

Daniel Schimmel

Partner

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Daniel Schimmel is a partner in Foley Hoag's International Litigation and Arbitration Department, resident in New York. He leads the international arbitration and litigation practice of Foley Hoag's New York office.

Daniel has served as Chair, Sole Arbitrator, Co-Arbitrator, Emergency Arbitrator, Appellate Arbitrator, and counsel in over 65 domestic and international arbitrations arising from a broad range of contracts and transactions. This includes serving as Chair and emergency arbitrator in several arbitrations in which the amount in disputes exceeds \$350 million and serving as arbitrator on six expedited arbitrations.

He also represents clients, including major French and other European clients, in international commercial litigation in the United States and international corruption investigations. This includes the representation of The French Republic in litigation in U.S. federal court. It also includes securing a unanimous jury verdict for French telecommunications company Orange SA in federal court in San Francisco. Daniel has also represented major groups, such as Air France, Laboratoires Pierre Fabre, Alcatel-Lucent, Caceis, and Credit Agricole Corporate & Investment Bank in international disputes.

Daniel has been consistently ranked in Chambers and Partners or Chambers USA as arbitrator and counsel. Chambers USA has ranked Daniel as arbitrator in Band 3, stating that he "earns excellent praise" as arbitrator, and that he is "smart, thoughtful, thorough and an independent thinker." Legal 500-USA named Daniel as a key lawyer in its Dispute Resolution-International Arbitration publication for 2021.

Daniel co-authored an e-book, *Le Procès Civil en Version Originale, Cultures Judiciaires Comparées (France, Chine et Etats-Unis)* published by LexisNexis, which received the award for best law book of the year 2015 from Cercle Montesquieu in France. He is also the author of numerous articles on American litigation and international arbitration published in *Le Monde*, *Dalloz Avocats*, *le Code Monétaire et Financier*, and the New York Law Journal.

Daniel is listed on the ICDR International Panel of Arbitrators, AAA's Roster of Arbitrators, CPR's Panel of Distinguished Neutrals, and the Panel of Arbitrators of the Shanghai Arbitration Commission. He is one of the two Co-Chairs of New York Arbitration Week 2022, a member of the ICC Commission on Arbitration and ADR, a Board member of the New York International Arbitration Center (NYIAC), a member of the Arbitration Committee of the New York City Bar Association, a member of the International Arbitration Club of New York, and a Fellow of the Chartered Institute of Arbitrators (F. CI Arb).

Daniel formerly represented Lawyers Without Borders at the U.N. and organized and participated in pro bono training programs for the prosecution staff of the International Criminal Court and the International Criminal Tribunal for Rwanda. He has lectured on U.S. civil procedure at the French national judge school (Ecole Nationale de la Magistrature).

Daniel served as the first law clerk of Judge Jed S. Rakoff (Southern District of New York) and previously worked for the Chief Judge of the Tribunal de Grande Instance de Bobigny in France.

He is a graduate of Columbia University Law School (J.D., LL.M.), ESSEC Business School, and the University of Paris II Panthéon-Assas Law School.



PRACTICES

International Litigation & Arbitration

Litigation

Trade Sanctions & Export Controls

International Commercial & Construction Arbitration

EDUCATION

Columbia University School of Law, J.D., 1997

Columbia University School of Law, LL.M., 1994

Pantheon-Assas University Paris II, Maitrise in Law, *magna cum laude*, 1993

ESSEC, B.A. in Business Administration, 1991

LANGUAGES

French

English

Hebrew

BAR AND COURT ADMISSIONS

- New York
- U.S. Supreme Court
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Western District of New York

