

Michael Feit

Walder Wyss

Location: Switzerland

Number of years in practice: 16

Number of years as an arbitrator: Nine

Admissions: Switzerland

Main sectors covered: Construction and infrastructure, post-M&A disputes, pharmaceuticals, energy including renewable energy, distribution, telecommunication, commercial and investment disputes

Geographical areas of focus: Europe, North America, Middle East, Central, South and East Asia

Languages: English, German

Michael Feit is a partner in Walder Wyss' arbitration department. He has extensive experience in representing parties in complex arbitration disputes under all major arbitration rules and in ad hoc proceedings. He also sits as an arbitrator, both in commercial and investment arbitrations. Michael has acted in arbitrations seated in civil law and common law jurisdictions around the globe. His practice encompasses a broad range of industries, including distribution agreements, construction, pharmaceuticals, telecommunication, energy including renewable energy, and post-M&A disputes.

Michael Feit's recent victories for his clients include rescinding a share purchase agreement related to the rail transport industry in the value of one billion Russian rubles for fraudulent misrepresentation, fending off a post-M&A claim related to the pharmaceutical industry with an amount at stake exceeding US\$100m, having damages claims in a joint venture dispute related to the aviation industry for more than US\$30m dismissed, and defending against the extension of an arbitration agreement to a non-signatory under Swiss and French law in the

robotics industry both before the arbitral tribunal and the Swiss Federal Supreme Court.

In conversation with...

What are the most impressive arbitrations you have worked on as counsel?

I had the privilege to work on a number of high-value, commercially and politically sensitive arbitrations in the course of my career. They range from disputes arising from multibillion-dollar M&A transactions to complex construction projects.

For me, the most gratifying experiences were cases in which we engaged closely with the client, earned the client's full trust and achieved a great victory for the client. I recall a number of cases in which the odds were against our clients when we took over, but in which we were able to turn the table and obtain important wins for the client. This requires that you sit together with your clients, create a strategy with them, work diligently and creatively.

You are known to have sat as an arbitrator in both civil and common law jurisdictions. How do these differ, and what advice would you give to someone aiming to have a global reach?

Parties from civil and common law jurisdictions may have different expectations as to the structure of the arbitration, the presentation of facts and law in written submissions, document production, the weight attached to documentary evidence and witness testimony, and as to how the evidentiary hearing will be conducted. In international arbitration, however, a converging practice has

emerged over the years, bridging many of the different approaches.

Different expectations are though not limited to the civil and common law divide, but may generally arise in arbitrations with parties and counsel from different jurisdictions. I consider it to be my task as the arbitrator to ensure that, early on in the arbitration, the parties will share the same understanding as to how the arbitration will be conducted. This requires open communication between parties and the arbitral tribunal from the outset of the case.

If asked to give advice to colleagues interested in pursuing a career in international arbitration, I believe one should bear in mind that practising international arbitration requires an open and curious mindset. We are all carrying our cultural backpack, but one should be mindful that what might be the best solution in one's home jurisdiction, might not necessarily be the best approach in an international case seated abroad.

Be respectful towards other legal and cultural practices and take them into consideration when assessing a legal issue. There is no "one size fits all" solution in international arbitration. While in many areas of international arbitration, a globally accepted best practice has emerged over the years, there may still exist relevant nuances between different jurisdictions. Learning about those differences makes one a more complete international arbitration practitioner, and adopting a comparative approach enhances the quality of your work.

Which recent political, economic or regulatory changes have impacted your practice the most?

The war in Ukraine impacted our practice in numerous ways. It disrupted the supply of a wide range of goods spanning from gas delivery to agricultural

products and metals. We act as counsel in a variety of arbitrations which have arisen from discontinued supplies.

Further, the Covid-19 pandemic has caused delays in construction projects leading to large construction arbitrations in which we are involved.

For our investment treaty practice, we noted an uptick in inquiries following the Achmea and more recently the Komstroy decision, including questions as regards a restructuring of the investment through Switzerland to secure international law protection for the future.

What are your goals for practice in the next five years?

Walder Wyss' arbitration practice has been constantly growing in the past years. I believe that this is testament to our commitment to achieve the very best result for our clients.

I have the privilege to work with excellent colleagues at Walder Wyss. It is our common goal to continue growing our arbitration practice, and to consolidate Walder Wyss as a leading international arbitration law firm.

Your practice encompasses a broad range of industries. What is the importance of being knowledgeable in a broad range of sectors?

I believe that practising in a variety of industries enhances the quality of legal advice. It allows you to draw from a broader set of experiences and to present more creative arguments. Further, I often work on highly complex cases which involve a wide range of factual and legal issues. Having in-depth practical experience in a number of industries gives me a valuable advantage when advising my clients. ■

