

LINNAN, SPRING 2025 FIRST DAY READING ASSIGNMENTS

LAWS 789 *Cross Border Dispute Resolution and Arbitration*

(Casebook: Gary Born, *International Arbitration: Cases and Materials 3rd Ed.* Aspen/Wolters Kluwer, 2022; Documentary Supplement: Gary Born, *International Arbitration: Documentary Supplement 3rd Ed.* Aspen/Wolters Kluwer 2022)

Read for first class Born Casebook, pp. 38-45, 47-51, 98-104, 113-24, 201-16; Born Documentary Supplement pp. 1-4 (read 1958 NY Convention), 89-111 (skim 2006 UNCITRAL Model Law on International Commercial Arbitration & US Federal Arbitration Act)

Read for second class, as our quick dip into comparative law and litigation, [Smith Kline & French Laboratories v. Bloch \(Lord Denning's famous putdown of American litigation, speaking from the perspective of our closest legal cousins, UK Ct Appeal 1982, read para. 1-16\)](#); [M/S Bremen v. Zapata Off-Shore Company, 407 U.S. 1 \(US S Ct 1972\)](#) (did you read the follow-up in the Carnival Cruise Lines case in Civ Pro, 499 U.S. 585 (1991), what happened there?); Willkie Farr & Gallagher German Law Series (Client Letters) [Introduction to German Civil Procedure 1: How the German Court System Works 02/14/23](#), [Introduction to German Civil Procedure 2: How Initiating a German Civil Action Works 03/17/23](#), [Introduction to German Civil Procedure 3: How Evidence in a German Civil Litigation Works 04/11/23](#); plus [Guide to International Civil Procedure: Recognition and Enforcement of Foreign Judgements in Germany 08/28/23](#) (a German law firm's client letter, what US law governs recognition of foreign judgments, noting that Germany requires reciprocity, and what about the ordre public or inconsistent policy clause as basis for rejecting enforcement?); [1972 Hague Evidence Convention \(Wiki\)](#); [1967 Hague Service Convention \(Wiki\)](#), but there are US Supreme Court cases saying these treaties are not exclusive, so US litigants can proceed under FRCP too, so how do you think that works?

How does the above compare with your developing sense of US litigation versus international commercial arbitration from the client perspective, as you read about it for the first class? It seems awfully early to ask, but is the international commercial arbitration model closer to the US litigation model, the UK litigation model, or the German litigation model? What is your initial judgment? How cool is it that your client doing business across borders basically can choose international commercial arbitration in any country that is a member to the 1958 NY Convention, so what specific clauses or provisions might you consider inserting into the client's cross border contract forms?