



# Fordham International Arbitration Conference

**Key Issues in International Dispute  
Resolution: 2020**

**November 20, 2020**

9:45 a.m. – 2:30 p.m.

*via Zoom Webinar*



# Fordham International Arbitration and Mediation Conference

## About Us

### About the Conference Co-Chairs



**Louis B. Kimmelman**  
*Partner*  
*Sidley Austin LLP, New York Office*

Benno Kimmelman acts as lead counsel in complex commercial and investment treaty disputes under all the major international arbitration rules and serves as an arbitrator in international and domestic disputes. He also represents parties involved in litigation in aid of the arbitration process, such as compelling parties to arbitrate and enforcing arbitration awards. He is an adjunct professor of law at Brooklyn Law School and Georgetown University Law Center, where he teaches International Commercial Arbitration, and has been an adviser to the American Law Institute project on the Restatement of the U.S. Law of International Commercial and Investor-State Arbitration. He received his B.A. and J.D. degrees from Yale University and clerked for the Honorable Leonard I. Garth, U.S. Court of Appeals for the Third Circuit.

### About the Fordham Law School Conflict Resolution and ADR Program

Fordham's Conflict Resolution and ADR Program offers a curriculum that balances theory and casework with real-world practice, reflecting the breadth and span of alternative dispute resolution practice within the legal and business communities. Students have unique opportunities to study the field of ADR through the renowned clinics and courses offered in negotiation, mediation, arbitration and international dispute resolution taught by leading academics in the field and experienced ADR practitioners. The curriculum has rich offerings with over twenty-one courses in a given year, seven of which focus on aspects of international dispute resolution. The program offers a JD concentration in Litigation and Dispute Resolution and an LLM in International Dispute Resolution that attracts students from all over the world. It also sponsors annual symposia on critical issues in domestic and international dispute resolution. Finally, the program provides students with the opportunity to engage in public service through teaching negotiation and mediation skills in the community.



**Edna Sussman**  
*Independent Arbitrator and Mediator*  
*Distinguished Practitioner in Residence*  
*Fordham Law School*

Edna Sussman (esussman@SussmanADR.com) is a full time independent arbitrator and is the Distinguished ADR Practitioner in Residence at Fordham University School of Law. She was formerly a litigation partner at White & Case LLP and has served in over 250 complex commercial arbitrations, both international and domestic. Ms. Sussman is a member of the panel of many of the leading dispute resolution institutions around the world. Ms. Sussman sits on the Board of the American Arbitration Association, serves as Chair of the New York International Arbitration Center, is the former chair of the AAA-ICDR Foundation, as a member of the consultative group for the American Law Institute's Restatement (Third) of the US law of International Arbitration and as Co-Editor-in-Chief of the *New York Dispute Resolution Lawyer*.

### About the Fordham Law School International Arbitration and Mediation Conference

Fordham University School of Law has a long and respected tradition of sponsoring and hosting annual conferences that address cutting-edge issues of international and foreign law. Following this tradition, the first Fordham Conference on International Arbitration and Mediation was held in May 2006 under the able leadership of former Baker & McKenzie partner and well known international arbitrator, Arthur W. Rovine. Under Arthur's leadership, the papers from the conference were published every year as "Contemporary Issues in International Arbitration and Mediation: The Fordham Papers. In 2016, Edna Sussman and Benno Kimmelman assumed leadership as co-chairs of the conference and have continued the tradition of attracting leading authorities to offer the best thinking in commercial and treaty arbitration and then publishing conference papers.



# Fordham International Arbitration and Mediation Conference

## Agenda

9:45 – 10 a.m. | **Welcome**

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10 – 11:30 a.m. | **Combinations and Permutations: Creating a Solution-driven Dispute Resolution Process**  
(1.5 professional practice CLE)

**Kun Fan**, Associate Professor of University of New South Wales Law, School, Mediator, Arbitrator

**Jeremy Lack**, Attorney-at-Law & ADR Neutral, Geneva, LAWTECH.CH,

**Moti Mironi**, Professor of Law at Haifa University, Mediator and Arbitrator

**Prof. Thomas Stipanowich**, William H. Webster Chair in Dispute Resolution, Pepperdine; Arbitrator and Mediator

*Moderators:* **Kathleen Paisley**, Arbitrator, Ambos Lawyers, Brussels/New York and

