



ATLANTA INTERNATIONAL
ARBITRATION SOCIETY

The Second Annual Conference of the Atlanta International Arbitration Society

Convergence and Divergence in International Arbitration Practice

April 19 and 21-23, 2013

Four Seasons Hotel
75 Fourteenth Street NE
Atlanta, GA 30309

www.arbitrateatlanta.org



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Conference
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PROGRAM

APRIL 19

12:00 pm - 2:00 pm

An Introduction to International Arbitration: What Every Practitioner in Today's Global Economy Should Know

Moderator:

John A. Sherill, Partner, Seyfarth Shaw LLP, Atlanta, GA

Speakers:

Erika C. Birg, Partner, Nelson Mullins Riley & Scarborough LLP, Atlanta, GA

Shelby Guilbert, Counsel, King & Spalding LLP, Atlanta, GA

Stephen L. Wright, Partner, Taylor English Duma LLP, Atlanta, GA

Douglas H. Yarn, Professor, Georgia State University Law School, Atlanta, GA

Frank M. Young III, Partner, Haskell Slaughter Young & Rediker, LLC, Birmingham, AL

Location:

This session will be held at One Atlantic Center, 1201 W. Peachtree St., Atlanta. All other conference events, with the exception of the reception and dinner at The Carter Center on April 22, will be held at the Four Seasons Hotel, 75 14th Street NE, Atlanta.

APRIL 21

6:00 pm

Opening Reception – Four Seasons Hotel

APRIL 22

8:30 am - 9:00 am

Opening Remarks

Hon. Adele Grubbs, Chief Judge, Superior Court of Cobb County, GA

9:00 am - 10:30 am

Fighting (and Defending) the Leviathan: Arbitrations Involving Sovereigns and State-Owned Entities

Arbitrations involving sovereigns and, especially, state-owned entities are becoming an increasingly important branch of international arbitration practice. Disputes involving sovereigns and state-owned entities are not limited to investment arbitration; rather, by some estimates, such parties are involved in nearly 50 percent of the commercial caseload of some international arbitration institutions. They regularly involve high-value claims stemming from the activities of sovereign wealth funds or investments in strategically important sectors. Despite all the trappings of garden-variety commercial arbitrations, such disputes raise a host of complex issues. For example, how do principles of sovereign immunity affect the ability to compel arbitration, particularly where the sovereign may not be a signatory to the arbitration agreement? To what extent does the sovereign status of a party affect the availability of remedies such as anti-suit injunctions or discovery? Finally, what are the implications of a party's sovereign status for execution of the award? If a party obtains an award against a state-owned entity, is it possible to obtain execution against the sovereign's own property? This panel will examine these and other nettlesome questions arising from this increasingly important area of practice.

Moderator:

Peter B. "Bo" Rutledge, Professor, University of Georgia School of Law, Athens, GA

Speakers:

Klint W. Alexander, Senior Lecturer of Law and International Relations, Vanderbilt University Law School; Partner, Wyatt, Tarrant & Combs, LLP, Nashville, TN

Barton Legum, Partner, Salans, Paris, France

Abby Cohen Smutny, Partner, White & Case, Washington DC

Paul B. Stephan, Professor, University of Virginia School of Law, Charlottesville, VA

W. Mark C. Weidemaier, Professor, University of North Carolina School of Law, Chapel Hill, NC

10:30 am - 11:00 am

Networking Break

11:00 am - 12:45 pm

A Peek Behind the Curtain: A Roundtable Featuring Some of the World's Leading Arbitrators

Some of the world's leading arbitrators will share their insights on effective arbitration advocacy, arbitrator decision-making, managing the arbitral process, resolving ethical dilemmas, and trends in international arbitration, as well as practical advice for those who would seek to become international arbitrators or who are tasked with persuading them. The format will be an informal roundtable discussion with opportunity for audience interaction

Moderator:

Hon. Stanley F. Birch, JAMS; Judge, 11th Circuit U.S. Court of Appeals (ret.), Atlanta, GA

PROGRAM

Speakers:

Mark Kantor, Arbitrator, Washington, DC
Peter Leaver, QC, Barrister, One Essex Court, London; Chairman, LCIA Board of Directors, London, UK
Fernando Mantilla-Serrano, Partner, Shearman & Sterling, Paris, France
Horacio Grigera Naón, Director, Center on International Commercial Arbitration, American University, Washington College of Law, Washington DC
Dorothy Udeme Ufot SAN, Partner, Dorothy Ufot & Co., Lagos, Nigeria.

