



Bradley E. Berg, FCI Arb.

Partner | Toronto

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The logo for the law firm Blakes, featuring the word "Blakes" in a large, elegant, black cursive script. A thin red horizontal line is positioned below the logo.

Brad's practice includes both complex commercial cases and precedent-setting public interest litigation. He has appeared as lead counsel at all levels of courts, including the Supreme Court of Canada, and before international commercial arbitration panels, administrative tribunals and inquests. His trial and appellate experience in commercial and civil litigation includes business disputes, class actions, mining, banking, real estate and leasing, taxation, injunctions, the regulation of professionals, constitutional and administrative law, and all types of contract and negligence actions.

Brad has acted on shareholder disputes, directors' and officers' actions and arrangements. He is regularly consulted on corporate transactions and opinions, and frequently advises on complex questions of legal privilege, jurisdiction and cross-border regulation.

Brad is the Practice Group Leader for Litigation & Dispute Resolution in Toronto.

SELECT EXPERIENCE

Many of Brad's cases are international arbitrations that are strictly confidential. A representative list of Brad's cases of public record includes acting for:

Commercial Cases

- Appleby Services (Bermuda) Ltd. in a \$500-million class action arising from a complex tax/charitable gift program
- Cliffs Natural Resources in a wide range of disputes, including a \$1.8-billion joint venture dispute involving the Wabush Mine in Labrador
- Wyndham Hotel Group in numerous cases, including class actions and franchise/license disputes across Canada
- QuadReal, Ontario Pension Board and Hudson's Bay Company in multiple real estate and leasing disputes
- German investors in a high-profile dispute with SaskEnergy over a corporate office tower in Regina
- U.S. private equity firms in various cases and regulatory proceedings in Canada
- Canadian banks and energy companies in a broad cross-section of commercial disputes

Civil Rights and Constitutional Cases

- The Canadian American Bar Association in the voting rights appeal by expatriate Canadian citizens (Frank SCC)

- Calgary Sexual Health Centre in defending Gay-Straight Alliances in Alberta (PT, DT, ABQB)
- Canadian Civil Liberties Association in a wide variety of matters, including the scope of constitutional damages (Henry SCC), the determination of fair trial rights and the protections afforded a witness (the "niqab case" SCC); the standard of care for Crown prosecutors in Canada (Miazga SCC); the constitutionality of provincial property forfeiture legislation (Chatterjee SCC); and the duty of care owed by police in Canada to persons under investigation (Hill SCC)
- Family Service Association of Toronto in the landmark "three-parent" case (AA, BB, CC, OCA)

AWARDS & RECOGNITION

Brad is widely recognized as one of Canada's leading litigators including by:

- *The Legal 500 Canada* (Recommended for Dispute Resolution)
- *The Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada* (Litigation - Corporate Commercial)
- *The Canadian Legal Lexpert Directory* ("Most Frequently Recommended")
- *Chambers Canada* (Dispute Resolution: "He is strategic counsel, guides the big picture strategy" and is "good at anticipating the client's needs".)
- *The Best Lawyers in Canada* (Corporate & Commercial Litigation; Appellate Practice)
- *Benchmark Canada: The Definitive Guide to Canada's Leading Litigation Firms and Attorneys* ("a polished and articulate advocate who is also extremely persuasive")
- *The Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers*

Brad has also been recognized for his contributions to diversity issues, mentoring and corporate leadership including by:

- ACT Together Towards Zero: Long-standing Awards (Individual Honouree for 2018)
- Out on Bay Street: Leaders to Be Proud of Awards (Professional Leadership, 2015)
- Lexpert Zenith Awards: Corporate and Law Firm Social Responsibility (Mid-Career Mentorship, 2011)

PUBLICATIONS

[Co-author: Supreme Court Enforces Arbitration Clause and Stays Business Customer Claims in Class Action](#)
Blakes Bulletin on Arbitration, April 10, 2019.

[Co-author: Supreme Court Strikes Down Expatriate Voting Restrictions: No "Social Contract" Justification](#)
Blakes Bulletin on Litigation & Dispute Resolution, January 14, 2019.

[Co-author: Guide for Lawyers Working With Indigenous Peoples](#)
Law Society of Ontario, Indigenous Bar Association & The Advocates' Society, May 8, 2018.

[Co-author: Federal Court of Appeal Affirms Common Interest Privilege in Deal Context](#)
Blakes Bulletin on Litigation & Dispute Resolution, March 8, 2018.

[Co-author: New Test: Ontario Court Stayed Action in the Face of Broad Arbitration Agreement](#)
Blakes Bulletin on Litigation & Dispute Resolution, October 18, 2016

PROFESSIONAL APPEARANCES

Keynote Speaker: StartProud / Out on Bay Street

Precedent Conference, Toronto, Ontario, May 3, 2019.

Speaker: Chevron and Piercing the Corporate Veil

The Advocates' Society and American College of Trial Lawyers, Toronto, Ontario, April 24, 2019.

Co-chair: Leadership in Litigation

The Advocates' Society, Toronto, Ontario, March 29, 2019.

Lecturer: Ethics, Professionalism and Lawyers working with Indigenous Peoples

University of Toronto Faculty of Law, Toronto, Ontario, March 21, 2019.

