

AUGUST 2023
NEWS AND EVENTS

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"The month of August had turned into a griddle where the days just lay there and sizzled"
— Sue Monk Kidd, *The Secret Life of Bees*

We have an arbitration case report, a big panel discussion on **August 25**, and a full slate of Featured Members to report on this month. We are starting to plan next year's Members' Retreat and will publish a **SAVE THE DATE** before summer is out. Look for it and calendar early so you won't miss out!

New Arbitration Decision of Interest: In *Amberson v. McAllen*, the United States Court of Appeals for the Fifth Circuit recently addressed a challenge to a reasoned

arbitration award. The dispute arose after the losing party in the arbitration filed for bankruptcy protection, and the prevailing party then filed an objection in the Bankruptcy Court to the losing party's attempt to discharge the Award. The Bankruptcy Court granted summary judgment to the creditor on the preclusive effect of the Award and its satisfaction of all of the elements of 11 U.S.C. §523(a), and the District Court affirmed this ruling. On appeal, the Debtor challenged such preclusive effect on the basis that in issuing the award, the Arbitrator included a "disclaimer," *i.e.*, that he "disclaimed" that the Award constituted the entry of findings of fact and conclusions of law. The Debtor contended that this "disclaimer" allegedly deprived the prevailing party's reliance upon the Award because its lack of finality estopped the prevailing party from objecting to discharge. Rejecting this argument, and focusing upon the fact that the Arbitrator issued a 53-page, single-spaced, Award after conducting an almost 11-day hearing and considering 300 exhibits and testimony from 16 witnesses, the Court of Appeals held that the Award, standing alone, supported the discharge challenge. Read the decision of the court [here](#).

Steven J. Cologne FCI Arb
NAB Newsletter Editor
Vice Chair / Communications

A Message from NAB Chair, David E. Sharp FCI Arb



Dear Members,

I hope some of you are escaping this summer's heat. We have several ARFs and a Member Course coming up, including virtually, in Mexico City, and in Miami. Your help publicizing these courses is needed to fill them up with registrants who will benefit from them. Exact details are coming very soon.

NAB's budgeting process is underway. If you have ideas for events, webinars, or other programs of any kind, please email programs@ciarbnab.com.

The Planning Committee for next year's Members' Retreat has begun its work. Note that the event is currently expected to be held in early or late April in or near San Diego or Palm Springs.

More exact details will be announced as soon as possible.

New Email Address? If your email address changes, please remember to advise

memberservices@ciarb.org and communications@ciarbnab.com

Upcoming Events & Featured Programs



CIArb NAB is pleased to present a moderated panel discussion by leading international arbitration practitioners on **August 25** from 1:00–3:00 p.m. EDT: "**Never would I ever...Overcoming Resistance to Innovation in International Arbitration.**" This discussion will be moderated by current CIArb NAB Chairperson, **David Sharp FCIArb**, speakers **Amb. (r.) David Huebner C.Arb FCIArb**, **Katherine Smith Detric FCIArb**, **Peter K. Rosen FCIArb**, and **Peter Neumann FCIArb** will discuss the following topics: Overcoming Obstacles to Innovation, Arbitration in Dealing with Natural Disasters, Artificial Intelligence in Arbitration, and "Robo Arbitrators" for Retail-Level Cryptocurrency Disputes. Register here for the event:

https://us06web.zoom.us/webinar/register/WN_FaRTMP8hRYyguhFAqZ9aw#/registration

The September "**Ask the Arbitrator**" event will be **Wednesday, September 15** at 1:00 p.m. EDT/10:00 a.m. PDT: "**Unravel the Phenomenon of Career Success with a Trailblazer**" and will feature International Arbitrator, **Mark Baker FCIArb**, and will be moderated by **Cariana M. Jones**, a Juris Doctor (J.D.) candidate at the University of Pittsburgh School of Law. Ms. Jones will interview Mr. Baker to gain insights into his professional journey. **This program is free.** Register here for the event:

https://us06web.zoom.us/webinar/register/WN_bd1VNwcRRhC60YN0NW0mpw

A virtual **Accelerated Route to Fellowship** course (plus exam) will be presented and organized jointly by the North America, New York and Canada Branches and held via Zoom over four half-day sessions on **September 14 and 15 and September 28 and 29, 2023**. This course will feature five interactive breakout workshops PLUS three plenary sessions explore the challenges of organizing and managing a complex international arbitration and the drafting of an enforceable reasoned international award. More details on this course and a registration link is available here:

<https://www.ciarbnab.com/product/september2023-virtual-arf/>

An additional **Accelerated Route to Fellowship** course will be held in Miami on Thursday and Friday, **November 9 and 10**. The Miami program is being held before the start of the Miami International Arbitration Society's Arbitration Week on that Sunday and the ICC's Miami trainings and conference starting on Saturday, **November 11**, and running through Tuesday, **November 14**. Any questions about the course should be directed to **Jim Reiman FCIArb**, Program Director (jreiman@ReimanADR.com). More details on this course will be coming soon.

Join the Membership Match Program

Participate in NAB's **Membership Match Program**. The program aims to add value to Associates and Members through mentoring with Fellows. Once a match is secured,

the goal is to meet virtually for 30 minutes, 10 times per year to address issues unique to the mentees. The match is intended to last one year from inception but may be subject to renewal. Please contact CIArb NAB, Vice Chair of Membership, **Ava Borrasso C.Arb, FCIArb** at ajb@ajborrassolaw.com if you are interested in participating as a mentor or mentee.



MEMBERSHIP NEWS

Brent Clinkscale, Esq., L. Tyrone “Ty” Holt, Esq., Jeanne Charles, Esq. and CIArb Board member, **Chris Campbell MCIArb** were the panelists for the July 26 Ask the Arbitrator: “**Best Practices in Commercial Arbitration – Tips from Leading Arbitrators and In-House Counsel (Part II)**” The panel was moderated by **Dr. Katherine Simpson FCIArb**. A recording is now available on the [NAB Website](#).

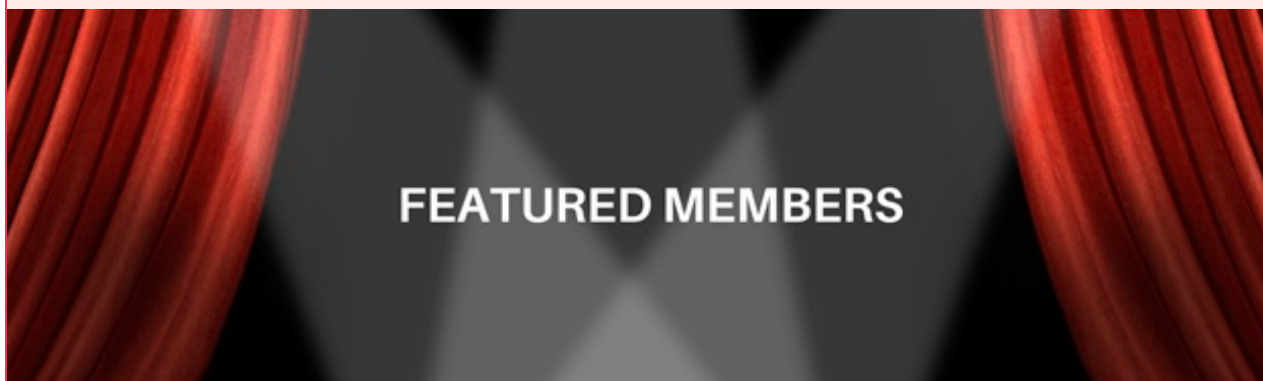
Thomas Crist, CIArb, Pennsylvania–Ohio Chapter co–chair, presented with an esteemed opening panel at the Second Annual Meeting of the Society of Construction Law – North America Branch in Boston on July 17 and 18, 2023. Tom is also the SCL’s Great Lakes Regional Director. Tom’s panel was lead by **Swee Im Tan**, Essex Chambers, Malaysia and included **Justice Mary Lim**, High Court of Malaysia, **Doug Jones, AO**, Atkin Chamber (Toronto), and **Dr. Anamaria Popescu, PE**. The panel presented an interactive critical summary of the lifecycle of a troubled off shore wind farm project from delay to claim, DRB, expert analysis, mediation, arbitration and appeal.

