

Dr. Roberto Dallafior, H.E.E., Partner

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Roberto Dallafior represents clients in proceedings before state courts, arbitral tribunals (in particular ICC, Swiss Rules, LCIA and ad hoc) and administrative bodies, focusing on commercial and corporate disputes and on complex insurance/reinsurance, banking and finance litigation and arbitration (including banking insolvencies and FINMA enforcement proceedings) as well as on unfair competition, anti-trust and procurement proceedings. He regularly serves as arbitrator in arbitrations, in particular in proceedings under the ICC Rules, the Swiss Rules and in ad hoc proceedings.

Recognitions

- Ranked by **Chambers Global 2024** in Litigation and as Arbitration Counsel as well-respected practitioner acting on a range of proceedings, including insurance claims, banking litigation and commercial disputes assisting clients with liability disputes, contractual arbitration and joint venture disputes.
- Ranked by **Chambers Europe 2024** in Litigation and as Arbitration Counsel as well-respected practitioner acting on a range of proceedings, including insurance claims, banking litigation and commercial disputes and assisting clients with liability disputes, contractual arbitration and joint venture disputes.
- Ranked by **Legal 500 2024** in Arbitration, Litigation and Insurance as an expert in commercial, insurance and banking litigation, as holding notable expertise in business and professional liability insurance and property insurance, among others, and as managing a comprehensive range of disputes, from contract and corporate mandates to insurance and banking issues.
- Ranked by **Who's Who Legal 2024** as a Thought Leader in Commercial Litigation and a Thought Leader Switzerland.
- Ranked by **Leaders League 2024** as an expert in International Arbitration with the qualification "excellent".

Professional Experience

- Partner with Nater Dallafior Rechtsanwälte AG, Zurich, since 2006 (founding partner)
- Partner with Stern & Partner, merged into Hess Dallafior Rechtsanwälte, Zurich (1996–2006)
- Foreign associate with Brosio, Casati & Associati, Milan (1993)

- Foreign associate with Cleary, Gottlieb, Steen & Hamilton, Brussels (1992–1993)
- Associate with Homburger Rechtsanwälte, Zurich (1990–1991 and 1993–1996)
- Junior associate with Henrici, Reber & Wicki, Zurich (1986–1987)
- Admitted to the bar since 1990

Education

- Postgraduate studies at the College of Europe (Diploma of Advanced European Legal Studies, 1992)
- Research assistant with the chair of international private law and contract law at the University of Zurich (Prof. A. Heini, 1987–1988)
- Studies at the University of Zurich (lic. iur., 1986; Dr. iur., 1990)

Other Professional Activities

- Arbitrator with the International Chamber of Commerce (Swiss List)
- Member and vice-president of the Commission on Legal Fees of the Zurich Bar Association (2009-2019)

Recent Cases: Commercial & Corporate Litigation

- Representation of an investment company in a post m&a dispute regarding the enforcement of an earn-out arising out of a share purchase agreement for the purchase of an asset management company
- Representation of an investment company which is a subsidiary of a global bank in a post m&a dispute regarding claims for the breach of a representation
- Representation of a brokerage company regarding the enforcement of a brokerage fee for the sale of commercial real estate
- Representation of a manager regarding the enforcement of claims arising out of a carried interest pool in the private equity business
- Representation of a corporation and its board of directors in a dispute against a minority shareholder. The litigation concerned the issue whether a minority shareholder (with a 20% participation) can demand the retroactive application of a so-called recognised accounting standard (i.e., IFRS, Swiss GAAP FER, US GAAP or IPSAS)
- Representation of a multinational agricultural technology company in litigation against a Dutch indoor farming systems supplier regarding claims under a cooperation agreement
- Representation of a multinational provider of heating element technologies in insolvency and bankruptcy proceedings of a Swiss supplier and in associated litigation against an insurer regarding claims under a surety contract
- Representation of a shareholder against the company regarding a special audit

- Representation of a shareholder against the board of directors regarding liability claims

