

Partner, New York

International Litigation and Arbitration



T: 212.735.2193
F: 917.777.2193
timothy.g.nelson@skadden.com

Education

B.A., University of New South Wales, Australia, 1990

LL.B., University of New South Wales Law School, Australia, 1990

B.C.L., University of Oxford, 1997
(John Morris Prize for Conflict of Laws)

Bar Admissions

New York

Associations

Fellow, Australian Centre for International Commercial Arbitration

Member, American Society of International Law

Member, International Law Association, American Branch

Timothy G. Nelson represents clients in a variety of disputes involving cross-border and international law issues, including arbitration before international bodies such as the American Arbitration Association/International Centre for Dispute Resolution (ICDR), the International Chamber of Commerce (ICC), Singapore International Arbitration Centre (SIAC), Hong Kong International Arbitration Centre (HKIAC), London Court of International Arbitration (LCIA), the International Centre for Settlement of Investment Disputes (ICSID) and tribunals constituted under the Arbitration Rules of the United Nations Commission of International Trade Law UNCITRAL), and the federal and state courts of the United States.

Mr. Nelson's international litigation and arbitration experience includes disputes involving contracts, international trusts, partnerships (limited and general) and corporate law, as well as cases falling under the 1980 Vienna Convention on Contracts for the International Sale of Goods (CISG). Mr. Nelson has been involved in litigation arising under the U.S. Federal Arbitration Act (FAA), the Foreign Sovereign Immunities Act (FSIA), the Alien Tort Claims Act (ATCA), the Helms-Burton Act of 1996, Section 1782 (the cross-border discovery statute), the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the 1965 Hague Convention on Service of Process. Additionally, Mr. Nelson regularly advises sovereign and corporate clients on public international law issues, including under multilateral treaties, such as NAFTA; the Energy Charter Treaty (ECT) bilateral investment treaties (BITS); and other international trade/investment agreements. He is co-editor of *Take the Witness: Cross-Examination in International Arbitration (2d ed. 2018)* and the *Journal of Enforcement of Arbitration Awards*.

Mr. Nelson's litigation and arbitration experience includes representing:

- a shareholder of the company operating the IndiGo airline in obtaining a 2020 order from the U.S. District Court of Maryland quashing a Section 1782 subpoena that had sought discovery and depositions from a third party in aid of an LCIA India arbitration between shareholders of the airline;
- Encana/Ovintiv, a Canadian energy company, in a dispute with Occidental Petroleum concerning the sharing of an ICSID award arising from Ecuador's 2006 expropriation of Block 15 (an oil project in the Ecuadorian Amazon);
- financial institutions in connection with claims under the Helms-Burton Act (a statute purportedly aimed at allowing U.S. nationals to sue persons "trafficking" in assets expropriated by the Cuban government following the 1959 revolution);
- Dutch affiliates of Nextera in proceedings in the U.S. District Court for the District of Columbia to enforce a 2019 ICSID arbitration award of over €290 million against Spain, arising from violations of the Energy Charter Treaty;
- a Texas oil and gas company in an LCIA arbitration with a Southeast Asian company concerning post-closing disputes arising from a share purchase agreement, including disputes concerning the treatment of oil inventory, offshore reserves and calculation of working capital;
- Atlantic LNG Co. of Trinidad and Tobago in successfully defending against a \$250 million claim by an affiliate of Gas Natural Fenosa in a UNCITRAL arbitration based in New York, involving a dispute concerning a long-term LNG supply contract with favorable merits and fees awards in October 2016 and March 2017;
- Castle Harlan in successfully defending a claim in New York's Supreme Court by Norcast/Pala Group concerning the sale of a Canadian company to Bradken Ltd. of Australia;

