

David B. Wilson, CollArb, FCI Arb

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Professional Experience

David Wilson, a Fellow of the College of Commercial Arbitrators and the Chartered Institute of Arbitrators, is a member of Sherman & Howard L.L.C. He focuses his practice on international and U.S. arbitration as arbitrator and counsel, with emphasis on complex business and IP disputes, often involving the energy and technology sectors. He also serves as counsel in international and U.S. litigation.

He is a Colorado attorney and a Solicitor of the Senior Courts of England and Wales. He is the former Vice Chair of the ICC Commission on Arbitration and ADR, co-chaired the Commission's Task Force on the Use of Information Technology in International Arbitration and the Task Force on Expertise, and served on the Commission's Working Group on the Use of Technology in International Arbitration. He is also a member of the American Law Institute and a Senior Fellow of Litigation Counsel of America. He currently chairs the Colorado Bar Association's International Law Section. As a trial lawyer, he won what was then reported to be Colorado's largest jury verdict (\$125.5M). Including his non-arbitration work, he has handled over 200 cross-border matters involving parties in more than 40 countries, including (in alphabetical order): Argentina, Australia, Belgium, Bermuda, Bolivia, British Virgin Islands, Burkina Faso, Canada, Cayman Islands, Chile, China, Colombia, Ecuador, England, France, Germany, Ghana, Greece, Honduras, Hong Kong, Hungary, India, Israel, Italy, Japan, Kuwait, Kyrgyzstan, Mexico, Netherlands, Pakistan, Panama, Papua New Guinea, Philippines, Poland, Saudi Arabia, Scotland, Singapore, Spain, Switzerland, Taiwan, Thailand, Tunisia, and Uzbekistan.

He has served as arbitrator (chair, panelist, sole arbitrator, and emergency arbitrator) more than 60 times in international and U.S. disputes, including matters under ICC, ICDR, AAA, and other rules and with over 25 international appointments. He serves on multiple arbitration panels: AAA and ICDR (including Energy, Large Complex Case, and M&A & Joint Venture), AIAC, BVI International Arbitration Centre, Cayman International Mediation & Arbitration Centre, Maldives International Arbitration Centre (Primary Panel), Tashkent International Arbitration Centre, and the EU-U.S. and Swiss-U.S. Privacy Shield List of Arbitrators.

Named *Best Lawyers in America's* 2024 and 2021 Denver Arbitration Lawyer of the Year, he has also been listed in Expert Guides' *Best of the Best Global* and *Best of the Best USA* (Commercial Arbitration), *Guide to the World's Leading Experts in Commercial Arbitration*, *Who's Who Legal* (Commercial Arbitration), and *Colorado Super Lawyers* (Business Litigation), *5280 (The Denver Magazine) Top Lawyers* (International), and other publications.

As arbitrator and advocate, he handles complex disputes over contracts, sales of goods, M&A, joint ventures, corporations, partnerships, accounting, unfair competition, patents, trademarks and other IP, involving industries including oil and gas, oilfield services, and renewable energy; technology, broadband

telecommunications, space launch systems and satellites; e-commerce, FinTech, blockchain and cryptocurrency, and manufacturing and distribution.

His experience as arbitrator and counsel includes, for example, in alphabetical order:

ACCOUNTING: GAAP accounting and financial reporting and related professional services.

BANKING AND FINANCIAL SERVICES: Loan and security agreements, equity and debt financing, FinTech, credit cards, and payment processing, and other commercial and investment banking.

BROADBAND TELECOMMUNICATIONS: Joint ventures; technical cooperation and services contracts, program acquisition and licensing, equipment supply, subscriber management and billing systems, and system design.

EMPLOYMENT: Breaches of contract and "wrongful termination" claims, wage and hour claims, breaches of fiduciary duty by officers and directors, federal and state discrimination and harassment claims, covenants not to compete, independent contractor issues, misappropriation of trade secrets and confidential information, and employee privacy.

