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## **EDUCATION**

### **University of Oxford (University College), England**

Bachelor of Civil Laws (equiv L.L.M.), First Class Honors, 1997. John Morris Prize for Conflict of Laws.

### **University of New South Wales, Sydney, Australia**

Bachelor of Laws (L.L.B.), 1990; Bachelor of Arts, 1990 (Major - Economic History).

## **PROFESSIONAL QUALIFICATIONS**

Admitted as attorney in New York (2000), England (1998) and New South Wales, Australia (1990).

## **PROFESSIONAL EXPERIENCE**

**Skadden, Arps, Slate, Meagher & Flom LLP, New York, New York, January 2000 to present.** Partner, International Litigation & Arbitration, 2008-present. Representing corporate clients from a range of sectors, including oil and gas (upstream, midstream), nuclear, solar, mining, cement, finance, insurance, pharmaceuticals, telecommunications, retail, sports, motor racing, hotels and property investment, and sovereign entities before ICSID, ICDR, AAA, ICC, LCIA, SIAC, HKIAC and UNCITRAL tribunals, as well as U.S. federal and state courts. Cases include contractual, corporate and accounting disputes as well as investment treaty/expropriation claims against foreign governments. Involved in numerous disputes arising under New York and Panama Conventions, the Hague Service and Evidence Conventions, the Foreign Sovereign Immunities Act and "Section 1782" (the cross-border discovery statute).

**Wilde Sapte, London, England, 1997-99.** Attorney, Banking Litigation Department. Representing financial institutions in Commercial Court, Chancery Division, Queen's Bench Division, Court of Appeal and other U.K. jurisdictions.

**Freehills, Sydney, Australia, 1992-4, 1995-96.** Attorney, Commercial Litigation. Representing corporate clients in trial and appellate courts throughout Australia.

**Office of the Attorney-General, New South Wales, Australia (1994-95).** Policy Advisor, Courts Administration.

**Hon Justice I.F. Sheppard A.O., Federal Court of Australia, 1990-91.** Judicial Clerk (Associate) to Sydney-based senior federal judge sitting at both appellate and trial level.

**MEMBERSHIPS** Council Member; Australian Center for International Commercial Arbitration; Advisory Board Member, American Review of International Arbitration..

**INTERESTS** Cricket, film, music, history, travel.

**CITIZENSHIP/DOB** Australia, U.S. (dual).

## **SELECT PUBLICLY-REPORTED CASES - Timothy G. Nelson**

*Aurelius Capital Partners, LP v. Republic of Argentina*, 07 Civ. 2715, 2010 U.S. Dist. LEXIS 3280 (S.D.N.Y. Mar. 5, 2010) (dispute under Foreign Sovereign Immunities Act; representing Argentine Social Security Administration, ANSES, in resisting attempt by sovereign bond creditors to attach ANSES bank accounts located in Buenos Aires).

*Aurelius Capital Partners, LP v. Republic of Argentina*, 584 F.3d 120 (2d Cir. 2009), *cert denied* 130 S. Ct. 1691 (U.S. 2010) (representation of ANSES in resisting attempt by sovereign bond creditors to attach Argentine pensioners' assets located in United States).

*CanWest Global Communications Corp. v. Mirkaei Tikshoret Ltd.*, N.Y.L.J. Mar. 14, 2005 (Sup. Ct. N.Y. County, 2005 (decision on Hague Convention), 804 N.Y.S.2d 549 (injunction) (representing Israeli company, Mirkaei Tikshoret Ltd., in New York state and federal litigation ancillary to an AAA-ICDR arbitration concerning ownership of the "Jerusalem Post." Issues included rules of service under Hague Service Convention and injunctive powers of New York courts in international arbitration cases governed by New York Convention).

*CC/Devas (Mauritius) Ltd. v. India*, PCA No. 2013-09 (UNCITRAL expropriation claim under Mauritius-India BIT) – Award on Merits and Jurisdiction (Jul. 26, 2016), representing client in a claim against India for expropriation of a hybrid satellite/telecommunications platform; India held liable for breaches of BIT; quantum hearing in The Hague 2018.

*CEMEX Caracas Investments B.V. v. Venezuela*, No. ARB/08/15 (ICSID expropriation claim under Netherlands-Venezuela BIT) – Decisions on Jurisdiction (ICSID Dec. 30, 2010), Provisional Measures (ICSID Mar. 3, 2010) and Arbitrator Challenge (ICSID Nov. 6, 2009) available online at <http://italaw.com/index.htm>.

