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the legal profession

A Conference presented by
the International Litigation
Committee (O) of the
International Bar Association
Section on Business Law

International Bar Association

Plotting Litigation Strategy in the Global Context

19-20 June 2003

**Hotel Inter-Continental Chicago
CHICAGO, ILLINOIS**

Join leading litigation counsel, judges, senior corporate counsel and academics from around the world at this prestigious event which addresses the strategy and tactics of transnational litigation. Conference sessions and written materials will provide a broad overview of relevant subjects while exploring current hot topics for international litigators. The working programme takes an interactive format and is designed to encourage extensive dialogue between audience and panellists.

Who should attend?

Lawyers who represent clients in international commercial litigation, including experienced and novice litigators, in-house counsel, academics and law students.

*As per the Law Society of England and Wales. The number of CPD/CLE points/hours may vary for other bar associations and law societies depending on their criteria.

US CPD/CLE

Applications for accreditation of this programme in Minnesota, Iowa, Indiana, Ohio and Illinois are currently pending. Accreditation has been approved in New York and California.

Up to 9
CPD/CLE
hours available*

Programme

Conference Co-Chairs

Derek J T Adler

*Hughes Hubbard & Reed LLP,
New York*

Markus Koehnen

McMillan Binch LLP, Toronto

The IBA would like to acknowledge the kind support of

Fasken Martineau

Hughes Hubbard & Reed LLP

Jenner & Block

Latham & Watkins

Mayer Brown Rowe & Maw

McMillan Binch LLP

Torlys LLP

Thursday 19 June

0800 – 0845 **Registration**

0845 – 0900 **Welcome Remarks**

0900 – 1015

Selecting the Right Forum

Success in international litigation often depends upon factors other than the merits of the parties' respective claims and defences. To select the most favourable forum for a lawsuit, a sophisticated international litigator must be familiar with important differences in how a given dispute will be litigated in each of the available jurisdictions. Panellists will provide an overview of practical issues to be considered, highlighting key differences between leading jurisdictions with respect to matters such as freezing orders and other preliminary relief, pre-trial disclosures, hearing procedures, length of time to judgment, recovery of legal fees, measure of damages and judgment enforcement.

Panellists

Mark Schnabl *Skadden Arps, New York*

Siegfried Elsing *Hölters & Elsing, Düsseldorf*

Michael Hales *Nabarro Nathanson, London*

1015 – 1045 **TEA/COFFEE BREAK**

1045 – 1200

Avoiding an Unfavourable Forum

Once the most favourable forum has been chosen, the litigator must apply his or her skills to securing that forum and avoiding parallel suits in other jurisdictions. In this session, the speakers will discuss the tactics available for stopping a lawsuit in an unfavourable forum including:

- challenges to jurisdiction;
- forum non conveniens;
- *lis pendens*.

Panellists

Anton Valukas *Jenner & Block, Chicago*

Hilary Heilbron *Brick Chambers, London*

Horatia Muir-Watt *Université de Paris, Paris*

1200 – 1400 **Buffet Lunch**

Luncheon Speaker

Judge Diane Wood *United States Court of Appeal for the seventh Circuit, Chicago*

1400 – 1515

Securing the Chosen Forum

Panellists and audience will examine comparative techniques to secure a chosen forum and how the tools available in different jurisdictions complement or conflict with each other. Topics include:

- forum selection clauses;
- antisuit injunctions;
- negative declarations (declaratory judgments);
- international chicken: what actually occurs when jurisdictions conflict? How are the conflicts resolved?

Panellists

Jan Willem Bitter *Simmons & Simmons
Trenité, Rotterdam*

Andreas Lowenfeld *New York University,
New York*

Geoff Healy *Freehills, Sydney*

1515 – 1545 **TEA/COFFEE BREAK**

1545 – 1700

Practical Problems in the International Arena

Litigating a dispute between parties in different countries presents many practical problems not encountered in a purely domestic dispute. Panellists will identify these problems and review the tools available to overcome them and will discuss the following:

- service of process: pitfalls of the Hague Convention;
- enforcement of preliminary remedies overseas;
- obtaining evidence from abroad, including how to obtain documents and depositions in civil law countries;
- judgment enforcement.