ENERGY, RENEWABLE ENERGY, AND MINING: *Oil and Gas Exploration and Development*--Disputes over oil and gas leases, exploration agreements, operating and participation agreements, and areas of mutual interest; express and implied covenants to explore, drill, and market; pooling agreements; farmout agreements; royalties and shut-in royalties; title issues; federal and state excise taxes; permitting issues, force majeure, and drill or pay clauses; and related mergers and acquisitions, post-closing purchase price adjustments, and allegations of breaches of representations and warranties. *Oilfield Services*--Disputes over drilling contracts, materials, and production; downhole tools and technology; waste disposal; pipeline transportation of water for fracking operations, land transportation of frack sand; safety, personal injuries and wrongful death; and other issues related to operations and personnel at the drilling site. *Renewable and Alternative Energy*--Disputes over the construction and operation of a biodiesel plant, construction and operation of solar energy plants, power line right-of-way acquisition for solar energy plants, and related mergers and acquisitions, post-closing purchase price adjustments, and breaches of contract. *Mining*--Disputes over coal and uranium (as well as gold) mines, including joint ventures, mergers and acquisitions, and requirements and supply contracts.

INTELLECTUAL PROPERTY: Patents, trademarks, theft of trade secrets and confidential information; covenants not to compete, and unfair and deceptive trade practices.

JOINT VENTURES AND MERGERS AND ACQUISITIONS: Stock and asset purchases; investment and commercial banking; post-closing purchase price and working capital adjustments; breaches of reps and warranties, fraud, securities fraud, breach of fiduciary duty; corporate governance, shareholder rights, freeze outs, and fights over corporate control. Matters include disputes under New York, Delaware, and various other laws and involving, for example, broadband telecommunications, energy, renewable energy, and other industries.

MANUFACTURING AND DISTRIBUTION: Sales of goods, breaches of warranty, requirements and supply contracts, and other UCC issues; agency.

SATELLITES AND SPACE: Disputes over satellite carriage and orbital location agreements; satellite launch services.

TECHNOLOGY: E-commerce and the Internet, blockchain and cryptocurrency, cybersecurity, electronic election systems, software design, IP licensing, privacy, data privacy; online identity.

Work History

- Member, Sherman & Howard L.L.C., Denver, Colorado (May 2013-present).
- Partner, Bryan Cave HRO/Holme Roberts & Owen LLP, Denver, Colorado (January 1993-May 2013); Associate, Holme Roberts & Owen LLP (June 1986-December 1992).

Representative Matters

Arbitration (as arbitrator)

- Panel chair in an ICDR arbitration between Canadian and U.S. parties in a dispute involving patents and state law claims related to products used in the oilfield services industry.
- Panel chair in an ICDR arbitration under Texas law between a multinational company and Taiwanese and U.S. companies on claims concerning parts manufactured for a power plant in Asia.
- Panel chair in an AAA arbitration in a dispute concerning the breach of an agreement for the distribution of chemical additives.
- Emergency arbitrator in an ICDR arbitration under Illinois law concerning shareholders in a European sports team.
- Panel member in an ICDR arbitration between a multinational company and a Honduran company on claims for breach of a distribution agreement.
- Panel member in an AAA arbitration in a dispute involving a joint venture formed to supply water in connection with the oil and gas industry.
- Panel member in an AAA arbitration in a dispute under Colorado law among the members of a limited liability company over amounts owed to a withdrawing member.
- Panel member in an AAA arbitration in a dispute under North Carolina law regarding contracts for the sale of coal.
- Sole arbitrator in an ICC arbitration in a dispute under Colorado law on claims for breach of a contract for the sale of specialty chemicals.
- Sole arbitrator in an ICC arbitration on claims for breach of contract between a U.S. company and an Asian company.
- Sole arbitrator in an ICDR arbitration between Kyrgyzstani and U.S. parties involving e-commerce issues.

