



Forum Shopping In The International Commercial Arbitration Context

A Conference Organized By The
Center for Transnational Litigation and Commercial Law

February 28th – March 2nd, 2013

Lester Pollack Colloquium Room,
Furman Hall 900, 245 Sullivan Street,
New York, NY 10012

Since space is limited, please RSVP at cassy.rodriguez@nyu.edu

Thursday, February 28th, 2013

4:00-5:00 pm

Forum Shopping: Right Or Duty?

Franco Ferrari/Aaron Simowitz

5:00-5:45 pm

Forum Shopping And The Determination Of The Place Of Arbitration

Filip De Ly

— Break —

6:15-7:00 pm

Forum Shopping And The Gateway Issues

George A. Bermann

Friday, March 1st, 2013

9:30-10:15 am

Anti-Arbitration Injunctions And Anti-Suit Injunctions

Alexander Layton

10:15-11:00 am

Enforcing Orders Over Third Parties

John Fellas

— Break —

11:15-12:00 pm

*Interim Measures: Relevance Of The Courts
At The Place Of Arbitration And Other Places*

Christopher Boog

12:00-12:45 pm

Courts And The Constitution Of The Arbitral Tribunal

Robert H. Smit

4:00- 4:45 pm

Forum Non Conveniens And Lack Of Personal Jurisdiction

Peter B. Rutledge

4:45-5:30 pm

Enforcement Policies

Pedro J. Martinez-Fraga

— Break —

5:45-6:30 pm

Setting Aside

Loukas Mistelis

Saturday, March 2nd, 2013

9:15-10:00 am

Enforcement And Public Policy

Domenico Di Pietro

10:00-11:00 am

Enforcement Of Awards Set Aside In The Country Of Origin

Linda J. Silberman/Maxi Scherer

— Break —

11:15-12:00 pm

Courts And Remission To Arbitrators

Jack Coe, Jr.

12:00-12:45 pm

Post-Awards Moves

Brian King

Conference speakers

George A. Bermann

Professor George A. Bermann is the Walter Gelhorn Professor of Law, the Jean Monnet Professor of European Union Law, and the Director of the European Legal Studies Center at Columbia Law School, as well as a Visiting Professor of the Institut des Sciences Politiques (Sciences Po) in Paris, France. He is also the Chief Reporter of American Legal Institute's Restatement of the Law of International Commercial Arbitration, the former President of the American Society of Comparative Law, the past editor-in-chief of the *American Journal of Comparative Law* and the current President of the International Academy of Comparative Law. Professor Bermann, who acts as an arbitrator in both ad hoc and institutional arbitrations (administered by ICC, AAA, ICDR, DIS, LCIA, CIETAC), is also the co-author of the soon to be published *UNCITRAL Guide to the New York Convention*.

Christopher Boog

Mr. Christopher Boog is a Partner in Schellenberg Wittmer's International Arbitration Group in Zurich. He specializes in international arbitration and represents clients in commercial disputes related to construction and engineering projects, research and development, sales contracts including post-M&A disputes, the energy sector (including oil & gas) and the pharmaceutical and automotive industries. Mr. Boog graduated from the law schools of the Universities of Amsterdam and Fribourg, was a Visiting Scholar at Columbia Law School in New York and obtained a doctorate in law (*summa cum laude*) from the University of Zurich. He regularly publishes and speaks in the fields of international arbitration and transnational litigation.

Jack Coe, Jr.

Professor Jack Coe, Jr., is Faculty Director of Pepperdine's LL.M in International Commercial Arbitration. He is an Associate Reporter on the Restatement (Third) on International Commercial Arbitration, a Fellow of the American Bar Foundation and has chaired both the Disputes Division of the ABA Section of International Law and the Academic Council of the Institute for Transnational Arbitration. He is a member of the ICDR panel and has arbitrated both institutional and ad hoc proceedings under various rule formulae. Professor Coe's practical and formal training includes degrees from UCLA, Loyola, Exeter and the LSE, and two years as a Chamber Three Legal Assistant at the Iran US Claim Tribunal in The Hague. He also holds the Diploma of the Hague Academy of International law. In 2012, Mr. Coe was a Fellow of New York University School of Law's Center for Transnational Litigation and Commercial Law in 2011

Filip De Ly

Professor Filip De Ly is a full Professor of Private International Law and Comparative Law at Erasmus School of Law in Rotterdam, The Netherlands. He is a Board member of the Netherlands Arbitration Institute, a member of the Council of the ICC Institute of World Business Law, Chairman of the ILA International Commercial Arbitration Committee and Chairman of the *Groupe de Travail Contrats Internationaux*

Conference speakers

Domenico Di Pietro

Domenico Di Pietro, who graduated in law at University of Rome La Sapienza and received his LLM from Queen Mary, University of London, practises international arbitration with Freshfields Bruckhaus Deringer in Rome and Milan. He has acted in numerous arbitrations under the rules of a great variety of arbitral institutions as well as in ad hoc proceedings. He is also active in investment arbitration, having advised and appeared in well-known ICSID cases, including annulment proceedings. Domenico has also acted in several sport disputes at the Athens and Beijing Olympics. Mr. Di Pietro lectures international arbitration at Roma Tre University and is a Fellow of the Centre for Transnational Litigation and Commercial Law at New York University School of Law. He has published extensively on international arbitration. He is qualified to practise in Italy and in England and Wales.

