

New York Arbitration Week

DIS@NYAW

*To be, or not to be
sandwiched* – The new
DIS Supplementary
Rules for Third-Party
Notices

21 November 2024, 5.00 – 7.00 pm

King & Spalding LLP
1185 Avenue of the Americas
34th Floor
New York, NY 10036

DIS

German Arbitration Institute



**DIS@NYAW: *To be, or not to be sandwiched* – The new DIS
Supplementary Rules for Third-Party Notices**

Everyone seems to like sandwiches but hardly anyone likes to be sandwiched in a dispute. Still, there are many situations in which being sandwiched is the ill fate of a contractual party.

Think of a contractor who faces claims from the owner and at the same time has own claims against its subcontractor relating to the same works. This contractor will be involved in two separate arbitration proceedings with the inherent risk of losing both. The owner may establish claims against the contractor in the first arbitration for defective works but the arbitrators in the second arbitration may not consider the works done by the subcontractor as defective. Effectively, the contractor is sandwiched.

In litigation, a third-party notice, an impleader or a vouching-in could help to bind the subcontractor to the outcome of the dispute between the owner and the contractor without making the subcontractor a party to these proceedings. In arbitration, things are not that straightforward and parties seeking to mirror the litigation rules in their arbitration agreement face an uphill battle. Owner, contractor and subcontractor often do not sit at the same negotiation table. Spending time on drafting a complex arbitration agreement may likewise not be such a brilliant idea when other commercial issues are more pressing. To help parties in such a situation, the DIS has conceived a set of new rules, the [DIS Supplementary Rules for Third-Party Notices](#), which entered into force on 15 March 2024 (the “DIS Supplementary Rules”).

Over sandwiches, we will discuss how these new rules can help parties prevent being sandwiched in arbitration, in what situations being sandwiched is a real risk and what in your experiences are ways to handle such situations. Can arbitration institutions remedy this perceived disadvantage of arbitration against litigation? Are the new DIS Supplementary Rules a model suitable for the Americas?

German Arbitration Institute (DIS)
Deutsche Institution für Schiedsgerichtsbarkeit e.V.
T. +49 228 391 815 566
www.disarb.org

5.00 pm	Welcome & Sandwiches Lauren Friedman, King & Spalding, New York
5.15 pm	The DIS and the DIS Supplementary Rules A Short Introduction Johanna Wirth, DIS Board Member, Berlin
5.45 pm	How Best to Prevent Sandwiching in Arbitration and How Can the DIS Supplementary Rules Help? – Views from the Americas and Beyond David Martin, Halliburton, Houston Dietmar Prager, Debevoise & Plimpton, New York Ank Santens, White & Case, New York Eric A. Schwartz, Schwartz Arbitration, New York Moderator: Jan K. Schäfer, DIS Board Member, Frankfurt
6.45 pm	Takeaway John Fellas, Fellas Arbitration, New York
7.00 pm	Farewell

Registration
Please register **by 14 November 2024** via the link below or via the website of the NYAW. Participation in the event is free of charge. By registering you accept the [DIS General Terms and Conditions](#) for Conferences and Workshops.

Registration →

Please address any questions to: events@disarb.org