

## JOHN J KERR



John J. Kerr (Jack) joined Littleton as an International Arbitrator and Associate Tenant in 2017.

Previously Jack was a Partner at Simpson Thacher & Bartlett LLP (1984 - 2009) where he was also Head of their International Arbitration and Litigation Group.

He was Law Clerk to Judge Gus J. Solomon, United States District Court for the District of Oregon, 1976-1978.

Jack is Arbitrator, international (UNCITRAL, ICSID, ICC, ICDR, LCIA) and domestic (AAA).

### Representative Arbitrations\*

#### Arbitrator

- President of a tribunal in an ICC arbitration of a contract dispute between a Netherlands company and a Polish company for the supply of TDA, a chemical compound used in the automotive and housing industries.
- President of a tribunal in an ICC arbitration of a dispute between a Greek telecommunications Company and a Dutch telecommunications company arising from a stock purchase agreement.
- Chairman of a tribunal in an ICC arbitration between U.K. and U.S. private equity firms arising from the creation of a £500 million real estate investment fund.
- Chairman of a tribunal in an ICC arbitration between a Netherlands company and a Netherlands Antilles company concerning a dispute arising from telecommunications investments in Venezuela.
- Chairman of a tribunal in an ICC arbitration of a concession dispute between a cruise ship owner and a casino operator.
- Chairman of a tribunal in an ICDR arbitration of a contract dispute between a U.S. company and the U.S. subsidiary of a U.K. company in the aerospace, defense and security industries.
- Chairman of a tribunal in an AAA arbitration of a dispute between the manager and certain non-managing members of a financial services and trading company concerning the value of members' interests.
- Chairman of a tribunal in an AAA arbitration of a contract dispute between two U.S. companies in the consumer credit evaluation business concerning royalties.
- Sole arbitrator in an ICC arbitration of a contract dispute concerning the provision of aircraft maintenance and repair services to passenger and freight carriers in the U.S.
- Arbitrator in an ICC arbitration of a contract dispute under a patent license agreement between a Finland

corporation and a Canadian corporation, both major players in the wireless telecommunications industry, concerning a claim of infringement of implementation patents.

- Arbitrator in an ICC arbitration among a Chinese engineering company, a U.S. power company and the power company's private equity owners concerning a dispute over the construction of a coal gasification plant in Wyoming.
- Arbitrator in an ICC arbitration between a U.S. engineering company and an international financial company concerning the financing and construction of a steel mill in the Czech Republic.
- Arbitrator in an ICC arbitration of a dispute between a Japanese pharmaceutical company and a U.S. pharmaceutical company concerning alleged infringement of intellectual property rights to a biologic drug product.
- Arbitrator in an ICC arbitration of a dispute between a Swiss pharmaceutical company and an Irish pharmaceutical company with respect rights under a license and collaboration agreement for the development and distribution of PDE4 inhibitor technology for the treatment of inflammation disorders.
- Arbitrator in an ICC arbitration of a dispute between two Yukos-affiliates concerning inter-company loans.
- Arbitrator in an ICC arbitration between two international pharmaceutical companies concerning royalties for the licensing of intellectual property.
- Arbitrator in an ICC arbitration of an intellectual property dispute between a U.S. engineering company and a group of German companies.
- Arbitrator in an ICC arbitration between an African state and an Austrian bank concerning a loan to finance a large construction contract.
- Arbitrator in an ICDR arbitration among two U.S. wireless telecommunications technology developers and a Chinese wireless communications device manufacturer arising from a wireless patent license agreement.
- Arbitrator in an ICDR arbitration of a dispute between a Swiss corporation and a United Arab Emirates corporation arising from a license agreement for the sale and distribution of luxury watches.
- Arbitrator in an ICDR arbitration of a dispute between a U.S. software company and an Israeli software company arising from claims of misappropriation of intellectual property under a software licensing agreement.
- Arbitrator in an ICDR arbitration of a dispute among principals of an investment fund.
- Arbitrator in three consolidated LCIA arbitrations among Dutch and Nigerian parties arising from a share sale agreement in the wireless telecommunications business in Nigeria.
- Arbitrator in an UNCTRAL arbitration between a Spanish natural gas company and a Caribbean natural gas company concerning a dispute arising from a liquefied natural gas supply contract.
- Arbitrator in an UNCTRAL arbitration between a Netherlands music company and a German entertainment company concerning rights and obligations under a manufacturing agreement.

## Counsel

- Counsel to Japanese pharmaceutical company as claimant in an arbitration under ICC Rules against a U.S. pharmaceutical company concerning a dispute over the development and distribution of a biologic in Japan pursuant to licensing agreement.
- Counsel to the Dominican Republic in an arbitration under CAFTA brought by a U.S. investor claiming treaty violations and approximately \$700 million in losses allegedly incurred in connection with an investment in one of the Republic's three privatized electricity distribution companies. The arbitration was

conducted under UNCITRAL Rules. The case settled on very favorable terms to the Republic after an award on jurisdiction.

