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Chartered Arbitrator
Fellow, Chartered Institute of Arbitrators
Fellow, College of Commercial Arbitrators
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CURRENT

Partner in the arbitration and litigation practice of Allegaert Berger & Vogel LLP

AAA panel arbitrator (since 1987): Complex Commercial, International

Arbitrator and mediator in international, commercial, and executive employment disputes

Chartered Arbitrator and Fellow, Chartered Institute of Arbitrators (FCIArb, C. Arb); Fellow, College of Commercial Arbitrators (CCA); Chair, International Commercial Disputes Committee (ICDC) of the New York City Bar Association; Vice-Chair, Chartered Institute of Arbitrators (CIArb) New York Branch; Vice-Chair, New York International Arbitration Association (NYIAC)

ARBITRATOR AND MEDIATOR SERVICE

Service as tribunal chair, sole arbitrator, and tribunal member in a broad range of international and complex domestic US commercial, IP and employment cases, including:

- **Commercial Contracts**: full range of disputes involving long-term supply contracts including price determinations, timeliness of performance, nonconformity of goods, failure to deliver related services, breach of express and implied warranties, implied duties (best efforts, good faith and fair dealing), price determination, conditions, stipulated damages, hardship, impossibility, mandatory law, mistake, limitations on damages, anticipatory breach, repudiation, termination, restitution, damages, set-off, assignment or transfer, third-party rights, limitations periods, joint and several liability, fraud
- **Corporate Transactions**: private mergers and acquisitions, breach of representations and warranties, price adjustments, earn-out agreements, breach of post-closing covenants
- **Licensing, Franchise, Dealer and Sales Agency Agreements**: failure to perform, wrongful termination, breach of exclusivity obligations, failure to meet targets or exercise best efforts, noncompliance with statutorily-imposed duties
- **Aerospace and Defense**: supply chain disruption, Tier 1/ sub-tier relationships, defective parts, delay, hardship claims in long-term supply arrangements, intellectual property rights disputes, stipulated damages

- Energy: solar panel manufacturing defects, wind farm construction, turbine defects and maintenance issues, civilian contractor tank farm maintenance and battlefield fuel supply
- Life Sciences: patent infringement, misappropriation of jointly developed technology, licensing disputes, violation of confidentiality and non-compete obligations
- Closely-held Corporations: accounting, mismanagement and misappropriation, breach of non-compete, fair value/FMV minority share valuation
- Limited Liability Company: disputes between Members and Managers based on operating agreement terms, implied duties
- Professionals: compensation, competition disputes between law firms and departing partners
- Employment: executive compensation including investment banker bonus disputes, wrongful termination, breach of duty of loyalty

REPRESENTATIVE CASES AS ARBITRATOR OR MEDIATOR

- A dispute over whether the filing of new patents using research data derived from *in vitro* and *in vivo* studies using proprietary technology supplied pursuant to a Materials Transfer Agreement (MTA) violated the terms of the MTA
- Claims of breach of pharmaceutical marketing agreements
- An arbitration brought for breach of wind farm warranty and maintenance contracts
- Solar panel customer/manufacturer breach of contract/breach of warranty disputes
- A claim brought by a terminated patent agent for a declaratory judgment that it had earned contingent fees in connection with worldwide software patent litigation
- An emergency arbitration brought by a third-party funder to obtain an injunction preventing distribution of class action settlement funds pending a decision on the merits in the arbitration
- Claims of breach of contract and breach of fiduciary duty against private equity fund managers
- An arbitration brought for alleged violation of non-competition obligations pursuant to a financial services management contract
- A complex contract dispute between a hedge fund manager and founders of the fund
- Numerous cases in which wrongful termination of exclusive long-term supply or distribution agreements was alleged
- Disputes between suppliers and their exclusive US importers of commodities, industrial, or consumer products and related service obligations
- An arbitration between two competitors regarding alleged infringement of a famous service mark

- A claim of breach of exclusivity obligation brought against a national real estate brokerage system and its exclusive Manhattan franchisee
- Executive compensation (including investment banker bonus) cases
- Mediating disputes between shareholders in closely held companies
- Mediating disputes between LLC members and managers
- Mediating employment discrimination and hostile work environment claims
- Mediating a dispute between *pro se* members in a Connecticut-based LLC entirely in Italian