Panellists

Nicola Mumford *Wragge & Co,
Birmingham; Vice-Chair, International
Litigation Committee (O), International Bar
Association Section on Business Law*

Nathalie Voser *Schellenberg Wittmer,
Zurich*

James Kearney *Latham & Watkins,
New York*

1830 **Cocktail Reception**

The IBA acknowledges
the support of



Friday 20 June

0815 – 0845 **Registration**

0845 – 0900

Opening Remarks

0900 – 1015

Direct Co-operation between Courts of Different Nations

The issues examined on day one reveal a system designed for conflicts between jurisdictions. Is the concept of judicial comity sufficient to deal with these conflicts or are direct communications between courts of different countries, including the possibility of joint hearings, desirable to overcome conflict?

- Examples of joint hearings between courts of different countries: has it worked? Why or why not?
- Are joint hearings feasible or desirable?
- Would an inability to agree only accentuate conflict?
- How to get joint hearings.

Panellists

Dan Webb *Winston & Strawn, Chicago*

Justice Jack Ground *Ontario Superior Court of Justice, Toronto*

Peter Griffin *Lenczner Slaght, Toronto*

Peter Schlosser *University of Munich, Munich*

1015 – 1045 **TEA/COFFEE BREAK**

1045 – 1200

Selecting and Managing Foreign Counsel

A panel of leading in-house counsel discuss their 'lessons learned' when retaining and managing foreign counsel.

- What works and what does not? What to ask for/agree on up front.
- Cultural biases and pitfalls.
- International perceptions of US lawyers.
- Managing conflict in legal styles.

Panellists

Judy Norris *Blockbuster Inc, Dallas*

Other panellists to be announced

1200 – 1400 **Buffet Lunch**

1400 – 1515

Ethical Issues in International Litigation

Ethical issues in international litigation can arise out of conflicting obligations between jurisdictions as well as differences in tolerable business/legal practices. Panellists and audience members will examine this difficult area and cover issues including:

- document retention and production obligations;
- conflicting rules of privilege and confidentiality;
- dealing with hard ball litigation tactics and corruption.

Panellists

Sheila Block *Torys, Toronto*

Tyrone Fahner *Mayer Brown Rowe & Maw, Chicago*

Siegfried Elsing *Hoëlters & Elsing, Düsseldorf*

1515

Closing Address

Campbell McLachlan *Herbert Smith, London; Chair, International Litigation Committee (O), International Bar Association Section on Business Law*

Continuing Professional Development / Continuing Legal Education

For delegates from countries where CPD/CLE is mandatory, the International Bar Association will be pleased to provide a Conference Certificate of Attendance which, subject to the exact CPD/CLE requirements, may be used to obtain the equivalent accreditation in your jurisdiction.

This Conference has been accredited for CPD/CLE by the Law Society of England and Wales. Delegates should ask staff at the Registration Desk for information as to how to obtain the hours.

The organisers may at any time, with or without giving notice, in their absolute discretion and without giving any reason, cancel or postpone the Conference, change its venue or any of the other published particulars, or withdraw any invitation to attend. In any case, neither the organisers nor any of their officers, employees, agents, members or representatives shall be liable for any loss, liability, damage or expense suffered or incurred by any person, nor will they return any money paid to them in connection with the Conference unless they are satisfied not only that the money in question remains under their control but also that the person who paid it has been unfairly prejudiced (as to which, decision shall be in their sole and unfettered discretion and, when announced, final and conclusive).

Speakers' biographical details

Derek Adler is partner with Hughes Hubbard & Reed in New York. His areas of concentration include international litigation and arbitration, commercial litigation and securities litigation. He has expertise in managing complex commercial claims and class actions and has spoken widely on international legal issues.