- Counsel to the Dominican Republic in an arbitration under the bilateral investment treaty between the Dominican Republic and France brought by Société Générale claiming expropriation, unfair treatment and other violations of the treaty. The arbitration was being conducted under UNCITRAL Rules. (Settled prior to final hearing).
- Counsel to General Electric as Claimant in an arbitration against the Overseas Private Investment Corporation in an arbitration under AAA International Rules to recover under a political risk insurance policy for the expropriation of GECC's investment in the Dabhol Power Project in India. Hearings were held in Washington D.C. over two weeks before a tribunal of three arbitrators. The arbitration resulted in an award and full recovery of the limits of the policy plus interest (\$32 million).
- Counsel to General Electric and Bechtel in a bilateral investment treaty (Mauritius-India) arbitration in London under UNCITRAL Rules against the Republic of India to recover damages for the expropriation of investments in the Dabhol Project in India. (Settled prior to final hearing).
- Counsel to Offshore Power Production C.V. in a bilateral investment treaty (Netherlands-India) arbitration in London under UNCITRAL Rules against the Republic of India to recover damages for the expropriation of an investment in the Dabhol Project in India. (Settled prior to final hearing).
- Counsel to General Electric and Bechtel in an arbitration under ICC Rules and related court proceedings in the U.S. District Court for the Southern District of New York against the State of Maharashtra and related entities to recover damages for the expropriation of GECC's and Bechtel's investments in the Dabhol Project in India and related breaches of contract. After hearings in New York before a tribunal of three arbitrators, the arbitration resulted in an award of more than \$125 million.
- Counsel to The Hanwha Group and ORIX Corporation in an ICC arbitration arising from their purchase of a majority stake in Korea Life Insurance Ltd. (KLI) from a Korean government entity. At issue was the Hanwha Group's right to exercise a call option over an additional 16% stake in KLI, whose stock doubled in value since the purchase. The Korean government sought to reverse the original transaction altogether, for a windfall profit to the Asian republic of nearly a billion dollars. Award entered in favor of Hanwha and ORIX dismissing all claims of the Korean Government and confirming the right to exercise call option.
- Counsel to Ford Motor Company in an arbitration with Fiat S.P.A. under UNCITRAL rules in Paris. The arbitration concerned allegations of fraud, misrepresentation and breach of representations and warranties in connection with Fiat's purchase of Ford's agricultural equipment and tractor subsidiary. (Settled prior to final hearing).
- Counsel to Ford Motor Company as Claimant in an arbitration under the English Arbitration Act to recover under an insurance policy issued by ACE Insurance Company of Bermuda covering Ford's product liability losses. The losses in issue involved product liability claims against Ford for deaths and injuries resulting from rollover accidents involving the Bronco II sport utility vehicle. The hearings were held for 8 weeks in London before an international tribunal of three arbitrators. The arbitration resulted in an award in favor of Ford for the full \$200 million limits of its insurance policy.
- Counsel to C.R. Bard as Respondent in an arbitration under AAA rules concerning a licensing dispute over the distribution rights to vena cava filters used to trap blood clots. The Claimant claimed that Bard had breached the licensing agreement and sought tens of millions of dollars in damages and forfeiture of the distribution rights. Hearings were held in Boston over a week before a tribunal of three arbitrators. The arbitration resulted in an award in favor of Bard, upholding their distribution rights under the licensing

agreement in full and dismissing the claim for damages.

