



Toronto Commercial  
Arbitration Society

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

**Faculty Members:**

Douglas Harrison, FCI Arb, Course Director  
Prof. Joshua Karton  
Megan Keenberg, C.S., Q. Arb.  
Eric Morgan, Q. Arb  
Lisa Munro, FCI Arb

**2022-2023 COURSE OUTLINE WITH FACULTY  
(Faculty as of July 26, 2022)**

**Key to Symbols and Notes**

**\*In-Person classes may be held at Arbitration Place in Toronto as circumstances permit, but the full course will still be available to all participants via Zoom in 2022-23**

Additional faculty will be added. Changes to faculty may be made based on availability.

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 for the Q.Arb designation.

<b>SESSION 1</b>	<b>INTRODUCTORY SESSION (Harrison, Karton, Keenberg, Morgan, Munro, Casey)</b> <b>Saturday, September 10, 2022, 11:00 a.m. to 3 p.m. [Note: 4-hour class]</b>
	<ul style="list-style-type: none"> <li>• Course structure, primary and guest faculty, topics that will and will not be covered, assignments and evaluation</li> <li>• The idea of arbitration</li> <li>• Historical development of arbitration</li> <li>• How commercial arbitration differs from other forms of dispute resolution and other forms of arbitration</li> <li>• Core concepts of arbitration law and practice</li> <li>• When and why parties choose arbitration</li> <li>• The Canadian legislative regime respecting arbitration</li> <li>• Important international instruments relating to arbitration</li> <li>• Institutional and <i>ad hoc</i> arbitration and the role of procedural rules</li> </ul>

**Video Supplement:** “Arbitration the Quiet Triumph” (Stockholm Chamber of Commerce)

<b>SESSION 2</b>	<b>ARBITRATION AGREEMENTS (Keenberg, Seers)</b> <b>Wednesday, September 21, 2022, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Fundamental elements of arbitration agreements (who, what, where, when)</li> <li>• Tailored features of arbitration agreements (how)</li> </ul>

**Video Supplement:** “Investor-State Arbitration: Agreement by Treaty” (Prof. J. Karton)

*Arbitration clause drafting exercise will be handed out at Session 2. Due Monday October 3, 2022. Exercise will be discussed at Session 4.*

<b>SESSION 3</b>	<b>TRIBUNAL FORMATION (Morgan, Godil)</b> <b>Wednesday, September 28, 2022, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• The importance of arbitrator selection</li> <li>• Arbitrator qualifications and qualities</li> <li>• Options and issues in <i>ad hoc</i> arbitration</li> <li>• Institutions and appointing authorities</li> <li>• Provisions of the arbitration agreement</li> <li>• Considerations for sole arbitrators and tribunal panels</li> <li>• Practical considerations when tribunals are formed (e.g., availability, financial arrangements, immunity)</li> <li>• Arbitrator interviews</li> <li>• Ethical issues</li> </ul>

<b>SESSION 4</b>	<b>DRAFTING AN ARBITRATION CLAUSE</b> (Keenberg, Karton, Harrison, Munro, Morgan) <b>Wednesday, October 12, 2022, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Feedback on discussion of Arbitration Clause drafting exercise</li> </ul>

<b>SESSION 5</b>	<b>ARBITRATION ETHICS (PART 1)</b> (Munro, Goldstein, Cicchetti) <b>Wednesday, November 2, 2022, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Arbitrator interviews</li> <li>• Conflicts of interest</li> <li>• Disclosure obligations</li> <li>• Discussion of arbitrator ethics scenarios</li> </ul>

<b>SESSION 6</b>	<b>ARBITRATION PROCEDURE (PART 1) / CYBER SECURITY AND DATA PROTECTION</b> (Keenberg, Walker, Cohen) <b>Wednesday, November 9, 2022, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Tailoring the procedure to the dispute: Procedural rules, options and preferences</li> <li>• Managing cyber security and data protection in process design</li> <li>• The First Procedural Meeting Order #1</li> </ul>

*Materials for Mock First Procedural Meeting exercise will be handed out at Session 6.*

<b>SESSION 7</b>	<b>ARBITRATION PROCEDURE (PART 2)</b> (Keenberg, Harrison, Munro, Horton, Morrison, Leon, Kuehl) <b>Wednesday, November 23, 2022, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• In-class Exercise: Mock First Procedural Meeting</li> <li>• Small group discussion of exercise</li> <li>• Demonstration: Master Class on First Procedural Meeting</li> <li>• Class discussion of demonstration</li> </ul>

<b>SESSION 8</b>	<b>JURISDICTION (PART 1) (Munro, McArthur, Seers)</b> <b>Wednesday, December 7, 2022, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Jurisdictional challenges and grounds</li> <li>• Preliminary motions to determine jurisdiction</li> <li>• Motions to stay litigation in favour of arbitration</li> <li>• Overview of award writing</li> </ul>

