

Richard L. Mattiaccio, FCI Arb, C. Arb

Independent Arbitrator and Mediator
Chartered Arbitrator
Fellow, Chartered Institute of Arbitrators
Fellow, College of Commercial Arbitrators
Member, National Academy of Distinguished Neutrals



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CURRENT

Independent arbitrator and mediator in international, commercial, IP and executive employment disputes

- AAA Panel Arbitrator since 1987: Complex Commercial, International
- Arbitrator in ICC-Administered Arbitration
- CPR Rules Arbitrator (Non-Administered and Administered)
- Ad Hoc Arbitrator (UNCITRAL and other Rules)
- Mediator in Ad Hoc, ICDR mediation including bilingual mediation in Italian

Branch Chair, Chartered Institute of Arbitrators (CI Arb) New York Branch (2019-2020)

Co-chair, NYSBA International Section Arbitration Committee (2020-)

International Commercial Disputes Committee (ICDC), New York City Bar Association (Chair, July 2016 – July 2019; Member, 2012-present)

Arbitration Committee, Member, New York City Bar Association (2019-)

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 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 determinations, 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
- Energy: oil and gas projects, solar panel supply disputes (manufacturing defects, sourcing, misrepresentation, insurability), wind farms (construction, operations and maintenance, turbine defects), civilian contractor fuel maintenance and supply in support of military operations
- Life Sciences: patent infringement, misappropriation of jointly developed technology, licensing disputes, violation of confidentiality and non-compete obligations
- 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
- 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, fee-sharing disputes between predecessor and successor counsel
- Employment: executive compensation including investment banker bonus disputes, wrongful termination, breach of duty of loyalty, breach of non-compete agreements, unfair competition

REPRESENTATIVE CASES AS ARBITRATOR OR MEDIATOR

- Chair in *ad hoc* international arbitration seated in Houston involving an oil and gas long-term development project in Africa (AAA International Rules; IBA Guidelines)

- Chair in *ad hoc* international arbitration seated in New York involving dispute in the agricultural sector involving growers in Africa (UNCITRAL Rules)
- Chair in ICDR-administered international arbitration between an Italian winery and its exclusive US importer
- Chair in AAA Commercial Rules arbitration in which the panel rendered a final award based on dispositive cross-motions in a case brought for breach of confidentiality obligations contained in a partial indemnification agreement between co-defendants in mass tort litigation pending in a South Carolina state court
- Chair in AAA Commercial Rules arbitration arising from 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
- Sole arbitrator in AAA Commercial Rules arbitration seated in New York regarding solar panel sourcing, insurability, product quality and installation issues
- Sole arbitrator in CPR International Administered Rules arbitration seated in Toronto regarding solar panel sourcing
- Sole arbitrator in an arbitration brought for breach of wind farm warranty and maintenance contracts
- Sole arbitrator in AAA arbitration over alleged breach of pharmaceutical marketing agreements
- Sole arbitrator in AAA arbitration brought by a terminated patent agent for a declaratory judgment that it was entitled to earned contingent fees in connection with anticipated recoveries in worldwide software patent litigation
- Sole arbitrator in an international arbitration between a US fashion brand licensor and a men's apparel manufacturer/licensee
- Sole arbitrator in AAA Commercial Rules arbitration submitted to arbitration on the eve of trial, after nearly a decade of litigation in federal court, involving dispute between competitors over alleged infringement of a famous service mark
- Sole arbitrator in AAA Commercial Rules arbitration involving claims of violations of territorial exclusivity brought against a national real estate brokerage system and its exclusive Manhattan franchisee
- Sole arbitrator of executive termination, compensation, and unfair competition claims
- Co-arbitrator in an ICDR-administered arbitration between an Asian developer and a New York brokerage firm related to a luxury residential project in Midtown Manhattan
- Co-arbitrator in AAA Commercial Rules arbitration involving claims of breach of contract and breach of fiduciary duty against private equity fund managers
- Co-arbitrator in AAA Commercial Rules arbitration involving claims of breach of contract and warranty related to the large-scale supply of supermarket pallets

