

Kluwer Arbitration Blog

New Year's Quiz Answers, Winners, and Selected Arbitration Jokes to Get You Through 2019

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The Kluwer Arbitration Blog thanks everyone who responded to the [New Year Arbitration Quiz](#), and have decided that all those who responded will receive free subscriptions to this blog for 12 months.¹⁾

The winner is **Chris Campbell** of the United States, but we had two very close runners up, **Abhinav Bhushan** of Singapore and **Ana Coimbra Trigo** of Portugal. We have decided that all three should be entitled to **dinner** in Florence (exclusive of travel costs) with a guest of their choice and/or the author of the quiz.

We would be remiss not to mention that the winners, and only one other contestant, *Ishana Tripathi* of India, correctly guessed all the hobbies/past careers of the arbitrators in question 4. They must be formidable resources when appointing a tribunal. (Look out, [Arbitrator Intelligence!](#))

The Kluwer editors and the author of the quiz reviewed many amusing submissions for a joke starting “an arbitrator, law firm partner, and in-house counsel walked into a bar together...” We enjoyed them all, and ultimately chose the following as our favorite.

An arbitrator, a law firm partner, and an in-house counsel walk into a bar together... The bartender asks, “what are y’all in town for?” They respond together: “New York Convention?” **Christopher Campbell**

Other worthy submissions, plus one that made us all groan, follow the answers to the quiz.

1. (b). Before becoming Prime Minister of Italy, **Giuseppe Conte** was a professor of law who was active in domestic and international arbitration and mediation, and twice hosted ICC summer workshops at his university. In fact, my September 2011 Kluwer blog post, [It's Not Hard to Mediate During Arbitration](#), discussed a simple but effective arb-med-arb procedure proposed by the chairman of an arbitral tribunal. Prof. Conte was that unidentified chair (the arbitration and settlement were still fresh). The mechanism he proposed back then is identical to the one in the new [DIS Arbitration Rules](#), which has also been included in the [Prague Rules for facilitating](#)

settlement, Art. 9.2-3. Conte resigned from pending arbitral appointments upon being named Prime Minister.

2. (b). The United States of America submitted a proposal for the enforcement of mediated settlements at the end of the UNCITRAL Working Group II's 62nd Session in New York, in July 2014. (Ecuador was the first country to endorse the USA's proposal when it was subsequently introduced for discussion in Vienna.) At the UNCITRAL working group session in June 2018, 27 countries spoke in favor of Singapore hosting the signing ceremony and naming the convention after the country. The UN General Assembly [passed a resolution to this effect](#) on 20 December 2018. The broad support for this name may also have been influenced by the successful chairing of the working group sessions conducted by Singaporean Natalie Yu-Lin Morris-Sharma. The official signing of the Convention is scheduled for 7 August 2019 in Singapore.

3. (a). The rules of arbitration of the **Milan Chamber of Arbitration (CAM)** include a Code of Ethics regulating the conduct of all arbitrators appointed under the [CAM Rules](#). Art. 12 of the Code provides that, "The arbitrator who does not comply with this Code of Ethics shall be replaced by the Chamber of Arbitration, which may also refuse to confirm him in subsequent proceedings because of this violation." The Code also applies to tribunal-appointed experts.

4. Know your arbitrator. As eclectic as international arbitration is, it should be no surprise it attracts people with eclectic interests, hobbies, and backgrounds. What *did* surprise us, however, was how much the responses to the quiz varied. So we apologize to those named for thousands of odd emails inquiring about former careers as professional footballers, except Seok Hui Lim. Almost all respondents correctly pegged her as the past squash champion, showing either a definitive correlation between knowledge of international arbitration and international squash or, possibly, adeptness at using Google as a research tool. The correct answers are below.

