



## REQUEST FOR BIOGRAPHICAL INFORMATION

### Opportunity for arbitrators to be selected for the Canadian Transportation Agency rosters

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#### Contact Information

Please note that completion of this form is lengthy. You may be required to save and return to complete. If you have any questions or need help please contact Martina Faith at [Martina.Faith@otc-cta.gc.ca](mailto:Martina.Faith@otc-cta.gc.ca)



Date of this version	October 11, 2018
First name	Kathleen
Last name	Kelly
Middle initial	J.
Honorifics	
Professional title	Arbitrator, Mediator, Adjudicator, Lawyer
Firm name	Kelly International Settlement Services Inc.
Address line 1	278 Berkeley Street
Address line 2	Third Floor
City	Toronto
Province	Ontario
Postal code	M5A 2X5
Secondary address (please indicate street, city, province and postal code)	N/A
Telephone (office)	416.365.1528
Telephone (mobile)	416.826.6697
Telephone (other)	
Fax	
E-mail	kellyadr@rogers.com
Web site URL	<a href="http://www.adrweb.ca/kathleen-kelly">http://www.adrweb.ca/kathleen-kelly</a>
LinkedIn URL	<a href="https://www.linkedin.com/">https://www.linkedin.com/</a>
Facebook	No
Other social media links	Twitter: <a href="https://twitter.com">https://twitter.com</a>
Region of residence	Ontario



<p>Willingness to travel within and to other provinces? Please specify provinces.</p>	<input checked="" type="checkbox"/> All provinces <input type="checkbox"/> British Columbia <input type="checkbox"/> Alberta <input type="checkbox"/> Saskatchewan <input type="checkbox"/> Manitoba <input type="checkbox"/> Ontario <input type="checkbox"/> Quebec <input type="checkbox"/> New Brunswick <input type="checkbox"/> Nova Scotia <input type="checkbox"/> Newfoundland and Labrador <input type="checkbox"/> Prince Edward Island <input type="checkbox"/> Yukon <input type="checkbox"/> Northwest Territories <input type="checkbox"/> Nunavut
<p>Languages spoken</p>	<input checked="" type="checkbox"/> English <input checked="" type="checkbox"/> French

### Education

Please list degree(s), institution(s) attended and year degree(s) conferred below.

Degree	Institution attended	Year degree conferred
LLM-ADR	Osgoode Hall Law School, York University	1999
LLB	University of British Columbia	1982
BComm, Transportation Major	University of British Columbia	1973

Please list courses or degrees in **Economics**, if any.

Courses	Institution attended	Year
Principles of Economics	University of British Columbia - UBC	1969-70
Probability & Statistics	UBC	1969-70
Intermediate Economic Analysis	UBC	1970
Transportation Economics	UBC	1970-71



Transportation in Economic Development (also under Transportation)	UBC	1971-72
Public Utilities	UBC	1971-72

Please list courses or degrees in **Finance and Accounting**, if any.

Courses	Institution attended	Year
Fundamental Accounting	UBC	1969-70
Quantitative Methods 2	UBC	1970-71
Management Accounting	UBC	1970-71
Business Finance	UBC	1970-71
Taxation	UBC	1980-81
Advanced Taxation	UBC	1981-82
Corporations and Tax	UBC	1982

Please list courses relating to **logistics, transportation or transportation law**, if any.

Courses	Institution attended	Year
Business Logistics	UBC	1970-71
Transportation	UBC	1970-71
Air Transport	UBC	1971-72
Water Transportation	UBC	1971-72
Public Utilities	UBC	1970-71
Commercial Law	UBC	1971-72
International Marketing	UBC	1971-72
Transportation in Economic Development	UBC	1971-72
Policy Administration	UBC	1971-72



Government & Business	UBC	1971-72
Collective Behaviour (i.e. public behaviour to shipments of dangerous goods, amongst other "collective" concerns)	UBC	1971-72
Constitutional Law	UBC	1979-80
Contracts	UBC	1979-80
Legal Institutions (Jurisdiction)	UBC	1979-80
Civil Litigation; Real Property; and, Torts [i.e. Lac Magantic)	UBC	1979-80
Administrative Law	UBC	1980-81
Bachelor of Commerce Major in Transportation, Minor in Marketing	UBC	1973
Bachelor of Laws and Logic (LLB)	UBC	1982
Master of Law in Alternative Dispute Resolution	UBC	1999

### Arbitration Designation

Please list below the designation(s), certification(s) or accreditation(s) in arbitration received from any recognized institution(s) and the year(s) conferred.