ARBITRATION-RELATED ACTIVITIES

Chartered Institute of Arbitrators (CI Arb) New York Branch¹

- Vice-Chair since January 2017
- Course Co-Director, 2017 Columbia Law School/CI Arb Comprehensive Course on International Arbitration
- Past Chair, Programming Committee

New York International Arbitration Center (NYIAC)

- Vice-Chair since January 2017
- Board and Executive Committee Member (2012-present)
- Member, informal founders' group (2010-12)

College of Commercial Arbitrators (CCA)

- Co-Chair, Law Firm Committee, 2015-16
- Member, International Committee (2014-present)

International Arbitration Club of New York²

- Member

LAW PRACTICE EXPERIENCE

Partner, Squire Patton Boggs (US) LLP (formerly Squire Sanders) New York, 2007-2017

Cross-border and domestic commercial and IP litigation, international and commercial arbitration in a broad array of industrial and commercial sectors, including:

- Aerospace (Supply Chain)
- Consumer Products (Branding, Marketing)
- Energy (Oil & Gas, Solar, Wind)
 - Supply Agreements
 - Manufacturing, Outsourcing
 - Construction Projects

¹ www.ciarbny.org

² www.arbitrationclub.org

- Fashion Brands (Trademark Protection)
- Hotel Development, Management (Investor/Manager Relations)

Firm Leadership Roles: Litigation Practice Group New York office leader; New York Ethics Partner; firm-wide Industry Group Leader, Consumer Products and Retail

Partner, Pavia & Harcourt LLP, New York, 1987-2007; Associate, 1983-86

Representation of EU-based companies and U.S. subsidiaries of EU-based groups in arbitrated, litigated and mediated disputes with strategic commercial partners in the United States; consulting and supervisory relationships with local counsel representing US-based parties in Italian judicial and arbitral proceedings.

Client representation in New York included litigated and arbitrated disputes, related to:

- Commercial Cross-Border Banking
- Consumer Products Design, Manufacture, Distribution
- Fashion Licensing, Franchising, Brand Protection
- Long-term Commercial Supply Relationships
- Machine Tool, Cell and System Supply
- Medical Device Supply
- Real Estate Development and Investments
- Representation of a sovereign in US federal and NY state court litigation
- Specialty Food and Beverage Import and Distribution
- Technology Licensing
- Transportation/Logistics
- Venture Capital Investments

Leadership Role: Chair, Arbitration and Litigation Practice Group (1998-2007)

Litigation Associate, Simpson Thacher & Bartlett, New York, 1979-83

- Training in pretrial, trial and appellate practice in complex Antitrust, Products Liability, and Securities cases in New York federal and state courts

Federal Appellate Clerkship, Chief Judge Daniel M. Friedman, US Court of Claims (1978-79)

REPRESENTATIVE CASES IN LAW PRACTICE

- Representing plaintiffs and defendants in cases involving allegations of breach, wrongful termination or non-renewal of exclusive licensing, distribution or franchise, and long-term supply and manufacturing agreements in a variety of fields
- Defense of product defect claims asserted in international arbitration against a manufacturer of solar panels
- Representing a windfarm developer in connection with the wrongful termination of long-term energy supply contracts
- Acting as lead counsel in cross-border litigation and international arbitration on behalf of an aerospace manufacturer against a sub-tier supplier threatening to disrupt an aircraft

assembly line over the supplier's demand for a price increase in a long-term, fixed price supply contract

- Representing the Government of Italy in litigation resulting in US judicial compulsion, and in negotiations to obtain the voluntary return of Classical and Hellenistic period artifacts illegally removed from Sicily and southern Italy
- Representing a high-fashion trademark owner and its licensee manufacturer in TM counterfeiting cases against major discount retailers and suppliers in Southern District of New York (SDNY) resulting in permanent injunctions and multimillion dollar recoveries
- Obtaining confirmation of international arbitral awards
- Acting as lead counsel in a federal securities fraud case that proceeded to a jury trial in SDNY and verdict for the client
- Defending an Italian bank in purported class actions brought against foreign bank defendants and their manufacturer-customers for alleged violations of US anti-terrorism laws
- Defending Lanham Act, RICO and common law claims brought by New Jersey and Florida franchisees of a supplier of high-fashion leather goods, clothing and accessories
- Representing the purchaser of an engineering firm in purchase price adjustment arbitration
- Representing a minority shareholder/former CEO of a closely held corporation in arbitration to obtain fair value for his shares
- Representing clients based in Italy, Japan, the People's Republic of China and the US in connection with challenges to the jurisdiction of local federal and state courts
- Representing non-US based parties seeking federal discovery under 28 USC §1782 in aid of civil proceedings pending or threatened in courts located outside the US
- Representing an energy services company in UNCITRAL arbitration to obtain payment from a multinational organization for services rendered to a peacekeeping mission
- Representing executives or employers in contract disputes arising from termination of the employment of highly compensated executives
- Representing investors, managers and tenants in Manhattan office, retail and hotel properties in contract disputes with investors, contractors, landlords and brokers
- Defending automotive, machine tool, industrial equipment and medical device manufacturers in product defect litigation
- Serving as New York trial counsel and as national coordinating counsel for major Italian automotive manufacturers in the defense of product liability cases

