

# Rachel A. Howie, FCIArb

## Partner



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Calgary

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## Overview

Rachel (She/Her/Hers) is the deputy lead of the Litigation and Dispute Resolution group in Canada and co-leader for the national ADR and Arbitration group. Her clients are primarily in the energy, mining and natural resources industries, where she acts as counsel both on local matters and those that have an international or multi-jurisdictional aspect. Rachel also advises domestic and international clients on the drafting of dispute resolution clauses in transactional documents and she is a frequent speaker and author on matters of international and domestic arbitration.

In her arbitration practice, Rachel has acted on matters involving issues across Canada and in South America, Central Asia and South-East Asia. She has experience under several institutional rules, including ICC and ICSID, along with ad hoc proceedings, and is a listed arbitrator on the International Centre for Dispute Resolution (ICDR) Canada roster. Rachel is highly regarded for her attention to detail and ability to also take a “big-picture” view. Her clients appreciate her practical advice, and solutions on which they can act that work for their commercial goals. In her commercial litigation practice, Rachel has appeared before all levels of Court in Alberta.

Rachel has experience with disputes involving industry relationships and agreements including joint venture agreements, supply agreements, farmout agreements, ownership and operating agreements, electricity purchase and sale agreements, oil and gas asset purchase and sale agreements, royalty agreements, services agreements, seismic licensing agreements, confidentiality agreements, and operating agreements. She also acts in matters involving environmental issues, such as claims for contribution to remediation and issues relating to water and soil contamination, accounting and audit rights, claims of *force majeure*, disputes arising from production on aboriginal lands, shareholder disputes, product liability claims, distribution agreements, professional negligence and in defending defamation claims.

Rachel is a volunteer with the Pro Bono Duty Counsel project at the Provincial Court (Civil) and with the Pro Bono Amicus project at Alberta Court of Queen’s Bench. She is also the former Chair of Dentons Calgary’s Diversity Committee.

## Experience

- **Confidential client:** Advising in an ICC Arbitration on a \$50 million claim involving mining industry

agreements.

- **Confidential client:** Advising in an arbitration on a \$1 billion dollar claim for environmental remediation between energy industry participants.
- **Confidential client:** Advising on an ICSID arbitration with respect to a gas purchase and sale agreement.
- **Confidential client:** Advising on matters of enforcement of an emergency arbitrator award.
- **Confidential client:** Advising in respect of a multi-million dollar claim involving industry operating standards.
- **Confidential client:** Advising in litigation proceedings with respect to obligations under a farmout agreement.
- **Confidential client:** Advising in an investor-state claim in the transportation sector involving, amongst other claims, a breach of the minimum standard of treatment.
- **Confidential clients:** Advising on dispute resolution procedures and clauses for multiple domestic and international industry agreements.
- **Confidential client:** Advising in several related arbitrations regarding the sale of oil and gas interests in Central Asia.
- **Confidential client:** Advising in arbitration proceedings relating to the exploration and production of oil and gas resources in South America.
- **Confidential client:** Advising a supplier of electricity in respect of proceedings to challenge a regulatory decision impacting transmission.
- **Confidential client:** Advising in respect of claims under a subscription agreement on a foreign stock exchange.
- **Confidential client:** Advising international exploration and production companies in multi-million dollar claims relating to seismic data.
- **Confidential client:** Advising in relation to claims for environmental remediation for historic well-sites.
- **Confidential client:** Advising in an arbitration relating to audit rights and obligations under *force majeure* in the electrical generation and transmission industry.
- **Confidential clients:** Advising in several mediations including complex multi-party mediations involving issues of negligence, breaches of contract and guarantees.

## Recognition

First recognized in 2020, Rachel has been commended for her extensive knowledge and experience in the following respected publications:

- *The Legal 500 Canada:* Dispute Resolution
- *Global Arbitration Review's Who's Who Legal 2020* : Future Leader in Arbitration

## In the Media

- “Roundup of law firm hires, promotions, departures: Mar. 8, 2021 update”, *Canadian Lawyer*, March 2021
- “Dentons appoints national lead, deputy lead of litigation and dispute resolution group”, *Lexpert*, March 2021
- “Dentons appoints national lead, deputy lead of litigation, ADR group in Canada”, *The Lawyer's Daily* , March 2021
- Mentioned in the *Lexpert Special Edition: Mining 2020* “Operating in Uncertainty”

- Mentioned in "Litigation funding: CETA's disclosure requirements", *National Magazine*, July 2017
- Mentioned in "Dentons welcomes four new partners in its Calgary office", *Lexpert*, March 2016
- Mentioned in "Dentons promotes new partners in Warsaw and beyond" by Ali Khan, *Global Arbitration Review*, February 16, 2016