- Counsel to DHL International as Respondent in an arbitration under ICC Rules concerning a shareholders dispute over the transfer of a significant share interest in the Company under a shareholders agreement after the death of one of the Company's founders. The dispute involved complex valuation issues concerning an international business with worldwide operations, and allegations of breach of the shareholders agreement and bad faith. Hearings were held in Paris before a sole arbitrator. The case settled during the hearings on terms amounting to the abandonment of Claimants' claims.
- Counsel to Owens-Illinois, Inc. as Claimant in an arbitration under ad hoc rules concerning tax disputes arising from the multi-billion dollar acquisition of the packaging business of BTR plc and Invensys plc, its successor in interest. The dispute involved many complex tax issues arising under the tax laws of the U.S. and 10 foreign countries, with the primary issue involving the allocation of dividend rebates. The dispute was tried to a sole arbitrator in New York. The arbitrator awarded Owens-Illinois \$20.4 million on the dividend rebate tax claims, paving the way to settlement of the smaller remaining tax claim.
- Counsel to Crum & Forster Corporation as Claimant in an arbitration under ad hoc rules against Philadelphia Reinsurance Corporation, Assicurazioni Generali, Reinsurance Corporation of New York, Excess Treaty Management Corporation and various underwriters and underwriting syndicates at Lloyd's concerning coverage disputes under reinsurance treaties for asbestos claims. Hearings were held in New York for a week before a tribunal of three arbitrators. The arbitration resulted in an award in favor of Crum & Forster on all issues for the full limits of its coverage under the reinsurance treaties.
- Counsel to Crum & Forster Corporation as Claimant in an arbitration under ad hoc rules against Allstate Insurance Corporation concerning coverage disputes under reinsurance treaties for asbestos claims. Hearings were held in New York over four days before a tribunal of three arbitrators. The arbitration resulted in award in favor of Crum & Forster on all issues for the full limits of its coverage under the reinsurance treaties.
- Counsel to TRW, Inc. as Claimant in an arbitration under AAA Rules against Harris Communications Corporation involving a use tax dispute under subcontracts involved in construction of the space shuttle. A three day arbitration before a sole arbitrator resulted in a decision that split the tax liability between the two parties.
- Counsel to Dutch and Belgian investors in an arbitration before the Netherlands Arbitration Institute in Amsterdam in a dispute arising from the sale of a biotechnology company by silent auction arranged by Goldman Sachs.
- Counsel to a U.S. glass container manufacturer in an AAA international arbitration of a licensing dispute concerning intellectual property rights to glass bottle manufacturing technology.
- Counsel to a British company in the mediation of a dispute with an American company concerning intellectual property rights to artificial hip technology. Mediation was conducted under Center for Public Resources rules.

\* Names of parties are referred to only where the arbitration has been disclosed publicly.

## Representative Litigations

- Counsel to the Government of Kuwait and the Kuwait Petroleum Company as Defendants and Counterclaimants in a case brought by Getty Oil Company in the U.S. District Court in the Southern District of New York over imbalances arising from oil lifted from the Kuwait-Saudi Arabia Neutral Zone. The case involved complex treaty issues between Kuwait and Saudi Arabia, conflicting concession agreements between the sovereigns and their respective concessionaires, and disputes under the

operating agreement between the concessionaires. The case was tried before Judge Pollock in a one-week bench trial that resulted in a \$250 million recovery for Kuwait and KPC.

- Counsel to various New York banks for claims arising from Cuba's expropriation of property in the 1960s and Iran's expropriation of property in the 1970s. Representation included federal court litigation, federal and state court attachments and injunctions, numerous appeals to the 2nd Circuit Court of Appeals, enforcement of foreign judgments and claims before the Cuban and Iranian Claims Tribunals. The cases resulted in victories for the Banks for the value of their expropriated assets.
- Counsel to Manufacturers Hanover Trust Company (now J.P. Morgan) in litigation in federal and state courts of New York concerning disputes arising after the Iranian revolution with respect to letters of credit issued by U.S. banks to Iranian government entities on behalf of various U.S. companies doing business in Iran.
- Counsel to an international syndicate of banks in a case in the federal court in Dallas, Texas, to recover \$1.5 billion in defaulted loans to the Hunt family and their corporations, in which the borrowers asserted defenses and counterclaims based upon lender liability theories. The case involved an appeal to the 5th Circuit Court of Appeals and who eventually resolved as part of the bankruptcy reorganization of the Hunt companies.
- Counsel to BankAmerica International in various litigations in the United States arising from the collapse of the Bank of Credit and Commerce International.
- Counsel to a various banks with respect to disputes, litigation and restructurings arising from loans to foreign sovereigns.

## Education

### **Columbia Law School, J.D., 1976**

Harlan Fiske Stone Scholar  
Editor-in-Chief, Columbia Journal of Environmental Law  
National Scholar (7th Circuit)

### **Columbia School of International and Public Affairs**

International Fellow, 1975-1976

### **Boston College, A.B. 1972, summa cum laude (History and Economics)**

Phi Beta Kappa  
Durcan Medal (History Prize)

### **London School of Economics and Political Science**

General Course, 1970-1971

## Professional Appointments and Associations

### **American Arbitration Association**

- Chairman, Board of Directors, 2013-2016
- Chair, Executive Committee, 2010-2013
- Chair, Practice Committee, 2009-2010
- Chair, Nominating and Governance Committee, 2016-
- Chair, International Advisory Committee, 2016-

- Executive Committee, 2007-2016
- Director, 2001–2016
- Honorary Director, 2016-
- Director, AAA-ICDR Foundation, 2015-

#### **American Foreign Law Association, 1980 –**

- President, 2008 –2011
- Vice President, 1997-2001, 2004-2008
- Chair, Nominating Committee, 2011-2014
- Director, 2001-2004

