

**THOMAS J. BREWER
ARBITRATOR**

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RESUME

Profession:

Independent arbitrator specializing in international and domestic commercial arbitrations.

Arbitration Experience:

Arbitration experience includes both domestic and international commercial arbitrations, with over 350 appointments as panel chair, neutral panelist arbitrator or sole arbitrator since becoming a full-time neutral in 2000. The cases have ranged from complex, multi-party business disputes with large amounts in controversy to a wide variety of other matters, of varying size, involving corporations, privately-held companies, LLC's, partnerships, joint ventures, governmental entities and individuals. Prior cases have included a wide range of business and commercial disputes, principally in the following areas:

BUSINESS AND COMMERCIAL: Commercial contracts, sale of business/asset purchase, corporate governance and disputes between business co-owners, product development and licensing, insurance, international trade, commercial real estate and many other kinds of business agreements and transactions. Member of the ICDR's International Roster of arbitrators, the AAA's Commercial and Large, Complex Case panels, and of the CPR Institute's Cross-Border, National Panel of Distinguished Neutrals and Commercial Real Estate panels of arbitrators. Examples of specific prior cases include:

- A domestic arbitration between a professional athlete and a manufacturer of athletic clothing and footwear arising out of an international licensing and promotional agreement (Panel Chair).
- A dispute between a Class I railroad and eleven short lines over interpretation of the rate provisions in their freight operating agreements (Neutral Panelist).
- An international arbitration between British, Israeli and U.S. investors in a commercial real estate project related to alleged breaches of the parties' development agreements, fiduciary duties and capital call obligations (Neutral Panelist).

- A dispute between Alaska Regional Corporations over whether certain revenues must be shared pursuant to the requirements of the Alaska Native Claims Settlement Act (Panel Chair).
- A contract dispute between a Texas tank farm and an international customer over billings following a fire and invocation of a *force majeure* clause (Neutral Panelist).
- An employment-termination dispute between a major league baseball team and one of its former management employees (Sole Arbitrator).
- An antitrust dispute between a large U.S. national retailer and a Japanese manufacturer of flat screen technology products relating to damages allegedly caused by a horizontal price-fixing conspiracy (Sole Arbitrator).
- An international arbitration between U.S. and Korean parties alleging breaches of long-term international supply contracts for zinc concentrates (Panel Chair).
- An international arbitration of a franchising dispute between parties from India and the U.S. (Sole Arbitrator).
- A commercial real estate arbitration involving decennial rent re-set appraisal and valuation issues related to the biotech campus buildings of a large U.S. medical school (Neutral Panelist).
- Additional examples available at www.tjbrewer.com.

ENERGY, OIL & GAS, ELECTRIC POWER: Oil and gas arbitrations have included participation agreement, area of mutual interest, marketing and trading, pipeline, refinery, natural gas gathering, treating, processing, transport and sales, contract interpretation, royalty, production curtailment, joint venture, petrochemical, sale of business and valuation disputes. Electricity arbitrations have included numerous power purchase agreements, tolling, transmission, joint operating, co-generation, PURPA, ISO/RTO, contract interpretation, wind, solar and photovoltaic projects, biomass, steam supply, project development and other types of disputes and agreements. Member of the ICDR's International Energy Arbitrators List, the AAA's National Energy panel, and of the CPR Institute's Energy, Oil & Gas panel of arbitrators. Examples or prior cases include:

- An international arbitration between co-owners of a 100,000 barrel/day Texas oil and gas refinery and related trading entity arising out of a corporate governance dispute, resulting exercise of one owner's "put" rights and valuation of the refinery (Panel Chair).
- A domestic energy arbitration involving claims for royalty income damages arising out of production curtailments and pipeline replacements in a large U.S. oil field (Panel Chair).
- An arbitration between parties to an electric power tolling agreement involving claims for recovery of winter reliability penalties imposed by the New England ISO and counterclaims alleging miscalculation of availability charges (Panel Chair).
- An energy arbitration between an RTO and a transmission customer over alleged breaches of a service agreement (Panel Chair).
- A domestic energy arbitration between parties to an oil and gas participation agreement over interpretation and implementation of an "area of mutual interest" provision (Neutral Panelist).

