



RAISING THE BAR

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"Ich Bin Ein Arbitrator!": Unique Issues in Arbitrating International Cases

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International Arbitration – Upsides and Downsides

- Cheaper? - Not Really
- Faster? - Possibly
- Private? - Don't Count On It
- Expert, Neutral Decision Markers? - Hopefully
- Enforceable? – Cross Your Fingers
- But – Is There Any Real Alternative?

Mediating International Franchise Disputes

- Litigation should be a last resort.
- Pre-arbitration settlements are the cheapest, fastest, and most private alternative.
- Arbitral institutions offer mediation services.
- A good mediator should scare both sides.

International Arbitration

- Major International Arbitral Institutions
 - AAA
 - ICDR
 - ICC
 - DIS
- Model Law and Arbitration Rules

Arbitration Proceedings

- Filing requirements
- Arbitration Demands
- Statement of Defense and Reply
- Interim and Emergency Relief
- Arbitrator/Panel Selection

Arbitration Proceedings

- Discovery
- Language/Translations
- Dispositive Motions
- Hearings
- Award (decision)

“Confidentiality”

- Arbitrations are Private, Not Confidential
- Limits on the Arbitrator
- Limits on the Parties
- Disclosure Obligations for Franchisors

ENFORCEABILITY

- Scope of the award
- Confirmation of the award
- Enforcement considerations

APPEALS

- Institutional Appeals
- Judicial Appeals

Drafting Considerations

- Defining the Scope of Arbitration
- Judicial Carve-Out
- Substantive and Procedural Law
- Allocation of Costs
- Subfranchisee Agreements