NAB’s Board has approved a Governing Document for NAB’s YMG. It can be found on the YMG page of NAB’s Website under the Programs tab.

Hon. Charles N. Brower C.Arb. has a new book out entitled *Judging Iran: A Memoir of The Hague, The White House, and Life on the Front Line of International Justice*. **Judge Brower** was also interviewed at the recent ITA Workshop and Annual Meeting in Austin, Texas.

NAB Members: Don’t miss an opportunity to promote yourself by publishing in Lexology! Lexology has a broad reach. If you wrote something that you are legally allowed to have published without copyright or other legal restrictions, send it to our Lexology contact, **Ava Borrasso C.Arb, FCIArb** at Ajb@ajborrassolaw.com.

You can now invite non–members who might be interested to sign up for the newsletter at [CIArb North America Branch Newsletter](#).



FEATURED MEMBERS

This month's Featured Members are: **Ricardo A. Ampudia, Gary Birnberg, Carl Ginsberg, Richard Greenleaf, A.J. Krouse, and Melissa (Lisa) Thompson.** Learn about them below and on the homepage of NAB's website [NAB Website](#).



Ricardo A. Ampudia (Miami, FL)

Ricardo Ampudia FCIArb is a US-trained lawyer fluent in Spanish and English. He is a registered arbitrator and a Fellow at CIArb. He has deep experience with public international law and investment protection treaties. His industry experience includes construction, infrastructure, hydrocarbons, and internet disputes. The Florida Bar recognizes him as a Board-Certified Specialist in international litigation and arbitration.



Gary Birnberg (Miami, FL)

Gary Birnberg FCIArb is an arbitrator and mediator specialized in cross-border commercial disputes, including matters involving aviation, insurance/re-insurance, sports/entertainment/lifestyle, financial industry, art, and life science. A Fellow of CIArb and the International Academy of Distinguished Neutrals, and a Distinguished Fellow of the International Academy of Mediators, he has completed over 700 cases with aggregate value of billions of Euros. A member of JAMS, he is affiliated with, and/or has worked on cases administered by some fifteen other institutions worldwide, including CAM-CCBC, ICC, ICDR, and the Hague Court of Arbitration for Aviation, of which he is Chair of the Board of Advisors. Past Co-Chair of the IBA Mediation Committee, and Florida Chapter Chair of CIArb NAB, his work in Brazil and the USA has been recognized consistently by multiple publications. He works in English, French, and Portuguese.



Carl Ginsberg (Dallas, TX)

Carl Ginsberg FCIArb served as a civil trial court judge in Dallas, Texas for 12 years, during which he presided over nearly every type of civil case across several industries, before becoming a full-time neutral. In addition to being a Fellow with CIArb, he has been designated as an accredited mediator by the Centre for Efficient Dispute Resolution. Carl Ginsberg holds an LLM from the University of London (UoL) in International Dispute Resolution, where he is currently studying for another LLM in Maritime Law. He also holds a Post Graduate Diploma from UoL in Public International Law, and a Certificate (Directed Studies Program) in Private International Law from the Hague Academy of International Law. Carl Ginsberg serves on the rosters of AAA, CPR, WIPO, and the Abu Dhabi Global Market Arbitration Centre, among others.



Richard Greenleaf (Denver, CO)

Rick Greenleaf FCIArb is a construction lawyer who has represented owners, contractors, developers, sureties, subcontractors, and design professionals. He now devotes his practice to serving as an arbitrator on complex construction disputes. He has served as an arbitrator through final award in over 250 cases nationally and internationally. He takes pride in the management and organization of large-scale arbitration proceedings. He is a member of the AAA's Mega-Project Construction Panel comprised of the top construction arbitrators in the U.S. as rated by counsel on construction megaprojects based on credentials and experience. He was a Founding co-chair of the Construction Arbitration Section of the College of Commercial Arbitrators and is a Fellow of the American College of Construction Lawyers. He is celebrating his 34th year on the AAA's Construction Panel.