- Co-arbitrator in ICDR arbitration of breach of contract and unfair competition claims involving international fresh fruit supply agreements
- Co-arbitrator in an AAA Commercial Rules arbitration between a hedge fund manager and founders of the fund
- Emergency arbitrator in AAA 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
- Chair, sole arbitrator and co-arbitrator in cases involving:
 - Alleged 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
 - Shareholder or LLC member disputes
- Mediator in disputes between shareholders in closely held companies
- Mediator in disputes between LLC members and managers
- Mediator in employment discrimination and hostile work environment claims
- Mediated dispute entirely in Italian between *pro se* members in a Connecticut-based LLC

ARBITRATION-RELATED ACTIVITIES

Chartered Institute of Arbitrators (CIArb) New York Branch¹

- NY Branch Chair 2019-20; Vice-Chair 2017-19; Program Chair, 2015-17
- Course Co-Director, Columbia Law School - CIArb Comprehensive Course on International Arbitration, 2017 – present
- Co-Chair, Inaugural New York International Arbitration Week, November 19-22, 2019²
- Member, Organizing Committee, New York International Arbitration Week, 2019-20

New York International Arbitration Center (NYIAC)

- Vice-Chair (2017-2018)
- Board and Executive Committee Member (2012-2018)
- Member, informal founders' group (2010-12)

College of Commercial Arbitrators (CCA)³

- Member, International Committee (2014-present)

¹ <https://ciarbny.org/>

² <https://nyarbitrationweek.com/>

³ <https://www.ccarbitrators.org/>

- Co-Chair, Law Firm Committee (2015-16)

International Arbitration Club of New York⁴

- Member

LAW PRACTICE EXPERIENCE

Partner, Allegaert Berger & Vogel LLP, 2017-20

Representation of a US multinational provider of products and services to the oil and gas industry in its successful opposition to a petition for an order compelling related, non-signatory entities to arbitrate a dispute; the petition to compel was filed in the Southern District of New York after the non-signatories had appeared and asserted jurisdictional defenses in arbitration

Representation of a Swedish client in UNCITRAL Rules *ad hoc* arbitration and in related litigation in the Southern District of New York to compel UNCITRAL arbitration of disputes over earn-out provision in client's strategic acquisition of a US company in automotive inspection business, related IP disputes, and antitrust litigation with a party related to the seller regarding competition for state inspection-related contracts

Representation of an Italian fashion house in federal court litigation arising from retail store construction and operations

Representation of Chinese investors in major New York hotel property in Commercial Division, New York County, in the Appellate Division, First Department, and at NYC Department of Buildings, regarding compliance with local building code provisions governing new construction

Partner, Squire Patton Boggs (US) LLP (formerly Squire Sanders) New York, 2007-17

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
- 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

⁴ www.arbitrationclub.org

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, 1979-1983

- 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
- Representing a Swedish purchaser of US companies in arbitration and litigation of post-closing disputes with the seller and a related entity regarding earn-out calculations, IP use, and post-closing competition
- Representing a Chinese investor in a New York City hotel property in litigation in New York State courts with a neighbor over compliance with the local building code
- Representing a controlling member of an LLC owner of a lifestyle hotel chain in litigation in the Commercial Division, New York County over the surviving interest of a deceased LLC member's estate

- 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 longterm 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 a high-fashion trademark owner and its licensee manufacturer in trademark counterfeiting cases against major discount retailers and suppliers in Southern District of New York (SDNY) resulting in permanent injunctions and millions in monetary relief
- 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

- 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

BAR ASSOCIATION ACTIVITIES

Current and Recent Bar Association Service

Immediate Past Chair, International Commercial Disputes Committee (ICDC), New York City Bar Association (2016-19)

Affiliate Member, ICDC and NY City Bar Arbitration Committee (2019-present)

Member, President's Working Group on Enhanced Speed and Efficiency of Dispute Resolution, New York City Bar Association (2018-20)

Member, NYSBA Dispute Resolution Section

Member, NYSBA International Section

Past Bar Association Service (Partial List)

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

- Executive Committee and Founding Co-Chair, Dispute Resolution Section (DRS) 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 Committee⁵
 - Co-Chair, 2012-13 Friedman Lectures on Excellence in Appellate Advocacy

⁵ <https://fedcirbar.org/Committees/Committee-Information/ArticleID/21/Friedman-Memorial-Committee>

RECENT PUBLICATIONS (Partial List)

Author⁶:

Expert Q&A on International Arbitration in New York (Practical Law Article 5-595-7386 (2019))

