

# **Leading Arbitrators' Symposium on the Conduct of International Arbitration**

In Cooperation with the *ABA Section of International Law*

**Harvard Club of New York City  
New York, NY  
1 June 2007**

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## **Overview**

Juris Conferences LLC is pleased to present its annual symposium on the conduct of international arbitration.

Leading international arbitrators and practitioners from North America and Europe will discuss, in Socratic form, four topics of importance to lawyers, arbitrators and businessmen who are involved in the resolution of international commercial disputes through arbitration.

- Discovery in International Arbitration
- Advocacy and Presentation of Evidence before International Arbitration Tribunals
- Ethical Issues in International Arbitration Proceedings
- Management of Arbitral Proceedings

These topics are of critical importance to persons interested in how international arbitrations can be effectively and fairly conducted.

## **CLE Credit**

CLE credit is pending from the New York State Continuing Legal Education Board for transitional and non-transitional credit (for both newly admitted and experienced attorneys) for skills and ethics credit.

For more information about NY accreditation relating to a specific program, please visit that program's page on Juris Conferences' website.

## **Other Jurisdictions**

Upon request, Juris Conferences will provide a general certificate of attendance which can be used to make an individual application for credit. This request can be made at the seminar itself, and the certificate will be mailed after the seminar.

## **Conference Schedule:**

**31 May 2007**

**18:30 - 20:00 Welcome Reception**

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**1 June 2007**

**8:30 - 9:00 Registration**

Coffee and tea upon arrival

**9:00 - 10:30 Working Session 1**

**Discovery in International Arbitration**

- The arbitrator's role in facilitating necessary discovery and resolving discovery disputes.
- How do arbitrators deal with discovery requests?
- What cross-cultural "norms" are emerging?
- Are arbitrators seeing broader discovery requests, and what does the future hold?
- How may discovery requests and objections to discovery be framed to persuade arbitrators?
- Dealing with electronic documentation and discovery of computer records.
- Dealing with claims to privilege and confidentiality.
- To what extent do arbitrators draw adverse inferences from a party's reluctance to provide discovery.
- Should materials produced in discovery be made available to the arbitrators as well as to the parties?
- Should the parties be the ones to determine the documents they want, rather than the arbitrators? Which approach is more efficient?

## **10:30 - 11:00 Coffee / Tea Break**

## **11:00 - 12:30 Working Session 2**

### **Advocacy and Presentation of Evidence before International Arbitration Tribunals**

- Is the art of good advocacy the same before arbitral tribunals and state courts?
- What styles of advocacy do arbitrators find persuasive, and what is counterproductive?
- Written and oral advocacy. What should be written and what should be said?
- Do arbitrators care about rules of evidence such as leading witnesses?
- The use of visual aids, computer presentations etc. in hearings.
- How may advocates learn their trade in international arbitration?
- What are the good habits of successful advocates and what are the bad habits of unsuccessful advocates?
- How do the parties deal with the fact that, when witness statements are presented in writing in advance, most of the testimony that will be adduced will be during cross-examination?
- To what extent should arbitrators ask questions of witnesses?
- Hearsay evidence: Whether it should be offered and how arbitrators should respond, whether it should be objected to and how arbitrators should deal with it.
- Dealing with advocates from different legal cultures, with different expectations as to the role of cross-examination.
- Should cross-examination be confined to the scope of the witness statement?
- Rabbits out of the hat. Should counsel be permitted to present documents for the first time in cross-examination?
- The role of the tribunal in controlling cross-examination.
- Preparing witnesses for cross-examination. Cultural issues. Parties versus other witnesses.
- Use of leading questions - Cultural objections.
- Style: How hostile? How loud? How insistent? How long?
- Should points made in cross-examination be underscored at the time or should they be saved for summation or post-hearing briefs?

## **12:30 - 14:00 Networking Luncheon**

## **14:00 - 15:30 Working Session 3**

### **Ethical Issues in International Arbitration Proceedings**

- Witness preparation
- Discovery obligations
- Advocacy issues (e.g., arguing from facts not in the record)
- Competency of Counsel
- Ethical Issues vs. Cultural Issues?
- Relations of parties to arbitrators and the role of party-appointed Arbitrators
- Remedies

## **15:30 - 16:00 Coffee / Tea Break**

## **16:00 - 17:30 Working Session 4**

### **Management of Arbitral Proceedings**

- Mediation/ negotiation requirements before arbitration
- Checklists for parties and arbitrators
- Principles for the successful conduct of an arbitration.
- The role of preparatory conferences and how to make them effective.
- The role of administrative secretaries
- Controlling the exchange of pleadings and the submission of documentary and witness evidence.
- Whether to have any hearing, or more than one hearing, and if so where and for how long.
- Dealing with common law and civil law expectations as to the purpose of hearings.
- The planning that the tribunal and parties must undertake for a successful hearing.
- Controlling time at a hearing.
- The role of opening and closing arguments, and post-hearing briefs.
- Dealing with witness evidence and witness conferencing.
- Organizing questions by the arbitrators: When? How many?
- Expert Testimony: Separate hearings, confrontations between experts?
- Deadlines
- Awards -- Speedy and Effective -- How to achieve? How to achieve unanimity and How Important is it?