- Sole arbitrator in an ICDR arbitration between Canadian and U.S. parties involving contract and securities law issues related to the sale of renewable building products.
- Sole arbitrator in an ICDR arbitration between a Chinese company and a U.S. company on claims for breach of contract related to e-commerce.
- Sole arbitrator in an ICDR arbitration under Mexican law between a British Columbia company and a U.S. company and its Mexican subsidiary on claims related to a mining venture in Mexico.
- Sole arbitrator in an ICDR arbitration in a dispute under English law between a Singapore company and a U.S. company on claims for breach of a contract for the sale of goods related to an offshore oil terminal in Asia.
- Sole arbitrator in an ICDR arbitration in a dispute between various individuals and an Ontario company on claims for breach of contract arising out of share purchase agreement involving a company in the healthcare industry.
- Sole arbitrator in an AAA arbitration in a dispute over cryptocurrency and cybersecurity.
- Sole arbitrator in an AAA arbitration in a dispute concerning a venture for waste processing in the oil and gas industry.
- Sole arbitrator in an AAA arbitration under California law on claims for breach of contract.
- Sole arbitrator in an AAA arbitration under South Dakota law on claims for breach of contract.

Arbitration (as advocate)

- Representing the claimant and counterclaim-respondent in an AAA arbitration and parallel state court litigation relating to disputes with the co-owner of a corporation providing educational services.
- Representing the respondents (sovereigns) in a CIArb Rules arbitration under English law involving claims for breach of a contract for services allegedly performed in multiple jurisdictions around the world.
- Representing the claimant in an ICC arbitration under English law in a dispute with an English company over satellite launch services.
- Representing the claimant and counterclaim-respondent in an ICC arbitration under New York law against the wholly owned subsidiary of a Spanish company in a dispute involving a solar energy project.
- Representing a co-claimant in an ICC arbitration in a multi-party dispute involving the construction of a solar energy project in Arizona.
- Representing the respondent in a British Columbia International Arbitration Centre arbitration in a dispute under British Columbia law over software development.

- Representing the claimant in an ICC arbitration under German law in a dispute over chargeback fines in e-commerce transactions.
- Representing the respondent and counterclaimant in an ICC arbitration under German law in a dispute over electronic payment processing for e-commerce transactions.
- Representing the claimant in an ICC arbitration under English law in a dispute related to a cable television project in Saudi Arabia.
- Representing the claimant in an ICDR arbitration under New York law against a Mexican company in a dispute over a post-closing purchase price adjustment related to the sale of a broadband telecommunications system.
- Representing the claimant in a non-administered AAA Commercial Rules arbitration under New York law seeking a post-closing purchase price adjustment in connection with the sale of a biodiesel plant.
- Representing the seller in multiple non-administered AAA Commercial Rules arbitrations for breach of contract under New York law against the purchaser of natural gas assets, including claims for a post-closing working capital adjustment.
- Representing the claimant in an AAA Commercial Rules arbitration for breach of contract under California law in a dispute arising from the sale of components for electric vehicles.

International and U.S. litigation

- Representing the defendants, a Canadian company and its U.S. subsidiary, in federal court litigation related to two asset sale transactions involving bankrupt companies in the election services industry.
- Representing the claimant and working with Panamanian counsel in a dispute under Panamanian law arising out of an investment in Panama.
- Representing the plaintiffs in a suit against a Hong Kong conglomerate for securities fraud, fraud, and breach of contract related to a cable television franchise in Hong Kong. After an 11-week jury trial, the plaintiffs won a \$125.5 million verdict. Before trial, successfully defended interlocutory proceedings on defendants' motion to compel arbitration in U.S. District Court, the 10th Circuit Court of Appeals, and the U.S. Supreme Court. After trial, successfully defended the judgment in the Court of Appeals and the Supreme Court, which affirmed 9-0. Through use of turnover and contempt proceedings, forced the defendants to post a supersedes bond pending appeal, which ensured that after the appeals were over, the plaintiffs would recover the \$200 million in damages, interest, and attorneys' fees to which they were entitled.
- Representing various defendants and working with Israeli counsel in a breach of fiduciary and minority shareholder rights lawsuit in the District Court of Tel Aviv-Jaffa, Israel.
- Representing the claimant and supervising and leading a team of English solicitors and barristers in a suit against a commercial and investment bank in the High Court of Justice, Chancery Division,

London. The case, in which there was approximately \$2 billion in dispute, concerned the extent to which a bank may compete against its customer when the customer has provided the bank with confidential information about the customer's business and business plans. The English Court of Appeal upheld a preliminary injunction in favor of the client and barred the bank from disposing of an asset that the client contended was acquired in violation of the bank's duties.