Do Arbitrators Know The Law (And Should They Find It Themselves)? Dispute Resolution Journal (DRJ), Vol: 73, No: 1 © JurisNet, LLC 2018,
www.arbitrationlaw.com/books/disputeresolution-journal

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)

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

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

Co-author:

- *Mediation in Italy: A Bridge Too Far?* (AAA Dispute Resolution Journal, Vol. 66, No. 3, August-October 2011) Co-Drafter⁷:
- *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*⁸
- ICDC Reports and Amicus Briefs⁹
 - 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)

⁶ Articles available at <https://www.ccaarbitration.org/resources/articles-by-fellows/>

⁷ Available at www.nyiacc.org

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https://www.nysba.org/Sections/Dispute_Resolution/Dispute_Resolution_PDFs/Guidelines_for_the_Efficient_Conduct_of_the_Prehearing_Phase_of_Domestic_Commercial_Arbitrations_and_International_Arbitrations.html

⁹ <https://ciarbny.org/comprehensive-course/>

- 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/PLANNED FACULTY AND SPEAKING ENGAGEMENTS (Partial List)

- Course Co-Director, Columbia Law School - CIArb *Comprehensive Course on International Arbitration*⁹, a one-week intensive course given annually, since June 2017
- Fordham Law Summer Institute, Lecture on Arbitration and ADR, July 11, 2019
- Fordham Law School Amerigo for Law 2018, Lecture on Arbitration and ADR, September 24, 2018
- Faculty, NYSBA DRS Arbitration Training, Cardozo Law School, 2019, 2018, 2017, 2011-15
- Speaker, *60 Years Since the New York Convention: How Has Arbitration Changed*, Association of Conflict Resolution Program June 5, 2018, New York Law School (NYLS)
- Speaker, *Cutting Edge Topics in Commercial Arbitration: Independent Research by Arbitrators*, April 11, 2018, NYLS
- Moderator, *Commercial Arbitration: Domestic vs. International – How Different Are They in Practice*, New York City Bar Great Hall Event, November 14, 2017
- Presenter, *Back to the Beginning*, CCA Annual Meeting, October 20, 2017
- Third-Party Funding Panel, AAA/NYLS, *Hot Topics in Arbitration*, March 15, 2017
- Faculty, *Cross-Fertilization of Best Practices for Improving Dispute Resolution in the Courts and in Arbitration* and E-Discovery Panel, NYSBA ComFed Section and DRS, Fordham Law School, March 13, 2017
- Moderator, CIArb NY Program on *IDR Career Opportunities in NYC*, April 1, 2016
- Presenter, *Arbitration Clause-Writing*, SINKROM Conference Series, March 24, 2016
- Program Committee, CIArb NY Branch UNCITRAL Conference, October 21, 2015¹⁰
- Program Chair and Moderator, CIArb NY Branch Six-City Video-Linked Program on the UNIDROIT Principles 2010 Working Group presenters, February 25, 2015¹¹

¹⁰ <https://ciarbny.org/chartered-institute-of-arbitrators-ny-branch-uncitral-conference/>

¹¹ <https://ciarbny.org/the-2010-unidroit-principles-of-international-commercial-contracts/>

- 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 List)

Fordham International Arbitration and Mediation Conference, November 22, 2019; CIArb NY Branch CLE Program on the ALI Restatement of the U.S. Law of International Commercial and Investor-State Arbitration, November 20, 2019; ICDR/AIPN Conference Session ED61190010, Dispute Resolution in the International Oil and Gas Business, Houston, October 24-25, 2019; CCA Annual Meeting, San Francisco, October 4-5, 2019; UNCITRAL Conference on UN Convention 60 Years, New York, June 28, 2018; CPR Institute Annual Meeting, Atlanta, March 2018; Arbitration in China, New York, February 14, 2018; 2018 NYSBA Annual Meeting; 2017 Fordham International Arbitration and Mediation Conference; 2017 AAA-ICDR/ICC/ICSID Annual Joint Colloquium; Columbia Law School/CIArb Comprehensive Course on International Arbitration, June 6-10, 2016; CCA Annual Meetings (2013-2017); ICDR Annual Practice Vis Moot and Seminar (2011-2019); 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)

BAR ADMISSIONS

New York (First Dep't, 1979-present); US District Courts, Southern and Eastern Districts of New York; US Court of Appeals for the Federal Circuit; 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; able to read legal and commercial Spanish

CITIZENSHIP

New York-born dual citizen of the United States and Italy