12:45 pm - 2:00 pm

Introduction:

Luncheon

Hon. Dorothy Toth Beasley, Henning Mediation & Arbitration Service, Inc.; Chief Judge, Court of Appeals of Georgia (ret.), Atlanta, GA

Luncheon Speaker:

Andrew Young, former U.S. Ambassador to the United Nations, Mayor of Atlanta, U.S. Congressman, Atlanta, GA

2:00 pm - 3:30 pm

Third-Party Funding of Arbitration: The Future of Global Dispute Resolution or an Ethical Black Hole?

Third-party funding of arbitration involves the financing of legal disputes by entities that are neither parties to the dispute nor closely connected with it, and whose sole interest is a return on their financial investment. The use of third-party funding for international arbitration has been growing for several years, especially in the U.K., but also elsewhere, and its potential benefits and risks are receiving increasing attention from both the arbitration community and regulators. While the availability of such financing allows for the prosecution and defense of substantial disputes by parties that might otherwise not be in a position to sustain the cost, such arrangements also raise concerns regarding the ethical obligations of lawyers, including confidentiality and privilege, professional independence and fee splitting. This session will review developments in this fast-growing industry and the potential implications for ethical legal practice.

Moderator:

Charles H. "Chip" Brower, Professor, Wayne State University Law School, Detroit, MI

Speakers:

Richard W. Fields, Chairman & CEO, Juridica Capital Management Ltd. (US), New York, NY
Anton Maurer, Partner, CMS Hasche Sigle, Stuttgart, Germany
Catherine A. Rogers, Associate Reporter, ALI Restatement Third of the U.S. Law of International Commercial Arbitration; Professor, Penn State University Dickinson School of Law, University Park, PA
Patricia Shaughnessy, Professor, University of Stockholm School of Law; Board of Directors of the Arbitration Institute of the Stockholm Chamber of Commerce, Stockholm, Sweden
Kirk W. Watkins, Partner, Womble Carlyle Sandridge & Rice LLP, Atlanta, GA

3:30 pm - 4:00 pm

Networking Break

4:00 pm - 5:30 pm

Arbitration and Asia

This session will provide practical tips on bridging differing cultural approaches to arbitration and also address the larger implications of the increasing bargaining power of Asian companies, caseload trends in Asian seats of arbitration and enhanced prominence of Asian counsel and arbitrators. If the past few decades have witnessed the "Americanization" of international arbitration, will we now see some degree of "Asianization," with arbitral procedure adapting more to "Asian" dispute resolution styles (whether Chinese, Singaporean, etc.), such as shorter hearings, fewer oral submissions and more emphasis on conciliation? Should such changes be welcomed or, indeed, encouraged, in order to improve the cost-time dynamic in international arbitration? The panelists will address these and other questions arising from the eastward shift in international commercial dispute resolution.

Moderator:

Joan C. Grafstein, JAMS, Atlanta, GA

Speakers:

Chiann BAO, Secretary-General, Hong Kong International Arbitration Centre, Hong Kong
Robert B. Davidson, Executive Director-Arbitration, JAMS, New York, NY
Dr. FAN Kun, Assistant Professor, Faculty of Law, Chinese University of Hong Kong; Visiting Scholar, Harvard Yenching Institute; Senior Consultant, Arbitration Asia
YU Jianlong, Secretary General, China International Economic and Trade Arbitration Commission (CIETAC), Beijing, China

PROGRAM

6:00 pm - 7:30 pm
7:30 pm - 10:00 pm

Reception & Dinner at The Carter Presidential Center Reception & Museum Tours Dinner

The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and former First Lady Rosalynn Carter, in partnership with Emory University, to advance peace and health worldwide. In 2002, President Carter received the Nobel Peace Prize for his work “to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development” through The Carter Center. A nongovernmental organization, the Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy and human rights; preventing diseases; improving mental health care; and teaching farmers to increase crop production.

A unique venue that has hosted many international leaders over the course of the past two decades, The Carter Presidential Center includes the Carter Center and the Jimmy Carter Library and Museum on an expanse of parkland. Dinner guests will also have an opportunity to tour the Presidential Library and Museum.