REPRESENTATIVE EXPERIENCE

Arbitration

- Chair of an ICC arbitral tribunal, with a seat in Tel Aviv, in an international arbitration involving parties in Luxembourg and Germany arising from the parties' joint bid in response to a public tender.
- Chair of an ICC international tribunal with a seat in Tel Aviv in an international arbitration arising from the termination of a business relationship between parties registered in Israel and the Netherlands.
- Chair of an ICDR arbitral tribunal, with a seat in New York, arising from efforts to exercise a put option. The Parties' dispute regarding valuation is in the order of magnitude of US\$2 Billion.
- Co-arbitrator in an ICDR arbitration arising between members of a private company. The dispute involves claims of minority oppression and breaches of fiduciary duties.
- Co-arbitrator in a AAA arbitration arising between members of a private company. The dispute involves claims of breaches of fiduciary duties, breaches of contract, and other wrongful conduct.
- Appellate Arbitrator in an arbitration administered by AAA arising from a dispute between a financial institution and a company. Served on a panel with a retired State Court of Appeal Judge and a retired State Supreme Court Justice.
- Sole Arbitrator in an arbitration governed by the Expedited Procedures of the AAA Commercial Arbitration Rules, involving parties in Canada, Norway, and the U.S., regarding an employment and compensation dispute.
- Sole Arbitrator in an arbitration governed by the Expedited Procedures of the AAA Commercial Arbitration Rules arising from a contract to purchase future receivables.
- Emergency Arbitrator in an arbitration governed by the AAA Commercial Arbitration Rules arising from an exclusive distribution agreement in the food industry.
- Sole Arbitrator in an arbitration governed by the Expedited International Procedures of the ICDR between parties in Canada and the U.S.

- Sole Arbitrator in an arbitration administered by AAA arising from the engagement of a merchant banking firm to help develop investment opportunities in the renewable energy sector.
- Co-arbitrator in an arbitration administered by the ICDR involving parties in China and the U.S., arising from a contract to purchase products in the life science industry and allegations of antitrust violations.
- Emergency arbitrator in a construction arbitration administered by AAA under the Construction Arbitration Rules.
- Emergency arbitrator in an arbitration administered by the ICDR involving a \$600 million dispute between joint venture partners.
- President of an arbitral tribunal in an ICC arbitration involving a software dispute in the aviation industry.
- Sole Arbitrator in an ICDR arbitration arising from a distribution agreement between parties in Sweden and the U.S.
- Sole arbitrator in an ICC arbitration arising from a construction dispute over the conversion of power plants into liquefied propane gas plants.
- Sole Arbitrator in an international arbitration governed by the AAA Commercial Arbitration Rules arising from an international management contract between Brazilian and U.S. parties.
- Emergency Arbitrator in an ICDR international arbitration involving a long-term exclusive distribution agreement between parties in Italy and the United States.
- Sole Arbitrator in an international arbitration governed by the ICC Rules arising from a contract to provide satellite broadband services between parties in Colombia and Québec.
- Chair of a three-member arbitral tribunal hearing a dispute governed by the AAA Commercial Arbitration Rules arising from a contract between parties in the United Arab Emirates and New York.
- Chair of a three-member arbitral tribunal hearing a dispute governed by the ICDR Procedures arising from a contract in the biomedical industry between parties in Sweden and the United States.
- Co-arbitrator in a three-member arbitral tribunal hearing an international arbitration governed by the ICC Rules between parties in Hong Kong and Europe arising from international corruption investigations under the U.K. Bribery Act and the Foreign Corrupt Practices Act.
- Sole arbitrator hearing a dispute under the UNCITRAL rules involving parties from the Netherlands and United Kingdom.
- Represents a Canadian company with headquarters in Québec against a Chinese company in an international arbitration governed by the ICDR Procedures arising from a contract to represent, sell, and distribute products in Canada.
- Represents a French company against French and German companies in an international arbitration governed by the ICC Rules arising from a license and know-how agreement.