**Edna Sussman**, Independent Arbitrator, Fordham Law School ADR Practitioner in Residence

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11:30 – 11:45 a.m. | **Break**

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11:45 a.m. – 12:30 p.m. | **Keynote Address - International Arbitration and EU Law: What Next?**

**Professor George A. Bermann**, Gellhorn Professor of Law & Jean Monnet Professor of European Union Law, Columbia Law School

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12:30 – 1 p.m. | **Break**

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1 – 2:30 p.m. | **Does 28 U.S.C. § 1782 Apply to Private International Commercial Arbitrations? A Mock U.S. Supreme Court Argument**  
(1.5 professional practice CLE)

*Introduction:*

**Louis B. Kimmelman**, Partner, Sidley Austin LLP

*The Court:*

**Paul D. Clement**, Partner, Kirkland & Ellis LLP, Former Solicitor General of the United States

**Nicole A. Saharsky**, Partner, Mayer Brown LLP, Former Assistant to the Solicitor General of the United States

**Pamela Bookman**, Associate Professor of Law, Fordham University Law School

*Counsel:*

**Kwaku A. Akowuah**, Partner, Sidley Austin LLP

**Caline Mouawad**, Partner, Chaffetz Lindsey LLP

**Martine Cicconi**, Deputy Solicitor General, Commonwealth of Virginia

**Ari D. MacKinnon**, Partner, Cleary, Gottlieb, Steen & Hamilton LLP

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5 – 6 p.m. | **Program Closing Reception**

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## CLE CREDITS

Continuing legal education credits have been approved in accordance with the requirements of the New York State CLE Board for a maximum of 3.0 transitional and nontransitional professional practice credits.



# Fordham International Arbitration and Mediation Conference

## Speaker Bios

### Panel 1 - Combinations and Permutations: Creating a Solution-driven Dispute Resolution Process

#### Professor Kun Fan

*Associate Professor, UNSW Law*

Member of UNSW Herbert Smith Freehills  
CIBEL Centre

Professor Kun Fan is Associate Professor of UNSW Law and a member of UNSW's Herbert Smith Freehills CIBEL Centre. She is an award-winning scholar in the area of international arbitration, mediation, comparative legal studies, and cultural study of law. Before joining UNSW in September 2019, she held academic positions at the Faculty of Law, McGill University and the Chinese University of Hong Kong. She was also a Visiting Scholar of the Harvard Yenching Institute.

Professor Fan is author of the book *Arbitration in China: A Legal and Cultural Analysis* and has published extensively on cutting-edge issues in a variety of leading international journals. She is frequently invited to speak in conferences, and give lectures and trainings in renowned institutions including Harvard Law School, Cornell Law School, School of International Arbitration at Queen Mary, MIDS, Arbitration Academy, ADB, ITA, International Law Institute, and IBA.

Apart from academic research, Professor Fan also has extensive experience in ADR practice, and has worked as counsel, expert witness, secretary for the arbitration tribunal, arbitrator and domain names panelist in a number of international arbitrations and domain name disputes, and has overseen over a hundred arbitrations administered by the ICC International Court of Arbitration when she worked as a Deputy Counsel. She is called to the New York Bar, an Executive Committee Member of International Task Force on Mixed Mode Dispute Resolution, a Member of the ITA Academic Council, a Domain Names Panelist of the HKIAC and ADNDRC, a Member of the Chartered Institute of Arbitrators, an Accredited Mediator of the HKMAAL, and an Arbitrator of a number of arbitration institutions in China.