APRIL 23

8:30 am - 10:00 am

Crafting Dispute Resolution Mechanisms in Cross-Border Business Contracts: Leveraging Party Autonomy to Reduce Risk, Improve Outcomes and Lower Costs

The aim of an arbitration clause is solving problems, not creating them, and yet poorly drafted arbitration provisions can wreak havoc, causing unnecessary cost and delay and sometimes hampering the ultimate resolution of the dispute. Moving beyond the basics of venue selection and avoiding “pathological clauses”, this session will address strategic and tactical considerations that can be deployed before a dispute arises to maximize the value of international commercial arbitration as a business process in support of the multinational or global enterprise in a way to minimize risk, improve outcomes and lower costs.

The panel of experienced arbitration practitioners, international business lawyers and in-house counsel will address the merits of spartan versus elaborate clauses; anticipating some of the quirks of U.S. international arbitration law (such as Section 1782 discovery, provisions in state international arbitration statutes, and personal jurisdiction or forum non conveniens defenses at the enforcement stage); how subtle differences in wording – for instance, “place of hearing” versus “place of arbitration” -- can have significant consequences; and a host of other issues and drafting tips that will ensure that your dispute resolution clause does not itself become a source of disputes.

Moderator:

Speakers:

Philip W. “Whit” Engle, Principal, EngleADR, Atlanta, GA

Matthew D. Richardson, Partner, Alston & Bird LLP, Atlanta, GA

Josefa Sicard-Mirabal, Director, Arbitration & ADR, North America. ICC International Court of Arbitration, New York, NY

John A. Trenor, Partner, WilmerHale, London, England

Anthony C. “Tony” Walsh, Senior Litigation Counsel, GE Energy, Atlanta, Georgia

Felix Weinacht, Senior Counsel & Head of Industry Litigation, Siemens AG, Munich, Germany

10:00 am - 10:30 am

Networking Break

10:30 am - 12:00 pm

What is My Award Worth? And What Can I Do Before, During and After an Arbitration to Make Sure I Get Paid?

It is often said that most parties comply voluntarily with international arbitration awards. Indeed, arbitration agreements, institutional rules and bilateral investment treaties often expressly require that parties comply with awards without delay. Nevertheless, many parties either refuse or lack the resources to comply when the time comes. Moreover, money damages may not be sufficient compensation when certain property rights or other interests are at stake. It is therefore necessary, or at least prudent, to consider issues relating to enforcement before, during and after the arbitration. Should you apply for interim measures prior to or simultaneously with commencing arbitration? Should you apply to the court or the tribunal? And which court? If you need interim measures from the tribunal during the course of the arbitration, should you ask for an order or an award? If the counterparty fails to comply with an interim measures order or award, is there anything the tribunal can or should do encourage or to force compliance? What about the court? Once you have a final award, how -- and where -- do you go about converting it to cash? This panel will examine these issues from a practical perspective.

PROGRAM

Moderator:

Speakers:

Brian A. White, Partner, King & Spalding LLP, Atlanta, GA

Franco Ferrari, Professor, New York University School of Law, New York, NY

India Johnson, President/CEO, American Arbitration Association/International Centre for Dispute Resolution, New York, NY

George Anthony “Tony” Smith, Partner, Weinberg, Wheeler, Hudgins, Gunn & Dial LLC, Atlanta, GA

Nathalie Voser, Partner, Schellenberg Wittmer, Zurich, Switzerland

Stephan Wilske, Partner, Gleiss Lutz, Stuttgart, Germany

12:00 pm - 1:30 pm

Luncheon

1:30 pm - 3:00 pm

Obtaining Evidence in the U.S. for Arbitrations Abroad: Practical Lessons on When and How To Use Section 1782

A federal statute -- 28 U.S.C. § 1782 -- allows parties in proceedings before “foreign or international tribunals” to request that district courts order U.S.-style discovery from persons or entities that reside or are found in the district. Two of the seminal cases involving Section 1782 have been decided by courts in Atlanta, including the 2006 *In re Application of Roz Trading* decision (holding that Section 1782 can be used to obtain evidence in aid of private arbitration proceedings) and the 11th Circuit’s 2012 decision in *Consortio Ecuatoriano de Telecomunicaciones v. JAS Forwarding* (the first appellate case to reach the same result). As a result, it has been suggested that the 11th Circuit will become a “magnet” for Section 1782 petitions. In a practical how-to session, the panelists will address tactics in making and defending against Section 1782 petitions, whether and to what extent the arbitral tribunal should be involved or excluded from the process, tips on obtaining evidence in a form that is most likely to be admitted in the arbitral proceedings, and strategic considerations in using Section 1782, among other issues.

