands of similar claims. Carsten returned to JSS Barristers to resume his civil litigation practice.

Carsten has a Martindale-Hubbell "AV Preeminent" peer review rating in both legal ability and ethical standards - the highest rating. He has repeatedly been recognized in the Canadian Legal Expert Directory as a leading practitioner in Corporate Commercial Litigation, and Medical Negligence. In addition, Carsten is recognized and listed in "Best Lawyers in Canada", and in Benchmark Litigation lists Carsten as a Distinguished Practitioner in commercial litigation.

Arbitration

Arbitration matters have become an increasingly large component of Carsten's practice as party counsel, and as arbitrator.

Carsten was recently lead party counsel on an energy industry ad hoc arbitration with an asserted claim value in excess of \$50 million. He is presently counsel in other commercial arbitration matters, and he has frequently been called upon to advise clients on arbitration agreements.

Carsten has served as arbitrator in a number of commercial disputes, as sole Arbitrator, as Panel Member, and as Chair.

Carsten is a Fellow of the London UK-based Chartered Institute of Arbitrators (FCI Arb), and a Member of its Professional Council.

Carsten was a Bencher of the Law Society from 2006 - 2014, and in that capacity he has served as an adjudicator on disciplinary matters, and has served as the Chair of disciplinary panels in at least 10 matters - all of which were followed by a written decision authored by Carsten. These written decisions are available by searching on the CanLII database at: <http://canlii.org/en/ab/>

Carsten has served on numerous other Law Society panels dealing with assurance fund claims, credentials and education reform, and interim suspension applications. In those types of proceedings, he has served as both a panel member and as the Chair, and in many cases has provided written reasons.

Carsten served 2 years as the Chair of Conduct at the Law Society, meaning that he was responsible for the overall discipline of the profession, resolving interim motions regarding evidentiary disputes and scheduling matters. Some of those matters involved the preparation of written decisions.



Carsten continues to serve on the Law Society's roster of adjudicators, and accepts occasional appointments to serve as a Law Society hearings.

Carsten has completed adjudication training related to credibility findings, jurisdiction, and decision writing, and has been on several arbitral tribunals. Carsten is recognized by Benchmark as a Litigation Star in arbitration.

Carsten is presently available for arbitral appointments as sole arbitrator, as panel member, or as Chair.

Publications

["Rabobank International v. Stout & Company: Auditors' Negligence Claims Remain Challenging Post-Livent"](#)

The Advocates' Quarterly, Vol. 51, 2020

Co-Author (with Laura Warner & Kaila Eadie)

["The Livent Decision - Two Years On \(or Livent and the Amazing Technicolor of Torts\)"](#)

The Annual Review of Civil Litigation 2019, the Honourable Mr. Justice Todd L. Archibald - 2019

Co-Author (with Laura Warner)

["Revisiting the Arbitration Agreement After a Dispute Arises - the Role of Arbitration Counsel"](#)

ADR Perspectives, a publication of the ADR Institute of Canada - 2014

Author

["Energy in Canada - Litigation in an Emerging Energy Superpower"](#)

Benchmark Canada - 2013

Author

Speaking Engagements

Presenter

"Class Actions in Alberta - Recent Cases", Western Canada Class Actions Conference 2018, Vancouver

Presenter

"Class Actions in Alberta - Recent Cases", Western Canada Class Actions Conference 2016, Vancouver

Presenter

"The Framework for Domestic Commercial Arbitration in Alberta", Central Alberta Bar Association, Red Deer - 2015

Presenter

"Class Actions in Alberta: An Overview of Recent Developments", Western Canada Class Actions Conference, Vancouver - 2015

Presenter

"Running Your First Trial - Steps Prior to Trial", presented at a LESA seminar in Calgary and Edmonton - 2015

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I Work History:

October 2001 - Present **Partner, JSS Barristers**
Calgary, Alberta

In this firm of 31 lawyers, I practice exclusively in the area of civil litigation, dispute resolution and arbitration, with an emphasis on business/ commercial matters, securities litigation, health care law and multi-party litigation including class proceedings. I have been counsel in several large securities cases and class actions, acting for both defendants and plaintiffs.