John Fellas

John Fellas received a B.A. (Hons.) from the University of Durham, England, and both an LL.M. and an S.J.D. from the Harvard Law School. Mr. Fellas is partner in the New York office of Hughes Hubbard & Reed LLP, practicing in the fields of international litigation and arbitration. He has practiced in both the U.S. and England, and as well as being a member of the New York Bar, he is also a Solicitor of the Supreme Court of England and Wales. He has served as counsel, and as chair, sole arbitrator and co-arbitrator, in arbitrations under the AAA, ICC and ad hoc rules. He also serves on the Mediation Panel of the District Court for the Southern District of New York. Mr. Fellas has also been retained to act as an expert witness on U.S. law in proceedings in other countries. He has been recognized for his practice in international arbitration by: Who's Who Legal – The International Who's Who Of Business Lawyers; Chambers USA - Guide to America's Leading Business Lawyers; Chambers Global; The Best Lawyers In America; Euromoney Expert Guides -- Best of the Best USA. Mr. Fellas has also been recognized for his practice in commercial litigation. He is also the co-editor of *International Commercial Arbitration in New York* (Oxford University Press, 2010).

Franco Ferrari

Professor Franco Ferrari is a member of the full-time faculty of NYU School of Law as well as chaired professor of international law at Verona University School of Law. Previously, he was chaired professor of comparative law at Tilburg University in the Netherlands and Bologna University in Italy. After serving as member of the Italian Delegation to various sessions of the United Nations Commission on International Trade Law (UNCITRAL) from 1995 to 2000, he served as Legal Officer at the United Nations Office of Legal Affairs, International Trade Law Branch (2000-2002), with responsibility for numerous projects, including the preparation of the UNCITRAL Digest on Applications of the UN Sales Convention (2004 edition). Professor Ferrari has published more than 240 law review articles in various languages and 15 books in the areas of international commercial law, conflict of laws, comparative law and international commercial arbitration. Professor Ferrari is a member of the editorial board of various peer reviewed European law journals (*Internationales Handelsrecht*, *European Review of Private Law*, *Contratto e impresa/Europa*). Prof. Ferrari also acts as an arbitrator both in administered and *ad hoc* international commercial arbitrations and, most recently, also in an investment arbitration.

Brian King

Mr. Brian King is a partner in the international arbitration group at Freshfields Bruckhaus Deringer. Prior to returning to New York in 2007, he headed the arbitration group in the firm's Amsterdam office for seven years. Mr. King's practice centers on acting as counsel or arbitrator in investment treaty and international commercial disputes. He has represented both investors and States, as well as some of the largest European and U.S. corporations. A 1990 graduate of the NYU Law School, Mr. King regularly speaks and publishes on arbitration-related topics.

Conference speakers

Alexander Layton

Mr. Alexander Layton is an English barrister (Queen's Counsel) in practice at 20 Essex Street chambers in London. His practice, both as counsel and as an arbitrator, covers a wide range of commercial and other disputes, many of which involve questions of private international law or arbitration. He also sits as a Deputy High Court Judge in England and is a Bencher of the Middle Temple. Mr. Layton has acted as an expert adviser to the European Parliament and has given expert evidence on English and European law in proceedings in Europe, Russia, Canada, Latin America and the United States. He is also the general editor of *European Civil Practice*, a leading practitioners' textbook on conflicts of law and jurisdiction in Europe and has lectured frequently on topics of European and international law in Britain, Europe and the United States. He is a past chairman of the Board of Trustees of the British Institute of International and Comparative Law, the (English) Bar European Group and the British-German Jurists Association. He is a Trustee of the Academy of European Law and was a Fellow of New York University School of Law's Center for Transnational Litigation and Commercial Law in 2011.

Pedro J. Martinez-Fraga

Mr. Pedro J. Martinez-Fraga, who is a graduate of St. John's College (summa cum laude) and of Columbia Law School (Harlan Fiske Stone Scholar), is a partner in DLA Piper's international arbitration and litigation practice. Based in Miami, he is the firm's Coordinator of International Dispute Resolution for Latin America and Florida. He has represented seven countries and sovereign instrumentalities, and served as an arbitrator in ICC and major ICSID proceedings. Mr. Martinez-Fraga has written more than fifty articles published in fifteen countries, and five books on public and private international law. He currently serves as an Adjunct Professor at the New York University (NYU) School of Law, and is a Full Visiting Professor at the University of Navarra School of Law in Pamplona, Spain, and an Honorary Professor of Law at the Universidad de San Ignacio de Loyola in Lima, Perú. Additionally, he served as an adjunct professor at the University of Miami School of Law from 2002-2010.