#### **London Court of International Arbitration**

- Member of the Company, 2004-

#### **International Arbitration Club of New York, 2010-**

- Founding Member

#### **Delegate to the UNCITRAL Working Group II**

- (Arbitration and Conciliation) sessions at the United Nations 2013-

#### **ICC Task Force on Arbitration Involving States or State Entities, 2009-**

#### **International Bar Association, 1989-**

- Litigation Committee and Dispute Resolution Committee

#### **American Bar Association, 1978-**

- Litigation Section and International Litigation Committee
- Former Chair, Jury Trials Subcommittee

#### **The Association of the Bar of the City of New York, 1978-**

#### **Federal Bar Council, 1982-**

#### **Columbia Law School**

- Board of Visitors, 1991-

#### **Columbia Law School Association, 1988-**

- Chairman, Placement Committee, 1988-1992

#### **Columbia Journal of Environmental Law**

- Director, 1984-2009

## Civic Appointments and Associations

### **New York Landmarks Conservancy**

- Chairman, 2001-2006
- Vice-Chairman, 1992-1995 and 1998-2001
- Treasurer, 1990-1992
- Director, 1988-2011

### **London School of Economics and Political Science**

- North American Advisory Board, 2007

### **LSE Foundation**

- Director, 2000-2010

### **The Second Centennial Fund**

- Secretary, 2000-2010
- Director, 1999-2010

### **Friends of Institute for Advanced Study, Princeton**

- Chair, Executive Committee, 2012-2015
- Chair, Nominating Committee, 2008-2010
- Executive Committee, 2005-

### **Princeton Symphony Orchestra**

- Treasurer, 2010-2012
- Executive Committee, 2010-2012
- Director, 2009-2014

### **World Monuments Fund**

- Vice Chair, 2017-
- Secretary, 2012-
- Executive Committee, 2012-
- Chair, Governance Committee, 2016-
- International Relations Committee, 2010-
- Finance Committee, 2011-
- Trustee, 2010-

### Theatre for a New Audience

- Chair, Finance Committee, 2011-
- Executive Committee, 2011-
- Director, 2010-

### James Marston Fitch Charitable Foundation

- Chair, Finance Committee, 2014-
- Trustee, 2011-

### Publications

- Comment on "Life Receivables Trust v. Syndicate 102 at Lloyd's of London," (co-author with Ana Carolina M. Viana), 21 Revista Brasileira de Arbitragem 207-220 (2009)
- Comparison of International Commercial Arbitration Rules, (co-author with Robert H. Smit, Peter C. Thomas, Tyler B. Robinson and Janet M. Whittaker), (Juris Publishing, 3rd ed. 2008)
- Comparison of Asian International Arbitration Rules, (co-author with Robert H. Smit, Peter C. Thomas and Elizabeth A. Fuerstman) (Juris Publishing, 2003)
- "Expropriation of the Dabhol Power Project", (co-authored with Robert H. Smit), 19(2) Mealey's International Arbitration Report 42, (February 2004)
- "Court Jurisdiction and Arbitration over Misrepresentation in U.S. Securities Transactions," in The Law of Cross-Border Securities Transactions, ed. H. Van Houtte (Sweet & Maxwell, London) (1999)
- The United States Experience, prepared as part of the IBA Task Force on Economic Consequences of Litigation Worldwide (1998)
- "Arbitrability of Securities Law Claims in Common Law Nations," 12 Arbitration International 171-178 (1996)
- U.S. Litigation Column, International Financial Law Review, 1994-98
- "Defending Class Actions," (co-author with Paul C. Curnin and Lynn K. Neuner), AsiaLaw Magazine, April 1996.
- Lender Liability (co-author with M. L. Cantor and T. C. Rice) published by the American Law Institute and the American Bar Association (1987).
- "Landmarks Preservation and Tax Exempt Organizations," 1 Columbia Journal of Environmental Law 274-311 (1975)

### Teaching

Jack Kerr is a regular speaker on international arbitration topics at various conferences and symposia organized by the International Bar Association, ICC International Court of Arbitration, American Arbitration Association, International Center for Dispute Resolution, ICSID and the London Court of International Arbitration.

Jack is a faculty member for courses sponsored by the Practising Law Institute, the American Law Institute and the American Bar Association on topics relating to the representation of financial institutions in litigation.

### Bar Admissions



- United States Supreme Court (1986)
- United States Court of Appeals for the Second Circuit (1986)
- United States Court of Appeals for the Third Circuit (1992)
- United States Court of Appeals for the Fifth Circuit (1990)
- United States District Court for the Southern District of New York (1979)
- United States District Court for the Eastern District of New York (1979)
- United States District Court for the Northern District of Texas (1987)
- United States District Court for the District of Massachusetts (1979)
- State of New York (1977)
- Commonwealth of Massachusetts (1977)