- Represents a biopharmaceutical company against a pharmaceutical company in an international arbitration governed by the ICC Rules arising from a Collaboration Agreement.
- Represented major French-American industrial group against a U.S. telecommunications company in an arbitration under the CPR Non-Administered Arbitration Rules involving indemnification issues.
- Represented the owner of a construction site against the contractor in an ICC international arbitration arising from the construction of an oil facility in Venezuela, the most important ICC arbitration at the time.
- Represented major French-American industrial company against a Chinese company in an ICC international arbitration in Hong Kong arising from a patent license agreement.
- Represented major French-American industrial company against a German company in an ICC international arbitration in New York regarding the ownership of patents.
- Represented Brazilian clients against their Japanese joint venture partner in an international arbitration in New York under the ICDR Rules arising from the exercise of a right of first refusal.
- Represented a U.S. joint venture partner against its Mexican joint venture partner in an ICC international arbitration in Mexico arising from a joint venture contract.
- Represented a corporation incorporated in the People's Republic of China against a company incorporated in the United Kingdom in an international arbitration in New York under the ICDR Rules arising from a license agreement to manufacture and sell automobiles in China.
- Advised a Canadian corporation in a dispute with the Brazilian buyer of a business regarding adjustments to the purchase price.
- Advised a mining corporation incorporated in the United Kingdom in a dispute with its U.S. joint venture partner regarding the exercise of the right of first refusal.
- Represented a corporation against its former CEO in a domestic arbitration arising from a dispute over severance terms and non-compete obligations.
- Represented several corporations in domestic arbitrations arising from merger and acquisition transactions and lease agreements.

Commercial Litigation

- Represents The Republic of France, the French Ministry of Defense, DGA, and a senior French official in a lawsuit brought by a Swiss investment bank in U.S. District Court in California.
- Represented a major French life-sciences group in a lawsuit pending in federal court, in Florida, involving allegations of trademark infringement.
- Represented a major French life-sciences company in a product liability lawsuit pending in state court, in Illinois.
- Represented a major French company in an action brought in federal district court in San Francisco against that company, alleging violations of the Computer

Fraud and Abuse Act and theft of trade secrets. Obtained a unanimous jury verdict.

- Represented major French company in an action brought in federal district court in Chicago against that company, alleging RICO, fraud, and misappropriation of trade secrets and obtained dismissal of that action.
- Represented major French bank in action brought in federal district court in Los Angeles against that bank alleging securities fraud claims, conspiracy, and other claims arising from the acquisition of a French company by a California purchaser. Obtained dismissal of that action.
- Represents French and Luxembourg banks in Madoff-related lawsuit in New York.
- Represents French and Luxembourg banks in bankruptcy litigation.
- Represented French industrial group in connection with a letter rogatory seeking documents and a deposition in France.
- Represented one of the largest Canadian corporations and certain of its directors and officers in connection with several lawsuits pending in federal courts arising from the build-out of an international telecommunications network.
- Represented a boutique investment bank in a compensation dispute with one of its former partners.
- Represented corporate clients in various breach of contract, fraud, and tortious interference actions pending in New York State Supreme Court and the U.S. District Court for the Southern District of New York.
- Represented a museum in connection with a dispute arising from the purchase of a painting from a seller in Paris.
- Represented collectors and art dealers in connection with various art law disputes.
- Representing a French client in proceedings pending in federal courts seeking discovery in the United States in connection with an action pending in Paris.

Class Action Lawsuits

- Represented a European manufacturer in connection with antitrust class action.
- Represented a museum in connection with the auction houses antitrust litigation.

Foreign Corrupt Practices Act (FCPA)

- Represented a joint venture in an internal investigation of possible violations of statutes prohibiting bribery and money laundering. The investigation was conducted in 30 jurisdictions, including the United States, Europe, Africa, and Asia.
- Represented a French company in connection with simultaneous administrative and criminal proceedings in France and the United States involving possible violations of legislation prohibiting bribery and money laundering.
- Advised a committee of independent directors of a U.S. corporation regarding potential Foreign Corrupt Practices Act (FCPA) violations.