*CEMEX Asia Holdings Ltd. v. Indonesia* (ICSID; settled 2006) (representing claimant, a Singapore corporation, in ICSID investment arbitration concerning cement plant in Indonesia).

*CTF Hotel Holdings, Inc. v. Marriott Int'l, Inc.*, 381 F.3d 131, 138 (3d Cir. 2004) (representing plaintiff, an owner of "Renaissance" brand hotels, in Delaware federal court action concerning Marriott's alleged breach of hotel management agreements; representing CTF's affiliate, Hotel Property Investments (B.V.I.) Ltd. in related AAA-ICDR arbitration).

*Commonwealth of Northern Mariana Islands v. Canadian Imperial Bank of Commerce*, 693 F.3d 274 (2d Cir. 2012) (representing New York branch of CIBC, a third party garnishee bank, in a case where the applicant has sought to seize bank accounts administered by CIBC's indirect foreign subsidiary in the Cayman Islands; issues involve extraterritorial operation of New York's post-judgment "turnover" statute).

*Compania de Inversiones de Energia S.A. v. AEI*, 80 A.D.3d 533 (N.Y. App. Div. 1st Dep't 2011) (action to enforce bonds issued by Argentine company; issues of N.Y. statute of limitations). earlier decision (N.Y. Sup. Ct. July 29, 2009) (decision to suspend New York debt dispute on comity grounds, in view of the pendency of Argentine bankruptcy proceedings). Settled in 2012; wins Latin American Lawyer Litigation Deal of the Year.

*Devas Multimedia Pvt. Ltd v. Antrix Corp.*, ICC arbitration for repudiation of long-term satellite lease agreement; \$562 million plus interest awarded in 2015.

*Devas Multimedia Private Ltd. v. Antrix Corp. Ltd.*, 2:18-cv-01360-TSZ (E.D. Wa. Oct. 30, 2020) (securing confirmation and \$1,293,993,410.15 judgment upon an ICC award rendered against Indian space agency; set-aside proceeding still pending in New Delhi)

*Foster Wheeler Iberia S.A. v. Mapfre Empresas S.A.S.*, 839 N.Y.S.2d 433 (Sup. Ct. N.Y. County Mar. 29, 2007 (representing Spanish insurer in successful motion to dismiss claim; proceedings related to dispute over Chilean property).

*GCG Int'l, Inc. v. Eberhardt*, 05 Civ. 2422 (DC), 2005 U.S. Dist. LEXIS 23877 (S.D.N.Y. Oct. 17, 2005) (representing defendants, executives of German corporation, in successful challenge to jurisdiction of New York courts in case involving alleged management buyout agreement).

*Gas Natural Aproveisionamientos SDG S.A. v. Atlantic LNG of Trinidad & Tobago*; UNCITRAL claim under long-term LNG sales contract; represented Atlantic in successfully defeating claim for over \$300 million in damages; award 2016; fees award 2017; subsequent enforcement proceedings, *Gas Natural Aproveisionamientos SDG, S.A. v. Atlantic LNG Co. of Trinidad & Tobago*, 1:17-cv-00110-LAK (S.D.N.Y.)

*InterGlobe Enterprises Private Limited et al v. Gangwal*, 19-24257-MC (S.D. Fla. Apr. 30, 2020) & *InterGlobe Enterprises Private Limited et al v. Khanna*, 19-mc-00595-PWG (D. Md. Feb. 3, 2020) (securing dismissal of two Section 1782 subpoenas seeking discovery in aid of a New Delhi arbitration under LCIA India rules)

*Kardassopoulos v. Republic of Georgia*, No. ARB/05/18 (ICSID expropriation claim under Greece-Georgia BIT and Energy Charter Treaty) and *Fuchs v. Republic of Georgia*, No. ARB/07/15 (unfair and inequitable treatment claim under Israel-Georgia BIT). Decisions on Jurisdiction (ICSID July 6, 2007), Award (ICSID Mar. 3, 2010) and Decision of the ad hoc Committee on the Stay of Enforcement of the Award (ICSID Nov. 12, 2010).

*Loblaw Cos. Ltd. v. Origin & Co., Ltd.* [2017] SGHC 59 (litigation in Singapore over ICC arbitration concerning fashion industry distribution agreement); representing client in underlying ICC arbitration; obtaining jurisdictional ruling that bound parent company to an arbitration clause.

*Motorola Credit Corp. v. Standard Chartered Bank*, 24 N.Y.3d 149 (2014) – New York Court of Appeals (submitted amicus brief on behalf of Securities Industry and Financial Markets Association in support of the successful party, arguing that New York's "separate entity rule" continued to protect banks against judgment enforcement/garnishment against foreign branches; amicus brief quoted in court's majority opinion).

