

ARBITRATOR/MEDIATOR SPOTLIGHT

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ARBITRATION PLACE
An all-encompassing approach

CAREER & BACKGROUND

I discovered international commercial arbitration while teaching and doing graduate work at the University of Paris. After a couple of years teaching at University of Ottawa, I returned to Paris to join the International Chamber of Commerce as Director of its Institute of International Business Law, working with Europe's top names in international arbitration. As the first expatriate employee of the ICC, I founded ICC Asia in Hong Kong. I remained in Hong Kong for two decades, teaching and working as an arbitrator and mediator. I also directed the Diploma Course in Construction Law and Arbitration at King's College London. For 15 years I have been sharing my time among bases in Hong Kong, the EU and Toronto. I am also co-founder of ArbitralWomen and founder/CEO of the Vis East International Commercial Arbitration Moot.

ARBITRATOR/MEDIATOR PRACTICE

I am an independent arbitrator and mediator, one of the first 11 founding members of Arbitration Place and an arbitrator member of barristers' chambers in Hong Kong. As one of Asia's first Chartered Arbitrators, I have 25 years of experience resolving disputes on four continents. I have served as sole arbitrator and chaired scores of institutional and ad hoc international disputes and have acted as a mediator on domestic and international cases. Special areas of expertise include international sales law (CISG), franchising, agency and distribution agreements, shareholder disputes, banking and construction. I was on faculty at Hong Kong's City University and later Chinese University and I am a regular trainer and assessor for the Hong Kong Institute of Arbitrators and the Chartered Institute of Arbitrators.

BENEFITS OF ARBITRATION/MEDIATION

Objectively speaking, the key advantage of international arbitration is the portability of the award. A court judgment or an award is only a piece of paper until it can be enforced. The New York Convention opened the door in 1958 by doing away with double exequatur. Today, parties can enforce an international arbitration award in one or more of 172 signatory nations – wherever the paying party has assets – as if it were a judgment of that court.

From a cultural standpoint, a key component of international arbitration is trust. Parties have chosen their decision-makers or institutions to resolve their disputes discreetly in a neutral situation, with no "home court advantage". Their arbitrators are chosen for their knowledge of the law and the culture of the disputing parties and for their expertise in marrying the differing expectations of the parties they serve. Ideally, both the winner and loser will leave the arbitration table satisfied that they have received a fair hearing.



TIPS FOR COUNSEL TO BE MORE EFFECTIVE IN ARBITRATION/MEDIATION

First, you know your case. Ensure you know and appreciate the strengths and weaknesses of your opposing counsel's case and be responsive to them. It's trite, but you need to make it easy for the arbitrator to see your way as the right way.

Second, start by being clear about what remedies you want. And why your client is entitled to them. Formulate the issues simply, reasonably, logically and coherently. Coaches at the Vis Moots, encourage young advocates to "give us a road map" and then follow it. Sadly, many experienced counsel ignore this advice and waste time on digressions which may be fascinating, but waste valuable time and not help the client's case. Quality, not quantity!

Third, act reasonably. Co-operate with opposing counsel on procedural matters. The other side may have vastly different experience and expectations, so keep an open mind. Your way may not always be the right way, and in international arbitration, the right way usually involves procedural compromises. Ideally these bring the best of both worlds to the table.