A.J. Krouse (New Orleans, LA)

A.J. Krouse FCIArb is a founding member of Frilot LLC. Mr. Krouse was selected for the 2011, 2017, and 2020 City Business' "Leadership in Law" Award, recognizing the Top 50 lawyers in New Orleans. He was inducted into the City Business "Leadership in Law" Hall of Fame in 2020. Mr. Krouse has been appointed as a Special Assistant Attorney General for the State of Louisiana since 2006. He has been appointed as a court appointed special master. A.J. Krouse has been appointed by the *Louisiana Law Institute* to the ADR Committee for a revision of arbitration

statutes in Louisiana. In October 2022, the United States District Court for the Eastern District of Louisiana recently appointed partner A.J. Krouse to serve on its Hurricane Ida Panel of Neutrals. The 30 individuals appointed as neutrals for the program will help the Court resolve as much of the storm-related litigation to resolution. He is a Fellow in The College of Commercial Arbitrators (CCA.) He is a frequent speaker on electronic discovery, mediation and arbitration issues. He has been selected to serve on the Mediation and Arbitration Advisory Committees of the American Arbitration Association (AAA). He has been designated as a Master Mediator by the AAA.



Melissa (Lisa) Thompson (Boston, MA)

Melissa (Lisa) Thompson FCIArb is a Partner in the Boston office of Robinson & Cole, LLP. She is an experienced arbitrator and mediator, concentrating on domestic and international disputes in the life sciences, pharmaceutical, medical device, technology, and healthcare fields. She is a Fellow of the Chartered Institute of Arbitrators (CIArb), and a member of the

advisory committee for the Boston International Arbitration Council (BIAC). She serves on the American Arbitration Association's (AAA) Master Mediator Panel and is an international and domestic arbitrator on their arbitration panels. She serves on the Dispute Resolution Council of the American Health Law Association and is on their arbitration and mediation panels. A practicing attorney with degrees in Biochemistry and Epidemiology, she is uniquely qualified to handle the complex issues arising in these cases. She also provides legal advice to domestic and international clients in the healthcare, life sciences, and technology industries, and formerly served in house as chief counsel for an international medical device manufacturer.

News About Members

This newsletter has expanded to report news about Members. If you have something to report, please email that information to newsletter@ciarbnab.com. To ensure the newsletter goes out the first business day of each month, it is requested that information for the **September 2023** newsletter be submitted by **August 18, 2023**.

When participating in a program or event of another organization, please remember to include in event fliers and publications, if possible, your post-nominal designations such as **FCIArb**. In addition to showcasing credentials you have earned, doing so helps all members by raising recognition of CIArb and, by association with you, helping to demonstrate that CIArb members are highly qualified individuals who have been credentialed by what in our opinion is the world's leading ADR credentialing organization.

* * *

Get involved with one (or more) of the NAB Committees. Communications (and its social media subcommittee), Programs, and Training would definitely appreciate help. Contact information is on the website or email communications@ciarbnab.com to get directed to the right person(s).

Student Members, please share the information about free student memberships

with those of your classmates who have not joined. More details are available on our [website](#).

Facebook – Follow and like NAB's Facebook Page: [Chartered Institute of Arbitrators North America Branch - Home | Facebook](#). Interact with posts and comment on our monthly “What Do You Think?” feature about developments in ADR.

Twitter – Follow and interact with [NAB's Twitter account](#).

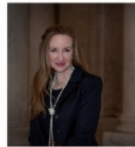
Instagram – Follow [NAB on Instagram](#) and help grow our presence on Instagram.

Finally, don't forget to join NAB's members only [Linkedin Group](#). It is open to all CI Arb members. There, you can post questions, articles, and anything that might be of interest to members and comment on our monthly “What Do You Think?” feature about ADR. Also, check out NAB's public LinkedIn page: [Chartered Institute of Arbitrators - NAB | LinkedIn](#)



STEVEN J. COLOGNE
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NAB Vice Chair /
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