BAR ASSOCIATION ACTIVITIES

Chair, International Commercial Disputes Committee (ICDC), New York City Bar Association

Member, President's Working Group on Enhanced Speed and Efficiency of Dispute Resolution,
New York City Bar Association

Executive Committee, NYSBA Dispute Resolution Section

Member, NYSBA International Section

Past Bar Association Service (Partial)

New York City Bar Association

- Co-Chair, In-House/Outside Litigation Counsel Group
- Chair, Products Liability Committee
- Member, Arbitration Committee
- Member, Judiciary Committee
- Member, Professional and Judicial Ethics Committee
- Member, Professional Discipline Committee
- Member, Civil Rights Committee

New York State Bar Association

- Founding Co-Chair, Dispute Resolution Section IDR Committee
- Co-Chair, DRS Legislation Committee
- Member, Ethics Committee
- Member, International Section

Federal Circuit Bar Association

- Founding Co-Chair, Judge Daniel M. Friedman Memorial Committee³
 - Co-Chair, 2012-13 Friedman Lectures on Excellence in Appellate Advocacy

RECENT PUBLICATIONS

Author⁴:

In-House Counsel's Key Role in Arbitration: Ensuring the Process Meets Company Expectations
(NYSBA *Inside*, Vol. 33, No. 3, Winter 2015)

Expert Q&A on International Arbitration in New York (*Practical Law*, February 2015)

Arbitration Tips and Traps for Corporate Counsel (*Corporate Counsel*, ALM Media, October 16, 2014)

Arbitration Do's and Don'ts for the Trial Lawyer (NYSBA *NY Litigator*, Vol. 19, No. 2, Fall 2014)
reprinted in NYSBA Trial Lawyers Section Digest No. 70, Spring 2017)

³ <https://fedcirbar.org/Committees/Committee-Information/ArticleID/21/Friedman-Memorial-Committee>

⁴ Articles available at <http://www.thecca.net/articles>

Co-author:

- *Mediation in Italy: A Bridge Too Far?* (AAA Dispute Resolution Journal, Vol. 66, No. 3, August-October 2011)

Co-Drafter⁵:

- *Why Choose New York for International Arbitration* (January 2017)
- *Choose New York Law for International Commercial Transactions* (October 2014)

Contributor:

- *NYSBA Guidelines for the Arbitrator's Conduct of the Pre-Hearing Phase of Domestic Commercial Arbitrations and Guidelines for the Arbitrator's Conduct of the Pre-Hearing Phase of International Arbitrations*⁶
- ICDC Reports and Amicus Briefs⁷
 - o Awards of Interest in International Commercial Arbitration: New York Law and Practice (June 2017)
 - o Second Circuit Amicus Brief in Support of Respondent-Appellant (Kiobel v. Cravath, Swaine & Moore, LLP) (17-424-cv) (April 2017)
 - o Second Circuit Amicus Brief in Support of Motion for Rehearing in CBF Indústria de Gusa S/A et al. v. AMCI Holdings, Inc. (February 2017)
 - o Advance Waivers of Arbitrator Conflicts of Interest in International Commercial Arbitrations Seated in New York (March 2016)
- 2010 UNIDROIT Principles Working Group Observer

RECENT FACULTY AND SPEAKING ENGAGEMENTS

- Course Co-Director, June 5-9, 2017 Columbia Law School - CI Arb *Comprehensive Course on International Arbitration*⁸
- Faculty, NYSBA DRS Arbitration Training, Cardozo Law School, June 2011-15, 2017
- Faculty, *Cross-Fertilization of Best Practices for Improving Dispute Resolution in the Courts and in Arbitration*, NYSBA ComFed Section and DRS, Fordham Law School, March 13, 2017
- Third-Party Funding Panel, AAA/NYLS, *Hot Topics in Arbitration*, March 15, 2017