#### Jeremy Lack

*Appropriate Dispute Resolution (ADR) Neutral and Attorney-at-Law*

JEREMY LACK is an Appropriate Dispute Resolution (ADR) Neutral and Attorney-at-Law who provides a broad range of international dispute prevention and resolution services. He specializes in commercial disputes, cross-cultural disputes, online dispute resolution, new technologies, start-ups and intellectual

property matters. He is a member of the Independent Advisory Committee of the International Mediation Institute (IMI), the Co-President of the Swiss Chamber of Commercial Mediation (Section Romandie), and a panelist with many international ADR institutions. He qualified as an English barrister in 1989, as a US Attorney-at-Law in 1990/1 (NY State, CAFC & USPTO) and is admitted to the Geneva Bar since 2003 as a foreign lawyer. Jeremy is a Door Tenant with QUADRANT CHAMBERS (UK), counsel to HELVETICA AVOCATS SARL (CH) and SCHONEWILLE & SCHONEWILLE LEGAL MEDIATION (NL), and a consultant to NEGO-MEDIATIONS SARL (CH). He also serves as general counsel to SONARSOURCE SA and MINDMAZE HOLDING SA and as an ombudsperson to the DRUGS FOR NEGLECTED DISEASES INITIATIVE. He has served on several boards of directors and as a business executive for several start-ups. Jeremy has a MA (Oxon) degree in Physiological Sciences and in Jurisprudence from Lincoln College, Oxford University. He is a co-founder of [www.neuroawareness.com](http://www.neuroawareness.com), INNOVADR and several start-ups, and is an adjunct faculty member at the Federal Polytechnic School of Lausanne (EPFL) in Switzerland. Jeremy handles international negotiations, mediations, conciliations and arbitrations, and mixed modes of ADR processes in a wide range of fields and industries. He is a certified IMI mediator and mediation advocate and has written and lectured extensively on Guided Choice dispute resolution and mixed ADR processes to customize ADR proceedings early in on complex cases. He has two daughters and lives in Geneva, Switzerland with his wife, with whom he co-mediate.

#### Prof. Moti Mironi

*Mediator and Arbitrator*

Prof. Moti Mironi [Cornell, (Ph.D.) Minnesota, (M.A.) Hebrew University (LL.B.)] is a mediator, arbitrator and a full time academic specializing in mediation, labor & employment law and ADR. Prof. Mironi is a Professor of Law at Haifa University and at IDC. Formerly he was a faculty member at Tel Aviv University and Visiting Professor at Cornell, USC Law School, Humboldt University in Berlin and the University of Alberta, Canada.

Prof. Mironi's areas of teaching and research include mediation, labor & employment law, negotiation, ADR and arbitration. He published many books and articles in these fields.

Prof. Mironi has mediated in many international business and sport disputes as well as in hundreds of workplace disputes and major business and nationwide labor and public

disputes. Amongst them: a dispute between war widows and the parents of the fallen soldiers, two nationwide medical doctors strikes, the negotiations over a rescue plan for the city of Jerusalem, three nationwide arbitrations between the two teachers unions and the government and the protracted land dispute between the Bedouin tribes (indigenous people) and the Israeli government.

Prof. Mironi serves on the mediation panel of WIPO, CAS, Milan Chamber of Commerce, OSCE Mediation and Dialogue Expert Roster, the Panel of Distinguished International Mediators (Moscow) and the arbitration panel of El-AI Airlines. Prof. Mironi was the first president of the Israel's Mediators Association and served as a co-chair of the Israel Bar Association's ADR Forum. Presently, he is a board member of the America - Israel Friendship League and the Israeli Society of Labour Law and Social Security, member of the Labor Law Group and serves on the executive committee of the IMI Taskforce on Mixed (Hybrid) Techniques of Dispute Resolution.

#### Kathleen Paisley

*International Arbitrator and Mediator*

Kathleen Paisley is a recognised international arbitrator and mediator. She is triple qualified in law, finance and accounting, with a JD from the Yale Law School, an MBA in finance and has completed the CPA exam. Kathleen has acted in commercial cases under all the major international arbitration rules and in investor-State cases before ICSID and under the UNCITRAL rules. She is an expert in IP, technology, pharmaceuticals and biotechnology, data-protection and cybersecurity, as well as having a sophisticated understanding of finance and accounting-related issues. She has also acted as chief legal officer in both technology and pharmaceutical companies. In addition to her commercial and corporate experience, she is also recognised in both public and private international law having acted in investor-State cases for more than 25 years.

