



JOSEPH R. BRUBAKER

jbrubaker@kmclaw.com | 801.328.3600

SHAREHOLDER

Joseph Brubaker assists companies in taking products, services, intellectual property, and businesses globally. With extensive regulatory and litigation experience with governments worldwide, he helps U.S. companies successfully expand internationally and helps foreign companies invest in the U.S. market.

Mr. Brubaker has lived in England, France, Israel, Mongolia, and Russia, and his experience includes matters relating to over 100 countries. He currently serves as chair of the Utah District Export Council, on the board of the World Trade Center Utah, on the board of the Utah Aerospace & Defense Association, on the Utah Advisory Committee for the U.S. Global Leadership Coalition, and as former chair of the International section of the Utah Bar.

EXPERIENCE

International Transactions and Trade

- Drafted international contracts for stock, goods (including INCOTERMS), services, and licenses (copyrights, trademarks, patents, data, information) in over 100 jurisdictions, including foreign mergers and acquisitions, F-35 countermeasures, Māori artwork, semiconductor software, and Dead Sea Scrolls.
- Advised on contracts, funding, and disputes for real estate transactions and construction of over 60 international projects, including negotiations with Deloitte, KPMG, and PWC.
- Advised on international trade law in multiple jurisdictions, including export and anti-boycott regulations (EAR), international traffic in arms regulations (ITAR), customs and border patrol regulations (CBP), and anti-dumping and counter-vailing duties (AD/CVD).
- Obtained import and export licenses, negotiated voluntary disclosures to avoid penalties in multiple jurisdictions, and saved clients over \$37 million in petitioning for new duty exemptions.
- Served as counsel to China in The Doha Round of free trade negotiations, counseled Bulgaria on terminating an oil/gas treaty with Russia and Greece, advised on U.S.-Japan Trade Agreement.

International Corporate and Tax

- Established subsidiaries, branches, and affiliates in over 100 jurisdictions, including advising on bilateral and multilateral investment treaties (BITs/ MITs), tax treaties, thin capitalization rules, and transfer pricing in jurisdictions, including Argentina, Australia, Brazil, China, Dominican Republic, Democratic Republic of the Congo, Germany, Ghana, Guatemala, Hong Kong, India, Japan, Mexico, New Zealand, Peru, the Philippines, South Africa, United Arab Emirates, and the United Kingdom.
- Advised on domestic, foreign, and international tax issues, including controlled foreign corporations (CFC) and global intangible low-taxed income (GILTI), and preparing for and defending 38 corporate and tax audits.
- Advised on aerospace, agriculture, apparel, airport, blockchain and cryptocurrency, charity, commodities, defense, education, insurance, mining, nutraceutical, oil and gas, pharmaceutical, sports, textiles, and trading industries.
- International Banking and Data Privacy
- Advised on funds transfers, bank credits/guarantees, credit cards (PCI), and insurance policies.

PRACTICE AREAS

BUSINESS FORMATION, STRUCTURE, AND EXIT STRATEGIES

CONSTRUCTION, SURETY, AND DESIGN PROFESSIONALS

CONTRACTS

CYBERSECURITY AND DATA PRIVACY

EUROPEAN MARKETS

FIRST AMENDMENT AND RELIGIOUS ORGANIZATIONS

FOREIGN DIRECT INVESTMENT

GENERAL COUNSEL SERVICES

GLOBAL MIGRATION AND EMPLOYMENT

INTERNATIONAL

INTERNATIONAL DISPUTE RESOLUTION

INTERNATIONAL INTELLECTUAL PROPERTY

INTERNATIONAL LAW: TRADE AND TAXATION

LICENSING

LITIGATION

TAX AND ESTATE PLANNING

JOSEPH R. BRUBAKER

EXPERIENCE CONTINUED

- Advised on anti-money laundering (AML, FinCEN), terrorism financing, and economic sanctions (OFAC), including developing compliance programs, negotiating licenses, and litigating disputes and including Cuba, Iran, North Korea, Syria, Russia, and Venezuela. Served as counsel to Industrial and Commercial Bank of China, Royal Bank of Canada, and Clearstream, as well as to clients working with Bank of America, Citibank, HSBC, JPMorgan Chase, Lloyd's of London, PNC, Standard Chartered Bank, and Zions Bank.
- Advised clients on data privacy compliance under multiple laws (including GDPR), defended clients in eight government data privacy audits, and represented clients in data breaches with Visa, MasterCard, Discovery, and American Express.

International Employment and Immigration

- Drafted employment and independent contractor agreements in over 75 jurisdictions involving the U.S. Foreign Corrupt Practices Act (FCPA) and the U.K. Bribery Act (UKBA).
- Advised on visas and work permits in multiple jurisdictions, including Finland, Indonesia, the Netherlands, Singapore, and the U.S.