⁵ Available at www.nyiac.org

⁶ https://www.nysba.org/Sections/Dispute_Resolution/Dispute_Resolution_PDFs/Guidelines_for_the_Efficient_Conduct_of_the_Pre-hearing_Phase_of_Domestic_Commercial_Arbitrations_and_International_Arbitrations.html

⁷ <http://www.nycbar.org/member-and-career-services/committees/reports-listing/reports///57461369f8f0a1240059dd9f///1/10>

⁸ <https://ciarbnyc.org/wp-content/uploads/CIArbNY-2017-Course-Brochure.pdf>

- E-Discovery Panel, NYSBA ComFed/DRS Program at Fordham LS, March 13, 2017
- Presenter, *Back to the Beginning*, CCA Annual Meeting, October 20, 2017
- Moderator, CI Arb NY Program on *IDR Career Opportunities in NYC*, April 1, 2016
- Presenter, *Arbitration Clause-Writing*, SINKROM Conference Series, March 24, 2016
- Program Committee, CI Arb NY Branch UNCITRAL Conference, October 21, 2015⁹
- Program Chair and Moderator, CI Arb NY Branch Six-City Video-Linked Program on the UNIDROIT Principles 2010 Working Group presenters, February 25, 2015¹⁰
- Program Co-Chair, NYSBA DRS Section 2013 Fall Meeting
- Panelist, Business Arbitration: *Addressing the Practical Concerns of In-House Counsel*, NY City Bar (2010)
- Panelist, ABA Section of Dispute Resolution, *Avoiding the Arbi-Trial: How B2B Arbitration Can Be Expeditious and Cost Effective* (New York, 2004)

DISPUTE RESOLUTION TRAINING (PARTIAL)

Columbia Law School/CI Arb Comprehensive Course on International Arbitration, June 6-10, 2016; CCA Annual Meetings (2013-2016); ICDR Annual Practice Vis Moot and Seminar (2011-2015); ICDR/IBA Four Roundtables in Times Square-Putting the Spotlight on International Arbitration on Broadway (2011); 3-Day Commercial Division Panel Mediator Advanced Training (2010); College of Commercial Arbitrators National Summit on Business-to-Business Arbitration (2009); AAA Arbitrator Ethics & Disclosure (2009); City Bar Mediation Training, Conflict Resolution Theory & Techniques (2009); ICDR International Symposium: Advanced Case Management Issues (2008); ICDR The Common Law/Civil Law Gap: The Issues and How International Arbitrators May Resolve Them (2006); AAA Neutrals Conference (2005, 2004); Faculty, AAA Workshop, Safeguarding the Award: Top Strategies for Protecting an Arbitration Award from Vacatur (2004); AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards (2004); Faculty, AAA Workshop, Arbitration Awards, Tips & Traps-Reduce or Minimize Challenges When the Case is Over (2004); AAA Arbitrator Update (2004, 2002); AAA Commercial Arbitrator II Workshop: Advanced Case Management Issues (2001); AAA Commercial Arbitrator Training (2000); AAA Advanced Arbitrator Training (1991)

⁹ <https://ciarbny.org/chartered-institute-of-arbitrators-ny-branch-uncitral-conference/>

¹⁰ <https://ciarbny.org/the-2010-unidroit-principles-of-international-commercial-contracts/>

BAR ADMISSIONS

New York (First Dep't, 1979-present); US District Courts, Southern and Eastern Districts of New York; US Courts of Appeals for Second, DC and Federal Circuits; US Supreme Court

EDUCATION

Columbia Law School (J.D. 1978), Harlan Fiske Stone Scholar and Articles Editor, Journal of Law and Social Problems

Columbia College (B.A. 1975), *magna cum laude*, Phi Beta Kappa

LANGUAGES

Italian (fluent); Spanish (working knowledge)

Capable of conducting evidentiary hearings and mediation in Italian as well as English; experience includes successfully mediating entirely in Italian, briefing New York law directly in Italian for arbitration in Milan, and lecturing on US law and practice in Italian to business groups and lawyers in Italy

CITIZENSHIP

Dual Citizen: USA and Italy