#### Thomas Stipanowich

*William Webster Chair in Dispute Resolution  
Professor of Law, Pepperdine University*

Thomas Stipanowich holds the William Webster Chair in Dispute Resolution as a Professor of Law at Pepperdine University. He has long experience as an arbitrator, mediator and special master, emphasizing construction and commercial cases, and is now a neutral with JAMS. For fourteen years he co-lead the Straus Institute for Dispute Resolution, during which the program was ranked first among academic dispute resolution programs by U.S.

News & World Report a dozen times. A prolific author, his works have been cited by the U.S. Supreme Court among many other courts. He co-authored the award-winning five-volume *Federal Arbitration Law* and was editor-in-chief of *Commercial Arbitration at Its Best*. He is co-author of *Resolving Disputes: Theory, Law and Practice* (Wolters/Kluwer), a text and materials including practical exercises and videos soon in its 4th edition. From 2001-2006 he was CEO of the New York-based International Institute for Conflict Prevention & Resolution (CPR). He played an important role in many major initiatives (Revised Uniform Arbitration Act, Uniform Mediation Act, Consumer Due Process Protocol, Global Disputes Research Center, Securities Industry Conference on Arbitration, International Task Force on Mixed Mode Dispute Resolution) and was a founder of the College of Commercial Arbitrators, later spearheading its *Protocols on Expedious, Cost-Effective Commercial Arbitration*. He received the D'Alemberte/Raven Award, the ABA Dispute Resolution Section's highest honor, and CPR's James F. Henry Award for career contributions. In 2018 he was named a Global Distinguished Faculty Affiliate of Peking University School of Law, and is the only non-Indian named a Distinguished Professor of Law of National Law University Delhi.

### **Edna Sussman**

*Full-Time Independent Arbitrator*

*Distinguished ADR Practitioner in Residence, Fordham University School of Law*

Edna Sussman is a full-time independent arbitrator and is the Distinguished ADR Practitioner in Residence at Fordham University School of Law. She was formerly a litigation partner at the law firm of White & Case LLP. Ms. Sussman has served as the chair, sole and co-arbitrator in over 200 complex commercial disputes and over 200 complex commercial mediations, both international and domestic, under various institutional rules and ad hoc involving commercial transactions, mergers/acquisitions, intellectual property, pharmaceuticals and life sciences, franchises/distributorships, insurance, telecommunications, energy, partnership and joint venture, financing and banking transactions, accounting, environment, securities, real estate, hospitality, aviation and professional liability. She is the Chair of the New York International Arbitration Center and sits on the Board of the American Arbitration Association. She is the former and founding chair of the AAA-ICDR Foundation and is a past President of the College of Commercial Arbitrators. Ms. Sussman is a fellow of the Chartered Institute of Arbitrators and certified by the International Mediation Institute. She is a former Chair of the Dispute Resolution Section of the NYS Bar Association and serves as co-editor-in-chief of the NY Dispute Resolution

Lawyer. Ms. Sussman is a member of the panel of many of the leading dispute resolution institutions including the AAA, ICDR, AAA/ICDR Energy Arbitrators list, CPR, Hong Kong, Singapore, South China, Shanghai, Australia, Swiss, Vienna, Korea, Kuala Lumpur, Vietnam, Brazil, British Columbia, and Dubai, U.S. Institute for Environmental Conflict Resolution, Financial Industry Regulatory Authority, and the National Futures Association and is listed by the ICC. Ms. Sussman has lectured and published widely on arbitration and mediation.

### **Keynote Address - International Arbitration and EU Law: What Next?**

### **Professor George A. Bermann**

*Gellhorn Professor of Law & Jean Monnet Professor of European Union Law, Columbia Law School*

George Bermann is Professor of law and director of the Center for International Commercial and Investment Arbitration, Columbia Law School. He has served as arbitrator in scores of international commercial and investor-State arbitrations starting in 1980 and is a member of the roster of most leading international arbitral institutions. He was founding member of the Governing Board of the ICC International Court of Arbitration. At the same time he is frequent expert witness on issues of international arbitration and transnational litigations before arbitral tribunals and national courts. He is also Council member of AAA, board member of CPR, Fellow of Chartered Institute of Arbitrators and head of the global advisory board of the N.Y. International Arbitration Center (NYIAC). In addition to his many publications, Professor Bermann was Chief Reporter, ALI Restatement of US Law of International Commercial & Investment Arbitration, and co-author, with Emmanuel Gaillard of the UNCITRAL Guide to the New York Convention. He is also co--editor-in-chief American Review of International Arbitration.

