

# William G. Horton

ARBITRATOR • MEDIATOR

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William G. Horton Prof. Corp.

## Professional Qualifications

- Called to the Bar: Ontario, Canada 1976
- Other calls to the Bar (not current): Alberta, New Brunswick
- Bachelor of Laws (First Class Honours): Osgoode Hall Law School 1974
- Bachelor of Arts: Victoria College, University of Toronto 1971
- Chartered Institute of Arbitrators: Fellowship course, Berlin 1996
- FCI Arb: Chartered Institute of Arbitrators 1997
- University of Windsor: ADR Workshop 2001
- Harvard Law School/PIL: Mediation Workshop, 2004
- ICDR International Symposium in Advanced Case Management Issues, 2007
- Chartered Arbitrator: ADR Institute of Canada, 2009
- ICC Institute Master Class for Arbitrators, Paris, June, 2009
- ADR Institute Course on Practical Ethics for Mediators, December 2012

## Law Firms

- Laskin, Jack, Horton & Harris (partner 1978-1982)
- McMillan Binch (articling student and associate 1974-1978 and partner 1982-2000)
- Blake, Cassels & Graydon LLP (partner 2000-2006)
- (Served terms as head of litigation at McMillan Binch and Blake, Cassels & Graydon LLP)

## General Practice Description

Bill Horton practices as an arbitrator and mediator of Canadian and international business disputes. Has been appointed tribunal chair, sole arbitrator and party nominee in over seventy five substantial cases, including disputes involving nuclear facilities, telecom, satellite and wireless industry disputes, government privatization contracts, cross border distribution agreements, energy sector rate renewal, alternative energy projects, software licensing and other intellectual property, sale of a business, professional associations and shareholder agreements. He has served in both ad hoc and institutional arbitrations.

Prior to establishing his current practice, Bill appeared as lead counsel before all levels of courts up to and including the Supreme Court of Canada. He successfully represented clients in significant cases involving business and corporate disputes, fraud, lender liability, international banking disputes, litigation arising from major insolvencies and reorganizations, fiduciary duty and good faith obligations, directors and officers liability, professional liability, insurance and reinsurance disputes, competition offences, defamation, shareholder disputes, class action and injunctive remedies.

## Practice Highlights

### Representative Arbitration Appointments (as Chair of tribunal, sole arbitrator or party nominee)

- sale of a business (travel industry, forest products industry, food industry, energy project, insurance brokerage)
- dispute re agreement relating to licensing of wireless technology
- termination of a telecom interconnect agreement
- investor/state dispute regarding a telecom investment
- energy sector rate renewal (pipeline and marine terminal facilities)
- dispute re geothermal energy supply agreement
- wind farm dispute
- termination of government contracts
- dispute re privatization of a government business
- dispute re lease of a nuclear facility
- dispute re production of nuclear medicines
- disputes re national advertising campaigns
- commercial lease disputes
- shareholder dispute (disputed winding up, sale of a business, oppression remedy)
- patent dispute (agricultural product)
- termination of international distribution and licensing agreements (clothing industry, auto parts, health foods, construction products)
- professional partnership disputes (medical and accounting)
- insurance coverage disputes (D & O insurance, telecommunications outage)
- software license disputes
- sale of goods and services (jet engines, chemical agents, construction products, computer services, transportation of large objects)
- commercial lease disputes and ground lease rent renewals
- valuation of real estate

### Representative Mediation Appointments

- Shareholder disputes
- Partnership disputes
- Environmental disputes
- Resource Comp./First Nation negotiation
- Family business (construction products, auction business)
- Goods and services (alternative energy systems, aircraft retrofit, power supply, transport, media/public relations)
- Construction projects (nuclear facility, major public health facility, infrastructure, condominium)
- Disputes re commercial leases
- Investment dispute (micro energy project)
- Supply agreement (securities industry)
- Insurance disputes (D & O insurance, commercial liability, satellite outage)

- Commercial debt
- Class actions (product liability, securities)
- Sale of land
- Professional liability (accounting, legal, investment advice)