### **Faculty:**

**LAWRENCE W. NEWMAN** (CHAIR) is a Partner in the litigation department of the New York office of Baker & McKenzie. He is the author and co-author of several works on international arbitration and litigation.

**GERALD AKSEN** is a full-time arbitrator. He is a retired Partner of Thelen Reid, He is the Immediate Past President of the College of Commercial Arbitrators, and Immediate Past American Vice Chairman of the International Chamber of Commerce (ICC) International Court of Arbitration.

**JEFFREY BARIST** is a Partner at Milbank, Tweed, Hadley & McCloy LLP and the former Chair of the National Litigation Department. He is a Fellow of the American College of Trial Lawyers, a Member of the American Law Institute and a Fellow of the American Bar Foundation.

**GEORGE BERMANN** is the Jean Monnet Professor of EU Law, Walter Gelhom Professor of Law, and Director of European Legal Studies at Columbia Law School. He is the former President of the American Society of Comparative Law.

**JULIET BLANCH** is a Partner in McDermott Will & Emery UK LLP, in its London office, where she is Head of the International Dispute Resolution Group. She is Vice Chair of the Dispute Resolution Committee of the Inter Pacific Bar Association.

**DOMINIQUE BROWN-BERSET** is Partner with LALIVE where her areas of specialization include arbitration and litigation. She is Co-Chair of the Arbitration Committee of the International Bar Association (IBA) and Immediate past International Vice-President of the Chartered Institute of Arbitrators.

**JAMES CARTER** is a Partner in the New York office of Sullivan & Cromwell LLP and coordinator of its international arbitration practice. He was President of the American Society of International Law from 2004 to 2006, is Chairman of the Board of Directors of the American Arbitration Association (AAA) and has chaired its Arbitration Law Committee.

**WILLIAM LAURENCE CRAIG** is Senior Counsel in Orrick's Paris office, and a member of the International Arbitration Group. He is a Fellow and Chartered Arbitrator of the Chartered Institute of Arbitrators, and was awarded a Trophee du Droit in 2005.

**DONALD DONOVAN** is a Partner in the New York office of Debevoise & Plimpton. He serves as Vice-President and one of two US members of the International Council for Commercial Arbitration (ICCA), is a former Chair of the Institute for Transnational Arbitration, a Member of the ICC Commission on Arbitration, and a Member of the Executive Council of the American Society of International Law.

**L. YVES FORTIER** is former Chair and Senior Partner of Ogilvy Renault in Montreal. He is Chair of the Hong Kong International Arbitration Court (HKIAC), Former President of the London Court of International Arbitration (LCIA) and of the Permanent Court of Arbitration at The Hague.

**SARAH FRANCOIS-PONCET** is a Partner in the Paris office and the Chair of the International Arbitration Practice Group of Salans. She has been involved in dozens of arbitrations over the past twenty years, both as counsel and as arbitrator. She was a Member of the ICC Commission on International Arbitration (1991-2005).

**PAUL FRIEDLAND** is a Partner at White & Case LLP and Co-Chair of the firm's International Arbitration Practice Group. He is currently Chair of the AAA's Arbitration Practice Committee and a Member of the Board of Directors (since 2002) and a Member of the LCIA Court.

**BARRY H. GARFINKEL** is Head of Skadden, Arps's international litigation and arbitration practice and is President-Elect of the College of Commercial Arbitrators. He has served either as advocate or arbitrator in many domestic and international arbitrations.

**GRANT HANESSIAN** is a Partner in the New York office of Baker & McKenzie, where he chairs the Litigation Department and the firm's International Arbitration Practice Group in North America.

**CAROLYN B. LAMM** is Partner in the Washington, DC office of White & Case LLP. She is a member of the Executive Committee of: the American Arbitration Association and is a Member of the U.S. Secretary of State's Advisory Committee on Private International Law and of the NAFTA Advisory Committee on Private Dispute Resolution.

**LAURENT LÉVY** is a Senior Partner of Schellenberg Wittmer and in the firm's arbitration group in Geneva. He is currently a Council Member on the Board of the ICC Institute of World Business Law (Paris) and is a Member of the LCIA Court.

**WERNER MELIS** is Of Counsel to Baier Lambert Rechtsanwälte OEG. He initiated the foundation of the International Arbitral Centre of the Austrian Federal Economic Chamber, of which he is Chairman of the Board.

**ELLIOT POLEBAUM** is a Partner at Fried Frank, where he Heads the International Arbitration Practice Group and is Co-Chair of the firm's Washington office litigation department.

**KENNETH REISENFELD** is a Partner with Haynes and Boone LLP and Chairs the Firm's International Trade and Dispute Resolution Practice Group. He is the past Chair of the American Bar Association's 13,000 member Section of International Law.

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