- Representing a defendant in litigation against the California Attorney General's Office on claims involving GAAP accounting, charitable solicitations, and the First Amendment of the U.S. Constitution.
- Representing the defendant in patent infringement litigation in the U.S. District Court for the District of Delaware.
- Representing three defendants in class action shareholder litigation in the Delaware Chancery Court concerning the merger of two publicly-traded companies.
- Representing the plaintiff in state court litigation on claims for breach of contract, trademark infringement, and deceptive trade practices against a former executive and his new company.

Professional Activities

- Member, American Bar Association (Life Fellow, American Bar Foundation)
- Member, American Law Institute
- Fellow, Chartered Institute of Arbitrators (Member, North American Branch Board of Directors; Chair, Rocky Mountain Chapter)
- Fellow, College of Commercial Arbitrators
- Member, Colorado and Denver Bar Associations (Chair, Colo. Bar Assoc. International Law Section, 2022-2024)
- Member, Equal Representation in Arbitration Pledge USA Subcommittee
- Member, Federalist Society
- Member, ICC Commission on Arbitration and ADR, 2004-present (Vice Chair (2014-2018)); Co-Chair, Task Force on Expertise and Co-Chair, Task Force on the Use of Information Technology in Arbitration (served until the work of each Task Force was concluded); Member, Working Group on the Use of Technology in Arbitration.
- Member, International Bar Association
- Member, International Council for Commercial Arbitration (ICCA)
- Member, Law Society of England and Wales
- Senior Fellow, Litigation Counsel of America

- Member, Silicon Valley Arbitration & Mediation Center (SVAMC)
- Chair, U.S. Council for International Business (ICC USA) Arbitration Committee, Rocky Mountain Subcommittee

Bar Admissions

- Admitted Colorado (1986)
- Admitted England and Wales (2013)
- Admitted, United States Supreme Court, U.S. Tenth Circuit Court of Appeals, and U.S. District Court for the District of Colorado.

Selected Publications and Recent Presentations

Publications: Co-Author, “Tortious Interference: Colorado,” THOMSON REUTERS PRACTICAL LAW (2022); Co-Author, “Breach of Fiduciary Duty: Colorado,” THOMSON REUTERS PRACTICAL LAW (2022); Co-Author, “Fraud: Colorado,” THOMSON REUTERS PRACTICAL LAW (2021); “Co-author, “Issues for Arbitrators to Consider Regarding Experts,” ICC DISPUTE RESOLUTION BULLETIN 2021, Issue No. 2 (originally published, ICC INT’L COURT OF ARBITRATION BULLETIN, Vol. 21, No. 1 (2010)); Co-author, “Issues for Experts Acting Under the ICC Rules for Expertise or the ICC Rules of Arbitration,” ICC DISPUTE RESOLUTION BULLETIN 2021, Issue No. 2 (originally published, ICC INT’L COURT OF ARBITRATION BULLETIN, Vol. 20, No. 1 (2009)); Co-author, “Emergency Arbitrator Rules Among Four Major Arbitral Institutions: Both Alike and Different,” Expert Guides (March 2019); Co-author, “An Updated Overview of Issues to Consider When Using Information Technology in Int’l Arbitration,” ICC INT’L COURT OF ARBITRATION BULLETIN (April 2017); Author, “An Overview of U.S. Federal Court Decisions Regarding Interim Remedies in Int’l Commercial Arbitration,” INT’L COMMERCIAL ARBITRATION: NATURAL RESOURCES, ENVIRONMENT, AND TECHNOLOGY DISPUTES, Canadian Bar Assoc. (2005); Co-author, “Explanatory Notes on the Standards,” ICC INT’L COURT OF ARBITRATION BULLETIN: Special Supplement on Using Technology to Resolve Business Disputes (2004); Co-author, “Investment in Europe: An Overview of Common Legal Issues,” THE COLORADO LAWYER (June 2002); Author, “How U.S. Courts Interpret Arbitration Agreements,” INT’L DISTRIBUTION LAW (Siefarth ed.), Transnational Publishers (2001); Author, “Recognition and Enforcement of Money Judgments in U.S. Courts,” INT’L JUDICIAL ASSISTANCE IN CIVIL MATTERS (Prell ed.), Transnational Publishers (1999).