## Insights

- Co-author, "The Evolving Impact of Vavilov on Commercial Arbitration," *Dentons Commercial Litigation Blog*, April 20, 2021
- Co-author, "The Updates Continue: The 2020 IBA Rules on the Taking of Evidence in International Arbitration," *Commercial Litigation Blog*, March 4, 2021
- Co-host, "Arbitration from Dentons" Podcast series
- Co-author, "Canada's Developing Law on the Enforcement of International Arbitral Awards," *Commercial Litigation and Arbitration Review*, Volume 9, No. 4, November 2020
- Co-author "Virtual Hearings in Arbitration: Here to Stay, How to Prepare," *Commercial Litigation Blog*, October 28, 2020
- Co-author, "The Impact of Vavilov on Commercial Arbitration," *ADR Institute of Canada Newsletter*, September 2020
- Co-author, "British Columbia's new Arbitration Act and the VANIAC," *Dentons Client Alert*, September 9, 2020
- Co-author, "Structuring mining transactions for investment treaty protections," *Mining Law Canada Blog*, July 23, 2020
- Co-author, "Use of dispute financing in the mining sector," *Commercial Litigation Blog*, July 6, 2020
- Co-author, "Royalty Arrangements – Risk Mitigation Considerations for Operators," *Mining Law Canada Blog*, June 17, 2020
- Co-author "Don't forget the arbitration provision," *Dentons Client Alert*, May 20, 2020
- Member of the International Institute for Conflict Prevention and Resolution Task Force, CPR Annotated Model Procedural Order for Remote Video Arbitration Proceedings (April 2020)
- Co-author, "Considerations for domestic arbitration: Recent changes in Canada," *Commercial Litigation Blog*, April 28, 2020
- Co-author "Alberta courts provide special mechanism to ease the enforcement of Arbitration Awards," *Dentons Client Alert*, April 3, 2020
- Co-author, "Financing Disputes: Third-Party Funding in Litigation and Arbitration" (2019) 47:2 *Alberta Law Review* 465
- "Araya v Nevsun: Potential expansion of local liability for international actions," *Mining Law Canada Blog*, July 31, 2019
- Co-Author, "Investment court clears key legal hurdle with Court of Justice of the European Union (CJEU) Opinion 1/17," *Dentons Client Alert*, May 13, 2019
- Co-Author, "Future of investor-state dispute settlement mechanisms under the United States-Mexico-Canada Agreement," *Dentons Client Alert*, November 30, 2018
- Co-author, "Canada" in James H Carter, ed, *The International Arbitration Review*, 9th ed (London: Law Business Research Ltd., 2018)

- Co-author, "British Columbia amends its International Commercial Arbitration Act," *Dentons Client Alert*, May 29, 2018
- Co-author, "A closer look at round seven of the NAFTA negotiations," *Dentons Client Alert*, March 19, 2018
- Co-author, "A closer look at round five of the NAFTA negotiations," *Dentons Client Alert*, December 4, 2017
- Co-author, "A closer look at round four of the NAFTA negotiations," *Dentons Client Alert*, October 25, 2017
- Co-author, "A closer look at round three of the NAFTA negotiations," *Dentons Client Alert*, October 4, 2017
- Co-author, "Canada" in James H Carter, ed, *The International Arbitration Review*, 8th ed (London: Law Business Research Ltd., 2017)
- Co-Author, "Third Party Funding in Arbitration" (2017) 26 *Canadian Arbitration and Mediation Journal* 1
- Co-Author, "Finality in commercial arbitration further affirmed by the Supreme Court of Canada," *Dentons Client Alert*, June 26, 2017
- Co-Author, "Ontario's new International Commercial Arbitration Act, 2017," *Dentons Client Alert*, March 27, 2017
- Co-Author, "Amendments to the ICC Rules: new Expedited Procedure effective March 1, 2017," *Dentons Client Alert*, March 1, 2017
- Co-Author, "Security for Costs in Arbitration: Part One" and "Security for Costs in Arbitration: Part Two" (2016) 3 *ADR Perspectives*
- Co-author, "Canada" in James H Carter, ed, *The International Arbitration Review*, 7th ed (London: Law Business Research Ltd., 2016)
- Co-authored, "Canada" in *The International Comparative Legal Guide to: International Arbitration* 2015, 12th ed, July 2015
- E. David D. Tavender, Q.C. and Rachel A. Howie, "Payment of Arbitration Fees and Costs" (2013) 22 *Canadian Arbitration and Mediation Journal* 25
- Co-author, "Recent Decisions on Arbitral Jurisdiction: Stay and Appeal Issues", *GAR Arbitration Review of the Americas 2014*, October 2013
- Co-author, "Canada" in James H Carter, ed, *The International Arbitration Review*, 4th ed (London: Law Business Research Ltd., 2013)
- "Fair and Equitable Treatment under NAFTA," LCIA Young International Arbitration Group E-Newsletter January, 2013
- Co-author, "Arbitral Jurisdiction in Canada: Recent Decisions", *GAR Arbitration Review of the Americas 2013*, November 2012
- Bernard J Roth and Rachel A Howie "Land-Use Planning and Natural Resource Rights: The Alberta Land Stewardship Act" (2011) 29 *Journal of Energy & Natural Resources Law* 471
- "Brave New World, Animal Farm and the Lorax: A Literary Analysis of the *Alberta Land Stewardship Act* from a Practitioner's Perspective", May 2010
- "Thomas W. Wälde and Fair and Equitable Treatment" (2009) 27 *Journal of Energy & Natural Resources Law* 377 (as Rachel A. Hird)
- H. Treacy, J. Jantzi and R. Hird, "Secondary Market Civil Liability: a Sword for Investors or a Shield for Issuers and Other Market Participants?" (2009) *Ann. Rev. Civ. Lit.* 487