*NextEra Energy Global Holdings B.V., et al. v. Kingdom of Spain*, 1:19-cv-01618-TSC (pending petition to confirm EUR 290 million ICSID arbitration award against Spain under the Energy Charter Treaty, arising from solar energy investment).

*Norcast S.A.R.L v. Castle Harlan, Inc.*, 2017 NY Slip Op 01479 (N.Y. Sup. Ct. Appellate Division, First Department). Representing defendant in successfully defeating fraud and tortious interference lawsuit arising from purchase from Russian-owned company of the Canadian manufacturer of mining products. Earlier decision on "Section 1782 discovery" in

connection with separate Australian proceedings, *In re Application of Norcast S.ar.l*, 11 Misc. 00251 (S.D.N.Y. 2011).

*Occidental Exploration & Production Co. v. Encana Corp.* 19-cv-01717-AJN (S.D.N.Y.); representing Encana Corp. in a pending ICDR-AAA arbitration claiming over \$200 million in amounts owing under a 2006 contract relating to the expropriation (caducity) of an oil block in Ecuador and related ICSID proceedings; further representing Encana in related S.D.N.Y. injunction proceeding in 2019.

*Prospect Capital Corp. v. Enmon*, 08 Civ. 3721 (LBS), 2010 U.S. Dist. LEXIS 64312 (S.D.N.Y. June 23, 2010) & 2010 U.S. Dist. LEXIS 23477 (S.D.N.Y., Mar. 9, 2010) (representing prevailing party in AAA arbitration; obtaining award of attorney's fees as sanctions against opposing counsel based on 28 U.S.C. § 1927).

*Prospect Energy Corp. v. Enmon*, 290 Fed. Appx. 400, 2008 U.S. App. LEXIS 15629 (2d Cir. N.Y. 2008) (successful in motion to compel AAA arbitration of financial dispute; anti-suit injunction against Texas litigation).

*Renova Holding Ltd. v. Bresht* (N.Y. Sup. Ct. N.Y. County Aug. 17, 2006) (representing BVI entity in dispute over ownership of shares in Russian titanium enterprise; obtaining stay of New York fraud lawsuit pending resolution of arbitration before the London Court of International Arbitration (LCIA).)

*Republic of Argentina v. Peterson Energia Inversora, S.A.U.*, No. 18-581 (2018-19) (Supreme Court certiorari petition filed on behalf of Argentine government concerning relationship between "commercial activities" and "expropriation" exceptions in Foreign Sovereign Immunities Act).

*Republic of Iraq v. BNP Paribas USA*, 472 Fed. Appx. 11 (2d Cir. 2012) (representing bank in defeating motion to compel UNITRAL arbitration under a contract between it and the UN; non-party, the Republic of Iraq, had sought to claim benefit of contract to litigate certain issues concerning "Oil For Food" program).

*Sawtelle v. Waddell & Reed, Inc.*, 304 A.D.2d 103 (N.Y. App. Div. 1st Dep't 2003) (vacatur of first arbitration award) & 21 A.D.3d 820 (N.Y. App. Div. 1st Dep't 2005) (vacatur of second arbitration award), *appeal dismissed*, 6 N.Y.3d 750 (N.Y. 2005) (representing Kansas firm in successful motions to vacate two arbitration awards of \$25 million in punitive damages).

*Trump v. Cheng*, No. 602877/05, 2005 N.Y. Misc. LEXIS 2336 (Sup. Ct. N.Y. County Sept. 14, 2005) (injunction/vacatur of attachment); 2005 N.Y. App. Div. LEXIS 11027 (N.Y. App. Div. 1st Dep't Oct. 6, 2005) (refusal of injunction), 236 N.Y.L.J. 24 (Sup. Ct. N.Y. County 2006) (partial dismissal of complaint); 2009 N.Y. Misc. LEXIS 5343 (N.Y. Sup. Ct. Jan. 6, 2009) (denial of reargument/leave to renew). Representing defendants, general partners of major New York property development, in federal and state litigation brought by Donald J. Trump concerning limited partnership agreements governing "Hudson Waterfront" development on Upper West Side of Manhattan. Included motion for vacatur of a \$1 billion pre-trial attachment of assets against defendants and their alleged Hong Kong principals; dismissal of derivative claims brought against them by limited partner.