#### Representative Counsel Work (Prior to Current Practice)

- Strategized and ran Cayman Island proceedings in Government of Ontario litigation relating to Crown Trust and other trust companies involved in impugned mortgage transactions
- Served as outside counsel to the Security Intelligence Review Committee.
- Represented one of the two major creditors in extensive litigation relating to and arising out of the insolvency and restructuring of Olympia & York
- Represented the Michigan Commissioner of Insurance in extensive litigation relating to the winding up of Confederation Life Insurance Company
- Represented the government of Trinidad and Tobago in successful proceedings to recover corrupt payments made under a former regime
- Represented land owners in a successful lawsuit against the Government of Ontario establishing the historic boundary between their land and a navigable body of water
- Represented the Federation of Law Societies of Canada in successful proceedings to challenge the constitutional validity of money laundering legislation related to the legal profession
- Represented key outside directors of Canadian Commercial Bank in proceedings arising from the insolvency of that Bank and co-operatively strategized global resolution of the litigation
- Represented both the Chairman and CEO of Leigh Instruments in litigation arising from the insolvency of that company resulting in the claim being withdrawn prior to a lengthy trial
- Represented a major concession company in recovering substantial damages from the Toronto Blue Jays Baseball Club and Sky Dome Corporation for wrongful termination of stadium concession contract
- Represented reinsurance captives of two major corporations in legal disputes arising from the insolvency of Cardinal Insurance
- Represented Chiefs of Ontario (the coordinating body for First Nations in Ontario) at the Public Inquiry into the shooting death of Dudley George
- Represented and advised the CFO of a major public corporation with respect to an Ontario Securities Commission investigation, resulting in the investigation and proceedings related thereto being dropped
- Represented an Italian telecom company in successfully enforcing an international arbitration award resulting in a leading court decision on the subject
- Represented defendant in the first class action trial in Ontario
- Successfully resisted certification of class action relating to marketing of mortgages by a major bank
- Represented a major accounting firm in obtaining the dismissal of a professional negligence action
- Successfully represented a major forest products company in a significant cost sharing dispute relating to environmental measures
- Advised various corporations with respect to the Foreign Extraterritorial Measures Act
- Defended class actions re credit card cash advances and pension rights on sale of a business
- Defended indemnity claim re sale of a national life insurance business

- Representing co-generation facility host against the operator of the facility regarding issues of force majeure and economic dispatch
- Represented and advising senior officers of public companies re claims and potential claims

### Professional Recognitions

- Chambers Global 2015: **“Leaders in Their Field” for Arbitration (Canada)**
- Best Lawyers 2015: **Toronto Alternative Dispute Resolution Lawyer of the Year**
- Euromoney 2014: **Shortlist for Canadian Arbitrator of the Year**
- Best Lawyers 2012: **Toronto International Arbitration Lawyer of the Year**
- Lionel J. McGowan **Award for Excellence** in Dispute Resolution presented by the ADR Institute of Canada, September 23, 2010
- Canadian Legal Lexpert Directory 2008-2014: International Commercial Arbitration (**Most Frequently Recommended**)
- Euromoney 2008-2014 Guide to the **World’s Leading Experts in Commercial Arbitration**
- Best Lawyers in Canada 2008-2012: International Arbitration, Alternative Dispute Resolution, Corporate and Commercial Litigation, Class Action Litigation and Director and Officer Liability.
- Lexpert/American Lawyer Guide to the **Leading 500 Lawyers in Canada** (International Arbitration and Commercial Litigation) 2007-2014.
- Lexpert Guide to **Leading US/Canada Cross Border Lawyers** (2007 -2014) (International Arbitration)
- The International Who’s Who of Business Lawyers 2006 and 2007: **Ten Most Highly Regarded Individuals** (Global) in the field of commercial litigation: “As in previous years, William Horton is the country’s **most highly nominated litigator**. Academically strong and tremendous in the courtroom.”

### Professional Associations

- Chartered Institute of Arbitrators (Fellow)
- CPR Institute for Dispute Prevention and Resolution (member Panel of Distinguished Neutrals)
- International Center for Dispute Resolution (Panel Member)
- ICC (former member ICC Commission, Canadian Nominating Committee and Canadian Exec. Comm.)
- NAFTA 2022 Committee (Canadian member and Co-Chair of Task Force on Forms of Arbitration Agreement in the NAFTA Region)
- CIETAC (China International Economic Trade and Arbitration Commission) (Member: Panel of Arbitrators)
- SIETAC (Shanghai International Economic Trade and Arbitration Commission) (Member: Panel of Arbitrators)
- ADR Institute of Canada (Chartered Arbitrator, member Training Task Force, Editor in Chief of the Canadian Arbitration and Mediation Journal)
- Arbitration Roundtable of Toronto (Founding Member)
- Toronto Commercial Arbitration Society (Founding Member)

