



CPR Incorporates “Young Lawyer” Rule Into its Arbitration Rules

Rule will first appear in CPR’s revised Non-Administered Rules for Arbitration of Domestic and International Disputes

CPR is the first arbitral institution to formally incorporate a rule of this kind

New York (Feb. 20, 2018)—The International Institute for Conflict Prevention and Resolution (CPR), a global non-profit organization that advances dispute prevention and resolution practices and provides high quality solutions, announced that its revised Rules for Non-Administered Arbitration of Domestic and International Disputes will contain a new “Young Lawyer” Rule. The revised rules will be effective in March 2018, and will formally be unveiled at CPR’s Annual Meeting, taking place March 8-10, 2018, in Atlanta.

The “Young Lawyer” Rule aims to increase opportunities for junior lawyers to take a more active role in arbitration hearings—for example, by examining the witnesses they helped to prepare and presenting arguments on the papers they have drafted. Several federal judges around the country have adopted a rule, or have issued standing orders, toward the same end. CPR’s rule is discretionary and makes clear that, ultimately, the client and their counsel have the final say as to who represents the client at the hearing.

CPR’s “Young Lawyer” Rule is added to Rule 12, Evidence and Hearings, and reads:

12.5 In order to support the development of the next generation of lawyers, the Tribunal, in its discretion, may encourage lead counsel to permit more junior lawyers with significantly less arbitration experience than lead counsel to examine witnesses at the hearing and present argument. The Tribunal, in its discretion, may permit experienced counsel to provide assistance or support, where appropriate, to a lawyer with significantly less experience during the examination of witnesses or argument. Notwithstanding the contents of this Rule 12.5, the ultimate decision of who speaks on behalf of the client in an arbitration is for the parties and their counsel, not the Tribunal

The number of judges who added “Young Lawyer” Rules in New York [increased](#) after the New York State Bar Association (“NYSBA”) published a [report](#), based on courtroom observations from the bench, which found that only 24.9% of women held lead counsel roles in New York Courts. Among the authors of the NYSBA report is the Hon. Shira A. Scheindlin (Ret.), co-chair of CPR’s [Diversity in ADR Task Force](#).

According to CPR President & CEO Noah J. Hanft (whose recent *NYLJ* article, “[Making Diversity Happen in ADR: No More Lip Service](#),” was cited by the NYSBA report),

“While the ‘Young Lawyer’ Rule applies to all young lawyers, judges who have implemented it have reported that it has indirectly but naturally increased the opportunities for women and people of color—who tend to be underrepresented at the partner level—to play more active and substantive roles in the courtroom. This helps to create a culture where such critical opportunities are encouraged, and the mechanisms are put into place so all stakeholders feel comfortable following through.”

CPR’s Anna Hershenberg, Vice President of Programs and Public Policy and a key driver of this initiative, added, “CPR has long been a leader in increasing diversity in ADR. While we have been focused on increasing the number of diverse neutrals selected to preside over arbitrations, it is also crucial that we increase the diversity of the attorneys who appear as advocates before arbitral tribunals. Creating our own version of the ‘Young Lawyer’ rule that has been used successfully in federal courts around the country and incorporating it into our arbitration rules seemed the perfect way to do accomplish this. In my experience, partners are open to having younger attorneys take on substantive roles, but often get pushback from the client. Being able to tell a client that, although not mandatory, the decision makers encourage younger lawyers to take more active roles in arbitrations—and will allow lead counsel to jump in if necessary—creates the framework to allow these kinds of opportunities to happen more frequently. Our hope is that CPR’s ‘Young Lawyer’ Rule will help train the next generation of lawyers while creating more ‘stand-up’ opportunities for women and people of color in arbitral hearings.”

“I am very pleased that CPR has decide to adopt a ‘young lawyer’ rule and hope that it will encourage senior counsel and their clients to provide speaking opportunities to younger lawyers,” said Hon. Shira A. Scheindlin (Ret.). “All too often, in arbitrations, as in court, all of the speaking is done by senior lawyers – generally white males. In order to achieve the goals of diversity, junior attorneys—including women and people of color—must be given an opportunity to take on speaking roles.”

CPR expects the “Young Lawyer” Rule also to be incorporated into the CPR rules for both domestic and international administered arbitration.

About CPR: CPR is an independent nonprofit organization that has helped global businesses prevent and resolve commercial disputes effectively and efficiently for more than 40 years. Our membership consists of top corporations and law firms, academic and government institutions, and leading mediators and arbitrators around the world. CPR is unique as: (1) a thought leader, driving a global dispute resolution culture; (2) a developer of cutting edge tools and resources, powered by the collective innovation of its membership; and (3) an ADR provider offering innovative, practical arbitration rules, mediation and other dispute resolution procedures, and neutrals worldwide. For more information, please visit www.cpradr.org.

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