

# John J. Hay

## Partner



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New York

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## Overview

John Hay is a partner in Dentons' New York Office and the head of the US International Dispute Resolution group. John has more than 35 years' experience representing domestic and international clients in complex commercial and investment treaty disputes. His practice involves matters in federal and state courts throughout the US and before arbitration tribunals throughout the world, including the International Centre for Settlement of Investment Disputes (ICSID), the London Court of International Arbitration (LCIA), the International Centre for Dispute Resolution (ICDR) of the American Arbitration Association (AAA), and the International Chamber of Commerce (ICC).

John has arbitrated disputes in a wide variety of areas, including construction, energy, joint ventures, financial services, real estate, and investments in foreign countries. He has represented clients in disputes involving parties from the US, Mexico, Canada, Venezuela, Brazil, England, France, Russia, Lebanon, the UAE, Azerbaijan, Afghanistan, Hong Kong, China, Korea, Egypt, Albania, Switzerland and Panama. He has also served as a party-appointed arbitrator.

In addition, John has extensive experience representing clients in mediations. For more than 10 years, he served as a member of the Panel of Mediators of the US District Court for the Southern District of New York.

John serves as an Adjunct Professor of Law at Cornell Law School where he teaches the Practice of International Arbitration.

## Experience

- **Gold Mining Company:** Represents a Canadian gold mining company in an ICSID arbitration against the Government of Colombia.
- **Treaty Disputes:** Represented a number of US investors against Egypt under the US-Egypt Bilateral Investment Treaty regarding the government's expropriation of their investments in an array of industries, including cotton, food processing, investment banking and real estate.
- **NAFTA Dispute:** Represented two Canadian companies in an ICSID arbitration against the US government

based upon violations of the investment chapter of the North American Free Trade Agreement.

- **Industrial Projects:** Represented foreign clients in related ICC arbitrations involving disputes concerning funding for two industrial projects in the UAE, obtaining two arbitral awards totaling over US\$62 million.
- **Construction Dispute:** Successfully represented a general contractor seeking more than US\$30 million in damages for extra work and delay costs associated with a contract to construct a 35-mile pipeline in the Long Island Sound, and defended against counterclaims by the owner and claims by numerous subcontractors in excess of US\$40 million.
- **Solar Power Plant:** Represented a Solar Power producer in a US\$30 million ICC construction arbitration in Brazil involving the construction of a solar power plant achieving an award completely in our client's favor.
- **Joint Venture Dispute:** Obtained a US\$34 million award in favor of a foreign client in an AAA arbitration of a claim alleging breach of a joint venture agreement under Venezuelan law.
- **Albanian Oil Refinery:** Represented an Albanian oil refinery in a consolidated ICC arbitration concerning the disappearance of oil valued at more than US\$26 million, and enforcement of loans totaling over US\$40 million.
- **Investor Dispute:** In two separate cases, represented US clients in LCIA arbitrations against foreign banks to recover clients' investments related to projects in Russia, obtaining awards for the full amounts sought and successfully enforcing the awards in proceedings in the US and abroad.
- **Aviation Company:** Represented an international aviation company in two arbitrations, one before the LCIA and the other before the ICC, against foreign airlines concerning claims of breaches of leasing and maintenance agreements. In one case, obtained a US\$24 million award in client's favor, and in the other, obtained an award in client's favor in excess of US\$14 million.
- **Joint Venture Dispute:** Represented a UAE company in an LCIA arbitration against a joint venture partner in a dispute over control of a project to construct and operate a steel plant in the UAE, resulting in the partner's removal from the joint venture.
- **Supply of Equipment:** Defended US supplier of medical equipment in a US\$45 million ICDR arbitration with a Mexican company involving claims of breach of contract, fraud and RICO, which resulted in all claims against our client being denied.
- **Shareholder Dispute:** Represented a foreign investment group against claims brought in an ICC arbitration involving the control and management of an Argentine company.
- **Chinese Company:** Represented a Chinese company in arbitration before ICDR against a US company concerning claims in excess of US\$50 million arising from breaches of contract.
- **Arbitrator:** Acted as a party-appointed arbitrator for a major financial institution in a matter involving claims related to the construction/build-out of retail space in a commercial office building.
- **Shareholder Claims:** Represented minority shareholders of a Delaware limited liability company in an arbitration against the LLC and majority shareholders claiming breach of contract and breach of fiduciary duties. Obtained a settlement in which the claimants received substantially all of the relief sought.
- **Misrepresentation Case:** Represented a foreign client against the shareholders of a California company involving claims of breach of representations and fraud arising from the client's acquisition of the shares of the company.
- **Afghan Company:** Represented the interest of two Afghan families in a dispute concerning the ownership of certain Delaware companies that provided goods and services in Afghanistan, achieving a favorable settlement on the eve of trial.
- **Hong Kong Company:** Represented a Hong Kong company in a breach of contract dispute in which the plaintiff sought more than US\$50 million.

