

## 3 Useful Attributes For Lawyers In International Arbitration

By **Caroline Simson**

*Law360, New York (August 18, 2017, 8:56 PM EDT)* -- International arbitration may not be as popular a practice area as real estate or securities, but that doesn't mean that law students or young lawyers should think of this highly specialized field as one that's easy to break into. Here, Law360 reveals three attributes that may help give budding international arbitration specialists an edge over the competition.

Practitioners in the field say that for law students or young lawyers who enjoy working with other cultures and are naturally inquisitive, there are many reasons to choose a career in international arbitration.

"The intellectual challenge is extremely gratifying," said Cooley LLP partner Marc Suskin. "In one day, I may need to speak with an expert in energy production, discuss a complex issue of comparative law with a client, and research means of enforcing an award in multiple jurisdictions."

It's also a growing field. The increasing number of commercial international arbitrations in recent years has been impressive: In January, the International Chamber of Commerce revealed that it had administered a record 966 new cases in 2016. And while it's on a smaller scale, investment arbitration has shown growth as well.

But take heed: Competition among associates looking to gain a toehold in international arbitration is fierce.

"It's a field that continues to boom, and because it's inherently international, lawyers from all over the world are intrigued by it and getting involved," said Baker Botts LLP partner Jay Alexander. "That means there is a large supply of very talented people pursuing the same goal and the same work. It's a very competitive practice area."

Here are three attributes that experts say may help give budding international arbitration specialists an edge over the competition.

### **Be Curious and Unbiased**

For a U.S. law student, just learning the ins and outs of domestic law and procedural rules may seem challenging enough, but experts say anyone interested in international arbitration should learn about more international legal systems as well.

“First and foremost, a healthy curiosity about how other legal systems and cultures approach dispute resolution and a willingness to learn and borrow from them” is the most important attribute for a young lawyer looking to get involved in the field, said Simpson Thacher & Bartlett LLP partner Tyler Robinson, “because fundamentally, international arbitration offers practitioners an opportunity to pick and choose different procedural approaches to dispute resolution and combine and create hybrid solutions.”

Robinson said a passion for discovering the right combination of approaches for a client in any given situation can make international arbitration an exciting field to practice in — but it takes an understanding that no one particular system has all the right answers.

And it’s not just about picking and choosing what’s right for your client. In fact, an understanding of civil law — a system used in countries throughout Europe, South America and Asia — is imperative for success in international arbitration.

“Having a comparative law approach, knowing multiple legal systems ... is essential because these arbitrations frequently have different applicable laws, and arbitrators come from different systems,” said Ian Laird, co-chair of the international dispute resolution group at Crowell & Moring LLP. “So to be able to navigate the tribunal, to be able to plead to them a way that you feel will resonate in terms of their legal culture and their legal background — having that background as an advocate, I think, is essential.”

### **Be Internationally Minded**

Just as it’s important to understand how different legal systems work, it’s equally important to understand how the people who operate in those different legal cultures are thinking and approaching their jobs.

Children in the U.S. often grow up knowing little about other cultures, and may be ignorant of the fact that people outside the U.S. may be offended by certain things or gestures an American wouldn’t think twice about.

But when you’re working in international arbitration, you may be dealing with an arbitrator or opposing counsel hailing from literally anywhere in the world. Knowing what makes them tick and what their cultural norms are can make the difference between getting your point across and being misunderstood. In some cases, a misunderstanding or unintentionally offensive remark may mean the difference between winning and losing a case.

“International arbitration is particularly interesting because you’re dealing with not only different legal systems, but also different societal and commercial norms,” Alexander said. “You may have arbitrators or parties from two or more regions of the world who perceive events and witness credibility through very different lenses. Understanding those differences and the common denominators of human nature that cross cultural lines can be essential to presenting your client’s case effectively.”

### **Be Open to Opportunities**

Young lawyers looking to make a living in the field may think they need to start pursuing that path immediately, but that’s not always so. In fact, many lawyers who are well-known in the field got their start in litigation and made the switch later, either as arbitrators or because their clients got involved in a matter that required an international arbitration, according to Laird.

Particularly when it comes to investment arbitration, there are only so many cases to go around, and young lawyers should be prepared to exploit any opportunity to hone skills that could ultimately prove useful in arbitration.

“Although investment arbitration has these specialist elements, in terms of public international law and arbitration, at the end of the day it is a form of advocacy,” Laird said. “Becoming the best advocate you can be is a path to a career in arbitration as well. For a young lawyer, getting a chance to write and be on your feet, and actually have the opportunity to advocate — whether it’s in litigation, or any number of different settings — you’ve got to take your opportunities when they present to you.”

In fact, getting any court time where you can polish trial skills will likely be useful should you ever decide to get involved in international arbitration.

An important difference between international arbitration and litigation is that international arbitration cases will often go to final hearing, where lawyers will be required to make opening and closing statements. They may also cross-examine witnesses.

“[There’s] all those opportunities to be ‘a real lawyer,’ if you will, more often than the U.S. court system where obviously statistics suggest the overwhelming majority of cases settle,” Robinson said. “In international arbitration, cases will more often go to a final hearing, so you get the opportunity to be an advocate and apply that skill set.”

--Editing by Brian Baresch and Bruce Goldman.