## AUTHORSHIPS - Timothy G. Nelson

*Take the Witness: Cross-Examination in International Arbitration* (co-edited with Lawrence Newman) (Juris 2019)

"Comparing Section 1782 with Other Cross-Border Discovery Methods—Letters Rogatory, Diplomatic/Consular Channels and Other Avenues" (with Gregory Litt) in *Obtaining Evidence for Use in International Tribunals Under 28 U.S.C Section 1782* (Edward M. Mullins & Lawrence W. Newman, eds.) (2020)

"Book Review of 'English Arbitration and Mediation in the Long Eighteenth Century by Derek Roebuck, Francis Boorman & Rhiannon Markless,'" in vol. 36 no. 2 *Arbitration International* (2020)

"Cuba: The Helms-Burton Statute's Limits" (with Steve Kwok & Ryan Junck) in *Latinvex* (June 17, 2020)

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"Japan's Whaling Plans Risk International Trade Pushback" in *Law360* (May 30, 2019).

"Where does space begin? The Decades-Long Legal mission to Find the Border Between Air and Space," *SpaceNews.com* (March 26, 2019)

"The Energy Charter Treaty" (with David Herlihy and Nicholas Lawn) in *Arbitration World* (6th Ed. 2019)

"The Defector, the Missing Map and the 'Hidden Majority' - Coping With Fragmented Tribunals in International Disputes, *Transnational Dispute Management* (August 2018)

"Evidentiary Inferences: Do Choice of Law and Seat Make a Difference?" (with Karyl Nairn & Paula Henin) in *Jurisdiction, Admissibility and Choice of Law in International Arbitration: Liber Amicorum Michael Pryles* (eds. Neil Kaplan & Michael Moser) (2018)

"Boycotts and Walkouts in International Arbitration," 15 *Transnational Dispute Management* 2018

"'Home Country' Arbitration Clauses — Worth The Trouble?" *Law360* (with Julie Bédard, Lea Haber Kuck), February 12, 2018

"Mining Sector Disputes" *Corporate Disputes* (October - December 2017)

"Moles, Bugs and Whistleblowers: Spycatcher in the 21st Century," *Law360* (Sept. 28, 2016)

"Billionaires Race for space, But Just Who Owns the Cosmos?" *CNBC.com* op ed (Aug. 29, 2016)

"RJR Nabisco' and the Future of Extraterritoriality," *The National Law Journal* (with Lea Haber Kuck) (July 4, 2016)

"Mining Outer Space: Who Owns the Asteroids?" *New York Law Journal* (July 29, 2015)

"Blowing Hot and Cold: State Commitments to Arbitrate Investment Disputes," *World Arbitration & Mediation Review* (2015)

"Recent Cases Are Likely to Reduce The Use of New York Courts For 'Turnover' Actions," *The Banking Law Journal* (with Lea Haber Kuck) (July/August 2015)

"The Lusitania and the Law," *New York Law Journal* (February 25, 2015)

"Regulating the Void: In-Orbit Collisions and Space Debris," *Journal of Space Law* (2015-16)

"Blast From the Past: The French Nuclear Test Cases, and their Relevance to 21st Century Arbitration," *Les Cahiers de l'Arbitrage/ Paris Journal of International Arbitration* (2014)

"Navigating the 'Gateway' to International Arbitration in the U.S. Courts - A Decade of Adventures, Post-*Howsam*," *World Arbitration & Mediation Review* (2014)

"A Factory in Chorzów: The Silesian Dispute That Continues to Influence International Law and Exploration Damages Almost a Century Later," *The Journal of Damages in International Arbitration* (2014)

"Binding Arbitration as an Effective Means of Dispute Settlement for Accidents in Outer Space" (with Henry R. Hertzfeld), IAC-13.E7, 2.1X17590, Paper Presented at Beijing IAC Annual Meeting, 2013.

"DSK and Assange: Two Controversial Cases That Test Diplomatic Law," *New York Law Journal* (Feb. 13, 2013)

"The Explosion and the Testimony: The WWI Sabotage Claims and an International Arbitral Tribunal's Power To Revise Its Own Awards," *The American Review of International Arbitration* (2012/Vol. 23 No. 2)

"Going Dutch - The Many Virtues of the Netherlands Model BIT," - *IBA Dispute Resolution International* (2012)

"Whale Wars in Seattle: A U.S. Court Discusses Antarctic Whaling," *MarineBio* (July 20, 2012)

"European Institutions as Litigants in America: Major Developments in the US Courts," *Dispute Resolution International* (Nov. 2011, Vol. 5, No.2)

"RSM and Millicom: Two African Cases Illustrate the Continued Vitality of Contractual Arbitration Clauses within ICSID," *The Journal of World Investment & Trade* (November 2011)

"The Moon Agreement And Private Enterprise: Lessons From Investment Law," *ILSA Journal of International & Comparative Law*, Timothy G. Nelson (August 2011, Vol. 17, No. 2)