Speaker: The Future of ADR

CPR Institute Canada Conference, Toronto, Ontario, February 4, 2019

Speaker: Challenges in Canadian International Arbitration

ADR Institute of Canada Annual Conference, Montreal, Quebec, November 23, 2018.

Keynote Speaker: Leadership and Mentoring

TD Bank Group LGBTQ+ Mentoring, Toronto, Ontario, November 22, 2018.

Co-chair: Equity, Diversity and Inclusion – Leading by Example

The Advocates' Society, Toronto, Ontario, September 25, 2018.

Speaker: "Capital Markets Pride" inaugural program

CPPIB, TD Securities and LGBTQ in Capital Markets, Toronto, Ontario, June 26, 2018.

Co-chair: Leadership in Litigation

The Advocates' Society, Toronto, Ontario, May 3, 2018.

Faculty: Gold Standard Arbitration Course

Toronto Commercial Arbitration Society, Toronto, Ontario, April 5, 2018.

Speaker: Diverse Perspectives on Corporate Law

American Corporate Counsel (ACC) Ontario, Toronto, Ontario, November 28, 2017.

Co-chair: Winning Injunctions

The Advocates' Society, Toronto, Ontario, November 24, 2017.

Speaker: Guide for Lawyers dealing with Indigenous Peoples

The Advocates' Society Fall Convention, Nashville, Tennessee, November 4, 2017.

Co-chair: Indigenous Guide Consultation & Regional Dinner

The Advocates' Society, Casino Rama, Ontario, October 23, 2017.

Speaker: Arbitration & the Role of In-House Counsel

Petroleum Club, Calgary, Alberta, October 17, 2017.

Speaker: Guide for Lawyers dealing with Indigenous Peoples

Colloquium 2017, Sudbury, Ontario, October 13, 2017.

Speaker: End of Term Dinner

The Advocates' Society, Toronto, Ontario, June 15, 2017.

Speaker: Spring Symposium

The Advocates' Society, Toronto, Ontario, April 27, 2017.

Faculty: Trial Skills, Professionalism and Civility

The Law Society of Nunavut and The Advocates' Society, Iqaluit, Nunavut, April 20-22, 2017.

Faculty: Setting Aside and Enforcing Arbitration Awards

Toronto Commercial Arbitration Society, Toronto, Ontario, April 5, 2017.

Speaker: Diverse Perspectives on Corporate Law in Canada

Blakes Seminar, Toronto, Ontario, March 29, 2017.

Speaker: Sopinka Cup National Moot Trial Competition

The Advocates' Society, Ottawa, Ontario, March 17-18, 2017.

Faculty: Court House Series on Trial Advocacy

The Advocates' Society, Thunder Bay, Ontario, March 2, 2017.

Speaker: Medal Dinner

The Advocates' Society, Toronto, Ontario, February 15, 2017.

Speaker: Arnup Cup Moot Trial Competition

The Advocates' Society, Toronto, Ontario, February 10-11, 2017.

Speaker: The Life and Law of Justice Marshall Rothstein

The Advocates' Society, Toronto, Ontario, February 7, 2017.

Speaker: Professionalism in 2016

Ottawa-Carlton Law Association Legal Conference, Mont Tremblant, Quebec, November 18-19, 2016

Moderator: View from the Bench on Access to Justice

The Advocates' Society Fall Convention, Sonoma, California, November 11, 2016

Speaker: Arbitration Advocacy

The Advocates' Society, Calgary, Alberta, November 3, 2016

Speaker: Arbitration Advocacy

The Advocates' Society, Vancouver, British Columbia, November 2, 2016

Speaker: Civility in the Legal Profession

Thunder Bay Law Association Legal Conference, Thunder Bay, October 28, 2016

Speaker: Mentoring and Civil Litigation at Fall Forum

The Advocates' Society, Blue Mountain, Ontario, October 21-22, 2016

Speaker: Summary Judgment Update Kingston & 1000 Islands Annual Legal Conference

Gananoque, Ontario, September 17, 2016

Speaker: Common Interest Privilege Navigating Privilege Seminar

The Advocates' Society, Toronto, Ontario, July 19, 2016.

MEDIA APPEARANCES

Quoted: U.S. Expats Vote While Canadian Expats Fight

Interviewed by Andy J. Semotiuk, Forbes, November 4, 2016

PROFESSIONAL ACTIVITIES

Brad is the Past President of The Advocates' Society, the leading association of litigation counsel in Canada. He is the past Co-chair of the Firm's Legal Personnel Committee and has served on our Compensation, Partnership and Diversity & Inclusion Committees.

Brad is a Fellow of the Chartered Institute of Arbitrators (London). He is a member of the Toronto Commercial Arbitration Society and has experience with various arbitration institutions including the International Chamber of Commerce (ICC) (Paris). Brad is closely involved with a number of community agencies, including the Canadian Civil Liberties Association and the Metropolitan Community Church of Toronto. He is also a member of the Dean's Advisory Council for the University of Saskatchewan College of Law.

Brad taught trial advocacy at Osgoode Hall Law School for six years and is currently a contributing editor to Canadian Legal Practice (Butterworths/LexisNexis). He is a former law clerk to the Court of Appeal for Saskatchewan.

EDUCATION

Admitted to the Ontario Bar - 1996

Admitted to the Saskatchewan Bar - 1994

LL.M., University of Toronto - 1995

LL.B., University of Saskatchewan - 1992

B.Comm., University of Saskatchewan - 1991