



## International Arbitration 2019

*A New Era for California, Your Clients and You*

2019 is the year for international arbitration in California! As of January 1st, newly-enacted SB 766 explicitly allows non-U.S. or out-of-state attorneys licensed in their home jurisdictions to appear in a California international commercial arbitration proceeding. The major reason foreign and out-of-state lawyers previously objected to siting international arbitrations in California, or agreeing in arbitration clauses to California being the venue of international arbitrations, is gone. Thus, with its geographic advantages for the Pacific Rim and NAFTA countries (and its potential replacement by the USMCA), as well as California's attractiveness to visitors and its robust arbitration community, we can anticipate our state becoming a significant center for international arbitration. The distinguished panel of arbitrators and practitioners will explain what has changed in California and the difference in an arbitration when it is international. Given the broad definition of international arbitration contained in the California statutes, all arbitrators, litigators, and corporate counsel will find the information from this panel indispensable to their work.

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### Highlights

#### THE NEW ERA IN CALIFORNIA INTERNATIONAL ARBITRATION

- SB 766 - New opportunities for lawyers, arbitrators and parties
- The law applicable to international arbitration in California
- Which law to apply?
- The New York and Panama Conventions
- The new Singapore Convention (pending adoption)

#### CLAUSE DRAFTING CONSIDERATIONS - NEW LEVERAGE FOR CALIFORNIA CLIENTS

- Which elements are essential and which are recommended?
- Choosing arbitration institutions (and Rules)
- The arbitral tribunal's "Kompetenz-Kompetenz"
- How to opt out from the state judicial system
- Step clauses - negotiation, mediation and arbitration

#### APPLICATION OF CALIFORNIA LAW TO CONTRACTS

- Choice of law
- Contract formation and interpretation
- Capacity and competence issues
- Contract breach and damages
- Ancillary claims (tort, statutory)

#### SELECTION OF ARBITRATORS

- Strategies that work
- Resources: how to find the perfect candidate
- How much will it cost?
- Neutrality and transparency
- Challenges to arbitrators and replacement of arbitrators

## ARBITRABILITY

- Who decides (delegation provisions)?
- Scope of arbitration
- Non-signatories/proper parties
- Gateway issues
- Set-offs and counterclaims
- Res judicata

## ENFORCEMENT OF ARBITRATION AGREEMENTS

- Federal law requirements
- State law requirements

## ARBITRATION PROCESS

- General principles
- Types of proceedings
- Emergency and preliminary relief
- "Terms of Reference"
- Information exchange
- Dispositive motions
- Hearing
- Award
- Costs

## ENFORCEMENT OF ARBITRAL AWARDS

- The New York Convention
- Grounds for challenge
- Interplay between State and Federal law

## ETHICAL CONSIDERATIONS

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## Presenters

### RICHARD CHERNICK

Vice President and Managing Director of JAMS Arbitration Practice

### *MODERATOR*

### MARIA CHEDID

Arnold & Porter  
San Francisco

### HOWARD B. MILLER

JAMS Mediator / Arbitrator

### NATHAN D. O'MALLEY

Musick, Peeler & Garrett LLP  
Los Angeles

### **Program Lead Research Attorney**

### KATALIN MEIER

Attorney at Law  
JAMS

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**Dates / Times / Locations**  
**Registration: 5:30 PM • Program: 6:00 - 9:15 PM**

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## LIVE PROGRAMS:

### **SAN FRANCISCO**

**Wednesday, June 5, 2019**  
Hotel Nikko San Francisco  
222 Mason Street  
(415) 394-1111

## LOS ANGELES

**Thursday, June 13, 2019**

The L.A. Grand Hotel Downtown

333 S. Figueroa Street

(213) 617-1133

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## International Arbitration 2019: A New Era for California, Your Clients and You -- Presenter Bios



**Richard Chernick** (Moderator) is Vice President and Managing Director of JAMS' Arbitration Practice. He has conducted more than 1,000 large and complex arbitrations (many of them tripartite) and mediations under various rules and before major administering institutions, both domestic and international.

He is the author or co-author of leading texts on ADR, Employment ADR and international arbitration and mediation; he is also a frequent trainer and lecturer on arbitration and mediation topics. Richard is a former Chair of the Dispute Resolution Section of the American Bar Association and the Founding President of the College of Commercial Arbitrators. He served as the ABA's Advisor to the Revised Uniform Arbitration Act. Adjunct professor Pepperdine Law School (former), UCLA Law School (arbitration) (former), USC Gould School of Law (arbitration) (current), and Chair of the Judith O. Hollinger ADR Program Advisory Board at USC Gould School of Law.