International Litigation and Arbitration

- Represented clients before the International Court of Justice, the World Bank, the World Trade Organization, the U.S. Supreme Court, U.S. Courts of Appeals for the Second and Fourth Circuits, U.S. District Courts in New York, Utah, Virginia, and Washington, D.C., the U.S. Court of International Trade, the Utah Supreme Court, the Utah Court of Appeals, and other courts.
- Represented sovereigns, state-owned entities, and private companies in international disputes, including Bulgaria, Canada, China, the Philippines, Romania, Uzbekistan, the World Bank's International Finance Corporation, Bank of China, Bank of Costa Rica, and Bank Mandiri.
- Served as counsel to clients in disputes against Argentina, Kyrgyzstan, the United States, and Venezuela and in a dispute involving the Central Bank of Iran, Bank Markazi. Represented clients in international arbitrations under the rules of the International Centre for Settlement of Investment Disputes (ICSID), the International Chamber of Commerce (ICC), the International Centre for Dispute Resolution (ICDR), the London Court of International Arbitration (LCIA), Japan Commercial Arbitration Association (JCAA), the Italian Association for Arbitration (AIA), the Vienna International Arbitral Centre (VIAC), and The United Nations Commission on International Trade Law (UNCITRAL).
- Served as counsel in enforcing arbitral awards and foreign country judgments and successfully enforced awards and judgments in New York and Utah and managed litigation and arbitration in over 25 jurisdictions, including before The Supreme Court of Cassation in Italy and before the Constitutional Court of Russia.
- Taught law school courses and classes on international litigation and international arbitration at multiple law schools, including Brigham Young University's J. Reuben Clark Law Society, the University of Utah's S.J. Quinney College of Law, and Catholic University of America's Columbus School of Law.
- Clerked at the ICC International Court of Arbitration in Paris, France.

International Human Rights and Religious Freedom

- Assisted in drafting constitutions for Egypt and Nepal, focusing on freedom of expression, freedom of assembly, political determination, federalism, and separation of powers.
- Advised on religious freedom, government relations, and legal compliance on human rights matters in many jurisdictions.
- Assisted in religious freedom litigation, including before the Constitutional Court of Russia.
- Delivered presentations on religious freedom in the Middle East, on treaties of the Organization of American States, and on the International Covenant on Civil and Political Rights (ICCPR).

INDUSTRIES

AGRIBUSINESS
 DIRECT SALES & MULTI-LEVEL MARKETING
 FINANCIAL SERVICES
 NONPROFIT ORGANIZATIONS
 SPORTS

LANGUAGES

FRENCH
 MONGOLIAN
 RUSSIAN

JOSEPH R. BRUBAKER

EDUCATION

University of Cambridge, LLM, First Class Honors, 2007

Columbia Law School, JD, 2006

Harlan Fiske Stone Scholar

Parker School Recognition of Achievement in Foreign and Comparative Law

Civil Procedure Teaching Assistant for Professor Susan P. Sturm

International Commercial Arbitration Research Assistant for Professor George A. Bermann

University of Utah, BA, President's Scholar, 2002

Brigham Young University, Jerusalem, Israel, 1997

ADMISSIONS & AFFILIATIONS

Bar Admissions: Utah, 2014

District of Columbia, 2008

New York, 2007

Other Affiliations: Served as a clerk at the ICC International Court of Arbitration in Paris, France

HONORS & AWARDS

Pro Bono Award: Assisted in constitutional reform in the Arab Republic of Egypt and the Federal Democratic Republic of Nepal, focusing on equal protection, freedom of expression, separation of powers, and the political question doctrine (2010)

Willem C. Vis International Arbitration Moot, Vienna, Austria: Place for Claimant's Memorandum, Honorable Mention for Respondent's Memorandum, Oral Team Semifinalist (2006)

Mountain States Super Lawyers: Rising Star in International (2016, 2017)

Best Lawyers: Franchise Law (2013-2016)

Utah Legal Elite: Corporate Counsel

Salt Lake Magazine: Top Lawyers of Mountain States (2018)

PUBLICATIONS & PRESENTATIONS

Speaking Engagements

- Doing Business in the Philippines: Unlocking the Islands' Treasures, The Mill Entrepreneurship Center, Salt Lake City, Utah, 2024
- The Art of Networking: Connected Lawyers are Happy Lawyers, J. Reuben Clark Law Society, Annual Conference, Las Vegas, Nevada, 2024
- Chain React, Navigating Supply Chains in a Post-COVID World, Kizik, Lindon, Utah, 2024
- U.S. Anti-boycott Laws and the Gaza-Israel Conflict, Kirton McConkie, Salt Lake City, Utah, 2023
- Bilateral and Multilateral Investment Treaties and Investment Disputes, Brigham Young University Law School, Provo, Utah, 2023
- The Future of Economic Sanctions, Mexico, 2023
- International Business Growth and Intellectual Property, Global Business Management, Salt Lake City, Utah, 2023