"When the Lights Went Out: The Strange Death and Stranger Afterlife of the Barcelona Traction Case," *The Paris Journal of International Arbitration* (2011-4)

"The Validity of 'Class Action Arbitration' Waivers in Consumer Cases," *Financierworldwide.com* (May 2011)

"Can Parties To A NAFTA Arbitration Get Discovery From U.S. Courts Under 28 U.S.C. § 1782? The Methanex Question Revisited," *Mealey's International Arbitration Report* (February 2011)

"Human Rights Law and BIT Protection: Areas of Convergence," *The Journal of World Investment & Trade* (February 2011)

*AAA Handbook on International Arbitration & ADR*, Chapter 27: "Bilateral Investment Treaties and Arbitration" (September 2010), co-authored with Barry Garfinkel, Marco Schnabl and Julie Bédard

"Down in Flames: Three U.S. Courts Decline Recognition to Judgments from Mexico, Citing Corruption," *The International Lawyer* (Summer 2010)

"Annulment of International Arbitration Awards: The *Orinoco Steamship* Case Sails On," *ASA Bulletin* (June 2010)

"An Odious Reality," *IFLR* (June 3, 2010), co-authored with Julie Bédard

"Investor-State Arbitration and the U.S. Courts," *The National Law Journal* (May 31, 2010), co-authored with Marco Schnabl

*The Backlash Against Investment Arbitration: Perceptions and Reality* (ed. Michael Waibel, Asha Kaushal, Kyo-Hwa Chung, Claire Balchin), Chapter 24: "History Ain't Changed: Why Investor-State Arbitration Will Survive the 'New Revolution'" (Kluwer 2010)

"Render Unto Caesar No More?" *New York Law Journal* (April 12, 2010), co-authored with Julie Bédard

"Setting the Bar: The *Glamis Gold* Tribunal Sticks to the 1926 Standard for 'Minimum Treatment' of Foreign Investors" *IBA Arbitration News* (March 2010)

"Recovery of Attorneys' Fees in International Arbitration: The Duelling 'English' and 'American' Rules," *The Arbitration Review of the Americas 2010* (November 2009), co-authored with John Gardiner

"A Farewell to Arms? *West Tankers* and the Demise of the Anti-Suit Injunction in Europe," *New York Dispute Resolution Lawyer* (Fall 2009), co-authored with Colm McInerney

"'Inexcusable' Gamesmanship Sinks Arbitration Pact," *The National Law Journal* (August 3, 2009), co-authored with Paul Mitchard QC and Lea Haber Kuck

"Investor-State Arbitration and Investment Treaty Protection – The South-East Asian Angle," *Australian Resources & Energy Law Journal* (July 2009)

"Ecuador Moves to Denounce and Leave the ICSID Convention, Attempts to Curtail Investor-State Arbitration Rights," *Latin American Law & Business Report* (June 30, 2009)

"Passport, S'il Vous Plait?: Investment Treaty Protection and the Individual Investor's Citizenship", *Suffolk Transnational Law Review* (June 2009)

"New Arbitral Ruling in *Yukos* Case Exposes Possible Gaps in Bilateral Investment Treaty (BIT) Coverage for Managed Investment Funds; Important Lessons for Funds Investing in Emerging Markets or Volatile Countries," *Russia/Eurasia Executive Guide* (June 2009), co-authored with David Kavanagh, Paul Mitchard QC and, Karyl Nairn.

"Relinquishing Jurisdiction Over Statutory Claims," *New York Law Journal* (April 13, 2009), co-authored with Julie Bédard

"The Taiwan Relations Act, 30 Years On Encounters and Successes in the U.S. Courts," *The Journal of World Investment & Trade* (January 2009), co-authored with Jennifer Cabrera

"Enforcing Arbitration Agreements Amid Multi-Jurisdictional Litigation," *The 2009 Arbitration Review of the Americas - a Global Arbitration Review special report* (November 2008), co-authored with John Gardiner

"Into Orbit: 50 Years of Global Arbitration Under the New York Convention," *Revista de Arbitragem e Mediação 2008 - RArb 18* (November 2008)

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"Paranoids Have Enemies Too: Wiretapping and Other Clandestine Information-Gathering Techniques In International Arbitration," *Mealey's International Arbitration Report* (September 2008)

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"*BRIDAS v. Government of Turkmenistan*: U.S. Courts Uphold an Arbitrator's Power to Hold a Foreign Sovereign Liable for the Acts of its State-Owned Enterprise," *24 ASA Bulletin* 3/2006 (September 2006)

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