Presentations: Moderator, “Insiders’ Views on Arbitral Appointments in the New Normal: Perspectives from the London Court of International Arbitration and the Equal Representation in Arbitration Pledge,” Chartered Inst. of Arbitrators and LCIA (August 2022)(webinar); Panelist, “The ICC Commission Report on Leveraging Technology for Fair, Effective and Efficient International Arbitration Proceedings,” Silicon Valley Arbitration and Mediation Center (May 2022)(webinar); Speaker, “Int’l Arbitration: Answering Your Questions and Receiving Your Feedback,” ICC Int’l Court of Arbitration and AZ Assoc. of Corp. Counsel (Feb. 2021)(webinar); Speaker, “Int’l Arbitration in the Time of COVID,” ICC Int’l Court of Arbitration and Colo. Bar Assoc. Int’l Law Section (Dec. 2020) (webinar); Speaker, “Ethics in Int’l Arbitration,” AAA/ICDR and Colo. Bar Assoc. Litigation and Int’l Law Sections, Denver, CO (Nov. 2019); Panelist, “Int’l Arbitration: Key Issues for New Mexico Businesses,” ICC Int’l Court of Arbitration and NM State Bar Trial Section, Albuquerque, NM (June 2019); Panelist, “Cybersecurity and Data Protection in Int’l Arbitration: Practical Suggestions for Case Management and Compliance,” Practising Law Inst. One

Hour Briefings (Oct. 2018); “Avoiding Common Mistakes in Int’l Arbitration,” ICC Int’l Court of Arbitration, Ariz. Assoc. of Corp. Counsel, and Global Chamber Phoenix, Phoenix, AZ (Jan. 2018); Moderator and Panelist, “Technology and ADR—The Risks and Opportunities (Legal Framework and Institutional Guidance),” Chartered Inst. of Arbitrators, London, England (Nov. 2017); “Cybersecurity in Int’l Arbitration,” 12th ICC New York Conference, New York, NY (Sept. 2017); “Sanctions for Unsuccessful Challenges to Int’l Arbitration Awards,” ABA “CLE in the City” Series, Int’l Dispute Resolution Track, ABA Annual Meeting, New York, NY (Aug. 2017); “Avoiding Common Mistakes in Int’l Arbitration,” ICC Int’l Court of Arbitration, World Trade Center Denver, and Colo. Assoc. of Corp. Counsel, Denver, CO (Nov. 2016); “Key Issues in Int’l Arbitration,” World Trade Center Utah, and Utah State Bar Int’l Law Section, Salt Lake City, UT (Mar. 2016); “Key Issues to Consider Regarding Domestic and Int’l Arbitration,” AAA and Colo. Assoc. of Corp. Counsel, Denver, CO (Nov. 2015); Moderator, “Successfully Bringing Parties to the Mediation Table,” ICC Int’l Court of Arbitration, New York, NY (Sept. 2013); “Getting the Most Out of Int’l Arbitration: Tips for Making Your Case More Efficient and Less Expensive,” Ariz. State Bar Convention, Phoenix, AZ (June 2013); “Int’l Litigation vs. Int’l Arbitration: What Difference Does it Make,” “Getting the Most Out of Int’l Arbitration: Tips for Making Your Case More Efficient and Less Expensive,” and “Ethics Issues for Counsel in Int’l Arbitration,” ICC Int’l Court of Arbitration and Idaho State Bar Int’l Law Section, Boise, ID (June 2013); “Evidence Gathering and E-Discovery in Int’l Matters: Key Developments in the U.S. and Japan,” Daiichi Tokyo Bar Assoc. and State Bar of Calif. Int’l Law Section, Los Angeles, CA (Nov. 2011); and many other speeches and presentations.

Education

- J.D., with high honors, University of Texas School of Law (1986) (Order of the Coif).
- B.A., with highest honors, University of Texas at Austin (1983) (Plan II Honors Program; Phi Beta Kappa; Omicron Delta Kappa).
- Certificate, “Artificial Intelligence: Implications for Business Strategy,” MIT Sloan School of Management (2022).
- Certificate, “Blockchain Technologies: Business Innovation and Application,” MIT Sloan School of Management (2021).