**Justice Marie L. Garibaldi American Inn of Court for ADR**

Considerations in Making Domestic Arbitrations More Economical and Efficient

November 10, 2022

**Additional Resource Materials**

**PROPOSITION I**

*“Hot tubbing” of expert witness technical opinion testimony is a useful and adaptable procedure in commercial arbitrations*

Angelica Cappellino, “‘Hot-Tubbing’ Expert Witnesses: An Experimental Technique From Australia Makes a Splash in U.S.,” *Expert Institute* (Aug. 23, 2021), available at <https://www.expertinstitute.com/resources/insights/hot-tubbing-expert-witnesses-an-experimental-technique-from-australia-makes-a-splash-in-u-s-courts/>

Richard P. Flake, “Hot-Tubbing Makes a Splash in Arbitration Proceedings,” *ABA Dispute Resolution Magazine* (Oct. 8, 2020), available only to ABA DRS members at <https://www.americanbar.org/groups/dispute_resolution/publications/dispute_resolution_magazine/2020/dr-magazine-construction-conflicts/hot-tubbing-makes-a-splash-in-arbitration-proceedings/>

Sena Gbedemah and Toshi Dezaki, “How Hot-Tubbing is Shifting the Paradigm,” *ABA Dispute Resolution Magazine* (Oct. 8, 2020), available only to ABA DRS members at <https://www.americanbar.org/groups/dispute_resolution/publications/dispute_resolution_magazine/2020/dr-magazine-construction-conflicts/how-hot-tubbing-is-shifting-the-paradigm/>

Patrick J. McGrath, “Expert Hot Tubbing: An Opportunity for U.S. Disputes or Australian Folly?,” ABA Litigation Section (Aug. 15, 2017), available only to ABA Litigation Section members at <https://www.americanbar.org/groups/litigation/committees/mass-torts/articles/2017/fall2017-0817-expert-hot-tubbing/>

James G. Zack, Jr., “Hot Tubbing Expert Witnesses – Does It Work?,” available at <https://www.cmaanet.org/sites/default/files/resource/Hot%20Tubbing%20Expert%20Witnesses%20-%20Does%20It%20Work%20-%20v6%20-%2004-08-19%20-%20REVISED%20FINAL.pdf>

**PROPOSITION II**

Redfern schedules are not only for discovery disputes and construction cases

*Abaclat and Others v. The Argentine Republic*, ICSID Case No. ARB/07/5, Procedural Order No. 18 (Mar. 25, 2013), available at <https://www.investorstatelawguide.com/documents/documents/IC-0103-37%20-%20Abaclat%20v.%20Argentina%20-%20PO18.pdf>

Document Production in Arbitration (International), LexisNexis (July 17, 2020), available only to LexisNexis users at <https://plus.lexis.com/document/?pdmfid=1530671&crid=ae7afe8b-3017-41d8-bdf7-0df3b4d176e4&pddocfullpath=%2Fshared%2Fdocument%2Fanalytical-materials%2Furn%3AcontentItem%3A60H0-DMW1-FCK4-G3MX-00000-00&pdcontentcomponentid=500749&pdteaserkey=&pdislpamode=true&pdworkfolderlocatorid=NOT_SAVED_IN_WORKFOLDER&ecomp=Lffg&earg=sr2&prid=610a3d69-5392-4046-ac66-982cf771e7a9>

**PROPOSITION III**

 New Jersey arbitrators should be able to permit small commercial entities, such as partnerships and LLCs, to present their cases by non-lawyers, such as partners, experts, or managers

Editorial, “Who May Represent Parties in Arbitration?,” *N.J.L.J.* (Jan. 28, 2022)

Letter, “Nonlawyers May Not Represent Parties in Arbitration or Mediation,” *N.J.L.J.* (Feb. 21, 2022)

N.J. Comm. Unauth. Prac., Op. 28, 1994 WL 719208 (1994)

*Pjeternikaj v. Peters*, Nos. A-4515-19, A-4594-19, 2022 N.J. Super. Unpub. LEXIS 4 (N.J. Super. Ct. App. Div. Jan. 3, 2022)

General Reference Materials

[John M. Barkett](https://onlinelibrary.wiley.com/action/doSearch?ContribAuthorRaw=Barkett%2C+John+M), “Arbitration and the Unauthorized Practice of Law,” *Alternatives to the High Cost of Litigation* (Jun. 12, 2018), available (for a fee) at <https://doi.org/10.1002/alt.21740>

John Cooley, “Shifting Paradigms: The Unauthorized Practice of Law or the Authorized Practice of ADR,” Mediate.com, available at <https://www.mediate.com/shifting-paradigms-the-unauthorized-practice-of-law-or-the-authorized-practice-of-adr/>

Houston Putnam Lowery, “Recent Developments in International Commercial Arbitration,” 10 ILSA J. Int’l & Comp. L. 335 (2003-2004), available (for a fee) at <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ilsaic10&div=32&id=&page=>

Paul M. Lurie and Carl F. Ingwalson, “Arbitration and the Unauthorized Practice of Law,” available only to HeinOnline subscribers at <https://heinonline.org/HOL/LandingPage?handle=hein.journals/conlaw27&div=8&id=&page=>

Perry A. [Zirkel, ”Non-Attorney Representatives in Labor Arbitration: Unauthorized Practice of Law?,”](https://www.proquest.com/indexinglinkhandler/sng/au/Zirkel%2C%2BPerry%2BA/%24N) 70 *Disp. Res. J.*, Vo. 70, No. 4 (2015), available (for a fee) at <https://www.proquest.com/openview/b4867ba58ce7350ff375c898663f6bd3/1?pq-origsite=gscholar&cbl=25210>