



## Dr. Todd Weiler

**Nationality:** Canadian

**Languages:** English

Dr Todd Weiler is an independent Arbitrator with over 23 of unparalleled experience in the settlement of complex, high-value disputes between foreign investors and states.

Todd's practice has involved a broad range of economic sectors and a wide array of national jurisdictions. Industries with which he has worked include environmental and climate change regulation, waste disposal, natural resources extraction and transportation, internet regulation, intellectual property, pharmaceuticals, hospitality & gaming, automotive manufacturing, transportation infrastructure, primary industries, agriculture, aviation, tobacco regulation, retail sales, financial regulation, telecommunications, government procurement, and commercial & residential real estate development.

The list of countries with which Todd has been involved in international disputes includes Canada, the United States, Mexico, Costa Rica, Peru, Venezuela, the Dominican Republic, Barbados, the People's Republic of China, Russia, Mongolia, Laos, Singapore, Kazakhstan, Moldova, Ukraine, Czech Republic, Croatia, Belgium, Egypt, Kenya, and Saudi Arabia. He has also represented sovereign indigenous nations in North America.

International dispute settlement has been the singular focus of Todd's practice since being called to the Bar of Ontario in 1999. He has substantial experience with the administration of ad hoc disputes, particularly under the UNCITRAL Rules and ICSID(AF) rules, in addition to the ICSID, and the ICC and SCC Courts of Arbitration.

In addition to his arbitrator practice, Todd continues to research and publish on the history of international investment law and practice.

## Sector Expertise

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- Investment Treaty Disputes
- Public International Law
- Administrative & Regulatory Law
- Environment & Climate Change

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- Natural Resources & Land Development
- Hospitality & Gaming
- Internet & Communications Technology
- Commercial Dispute Resolution

## Investment Treaty Disputes

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Todd is widely recognized as a pioneer in the development of international investment law and dispute settlement.

With a background in international trade policy and public international law, Todd played a significant role as counsel in many early NAFTA cases.

For over two decades, Todd appeared as counsel and/or advised governments, investors, third-party funders, NGOs, and indigenous nations in many dozens of disputes, in addition to serving as arbitrator.

Todd has long been an ardent proponent of investor-state arbitration, property rights, and their contribution to the rule of law globally. He is a much sought-after speaker, media commentator, and academic reviewer, as well as a prolific author and editor.

Todd also continues to provide expert advice on the law of international investment, both as an expert witness and as a consultant to counsel involved in investment disputes.

## Environment & Climate Change

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Todd has acted as counsel in cases involving hazardous waste remediation services, the siting and construction of landfill and waste-transfer facilities, and the application of environmental regulations to real estate developments.

Todd is also currently serving as a consultant in the Government of Alberta's NAFTA Legacy Claim against the Government of the United States arising from the latter's cancellation of the Keystone XL Pipeline, ostensibly in the interests of climate change remediation.

## Natural Resources

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Todd has served as counsel and consultant in several disputes involving natural resources extraction rights, including minerals, and oil & gas. He has also recently served as an expert consultant in an investor-state treaty arbitration involving deep-water dredging for the recovery of a valuable mineral resource.

Todd also served as a non-resident teaching fellow at the University of Dundee's Centre for Energy Petroleum Law & Policy between 2001 and 2005 and as Stephen Dattels Fellow in Mining & Finance Law at the University of Western Ontario in 2007.

## Land Development, Hospitality & Gaming

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Todd has served as counsel and consultant in a variety of disputes involving the development of residential resort communities and of hospitality and gaming facilities across the globe, from Costa Rica to Egypt to Laos. In addition, Todd sat as arbitrator in a notorious case involving construction of the home of Russia's Supreme Court.

One of Todd's earliest cases, serving as counsel, involving gaming regulation in Mexico, which generated new law on detrimental reliance claims based on the principle of legitimate expectations.