Loukas Mistelis

Professor Loukas Mistelis, who was educated in Greece, France, Germany and Japan, is an acknowledged authority on international dispute resolution. In 2006 he was listed as one of the "leading lights in international arbitration", 45 under 45, amongst the top 15 highlighted members of the list and is also listed on the Who's Who Commercial Arbitration since 2007. He is the Clive Schmitthoff Professor of Transnational Commercial Law and Arbitration and the Director of the School of International Arbitration at the Centre for Commercial Law Studies, Queen Mary University of London. In 2012, Mr. Mistelis was a Fellow of New York University School of Law's Center for Transnational Litigation and Commercial Law. He has been a member of the Athens Bar since 1993 and was called to the English Bar in 2012. He is fluent in English, German and Greek, and has good knowledge of French, and basic knowledge of Polish, Russian and Spanish. His publications include more than 50 referred articles and 13 books.

Peter Bowman Rutledge

Mr. Peter "Bo" Rutledge is the Herman E. Talmadge Chair of Law at the University of Georgia. He is the author of *Arbitration and the Constitution* (Cambridge 2012), *International Civil Litigation in the United States* (with Gary Born) and over thirty book chapters and articles published with a diverse array of presses and journals including Oxford University Press, the University of Chicago Law Review, the Vanderbilt Law Review, and the Journal of International Arbitration. He is a listed arbitrator with the International Chamber of Commerce, the London Court of International Arbitration, the Vienna International Arbitration Center and the World Intellectual Property Organization

Conference speakers

Maxi Scherer

Professor Maxi Scherer, who studied law at the University of Cologne, Germany, and at Paris I Panthéon-Sorbonne, where she earned her PhD, is a full-time faculty member at the School of International Arbitration, Queen Mary, University of London, where she teaches courses on international litigation and arbitration. She is the Director of Queen Mary's Paris LLM program. Other academic appointments include Visiting Professor at SciencesPo Law School Paris, Hauser Global Research Fellow at New York University Law School and Adjunct Professor at the Georgetown Center of Transnational Legal Studies. She publishes extensively in the field of international arbitration and international litigation. Ms. Scherer is also a special counsel at Wilmer Cutler Pickering Hale and Dorr in London, which she joined in 2005. Previously, she practiced as a lawyer in Paris. Ms. Scherer has extensive experience with arbitral practice and procedure both in civil and common law systems. She has represented and advised clients in numerous international arbitrations before most major arbitral institutions and regularly serves as arbitrator, including as sole arbitrator, both in ad hoc and institutional arbitrations. Professor Scherer, who is admitted to the Paris Bar and as solicitor in England and Wales, publishes extensively in the field of international arbitration and litigation, including, as co-author, the book *The New York Convention, A Commentary* (2012).

Linda J. Silberman

Professor Linda J. Silberman is the Martin Lipton Professor of Law at New York University and Co-Director of the Center. She is a leading figure in the United States in private international law and transnational litigation, and her academic and scholarly interests range from numerous areas of commercial law to personal and family matters. At NYU, Professor Silberman teaches a range of courses, including Civil Procedure, Comparative Procedure, Conflict of Laws, International Litigation/Arbitration and International Commercial Arbitration. She is co-author of an important Civil Procedure casebook (now in its 3rd edition) and of a recent book on *Comparative Civil Procedure*. She was the co-Reporter for the American Law Institute Project--*Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute*, and an adviser to two other American Law Institute projects: Intellectual Property: Principles Governing Jurisdiction, Choice of Law and Judgments in Transnational Disputes and the Restatement Third on International Commercial Arbitration. Professor Silberman is also a Member of the State Department's Advisory Committee on Private International Law and has been a member of numerous U.S. State Department delegations to the Hague Conference. Professor Silberman combines her scholarship and academic work with other roles, such as special referee, expert witness and consultant in a number of important cases. Her work was cited by the Supreme Court of the United States on several occasions.

Aaron Simowitz

Mr. Aaron Simowitz is an Acting Assistant Professor at New York University School of Law, where he teaches the Lawyering course and co-teaches the International Litigation seminar with Professor Linda Silberman. Before joining New York University School of Law, Mr. Simowitz practiced at Gibson, Dunn, & Crutcher, where he focused on international litigation and judgment and arbitral award enforcement.

Robert H. Smit

Mr. Robert H. Smit is a Partner at Simpson Thacher & Bartlett LLP in the Firm's Litigation Department, where he Co-Chairs the Firm's International Arbitration and Dispute Resolution Practice. Mr. Smit is also Adjunct Professor of International Arbitration at Columbia Law School; Co-Editor-in-Chief of the *American Review of International Arbitration*; Member of the ICC Commission on Arbitration; and Adviser to the American Law Institute's Restatement (Third) of the U.S. Law of International Arbitration. Mr. Smit is also former U.S. Member of the ICC International Court of Arbitration; Chair of the New York City Bar Association's International Commercial Disputes Committee; Chair of the CPR Arbitration Committee; and Vice-Chair of the IBA's International Arbitration and ADR Committee.