



Alternative Dispute Resolution

Sutherland attorneys have extensive experience working with our clients proactively to prevent disputes through careful risk management. In the course of regular business operations, disputes with vendors, contractors, suppliers, consumers and others still arise. Rather than face the time and expense of traditional litigation, business leaders and in-house counsel are increasingly looking to resolve their disputes outside of court and are drawn to the efficiency, cost-effectiveness and confidentiality offered by alternative dispute resolution.

Our attorneys guide clients to resolution using all of the many techniques of dispute resolution, including arbitration, mediation, early neutral evaluation, mini-trials and summary jury trials. We have successfully employed alternative dispute resolution techniques in a wide range of international and industry-specific disputes, including:

- Accountants' and professional liability
- Business torts
- Bankruptcy and creditors' rights
- Construction contracts
- Employment and labor
- Energy
- Environmental, insurance, toxic tort and Superfund
- Financial services
- Franchise and dealer matters
- Insurance coverage
- Intellectual property
- Merger and acquisition agreements
- Product liability
- Real estate
- Securities

Our attorneys have appeared before international and domestic arbitration panels and several serve on the American Arbitration Association (AAA) Panel of Commercial and Construction Arbitrators and the distinguished panel of neutrals for the CPR International Institute for Conflict Prevention and Resolution. We represent clients in proceedings administered by the International Chamber of Commerce (ICC), the World Intellectual Property Organization (WIPO), the London College of International Arbitration (LCIA), and other entities.

Areas of Experience

Construction

The construction industry has been at the forefront of devising and implementing creative means for resolving the myriad disputes that may arise in the course of projects. Our attorneys have the in-depth knowledge necessary to advise clients in the construction industry on dispute avoidance, including during

the development of contracts, and to lead them to resolution when a dispute is unavoidable.

Energy

Alternative dispute resolution and dispute avoidance techniques are quite prominent in the energy field, and we have considerable experience in the area, including four recent arbitrations in the nuclear industry.

Professional Liability

We have handled numerous arbitrated matters on behalf of accounting firms and law firms. Our clients include the six largest accounting firms in the United States, as well as regional and local accounting firms, international affiliates of U.S. accounting firms, and national, regional and local law firms.

Financial Services

We regularly represent brokers and broker-dealers in arbitration proceedings before self-regulatory organizations, including the Financial Industry Regulatory Authority (FINRA), the Chicago Board of Options Exchange, the National Futures Association, and the Municipal Securities Rulemaking Board.

Merger & Acquisition Agreements

We represent clients in disputes arising under merger or asset purchase agreements and also counsel clients in drafting dispute prevention and resolution provisions in merger and acquisition and other transaction agreements. In recent years, we have successfully represented clients in arbitration proceedings concerning environmental indemnities included in asset purchase agreements.

International Dispute Resolution

It is particularly important in international transactions, in which businesses may be subject to complex and possibly conflicting laws and regulatory practices, to be able to rely upon counsel experienced in resolving disputes using alternative techniques. Sutherland attorneys regularly represent clients in all facets of international dispute resolution, including in arbitrations under the rules of the ICC and the International Centre for Dispute Resolution (ICDR), and enforcement of international arbitral awards under the New York Convention.

SUTHERLAND

Representative Matters

Among our extensive experience in alternative dispute resolution matters, we have:

- Represented a client in attaining the largest award ever granted in an AAA construction arbitration in a claim arising from a \$225 million mixed-used development project in Philadelphia.
- Represented the prime contractor on a \$91 million runway project at Hartsfield-Jackson Atlanta International Airport when our client was named a third-party defendant in a complicated dispute between its erosion control subcontractor and a lower-tier subcontractor. Through a mediation, the client was able to achieve a settlement of the case on very favorable financial terms.
- Represented an international construction and engineering firm in the collection of eight-figure amounts in a dispute relating to the disruption and delay of power plant projects and defended the client against counterclaims for allegedly defective work on multiple power plants. After investigation and negotiation, the case settled without litigation, with our client receiving sums due and without paying the opposing party's claims for affirmative payment.
- Prevailed in representing a Big Four accounting firm in which the claimant sought \$50 million in damages for negligent misrepresentation and professional negligence in connection with the purchase of a sports promotion company. The arbitration panel concluded that the claimant failed to prove that audits were not performed in accordance with professional standards and awarded our client certain professional fees that were owed by the claimant.
- Represented a Big Four accounting firm in an arbitration in which the claimant, the disappointed purchaser of a discount music retail distribution chain, sought eight figures in compensatory damages plus punitive damages and attorneys' fees, claiming to have based his purchase decision on a balance sheet audited by the accounting firm. The arbitration panel decided in favor of the accounting firm.
- Represented a major mutual insurance company's subsidiary in multiple arbitration proceedings and lawsuits arising out of reinsurance fraud claims by former managing general agents. In those proceedings, we successfully resisted more than \$150 million in reinsurance claims; obtained an award of \$225 million; and recovered more than \$75 million in cash for our client.
- Successfully represented a brokerage firm in over 100 customer arbitrations arising out of investments in a series of mutual funds
- Represented a Georgia company adverse to a Brazilian company and a German company in an eight-figure dispute arising out of a stock purchase agreement in an arbitration tried in New York under the rules of the International Chamber of Commerce.
- Represented a syndicate of Lloyd's of London against a U.S. company, first in compelling arbitration in London and then in successfully enforcing an international arbitration award under the New York Convention.
- Prevailed in an arbitration for a brokerage firm where the claimants alleged \$125 million in out-of-pocket losses in the stock of a company recommended by the brokerage firm's analysts and allegedly without disclosure represented by the firm's investment bankers.

For more information contact:

John H. Fleming at 404.853.8065 or john.fleming@sutherland.com

Richard G. Murphy, Jr. at 202.383.0635 or rick.murphy@sutherland.com

ABOUT SUTHERLAND. Sutherland Asbill & Brennan LLP is a law firm with global reach known for solving challenging business problems and resolving sophisticated legal issues for many of the world's largest companies. Founded in 1924, the firm handles matters throughout the United States and worldwide. Seven major practice areas—corporate, energy and environmental, financial services, intellectual property, litigation, real estate, and tax—provide the framework for an extensive range of focus areas, allowing Sutherland attorneys to serve a diverse client base that ranges from small and medium-sized start-up businesses to a significant number of Fortune 100 companies.