Moderator:

Speakers:

Meghan Magruder, Partner, King & Spalding LLP, Atlanta, GA

Edward M. Mullins, Partner, Astigarraga Davis, Miami, FL

John H. Fleming, Partner, Sutherland Asbill & Brennan LLP, Atlanta, GA

Glenn P. Hendrix, Partner, Arnall Golden Gregory LLP, Atlanta, GA

Christof Siefarth, Partner, GÖRG, Cologne, Germany

3:00 pm - 3:30 pm

Networking Break

3:30 pm - 5:00 pm

Managing A Procedural Menu With Common Law and Civil Law Offerings - All About “Americanization” and “Civil-ization”

It has become commonplace to suggest that international arbitration has become “Americanized,” with the term often used in a pejorative manner to describe the transformation from a flexible and informal procedural mechanism into a more adversarial and complex process. Yet at the same time, and as a general proposition, international arbitration proceedings seated in the U.S. and elsewhere in the common law world can also be said to have become more “Europeanized” (or, one might say, “civil-ized”), with limits on discovery, increased use of written direct testimony, and other elements inspired by or consistent with civil law procedure.

In fact, international arbitrations offer opportunities for parties and arbitrators to choose from a “procedural menu” offering items from both the civil law and common law traditions. The important thing is that all concerned understand and “order” from the menu early in the arbitration process. Otherwise, parties risk preparing their claims and defenses without fully understanding the rules and processes which will control. This panel will explore how experienced international arbitrators present and manage the procedural menu with a special focus on practical tips for non-U.S. parties and counsel who find themselves arbitrating a dispute in a U.S. venue.

Moderator:

Speakers:

Shelby R. Grubbs, Partner, Miller & Martin PLLC, Atlanta, GA

A. Stephens Clay, Partner, Kilpatrick Townsend & Stockton LLP, Atlanta, GA

Fabien Gélinas, Professor, McGill University, Faculty of Law, Montréal, Canada

Pierre Yves Gunter, Partner, Python & Peter, Geneva, Switzerland

Kaj Hobér, Partner, Mannheimer Swartling, Stockholm Sweden

Valerie Strong Sanders, Counsel, Sutherland Asbill & Brennan LLP, Atlanta, GA

5:00 pm

Closing Remarks

REGISTRATION

Registration fees include admission to the opening reception, Monday and Tuesday luncheons, the Monday night dinner and reception at The Carter Presidential Center, and all CLE program sessions.

- Regular Registration: \$640 on or before April 5, 2013; \$740 after
- In-house Corporate Counsel (non-ACC members): \$95 on or before April 5, 2013; \$195 after
- In-house Corporate Counsel (ACC members): \$75 on or before April 5, 2013; \$175 after
- Full-time Law School Faculty: \$285 on or before April 5, 2013; \$385 after
- Full time Judges: complimentary registration on or before April 5, 2013
- Visiting Speaker: complimentary registration on or before April 5, 2013
- Visiting Speaker with 1 Dinner Guest at The Carter Presidential Center: \$150 on or before April 5, 2013
- Additional guest ticket for Monday evening reception at The Carter Presidential Center only: \$150 each

REGISTRATION

Please register on-line at: <http://arbitrateatlanta.org>.

REFUND POLICY

Cancellations must be made in writing and received by AtlAS by March 16, 2013, for a full refund of fees, less a \$100 administration fee. No refund of registration will be granted after that date except in the case of medical emergency or extenuating circumstances approved by AtlAS in its sole discretion.

ACCOMMODATIONS

Should you require overnight hotel accommodations, a block of rooms is being held at the Four Seasons Hotel-Atlanta at a special low per night group rate of \$189/night. When making an online booking for a room, please go to <http://www.fourseasons.com/atlanta/> and use corporate promo code CI0413AC. You can also book a room by calling +1 (404) 881-9898 and asking for the AtlAS Conference group rate.

Four Seasons Hotel Atlanta



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