

Toronto Commercial Arbitration Society
Gold Standard© Course in Commercial Arbitration
2017/2018 Course Outline

Toronto: Arbitration Place, 333 Bay Street, Suite 900

Ottawa: Arbitration Place, World Exchange Plaza, 100 Queen Street, Suite 940

* Suggested attendance in Toronto for those registered in Ottawa

Video Only Session – attendance not required

***SESSION 1. INTRODUCTORY SESSION, (Bill Horton, Brian Casey, David McCutcheon)**

Saturday, September 16, 2017, 9 a.m. to 1 p.m.

- The Idea of Arbitration
- How it Differs from Other Forms of Dispute Resolution
- Benefits and Objectives of Arbitration
- Contexts in Which Arbitration is Used
- Ontario Legislation Relating to Arbitration
- Important International Instruments relating to Arbitration
- Introduction to Institutional Rules
- (Video Supplement: “Arbitration the Quiet Triumph”, Stockholm Chamber of Commerce)

SESSION 2. ARBITRATION AGREEMENTS (Bill Horton, Joel Richler)

Wednesday, September 27, 2017, 7 p.m. to 9 p.m.

- The Agreement to Arbitrate
- Key Elements in Arbitration Agreements
- Institutional Clauses
- Ad Hoc Clauses

SESSION 3. TRIBUNAL FORMATION (Joel Richler, Duncan Glaholt)

Wednesday, October 11, 2017, 7 p.m. to 9 p.m.

- Tribunal Formation
- Arbitrator Qualifications

- Options and issues in *ad hoc* arbitration
- Provisions of the Arbitration Agreement
- Practical Considerations when Tribunals are Formed
- Financial arrangements
- Arbitrator Interviews
- Institutions and Appointing Authorities

SESSION 4. DRAFTING AN ARBITRATION CLAUSE

Wednesday, October 25, 2017, 7 p.m. to 9 p.m.

- Exercise: Drafting an Arbitration clause

SESSION 5. ARBITRATION ETHICS PART 1 (Louise Barrington/ Marc Goldstein/Bill Horton)

Wednesday, November 8, 2017, 7 p.m. to 9 p.m.

- Arbitrator Interviews
- Conflicts of Interest
- Disclosure Obligations
- Discussion of Scenarios

SESSION 6. ARBITRATION PROCEDURE (PART 1) (Janet Walker/ Bill Horton/ Stephen Morrison)

Wednesday, November 22, 2017, 7 p.m. to 9 p.m.

- Sources of Procedural Rules
- International vs non-international procedure
- Procedural Options and Preferences
- First Procedural Meeting
- Procedural Order #1

***SESSION 7. ARBITRATION PROCEDURE (PART 2 Bill Horton/Joel Richler/Steve Morrison)**

Wednesday, December 6, 2017, 7 p.m. to 9 p.m.

- Exercise: Mock First Procedural Meeting with the Tribunal

- Discussion of Mock Exercise
- (Video Supplement: Focus on International Arbitration: **John Terry and John Judge**)

SESSION 8. JURISDICTION (PART 1) (Earl Cherniak/Tom Heintzman)
Wednesday, December 13, 2017, 7 p.m. to 9 p.m.

- Jurisdictional Challenges
- Preliminary Motions to Determine Jurisdiction
- Motions to Stay Litigation in Favour of Arbitration

SESSION 9. JURISDICTION (PART 2)
Wednesday, January 10, 2018, 7 p.m. to 9 p.m.

- Exercise: Writing a Decision on Jurisdiction

SESSION 10. MOTIONS FOR EMERGENCY AND INTERIM RELIEF (JL McDougall/Stephanie Cohen)
Wednesday, January 24, 2018, 7 p.m. to 9 p.m.

- Interim Relief from the Courts
- Interim Relief from the tribunal
- Interim Relief from Emergency Arbitrator
- Procedures and Standards for the Granting of Interim Relief

SESSION 11. MOCK HEARING OF MOTION FOR PRELIMINARY RELIEF,
Wednesday, February 7, 2018, 7 p.m. to 9 p.m.

- Exercise: Arguing and Deciding a Motion for Interim Relief

SESSION 12. ARBITRATION ETHICS Part 2 (Sonia Bjorquist, Joel Richler and Bill Horton)
Wednesday, February 21, 2018, 7 p.m. to 9 p.m.

- Right to Practice as Counsel in Arbitrations
- Right to Practice as Arbitrator
- Legal Culture and Arbitration Ethics
- Right of the Tribunal to Control Counsel Conduct

- Cost sanctions for misconduct
- Insurance for Arbitration Practice
- Ethical Issues re Arbitrator Compensation

SESSION 13. ARBITRAL AWARDS (Brad Hanna and Bill Horton)

Wednesday, March 7, 2018, 7 p.m. to 9 p.m.

- Types of Awards and Decisions
- Formal Requirements of an award
- Substantive Requirements
- Fairness issues
- Dealing with Costs and Interest
- Tribunal Dynamics (Video Supplement: **Hon. Ian Binnie, Stephen Morrison, Bill Horton**)

SESSION 14. APPEALS FROM THE AWARD (Joel Richler/Alex Gay)

Wednesday, March 21, 2018, 7 p.m. to 9 p.m.

- Availability of an Appeal
- Scope of Appeal
- The Leave to Appeal Process (where applicable)
- Standard of Review on Appeal
- Appeal Outcomes
- Reform of Arbitration Appeals: a Broader Perspective

#SESSION 15. SETTING ASIDE AND ENFORCEMENT OF AWARDS (Bradley Berg and John Terry)

Wednesday, April 4, 2018, 7 p.m. to 9 p.m.

- International vs Non-International Awards
- Setting aside awards
- International Enforcement of Awards

- Enforcement of Awards within Canada

Note: Initial materials for the Final Award Writing Exercise will be distributed on this date.

#SESSION 16. ADVOCACY IN INTERNATIONAL ARBITRATION (Doug Jones, Peter Rees, Tom Webster, Bill Horton)

Wednesday, April 18, 2018, 7 p.m. to 9 p.m.

- How does effective advocacy differ in international and non-international arbitration
- Dealing with differences in legal culture
- Presentation of Evidence
- Cross-examination
- Proof of applicable law

Note: Second set of materials for the Final Award Writing Exercise will be delivered on this date.

#SESSION 17. INVESTMENT ARBITRATION (Matt Kronby/Robert Wisner)

Wednesday, May 2, 2018, 7 p.m. to 9 p.m.

- Introduction to Investor State Arbitration
- Key Obligations in Investment Treaties
- Criticism and Calls for Change

Note: Final Material for the Final Award Writing Exercise will be delivered on this date and final awards will be due at 9 am on May 9, 2018.

***SESSION 18. CONCLUDING SESSION (Bill Horton and Joel Richler)**

Saturday, May 12, 2018, 9 a.m. to 1 p.m.

- Discussion of award writing exercise
- The Arbitration marketplace
- Development of an arbitration career