## Experience

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### As Arbitrator and Counsel:

- Berschadder and Berschadder v. Russia, SCC Arbitration under Belgium-Russia BIT
- S.D. Myers, Inc. v. Canada, NAFTA/UNCITRAL Arbitration
- Pope & Talbot, Inc. v. Canada, NAFTA/UNCITRAL Arbitration
- Canfor Corp. and Terminal Corp. v. USA, NAFTA/UNCITRAL Arbitration
- International Thunderbird Gaming v. Mexico, NAFTA/UNCITRAL Arbitration
- Champion and Ameritrade v. Egypt, ICSID Arbitration under US-Egypt BIT
- Grand River Enterprises Six Nations Ltd. v. USA, NAFTA/UNCITRAL Arbitration
- Canadian Cattlemen for Fair Trade v. USA, NAFTA/UNCITRAL Consolidated Arbitration
- Gallo v. Canada, NAFTA/UNCITRAL Arbitration
- Frontier Petroleum v. Czech Republic, BIT/UNCITRAL Arbitration
- J.M. Longyear v. Canada, a NAFTA dispute resolved without arbitration
- Spence et al v. Costa Rica, CAFTA/UNCITRAL Arbitration
- Sanum Investments Ltd. v. Laos, UNCITRAL Arbitration under PRC-Laos BIT
- Lao Holdings N.V. v. Laos, ICSID(AF) Arbitration under Netherlands-Laos BIT

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- Aven & et al v. Costa Rica, CAFTA/UNCITRAL Arbitration
- Champion Holding et al v. Egypt, ICSID Arbitration under US-Egypt BIT
- Sanum Investments Ltd. & Lao Holdings N.V. v. Laos, Consolidated ICSID(AF) Arbitration under PRC-Laos BIT and Netherlands-Laos BIT
- Vento Motorcycles Inc. v. Mexico, NAFTA/ICSID(AF) Arbitration
- Stanford Victims v. USA, UNCITRAL Arbitration under the NAFTA, CAFTA, Peru-US FTA, Chile-US FTA

**As Expert and Consultant:**

- Link Trading v. Moldova, Arbitration under the USA-Moldova BIT
- United Parcel Services of America, Inc. v. Canada, NAFTA/UNCITRAL Arbitration
- ADF Group v. USA, NAFTA/ICSID(AF) Arbitration
- Tramel Crow v. Canada, a NAFTA dispute resolved without arbitration
- Lloyd's of London ("CATLAN") v. Jardine Lloyd Thompson Canada et al, commercial dispute, expert opinion in support of opposition to an appeal to the Supreme Court of Canada
- Detroit International Bridge Corp. v. Canada, NAFTA/UNCITRAL Arbitration
- Siag & Vecchi v. Egypt, ICSID Arbitration under the USA-Egypt BIT
- Duke Energy v. Peru, ICSID Arbitration under contract & investment statute & contract
- CANACAR v. USA, a NAFTA dispute resolved without arbitration
- Gold Reserve v. Venezuela, expert opinion in support of an enforcement proceeding in the US District Court for the District of Columbia

**Advising Third Parties:**

- Glamis Gold Corp. v. United States, NAFTA/ICSID(AF) Arbitration, Counsel to Quechan Indian Tribe
- Philip Morris Brands Sàrl et al v. Uruguay, ICSID Arbitration under the Switzerland-Uruguay BIT, Expert for Physicians for a Smoke-Free Canada

## Academic & Professional Qualifications

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**Academic**

Between 2000 and 2013 Todd held positions as visiting or adjunct professor at over a dozen US and Canadian law schools. He has lectured at many of the world's leading law schools and continues to act as an academic reviewer and referee upon request.