- | | |
|---|---|
| <p>a. Gary Born
Born on International Arbitration</p> | <p>iii. Gary has immense experience scuba diving the world's seas. Based on anecdotal information, the author of this quiz (also a diver) suspects scuba diving is disproportionately popular among arbitration professionals.</p> |
| <p>b. Lim Seok Hui
CEO, SIAC & Director, SIMC</p> | <p>i. As the Singapore press reported with disappointment at the time, Lim Seok retired from her career as a squash player to attend law school, but as former Singapore and East Asia Squash champion remains one of the country's most famous squash players.</p> |
| <p>c. Roman Zykov
Secretary General, RAA</p> | <p>v. Before embarking on a career in law and then arbitration, Roman worked as a life guard.</p> |
| <p>d. Sophie Nappert
Arbitrator, London</p> | <p>ii. Sophie is an active participant in "rocket yoga," a form of yoga given this name by Bob Weir of the Grateful Dead because, he said, "it gets you there faster."</p> |

e. Eduardo Silva Romero
Arbitrator, Paris (Colombia)

iv. Eduardo played semi-professional
football (soccer) in his native Colombia.

5. (e). “*Standardized data about arbitration cases?*” **There is no such thing.** Indeed, arbitration institutions have not even adopted a common definition of “international arbitration”. For example, the ICC defines an international arbitration as one between parties from different countries, while the AAA/ICDR defines one as having an international dimension, even if the parties are from the same country.

6. (b). In [Rethinking Choice of Law in Cross Border Sales](#) (International Commerce and Arbitration) (Eleven Publishing Int’l 2018), Gustavo Moser leverages the available empirical data to demonstrate that parties fail to exploit strategic advantages that contract choice of law provisions may offer. The data reviewed by Moser suggests that most parties who exclude the application of the UN Convention on Contracts for the International Sale of Goods (CISG) from their contract choice of law provisions do so because they **lack familiarity with the CISG, often ignoring any advantages it may offer.**

7. (c). The available guidance is scarce as to when tribunals should grant requests for security for costs generally, and the [ICCA/Queen Mary report on Third Party Funding in International Arbitration](#) (2018) does not seek to introduce a substantive rule. Rather, the report addresses when a funding agreement should be disclosed in applications for security for costs. It suggests tribunals should order disclosure only to determine whether the funder **has agreed to pay an adverse costs award (possibly obviating the need for security), not to determine whether the funded party is impecunious.**

8. Everyone who responded received credit for their answer. The final report of the [Global Pound Conference](#), to be issued in 2019, will have more on this interesting data, [so watch this space](#). The only GPC participants who viewed In-house lawyers as being the most influential were in-house counsel and parties/users of dispute resolution services themselves. All other stakeholder groups (i.e., advisors, providers, and influencers) viewed in-house lawyers as being equally low in influence (in fourth place). Advisors (external counsel or experts) and Adjudicative Providers (arbitrators and judges) voted for themselves as being the most influential, and Non-Adjudicative Providers (conciliators and mediators) and Influencers (academics and civil servants) voted for Governments/Ministries of justice in first place. The groups that were ranked the least influential were the Parties’ non-legal personnel (business owners, directors and officers) in 5th place and Non-Adjudicative Providers (conciliators and mediators) in 6th place. The data raises questions for further investigation as to whether those who suffer the consequences of disputes and bear the associated costs are truly being listened to by those who are responsible for providing services to resolve them, and whether parties and in-house counsel should take a more visible leadership role. Only Parties (legal and non-legal) voted in fact for “In-house lawyers” as being the most influential, and nobody else agreed with them. The correct answer was thus any one of options (a)-(d) in the answers, but since the data was so surprising (and the author is also an in-house lawyer), credit was also given for (e).

9. (c). The hosts of [The Arbitration Station podcast](#), now in its third season, conclude each episode with a segment they call “Happy Fun Time,” sharing a virtual beer while conversing on whimsical topics such as ways of addressing the members of the tribunal (should you say, “Madam Arbitrator?”) or traveling with colleagues to an arbitration hearing (should you reserve seats

together on the flight, and who doesn't have a packed suitcase and amenities kit always ready to go?).