My practice includes chambers and trial work, appeals and alternative dispute resolution, including mediation and arbitration. Significant clients have included large and small Canadian and United States public and private companies, two Canadian provincial governments, major commercial landlords, and numerous other private businesses. I have significant experience in shareholders' rights and oppression claims.

I have extensive discovery, chambers, trial and appellate experience, and I have worked with many experts including physicians, economists, business valuers, oil and gas industry experts and accountants.

Arbitration has been a growing part of my practice for a number of years, and I regularly act as counsel in arbitrations. I have had a number of appointments as arbitrator in various kinds of disputes, including as Chair, and including an appointment as arbitrator in an ICC matter (the International Chamber of Commerce). I have been the sole or principal author of multiple Arbitral Awards.

I served as managing partner 2004 - 2005.

I previously served as the firm's Diversity Officer, responsible for implementing the objectives of the Justicia Project within the firm. The Justicia Project is a Law Society initiative designed to promote the retention and advancement of women in the practice of law

The firm's vision at JSS Barristers is to be recognized as the leading civil litigation boutique law firm in Western Canada, and to provide first rate legal services to our clients. In 2014 the firm was first recognized by Canadian Lawyer as one of the 10 leading litigation boutiques in Canada - this recognition has been repeated multiple times, most recently for 2020.

July 1999 - Sept. 2000

Team Leader and Senior Legal Officer
United Nations Compensation Commission
United Nations Security Council, Geneva, Switzerland

In this position I was responsible for establishing and supervising a team of 15 international staff members, including 10 staff lawyers, charged with processing hundreds of claims advanced by individuals arising from Iraq's invasion and occupation of Kuwait.

My team was specifically charged with developing a model for assessing thousands of individual business loss claims; this model was ultimately adopted by the UNCC Governing Council (composed of the members of the UN Security Council).

May 1998 - July 1999

Legal Officer
United Nations Compensation Commission
United Nations Security Council, Geneva, Switzerland

In this position I acted as counsel to a Panel of Commissioners charged with evaluating claims and determining compensation payable to claimants as a result of Iraq's 1990-1991 invasion and occupation of Kuwait. I was a Legal Officer for Energy Sector claims, and I had primary responsibility for presenting claims to the Panel, for preparing interrogatories, for co-ordinating field work and witness interviews, and for otherwise managing claims. I completed an instalment of 14 claims with an asserted value of US\$ 185 million. As part of my work on this instalment, I prepared a draft opinion for the Panel of 126 pages.

The most significant claim I was involved with was the claim by the Kuwait oil sector for fluid and production losses arising from the well blow-outs during the war; on that claim I was the second lawyer on a team of four, and I had primary responsibility for determining the total volume of lost fluids, for managing our experts in this area, and for presenting this aspect of the claim to the Panel. This involved the use by our experts of computer generated reservoir simulation models, and other sophisticated techniques for measuring loss. The asserted value of the well blow out claim was approximately US\$ 15 billion.

March 1995 - May 1998

Partner, May Jensen Gruber Shawa
Barristers and Solicitors, Calgary, Alberta

This firm (now *Jensen Shawa Solomon Duguid Hawkes LLP*, or *JSS Barristers*) was established as a boutique litigation firm by myself and three others, all with significant work experience in major Calgary law firms. The initial vision of the firm was to establish itself as a well respected litigation firm. I left on a leave of absence in May 1998 in order to accept a term position with the United Nations in Geneva.

1990 - 1995

Associate, Bennett Jones
Barristers and Solicitors, Calgary, Alberta

In this position I practiced exclusively civil litigation and regulatory work. I was junior counsel in a significant regulatory hearing involving the acquisition by a US carrier of a large block of shares in a major Canadian airline.