- Co-arbitrator in ICC international arbitration in Geneva arising from international corruption investigations under the FCPA and the U.K. Bribery Act.

HONORS & INVOLVEMENT

Honors

- Listed in Legal 500-USA Dispute Resolution-International Arbitration publication for 2021 as a key lawyer.
- Consistently ranked in Chambers and Partners or Chambers USA since 2017 as arbitrator or counsel.
- Referenced in New York Super Lawyers in Alternative Dispute Resolution
- Named by Best Lawyers in America as one of the Best Lawyers of America
- Montesquieu Circle Prize 2015 best law book of the year award for *Le Procès Civil en Version Originale* (The civil trial in original version) (LexisNexis)
- Whitney North Seymour Jr. Award (Columbia University)
- Thurgood Marshall Award from The Association of the Bar of the City of New York for the pro bono representation of a client on death row
- Received Whitney North Seymour Jr. medal awarded by the Trustees of Columbia University
- Harlan Fiske Stone Scholar (Columbia University)

Involvement

- Co-Chair of New York Arbitration Week 2022 (NYAW 2022)
- Board Member of the New York International Arbitration Center (NYIAC)
- Fellow of the Chartered Institute of Arbitrators (F. CI Arb)
- Member of CPR's Panel of Distinguished Neutrals, including CPR's Cross Border Panel
- Member of the International Arbitration Club of New York
- Member of the ICDR Panel of International Arbitrators and Mediators
- Member of the AAA Roaster of Arbitrators
- Member of the Panel of Arbitrators of the Shanghai Arbitration Commission
- Member of the International Chamber of Commerce (ICC), Commission on Arbitration
- Member of the CPR Institute's Banking & Financial Services and Arbitration Committees
- Member of CPR's European Advisory Board
- Chercheur associé de l'Institut des Hautes Etudes sur la Justice (Paris)
- Member of the Arbitration Committee of the Association of the Bar of the City of New York
- Member of Paris Place de Droit

- Member of the Association of Alumni of French “Grandes Écoles” in the United States, Executive Group
- Co-leader of the Work Stream on Arbitration in Regulatory Matters, ICC Task Force on Financial Institutions and International Arbitration
- Member of the ICC Task Force on Production of Electronic Documents in Arbitration
- Keynote speaker at the opening of the International Rounds in Washington, D.C. at the Philip C. Jessup International Law Moot Court Competition, an event attended by competitors from 90 countries and more than 100 schools, 2003 and 2005
- Member of the administrative board of “ESSEC USA”
- Former United Nations representative for Lawyers Without Borders

PUBLICATIONS

- Arbitration Procedures and Practices in the United States, Practical Law 2021, co-author.
- Litigation and Enforcement in the United States: Overview, Practical Law 2021, co-author.
- “*Law and Practice*” Chambers Global Practice Guide – International Arbitration, Second Edition, September 2019, co-author.
- “*Renforcer les chambres internationales par des standards communs de procédure et de jugement,*” Dalloz Avocats, August 2019, co-authored with Antoine Garapon.
- “*Rendre l’avocat français mondial-compatible,*” Dalloz Avocats, February 2019, co-authored with Antoine Garapon and Sarah Albertin.
- International Trade and Social and Environmental Responsibility; Benchmarks to Standards, *Lamy International Contracts*, September 2018, co-author.
- “Transparency in Arbitration,” Practical Law, Winter 2018, co-author.
- Bridging the Cultural Gap in International Arbitrations Arising From FCPA Investigations, 39 Fordham Int’l L.J. 829 (2016), co-author with Anthony Mirenda & Shruti Tewarie.
- Member of the Task Force of Cercle Montesquieu & Conventions, “The General Counsel’s Role and Challenges under Globalisation,” 2016
- *Le Procès Civil en Version Originale, Cultures Judiciaires Comparées (France, Chine, Etats-Unis)*, published by LexisNexis, October 1, 2014, co-author.
- “Civil Litigation Following the Resolution of Criminal Matters,” *Conventions*, February 2014.
- “Class actions in France: lessons learned from securities class actions in the U.S. and other jurisdictions,” *Revue Trimestrielle de Droit Financier*, December 2013, with Judge Jed S. Rakoff and Justice Alice Pezard.
- “*Le whistleblowing, auxiliaire de l’État?*,” *Conventions*, July 2013, with Sarah Albertin.

