

Arbitration Place marks fifth anniversary with Ottawa launch



CEO and founder of Arbitration Place Kimberley Stewart, Ottawa mayor Jim Watson and president of Arbitration Place Nathalie Fisher

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UPDATED. Canadian centre Arbitration Place has formally launched its new branch in Ottawa as it marks its fifth anniversary and continues to promote itself as an alternative seat or venue in North America for parties wishing to avoid the US under Donald Trump.

Arbitration Place celebrated the opening of its new premises at World Exchange Plaza in Ottawa's commercial centre on 15 November, with the mayor of the city Jim Watson cutting the ribbon.

The launch comes in the wake of improvements in Ontario's arbitration regime, including the passing of a new international commercial arbitration act in March that expressly adopts the New York Convention.

In a speech, the centre's founder and CEO **Kimberley Stewart** spoke of the potential for Ottawa to be a seat of arbitration for major cases now that it has a purpose-built arbitration hearing centre.

Arbitration Place received requests to host two large international arbitration cases even before it opened its doors in the city a month ago, she said, and many more have followed in the past weeks.

Stewart also noted the direct and indirect economic benefits the centre will bring Ottawa, creating business not just for lawyers, experts and arbitration service providers but the city's hotels, taxis, restaurants, shops and attractions.

Before Arbitration Place opened its doors in Toronto in 2012, it commissioned a study from global economic consulting firm Charles River Associates, which amazingly showed that arbitrations had contributed US\$256 million to the city's economy, she said – a figure that topped the amount brought in by the Toronto International Film Festival.

Since the opening of the hearing centre, that figure is likely to have multiplied.

Stewart also explained what she believes is one of the secrets to Arbitration Place's success and has secured it a place in GAR's ranking of the top 10 arbitration hearing centres worldwide – its “all-encompassing approach”.

“It's not just a catchy tagline. It is the core value of our business,” she said. “We do as much as we can possibly do to take care of those who use our facilities and services; to make things as easy as possible for them.”

The new branch of the centre will be presided over by an Ottawa native, **Nathalie Fisher**, who declared the city “hot” despite the impending winter.

Known for its comfort, state-of-the-art facilities and space as well as its concierge-level service, Arbitration Place Toronto offers 13 hearings room and several break-out rooms and has played host to more than 250 cases under the rules of the ICC, AAA, ICDR, PCA, ICSID and the Court of Arbitration for Sport.

It has also played host to an episode of *Suits* - the New York-based but Toronto-filmed legal drama starring Prince Harry's future bride **Meghan Markle** [season 7, episode 4 for fans of the series].

One recent case heard at the centre was the *Lone Pine Resources Inc v Canada*, a US\$250 million NAFTA claim over Quebec's moratorium on shale gas exploration under the St Lawrence River – which saw protesters release a blimp past the centre emblazoned with the message “Frack off Lone Pine” just as **VV Veeder QC**, **David Haigh QC** and **Brigitte Stern** held a merits hearing.



The centre also provides office space for nearly 30 “resident” and “member” arbitrators, including such well-known members of the international arbitration community as Australia's **Doug Jones** and Canadians **Yves Fortier QC**, **J William Rowley QC**, **Ian Binnie QC** and **Barry Leon**.

The Ottawa branch follows a similar model with three hearing rooms and eight break out rooms named after Canadian wine regions. Like the Toronto centre, it also has an on-site commercial kitchen and a team of chefs.

Its walls are decorated with photographs taken by **Stephen Morrison**, **Joel Richler** and **William Horton** - all member arbitrators.

The expansion of Arbitration Place into a second city in Canada comes as the centre has been making a push to win work from the US – particularly the key arbitral hub of New York – by playing on nervousness among arbitrators, lawyers and business people about the travel bans and visa restrictions President Trump has imposed or might impose in the future.

“When a North American hearing centre makes sense. But a US venue does not. The logical place? Arbitration Place. Toronto, Canada,” declared a recent advertisement that the centre ran in *GAR* for a six-week period this summer.

The campaign was not mere wishful thinking. There have been reports of at least one case in which Mexican parties agreed to the arbitrator's proposal that a New York-seated case should be heard in Toronto, in part because they felt they would receive a better welcome in Canada.

Another ICSID case due to be held in Washington, DC, was reportedly relocated to outside the US (not to Canada) because of concern about witnesses from two Muslim-majority countries being unable to gain easy access to the US.

Other cases that have been heard recently in Toronto include an ICSID arbitration involving the oil and gas industry and a state entity in a Muslim-majority state; an ICC commercial arbitration concerning a power plant in a Latin American state and an ICC commercial arbitration regarding a petroleum refinery in a Caribbean state.

In these cases, parties reported Toronto was chosen as the hearing venue despite not being the seat of arbitration due to its ease of access for participants in the arbitrations and Arbitration Place's facilities. The lower cost of arbitrating in Canada may further have influenced their decision.

Practitioners in New York are also alive to the possibility that parties may be less willing to seat arbitrations there. At GAR Live New York in September, Wilmer Cutler Pickering Hale & Dorr partner **John Pierce** expressed concern that Trump's brand of cultural nationalism – characterised by a hostility to elites with “cosmopolitan” worldviews – may turn away international arbitration practitioners, who view themselves as global actors.

A similar message was conveyed by UK arbitrator **John Beechey** in a speech in the British Virgin Islands in June before the terrible hurricane that struck the country a few months later. He said that parties may increasingly be thinking of seats and venues in the vicinity of North America other than the US, “whether for reasons of neutrality, given the identity of the parties, or because of a concern that restrictions on access may become a real issue there.”

Asked whether he believes Arbitration Place in Toronto and Ottawa will benefit from “the Trump effect,” **Bill Rowley QC** tells GAR: “The sad reality of Trump's controversial border security policy is that citizens of non-targeted states are electing not to travel to the US absent compelling need.”

He says he knows of MENA, Central Asian and Mexican nationals who have declined to travel to the US because “they simply feel unwelcome” and have “concerns about facing an unpleasant experience at the border.”

“Two of my cases have moved their hearings from the US to Toronto for these reasons and I am aware of at least five others that have also done so,” says Rowley.

While the US president's approach to immigration appears to be proving beneficial to the centre, as it marks its anniversary Stewart wants to focus on what Arbitration Place has achieved in its own right.

“It's been an amazing journey. We are grateful to all those in Toronto, across Canada, and around the world who supported Arbitration Place in so many ways,” she tells GAR.

“We will continue to strive to provide our ‘all-encompassing service’ to all those who comes to us for arbitrations, mediations, out of court examinations and many professional development and social events. We look forward with excitement to our next five years!”