Recent Cases: Insurance Disputes

- Representation of an internationally operating bank against three different insurance carriers in three different proceedings. The dispute concerns the bank's business liability insurance programme. The value in dispute was more than CHF 50 million. The underlying liability concerned a dispute with a bank customer in the middle east
- Representation of a pharmaceutical company against its insurers regarding the recovery of liability and defence costs incurred in the underlying US litigation and damages due to liability after the client was served with an US class action lawsuit involving hundreds of plaintiffs. The insurance tower provides for CHF 150 million in coverage
- Representation of an insurance company in run-off in proceedings against FINMA
- Representation of a multinational company against an insurer regarding costs of a global recall before the Commercial Court of Zurich and the Federal Supreme Court
- Representation of a re-insurance company against an insurance company in proceedings against before the Federal Supreme Court in annulment proceedings against an arbitral award on jurisdiction
- Representation of a company against a Swiss insurer regarding a suretyship agreement

Recent Cases: Banking & Finance Disputes

- Representation of AT 1 investors against FINMA/UBS in proceedings to reverse the write down of AT 1 bonds
- Representation of bank managers in the Forex and Libor investigations, both in Swiss and foreign proceedings, including in administrative proceedings initiated by FINMA
- Representation of bank managers in issues around problems of Credit Suisse, including in FINMA enforcement proceedings
- Representation of a multinational mining company in banking litigation against a Swiss bank, including an ex parte injunction and interim measures
- Representation of banking client against Credit Suisse in a liability claim
- Representation of a foreign bank against a Swiss bank in a dispute about bank guarantees

Recent Cases: Insolvency Disputes & Asset Recovery

- Representing a multinational watchmaking group in asset recovery proceedings in Switzerland, involving insolvency litigation, bankruptcy and criminal proceedings
- Representing the insolvency administrator or a foreign bank in asset recovery proceedings in Switzerland, involving attachment, enforcement, auxiliary bankruptcy and criminal proceedings as well as international mutual assistance regarding substantial liability claims

- Representing an international bank in auxiliary bankruptcy proceedings in Switzerland
- Representing US and Canadian bank clients in asset recovery proceedings in Switzerland, including banking litigation and criminal proceedings
- Representing of clients in the enforcement of foreign awards and foreign judgments
- Representing a client in attachment proceedings to enforce claims arising out of a contract

Recent Cases: White-Collar Crime

- Representing a foreign company that became victim of a crime in criminal proceedings aimed at restitution of frozen assets
- Representing Brazilian ultra-high net worth investors against the Swiss asset manager in criminal proceedings for, inter alia, embezzlement
- Representing a foreign bankruptcy estate of a bank in international legal assistance proceedings aimed at recovering frozen assets

Recent Cases: IP / IT / Media Disputes

- Representing a global IT solutions company in a dispute against a Portuguese technology company before the Commercial Court regarding claims arising out of a subcontractor agreement concluded in connection with a contract awarded under public procurement
- Representing a bank against an outsourcing company in connection with the outsourcing of IT Services
- Representing a leading Swiss media group against private persons, including persons of public interest and ultra-high net worth individuals, claiming violation of personality rights and damages

Recent Cases: Private Client Disputes

- Representing an heir in proceedings for the division of a large estate mainly consisting of real estate
- Representing an heir in the division of a large estate mainly consisting of museum quality paintings
- Representing a spouse against the heir in a dispute regarding the division of marital property after the death of the husband in relation to an estate consisting of a family owned international group of companies

Recent Cases: Arbitration (Counsel)

- Representation of a multinational agrochemical corporation in a coverage dispute against 14 insurers building an insurance tower consisting of three layers providing coverage under a liability

insurance for USD 650 million in total under the Swiss Rules before an arbitral tribunal seated in Switzerland. The arbitrations proceedings encompass the coverage claim against the 8 insurers of the first excess layer of USD 250 million. The liability stems from liability proceedings in the US (multi district litigation) with hundreds of plaintiffs