Jan Willem Bitter is a partner in the law firm of Simmons & Simmons Trenité in Rotterdam. From 1997 to 1999 he worked as a lawyer in Havana, Cuba. He specialises in the areas of commercial litigation and arbitration.

Sheila Block is litigation chair at Torys in Toronto. She has received the Laidlaw Medal for Advocacy, is ranked by Lexpert as one of Canada's top 25 corporate litigators and is a fellow of the American College of Trial Lawyers. Ms Block has also taught advocacy for NITA in North America, England, Scotland, New Zealand and El Salvador, as well as for the UN War Crimes Tribunal in Rwanda.

Siegfried H Elsing is the co-founding partner of Hölters & Elsing. He is admitted as an attorney both in Germany and New York. With more than 20 years experience, Mr Elsing represented clients in litigation matters, both before German State Courts and in national and international commercial arbitrations. He has also acted as arbitrator and chairman in arbitration proceedings. At the University of Düsseldorf he lectures on International Commercial Arbitration.

Tyrone C Fahner Chairman of Mayer, Brown, Rowe & Maw, among world's 10 largest law firms, led the combination with London's Rowe & Maw in 2002, in 'arguably the most significant transatlantic merger to date', Attorney General of the State of Illinois (1980-83), Chicago Lawyers' 2002 Person of the Year.

Peter Griffin is a partner with Lenczner Slaght Royce Smith Griffin in Toronto and is one of Canada's leading commercial litigators. He has been involved in commercial, securities, insolvency and professional liability litigation, including claims with international dimensions. He has been active in legal education and teaching of trial and appellate advocacy.

The Honourable Mr Justice Jack Ground is a judge of Ontario Superior Court of Justice where he heads the Commercial List, a division of the Court devoted to complex commercial litigation. Justice Ground has written some of the leading Canadian judgments on forum non-conveniens issues and has considerable experience in joint hearings between Canadian and American courts in insolvency matters.

Michael Hales is a litigation partner with Nabarro Nathanson, one of London's leading commercial law firms. He is a solicitor advocate in England and is admitted in Australia. He regularly acts in international disputes, including in the world's largest banking fraud which, for his client, involved proceedings in six jurisdictions.

Geoff Healy is a partner with Freehills, a top tier Australian commercial law firm. He specialises in large, complex corporate defence litigation and

alternative dispute resolution. He has particular expertise in major corporations law matters, international disputes and regulatory investigations. Mr Healy is currently leading the legal team acting for the National Australia Bank (the largest financial institution in Australia) in the defence of the largest commercial case in Australian legal history.

Hilary Heilbron QC is a commercial barrister at Brick Court Chambers, London, practising both litigation and arbitration. She also acts as arbitrator, is a qualified mediator and sits as a Deputy High Court Judge. She is Deputy Chair of The City Disputes Panel Limited and a Senior Counsel in NSW Australia.

James V Kearney, a partner in Latham & Watkins' New York Office, combines extensive trial experience in complex cases with experience in counselling clients in antitrust, securities, product liability and cross border litigation. Mr Kearney represents non-US domestic companies respecting consumer product safety and liability issues and litigation. He is a chair of Latham's firmwide torts litigation practice group.

Markus Koehnen is a partner with McMillan Binch LLP in Toronto. He has extensive experience in managing multijurisdictional litigation involving class actions, commercial fraud and securities cases. He has spoken and written widely on forum shopping, proof of law, enforcement of foreign judgments and legal privilege in multijurisdictional cases.

Andreas Lowenfeld, Professor of International Law at New York University. Professor Lowenfeld serves frequently as arbitrator in international cases, and has written widely on various aspects of international trade, investment, finance, and dispute settlement. Among his recent books are *Conflict of Laws: Federal, State, and International Perspectives*; *International Litigation and Arbitration*; and *International Litigation and the Quest for Reasonableness*, as well as a treatise on *International Economic Law*.

Campbell McLachlan is a partner of Herbert Smith's litigation and arbitration division in London. Campbell is a well-known specialist in the field of international commercial litigation and arbitration. He is particularly respected for his work on matters involving private and public international law, representing multi-national corporations and sovereign states.

