

11TH Annual Georgetown International Arbitration Month 2023



Session 2: Third-Party Funding and Transparency under the 2022 ICSID Amendments



Gaela Flores
Allen & Overy



Kristen Young
White & Case



Nicole Silver
Validity Finance



Anna Toubiana
ICSID



Olusola Odunsi
LLM'23
Moderator

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February 10 (5:30 pm)
Gewirz Student Center 12th Floor
Georgetown University Law Center
120 F St NW, Washington, D.C.

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11TH ANNUAL GEORGETOWN INTERNATIONAL ARBITRATION MONTH 2023

SESSION 2: THIRD PARTY FUNDING AND TRANSPARENCY UNDER THE 2022 ICSID AMENDMENTS

Gaela Gehring Flores:

Gaela Gehring Flores is a Partner at Allen & Overy in Washington DC. She draws on decades of focused experience representing both multinational corporations and sovereign states in international commercial and investment arbitrations. Her experience includes over 50 high-stakes international disputes, many of them before ICSID, ICC, LCIA, ICDR/AAA as well as litigation and appellate proceedings before US federal courts. She advises clients in a broad range of disputes, including energy, natural resources, construction, hospitality, transportation, government contracts, and intellectual property. She also provides legal services to private sector and sovereign clients on enforcement of arbitral awards, effective contractual dispute resolution clauses, and a variety of public international law issues, including foreign sovereign immunity and discovery in international proceedings.

Gaela serves as Co-Chair of the District of Columbia Bar Inter-American Legal Affairs Committee, and is co-host of the DC Bar podcast - The Tea on International Arbitration. She is committed to pro bono service, particularly to the immigrant and undocumented community. During her student days at Georgetown Law, Gaela served as the Managing Articles Editor of the Georgetown Law Journal. She also clerked for the Honorable Paul L. Friedman of the U.S. District Court for the District of Columbia.

Kristen Young:

Kristen Young is a Partner at White & Case in Washington, DC, where she focuses on international investment treaty and commercial arbitration. She advises and represents sovereign States and private companies in high-stakes international disputes involving complex issues of law and fact. She has experience in arbitrations before all major arbitral fora, including ICSID, the PCA, and the ICC, as well as in ad hoc arbitrations under the UNCITRAL Arbitration Rules. She has served as counsel in cases arising under numerous bilateral investment treaties, the DR-CAFTA, and the ECT. Her experience spans a wide range of industries, including electricity, mining and minerals, construction, oil and gas, textile manufacturing, and consumer and retail services.

Kristen speaks and writes regularly on arbitration and international law-related issues, and served as an Associate Editor of the World Arbitration & Mediation Review from 2014 to 2016. She has been a guest lecturer on international arbitration at the Georgetown University Law Center, the University of Chicago Law School, the University of Richmond School of Law, and the Tashkent State University of Law. During her student days at Georgetown Law, Kristen was a Global Law Scholar and a member of the Georgetown Law Journal.

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Nicole Silver:

Nicole Silver is an Investment Manager at Validity Finance in Washington DC, where she is responsible for sourcing investment opportunities for Validity from the country's leading lawyers and claim holders. She is also actively engaged in Validity's due diligence and investment underwriting process. Clients benefit from Nicole's 19 years of experience as a litigator, most recently as a partner at Greenberg Traurig, LLP where her practice focused on international litigation, arbitration, and dispute resolution. Nicole has also represented clients in complex civil litigation, including in the areas of product liability and white-collar criminal defense. She is also a co-host of the DC Bar podcast - The Tea on International Arbitration along with Gaela.

Anna Toubiana:

Anna Toubiana is a Legal Counsel on one of the Case Management Teams at ICSID. Prior to joining ICSID, Anna worked as an attorney at Foley Hoag in Washington D.C. She holds degrees from Georgetown University (LL.M.), Sciences Po (M.A. in International Development) and University of Paris 1 Panthéon-Sorbonne (Maîtrise in International Law and Licence). She is admitted to practice law in the State of New York.

Olusola (Sola) Odunsi:

Sola is an LLM Candidate at Georgetown Law in International Business and Economic Law course, with a primary focus on international arbitration and dispute resolution. She is a Nigerian-qualified lawyer with over five years of experience in arbitration and litigation. She began her career at Templars, a tier one full-service law firm in Nigeria. In 2021, she joined the international arbitration team of Freshfields Bruckhaus Deringer in Frankfurt, where she worked on commercial and investor-state disputes. She is currently interning at the ICSID.

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The team has substantial experience of successfully conducting arbitrations under all the key institutional rules, including those of the AAA, HKIAC, ICC, ICSID, LCIA, SCC, SIAC and VIAC, as well as the UNCITRAL Rules. Our specialist practitioners around the world are qualified in many jurisdictions and fluent in numerous languages. Senior members of our team regularly sit as arbitrators and hold key positions with the leading arbitral institutions (including the HKIAC, ICC and LCIA). This combination puts us right at the heart of the arbitral community and provides us with an in-depth understanding of the arbitral process. We have particular expertise in disputes arising under the Energy Charter Treaty (ECT), having acted on around a sixth of all ECT claims brought, including the first-ever arbitration and the first-ever collective claim under that Treaty. We advise investors on the structuring and restructuring of overseas investments to secure investment treaty protection. We also advise States on the negotiation and drafting of international investment agreements and on accession to multilateral treaties. For more details: <https://www.allenoverly.com/en-gb/global/expertise/practices/litigation-arbitration-and-investigations>

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Validity funds two types of international disputes: disputes involving private parties and disputes against sovereign states under treaties. The great bulk of international arbitration arises from agreements to arbitrate disputes across borders, rather than resort to the national courts of one or the other party. In short, arbitration clauses in commercial contracts. These disputes often involve small and mid-sized companies against global giants. Validity funding simply evens the playing field, and ensures that the claimant will have counsel that is at least as proficient as respondent, if not better. The second type of dispute deals with bilateral treaty claims against states for expropriation or wrongful conduct against investors of a second state. While sovereigns typically wield tremendous resources, again, with funding, an investor can pursue any state for wrongdoing, and collect against assets which may be located around the world.

Validity has a small number of close relationships with elite law firms called “preferred partners”. Our preferred partners are larger firms, mid-sized firms and trial boutiques. Our partners mirror the entrepreneurial spirit of their clients: they think creatively about business and accept risk to obtain rewards. They are the future of law firms. Validity partners offer clients unique advantages such as: contingency fee arrangements; reduced funding rates; working capital from Validity state-of-the art advice on legal finance and its application. Validity provides a hands-on education in legal finance. Preferred partner firms benefit from: help with marketing; risk-sharing and strategic growths; a means to boost firm profitability and litigation realization rates. For more details: <https://validityfinance.com/legal-finance/solutions/international-arbitration/>

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We have expertise in numerous industries and specialized sectors including financial services, energy, power, mining & metals, pharmaceuticals & healthcare, technology, telecommunications, transportation, construction, retail and manufacturing. We work around the world, in multiple jurisdictions and in multiple languages. Clients entrust to us their most challenging and complex cases. Year after year, the legal directories, including Chambers Global, The Legal 500 and Global Arbitration Review, place our practice at the top. For more details: <https://www.whitecase.com/law/practices/international-arbitration>