He is a member of the Advisory Board of the Institute for Transnational Arbitration, a fellow of the Chartered Institute of Arbitrators and a member of the arbitration panels of the Hong Kong International Arbitration Centre, the Beijing Arbitration Commission, the Korean Commercial Arbitration Board, the JAMS/Shenzhen Arbitration Panel, the Asian International Arbitration Centre and the Chicago International Dispute Resolution Association.

**Maria Chedid** regularly serves as lead counsel in commercial and investment arbitrations. She also sits as an arbitrator, and advises on international law disputes in U.S. courts. In a recent arbitration, she co-led a successful representation of her client that resulted in one of the largest investment arbitration awards ever issued. She has been named one of California's Top 100 Women Lawyers, and has been recognized for her international arbitration expertise in Chambers Global, Chambers USA, The Legal 500 U.S., Super Lawyers, and Guide to the World's Leading Experts. She consistently has been named to the annual SVAMC Tech List of the world's leading technology arbitrators, and has co-authored a textbook chapter entitled International Arbitration of Intellectual Property Disputes.



Ms. Chedid is one of two U.S. representatives appointed to the International Court of Arbitration of the ICC; Co-Chair of the ICDR California Advisory Committee; founding President and Co-Chair of the California International Arbitration Council; a member of the U.S. National Committee for the Singapore International Arbitration Centre Users Council; and an adjunct professor of international arbitration at the Straus Institute for Dispute Resolution.



**Howard B. Miller** is a JAMS Mediator and Arbitrator, a Fellow of the Chartered Institute of Arbitrators (FCIArb) and a founding Co-Chair of the California International Arbitration Council. He has lectured and spoken frequently on international legal issues, most recently in Beijing, Shanghai, Seoul, Hyderabad, Bangalore, New Delhi, Ulaanbaatar, Washington, D.C., Toronto, London, and Berlin, and he served as a Senior Advisor to the Mongolian Bar Association. In addition to his work in international law he has evaluated, managed and handled matters in all areas of complex litigation, including anti-trust, copyright and entertainment, trademarks and trade secrets patent litigation, class actions, labor, real estate, and environmental conflicts. Mr. Miller is a past President of the State Bar of California, and a former Professor of Law at the University of Southern California Gould School of Law. He has been at the center of the California legal profession since he began his career as law clerk to Justice Roger J. Traynor of the Supreme Court of California.

**Nathan D. O'Malley** maintains an active practice as counsel and arbitrator in the field of international arbitration. After practicing in Europe for over a decade, he is now based in Los Angeles California, where he leads the International Arbitration & Litigation Practice of the law firm Musick Peeler. In addition to counsel and arbitrator work, Nathan serves as an adjunct professor at the University of Southern California, Gould School of Law where he teaches courses in international arbitration and serves on the ADR program advisory committee. Nathan has appeared as counsel or arbitrator in arbitrations seated in Europe, the Middle East, Central America, Asia and the United States.



### Program Lead Research Attorney

**Katalin Meier** is an International Arbitration Practitioner based in Switzerland (Vischer) and California. She advises clients and assists arbitral tribunals in complex arbitration proceedings related to post-M&A, real estate, entertainment, distribution, international sales and aviation disputes under ICC Rules, JAMS Rules, Swiss Rules, DIS Rules, Vienna Rules, and in Ad-hoc proceedings. Katalin is experienced with U.S./Californian, Swiss, German and Austrian law. She advises clients and conducts arbitration hearings in English, German, French and Hungarian languages. Katalin has a master in law from the University of



Basel, University of Geneva (Switzerland) and the University of California, Los Angeles (United States). While at UCLA, she was an extern clerk at the United States District Court, Central District of California, at the Chambers of the Honorable Judge Christine Snyder. Katalin further studied a term abroad at ELTE, Budapest and holds a Transnational Law Certificate with focus on Pharmaceutical and Biotechnological Law from the University of Geneva. Katalin is licensed to practice as an attorney in Switzerland. She regularly speaks at conferences and publishes on topics in international and domestic arbitration. Katalin is member of ICC YAF, ArbitralWomen and the Board of Directors of the California International Arbitration Council (CIAC).

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