

Arbitration Committee Meeting

Date: December 13, 2021

Time: 12:30 – 1:30 (ET)

Location: Online (Zoom)

Attendees:

Allen Waxman (CPR)
Andrew Ling (CPR)
Andrielly Ziehlendorff
Carrie Ann Trubenstein (CPR)
Dana MacGrath
David Rivkin
Donald Rose
Douglas Harrison
Frank Lattal
Gary Benton
George Bermann
Helena Erickson (CPR)
Inbar Gal
James Carter
Jeff Glasser

Jennifer Glasser
Jerome Roth
John Buckley
John Pinney
Kabir Duggal
Kevin O'Gorman
Michael Lampert
Michael Nolan
Nawi Ukabiala
Richard Ziegler
Rose Marie Wong
Russ Bleemer (CPR)
Shigeki Obi
Surya Gopalan
Ulyana Bardyn

Minutes

Ms. Glasser opened the meeting and welcomed all participants and members of the Arbitration Committee of the International Institute for Conflict Prevention & Resolution (CPR).

1. Presentation by Professor George Bermann on 2nd Circuit's Decision in *Beijing Shuogang & Ors. v. Mongolia*

Professor George Bermann of Columbia Law School gave a presentation on the August 2021 decision of the United States Court of Appeals for the Second Circuit in *Beijing Shuogang & Ors. v. Mongolia*. Professor Bermann explained the background to the Court's decision, including by summarizing the U.S. Supreme Court's earlier and relevant decision in *First Options of Chicago v. Kaplan*. Professor Bermann then walked through the procedural history of the *Beijing Shuogang* decision and the 2nd Circuit's judgment in that case. In his discussion of the case, he queried whether it is right to conclude that parties "clearly and unmistakably" delegate the question of arbitrability to a tribunal by virtue of: (i) engaging on that question in an arbitration; and / or (ii) providing in their arbitration agreement for arbitration under institutional rules which, in turn, delegate arbitrability to a tribunal. He also queried whether the 2nd Circuit's decision was consistent with the requirements of the New York Convention and Federal Arbitration Act, which reserve for courts at least some inquiry as to arbitrability. A brief question and answer session followed.

2. Corporate Counsel Interview Series: Mr. Jeff Glasser, General Counsel, L.A. Times

Ms. Glasser interviewed Mr. Glasser on his role as General Counsel of the L.A. Times. Mr. Glasser discussed his background in commercial litigation, with a heavy emphasis on media litigation, copyright, trademark, libel cases, trade secrets litigation. He explained that the L.A. Times has a small legal department, and discussed the impact of COVID-19 on the L.A. Times' legal function. He explained that his team deals with arbitration of employment disputes and occasionally other consumer-facing issues including, for example, subscription practices.

Mr. Glasser said that the L.A. Times tends to use outside counsel to deal with employment matters. He also noted that for defamation and libel cases, his team typically handles pre-litigation work in-house, looking to outside counsel generally only at the trial stage. He explained that he selects outside counsel by sourcing recommendations from his professional and personal network. He noted that when looking for outside counsel he considers trust to be key, and looks for self-starters who can handle every aspect of litigation but also lawyers that know how and when to appropriately involve in-house counsel.

3. Other CPR Announcements

Ms. Erickson called for expressions of interest to join the Healthcare and Life Sciences Committee Task Force on best practices in arbitration. Ms. Erickson also reminded attendees that CPR's Annual Meeting would take place between March 2-4, 2022.

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Ms. Glasser concluded the meeting.