- “L’importance des Mémoires D’Amicus Déposés Devant les Tribunaux Américains,” *Échanges Internationaux*, April 27, 2012.
- “The Termorio Case,” *International Arbitration Court Decisions*, Third Edition, July 25, 2011, co-author.
- “Les Pièges de la Coopération Judiciaire Internationale,” *Conventions* (publication of the Institute for Advanced Judicial Studies in France), September 2010.
- “Des Leçons Mal Apprises Qui Coûtent Cher,” *Le Monde*, May 2010 (co-author with Antoine Garapon).
- “Tension Between EU Data Protection Laws and US Discovery Requests,” *New York Law Journal*, December 2009.
- “Les mesures récemment envisagées par le gouvernement de Barack Obama en vue de réguler l’industrie financière aux Etats-Unis,” *Code Monétaire et Financier*, Litec 2010, co-author.
- “Utiliser une procédure arbitrale dans les litiges de propriété intellectuelle, chapitre de l’ouvrage *Droits de propriété intellectuelle dans un monde globalisé*,” Vuibert 2009.
- “Does 28 U.S.C. §1782 Allow U.S. Courts to Order Discovery for Use in Private International Arbitration,” PLI, *International Arbitration* 2009, March 2009.
- “Resolving International Intellectual Property Disputes in Arbitration,” *Intellectual Property and Technology Law Journal*, February 2009, co-author.
- “L’importance et l’évaluation de la propriété intellectuelle dans les actifs des entreprises,” *Code Monétaire et Financier*, Litec 2009, co-author.
- “New Respect for Hague Evidence Convention in Discovery,” *New York Law Journal*, May 2008, co-author.
- *International Commercial Debt Collection*, Carswell 2007, co-author.
- “U.S. Developments on the Enforcement of Awards Set Aside by the Courts of the Seat of Arbitration,” *Stockholm International Arbitration Review*, December 2007, co-author.
- “The Interplay Between Treaty and Contract Claims and the Bayindir Decision,” *World Arbitration & Mediation Report*, Fall 2006, co-author.
- “Les Actions Collectives Devant les Tribunaux Américains, Théorie, Pratique, et Évolution Récente,” *Code Monétaire et Financier*, Litec 2006, co-author.
- “Peine de Mort aux États-Unis: un Espoir Vient de la Cour Suprême, *Actualité Juridique Pénal*,” *Dalloz*, July-August 2005.
- “A New Framework for International Investment: Changes in the U.S. Model Bilateral Investment Treaty,” *World Arbitration & Mediation Report*, February 2005, co-author.

SPEAKING ENGAGEMENTS

- International Arbitration, Amicus Radio 2022 <https://radio.amicus-curiae.net/series/les-amphis-amicus/>
- U.S. Litigation, Ecole Nationale de la Magistrature, February 2022.