- An energy arbitration over interpretation of the price term in a long-term gas purchase contract (Panel Chair).
- An energy arbitration involving alleged breaches of an agreement providing for development and financing of solar electric power projects for a California city (Neutral Panelist).
- A wind energy dispute between the owner of a 5,000+ acre wind power generation project and a large public utility over alleged curtailment losses arising under a long-term power purchase agreement (Panel Chair).
- A dispute between a California city and the owner of a gas-fired power plant involving disputes arising under a power purchase tolling agreement, and under a related interconnection and transmission services agreement (Sole Arbitrator).
- A domestic energy arbitration between a coal-fired electric power generating plant and a utility over interpretation of the pricing provisions in a long-term (30 year) power purchase agreement (Panel Chair).
- Additional examples available at www.tjbrewer.com.

TECHNOLOGY/INTELLECTUAL PROPERTY: IP and technology arbitrations have included patent, royalty, product development and licensing disputes related to semiconductor, pharmaceutical, medical product, vaccine, telecom and other technologies, trade secret misappropriation and Lanham Act disputes, copyright, software and business acquisition-related IP disputes. Member of the AAA's Intellectual Property and of the CPR Institute's Health Care and Life Sciences panels of arbitrators. Member of the Silicon Valley Arbitration & Mediation Center's Tech List of leading arbitrators and mediators in the technology sector (2020 and prior years). Examples of prior cases include:

- A domestic patent licensing and product development dispute relating to development of a vaccine (Panel Chair).
- An international arbitration related to patent licensing and product development agreements for technologies used in e-readers (Panel Chair).
- A trade secret arbitration involving alleged misappropriation of a hedge fund's financial modelling technologies by two former employees who started a competing fund (Neutral Panelist).
- An international biotech arbitration between US and Swiss parties related to alleged breaches of a licensing agreement covering certain genotypes sold for use in a test kit for human papillomavirus (Neutral Panelist).
- An international arbitration between U.S. and Dutch parties of a trade secret, breach of contract and RICO dispute between competing manufacturers of an environmental remediation product (Neutral Panelist).
- An international pharmaceutical licensing dispute between U.S. and Canadian parties (Panel Chair).
- A patent arbitration relating to "winglets" used on certain commercial airliners (Neutral Panelist).
- An international arbitration involving a pharmaceutical licensing dispute between U.S. and Indian parties (Panel Chair).

- An international arbitration between a U.S. seller and a Japanese buyer over alleged breaches of an asset purchase agreement for a nanocrystal technology business (Sole Arbitrator).
- Additional examples available at www.tjbrewer.com.

LLC, M&A and JOINT VENTURES: Substantial experience in arbitrations involving disputes between investors and business co-owners, including LLC members, M&A, joint operating and joint venture agreements, asset purchase, representations and warranties, post-closing purchase price and escrow adjustments, earnout provisions, tax-related acquisition disputes and non-competition disputes. Member of the AAA's M&A and Joint Ventures panel of arbitrators. Examples of prior cases include:

- An international M & A arbitration between European and U.S. parties arising out of the sale of a software company involving alleged breaches of representations and warranties given by the sellers related to balance sheet and tax liabilities (Neutral Panelist).
- An accounting-related dispute between members of an LLC that operated a gold mine in Alaska (Neutral Panelist).
- An arbitration between owners of an East Coast marine fuel terminal involving claims of breach of fiduciary duties by the LLC's Managing Member (Panel Chair).
- An international arbitration between a US software company and its Saudi Arabian joint venture partner (Panel Chair).
- An arbitration between two telecommunications companies arising out of an asset sale (Sole Arbitrator).
- Additional examples available at www.tjbrewer.com.