### **Panel 2 - Does 28 U.S.C. § 1782 Apply to Private International Commercial Arbitrations? A Mock U.S. Supreme Court Argument**

### **Kwaku Akowuah**

*Partner, Supreme Court and Appellate Practice, Sidley Austin LLP*

Kwaku Akowuah is a partner in Supreme Court and Appellate practice of Sidley Austin LLP. His wide-ranging practice extends to traditional appellate litigation, administrative law disputes, commercial disputes, and pre-litigation counseling. From 2009 to 2012, Kwaku served an Attorney-Adviser in the Office of Legal Counsel at the U.S. Department of

Justice. In that role, he provided legal advice to departments and agencies of the executive branch on a variety of matters, including questions relating to the constitutional separation of powers, the interpretation of federal statutes, and international law principles. Kwaku also served as a law clerk at all three levels of the federal courts—first for Judge Nicholas G. Garaufis of the Eastern District of New York, then to Judge Robert A. Katzmann of the Second Circuit, and from 2012 to 2013, as a law clerk to Justice Stephen G. Breyer of the United States Supreme Court. Alongside his commercial practice, Kwaku maintains an active pro bono practice and serves on the Executive Committee of the Board of Trustees for the Legal Aid Society of the District of Columbia. He also chairs the Board of Directors for AGE Africa, a non-profit organization that to provide life-changing opportunities to young women in Malawi through targeted initiatives in education, mentoring, and leadership development. Kwaku is a graduate of Harvard Law School and Princeton University.

### **Pamela Bookman**

*Associate Professor, Fordham Law School*

Professor Pamela Bookman is an expert in the fields of Civil Procedure, Contracts, International Litigation and Arbitration, and Conflict of Laws. Her scholarship has appeared in the *Stanford Law Review*, the *NYU Law Review*, the *Yale Journal of International Law*, and other leading law journals.

Prior to entering academia, Professor Bookman was a Counsel in the New York office of Wilmer Cutler Pickering Hale & Dorr LLP, where she represented clients in complex commercial business disputes with a focus on transnational litigation and maintained an active pro bono practice.

Professor Bookman received her B.A. in Russian Literature from Yale University and her J.D. from the University of Virginia School of Law, where she served as an Articles Editor on the *Virginia Law Review* and received the Rosenbloom Award for enhancing the academic experience of her fellow students. Following law school, Professor Bookman clerked for Judge Robert D. Sack of the U.S. Court of Appeals for the Second Circuit, President Rosalyn Higgins and Judge Thomas Buergethal of the International Court of Justice, and Justice Ruth Bader Ginsburg of the U.S. Supreme Court.

### **Martine Cicconi**

*Deputy Solicitor General, Office of the Attorney General*

Martine Cicconi serves as Deputy Solicitor General. Immediately before joining the Office of the Attorney General, Martine served as Counsel in the appellate group at the Washington, D.C. office of Akin Gump Strauss

# Fordham International Arbitration and Mediation Conference

## Speaker Bios Cont'd

Hauer & Feld. During the administration of President Barack Obama, Martine served as Associate White House Counsel and as an Attorney Advisor in the Office of Legal Counsel at the Department of Justice. Martine clerked for Associate Justice Ruth Bader Ginsburg of the United States Supreme Court and Chief Judge Merrick B. Garland of the U.S. Court of Appeals for the District of Columbia Circuit. Martine is a graduate of Stanford University and Stanford Law School. Prior to matriculating at Stanford, Martine spent several years as a member of the New York City Ballet.

### **Paul D. Clement**

*Partner, Kirkland & Ellis LLP (Washington D.C.)*

Paul Clement is a partner in the Washington, D.C. office of Kirkland & Ellis LLP. Paul served as the 43rd Solicitor General of the United States from June 2005 until June 2008. Before his confirmation as Solicitor General, he served as Acting Solicitor General for nearly a year and as Principal Deputy Solicitor General for over three years.

