

THOMAS J. BREWER
ARBITRATOR

188 Ericksen Avenue NE Bainbridge Island, WA 98110 T: +1 206 780 5037	Email: tjbrewer@tjbrewer.com Website: www.tjbrewer.com
--	--

RESUME

Profession:

Independent Arbitrator.

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. Substantial experience managing in-person hearings, virtual (*e.g.*, Zoom) hearings, and applying various kinds of arbitration agreements, including agreements requiring international, domestic, “baseball” and other procedures. 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: Served as an arbitrator in many cases involving interpretation or enforcement of commercial contracts, including disputes related to LLC’s, partnerships, joint venture and joint operating agreements; sales of business/asset purchases and post-closing disputes; corporate governance and disputes between business co-owners; product sales, development, licensing, distribution and warranty disputes; insurance; international trade; commercial real estate; and many other kinds of business agreements and transactions. The cases have involved a wide variety of industries and businesses, including aerospace, airline, apparel, beer and wine distribution, commercial health care, commercial real estate, construction, dental and medical equipment sales and distribution, electric power, environmental, forest products, Indian gaming, investment and financial firms, LNG, manufacturing, mining, oil and gas, pharmaceutical, professional sports, railroad, satellite, seafood, soft drink bottling, software, technology and telecommunications. 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 multi-party domestic arbitration involving claims of wrongful termination of an exclusive distribution agreement in the soft drink bottling industry (Panel Chair).
- An international (ICC) arbitration over covid-related disputes arising under a professional sports-related sponsorship and license agreement (Neutral Panelist).
- A nine-figure dispute between all of the Alaska Regional Corporations created pursuant to the Alaska Native Claims Settlement Act involving interpretation of a settlement agreement. (Panel Chair).
- An energy arbitration over interpretation of the price term in a long-term gas purchase contract (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 in Nevada related to alleged breaches of the parties' development agreements, fiduciary duties and capital call obligations (Neutral Panelist).
- An international arbitration between U.S. and Korean parties alleging breaches of long-term international supply contracts for zinc concentrates (Panel Chair).
- A dispute between a private investment firm and several of the firm's portfolio managers over interpretation of contractual provisions governing holdback accounts (Neutral Panelist).
- An international arbitration between U.S. and French parties following a fire at a Texas fuel storage facility concerning interpretation of a force majeure clause (Neutral Panelist).
- A construction arbitration related to the structural steel subcontract for construction of a sports stadium at a U.S. university (Neutral Panelist).
- A commercial real estate arbitration involving decennial rent re-set appraisal and valuation issues related to the biotech campus buildings at a U.S. medical school (Neutral Panelist).
- A dispute between a provider of pharmacy benefit management services and a Medicare Part D plan sponsor involving claims of alleged breaches of a provider agreement (Panel Chair).
- 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 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 international construction arbitration relating to a large wind farm project in Mexico (Neutral Panelist).
- An international (UNCITRAL rules) arbitration involving a dispute over interpretation and application of a *force majeure* clause in a long-term LNG take-or-pay supply contract (Neutral Panelist).
- 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 involving alleged breaches of an agreement providing for development and financing of solar electric power projects for a California city (Neutral Panelist).
- A dispute between a natural gas, geothermal and electric power generator and an electric cooperative over alleged breaches of a long-term power purchase agreement following a catastrophic winter storm in Texas (Panel Chair).
- 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. Examples include:

- A domestic patent licensing and product development dispute relating to development of a vaccine (Panel Chair).
- An international arbitration between Japanese and US parties involving disputes over interpretation of a long-term sales contract for technology products used in the aviation industry (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 arbitration between a European manufacturer of dental handpieces, turbines, sterilizers and other dental instruments and US and Australian parties over alleged wrongful termination of an exclusive distribution agreement and misappropriation of trade secrets (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 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 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).
- A patent licensing dispute related to distribution in Brazil of certain agricultural seed products containing patented insect-resistant transgenically modified traits (Panel Chair).
- An international arbitration related to patent licensing and product development agreements for technologies used in e-readers (Panel Chair).
- 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 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 dispute related to interpretation of a contract providing for resale of satellite bandwidth intended for a military end-use application (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).
- 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:

Fellow, College of Commercial Arbitrators. Fellow, Chartered Institute of Arbitrators (FCIArb). Listed in *Who's Who Legal: Arbitration*, 2022 and prior years (*WWL* 2022 comments, based on peer interviews: "He is truly talented and insightful. . . a superior arbitrator, one of the finest with whom I have had the pleasure to sit. . . very experienced, very fair minded and very smart. . . an exceptional arbitrator.") Listed in *Best Lawyers in America* for arbitration, 2022 and prior years. Ranked in Chambers USA and Chambers Global (2021) in the category of International Arbitration. Listed in *Washington Super Lawyers*, 2003-2022. Selected by *Best Lawyers* as Lawyer of the Year for arbitration in Seattle in 2015, 2017 and again for 2019.

Work History:

Self-employed full-time ADR neutral since 2000. Civil trial lawyer representing and counselling clients in commercial disputes 1975-2000. 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). Experience serving as an arbitrator, court-appointed special master, and mediator in commercial cases since 1986. Heavy arbitration caseload since about 1994.

Publications and Speaking Engagements:

Speaker, 2017 National Energy Arbitration Conference: "Resolving Energy Arbitrations in Times of Crisis," CIArb, 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.

(Last Updated: January 2023)