Nicola Mumford is a partner of Wragge & Co in the UK. Nicola specialises in commercial litigation, arbitration and mediation including insolvency litigation, multi-jurisdictional tracing claims and retention of title disputes as well as commercial contract disputes. She has particular experience in injunctions including mandatory injunctions as well as freezing and search and seizure orders.

Judy C Norris is Vice President and Senior Corporate Counsel for Blockbuster Inc, in Dallas, Texas with legal management responsibilities worldwide for litigation and advocacy. She has also had legal management responsibility for domestic and international operations and has managed in-house attorneys in Europe, Australia, Canada, and Latin America.

Peter Schlosser teaches at the University of Munich and is one of the world's leading experts on judicial co-operation and international law. He has taught in Germany, the United States and Japan, and is a Director of the German Arbitration Institute. Professor Schlosser has written numerous leading texts in the field of international law including *Jurisdiction and International Judicial and Administrative Co-operation*.

Marco Schnabl is a partner at Skadden, Arps, Slate, Meagher & Flom, LLP where he specialises in litigation, international arbitration and Latin American corporate matters. He has handled litigations ranging from international and domestic contests for corporate control, to securities class actions, through cases arising from World War II reparations claims. He has arbitrated in all the major arbitral institutions, including ICSID, the ICC, and the AAA.

Anton R Valukas, a former US Attorney, has been a litigation partner at Jenner & Block since 1976 where he chairs one of the Firm's litigation teams. A fellow in the American College of Trial Attorneys, he was recently named one of America's top defense attorneys by Corporate Legal Times. Mr Valukas is a graduate of Northwestern University's School of Law.

Dr Nathalie Voser is a partner at Schellenberg Wittmer. Her areas of specialisation include contract law, restitution, private international law (conflict-of-laws) and international procedural law, such as jurisdictional questions and recognition of foreign judgments and awards. Ms Voser has represented parties in major multi-jurisdictional fraud litigation and international commercial arbitration proceedings. She is also regularly appointed as arbitrator.

Horatia Muir Watt, Professor at the University of Paris I (Sorbonne), teaches and publishes extensively in Private international law, International litigation and Comparative law. She is co-director of the CNRS-Paris 1 Institute of Comparative Law and Secretary general of the *Revue critique de droit international privé*.

Dan Webb of Winston & Strawn in Chicago and is one of America's leading litigation attorneys. He is a fellow of the American College of Trial Lawyers and is listed in *The Best Lawyers in America*, acted as special counsel in the Iran-Contra affair, and most recently represented Philip Morris in connection with its tobacco-related litigation throughout the United States.

Her Honour Judge Diane P Wood, Court of Appeals for the Seventh Circuit. Before being appointed to the bench she taught international law at the Chicago Law School and served as federal Deputy Assistant Attorney General responsible for international enforcement of anti-trust orders. Recent lectures include engagements with the World Trade Organization, the OECD and judges in the People's Republic of China.

Registration Form

International Bar Association Plotting Litigation Strategy in the Global Context

19-20 June 2003 Hotel Inter-Continental Chicago, Chicago, Illinois

Please read the 'Information' section before completing this form and return it, together with your payment, to Charlotte Howe at the address overleaf

Personal details (Please attach your business card or write in block capitals)

Name _____

Name as you wish it to appear on your badge (if different from above) _____

Membership number (if applicable) _____

Firm / Company / Organisation _____

Address _____

Tel _____ Fax _____

E-mail _____

Special Dietary Requirements

Registration form and fees received:	On or before 8 May	After 8 May	Amount payable
IBA Member	US\$940	US\$1025	US\$
Non member*	US\$1025	US\$1100	US\$
Full time academics/judges and young lawyers	US\$710	US\$1100	US\$
Corporate Counsel	US\$850	US\$1100	US\$
Guest fee	US\$60	US\$60	US\$

* Join the IBA today and register for this Conference at the IBA member rate. Please find the membership application form at www.ibanet.org.

