



**Toronto Commercial Arbitration Society
Gold Standard© Course in Commercial
Arbitration**

Faculty Members:

Douglas Harrison, FCIArb, Course
Director Prof. Joshua Karton, Q.Arb.
Megan Keenberg, C.S., Q. Arb.
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**2023-2024 COURSE OUTLINE WITH FACULTY
(Faculty as of September 8, 2023)**

***In-Person classes will be held at Arbitration Place in Toronto where indicated. However, the full course will still be available to all participants via Zoom in 2023-24.**

Additional faculty may 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.

SESSION 1	INTRODUCTORY SESSION (Harrison, Karton, Keenberg, Munro, Casey) Saturday, September 9, 2023, 11:00 a.m. to 3 p.m. Note: 4-hour class – In Person
	<ul style="list-style-type: none"> • Course structure, primary and guest faculty, topics that will and will not be covered, assignments and evaluation • The idea of arbitration • Historical development of arbitration • How commercial arbitration differs from other forms of dispute resolution and other forms of arbitration • Core concepts of arbitration law and practice • When and why parties choose arbitration • The Canadian legislative regime respecting arbitration • Important international instruments relating to arbitration • Institutional and <i>ad hoc</i> arbitration and the role of procedural rules

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

SESSION 2	ARBITRATION AGREEMENTS (Keenberg, Karton, Harrison) Wednesday, September 13, 2023, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none"> • Fundamental elements of arbitration agreements (who, what, where, when) • Tailored features of arbitration agreements (how)

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

Arbitration clause drafting exercise will be handed out at Session 2. Due Friday September 29, 2023. Exercise will be discussed at Session 5.

SESSION 3	TRIBUNAL FORMATION & ITS ETHICS (Harrison, Godil, TBA) Wednesday, September 27, 2023, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• The importance of arbitrator selection• Arbitrator qualifications and qualities• Options and issues in <i>ad hoc</i> arbitration• Institutions and appointing authorities• Provisions of the arbitration agreement• Considerations for sole arbitrators and tribunal panels• Practical considerations when tribunals are formed (e.g., availability, financial arrangements, immunity)

SESSION 4	ARBITRATION ETHICS (Pt. 1) (Munro Keenberg, Karton, Harrison) Wednesday, October 11, 2023, 6:15 p.m. to 8:30 p.m. Note: In Person
	<ul style="list-style-type: none">• Arbitrator interviews• Conflicts of interest• Disclosure• Small group discussions: Ethics scenarios

SESSION 5	ARBITRATION PROCEDURE (Pt. 1) (Keenberg, Horton) Wednesday, October 25, 2023, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• Feedback and discussion of arbitration clause drafting exercise• Tailoring the procedure to the dispute: Procedural rules, options and preferences• The First Procedural Meeting Order #1

Materials for Mock First Procedural Meeting exercise will be handed out at Session 5

SESSION 6	ARBITRATION PROCEDURE (Pt. 2) (Keenberg, Harrison, Munro, Horton, Leon, Shoom) Wednesday, November 8, 2023, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• In-class Exercise: Mock First Procedural Meeting• Small group discussion of exercise• Demonstration: Master Class on First Procedural Meeting• Class discussion of demonstration

SESSION 7	JURISDICTION (Pt. 1) (Munro, Hopkins, McArthur) Wednesday, November 22, 2023, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• Jurisdictional challenges and grounds• Preliminary motions to determine jurisdiction• Overview of award writing – the IBA Toolkit

Materials for jurisdiction exercise will be handed out at Session 7. Due Friday, December 15, 2023. Exercise will be discussed at Session 9.

SESSION 8	PRACTICAL ASPECTS OF ARBITRATION and CYBERSECURITY AND DATA PROTECTION (Harrison, Keenberg, Munro, Karton, TBA) Wednesday, December 6, 2023, 6:15 p.m. to 8:30 p.m. Note: In Person
	<ul style="list-style-type: none">• Managing the process• Managing your practice• Insurance• Managing cybersecurity and data protection

SESSION 9	JURISDICTION (Pt. 2) (Munro, Doria) Wednesday, January 10, 2024, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• Feedback and discussion on jurisdiction exercise• Motions to stay litigation in favour of arbitration• Court intervention in arbitrations

SESSION 10	MOTIONS FOR EMERGENCY AND INTERIM RELIEF (Harrison, TBA) Wednesday, January 24, 2024, 6:15 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 an emergency arbitrator• Procedures and standards for the granting of interim relief• Drafting tips for interim relief awards

Materials for interim relief exercise will be handed out at Session 10. Due Friday, February 2, 2024. Exercise will be discussed at Session 12.

SESSION 11	ARBITRATION ETHICS (Pt. 2) (Munro, Bjorkquist, Tomasich) Wednesday, February 7, 2024, 6:15 p.m. to 8:30 p.m. Note: In Person
	<ul style="list-style-type: none">• Right to appear as counsel in arbitrations• Right to practice as arbitrator• Legal culture and arbitration ethics in international arbitration• Right of the tribunal to control counsel conduct• Arbitrator authority to impose cost sanctions for misconduct• Cultural competency• Small group discussions: Ethics scenarios

SESSION 12	MOTION FOR INTERIM RELIEF (Munro, Keenberg, Karton, Harrison) Wednesday, February 21, 2024, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• Feedback and Discussion of Interim Relief Exercise• Award writing

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 4, 2023

SESSION 13	THE HEARING (Harrison, Hopkins, Leon) Wednesday, March 6, 2024, 6:15 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, <i>Browne v Dunn</i>)• 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 (Harrison, Horton) Wednesday, March 20, 2024, 6:15 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

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

SESSION 15	TRIBUNAL DYNAMICS (Harrison, Richler, Whitesell) Wednesday, April 3, 2024, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• Role of the chair• Role of the party-appointed tribunal members• Allocation of responsibilities• Coordinating fees• In the hearing room• Deliberations and drafting• Dissenting reasons

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 by 9 am on Friday, April 19, 2024.

SESSION 16	APPEALS, SETTING ASIDE AND ENFORCEMENT OF AWARDS (Harrison, TBA) Wednesday, April 17, 2024, 6:15 p.m. to 8:30 p.m.
	<ul style="list-style-type: none">• Availability of an appeal• Leave to appeal (where applicable)• Standard of review on appeal• Grounds for setting aside an award• Enforcement of an award

Video Supplement: Investment Arbitration (Wisner, Kronby)

*SESSION 17	CONCLUDING SESSION (Harrison, Karton, Keenberg, Munro, TBA) Saturday, May 4, 2023, 11:00 a.m. to 3:00 p.m. Note: 4-hour class – In Person
	<ul style="list-style-type: none">• Discussion of award writing exercise• The arbitration marketplace• Cultural competencies• Development of an arbitration career