- In Progress ("ABD"): Ph.D. in History, University of Western Ontario, 2015-2020
- S.J.D. in Public International Law, University of Michigan, 2011

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- LL.M. in International Investment Law, University of Michigan, 2002
- LL.M. in International Trade Law, University of Ottawa, 1998
- LL.B., University of Western Ontario, 1996
- M.A. in Public Policy & Foreign Relations, University of Western Ontario, 1993
- Hons. B.A. in Political Science (History Minor), University of Waterloo, 1992

### Professional

- Barrister & Solicitor, Law Society of Upper Canada (Ontario), 1999-Present
- Government of Canada, Canadian Heritage Department, Trade Policy Unit, Policy Analyst, 1998-1999
- Federal Court of Canada, Clerk to Mr. Justice Howard Wetston, 1997-1998
- Ogilvy Renault LLP, Articled Law Clerk, 1996-1997
- Government of Canada, Treasury Board Secretariat, Policy Analyst and Consultant, 1994-1996
- Government of Canada, Seniors' Secretariat, Department of Health, Policy Analyst (Paid Co-op Placement), 1991
- Government of Canada, Customs and Revenue Agency, Tariff Administrator (Paid Co-op Placement), 1990 & 1991

## Professional Associations

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- Law Society of Upper Canada, Member, 1999 to Present
- Canadian Bar Association, Member, 1995 to Present, Ontario General Council Representative, 1997 to 1998, Executive Committee Member, International Law Section, 1998 to 2006. National Executive Committee Member, International Law Section, 2006 to 2007
- American Bar Association, International Law Section Member, 1999 to Present, Committee on International Trade Law Committee Vice Chair, 2004 to 2006, Committee on International Arbitration Executive Member, 2021 to Present
- American Society of International Law, Member, 2000 to Present, International Economic Law Section Executive Committee Member, 2003 to 2005, Annual Meeting Program Committee Member, 2012 to 2013
- International Law Association, Member, 2003 to Present and Member, Special Working Group on Foreign Investment, 2004 to 2006
- International Chamber of Commerce, Arbitration Committee, Member, 2003 to 2011, Named to Canadian Roster of Arbitrators in 2005, Taskforce on Investor-State Arbitration Member, 2010 to 2011, Taskforce on Disability and Inclusion in International Arbitration Co-Chair, 2022 to Present
- Young Canadian Arbitration Practitioners Organization, Founding Member, 2004 to 2008, Board of Directors, 2004 to 2007
- International Bar Association, Member, 2005 to Present
- British Institute of International and Comparative Law, Sponsoring Member of the Investment Treaty Forum, 2005 to 2011

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- Society of International Economic Law, Founding Member, 2007 to Present, Corporate Director, 2007 to 2012 and 2022 to Present
- Institute for Transnational Arbitration, Member, 2009 to Present, Academic Council Member, 2012 to 2016
- Chartered Institute of Arbitrators, Member, 2020 to Present

## Articles, Publications & Thought Leadership

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### Monograph

The Interpretation of International Investment Law: Equality, Discrimination and Minimum Standards of Treatment in Historical Context (Martinus Nijhoff: The Hague, 2013).