TOTAL AMOUNT PAYABLE

US\$

Full payment must be received in order to process your registration
Please note that registrations are not transferable

Continued overleaf

For office use only

Payment _____ Banked _____ Processed _____

Payment details

- I enclose a cheque / bank draft made payable to the IBA for the total amount payable.
- I have transferred to the IBA bank account the total amount payable and have attached a copy of the bank transfer details.
- Please charge the total amount due to my Visa / Mastercard / American Express / Diners (*Other cards are not accepted*).

Card number _____ Expiry date _____

Name of card holder _____

Signature _____ Date _____

Where did you first hear about this Conference?

- IBA CONFERENCE OTHER CONFERENCE DIRECT MAIL INTERNET ADVERTISEMENT
- E-MAIL EDITORIAL RECOMMENDATION OTHER

Please provide further details, quoting code (if applicable)

IBA listings are provided to third parties, are used for marketing purposes and are published on the internet and other internationally available networks and media. The IBA will treat your personal information with the utmost respect and in accordance with UK data privacy laws.

If you do not want your details to be passed on, please tick the box

Please send the completed form to:

Charlotte Howe

International Bar Association

271 Regent Street, London W1B 2AQ, United Kingdom

Tel: +44 (0)20 7629 1206. Fax: +44 (0)20 7491 4460. Fax: +44 (0)20 7409 0456.

e-mail: charlotte.howe@int-bar.org. website: www.ibanet.org

Information

Date 19-20 June 2003

Venue

Hotel Inter-Continental Chicago
505 North Michigan Avenue
Chicago, Illinois 60611
tel: + 1 312 944 4100 / + 1 800 628 2112
fax: + 1 312 944 3050
e-mail: chicago@interconti.com
Website: www.chicago.interconti.com

Language

All working sessions and Conference materials will be in English.

How to Register

Please complete the attached Registration Form and return it to Charlotte Howe at the IBA together with your payment.

Fees

Registration forms and fees received:

	<i>on or before</i>	<i>after</i>
	<i>8 May</i>	<i>8 May</i>
IBA member	US\$940	US\$1025
Non member	US\$1025	US\$1100
Full time academics/judges and young lawyers	US\$710	US\$1100
Corporate Counsel	US\$850	US\$1100
Guest fee	US\$60	US\$60

Full payment must be received in order to process your registration.

Fees include

- Attendance at all working sessions
- Conference materials, including any available speakers' papers submitted to the IBA before 22 May 2003
- Access to the above Conference working materials and an up-to-date delegate search from the IBA website (www.ibanet.org) approximately 7 days prior to the Conference
- Lunch on 19 and 20 June
- Tea and coffee during breaks
- Invitation to hosted Cocktail Reception on 19 June

Please note that registrations are not transferable.

Guest fees include

- Invitation to hosted Cocktail Reception on 19 June

Guests are not entitled to attend the working sessions

List of Participants

In order for your name to appear in the list of participants which will be distributed at the Conference, your registration form must be received by 12 June 2003 at the latest.

Payment of registration fees

US Dollars: by cheque or bank draft converted at the current rate of exchange and drawn on a US bank and in favour of the International Bar Association. Please send to: 271 Regent Street, London W1B 2AQ, United Kingdom.

OR by bank transfer to the IBA account number: 01286498 at the National Westminster Bank, St James's & Piccadilly Branch, (Sort Code 56-00-03), 208 Piccadilly, London W1A 2DG, United Kingdom.

Please ensure that a copy of the bank transfer details is attached to your registration form.

Euro: by bank draft converted at the current rate of exchange and in favour of the International Bar Association

OR by bank transfer to the IBA Bank Account Number 550/00/06570631 at the National Westminster Bank, St James's & Piccadilly Branch, (Sort Code 56-00-03), 208 Piccadilly, London W1A 2DG, United Kingdom (SWIFT address NWBKG2L). **Please ensure that a copy of the bank transfer details is attached to your registration form.**

Credit card payments: by Visa, Mastercard, American Express or Diners. **No other cards are accepted.**

Pounds Sterling: by cheque or bank draft drawn on a UK bank and in favour of the International Bar Association. Please send to: 271 Regent Street, London W1B 2AQ, United Kingdom.