JOSEPH R. BRUBAKER

PUBLICATIONS & PRESENTATIONS CONTINUED

- Doing Business in the United States, Legally, Ningbo International Legal Service Center, Ningbo, China, 2023
- 2023 United States Supreme Court Review, Provo, Utah, 2023
- What U.S. Lawyers Need to Know About Doing Business in India, Utah State Bar and Colorado Bar Association, Boise, Idaho, 2023
- Doing Business in China, Legally, Association of Corporate Counsel, Salt Lake City, Utah, 2023
- The International Centre for Settlement of Investment Disputes, Brigham Young University Law School, Provo, Utah, 2023
- Data Privacy and Economic Sanctions, Kirton McConkie, Salt Lake City, Utah, 2023
- Drafting International Dispute Resolution Clauses, International Section, Salt Lake City, Utah, 2023
- Introduction to Export Licensing, 47G/Utah Aerospace and Defense Association, Salt Lake City, Utah, 2023
- Economic Sanctions and Trade Restrictions, Brigham Young University Law School, Provo, Utah, 2023
- International Business and Importing and Exporting, Global Business Management, Salt Lake Salt Lake City, Utah, 2023
- ITAR/EAR Compliance, 47G/Utah Aerospace and Defense Association, Salt Lake City, Utah, 2023
- Economic Sanctions and Humanitarian Aid, Hinckley Institute of Politics, Salt Lake City, Utah, 2023
- International Business and the Foreign Corrupt Practices Act, Global Business Management, Salt Lake Salt Lake City, Utah, 2023
- International Religious Freedom, J. Reuben Clark Law Society, Annual Conference, Salt Lake City, Utah, 2022
- Decision Time: Global Legal, Tax, & Supply Chain Trends to Plan for in 2022, World Trade Center Utah, Sandy, Utah, 2022
- International Investment Law and The International Centre for Settlement of Investment Disputes, Brigham Young University Law School, Provo, Utah, 2022
- Russia and the United States, Utah Council for Citizen Diplomacy, Salt Lake City, Utah, 2022
- Navigating the New Economic Sanctions and Trade Restrictions against Russia, Kirton McConkie, 2022
- The Role of General Counsel, Direct Selling Association, Washington, D.C., 2021
- Mexico: The Next Destination for Global Manufacturing, World Trade Center Utah, Salt Lake City, Utah, 2021
- International Law Developments, John Hopkins University, Baltimore, Maryland, 2021
- The US-China Trade War: What You Need To Know Now, Snowsports Industries America, Park City, Utah, 2020
- U.S - China Trade War Litigation, Kirton McConkie, Salt Lake City, Utah, 2020
- Doing Business in Russia, World Trade Center Utah, Salt Lake City, Utah, 2020
- Strategies for Surviving the U.S. China – Trade War: Year 2 and the Risk of Recession, World Trade Center Utah, Salt Lake City, Utah, 2019
- The U.S. China – Trade War and the Risk of Recession, Redux, Utah Bar Association, Salt Lake City, Utah, 2019
- International Development, 68th United Nations Civil Society Conference, Salt Lake City, Utah, 2019
- The U.S. China – Trade War: Tariff Reduction Strategies, Snowsports Industries America, Park City, Utah, 2019
- International Trade Barriers in 2019, World Trade Association of Utah, Salt Lake City, Utah, 2019
- International Manufacturing and Distribution, Brigham Young University Law School, Provo, Utah, 2019
- Representative John Curtis' International Trade Conference, Utah Valley University, Orem, Utah, 2018
- NAFTA 2.0: The New USMCA, U.S. Department of State and the World Trade Center Utah, Salt Lake City, Utah, 2018
- International Business and Affairs, Utah Global Forum, Salt Lake City, Utah, 2018
- The NAFTA Negotiations and International Treaty Developments, U.S. Department of State and the Utah Bar Association, Salt Lake City, Utah, 2018
- The U.S. – China Trade War, Governor's Office of Economic Development, Utah Office of Outdoor Recreation, Salt Lake City, Utah, 2018

