



Mediation & Arbitration

Wolfgang Kaufmann

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I have been an arbitrator and mediator for over ten years. I have focused on claims related to commercial leasing, rent arbitration, commercial real estate, franchising, construction lien, mortgage remedies and more.

After 30 years as a commercial litigator I have extensive experience in a broad range of commercial matters. I have acted on many legal matters which have been reported in legal publications as having an impact on the law.

As a mediator my approach is to be the voice of reason. From my years in the trenches, I can help the parties; understand the strengths and weaknesses of their case, assess their risks and move toward resolution. I have found that each case is unique. I always work to gain the confidence and respect of the parties in order to move them toward resolution.

As an arbitrator my depth of knowledge and breadth of experience in: commercial leasing, renewal rent arbitration, real estate, construction lien, mortgages and franchising allows me to focus on the issues in dispute. In this way we can efficiently and effectively arbitrate your case.

EXPERIENCE

Ontario Bar, since 1987

Arbitrator, since 2007

Best Lawyers in Canada, since 2010

Mediator, since 2013

Senior Litigation Partner at Daoust Vukovich LLP: a leading commercial leasing and property development boutique law firm. Well known for providing premier legal services combined with an unparalleled depth of experience. It is the only boutique of its type in Canada

Bachelor of Laws, *cum laude*, University of Ottawa, (1985), Master of Arts, University of Toronto, Political Economy (1978), Bachelor of Arts, York University, Political Science (1975)

REPRESENTATIVE PUBLICATIONS AND SPEAKING ENGAGEMENTS

Mediation and Arbitration – Does it work or is it more trouble than it is worth? – ICSC Law Conference Roundtables, Toronto Convention Centre, April 30, 2018 and March 28, 2019.

Litigating and Resolving Commercial Leasing Disputes – The Litigator’s Guide to Real Estate, Construction and Leasing Disputes - Osgoode Professional Development - February 10, 2016 -

Arbitration and Mediation of Commercial Lease Disputes – 18th Commercial Real Estate Leases Course - Federated Press – December 2014

Presenting Your Best Self in Court, Demeanor, Civility, Professionalism – Tips from the Bench for Junior Lawyers – LSUC – June 3, 2014

16th Commercial Real Estate Leases Course- Course Leader and Presenter Arbitration and Mediation of Commercial Lease Disputes - Federated Press - December 2013- Toronto

Construction Liens For Dummies, 2013 ICSC Canadian Shopping Centre Law Conference, February 21, 2013, Toronto.

“Repair and Storage Lien Legislation across Canada” - Wolfgang Kaufmann and Jenna Morley – *Repair and Storage Liens Act - A Practical Guide*, Harvey M. Haber ed. Canada Law Book, 2012.

Leasing Issues for Franchises - Commercial Real Estate Leases - Federated Press - December 3 & 4 2012, Toronto.

Rights & Remedies of Tenants and Landlords in case of Default, Common Law and Civil Law Perspectives - The Canadian Institute: Advanced Forum on Commercial Leasing - June 11 & 12, 2012 - Montreal.

Bankruptcy For Dummies, 2012 ICSC Canadian Shopping Centre Law Conference, February 24, 2012.

“Selling a Tenant’s Abandoned Property”, Shopping Centre Leases, Second Edition, Harvey M. Haber ed., Canada Law Book, 2008.

REPRESENTATIVE COURT DECISIONS

Option to Renew: Court denies option to renew because of ongoing default: *Wittington Properties Limited v. GoodLife Fitness Centres Inc.*, 2017 ONSC 1426 aff’d 2018 ONCA 52

Summary judgment: *Gubert v 1536320 Ontario Limited*, 2015 ONSC 3294 , 2015 ONSC 4436 (Costs)

Lease Interpretation: saves tenant \$3 million: *Metrolinx v. 20 York Inc.*, Justice Spence – March 20, 2014 – Court File CV-13-493496

Realty Taxes: successfully defend a claim for \$346,692 in realty taxes : *OGT Holdings Ltd. v. Startek Canada Services Ltd.*, [2009] O.J. No. 5270; 89 R.P.R. (4th) 89; 2009 CarswellOnt 7703; affirmed, Ontario Court of Appeal, [2010] O.J. No. 2501; 2010 ONCA 38; 93 R.P.R. (4th) 23; 2010 CarswellOnt 3923

Construction Lien: discharge of lien before trial: *DCL Management Ltd. v. Zenith Fitness Inc.*, [2010] O.J. No. 5816; 2010 ONSC 5915; 97 C.L.R. (ed) 159; 2010 CarswellOnt 9524, Costs [2011] O.J. No. 1162; 2011 ONSC 1681; 97 C.L.O.R. (3d) 190; 2011 CarswellOnt 1730

Franchising: franchisee awarded \$400,000 in damages: *Country Style Food Services Inc. v. 1304271 Ontario*, [2003] O.J. No. 362; [2003] O.T.C. 100; 32 B.L.R. (3d) 207; 7 R.P.R. (4th) 184; 120 A.C.W.S. (3d) 536, affirmed by the Ontario Court of Appeal, [2005] O.J. No. 2730; 200 O.A.C. 172; 7 B.L.R. 94th) 171; 33 R.P.R. (4th) 1; 140 A.C.W.S. (3d) 1064; 2005 CarswellOnt 2744

Relief from Forfeiture: successfully defend against claim for relief: *Five Star Brands Distribution Ltd. V. Streit (Kenderry) Ltd.*, [2008] O.J. No. 4080; 2008CanLII 53837; 171 A.C.W.S. (3d) 188

Writ of Possession: landlord obtains possession and denies lease extension: *1213763 Ontario Inc. v. Shopsy's Hospitality Inc.*, [2008] O.J. No. 1994; 70 R.P.R. (4th) 197; 2008 CarswellOnt 2881; 171 A.C.W.S. (3d) 444, affirmed by the Ontario Court of Appeal, [2008] O.J. No. 5198; 2008 ONCA 863; 75 R.P.R. (4th) 11; 244 O.A.C. 34; 2008 CarswellOnt 7774

Eviction: successful claim for eviction and mistake: *Zellers Inc. v. 942125 Ontario Ltd.*, [2005] O.J. No. 655; 137 A.C.W.S. (3d) 830

Civil fraud: successful defence of company president against a \$4 million fraud claim: *3Com Corp. v. Intelligent Decisions Inc.*, [2004] O.J. No. 2348

Waiver: landlord waiver right to terminate lease: *Fitkid (York) Inc. v. 1277633 Ontario Ltd.*, [2002] O.J. No.; [2002] O.T.C. 749; 2002; CarswellOnt 3373; 117 A.C.W.S. (3d) 479;

Interim injunction: successfully defend interim injunction claim: *CSFY Inc. v. Creit Management Ltd.*, [2003] O.J. No. 3473; [2003] O.T.C. 803; 38 B.L.R. (3d) 239; 125 A.C.W.S. (3d) 337.

Oppression Remedy: successfully defend oppression remedy claim: *Quaglieri v. 374400 Ontario Ltd.*, (1993) 18 O.R. (3d) 616; [1994] O.J. No. 668 (S.C.J.)

Solicitors' Negligence: Pro Bono Case: *Budrewicz v. Stojanowski*; (1998) 41 O.R. (3d) 78; [1998] O.J. No. 29867