### Volumes Published as Editor

- Investment Treaty Arbitration and International Law, vol. XIV, with Meriam Al Rashid, Kabir Duggal, Miriam Harwood, and Rekha Rangachari (New York: Juris, 2021).
- Investment Treaty Arbitration and International Law, vol. XIII, with Meriam Al Rashid, Kabir Duggal, Miriam Harwood, and Rekha Rangachari (New York: Juris, 2021).
- Investment Treaty Arbitration and International Law, vol. XII, with Meriam Al Rashid, Kabir Duggal, and Miriam Harwood (New York: Juris, 2019).
- Investment Treaty Arbitration and International Law, vol. XI, with Ian Laird, Borzu Sabahi, and Frédéric G. Sourgens (New York: Juris, 2018).
- Investment Treaty Arbitration and International Law, vol. X, with Ian Laird, Borzu Sabahi, and Frédéric G. Sourgens (New York: Juris, 2017).
- Investment Treaty Arbitration and International Law, vol. IX, with Ian Laird, Borzu Sabahi, and Frédéric G. Sourgens (New York: Juris, 2016).
- Investment Treaty Arbitration and International Law, vol. VIII, with Ian Laird, Borzu Sabahi, and Frédéric G. Sourgens (New York: Juris, 2015).
- Investment Treaty Arbitration and International Law, vol. VII, with Ian Laird, Borzu Sabahi, and Frédéric G. Sourgens (New York: Juris, 2014).
- Investment Treaty Arbitration and International Law, vol. VI, with Ian Laird, Borzu Sabahi, and Frédéric G. Sourgens (New York: Juris, 2013).
- Investment Treaty Arbitration and International Law, vol. V, with Ian Laird (New York: Juris, 2012).
- New Directions in International Economic Law: in Memoriam Thomas Wälde, with Freya Baetens (Martinus Nijhoff: The Hague, 2011).
- Investment Treaty Arbitration and International Law, vol. IV, with Ian Laird (New York: Juris, 2011).
- Investment Treaty Arbitration and International Law, vol. III, with Ian Laird (New York: Juris, 2010).

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- Investment Treaty Arbitration and International Law, vol. II, with Ian Laird (New York: Juris, 2009).
- Investment Treaty Arbitration and International Law, vol. I (New York: Juris, 2008).
- International Investment Law and Arbitration: Leading Cases from the ICSID, NAFTA, Bilateral Treaties and Customary International Law (London: Cameron May, 2005).
- Investment Law and Arbitration: Past Issues, Current Practice, Future Prospects (New York: Transnational, 2004).

### Editorial Positions

- Transnational Dispute Management Online, Maris Publishers, Associate Editor, 2004 to 2007, Transition Committee Member, 2008 to 2009, Deputy Editor, 2009 to 2010, Articles Editor, 2010 to Present
- Investmentclaims.com, Oxford University Press, Special Editorial Advisor and Board Member, 2007 to Present
- Global Arbitration Review, LBR Ltd, Editorial Board Member, 2005 to Present
- International Legal Materials, American Society of International Law, Corresponding Editor, 2003 to Present
- Brill Research Perspectives in International Investment Law and Arbitration, Editorial Board Member, 2017 to Present
- Asper Review of International Trade & Business Law, Editorial Board Member, 2002 to 2005

### Book Contributions

- "Combatting Protectionism and State Failures," in: Thomas Cottier & Krista Nadakavukaren, eds., Encyclopaedia of International Economic Law (Edward Elgar: Cheltenham, U.K., 2017).
- "Sovereign Wealth Funds and Bilateral Investment Treaties' New Models: Issues, New Trends and State Practice," with Elizabeth Whitsitt, in: Fabio Bassan ed., Research Handbook on Sovereign Wealth Funds and International Investment Law (Edward Elgar: Cheltenham, U.K., 2015).
- "Reflections on the First Time the United States of America Was Found Liable under NAFTA Chapter 11" in: B. Sabahi, N.J. Birch, I.A. Laird and J.A. Rivas, eds., Revolution in the International Rule of Law: Essays in Honor of Don Wallace, Jr. (Juris: New York, 2014) 369-398.
- "Who, Then, Shall Judge? The Interpretation of International Investment Agreements and the Rule of International Law" in: A. Rovine, ed., Contemporary Issues in International Arbitration and Mediation: The Fordham Papers, 2013, (Martinus Nijhoff: The Hague, 2014) 299-236.
- "A Historical Analysis of the Function of the Minimum Standard of Treatment in International Investment Law" in T. Weiler & F. Baetens, eds., New Directions in International Economic Law: in Memoriam Thomas Wälde (Martinus Nijhoff: The Hague, 2011) 335-382.