- International Bar Association (past chair of the International Litigation Committee of the Section on Business Law)
- Osgoode Hall Law School (assistant instructor in LLM and JD programs, former lecturer in civil procedure)
- ADR Chambers (Former member and former Co-Chair ADR Chambers Commercial and International Panels)
- Uniform Law Conference of Canada (member Core Group Arbitration Legislation Advisory Board)
- The Law Society of Upper Canada (barrister and solicitor, former counsel to Complaints Review Committee)
- Public Accountants Council (Former Part-time Council Member)
- University of Toronto (Member of the first Advisory Board for the Diploma in Forensic Accounting, lecturer and evaluator for the DIFA Program)
- The Advocates' Society (former director)
- International Law Association (former Director, Canadian Branch; Program Co-Chair 2006 Biennial Conference)
- Vis Moot (memorial judge and adjudicator)
- Canadian Bar Association (member)
- Ontario Bar Association (member, former member editorial board "Briefly Speaking"))
- American Bar Association (member)
- University Club of Toronto

**Selected Speaking Engagements (Go to [www.wghlaw.com](http://www.wghlaw.com) for a more complete list)**

Panelist: "Meet the Canadian Arbitrators", Western Law School, London Ontario, January 20, 2014

Speaker: "Resolving Differences in Damages Claimed", Canadian Institute of Chartered Business Valuators Annual Conference, Ottawa, June 20, 2013

Panel Chair and Speaker: "Ethics in Arbitration", Western Canadian Arbitration Society Annual Conference, Calgary, May 14, 2013.

Lecture: "Ad Hoc Arbitration", Osgoode Hall Law School course on International Arbitration, Toronto, January 25, 2013.

Panelist: "The Use of ADR Mechanisms in the NAFTA Region". NAFTA 2022 Committee Conference, Puebla Mexico, October 30, 2012.

Speaker: "Report on the *Cargill v Mexico* decision of the Ontario Court of Appeal". NAFTA 2022 Committee Conference, Puebla Mexico, October 29, 2012.

Chair: Panel Discussion on "International Dispute Resolution – Trends and Developments". ADR Institute National Conference, Halifax Canada, October 25, 2012.

Organizer of International Speakers Dinner with Kathy Bryan, CEO of CPR Institute for Dispute Prevention and Resolution hosted by the University Club of Toronto on October 2, 2012.

Panelist: "Settlement Negotiation 360". Canadian Institute Class Action Forum, Toronto, September 21, 2012.

Organizer and Co-Chair: Arbitration Ethics Conference simultaneously and interactively conducted in Vancouver, Calgary, Toronto, Ottawa and Montreal on June 7, 2012. Chaired panel discussion on “Financial Issues in Arbitration”.

Organizer of International Speakers Series Dinner with Peter Rees QC, global Legal Director of Shell, hosted by University Club of Toronto and Ranchmen’s Club of Calgary on May 8 and 9, 2012.

Speaker: “Using Arbitration and Mediation to Settle Class Actions”, Canadian Institute Class Actions Boot Camp, Toronto, April 19, 2012

Speaker: “Tribute to Brian Wheatley and Glenn MacPherson”, Roger Fisher Lifetime Award, Toronto, April 4, 2012

Panelist: “The View from the Arbitrators”, Advocates’ Society, Toronto March 27, 2012.

Speaker: “Mediation and Arbitration in Commercial Disputes”, Certified General Accountants Conference, Toronto, March 20, 2012.

Speaker: “*Ad Hoc* Arbitration: Thoughts Tips and Trial Balloons”, Canadian Centre for Environmental Arbitration and Mediation, Toronto, January 20, 2012.

Speaker: “*Ad hoc* arbitration: should you commit yourself to an institution?”, Osgoode Hall Law School Intensive Arbitration Program, Toronto, December 7, 2011

Panelist: “Effective Mediation Briefs and Tactics”, Federation of Asian Canadian Lawyers Annual Conference, Toronto, November 12, 2011

Panelist: “Strategies and Best Practices for the Early Resolution of Insurance Coverage Disputes”, Osgoode Hall Law School Professional Development Program on Commercial Insurance Law and Coverage Disputes, Toronto, November 3, 2011.