I was also junior counsel to the Alberta Provincial Judge's Association in a landmark case

dealing with judicial independence. I was junior counsel to a large Canadian natural gas company in a dispute with a US utility involving long term gas supply contracts. Other cases involved smaller commercial litigation clients and pension surplus disputes. I was also counsel to the Canadian Medical Protective Association in a number of medical malpractice cases (I acted as both junior counsel and lead counsel for this client).

1989 - 1990 ***Ombudsperson, University of Alberta***
Edmonton, Alberta

This appointment involved the resolution of student disputes and complaints, and assisting students with harassment complaints and academic appeals. The ombudsperson's office is a neutral and confidential source of information and assistance.

1985 - 1986 ***Department of Federal and Intergovernmental Affairs***
Edmonton, Alberta

In this term position I was a research assistant providing background support to the Alberta Ministry of Federal and Intergovernmental Affairs, particularly in the area of federal transportation subsidies.

II Educational Background:

- 1990 *Bachelor of Laws Degree*
University of Alberta
(Dean's List 1990)
- 1987 *Bachelor of Arts Degree with Honours*
University of Alberta
Political Science Major

III Professional Organizations, Designations and Societies:

2019 - present - Federation of Law Societies of Canada - representative of the Law Society of Alberta

Achieved full Fellow status in the Chartered Institute of Arbitrators (FCIArb) in 2013

2018 - present - member of the Professional Conduct Committee of the Chartered Institute of Arbitrators - the PCC receives and reviews complaints of misconduct involving members worldwide

Appointed Queen's Counsel in 2006

Law Society of Alberta - served as an elected Bencher from 2006 to February of 2014 (this is the governing body for lawyers in Alberta. I served as President of the Law Society in 2013. I am very proud of the fact that I served as the first openly gay President of the Law Society of Alberta. In that capacity I promoted various diversity initiatives, including the Justicia Project, which promotes the retention and advancement of women in the practice of law. Previously I served two terms as the Chair of the Conduct Committee. I have served as Chair of several other major Law Society committees,

including Credentials and Education and Finance. I continued to serve on the Law Society's Governance Committee until 2017, and I still serve as a Law Society adjudicator

Alberta Civil Trial Lawyers Association (past Vice-President - Seminars)

Calgary Medical/Legal Society – member

Canadian and Calgary Bar Associations - member

IV Recent Articles, Publications and Presentations:

2002 – *“Liability Issues - The Private Delivery of Health Care”*, prepared for an Insight Conference

2002 - *“Treating Physician Interviews in Medical Malpractice Cases: Can Confidentiality be Maintained in the Adversarial System”*, prepared for a Canadian Bar Association Health Law Section Meeting

2004 - Peer review of an article for publication with the Alberta Law Review

2004 - Case comment for an Alberta Civil Trial Lawyers meeting

2005 - *“Litigation in Canada - Advising U.S. Clients”*, International Litigation Quarterly, Vol. 22, Issue 1

2006 - Moderator - ACTLA Seminar on Informed Consent, paper presented by Kevin Feehan

2006 - *“Summary Trial Procedures”*, prepared for a Canadian Bar Association Civil Litigation Section Meeting. Co-presenter with Justice Rooke

2008 - *“Medico-legal Pitfalls in Paediatric Practice”*, prepared for a Community Paediatrics Physician Education seminar

2008 - *“Causation in Medical Malpractice”*, prepared for the Alberta Civil Trial Lawyers Association, presented in Calgary and Edmonton

2009 - *“Dealing with Financially Weakened Business Partners and Insolvency Issues in the Current Economic Climate”*, prepared for the Canadian Bar Association Civil Litigation Section

2011 – *“Medical Standard of Care”*, presented at the LESA Health Care Seminar in March 2011 in Calgary and Edmonton

2011 – *“Cross Canada Class Actions Update – Commencing Class Actions in Alberta”*, paper presented at the Insight 12th Annual Forum on Class Actions Litigation in Toronto, September 2011