# Activities and Affiliations

- Co-Chair Canadian Advisory Board, International Institute for Conflict Prevention and Resolution (2020-present), and former Canada Advisory Board member (2017-2020)
- Former Global Advisory Board member, ICDR Young & International, (2017-2020)
- Former Co-Chair, ABA Section of International Law, International Investment and Development Committee (2015-2017) and former Vice-Chair (2013-2015)
- Fellow, Chartered Institute of Arbitrators
- Member, Western Canada Commercial Arbitration Society
- Member, International Bar Association
- Member, ICC Canada Arbitration Committee
- Member, Law Society of Alberta
- Member, Law Society of Ontario

## Community Involvement and Pro Bono

### Current Firm Activities

- Former Co-Chair of Dentons Calgary's Diversity Committee (2017-2018) and Chair (2015-2017)
- Volunteer with the Alberta Provincial Court (Civil) Duty Counsel Project
- Volunteer with the Pro Bono Amicus project at Alberta Court of Queen's Bench

## Presentations

- Speaker, "Protecting your mining assets – Risk management in risky times," Get the Dirt – The latest trends in global mining webinar series, March 15, 2021
- Presenter, Navigating updates in international arbitration for Canadian businesses, Dentons CPD Webinar, November 2020
- Moderator, *Managing risk and disputes in the "new normal"*, International Institute for Conflict Prevention and Resolution Canada Conference, September 2020
- Panelist, *Developments in Energy Litigation*, 11th Annual Energy Law Fundamentals Seminar, Canada Energy Law Foundation, November 2019
- Presenter, *From litigation to arbitration what your business needs to know*, Dentons CPD Bootcamp, November 2019
- Panelist, *Financing Disputes: Third-Party Funding in Litigation and Arbitration*, 58<sup>th</sup> Annual Jasper Research Seminar, Canadian Energy Law Foundation, June 2019
- Panelist, *Hot Topics Part 2*, 13<sup>th</sup> Annual WCCAS Energy, Mining and Resources Arbitration Conference, May 2019
- Panel moderator, *Users Speak: Is the Future Arbitration, Litigation, Neither or Both?*, ICC Canada's 2018 International Arbitration Conference, November 2018
- Panelist, *Practical Considerations in Multi-Party Arbitration*, Western Canada Commercial Arbitration Society

Conference, May 2017

- Panelist, *Applications in Commercial Arbitration: Procedure, Strategy and Best Practices*, ADR Institute of Canada's National Conference, October 2016
- Panel moderator, *Damages Quantification* at the ADR Institute of Canada's National Conference, October 2015
- Panel Co-Chair, *Doing the Math: Understanding how to calculate damages in International Investment Treaty Disputes* at the American Bar Association Section of International Law Fall Meeting, October 2015
- Panel Co-Chair, *Trends and Developments in International Investment Agreements: Lessons Learned and Prospects for 2014 and Beyond* at the American Bar Association Section of International Law Spring Meeting, April 2014

## Areas of focus

### Practices

- Aboriginal Law (Canada)
- Alternative Dispute Resolution (ADR)
- Arbitration
- Commercial Litigation
- Environment and Natural Resources
- Energy Litigation
- International Commercial Arbitration
- Litigation and Dispute Resolution
- Trade, WTO and Customs
- Investment Treaty Arbitration
- Environmental Litigation
- Mediation
- Public International Law

### Industry sectors

- Energy
- Electricity
- Oil and Gas
- Mining
- Mining Litigation and Dispute Resolution
- Renewable Energy
- Transportation

- Solar
- Wind
- Waste to Energy

## Education

- University of Calgary, 2012, LL.M.
- University of Ottawa, 2006, LLB, *cum laude*
- University of Calgary, 2003, BA (History) and BA (International Relations)

## Admissions and qualifications

- Alberta, 2009
- Ontario, 2009

## Languages

- English