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- "Standards of Treatment," with Ian Laird, in: P. Muchlinski, F. Ortino & C. Schreuer et al, eds., The Oxford Handbook of International Investment Law (Oxford: Oxford University Press, 2008) 259-304.
- "Expropriation" in P. Cane and J. Conaghan, The New Oxford Companion to Law (Oxford: Oxford University Press, 2008) 437-438.
- "Good Faith and Regulatory Transparency" in T. Weiler, ed., International Investment Law and Arbitration: Leading Cases from the ICSID, NAFTA, Bilateral Treaties and Customary International Law (London: Cameron May, 2005) 701-746.
- "Saving Oscar Chin" in T. Weiler, ed., International Investment Law and Arbitration: Leading Cases from the ICSID, NAFTA, Bilateral Treaties and Customary International Law (London: Cameron May, 2005) 557-598.
- "The Significance of NAFTA Chapter 11 for the Development of International Economic Law" in T. Weiler, ed., NAFTA Investment Law and Arbitration: Past Issues, Current Practice, Future Prospects (New York: Transnational, 2004).
- "Prohibitions on Discrimination in NAFTA Chapter 11" in T. Weiler, ed., NAFTA Investment Law and Arbitration: Past Issues, Current Practice, Future Prospects (New York: Transnational, 2004).
- "Interpreting Substantive Obligations in Relation to Health and Safety Issues" in T. Weiler, ed., NAFTA Investment Law and Arbitration: Past Issues, Current Practice, Future Prospects (New York: Transnational, 2004).
- "The Potential for Overlap in NAFTA Chapter 11 Obligations" in: K.C. Kennedy, ed., The First Decade of NAFTA: The Future of Free Trade in North America (New York: Transnational, 2004).
- "Causation and Damages in NAFTA Investor-State Arbitration," with Luis Miguel Diaz, in T. Weiler, ed., NAFTA Investment Law and Arbitration: Past Issues, Current Practice, Future Prospects (New York: Transnational, 2004).
- "Investment Arbitration under the Energy Charter Treaty in the light of new NAFTA Precedents: Towards a Global Code of Conduct for Economic Regulation," with Thomas Wälde, in: Investment Treaties and Arbitration, G. Kaufmann-Kohler, ed. (Geneva: Swiss Arbitration Association, 2002).

## Articles

- "WTO Dispute Settlement, Investor-State Arbitration and Investment Courts: Exploring Themes of State Power, Adjudication & Legitimacy," with Elizabeth Whitsitt, 2 (2019) Dispute Resolution International 105.
- "St Mary's VCNA, LLC v The Government of Canada: An Alleged Abuse of Rights is Revealed in Inadvertently Disclosed Documents, and Now Solicitor-Client Privilege has been Claimed: What is a NAFTA Tribunal to Do?" 30 (2015) ICSID Review 539.
- Treatment No Less Favorable Provisions Within the Context of International Investment Law: 'Kindly Please Check Your International Trade Law Conceptions at the Door' 12 (2014) Santa Clara Journal of International Law 77.



