



Toronto Commercial
Arbitration Society

**Toronto Commercial Arbitration Society
Gold Standard® Course in Commercial Arbitration
Participation by video conference available throughout Canada**

**Course Director and Principal
Instructor:**

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Assistant Course Directors:

Joel Richler, FCI Arb
Cynthia Kuehl

2020-2021 COURSE OUTLINE WITH FACULTY

Key to Symbols and Notes

***Full Course Available via Zoom in 20/21**

Faculty is based on 2019/2020 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 12, 2020, 11:00 a.m. to 3 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, Barrington) Wednesday, September 23, 2020, 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, McCutcheon) Wednesday, October 7, 2020, 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 19, 2020. Exercise will be discussed at Session 4.

SESSION 4	DRAFTING AN ARBITRATION CLAUSE (Horton, Richler, Kuehl) Wednesday, October 21, 2020, 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 (Urbas, Horton, Munro) Wednesday, November 4, 2020, 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 18, 2020, 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 (Horton, Richler, Kuehl, McCutcheon, Leon, Urbas) Wednesday, December 2, 2020, 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 6, 2021, 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 15, 2021.

SESSION 9	JURISDICTION (PART 2) Wednesday, January 20, 2021, 6:30 p.m. to 8:30 p.m.
	Feedback on Writing a Decision on Jurisdiction/Open discussion and Session with Guest

SESSION 10	MOTIONS FOR EMERGENCY AND INTERIM RELIEF CYBER SECURITY (Cohen, Richler) Wednesday, February 3, 2021, 6:30 p.m. to 8:30 p.m.
	<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 <p>Cyber security in International Arbitration</p>

Materials for Interim Relief Exercise will be handed out. Due February 12, 2021.

SESSION 11	MOTION FOR INTERIM RELIEF Wednesday, February 17, 2021, 6:30 p.m. to 8:30 p.m.
	Feedback on Deciding a Motion for Interim Relief/Open Discussion on Session and Guest

SESSION 12	ARBITRATION ETHICS Part 2 (Bjorquist, Tomasich, Horton) Wednesday, March 3, 2021, 6:30 p.m. to 8:30 p.m.
	<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 17, 2021, 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, March 31, 2021, 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 7, 2021, 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.

SESSION 16	SETTING ASIDE AND ENFORCEMENT OF AWARDS (Terry, Berg) Wednesday, April 21, 2021, 6:30 p.m. to 8:30 p.m.
	<p>Grounds for Setting Aside or Non-enforcement of the award:</p> <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 April 28, 2021.

*SESSION 17	CONCLUDING SESSION (Horton, Richler, Kuehl) Saturday, May 8, 2021, 11:00 a.m. to 3:00 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