Designation	Organization	Year conferred
Fellow [FCI Arb]	Chartered Institute of Arbitrators, London, England	2012
Member	Chartered Institute of Arbitrators, London, England	2012
Chartered Arbitrator [C. Arb.]	ADR Institute of Canada	2012

### Arbitration Training

Please list below the **arbitration training** or course(s), if any, along with the institution providing the training and the year that you received this training.



Course	Institutions	Year
An Introduction to ICSID Process: Primer on Practice and Procedure in ICSID Convention Arbitration	The International Centre for Settlement of Investment Disputes	2015, 2016
Being Counsel, Best Practices in International and Domestic Arbitrations [ <b>Presenter and Panel Member</b> ]	The Advocates' Society	2014-2016
Several Courses through the ADRIC/ICC Canada 2013: Gold Standard Conference	The ADR Institute of Canada and the International Chamber of Commerce	2013 – Annual updates
Accelerated Route to Fellowship	Chartered Institute of Arbitrators, London, England	2011
Training for Adjudicators - Order-in-Council Vice Chairs	Workplace Safety and Insurance Appeals Tribunal, Ontario	2009-2014
ADR and Developments in Amateur Sport	Sport Dispute Resolution Centre of Canada	2007 - ongoing
In-house training Adjudication and Effective Decision-Writing	Health Professions Appeal and Review Board, Ontario City of Toronto, Court Services - Administrative Penalty Tribunal	2006 – 2009 2017 - ongoing
Effective Decisions	Society for Ontario Adjudicators and Regulators	2004
Adjudicator's Course	Society for Ontario Adjudicators and Regulators	2003
Arbitration	Financial Services Commission of Ontario	2012, & 1997
Arbitration of MVA Insurance Disputes	ADR Chambers, and Stitt, Feld, Handy Group	2012
Several Arbitration Courses  <b>ONGOING CONTINUING PROFESSIONAL DEVELOPMENT</b>	Law Societies of British Columbia, & Ontario, The Canadian Bar Association, the Ontario Bar Association, the American Bar Association, the International Bar Association, the International Chamber of Commerce (ICC), the American Arbitration Association, the International Centre for Dispute Resolution (ICDR), The Advocates' Society, and Osgoode Professional Development - New York State Bar (FEB. 2013- <b>Faculty</b> )	1981 and continuing



	The ADR Institute of Canada, The ADR Institute of Ontario	
Arbitration	Better Business Bureau - Lower Mainland, Vancouver, B.C.	1983
Arbitration Workshop for the Department of Justice (Toronto)- Course Trainer	Canadian Dispute Resolution Corporation	1996

### Commercial Litigation Experience

Please specify approximate number of commercial cases in which you have acted as counsel.

52

Please list range of years over which these cases occurred.

1983 - 2005

Please list law firms with which you were associated, according to years.

Firm name	Duration
Killam, Whitelaw & Twining, Vancouver, B.C.	1982 - 84
Kathleen J. Kelly, Vancouver, B.C.	1985 - 88
Zwanette & Pereboom, Vancouver, B.C.	1988
Norman Bergstein; then Bergstein & Kelly, Toronto, ON	1988 - 94
Kathleen J. Kelly, Toronto, ON.	1994 - ongoing

Did you typically represent plaintiff, respondent or both? Please provide your answer as a percentage.	Response
Plaintiff	50
Respondent	50



Please list by subject area, the three most complex commercial cases with which you have been involved as counsel in arbitrations or litigation, the kind of evidence presented, what experts were involved, quantum in issue and duration of case.

