

Branch Member Online Series



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New York Branch

Force Majeure in New York Law: A Guide for International Commercial Arbitrators

May 27, 2020 5:00pm – 6:00 p.m. ET

The full extent of COVID-19's impact remains to be determined but no doubt will include the ability of commercial parties to perform their obligations in the manner set forth in their contracts.

Substantive bodies of law differ on the question whether, and under what circumstances contract performance may be excused or contract obligations adapted to changed circumstances. Commercial agreements governed by New York substantive law tend to deal with this question in force majeure clauses. In some industries, these clauses are negotiated with great care; in others, lawyers copy a clause from one agreement to the next and the contracting parties give it little, if any attention. When an unexpected occurrence beyond the control of the parties materially changes the economics of the bargain, the resolution of disputes may turn as much on the language of the force majeure clause as on the facts that give rise to the defense.

Our guide through a discussion of the New York law of force majeure will be **Ethan J. Leib, John D Calamari Distinguished Professor of Law at Fordham Law School**. Professor Leib has been teaching contract law for 15 years and regularly serves as an expert on New York contract law, as amicus curiae to the New York Court of Appeals and in foreign litigation and international arbitration. [See bio](#)

A comparative law perspective will be provided by **Alejandro Garro, Adjunct Professor of Law and Senior Research Scholar of the Parker School of Foreign and Comparative Law of Columbia University**. Professor Garro served as a member of the Working Group for the UNIDROIT Principles of International Commercial Contracts and currently serves as a member of the Argentine delegation to UNCITRAL. [See bio](#)

The discussion will be led by **Jennifer Kirby, FCI Arb**, As Principal of the arbitration boutique Kirby and an internationally recognized arbitration practitioner based in Paris and New York, Ms. Kirby acts as counsel and sits as arbitrator in a wide variety of commercial arbitrations around the world. [See bio](#)

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