Moderator and Panelist: “New Procedural Rules for International Commercial Arbitrations”, ADR Institute of Canada Annual Conference, Vancouver, October 27, 2011

Organizer of International Speakers Dinner with Lord Collins of the UK Supreme Court hosted by the University Club of Toronto on October 20, 2011.

Moderator: “The Public Interest and Investor State Arbitration”, ICC Canada Conference, Ottawa, October 14, 2011.

Panelist: “Settlement Think Tank: Planning, Negotiating and Structuring Complex

Class Action Settlements”, Canadian Institute Conference on Class Actions Litigation, Toronto, September 21, 2011

Speaker: “Arbitration Town Hall on ad hoc Commercial Arbitration”, ASAP Arbitrator of the Month Series, Toronto, September 20, 2011

Panel Chair: “The Art (& Science) of Arbitration”, Annual Conference of the ADR Institute of Ontario, Toronto, June 16, 2011.

Panelist: “The New Battlefield: How Settlement is Transforming the Practice of Law”, Toronto Lawyers Association 125th Anniversary Conference, Toronto, May 6, 2010.

Panelist: “Regulating Attorney Conduct in Arbitration: The Search for Transnational Ethical Standards”, American Bar Association Spring Meeting, New York, April 16, 2010.

Panelist: “Practical Tips from Leading International Arbitrators”, International Arbitration 2010 Conference of the Practising Law Institute, New York, March 23, 2010

Speaker: “Ontario Model of Contingency Fees”, Herbert Smith Seminar on “Civil Litigation Costs: the final report of Lord Justice Jackson”, London, England, February 11, 2010

Speaker: “Improving Efficiency in Arbitration”, Annual Conference of ADR Institute of Canada, Gatineau, Quebec, October 23, 2009

Co-Chair: “Managing International Risk Through Commercial and Investment Treaty Arbitration”, Conference of the Arbitration Committee of the Canadian Chamber of Commerce, Toronto, October 16, 2009

Panel Chair: “Canada and the United States: A Comparison of Trends in Arbitration Practice”, Conference of the Arbitration Committee of the Canadian Chamber of Commerce, Toronto, October 16, 2009

Speaker – “International Dispute Resolution Mechanisms”, Federated Press Conference on International Joint Ventures, Toronto, December 2008.

Panelist – “Recent Jurisprudence Affecting Domestic/International Arbitration”, Western Canada Arbitrators RoundTable, Calgary, May 13, 2009.

Counsel in Mock Arbitration – “Lessons From International Commercial Arbitration”, International Association of Procedure Law Conference 2009, Toronto, June, 2009.

Speaker – “Resolution of Commercial Disputes”, Insight Conference: 3rd Annual In-House Counsel Forum, Toronto February 26-27, 2009

Speaker – “Dispute Resolution for International Transactions”, Federated Press Conference on International Joint Ventures, Toronto, December 9, 2008.

Speaker – “Judicial Contributions to Arbitration and Mediation – An Analysis of Cases”, ADR Institute of Canada Annual Conference, Montreal Quebec, October 17, 2008.

Speaker: “Enforcement of Arbitration Awards”, Arbitration Roundtable of Toronto Seminar: An Arbitration Primer for Corporate Counsel and Business Lawyers, October 8, 2008

Panel Chair – “Building Effective Business Relationships”, a discussion examining business relationships through the lens of culture, sustainability and indigenous relations, NAFTA 2022 Committee Conference, Vancouver, April 2008.

Lecturer: “Canadian Legal Culture and the Common Law”, University of Notre Dame de la Paix, Namur, Belgium, March 11, 2008

### **Selected Publications (Go to [www.wghlaw.com](http://www.wghlaw.com) for a more complete list)**

(Papers with \* may be viewed full text and downloaded on website)

\* Author – [“Oral Advocacy in International Arbitration”](#), Lawyers Weekly, June 15, 2012

\* Author – [“Arbitration and the Development of the Law”](#), Lawyers Weekly, September 14, 2012

\* Author – [“Confidentiality in Canadian Litigation”](#), Chapter 4, *Privilege and Confidentiality: An International Handbook (2nd ed.)*, Greenwald and Russenberger (eds), International Bar Association, 2012