Area of commercial litigation (e.g. patent infringement)	Kind of evidence presented	What type of experts were involved	Quantum (value of claim)	Duration (time in court)
Patent and Trademark infringement; contract	Mostly documentary; contracts, patent filings, trademark usage	signage, patent, and trademark experts	50 million	10 days Federal Court and Federal Court of Appeal (Court names current at that time) My involvement in this matter continued over the course of at least 8 years
Multi-level marketing & contracts	Contracts,	Economic loss	20 million	After several contested court appearances, over an 8 year period, this matter was settled out of court.
Commercial Lease; business	lease documents; comparative values; appraisals	Commercial lease appraisers, real estate evaluators	10 million	Settled out of court

### Experience as an Arbitrator, Adjudicator or Judge

Please specify approximate number of cases in which you have acted as an arbitrator, judge or tribunal adjudicator. Please note that there are cells, in the table below, in which you are asked to provide the court level and tribunal.





	<b>Arbitrator</b>	<b>Judge</b>	<b>Tribunal Adjudicator</b>
Number of cases	160	25	450
Over what period of years	35	1	14
Number of commercial cases	140	0	1360
Over what period of years	35		9
Level of court	Appointed by Ontario Superior Court of Justice in 5 cases N/A	N/AN/A	N/A1350
Please specify tribunal	Better Business Bureau, Lower Mainland, Vancouver, B.C.; SDRCC (Sport Dispute Resolution Centre of Canada; IIROC; MFDA; CTA; Private Arbitrator	Pre-Trial Judge, Ontario Superior Court of Justice – appointed by the Regional Senior Justice at that time	Health Professions Appeal and Review Board; Sport Dispute Resolution Centre of Canada; Workplace Safety and Insurance Appeals Tribunal; Mutual Funds Dealer Association of Canada (MFDA)

Please list by subject area the three most complex commercial cases in which you acted as arbitrator, judge or adjudicator, the kind of evidence presented, experts involved, quantum in issue and duration of hearing.



Please specify your role	Area of commercial litigation	Evidence presented	Experts included	Quantum (value of claim)	Duration (time in court)
Arbitrator	Railway transportation - freight rates; insurance and risk assessment; environmental issues	comparative tariffs; costs of shipping; economic return on investment; business records; costing schedules; return on investment/accounting; insurance risks and costs; environmental impact; regulations regarding tanker car design, and tanker car characteristics in general sensitivities regarding carriage of dangerous goods; results of previous litigation regarding carriage of dangerous goods; legal duties of each of the parties – commercial and negligence; costs of clean-up in the event of an environmental spill from tanker cars	economists; transportation/logistics experts; engineers; accountants; professors; retired Judge, Federal Court; business representatives from each of the parties deemed as experts by agreement between the parties; insurance and risk assessment experts	Potentially several billions of dollars	5 days
Adjudicator	Investments/securities - discipline matter	accounting and business records; regulations/standards of practice; reports from investigators	financial and accounting; professional standards	over 100 million	6 hearing days
Arbitrator	Railway transportation - freight rates	comparative tariffs; costs of shipping; economic return on investment; business records; costing schedules; return on investment/accounting	economists; transportation/logistics experts; engineers; accountants	20 million	6 days



## Work Samples

Please provide a written award (redacted) or decision that you have written. Files should be attached to this submission. Only .pdf or .doc files are accepted.

Submitted Public Decision

### Transportation Specific Legislation

#### FOR RAIL SPECIALIZATION – LEGISLATION, REGULATIONS, AND PROCEDURES

Please rate your current familiarity with the following using "Very familiar", "Fair" or "Not familiar".	Response
<i>Railway Costing Regulations – SOR/80-310</i>	Fair
<i>Railway Third Party Liability Insurance Coverage Regulations – SOR/96-337</i>	Fair
<i>Railway Traffic Liability Regulations – SOR/91-488</i>	Fair
<i>Carriers and Transportation and Grain Handling Undertakings Information Regulations – SOR/96-334</i>	Not familiar
<i>Railway Interswitching Regulations – SOR/88-41</i>	Fair

Please provide details explaining how you became familiar with this material.

From reviewing and consulting this material for previous arbitrations and on an ongoing basis to keep current and informed of new developments when new decisions are posted, and new appointments made.