- Extraterritoriality of U.S. law, French Ministry of Foreign Affairs, November 2021.
- Into the Maze of Force Majeure - A Critical Analysis in International Transactions, NYIAC webinar, April 16, 2020
- Une justice négociée est-elle juste ? Cercle Montesquieu, Paris, March 11, 2020
- “The Gauvain Report: What Choices for French Companies?,” Club des Juristes, Paris, September 11, 2019.
- Promoting the Attractiveness of Paris to Resolve International Business Disputes, Paris Commercial Court, January 17, 2019.
- La Nuit du Droit, Paris Commercial Court, October 4, 2018.
- French-American Chamber of Commerce, France Unveils Innovative Dispute Resolution Mechanism, New York, May 21, 2018.
- French Ministry of Foreign Affairs, Conference on lawfare, the use of law as a weapon of war to advance policy objectives internationally, Paris, April 13, 2018.
- The French legal profession in the 21st Century, Conseil National des Barreaux, March 23, 2018.
- Paris Court of Appeals, Conference launching the Paris International Chambers with the French Attorney General, prominent judges, and general counsel of major companies, Paris, December 13, 2017.
- Amicus radio – program le Bien Commun with Guy Canivet and Antoine Garapon, - « Justice américaine et opportunités de la place de droit de Paris », July 2017 (<http://radio.amicus-curiae.net/podcast/justice-americaine-place-de-paris/>).
- “Justice négociée en France : à l’aube d’un changement de culture ?” Ministère des affaires étrangères, Paris, April 2016.
- “Corruption and International Arbitration: A 360° View,” NYIAC, April 2016.
- “Arbitrating with States and State-Owned Enterprises,” NYU, April 2016.
- “La Contribution de la Justice Transactionnelle à la Lutte Contre la Corruption,” Cercle Montesquieu & ICC France, March 2016.
- “La Common Law,” Séminaire à l’Ecole Nationale de la Magistrature, Paris, March 2016.
- “Le Procès Civil en Version Originale, Cultures Judiciaires Comparées (France, Chine, Etats-Unis),” France-Amériques, Paris, France, December 1, 2014.
- “Electronic documents in international arbitration,” Union Internationale des Avocats (UIA) 58th Congress, Florence, Italy, October 31, 2014.
- “France Culture, Esprit de Justice, Interview on Class Actions,” French National Radio, October 16, 2014.
- “Deals de justice: une justice négociée,” France-Amériques, June 10, 2014.
- “Judicial cultures compared US – France – China,” Tsinghua University, Beijing, September 2009.
- “Corruption investigations and compliance officers,” French National Radio (France Culture), June 2009.

- “International Arbitration 2009,” Practising Law Institute (PLI), New York, March 2009.
- “Electronic Documents in International Arbitration” (les preuves électroniques dans l'arbitrage international), ICC, Paris, France, December 2008.
- “Discovery and e-Discovery in International Arbitration and Litigation,” Canadian Bar Association, Montreal, November 2008.
- Speaker, U.S. Litigation Seminar, National Judge School, Paris, France, October 2008.
- “French and American Civil Procedure Compared,” Conference at the Cour de Cassation (French Supreme Court), October 2008 (with Judge Antoine Garapon).
- “The Resolution of Intellectual Property Disputes in International Arbitration,” Center of Law and Economics of ESSEC Business School, October 2008.
- “French and American Criminal Procedures Compared,” seminar for French and U.S. judges, prosecutors, and law enforcement agencies, École Nationale de la Magistrature, May 2008 (with Judge Antoine Garapon and Barbara Villez).
- Comparative Litigation France/U.S., French National Radio (France Culture), February 2008.
- “Filming Legal Cultures: French and American Civil Procedures Compared,” West Legal Ed. Center, October 2007 (with Judge Antoine Garapon).
- “Comparing Trials and Cultures: The U.S. and France,” The World Bank, October 2007 (with Judge Antoine Garapon).
- “Filming Legal Cultures: French and American Civil Procedures Compared,” Columbia University Law School, October 2007 (with Judge Antoine Garapon).
- “Enforcement of International Arbitral Awards Arising from Investment Disputes,” International Law Institute, Washington, D.C., June 2007.
- “Personal Jurisdiction over Foreign Corporations in the United States,” Canadian Bar Association, Montreal, February 2007.
- “Management of Costs in Arbitration,” Asia Pacific Regional Arbitration Group Conference, Hong Kong, December 2006.
- “Evolution of International Courts,” American Branch of the International Law Association, International Law Weekend, New York, 2006.