



DAVID L. EARNEST

Senior Counsel

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David is a dual-qualified (United States / England and Wales) Senior Counsel resident in Diamond McCarthy's New York office. His practice focuses on complex multinational disputes in international arbitration, as well as in litigation in the United States, England, and other international jurisdictions.

In international arbitration, David has acted for and advised private clients and sovereign governments on disputes before the ICC, AAA/ICDR, LCIA, Cepani and ICSID, as well as *ad hoc* arbitrations under the UNCITRAL Arbitration Rules and the English Arbitration Act. In litigation, he has acted in applications regarding arbitration, including injunctions, set-aside claims, and enforcement proceedings, as well as claims relating to product liability, shareholder rights, and complex business disputes. David has broad experience across a variety of industries, including energy and natural resources, telecommunications and technology, construction and infrastructure, finance, maritime, beverages, and pharmaceutical sectors.

In addition to David's work as counsel, he contributes to leading journals and treatises in the field of international arbitration and dispute resolution, speaks at conferences and law schools, and is active in numerous professional organizations. Prior to joining the Firm, David worked for leading international law firms in Washington, D.C., London, and Brussels.

Affiliations

- Co-Founder / Co-Chair, Steering Committee (2017-2020), Silicon Valley Arbitration & Mediation Center – Young Professionals (SVAMC-YP)
- Co-Secretary, CPR Digital Transformation Committee
- Member, American Society of International Law (ASIL)
- Member, Silicon Valley Arbitration & Mediation Center (SVAMC)
- Member, London Court of International Arbitration (LCIA)
- Member, British Institute of International and Comparative Law (BIICL)
- Global Advisory Board (2017-2020), AAA / International Centre for Dispute Resolution Young International (AAA / ICDR Y&I)

Publications

- *United States-Mexico-Canada Agreement: Fragmentation and Curtailment of*

Location

New York, NY

Education

Universidad de Belgrano,
Argentina (2000)

The University of Arizona
(B.A. in International
Political Economy, 2001)

University College of
London, Faculty of Laws
(2004)

Pace University School of
Law, New York (J.D.,
2005)

Areas of Practice:

International Practice

Admitted to Practice:

District of Columbia

New York

Supreme Court of
England and Wales
(Solicitor-Advocate)

U.S. Court of International

Trade

U.S. District Court for the
District of Columbia

U.S. District for the
Southern District of New
York

Investor State Dispute Settlement, Investment Claims.com (Oxford University Press), December 12, 2018

- *The Fate of Frivolous Claims*, in *Arbitration under International Investment Agreements: A Guide to the Key Issues*, Second Edition (Yannaca-Small ed., Oxford University Press, 2018)
- *Delimitating Jurisdiction and Admissibility in Investor State Arbitration: an Enduring Lacuna or a Developing Consensus?*, in *Law & Practice of International Courts and Tribunals 17* (BRILL Publishing, 2018) 135-144
- *The Trump Administration's Current Policy on Investor State Dispute Settlement*, Investment Claims.com (Oxford University Press), April 24, 2017
- *A Common Right to Arbitrate: Anti-Suit Injunctions in New York and England*, New York Law Journal, July 18, 2016
- *How to sharpen the Sword of Efficiency in International Arbitration*, in *Czech (& Central European) Yearbook Of Arbitration, Rights And Duties In Arbitration* (B?lohlávek & Rozehnalová eds., 2016)
- *The Future of ICSID and the Place of Investment Treaties in International Law*, Current issues in Investment Treaty Law Volume IV, British Institute of International and Comparative Law (J.Calamita, D. Earnest, M. Burgstaller eds., BIICL, 2013)

Speaking Engagements

- "The Role of Human Rights Law in Investment Arbitration," Freshfields-American Society of International Law (ASIL), Washington, D.C., October 2019
- "Presentation and Use of Evidence in International Commercial Arbitration," International Law Institute Program on Arbitration and Mediation, Washington, D.C., May 2019
- "Preparing for the Robo-Revolution: Technology and Smart Contracts as Principal Actors in Dispute Resolution," International Institute for Conflict Prevention & Resolution (CPR) 2019 Annual Meeting, Washington, D.C., March 2019
- "Avoiding Parallel Proceedings," International Law Institute Program on International Investment Treaties and Investor-State Arbitration, Washington, D.C., November 2018
- "Smart Contracts and Blockchain: Where Will Disputes Arise and How Should They Be Resolved," International Law Association, New York City, October 2018
- "Emerging Technology and Dispute Resolution: What Does the Future Hold," Harvard Law School, Cambridge, Massachusetts, April 2018
- "The State of International Arbitration in U.S. Courts in 2017," The George Washington Law School, Washington, D.C., March 2018
- "So You Wanna Be an International Arbitrator," ICC Young Arbitrators Forum, Washington, D.C., February 2018
- "The Evolving Use of International Arbitration and Mediation for Disputes in the Technology Sector," Stanford Law School, Palo Alto, California, November 2017
- "How Outside Counsel can be Effective 'Strategic Partners' in Dispute Resolution," CPR Y-ADR, Washington, D.C., October 2017
- "Delimitating Jurisdiction And Admissibility In Investor State Arbitration: An Enduring Lacuna or a Developing Consensus," American University Washington College of Law conference on The Duties, Rights and Powers of International Arbitrators, Washington, D.C., September 2017
- "International Dispute Resolution 2016 - Year in Review of Hot Topics," NYIAC /

CPR Y-ADR Conference, New York City, December 2016

- “Mock Procedural Hearing under CPR Rules for Administered Arbitration of International Disputes,” Washington, D.C., September 2016
- “Presentation and Use of Evidence in International Commercial Arbitration,” International Law Institute Program on International Commercial Arbitration, Washington, D.C., June 2014
- “Admissibility in Investment Arbitration: Two Steps Forward, One Step Back,” Centre for International Legal Studies Conference on International Trade in Legal Services, Warsaw, October 2012
- “Jurisdiction and Admissibility in Investment Treaty Arbitration,” Africa International Legal Awareness Training in Investment Treaty Law and Arbitration, London, September 2012
- “Principles of Investment Treaty Protection and Arbitration,” European Bank of Reconstruction and Development, London, January 2011
- “Arbitrations Involving States or State Entities,” ICC Young Arbitrators Forum, London, May 2010