#### FOR MARINE SPECIALIZATION – LEGISLATION, REGULATIONS, AND PROCEDURES

Please rate your current familiarity with the following using "Very familiar", "Fair" or "Not familiar":	Response
<i>Canada Marine Act – S.C. 1998, c. 10</i>	Not familiar
<i>Coasting Trade Act – S.C. 1992, c. 31</i>	Not familiar
<i>Pilotage Act – R.S.C. 1985, c. P-14</i>	Not familiar
<i>Shipping Conferences Exemption Act, 1987 – R.S.C., 1985, c. 17 (3rd Supp.)</i>	Not familiar

Please provide details explaining how you became familiar with this material.



FOR AIR SPECIALIZATION – LEGISLATION, REGULATIONS, AND PROCEDURES

Please rate your current familiarity with the following using "Very familiar", "Fair" or "Not familiar":	Response
<i>Air Transportation Regulations – SOR/88-58</i>	Fair

Please provide details explaining how you became familiar with this material.

My undergraduate course of studies focused on all aspects of Transportation, following which I worked for an international air carrier for over seven years in several different operational and management functions The Canadian Bar Association now has National Sections, which I have joined, focused on different transportation modalities.

**Familiarity with Transportation and Transportation Law**

Please describe your background involvement in the transportation industry or transportation law, if any.

After completing an under graduate degree in Commerce, Majoring in Transportation, I worked for an international air carrier for over seven years in several different operational and management functions. In addition, I have travelled extensively by air and rail in Canada and other countries. Lastly, and perhaps most importantly, I have been both selected and appointed to act as an arbitrator in a number of freight rate transportation matters.

I have been appointed by one party in a number of other transportation and transportation-related disputes.

**Disclosure**

If you have ever worked for, been associated with, or have a current or past interest in a transportation carrier or shipper in rail, marine or air, please provide details below:

1972-1978 - several management positions with an international air carrier

**Conflict**

If you OR YOUR FIRM currently represent, or have in the past represented, a carrier please advise.

N/A

If you OR YOUR FIRM currently represent, or have ever represented, a company in a matter relating to shipment of goods, please advise.

N/A



### Fees

Please provide daily and hourly rates	Response
<b>Daily</b>	\$5,000.00 (for the first 8 hours, including breaks, thereafter the hourly rate applies)
<b>Hourly</b>	\$650.00

### Availability

How many months in advance are you booked for?

1-3

### Signed Agreement

PLEASE NOTE THAT YOUR APPLICATION IS NOT COMPLETE WITHOUT PROOF OF INSURANCE AND THE SIGNED AGREEMENT THAT YOU WILL FIND BELOW.

The information I have provided describes accurately my qualifications and experience.

I understand that:

- Roster members will be selected based on the criteria set out in this request for biographical information.
- The biographical information provided by me in this request for biographical information will appear online ON the Agency's Web site.
- Rosters and roster members may be reviewed every two years.
- Being accepted as a roster member does not guarantee that I will receive work under the *Canada Transportation Act*.
- The Canada Transportation Agency is in no way responsible for any fees, expenses or outstanding payments, all of which shall be billed by the arbitrator to the parties to any proceeding under the *Canada Transportation Act*.

If my request is accepted, I will comply with all the conditions of the program, including but not limited to the following:

- Compliance with the Canadian Transportation Agency's Code of Values and Ethics.
- Maintenance of insurance at the required level.



Please provide proof of insurance	Response
Policy number #	Master Policy No. NPL1000240
Issuer	TRISURA

<b>Signed on</b>	
<b>in the province of</b>	
<b>Signature (Please sign the form digitally by typing your first and last name.)</b>	* Signed on original copy

### Application Checklist

Please do not include a resume. If you have any questions or need help, please contact Martina Faith at [Martina.Faith@otc-cta.gc.ca](mailto:Martina.Faith@otc-cta.gc.ca).

If you wish to be considered for the roster, please ensure that you completed the following:

#### Checklist

- Filled out the Application Form
- Provided your work sample
- Provided your digital signature above
- Faxed us (819-953-6613) or attached as a PDF, the proof of insurance