2013 - *“Energy in Canada - Litigation in an Emerging Energy Superpower”*, Benchmark Canada

2014 - *“Revisiting the Arbitration Agreement After a Dispute Arises – the Role of Arbitration Counsel”* submitted for publication with ADR Perspectives, a publication of the ADR Institute of Canada

2015 - "*Running Your First Trial - Steps Prior to Trial*", presented at a LESA seminar targeted at junior lawyers in January 2015 in Calgary and Edmonton

2015 - "*Class Actions in Alberta: An Overview of Recent Developments*", presented at the Western Canada Class Actions Conference 2015, Vancouver

2015 - "*The Framework for Domestic Commercial Arbitration in Alberta*", presented to the Central Alberta Bar Association, Red Deer

2016 - "*Class Actions in Alberta: An Overview of Recent Developments*", presented for the Western Canada Class Actions Conference in Vancouver, and then again for the Alberta Department of Justice at the request of their staff lawyers

2018 - "*Class Actions in Alberta –Recent Cases*", presented at the Western Canada Class Actions Conference 2018, Vancouver

2019 - "*Private Law Firms: Respect in the Workplace*", a publication in Assist in your Community Newsletter, Respect in the Workplace

2019 - "*The Livent Decision – Two Years On (or Livent and the Amazing Technicolor of Torts)*" by Carsten Jensen QC, FCI Arb and Laura Warner, The Annual Review of Civil Litigation 2019, the Honourable Mr. Justice Todd L. Archibald, ed.

2020 - "*Management of Multi-Jurisdictional Class Actions in Canada*", prepared for OBA 11th Annual Class Actions Colloquium, Toronto

2020 - "*Rabobank International v. Stout & Company: Auditors' Negligence Claims Remain Challenging Post Livent*" by Carsten Jensen QC, FCI Arb, Laura Warner and Kaila Eadie, Case Comment for The Advocates Quarterly, Vol. 51, Issue 1

Long term instructor for the CPLED (formerly Bar Admission) program, presently teaching legal ethics

V Recent Community Activities:

2008 - 2011 - Law Society representative to the Board of Directors of ASSIST, which provides counselling and support to lawyers in crisis

2009 and 2010 - service on the Nominating Committee for the Calgary Foundation (selecting Calgary Foundation board members)

2010 - Organizer and Moderator for a roundtable conference on "Lawyers at Risk" - dealing with lawyers at risk as a result of mental or physical illness, addiction, stress, divorce or other causes, all with reference to best practices from other jurisdictions and other professions

2013 – 2015 - Law Society appointed representative to the Alberta Judicial Council

2013 to 2015 - Law Society appointed representative to the Provincial Court Nominating Committee - which is responsible for advising the Alberta Minister of Justice on appointments to the Provincial Court bench

2014 to present - inaugural member of the ALIEX Board - ALIEX is the new Alberta Lawyers

Insurance Exchange which is assuming responsibility for providing professional liability insurance to Alberta lawyers

2017 – 2019 - appointed to the ALIEX Board Executive Committee

2017 to present – Board member and presently Board Chair of Windmill Microlending (formerly the Immigrant Access Fund) – which provides micro-loans to immigrants and refugees in Canada to assist them in obtaining Canadian licensing or training needed to work in their fields

VI Recognition:

Listed in Best Lawyers in Canada since 2006, and presently listed in Best Lawyers for Class Actions

Listed in L'Expert as a leading lawyer in Canada for many years, and am presently listed as repeatedly recommended in Commercial Litigation, Class Actions, and Medical Negligence.

Martindale Hubbell "AV Preeminent" rating, which is the highest rating available for professional ethics and legal ability.

Rated with Chambers Global for Canada - Dispute Resolution. Chambers Global says: Carsten Jensen is singled out for class actions, oil and gas litigation, and shareholder dispute resolution. Sources say: 'He is an excellent lawyer.'