OTHER: Arbitration experience also includes numerous construction cases, ERISA multiemployer pension plan withdrawal liability disputes, class action and Fair Labor Standards Act (FLSA) collective arbitrations, insurance coverage, healthcare payor-provider reimbursement disputes, service as an ICDR Article 37 emergency arbitrator, and many other types of commercial cases. Member of the AAA/ICDR's Aviation, Aerospace and National Security panel of arbitrators to handle high-value defense, cyber and security-related disputes in the aerospace, aviation and national security sectors. Substantial prior experience in arbitrations involving aviation, aerospace, software, railroad and government-related disputes. Examples include:

- A government-contracting dispute related to satellite bandwidth used for U.S. military applications (Sole Arbitrator).
- An international arbitration between a U.S. aircraft manufacturer and a European customer involving breach of warranty claims (Panel Chair).
- An international arbitration between Israeli and Chinese parties over licensing and development for civilian applications of a technology product originally developed for military applications by the Israeli Air Force (Neutral Panelist).
- An international arbitration relating to interpretation of the royalty provision in a software licensing agreement covering a GPS product sold to the commercial aviation industry (Neutral Panelist).

- An international arbitration between US and Canadian railroads to set fair-market rental car-hire rates for use of a fleet of 73-foot centerbeam flatcars (Sole Arbitrator).
- A domestic arbitration between an airline providing charter aircraft services and a logistics services provider over alleged wrongful termination of an aircraft services contract for cargo transport aircraft (Sole Arbitrator).
- An international arbitration between a U.S. airline and three European airlines over interpretation of revenue sharing agreements following a merger involving one of the original contracting parties (Neutral Panelist).
- An indemnification and breach of contract dispute between a U.S. airline and a service provider arising out of a service agreement under which the provider agreed to provide wheelchair-assistance services to inbound and outbound passengers at a U.S. airport (Sole Arbitrator).
- Additional examples available at www.tjbrewer.com.

Education:

Dartmouth College (B.A., Government, magna cum laude, 1968); Oxford University (B.A., Jurisprudence, First Class Honours, Wronker and Jurisprudence Prizes, Rhodes Scholar, 1973); Harvard Law School (J.D., magna cum laude, law review, 1975).

Awards and Honors:

Listed in *Best Lawyers in America* for arbitration, 2020 and prior years. Selected by *Best Lawyers* as Lawyer of the Year for arbitration in Seattle in 2015, 2017 and again for 2019. Fellow, College of Commercial Arbitrators. Fellow, Chartered Institute of Arbitrators (FCIArb). *Who's Who Legal: Arbitration*, 2019 and prior years (*WWL* comment: "'superlative' and was particularly picked out for his expertise relating to IP disputes and energy cases"), *Washington Super Lawyers*, 2003-2020.

Work History:

Self-employed full-time neutral since 2000. Trial lawyer 1975-2000. Experience serving as an arbitrator, court-appointed special master, and mediator in commercial cases since 1986. Partner, Wickwire Greene Crosby Brewer & Seward, 1994-2000; Partner (1981-94) and Associate (1975-81) Heller Ehrman White & McAuliffe, (including predecessor firm acquired by merger).

Publications and Speaking Engagements:

Speaker, 2017 National Energy Arbitration Conference: "Resolving Energy Arbitrations in Times of Crisis," CI Arb, Houston; Contributing Author, THE COLLEGE OF COMMERCIAL ARBITRATORS GUIDE TO BEST PRACTICES IN COMMERCIAL ARBITRATION, 4th ed., Juris Net 2017 (and to the three prior editions); Speaker, 2016 AAA/ICDR National Panel Conference, "Red Flags and Risk Areas for Arbitrators: A Review of Recent Cases Challenging Arbitrator Authority," New Orleans, 2016; Speaker, AAA Seminar: "Arbitration Advocacy for Courtroom Lawyers: Two Experienced

Arbitrators Discuss What Works, and What Doesn't, in Arbitration," Denver, 2015; Contributing Author, THE LEADING PRACTITIONERS' GUIDE TO INTERNATIONAL OIL & GAS ARBITRATIONS, (Juris, Gaitis ed., 2015); (partial Listing.)

Additional Information:

Additional information, and a printable CV, are available at www.tibrewer.com.

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