*Materials for jurisdiction exercise will be handed out at Session 8. Due Friday, January 6, 2023. Exercise will be discussed at Session 9.*

<b>SESSION 9</b>	<b>JURISDICTION (PART 2) (Munro, Doria)</b> <b>Wednesday, January 18, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Feedback on writing a decision on jurisdiction</li> <li>• Motions to stay litigation in favour of arbitration</li> <li>• Court intervention in arbitrations</li> </ul>

<b>SESSION 10</b>	<b>MOTIONS FOR EMERGENCY AND INTERIM RELIEF</b> (Morgan, Luu) <b>Wednesday, February 1, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Interim relief from the courts</li> <li>• Interim relief from the tribunal</li> <li>• Interim relief from an emergency arbitrator</li> <li>• Procedures and standards for the granting of interim relief</li> <li>• Drafting tips for interim relief awards</li> </ul>

*Materials for interim relief exercise will be handed out at Session 10. Due Friday, February 10, 2023. Exercise will be discussed at Session 12.*

<b>SESSION 11</b>	<b>ARBITRATION ETHICS (Part 2) (Munro, Bjorkquist, Tomasich)</b> <b>Wednesday, February 15, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Right to appear as counsel in arbitrations</li> <li>• Right to practice as arbitrator</li> <li>• Legal culture and arbitration ethics in international arbitration</li> <li>• Right of the tribunal to control counsel conduct</li> <li>• Arbitrator authority to impose cost sanctions for misconduct</li> <li>• Insurance for arbitration practice</li> <li>• Ethical issues re arbitrator compensation</li> </ul>

<b>SESSION 12</b>	<b>MOTION FOR INTERIM RELIEF (Morgan, Munro, Keenberg, Karton, Harrison)</b> <b>Wednesday, March 1, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Feedback on Deciding a Motion for Interim Relief/Open Discussion on Session</li> </ul>

***Final exam (open book, multiple choice) will be distributed at Session 12 and must be submitted no later than 11:00 a.m. on Saturday, May 6, 2023***

<b>SESSION 13</b>	<b>THE HEARING (Harrison, Leon, Hopkins)</b> <b>Wednesday, March 8, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Material for the hearing</li> <li>• Schedule and time allocations (equality vs fairness)</li> <li>• Due process issues (adjournments, new evidence)</li> <li>• Rules of evidence (relevance, materiality, <i>Browne v Dunn</i>)</li> <li>• Privilege (applicable law issues)</li> <li>• Tribunal interactions and etiquette</li> <li>• Pre- and post-hearing submissions</li> </ul>

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

<b>SESSION 14</b>	<b>ARBITRAL AWARDS (Harrison, Horton)</b> <b>Wednesday, March 22, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Types of awards and decisions</li> <li>• Formal requirements of an award</li> <li>• Substantive requirements</li> <li>• Fairness issues</li> <li>• Dealing with costs and interest</li> <li>• Drafting an award</li> </ul>

*Initial materials for the Final Award writing exercise will be distributed at Session 14.*

<b>SESSION 15</b>	<b>TRIBUNAL DYNAMICS (Harrison, Richler, Whitesell, Alvarez)</b> <b>Wednesday, April 5, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"> <li>• Role of the chair</li> <li>• Role of the party-appointed tribunal members</li> <li>• Allocation of responsibilities</li> <li>• Coordinating fees</li> <li>• In the hearing room</li> <li>• Deliberations and drafting</li> <li>• Dissenting reasons</li> </ul>

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

*Second set of materials for the Final Award writing exercise will be delivered at Session 15 and the final set will be delivered shortly thereafter. Final awards will be due on 9 am on Friday, April 21, 2023.*

<b>SESSION 16</b>	<b>APPEALS, SETTING ASIDE AND ENFORCEMENT OF AWARDS (Harrison, Sirivar)</b> <b>Wednesday, April 19, 2023, 6:15 p.m. to 8:30 p.m.</b>
	<ul style="list-style-type: none"><li>• Availability of an appeal</li><li>• Leave to appeal (where applicable)</li><li>• Standard of review on appeal</li><li>• Grounds for setting aside an award</li><li>• Enforcement of an award</li></ul>

**Video Supplement:** Investment Arbitration (Wisner, Kronby)

<b>*SESSION 17</b>	<b>CONCLUDING SESSION (Harrison, Karton, Keenberg, Morgan, Munro)</b> <b>Saturday, May 6, 2023, 11:00 a.m. to 3:00 p.m. [Note: 4-hour class]</b>
	<ul style="list-style-type: none"><li>• Discussion of award writing exercise</li><li>• The Arbitration marketplace</li><li>• Development of an arbitration career</li></ul>