- Representation of a multinational corporation in a coverage dispute under a liability insurance against its insurance tower consisting of four layers and 16 insurers, providing for coverage of USD 675 million in total. The seat of the arbitration was Switzerland and the Swiss Rules of Arbitration applied. The coverage dispute arose after the policyholder and certain co-insured entities were sued by thousands of US plaintiffs in a nation-wide class action and after the damage claims ended by means of a settlement pursuant to which the policyholder was obligated to pay compensation of more than USD 1.5 billion
- Representation in arbitration proceedings seated in Switzerland with under the Swiss Rules of Arbitration. The insurer disputed the validity of the arbitration agreement and the proceedings were limited to the question of jurisdiction of the arbitral tribunal. The representation included proceedings before the Swiss Federal Supreme Court which confirmed the existence of the arbitration agreement
- Representation of a multinational company in the chemical industry against a competitor regarding the enforcement of a call option in a joint venture agreement after a change of control event. The proceedings were administered by the ICC. The amount in dispute was USD 140 million.
- Representation of an agency company against a Spanish football club regarding the enforcement of claims under a representation agreement for the sale of sponsorship and licensing rights, including stadium naming rights. The proceedings were administered by the ICC. The amount in dispute was EUR 5 million
- Representation of a formula 1 driver against his racing team in proceedings under the Swiss Rules to enforce contractual claims. The amount in dispute was CHF 10 million
- Representation of a football club against FIFA challenging the closed league system before CAS

Recent Cases: Arbitration (Arbitrator)

- Party appointed arbitrator in an ICC case between a major producer of phosphate fertilizer and a company for the engineering, construction, and service of industrial plants regarding claims under a supply contract governed by CISG with an amount in dispute of approx. USD 53 million
- Party appointed arbitrator in an ICC case between a distributor of pharmaceutical, medical supply and health care products and a manufacturer of products for dermatological treatments regarding claims under a distribution/agency agreement under Swiss law with an amount in dispute of approx. USD 70 million
- Chair in a case administered by the Swiss Arbitration Centre between two investment companies regarding a Sales and Purchase Agreement regarding the acquisition of a group of companies under Liechtenstein law, including procedural issues on res iudicata, with an amount in dispute of approx. CHF 176 million

- Chair in an ICC case between an engineering and machine manufacturer and a company building power plants under a supply contract under Swiss law regarding damages claims of EUR 7 million. The seat of the arbitration was in South-Korea
- Party-appointed arbitrator in three disputes regarding commodity trading agreements under the LCIA with values in dispute in amounts between USD 3 and 6 million
- Party-appointed arbitrator in a SAC case between two multinational companies under a merger agreement with an amount in dispute exceeding CHF 200 million
- Emergency Arbitrator under the Swiss Rules in a dispute between two multinational companies on an Agreement on Licensing regarding the continued supply of patented products after termination of the Agreement on Licensing
- Sole Arbitrator in expedited proceedings under the ICC Rules in a case between a financial company and a crypto currency exchange regarding the interpretation of agreements regarding various cryptocurrencies under Spanish law

Publications

- Commentary on Art. 2-4 and 59-62 Lugano Convention, in: C. Oetiker/T. Weibel (eds.), Basler Kommentar zum Lugano-Übereinkommen, 3rd edition, Basel 2023 (together with Benjamin Schumacher)
- Statutarische Schiedsklauseln – Echte Game Changer? [Statutory Arbitration Clauses – Real Game Changers?], GesKR 1/2023, pp. 34-47 (together with Florentin Weibel)
- Insurance Litigation 2022 – Chapter Switzerland, Chambers and Partners, 22 August 2022 (<https://practiceguides.chambers.com/practice-guides/insurance-litigation-2022/switzerland>) (together with Benjamin Schumacher)
- Die Vereinbarung von Erfolgsprämien für den Anwalt - Bundesgerichtlicher Angriff auf die Vertragsfreiheit und was sonst zu beachten ist [The agreement of success fees for lawyers – Federal Court attack on contractual freedom and what else needs to be considered], AJP 11/2017, pp. 1284 et seqq. (together with Benjamin Schumacher)
- Commentary on Art. 2-4 und 59-62 Lugano Convention, in: C. Oetiker/T. Weibel (eds.), Basler Kommentar zum Lugano-Übereinkommen, 2nd edition, Basel 2015
- Contract law, in: Ch. H. Kälin (ed.), Switzerland Business & Investment Handbook, 3rd edition, Zurich 2011, pp. 117 et seqq.
- Überblick über die wichtigsten Änderungen des Lugano-Übereinkommens [Overview of the most important amendments to the Lugano Convention], SJZ 2008, pp. 105 et seqq.
- Neue Regeln für die freie Fahrt im Automobilvertrieb [New rules for free movement in automobile distribution], sic! 2002, pp. 776 et seqq.
- Jahr 2000, Wegweiser zu den wichtigsten rechtlichen Fragen [Year 2000, Guide to the most important legal issues], Zurich 1999
- David gegen Goliath, Lex Dossier: Kartellrecht [David versus Goliath, Lex Dossier: Antitrust Law], Handelszeitung of 3 February 1999

