



Donny Surtani



Contents

International Arbitration	2
Financial Services	3
Joint Ventures & MA Disputes	3
Insurance	4
Construction & Engineering	4
Energy & Natural Resources	4
Qualifications	5
Recent Publications	5
Recommendations	5

Donny Surtani

Call 2020

"A first rate advocate with a modern, solutions-oriented outlook: clever, responsive and commercial in his approach."

(Partner, Herbert Smith Freehills)

 +44 (0)20 7797 8100 dsurtani@crownofficechambers.com

Donny Surtani specialises in commercial and financial disputes, with a focus on international arbitration.

His areas of practice include financial services, joint ventures and M&A disputes, civil fraud claims, insurance disputes (coverage and otherwise), third party funding, and disputes involving professional services firms. Donny is dual-qualified in England and Ontario, and divides his practice largely between London and Toronto.

Prior to being called to the Bar, Donny was a solicitor (since 2006) and solicitor-advocate (since 2008) and spent 15 years at Herbert Smith Freehills, where he was a partner in its London office, and he continues to be a consultant to the firm. He has also lived and worked in India, on secondment to the in-house legal department of a large conglomerate with interests in energy, telecoms, shipping and infrastructure.

He has acted in a number of large scale disputes, including the Russian Aircraft Claims insurance litigation (relating to losses suffered by Russian airlines' non-return of aircraft following Russia's invasion of Ukraine and the international sanctions that followed), the RBS Rights Issue litigation (a large group action under s.90 of FSMA relating to the bank's April 2008 rights issue prospectus) and a \$1.3 billion insurance coverage claim brought by Single Buoy Moorings against a number of insurers (relating to a mobile offshore production unit under construction in the Norwegian North Sea).

Donny accepts instructions to act as an arbitrator or mediator. He is a Fellow of the Chartered Institute of Arbitrators, a CEDR-accredited mediator and a panel neutral with a number of arbitral institutions (including in Canada, the US, Dubai, Singapore and Hong Kong). He also serves as a Senior Adviser to the Investment Committee of a well-known global litigation funder, and has been an invited guest lecturer at universities in England, Canada and India.

Prior to his legal career, Donny was a chartered management accountant, working for an energy major in Sri Lanka and in London. As such, he is often instructed in disputes involving accounting issues and matters with complex quantum aspects.

International Arbitration

As counsel:

- Acted for a consortium of litigation funders in LCIA arbitration proceedings against the parties they had funded, in a dispute concerning the enforceability and performance of rights and obligations under a litigation funding agreement (London seat, English law).
- Advising a listed US corporation on ad-hoc international arbitration claims against a group of international insurers relating to its D&O coverage in connection with settlement costs following a class action (Toronto seat, New York law).
- Acting for an Indian corporate group in an international ad-hoc arbitration claim against a UK counterparty concerning breach of a long-term commodity supply agreement (London seat, English law).
- Advised a British Virgin Islands SPV in an LCIA arbitration against a Cayman private equity vehicle in relation to a joint venture investment in a north Asian infrastructure business, and in related litigation in England's Commercial Court (London seat, English law).
- Advised a consortium of European banks in LCIA arbitration proceedings against an Eastern European borrower and guarantors, and a related freezing injunction, arising out of alleged fraud in the borrower's declarations of agricultural inventory (London seat, English law).
- Advised a Chinese investor in relation to quantum and settlement aspects of a large SIAC arbitration claim alleging fraudulent misrepresentation against its European joint venture partner (Singapore seat, English law).
- Advised a Middle Eastern investor in a high value fraud claim under the LCIA-India Rules against its joint venture partner in the agriculture sector (New Delhi seat, Indian law).
- Acted for an Indian telecommunications company on the quantum phase of its US\$400 million ICC arbitration dispute seated in The Hague, arising from the construction of a submarine cable system and relating to alleged loss of access to the Indian market (The Hague seat, New York law).
- Advised a FTSE-listed communications company on LCIA proceedings and a related injunction application in a claim relating to termination rights in key infrastructure agreements (London seat, English law).
- Advised an Indian oil exploration company in ICC arbitration proceedings against its rig operator and repair contractor for defective work and overcharging of costs and wages (London seat, English law).
- Advised a Japanese construction business on an LCIA arbitration dispute concerning a Middle Eastern agency relationship (London seat, Japanese law)
- Advised a US energy group in relation to LCIA arbitration proceedings (and related English High Court matters) arising out of an investment into a petrochemicals project (London seat, English law).
- Advised a Russian-owned mining group in relation to LCIA arbitration proceedings (and related southern African litigation) arising out of a failed disposal of a metal mining asset, including complex evidence on real-options cash flow valuation methodologies (London seat, English law).
- Advised the purchaser of a Central Asian energy business in an LCIA arbitration claim against the seller for breach of accounting warranties (London seat, English law)
- Advised a leading US cash fund manager defending an LCIA arbitration claim by a former client for alleged misinterpretation of mandate terms and mismanagement of funds (London seat, English law).
- Advised a large European insurance group on an LCIA arbitration claim against its external fund manager for negligent management of policyholder funds (London seat, English law).

