

# ARBITRATOR'S IMPLIED DUTY OF DISCLOSURE AND ITS INTERACTION WITH THE DUTY OF IMPARTIALITY AND THE DUTY OF CONFIDENTIALITY

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## ABSTRACT

*In 2020, The UK Supreme Court delivered Halliburton Company (Appellant) v. Chubb Bermuda Insurance Ltd. In this case, the Supreme Court confirmed that an arbitrator has an implied duty of disclosure of conflict of interest involving the same or overlapping matters or a common party. Such an implied duty is a duty corollary of the statutory obligation of impartiality and is essential in imposing the duty of impartiality on the basis of the public interest and arbitrator's statutory duty under section 33 of the English Arbitration Act 1996. The analysis of the case demonstrated that the non-absolute duty of confidentiality allows for disclosure in an England-seated arbitration. Also, similar to the position taken by the IBA Guidelines on Conflicts of Interest in International Arbitration (2014), this implied duty is intended to address "inequality of arms" and the private nature of arbitration and enable a "fair-minded and informed observer" to judge whether there is a real possibility of bias on an arbitrator's part.*

**KEYWORDS:** *implied duty of disclosure, statutory duty of impartiality, fair-minded and informed observer test, inequality of arms, duty of confidentiality,*

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*the English Arbitration Act 1996, IBA Guidelines of Conflicts of Interest in International Arbitration, removal of arbitrator*