- “Are United States Courts Receptive to International Arbitration?” with Heather Bray & Devin Bray, 27 (2012) American University International Law Review 869.
- “Methanex Corp. v. USA – Turning the Page on NAFTA Chapter Eleven?” 6 (2005) Journal of World Investment and Trade 903.
- “Balancing Human Rights & Investor Protection: A New Approach for a Different Legal Order” 27 (2004) Boston College International and Comparative Law Review 429.
- “Technology and International Trade: Will the Real Transformer Please Stand Up?” 2 (2003) Canadian Journal of Law and Technology 223.
- “NAFTA Article 1105 and the Principles of International Economic Law” 41 (2003) Columbia Journal of Transnational Law 35.
- “Foreign Investment in the United States: You Can’t Tell the Players without a Scorecard” 37 (2003) International Lawyer 279.
- “Dodging Bullets: A First Look at the Final Award in Loewen & the Loewen Group v. USA” 4 (2003) Journal of World Investment 659.
- “NAFTA Chapter 11 Jurisprudence: Coming Along Nicely” 9 (2003) Southwestern Journal of Law and Trade in the Americas 101.
- “The Treatment of SPS Measures under NAFTA Chapter 11: Preliminary Answers to an Open-Ended Question” 26 (2003) Boston College International & Comparative Law Review 229.
- “2002 In Review: From Expropriation to Non-Discrimination” Yearbook of International Environmental Law, Volume 12 (Oxford: Clarendon, 2003).
- “NAFTA Investment Law in 2001: As the Legal Order Starts to Settle, the Bureaucrats Strike Back” 36 (2002) International Lawyer 345.
- “Articulating New Standards of Regulatory Treatment in International Economic Law” 2 (2002) Business Law International 143.
- “Metalclad and the Government of Mexico: A Play in Three Parts” 2 (2001) Journal of World Investment 685.
- “A First Look at the Interim Merits Award in S.D. Myers Inc. and Canada: It Is Possible to Balance Legitimate Environmental Concerns with Investment Protection” 24 (2001) Hastings International and Comparative Law Review 173.
- “2000 in Review: Investor-State Dispute Settlement Gains Steam” 35 (2001) International Lawyer 363.
- “The Ethyl Arbitration: First of Its Kind and a Harbinger of Things to Come” 11 (2001) American Review of International Arbitration 187.
- “1999: The Dawning of a New Era in Investor-State Dispute Settlement” 34 (2000) International Lawyer 405.
- “Regulatory Reform Obligations in International Law” 34 (2000) Journal of World Trade 71.
- “The Minimum Standard of Treatment in International Law: Some Old Cases, Some New” 3 (2000) Canadian International Lawyer 207.
- Identifying, Implementing and Enforcing International Regulatory Reform Obligations: the Canadian Experience, Occasional Paper (Ottawa: Centre for Trade Policy and Law, 1999).

- “Application of the Federal Regulatory Policy to Regulatory Decision-Making: The Curious Case of the 1995 PCB Waste Export Interim Order” 4 (1999) Canadian Journal of Environmental Law and Practice 181.
- An Assessment of the Prospects for Trade Liberalization in APEC, with Michael Hart (Ottawa: Senate of Canada / Centre for Trade Policy and Law, 1997).
- “Independence, Impartiality and the Ontario Social Assistance Review Board” 12 (1997) Journal of Law and Social Welfare 178.
- “Professional Self-Regulation & Federal Competition Policy: The Calarco Case” 2 (1997) Windsor Review of Legal & Social Issues 119.
- “Curial Deference & NAFTA Chapter 19: Is What Is Good for the Goose, Good for the Gander?” 1 (1995) Journal of International Legal Studies 83.
- “The Consultation Requirement in Regulatory Reform: Looking at the Regulatory Efficiency Bill” 8 (1995) Canadian Journal of Administrative Law & Practice 101.
- “Sure It Has Feathers, But Is It a Duck?” 42 (1994) Canadian Tax Journal 1168.

## Directories, Recognitions & Awards

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### Professional:

- Recognised by Who’s Who Legal as one of the world’s leading practitioners in international arbitration, 2007 to Present
- Solo practice included on the Global Arbitration Review’s “GAR 100” list of the world’s leading arbitration law firms, 2011-2021
- Named by the Global Arbitration Review to its inaugural list “45 Under 45” list, 2007

### Academic:

- Joyce C. Miller Memorial Ontario Graduate Scholarship, 2016
- Western University Ontario Graduate Scholarship, 2015
- University of Michigan Graduate Scholarship, 2002
- Ontario Bar Association National Trust Law Student Achievement Award, 1997
- J.S.D. Tory Legal Research and Writing Prize, 1996
- J.S.D. Tory Legal Research and Writing Prize, 1995
- Canadian Association of Programs in Public Administration National Undergraduate Essay Award, 1992

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