# Recognition

## Honors and Awards

- Listed as a Recommended Lawyer by *The Legal 500* for International Arbitration, 2019-2023
- Named "Acritas Star – independently rated lawyer" in 2019 and was praised by clients as "a practical litigator, very confident, and a very good risk manager."

## Insights

- Co-author, "**Change is on the Horizon for Miners in Colombia**," Mining Law Canada Blog, February 28, 2023

## Activities and Affiliations

### Presentations

- Speaker, "Introduction to International Commercial Arbitration and Arbitration Clauses," February 2021 made to the Utah Chapter of the Association for Corporate Counsel.
- Speaker, participated in a series of Dentons Webinars directed at Chinese companies addressing the following topics:
  - "Arbitrating Disputes in the United States," February 2021
  - "Introduction to Investment Treaty Arbitrations," January 2021
  - "Recognition and Enforcement of Judgments and Awards in the Americas," October 2020
  - "Doing Business In the US - Contractual Provisions to Protect Your Interest and Limit Liability," May 2020
- Speaker for the "A view from the Trenches: When Dispute Resolution Clauses Blow Up" session at the "2018 Annual Meeting" of the Association of Corporate Counsel, which drew 2,000 guests to Austin, TX. The panel focused on stepped arbitration clauses and multi-party/multi-contract issues.
- Invited by the Ministry of Justice of the Republic of Uzbekistan to provide legal trainings on international disputes to the Uzbekistan State officials and representatives. The widely attending training sessions centered on the discussion of the treaty disputes involving Uzbekistan, the enforcement proceedings and the intricacies of setting aside the arbitral awards under NY Convention and ICSID annulment proceeding, as well as the best practices related to international commercial arbitrations.

### Memberships

- International Bar Association
- The Law Society, London, England
- US Supreme Court Bar Association
- American Bar Association
- Federal Bar Council
- New York City Bar Association, Inter-American Committee

- United States Counsel on International Business
- International Chamber of Commerce
- Society of Construction Law, North America

## Areas of focus

### Practices

- **International Commercial Arbitration**
- **Investment Treaty Arbitration**
- **Litigation and Dispute Resolution**
- **Alternative Dispute Resolution (ADR)**
- **Commercial Litigation**
- **Construction and Engineering Disputes**
- **Energy Litigation**
- **Appellate Advocacy**
- **Fraud, Corruption and Asset Recovery**

### Industry sectors

- **Construction**
- **Energy**
- **Financial Institutions**
- **Infrastructure and PPP**
- **Luxury, Fashion and Beauty**
- **Retail**
- **Aviation and Aerospace**

### Region

- **United States**
- **Latin America and the Caribbean**
- **Central Asia**
- **Middle East**
- **Africa**

## Education

- George Washington University, JD, with Honors, *George Washington Law Review*, Member

- State University of New York at Buffalo, BA, honors (*magna cum laude*, Phi Beta Kappa)

## Admissions and qualifications

- Connecticut
- New York
- US Court of Appeals for the Second Circuit
- US Court of Appeals for the Seventh Circuit
- US Court of Appeals for the District of Columbia Circuit
- US District Court for the District of Colorado
- US District Court for the District of Connecticut
- US District Court for the Eastern District of New York
- US District Court for the Southern District of New York
- US District Court for the Western District of Michigan
- US Supreme Court

## Languages

- English