



**Toronto Commercial
Arbitration Society**

**Toronto Commercial Arbitration Society
Gold Standard® Course in Commercial Arbitration
Toronto: Arbitration Place, 333 Bay Street, Suite 900
Participation by video conference available throughout Canada**

**Course Director and Principal
Instructor:**

William G. Horton, C.Arb, FCI Arb

Assistant Course Directors:

Joel Richler, FCI Arb
Cynthia Kuehl

2019/2020 COURSE OUTLINE WITH FACULTY

Key to Symbols and Notes

* Personal attendance in Toronto required for all students

Video Only Session – personal attendance not required (confirmation of video viewing required)

@ Out of class exercise: attendance not required (exercise must be submitted by the scheduled date for the session)

Faculty is based on 2018/2019 Year. Changes to faculty will be made based on availability etc.

Curriculum is subject to modifications prior to and during the course.

© Gold Standard is a course in commercial arbitration that meets, or – as with this course – exceeds, the requirements established by the ADR Institute of Canada

*SESSION 1	INTRODUCTORY SESSION (Horton, Richler, Kuehl, Casey) Saturday, September 14, 2019, 9 a.m. to 1 p.m.
	<ul style="list-style-type: none"> • 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 (Horton, Earle) Wednesday, September 25, 2019, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • The Agreement to Arbitrate • Key Elements in Arbitration Agreements • Institutional Clauses • Ad Hoc Clauses • Ad Hoc v. Institutional Arbitration

SESSION 3	TRIBUNAL FORMATION (Horton, Richler) Wednesday, October 10, 2018, 2019, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • 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

Arbitration clause Drafting Exercise will be handed out. Due Monday October 21, 2019. Exercise will be discussed at Session 4.

SESSION 4	DRAFTING AN ARBITRATION CLAUSE (Horton, Richler, Kuehl) Wednesday, October 23, 2019, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • Discussion of Exercise: Drafting an Arbitration clause

SESSION 5	ARBITRATION ETHICS PART 1 (Goldstein, Urbas, Horton) Wednesday, November 6, 2019, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • Arbitrator Interviews • Conflicts of Interest • Disclosure Obligations • Discussion of Arbitrator Ethics Scenarios

SESSION 6	ARBITRATION PROCEDURE (PART 1) (Walker, Horton, Kuehl) Wednesday, November 20, 2019, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • Sources of Procedural Rules • International vs non-international procedure • Procedural Options and Preferences • First Procedural Meeting • Procedural Order #1

Materials for Mock First Procedural Meeting will be handed out.

*SESSION 7	ARBITRATION PROCEDURE (Barrington, Horton, Richler, Kuehl, McCutcheon, Leon) Wednesday, December 4, 2019, 5 p.m. to 9 p.m. [Note 4 hour class]
	<ul style="list-style-type: none"> • Exercise: Mock First Procedural Meeting with the Tribunal • Discussion of Mock Exercise

Video Supplement: Focus on International Arbitration (Terry, Judge, Horton)

SESSION 8	JURISDICTION (PART 1) (Horton, Doria) Wednesday, January 8, 2020, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • Jurisdictional Challenges • Preliminary Motions to Determine Jurisdiction • Motions to Stay Litigation in Favour of Arbitration

Materials for Jurisdiction Exercise will be handed out. Due January 22, 2020.

@SESSION 9	JURISDICTION (PART 2) Wednesday, January 22, 2020
	Exercise Due: Writing a Decision on Jurisdiction

SESSION 10	MOTIONS FOR EMERGENCY AND INTERIM RELIEF (Cohen, Richler) Wednesday, February 5, 2020, 6:00 p.m. to 8:30 p.m. [Note 2 ½ hour class]
	(Feedback on jurisdiction exercise from 6:30 to 7 pm) <ul style="list-style-type: none"> • Interim Relief from the Courts • Interim Relief from the tribunal • Interim Relief from Emergency Arbitrator • Procedures and Standards for the Granting of Interim Relief

Cyber security in International Arbitration (Cohen)

@SESSION 11	MOTION FOR INTERIM RELIEF Wednesday, February 19, 2020
	Exercise Due: Deciding a Motion for Interim Relief

SESSION 12	ARBITRATION ETHICS Part 2 (Bjorquist, Horton) Wednesday, March 4, 2020, 6:00 p.m. to 8:30 p.m. [Note 2 ½ hour class]
	(Feedback on interim relief exercise from 6:30 to 7 pm) <ul style="list-style-type: none"> • 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	THE HEARING (Cicchetti, Harrison, Leon) Wednesday, March 25, 2020, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • Material for the Hearing • Schedule and Time Allocations (equality vs fairness) • Due Process Issues (adjournments, new evidence) • Rules of Evidence (relevance, materiality, Browne v Dunn) • Privilege (applicable law issues) • Tribunal Interactions and Etiquette • Pre and Post Hearing Submissions

Video Supplement: Advocacy in International Arbitration (Jones, Webster, Rees, Horton)

SESSION 14	ARBITRAL AWARDS (Hanna, Horton) Wednesday, April 1, 2020, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • Types of Awards and Decisions • Formal Requirements of an award • Substantive Requirements • Fairness issues • Dealing with Costs and Interest • Drafting an Award

Video Supplement: Tribunal Dynamics (Binnie, Morrison, Horton)

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

SESSION 15	APPEALS FROM THE AWARD (Richler, Kuehl, Horton) Wednesday, April 15, 2020, 6:30 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • 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

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

SESSION 16	SETTING ASIDE AND ENFORCEMENT OF AWARDS (Terry, Berg) Wednesday, April 29, 2020, 6:30 p.m. to 8:30 p.m.
	Grounds for Setting Aside or Non-enforcement of the award: <ul style="list-style-type: none"> • Grounds relating to the parties • Grounds relating to the arbitration agreement • Grounds relating to the tribunal • Grounds relating to the arbitration procedure • Grounds relating to the arbitration award • Grounds relating to the law at the seat or the place of enforcement

Video Supplement: Investment Arbitration (Wisner, Kronby)

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 6, 2020.

*SESSION 17	CONCLUDING SESSION (Horton, Richler, Kuehl) Saturday, May 9, 2020, 9 a.m. to 1 p.m. [Note 4 hour class]
	<ul style="list-style-type: none"> • Discussion of award writing exercise • Arbitration Hearings • The Arbitration marketplace • Development of an arbitration career