- Kommentar zu den Missbrauchstatbeständen (Art. 7 Abs. 2 KG) [Commentary on the offences of abuse (Art. 7 para. 2 KG)], in: E. Homburger/B. Schmidhauser/F. Hoffet/P. Ducrey (eds.), Kommentar zum schweizerischen Kartellgesetz, Zurich 1997
- Die Legitimation des Erben, Eine rechtsvergleichende und internationalprivatrechtliche Studie, Diss. [The Legitimation of the Heir, A Comparative and International Private Law Study, Doctoral Thesis], Schweizer Studien zum internationalen Recht 66, Zurich 1990
- Durchsetzung des gesetzlichen Anspruchs auf Einberufung der Vereinsversammlung (Art. 64 Abs. 3 ZGB) [Enforcement of the legal right to convene a general meeting (Art. 64 para. 3 Swiss Civil Code), SJZ 1989, pp. 376 et seqq.
- Können Fakten Verträge begründen? – Zum sog. faktischen Vertragsverhältnis, Bemerkungen zu einem Urteil des Obergerichts des Kantons Solothurn [Can facts establish contracts? – On the so-called factual contractual relationship, comments on a judgement of the High Court of the Canton of Solothurn, SJZ 1989, pp. 273 et seqq.

Speaking Engagements

- Swiss civil procedure law! The art of litigating: Litigation in international relations, Practical aspects from a Swiss perspective, Stiftung für Juristische Weiterbildung, Seminar 25 April 2019
- The revised Lugano Convention: Practically significant jurisdictions, The special place of jurisdiction for contractual actions (Art. 5 para. 1 Lugano Convention) and jurisdiction in consumer cases (Art. 15 et seq. Lugano Convention), Stiftung für Juristische Weiterbildung, Seminar 13 April 2016

Client / Market Feedback

- **Chambers Europe & Chambers Global:** One of the reasons why we involve Roberto Dallafior in our strategy decisions is that he is quick to point out things. He is never overly cautious. He will tell us if the situation is not a clear win, but might be worth pursuing for this or that reason. I am very much the type to take more risks, and he insists on reasoning whether it is good or not in each situation. He is pragmatic and offers careful advice. We have almost all of our intellectual engagements with him, and he is an excellent lawyer. He is able to really set up legal arguments that yield very good results. I am rather excited to continue working with him.
- **Chambers Europe & Chambers Global:** He did the best cross-examination I have ever seen. He politely tore the witness to pieces. It was impressive to watch.
- **Legal 500:** Roberto Dallafior is a calming presence with broad knowledge, excellent judgment and a practical perspective.
- **Who's Who Legal:** Roberto Dallafior is a seasoned arbitrator who is highly sought after for his 'great handling of hearings' involving insurance, banking and competition disputes.

Expertise

- International Arbitration
- Commercial & Corporate Litigation
- Banking & Finance Disputes
- Insurance & Reinsurance Disputes
- Insolvency Disputes & Asset Recovery
- IP / IT / Media Disputes
- Private Client Disputes
- Sports Disputes
- White-Collar Crime