He has argued over 100 cases before the United States Supreme Court, including *McConnell v. FEC*, *Tennessee v. Lane*, *United States v. Booker*, *MGM v. Grokster*, *ABC v. Aereo*, *Hobby Lobby v. Burwell*, *Epic Systems Corp. v. Lewis*, and *Rucho v. Common Cause*. He has also argued many important cases in the lower courts, including *Walker v. Cheney*, *United States v. Moussaoui*, and *NFL v. Brady*.

Paul is a graduate of the Cedarburg, Wisconsin public schools, Georgetown University, Cambridge University, and the Harvard Law School. Following law school, Paul clerked for Judge Laurence H. Silberman of the U.S. Court of Appeals for the D.C. Circuit and for Associate Justice Antonin Scalia of the U.S. Supreme Court. After his clerkships, he went on to serve as Chief Counsel of the U.S. Senate Subcommittee on the Constitution, Federalism and Property Rights.

Paul is a Distinguished Lecturer in Law at the Georgetown University Law Center, where he has taught in various capacities since 1998. He also serves as a Senior Fellow of the Law Center's Supreme Court Institute.

### **Ari MacKinnon**

*Partner, Cleary Gottlieb Steen & Hamilton (New York)*

Ari MacKinnon is a partner in the New York office of Cleary Gottlieb Steen & Hamilton. Ari's practice focuses on international arbitration, principally in Latin America. He has experience in both Spanish and English-language arbitrations and has successfully represented

a number of major Latin American oil and gas, energy and infrastructure companies in arbitration matters. Ari is a frequent speaker at industry conferences and a widely published thought leader on international arbitration and cross-border disputes. He has been recognized as a banded lawyer for international arbitration by Chambers Latin America, The Legal 500 as a "Next Generation Partner" and for five consecutive years (2017-2021) he's been recognized by Benchmark Litigation as a "Top Litigator Under 40."

### **Caline Mouawad**

*Partner, Chaffetz Lindsey*

Caline Mouawad, a partner at Chaffetz Lindsey, represents clients in international commercial arbitrations and in investment treaty disputes with host governments. She counsels clients in an array of multi-jurisdictional disputes that span from Europe to Latin America and from Africa to Asia, and concern such sectors as oil and gas, mining, consumer goods, and telecommunications.

Caline acts as counsel in arbitrations conducted in English and French under the rules of the ICC, ICSID, LCIA, AAA, ICDR, and SIAC, as well as in ad hoc cases under the UNCITRAL Rules. She regularly advises clients on drafting dispute resolution clauses in international commercial contracts and on protecting their international investments under investment treaties. In addition, Caline regularly serves as an arbitrator. She is listed on the Panel of Neutrals for the ICDR and the AAA National Roster of Arbitrators and Mediators.

Caline serves as Vice-Chair of the Steering Committee of the ICC Commission on Arbitration and ADR and is currently a member of the International Commercial Disputes Committee of the New York City Bar Association.

### **Nicole A. Saharsky**

*Co-chair, Supreme Court and Appellate Practice, Mayer Brown*

Nicole A. Saharsky is co-chair of Mayer Brown's Supreme Court & Appellate Practice. She focuses her practice on briefing and arguing appeals and on developing legal strategy for the trial courts and agency proceedings. Before joining Mayer Brown, Nicole served for ten years as an Assistant to the Solicitor General in the United States Department of Justice.

Nicole has argued 30 cases, briefed 46 cases on the merits, and filed hundreds of certiorari-stage briefs and motions in the Supreme Court. Her cases involved a broad range of business issues, including securities fraud, intellectual property,

labor and employment, bankruptcy, personal jurisdiction, and corporate criminal liability.

Nicole received her law degree summa cum laude from University of Minnesota Law School and clerked for Judge Carolyn Dineen King of the Fifth Circuit. She earned her undergraduate degree in chemical engineering from Northwestern University.

# Fordham International Arbitration and Mediation Conference | Participating Organizations



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