As arbitrator:

- Sole arbitrator in an ad-hoc arbitration dealing with multi-million dollar claims to post-completion payments and escrow monies under a share purchase agreement (Toronto seat, Ontario law).
- Party-nominated arbitrator in an ad-hoc arbitration concerning buy-out rights in a joint venture (Toronto seat, Ontario law).
- Sole arbitrator in an ICC arbitration relating to rights under an intellectual property licensing agreement between a US party and a Brazilian party (Toronto seat, California law).
- Sole arbitrator in a residential construction contract dispute under VanIAC Rules, relating to issues of cost overruns, design variations and quantum meruit (Vancouver seat, British Columbia law).
- Sole arbitrator in a residential construction contract dispute under VanIAC Rules, relating to rights under a Certificate of Payment (Vancouver seat, British Columbia law).

Financial Services

- Advised a specialist Luxembourg fund in the enforcement of a loan agreement against a Cypriot borrower, including securing an order imposing a payment condition on the defendant's right to defend the claim.
- Advised a multinational construction company on its prospective English High Court claim against a major European investment bank for dishonest assistance and/or breach of the Quincecare duty.
- Advised a consortium of European banks in LCIA arbitration proceedings against an Eastern European borrower and guarantors, and a related freezing injunction, arising out of alleged fraud in the borrower's declarations of agricultural inventory.
- Advised the Royal Bank of Scotland and its former directors in their defence of a £4 billion prospectus liability claim in the English High Court by approximately 40,000 investors in connection with the bank's 2008 equity fundraising.
- Advised UBS AG in its successful defence of a claim relating to a transaction under a 1992 form ISDA Master Agreement brought by administrators of Kaupthing UK in both the English Commercial Court and Court of Appeal (with New York law aspects).
- Advised a leading US cash fund manager defending an LCIA arbitration claim by a former client for alleged misinterpretation of mandate terms and mismanagement of funds (London seat, English law).

Joint Ventures & MA Disputes

- Sole arbitrator in an ad-hoc arbitration dealing with multi-million dollar claims to post-completion payments and escrow monies under a share purchase agreement (Toronto seat, Ontario law).
- Party-nominated arbitrator in a dispute concerning buy-out rights in a joint venture.
- Advised a British Virgin Islands SPV in an LCIA arbitration against a Cayman private equity vehicle in relation to a joint venture investment in a north Asian infrastructure business, and in related litigation in England's Commercial Court.
- Advised a Chinese investor in relation to quantum and settlement aspects of a large SIAC arbitration claim alleging fraudulent misrepresentation against its European joint venture partner.
- Advised a Middle Eastern investor in a high value fraud claim under the LCIA-India Rules against its joint venture partner in the agriculture sector.

- Advised a Cayman limited partner on a just and equitable winding up petition relating to alleged fraudulent self-dealing by the majority partners.
- Advised a UK shipping business on the terms of its separation from its former joint venture partner under an expert determination procedure.