10. (d). In 2018, the pornographic actress Stormy Daniels sought to avoid an agreement to arbitrate disputes in a contract with President Donald Trump. The musician Jay-Z momentarily enjoined the AAA from appointing arbitrators based on an alleged lack of representative diversity of the AAA's construction panel. This sparked considerable discussion in the arbitration community about diversity beyond gender in arbitration. By contrast, **Brad Pitt** was spared any embarrassing arbitration news, and is reportedly back together with Jennifer Aniston.

11. (e). The **ICDR** offers an **ODR** (online dispute resolution) for manufacturing disputes designed for both a mediation and arbitration phrase to be completed within 60 days. The low-cost service is focused on disputed technical issues and is conducted on-line based on submitted documents only, without the need for a hearing.

12. Noteworthy submissions for a joke starting, "An arbitrator, a law firm partner, and in-house counsel walk into a bar...."

*An arbitrator, an in-house counsel and a law firm partner walk into a bar. The barman asks "What can I get you?", whereupon the law firm partner looks at the in-house counsel, says "I guess you're paying" and orders a large 25 year-old Macallan single malt whisky. The in-house counsel, cost conscious as always, objects and suggests the law firm partner and he have a Coors Light. The law firm partner says that the in-house counsel, as always, is putting cost before quality and an argument ensues. The barman asks the arbitrator if he can resolve the dispute and the arbitrator says "Of course! And I can give them each what they want." He asks for a 25 year-old Macallan, a Coors Light and two glasses, mixes the two drinks together in the glasses, turns to the disputants and says "Here you are. You asked for this, so this is what I am going to give you in resolution of your dispute ... but neither of you are going to like it." **Peter Rees** of the United Kingdom*

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together. The law firm partner asks for additional time before deciding what to drink, the arbitrator orders, and the in-house counsel picks up the tab. **Barbara Reeves** of the United States*

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together, ... no idea what happens next due to a Confidentiality Clause. **Ana Coimbra Trigo** of Portugal*

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together ... Red, Orange or Green? **Gary Benton** of the United States*

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together ... with an agreed costs cap. **Riina Luha** of the United Kingdom*

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together ... Whatever happens next, it will end up costing the in-house counsel money. **Amanda Lee** of the United Kingdom*

*An arbitrator, a law firm partner and an in-house counsel walk into a bar together. They all sit down and order drinks. The arbitrator orders a shaken vodka martini and tells the story about how her mentor, an old famous arbitrator, ordered the drink routinely when deliberating. The law firm partner orders a Moscow mule and tells the story of ordering the same drink after a hearing in Moscow at the surprise of local counsel (since the drink is not common in Moscow). The in-house sits and takes this all in but does not order anything. The law partner turns and asks the in-house counsel 'you are not drinking?' The in-house counsel takes a pause then says 'no, I am fine. I only budgeted for three beers.' **Cornel Marian** of Sweden*

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together ... the bartender says to the arbitrator "for the last time, its way past closing (submissions)". The Arbitrator looks over his shoulder at the Law Firm Partner engrossed in his large, bulky phone and In-house Counsel frantically searching for his credit card. He responds to the bartender, "Hey, it's alright, we'll get the usual." **Vivek Kapoor** of the United Kingdom*

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together, and they then appoint a mediator to help them work out how to split the tab. **Jeremy Lack** of Switzerland*

And the one that made us smile through our groaning (or groan through our smiling):

*An arbitrator, a law firm partner, and an in-house counsel walk into a bar together. The bartender says "You again? I told you before, you're all disbarred!" **Joel Dahlquist** of Denmark*

If you still haven't had enough, you are welcome to peruse our archives and test your skills and knowledge through [past quizzes](#).

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References

- ?1 It is true that the Kluwer blog is already free. In keeping with the theme of arbitration, however, we felt our award should have at least one component that leaves the winner scratching their head.

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