OR by bank transfer to the IBA account number: 13270222 at the National Westminster Bank, St James's & Piccadilly Branch, (Sort Code 56-00-03), 208 Piccadilly, London W1A 2DG, United Kingdom.

Please ensure that a copy of the bank transfer details is attached to your registration form.

PLEASE ENSURE THAT YOUR NAME AND THE WORDS 'CON 652 CHICAGO' APPEAR ON ANY TRANSFER OR DRAFT.

Cancellation of registration

If cancellation is received in writing at the IBA office by 23 May 2003, fees will be refunded less a 25 per cent administration charge. We regret that no refunds can be made after this date.

Travel arrangements and visas

Participants are responsible for making their own travel arrangements. It is recommended that you check your visa requirements with your local Embassy or Consulate.

Please note we are unable to send out supporting visa letters to embassies prior to receipt of your registration form and full payment of registration fees.

Please apply for your visa in good time.

Hotel accommodation

A limited number of rooms has been reserved at the Inter-Continental Hotel:

Hotel Inter-Continental Chicago

505 North Michigan Avenue
Chicago
Illinois 60611
tel: + 1 312 944 4100
fax: + 1 312 944 3050
e-mail: chicago@interconti.com
Website: www.chicago.interconti.com

for the nights of 18-20 June 2003.

The following rates are per room, per night and subject to the appropriate state and local tax.

Single/Double room: US\$189

Please complete the attached Accommodation Form and send it direct to the hotel to make your reservation. A credit card number is required to secure your reservation.

Cancellation Policy

Reservations should be cancelled by calling the hotel directly and obtaining a cancellation number. Any cancellations received less than 72 hours prior to arrival will be charged one night's accommodation charge. No shows will be charged accordingly.

Please note that any reservation made after 18 May 2003 will be subject to availability and cannot be guaranteed at the special IBA rate.

As a limited number of rooms has been blocked at the hotel availability cannot be guaranteed once the room block is full.

Disabled access

The Inter-Continental Hotel is wheelchair accessible.

Please notify us if you require special assistance.

Promotional Literature

Please note that no individual or organisation may display or distribute publicity material or other printed matter during the Conference, unless by prior arrangement with the IBA.

Organisations wishing to discuss promotional opportunities should contact Kathryn Davies at the International Bar Association, e-mail: kathryn.davies@int-bar.org.



International Bar Association

the global voice of the legal profession

271 Regent Street
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website: www.ibanet.org

In its role as a dual membership organisation, comprising 16,000 individual lawyers and 180 Bar Associations and Law Societies, the International Bar Association (IBA) influences the development of international law reform and helps shape the future of the legal profession. Its Member Organisations cover all continents and include the American Bar Association, the German Federal Bar, the Japan Federation of Bar Associations, the Law Society of Zimbabwe and the Mexican Bar Association.

Grouped into three Sections – Business Law, Legal Practice, and Energy & Natural Resources Law – more than 60 specialist Committees provide members with access to leading experts and up-to-date information as well as top-level professional development and network-building opportunities through high quality publications and world-class Conferences. The IBA's Human Rights Institute works across the Association, helping to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.

International Litigation Committee (O)

The International Litigation Committee has over 1,700 members in 120 countries and membership is increasing steadily. The Committee focuses on legal and practical issues involved in conducting litigation at an international level, including issues such as: jurisdiction, choice of law and the role of international judicial assistance in dispute resolution. Committee O provides an excellent forum for practitioners involved in the business of international litigation to debate topical issues and share their experiences of handling and solving the problems arising from transactional disputes. It supports this by holding regular specialist Conferences and through the distribution of its Committee Newsletter.

INTERNATIONAL LAW OFFICE

OFFICIAL ONLINE MEDIA PARTNER TO THE IBA
WWW.INTERNATIONALLAWOFFICE.COM