JOSEPH R. BRUBAKER

PUBLICATIONS & PRESENTATIONS CONTINUED

- Promoting Religious Freedom Around the World, J. Reuben Clark Law Society, Salt Lake City, Utah, 2018
- Strategies for Surviving the U.S. – China Trade War, Utah Bar, Salt Lake City, Utah, 2018
- European Union’s General Data Privacy Regulation, Measurement, Control & Automation Association, Virginia, 2018
- What Every Business Leader and Lawyer Needs to Know About International Law, Zions Bank, Salt Lake City, Utah, 2018
- GDPR: The Detailed Kirton McConkie Strategy for our Clients, Kirton McConkie, Salt Lake City, Utah, 2018
- NAFTA 2.0: The New USMCA, World Trade Center Utah, Salt Lake City, Utah, 2018
- European Union’s General Data Privacy Regulation, Measurement, Control & Automation Association, Virginia, 2018
- Experts Share Strategies for Utah Companies to Survive U.S.-China Trade War, Daily Herald, 2018
- GDPR: What U.S. Exporters Need to Know, World Trade Center Utah, Salt Lake City, Utah, 2018
- Becoming a Defender of Religious Freedom, J. Reuben Clark Law Society, Salt Lake City, Utah, 2017
- The Rule of Law and Moral Agency, Cambridge University, Cambridge, England 2017
- Drafting International Construction Contracts, Special Projects Department, The Church of Jesus Christ of Latter-day Saints, Salt Lake City, Utah, 2016
- International Arbitration: Key Issues for Utah Businesses, World Trade Center Utah and Utah State Bar, Salt Lake City, Utah, 2016
- Religious Liberty and the Middle East, J. Reuben Clark Law Society, San Diego, California, 2016
- International Business Transactions and the Foreign Corrupt Practices Act, University of Utah Law School, Salt Lake City, Utah, 2016
- International Trade and Economic Sanctions, Utah Bar Association, Salt Lake City, Utah, 2015
- The Foreign Corrupt Practices Act and International Law on Corruption, University of Utah Law School, Salt Lake City, Utah, 2015
- ASIL-ICCA Task Force on Issue Conflicts in International Adjudication, American Society of International Law, Washington, D.C., 2015
- Religious Freedom and the Inter-American Court of Human Rights, J. Reuben Clark Law Society, Phoenix, Arizona, 2015
- Drafting For A Dispute: Liability Limitation and International Arbitration, International Section, Kirton McConkie, Salt Lake City, Utah, 2015
- The Impact of Trade Restrictions on Foreign Direct Investment, University of Utah Law School, Salt Lake City, Utah, 2015
- The Debate over Issue Conflict as a Ground for Disqualifying Arbitrators, Institute for Transnational Arbitration and Institute for Energy Law, Houston, Texas, 2015
- The Transatlantic Trade and Investment Partnership and Investor-State Arbitration, Brigham Young University Law School, Provo, Utah, 2015
- Understanding International Charities, University of Utah Law School, Salt Lake City, Utah, 2014
- Navigating Export Control Reform, Utah Bar Association, St. George, Utah, 2014
- Arbitration Clauses in International Contracts, Utah Bar Association, Salt Lake City, Utah, 2012
- Money Laundering in International Disputes, International Disputes Group, Washington, D.C., 2012
- International Commercial Arbitration, White & Case LLP, Washington, D.C., 2012
- Extraterritorial Garnishment and Due Process, International Disputes Group, Washington D.C., 2011
- International Dispute Resolution for Judges, International Law Institute, Washington, D.C., 2011
- The Role of the Home State in Investment Treaty Arbitration, International Disputes Group, Washington, D.C., 2010
- International Arbitration Practice, Columbia International Arbitration Association, New York, 2009
- International Courts and Tribunals, Columbia Law School, New York, NY, 2009

JOSEPH R. BRUBAKER

PUBLICATIONS & PRESENTATIONS CONTINUED

Publications

- Athletes' Rights in View After IOC, CAS Differ on Olympians, *Law360*, February 9, 2018
- Unpacking Brexit: How the UK's Exit from the EU Could Change how Utah does International Business, *Utah Business*, October 25, 2016
- Twenty-Five Years of the "Prospective Waiver" Doctrine in International Dispute Resolution: Mitsubishi's Footnote Nineteen Comes to Life in the Eleventh Circuit, 64 *University of Miami Law Review* 1233, 2010
- A Sporting Chance? The Court of Arbitration for Sport Regulates Arbitrator-Counsel Role Switching, 10 *Virginia Sports and Entertainment Law Journal* 1, 2010
- Anti-Suit Injunctions in Aid of Arbitration: the American Approach, 12 *International Arbitration Law Review* 115, 2009
- The Judge Who Knew Too Much: Issue Conflicts in International Adjudication, 26 *Berkeley Journal of International Law* 111, 2008
- Review: The Law and Practice of Arbitration, 17 *The American Review of International Arbitration* 293, 2006