



# 35<sup>TH</sup> ANNUAL MEETING **CLASS AND GROUP ACTIONS IN ARBITRATION**

**30 NOVEMBER 2015**

**Paris**

This conference will address the many issues that arise in class and group arbitrations. Is there a place for such proceedings within the framework of the arbitration process and, if so, how can or should they be organized and conducted? What lessons have been learned from experience of such cases, both in North America and elsewhere, over the course of the last decade, and what does the future possibly hold?

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- All professionals involved in international trade and dispute resolution
- Lawyers
- Arbitrators
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- Compliance officers

The proceedings will be published in the *Dossiers of the Institute* series, and a copy of the publication will be sent to all those who register for this event.

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# CLASS AND GROUP ACTIONS IN ARBITRATION

## MONDAY 30 NOVEMBER

A little over a decade ago, following the 2003 decision of the United States Supreme Court in the case of *Green Tree Financial Corp. v. Bazzle*, the concept of class arbitration erupted onto the international scene. In the years that have passed since that decision, the law in the United States concerning class arbitrations has taken several twists and turns and recourse to class arbitration has declined.

But the idea that arbitration should be available for the resolution of class actions, in the U.S. sense, or more generally for mass, collective or group actions has nevertheless continued to animate a lively debate.

In recent years, interest in such issues has been reinvigorated by the decision of the investment arbitration tribunal in the *Abac/At* case between 60,000 Italian bondholders with claims against Argentina.

### ■ CHAIRMAN OF THE ICC INSTITUTE OF WORLD BUSINESS LAW:

**Yves Derains**, Founding Partner, Derains & Gharavi, France; Former Secretary General, ICC International Court of Arbitration

### ■ CO-CHAIRS OF THIS 35<sup>TH</sup> ANNUAL MEETING:

**Bernard Hanotiau**, Partner, Hanotiau & van den Berg, Belgium; Council Member, ICC Institute of World Business Law

**Eric A. Schwartz**, Partner, King & Spalding, United States and France; Vice-Chair, ICC Institute of World Business Law

## PROGRAMME AND SPEAKERS

08.30 > **REGISTRATION**

09.00-12.45 > **INTRODUCTION**

**Yves Derains**, Founding Partner, Derains & Gharavi, France; Chairman, ICC Institute of World Business Law; Former Secretary General, ICC International Court of Arbitration

### > **DEFINITION AND SCOPE OF THE QUESTION**

**Bernard Hanotiau**, Partner, Hanotiau & van den Berg, Belgium; Council Member, ICC Institute of World Business Law

### > **CLASS ARBITRATION: THE NORTH AMERICAN EXPERIENCE**

How has the law and practice concerning class arbitration developed in the United States since the U.S. Supreme Court's decision in *Bazzle*? How has law and practice developed in Canada? And what are the prospects for class arbitration in those two countries in the coming years? What drafting techniques should be used by parties wishing to provide for class arbitration in an arbitration agreement?

**James H. Carter**, Senior Counsel, Wilmer Cutler Pickering Hale and Dorr LLP, New York, United States  
**Christopher R. Drahozal**, John M. Rounds Professor of Law, University of Kansas School of Law, United States  
**Geneviève Saumier**, Professor, Faculty of Law, McGill University, Canada

Moderated by: **John Fellas**, Partner, Hughes Hubbard & Reed LLP, New York, United States

### > **COLLECTIVE ARBITRATION: THE EUROPEAN EXPERIENCE**

Although class arbitration is widely viewed as an American procedural device, efforts have recently been made in Europe, in particular in Spain and Germany, to make collective or group arbitrations possible in certain contexts. What is the nature of those developments and related experience? How do they differ from class arbitration in North America? What other initiatives are being considered in Europe? Are these developments to be welcomed?

**Philippe Billiet**, Partner, Billiet & Co, Belgium; Director, AIA; Lecturer, Brussels VUB University  
**Christian Borris**, Partner, Borris Hennecke Kneisel, Germany

**Laura Carballo**, Associate Professor of Private International Law, University of Santiago de Compostela, Spain

Moderated by: **José Miguel Júdice**, Founding Partner, PLMJ, Portugal; Member, ICC Institute of World Business Law

12.45-14.15 > **LUNCH**

14.15-17.45 > **MASS ARBITRATIONS IN INTERNATIONAL INVESTMENT CASES**

The Abaclat case was the first of several investment arbitration cases commenced on behalf of large groups of claimants. What are the jurisdictional and other legal issues that have been raised by these cases and how can they be conducted so as to ensure due process to all of the parties? What types of disputes may be suited to collective resolution in an investment treaty context and what are the principal obstacles that may be confronted?

**Zachary Douglas QC**, Arbitrator, Matrix Chambers, London, United Kingdom; Associate Professor, International Law, The Graduate Institute of International and Development Studies, Geneva, Switzerland

**Carolyn B. Lamm**, Partner, White & Case, Washington, D.C., United States

**Luca Radicati di Brozolo**, Partner, Arbit - Radicati di Brozolo Sabatini Benedettelli, Italy; Professor, Catholic University of Milan; Fountain Court Chambers, London; Member, ICC International Court of Arbitration

Moderated by: **Eloïse Obadia**, Partner, Derains & Gharavi, Washington D.C., United States; Former Senior Counsel and Team Leader, International Centre for Settlement of Investment Disputes (ICSID, World Bank Group)

> **ROUND-TABLE DISCUSSION ON THE FUTURE OF CLASS, COLLECTIVE AND MASS ARBITRATIONS**

What have we learned thus far about such arbitrations? Are they a marginal phenomenon or has their potential yet to be realized? What are possible solutions to the issues that have been encountered? In the future, will we see more such arbitrations?

**Sir Franklin Berman QC**, Barrister and International Arbitrator, Essex Court Chambers, United Kingdom

**Pierre J. Dalphond**, Senior Counsel, Stikeman Elliott, Montreal, Canada; Member, ICC Institute of World Business Law

**Elie Kleiman**, Partner, Freshfields Bruckhaus Deringer, France

Moderated by: **S.I. Strong**, Professor of Law, University of Missouri, United States

> **CONCLUDING REMARKS**

**Eric A. Schwartz**, Partner, King & Spalding, United States and France; Vice-Chair, ICC Institute of World Business Law

17.45-19.00 > **AWARD CEREMONY OF THE 2015 INSTITUTE PRIZE AND COCKTAIL RECEPTION**

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Created over 35 years ago, the Institute provides research, training and information to the legal profession concerned with the development of international business law. In line with its philosophy of excellence, it proposes publications, trainings and conferences on different topics related to international business law.

# LOGISTICAL NOTE

## > VENUE

Marriott Paris Champs-Elysées Hotel, 70-72, avenue des Champs-Elysées, 75008 Paris, France

## > REGISTRATION FEES

The registration fee includes all conference documentation, lunch and cocktail reception as well as a copy of the publication of the proceedings of the conference, should they be published. Travel and hotel expenses are not included.

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CLASS AND GROUP ACTIONS IN ARBITRATION  
30 NOVEMBER 2015**

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Title (Mr/Dr/Mrs/etc.)..... Family name .....

First/given name.....

Position.....Company .....

Address.....

City/state.....Zip/postal code .....

Country.....

E-mail .....

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