- \* Author – [“Advocacy in Arbitration”](#), Canadian Arbitration and Mediation Journal, December 20, 2012
- \* Author - [“Discovery in International Arbitration”](#), Canadian Arbitration and Mediation Journal, Spring 2011
- \* Author - [“Enforcing Arbitration Agreements Against Non-signatory Parties”](#), The Lawyers Weekly, February 11, 2011
- \* Author - [“The Dark Art of Cross-Examination”](#), The Lawyers Weekly, Sept 17, 2010
- \* Author - [“Neutrality of Party-Appointed Arbitrators: Myth or Reality?”](#), The Lawyers Weekly, April 2, 2010
- \* Co-Rapporteur with Guido Cravetto – [“International Dispute Resolution and Enforcement – A Comparative Analysis of WTO, VIT, ICC and Domestic Dispute Resolution”](#), International Bar Association, International Litigation Newsletter, April, 2009.
- \* Author - [“Arbitration: Don’t Think of it as an Alternative to Litigation”](#), The Lawyers Weekly, April 3, 2009
- \* Author – [“The Enforcement of Dispute Resolution Clauses”](#), Arbitration Committee Newsletter, International Bar Association, March 2008 (Report on Opening Session of the Arbitration Committee in Singapore, October 15, 2007).
- \* Author – [“Litigation or Arbitration: Alternative Routes to Justice”](#), The Lawyers Weekly, March 28, 2008
- \* Co-Author – [“Liability of Directors and Officers in Canada”](#) by William G. Horton, Martha Cook and Dera J. Nevin, published by Yorkhill Law Publishing, 2007
- \* Author – [“Low Threshold Set for Court Appeals of Arbitration Awards”](#), The Lawyers Weekly, September 14, 2007
- \* Co-Author – [“Expert Witness Evidence in Civil Cases”](#), presented at the Fourth Annual Conference on Evidence Law, Osgoode Hall Law School, Toronto, September 19-20, 2007 (updated version of paper previously published in the Advocates Quarterly, 2004, v. 29 p. 153).
- \* Author – [“Experts: a View from the Trenches”](#), presented at the Law Society of Upper Canada Conference on Advanced Commercial Arbitration, April 30, 2007. Subsequently published in the IBA Academics and Professional Development Newsletter, September 2007.
- \* Author: [“How to Draft Effective Arbitration Clauses”](#), the Lawyers Weekly, March 30, 2007.
- \* Author – [“The Admissibility of Evidence Based on Novel Science”](#), The Advocates’ Quarterly, Vol. 31. p. 469, 2006.
- \* Author – [“Directors’ liability and the individual assessment of fault”](#) (formerly titled: “Differential Liability: What is a Director to Do?”) , The Advocates’ Society Journal , December 2006. Presented at conference on Threats and Opportunities: Litigating under the OBCA/CBCA, Ontario Bar Association, Toronto, Ontario, Monday, May 1, 2006.
- \* Author – [“Canadian Arbitration Jurisprudence: An Update”](#), IBA Legal Practice Division Arbitration Committee Newsletter, Vol.11, No. 2, P.7, September 2006.
- Co-author – [“Canada Chapter, The International Comparative Legal Guide to: International Arbitration 2006”](#), (This article first appeared in the 2006 edition of The International



Comparative Legal Guide to: International Arbitration; published and reproduced with kind permission by Global Legal Group Ltd., London), P. 79-85, 2006.

Co-author – “Canada Chapter, The International Comparative Legal Guide to: International Arbitration 2006”, The International Comparative Legal Guide to: International Arbitration; published by Global Legal Group Ltd., London), P. 79-85, 2006.

\*Author – “[The Freedom to Draft your own Procedures in Arbitration has Limits](#)”, The Lawyers Weekly, Vol. 25, No. 44, P. 11, March 31, 2006.

Author – “Computer-Based Forensic Investigations”, Blakes Bulletin on Litigation, May 2005.

Co-author – “Confidentiality in Canadian Litigation”, The Advocates’ Quarterly, Vol. 29, No. 4, P. 381, March 2005.

Co-author – “The Use of Expert Witness Evidence in Civil Cases”, The Advocates’ Quarterly, Vol. 29, No. 2, P. 153, October 2004.

\*Author – “[Scalability in Arbitration: Make the Rules Fit the Ruckus](#)”, The Lawyers Weekly, September 10, 2004.

\*Author – “[What I Want From the Court of Appeal](#)”, The Advocates’ Society Journal, P. 3, September 2004.

Author – “Directors’ and Officers’ Transactions with the Corporation”, Blakes Bulletin on Litigation, September 2004.

Co-author – “The Class Action Settlement: An Overview”, Class Action Journal, Federated Press, March 31, 2003.