Timothy G. Nelson

Continued

-
- three claimants in an UNCITRAL arbitration against the Republic of India under the Mauritius-India BIT concerning an investment by investors in India's satellite/space telecommunications sector. A Hague tribunal rendered a favorable merits award in August 2016;
 - Devas Multimedia Pvt. Ltd., an Indian satellite and telecommunications company, in an ICC arbitration against an Indian space agency regarding repudiation of a long-term satellite contract. A final merits award of over \$670 million (plus interest) was issued in September 2015, and the award is currently subject to enforcement proceedings in federal court in Seattle;
 - CIBC, in the case of *Commonwealth of Northern Marianas v. Millard*, in which the plaintiff, in a bid to enforce a large New York judgment, attempted to force a Canadian bank to identify and restrain assets allegedly held by its Cayman Islands subsidiary bank; the New York Court of Appeals held in 2013 that state judgment turnover/restraint proceedings cannot reach accounts in foreign subsidiary banks;
 - SIFMA, in the case of *Motorola v. Uzan*, in submitting an *amicus* brief cited favorably by the New York Court of Appeals in its 2014 decision reaffirming the "separate entity rule." Under this rule, even if a bank has a New York branch, state judgment turnover/restraint proceedings cannot reach accounts in foreign branches of that bank;
 - the owners of Cemex Venezuela SACA, formerly Venezuela's largest cement maker, in an ICSID arbitration against the government of Venezuela seeking compensation for expropriation of that enterprise;
 - the general partner of the Hudson Waterfront LPs in successfully defeating Donald Trump's 2005 New York State Supreme Court lawsuit, which sought to challenge the \$1.8 billion sale of Manhattan's Riverside Plaza to Extell Development Corporation and the Carlyle Group;
 - the Argentine National Social Security Administration (ANSES) in its successful appeal from a New York federal court's order freezing certain U.S.-based pension accounts, which had been the subject of a 2008 Argentine law directing private pension funds to be placed under ANSES administration. The Second Circuit held that the assets were covered by the FSIA and therefore could not be used to satisfy debts of the Republic of Argentina;
 - the investors in *Kardassopoulos and Fuchs v. Georgia*, an ICSID arbitration against the Republic of Georgia involving expropriation of oil pipeline rights, including under the Energy Charter Treaty, the Greece-Georgia BIT and the Israel-Georgia BIT;
 - the owners of debt issued by CIESA, one of Argentina's largest energy companies, in New York Supreme Court litigation to enforce that indebtedness. This case was the winner of *Latin Lawyer's* 2012 Deal of the Year Award in the disputes category;
 - a Singapore investor, Cemex Asia Holdings Ltd., in an ICSID arbitration against the government of Indonesia, alleging violation of minority investment rights, expropriation of assets and breaches of the 1987 ASEAN multilateral investment protection treaty in connection with a cement operation in Indonesia;
 - a Korean company in a SIAC arbitration against a U.S. party, governed by the CISG and related to the supply of high-performance engineering equipment;
 - a Korean company in an ICC arbitration (Singapore seat) concerning franchising of store operations in the fashion industry;
 - a shareholder of a major telecommunications company (with operations in Russia and elsewhere) in an M&A dispute, governed by UNCITRAL arbitration rules, with a Norwegian telecommunications company;
 - a Canadian medical device company in an ICDR arbitration against its U.S. distributor;
 - a U.S. mezzanine lender in an AAA arbitration by a would-be borrower who had sought funds to purchase a New Mexico oil and gas pipeline business; securing a New York federal court antisuit injunction to restrain the borrower's attempts to bring claims in Texas state court (in violation of the parties' arbitration agreement); successfully defeating the borrower's appeal to the Second Circuit against the New York court's order compelling arbitration; enforcing the AAA award (which rejected each of the borrower's claims); and obtaining sanction against opposing counsel;
 - a U.S. financial institution in a share valuation dispute with an agency of the government of Korea, resolved successfully by an ICC-appointed arbitrator;
 - Spanish insurer Mapfre Empresas Compañía de Seguros y Reaseguros, S.A., securing *forum non conveniens* dismissal of a lawsuit brought against it in the Supreme Court of New York, New York County, by construction and engineering company Foster Wheeler Iberia;
 - the Israeli owners of the *Jerusalem Post* in New York court proceedings ancillary to an ICDR arbitration in concerning ownership of that newspaper;
 - a British Virgin Islands company in an action in New York's Supreme Court concerning ownership of a Russian titanium company, successfully seeking a stay of all New York proceedings pending the result of a related arbitration before the LCIA;
 - two German business executives who successfully challenged the jurisdiction of the U.S. District Court in New York to hear a claim against them involving alleged breach of a management buyout agreement;
 - a Chinese-owned property company in a large ICDR hotel management arbitration in New York involving contract and accounting issues, fraud and RICO claims concerning hotels in North America, Europe and Australia; and
 - a Kansas securities firm in its successful challenge to two successive \$25 million punitive damages awards by a panel of NASD arbitrators.
-

Before joining the firm in 2000, Mr. Nelson practiced as a commercial litigation attorney at major law firms in England and Australia. He has been selected as a leading lawyer in *Chambers Global*, *Chambers USA*, *Chambers Latin America*, *The Best Lawyers in America* and *Who's Who Legal - Arbitration*. Mr. Nelson also was selected by *Benchmark Litigation* as a 2021 and 2016 Benchmark Litigation Star, and was named to Lawdragon's inaugural Global Litigation 500 list in 2021. Mr. Nelson also is a prize winner of the 2013 ILO Client Choice Awards in the New York arbitration category and the Burton Award for legal writing, and has been published several times in leading publications, including a leading treatise on serving foreign defendants from countries that are not party to the Hague Convention, "Overseas in Non-Hague," in the *New York Law Journal*.

Selected Publications

- "Cuba: Helms-Burton Statute's Limits," *Latinvex*, June 17, 2020
- "How Anti-Terrorism Act Extension Affects Mainstream Cos.," *Law360*, May 29, 2020
- "Comparing Section 1782 with Other Cross-Border Discovery Methods — Letters Rogatory, Diplomatic/Consular Channels and Other Avenues," *Obtaining Evidence for Use in International Tribunals Under Section 1782*, April 2020
- "Enforcing International Arbitration Awards: US Courts Achieve Prompt and Efficient Enforcement, With Safeguards," *Skadden's 2020 Insights*, January 21, 2020
- "Japan's Whaling Plans Risk Int'l Trade Pushback," *Law360*, May 30, 2019
- "Where Does Space Begin? The Decades-Long Legal Mission to Find the Border Between Air and Space," *SpaceNews*, March 11, 2019
- "International Arbitration Community Turns Its Focus to Cybersecurity," *Skadden's 2019 Insights*, January 17, 2019
- "The Defector, the Missing Map and the 'Hidden Majority' - Coping with Fragmented Tribunals in International Disputes posted on Transnational Dispute Management," *Transactional Dispute Management*, August 2018
- "'Home Country' Arbitration Clauses — Worth The Trouble?" *Law360*, February 12, 2018
- "Growing Acceptance of Arbitration in International Commercial Financial Transactions," *Skadden's 2018 Insights*, January 23, 2018
- "Regulating The Void: The-Orbit Collisions and Space Debris," *Journal of Space Law*, Vol 40, Nos. 1-2, 2015-2016
- "Recent Cases Are Likely to Reduce The Use of New York Courts For 'Turnover' Actions," *The Banking Law Journal*, July/August 2015
- "The Evolving Landscape for Enforcement of International Arbitration Awards in the United States," *The International Comparative Legal Guide to: International Arbitration*, July 2015
- "The Lusitania and the Law," *New York Law Journal*, February 25, 2015