Insurance

- Advising a listed US corporation on ad-hoc international arbitration claims against a group of international insurers relating to its D&O coverage in connection with settlement costs following a class action.
- Advising a major aircraft lessor on contingent and possessed coverage claims arising out of terminations of leasing arrangements following Russia's invasion of Ukraine
- Advising a leading hospitality group on nine-figure business interruption claims resulting from Covid-19.
- Advised Single Buoy Moorings on its \$1.3 billion coverage claim in the English High Court arising out of the abandonment of a mobile offshore oil production unit in the Norwegian North Sea.
- Advised a large retail group on contribution proceedings against a global insurance firm in connection with liabilities flowing from the mis-selling of consumer insurance products.
- Advised a European insurance firm on liabilities flowing from the sale of its UK insurance business and claims for contribution against the other selling shareholders.
- Advised a major UK insurance broker on the prospective mediation/settlement strategy of a claim brought against it by a Northern European regulatory authority.
- Settlement counsel for two UK financial institutions in coverage disputes with their insurers in connection with compensation payments made to their customers.

Construction & Engineering

- Advised Single Buoy Moorings on its \$1.3 billion coverage claim in the English High Court arising out of the abandonment of a mobile offshore oil production unit in the Norwegian North Sea.
- Acted for an Indian telecommunications company on the quantum phase of its US\$400 million ICC arbitration dispute seated in The Hague, arising from the construction of a submarine cable system and relating to alleged loss of access to the Indian market.
- Acting for an international energy construction group in Commercial Court litigation concerning the terms on which it terminated its relationship with a former business counterparty.
- Advised a Japanese construction business on an LCIA arbitration dispute concerning a Middle Eastern agency relationship.
- Acted for a FTSE-listed communications company on LCIA proceedings and a related injunction application in a claim relating to termination rights in key infrastructure and supply agreements.

Energy & Natural Resources

- Acting for an Indian corporate group in an international ad-hoc arbitration claim against a UK counterparty concerning breach of a long-term commodity supply agreement.
- Advised a US energy group in relation to LCIA arbitration proceedings (and related English High

Court matters) arising out of an investment into a petrochemicals project.

- Advised a Russian-owned mining group in relation to LCIA arbitration proceedings (and related southern African litigation) arising out of a failed disposal of a metal mining asset, including complex evidence on real-options cash flow valuation methodologies.
- Advised the purchaser of a Central Asian energy business in an LCIA arbitration claim against the seller for breach of accounting warranties.

Qualifications

- Chartered Institute of Management Accountants (CIMA) professional examinations all stages
- LLB (Hons), London School of Economics
- LPC, BPP Law School
- Solicitor, England & Wales
- Solicitor-Advocate, England & Wales
- Accredited Mediator, Centre for Effective Dispute Resolution
- Fellow, Chartered Institute of Arbitrators

Recent Publications

- Guide to Effective Conflict Management – International Chamber of Commerce, July 2023 (contributing author)
- Durable as gold: Canada's 1989 investment treaty with the USSR is binding on Kazakhstan (2022) 3:1 Can J Comm Arb 137-143
- Arbitration – 2021 in review: reasons (for claimants) to be cheerful – New Law Journal, 2022, 17
- What is the investment value of a dispute? (with M.L. McGrath) – Thomson Reuters Westlaw, October 2021
- Setting aside arbitral awards: warnings from the common law courts – Lexis Middle East Journal, August/September 2021

Recommendations

"Donny has a very crisp style in both his written and oral advocacy. He cuts to the core of the issues in dispute and presents them in a concise yet persuasive manner."

Leading International Arbitration Silk

"He really excels in dealing with financial matters for which he has a natural aptitude far beyond the reach of most lawyers."

Leading International Arbitration Silk

"A first rate advocate with a modern, solutions-oriented outlook: clever, responsive and commercial in his approach."

Partner, Herbert Smith Freehills

"An extremely bright and able lawyer: always in control even in the most difficult cases, Donny's calm and



measured approach always inspires confidence."

Partner, Herbert Smith Freehills

"... an excellent junior ... He is exceptionally bright and hard-working ... He has the ability to take a case and analyse the issues clearly, succinctly and with insight and judgment. He is particularly strong on matters where his numeracy and analytical skills can be brought to bear. I would not hesitate to recommend him as junior counsel on a matter."

Partner, Stewarts

"Donny is that rare breed of advocate who can jump seamlessly between big picture strategy and key technical detail whilst always having an eye on damages/quantum and client objectives. Donny is also great to work with."

Managing Partners, Global Litigation Funder