

GEORGE MASON UNIVERSITY SCHOOL OF LAW
INTRODUCTION TO INTERNATIONAL COMMERCIAL ARBITRATION (LAW 391)
Fall 2022

INSTRUCTORS:

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This class will meet on Thursday evenings.

Note: This course is typically taught as a prerequisite to Law 127 (the Vis International Commercial Arbitration Moot course) but also open to students not planning to participate in the Vis competition.

LEARNING OUTCOMES:

- Students will learn the history of jurisprudence surrounding arbitration in the US and the judicial policy of furthering arbitration, including preemption of state law.
- Students will study the coverage, structure and implementation of the Federal Arbitration Act and New York Convention on Enforcement of Foreign Arbitral Awards.
- Students will learn the requirements of an enforceable arbitration clause and challenges to arbitration clauses.
- Students will appreciate the processes for arbitrator appointment, challenges to arbitrator appointments and challenges to jurisdiction of the arbitrators.
- Students will become familiar with the arbitral hearing process in US and international settings.
- Students will become familiar with the process and policy of arbitral award and enforcement proceedings, including grounds for annulment under the FAA and the New York Convention.

SCHEDULE AND ASSIGNMENTS

1. August 25, 2022:

Introduction to the Course; Arbitration in the Context of Overall Dispute Resolution; The Development of Arbitration From "Lex Mercatoria" to the Present

Readings

- *Wilko v. Swan*, 346 U.S. 427 (1953)

2. September 1, 2022

Statutory Framework of Arbitration

Readings

- Comparative International Commercial Arbitration, Chapter 1-2
- Federal Arbitration Act, 9 U.S.C. §§ 1-16
- Review UNCITRAL Model Law on International Commercial Arbitration, www.uncitral.org

4. September 8, 2022: *Enforcing Agreements to Arbitrate and Arbitrability*

Readings

- Comparative International Commercial Arbitration, Chapters 7 & 9
- *Buckeye Check Cashing v. Cardegna*, 126 S. Ct. 1204 (2006)
- *Mitsubishi Motors Corp v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614 (1985)

5. September 15, 2022:

Drafting of the Arbitration Agreement and Arbitration Rules of Practice

Readings

- Comparative International Commercial Arbitration, Chapter 8
- Review UNCITRAL Arbitration Rules,

Review International Chamber of Commerce (ICC) Rules of Arbitration, www.iccarbitration.org

6. September 22, 2022:

Qualifications of the Arbitrator(s), Selection of an Arbitrator(s) and Jurisdiction of the Arbitrator

Readings

- Comparative International Commercial Arbitration, Chapter 10, 13 & 14
- Review AAA Commercial Rules, R-11-R-19, www.adr.org
- Review International Bar Association Guidelines on Conflicts of Interest in International Arbitration
- *Ovitz v. Schulman*, 133 Cal. App. 4th 830, 35 Cal. Rptr. 3d 117
- *Americo Life, Inc. v. Myer*, 2014 WL 2789429 (June 20, 2014)

9. September 29, 2022

Challenges to the Award

Readings

- Comparative International Commercial Arbitration, Chapter 25 & 26
- *Hall Street Assocs. LLC v. Mattel, Inc.*, 128 S. Ct. 1396 (2008)
- *Citigroup Global Markets, Inc. v. Bacon*, 562 F.3d 349, 358 (5th Cir. 2009);
- *Comedy Club, Inc. v. Improv West Assocs.*, 553 F.3d 1277 (9th Cir. 2009)

8. October 6, 2022

Recent Developments

Readings:

- To be provided

The Vis Moot Court problem will be distributed on October 7, 2022

Grading for Law 391 shall be based on class participation and a final paper. The final paper, due by 8:00 pm on December 8, 2022, shall constitute 75% of the grade. The remaining 25% will be based on knowledgeable participation in class.

BOOKS

Kluwer Law International, “Comparative International Commercial Arbitration.” Readings will be made available to students on the first day of class by the instructors or provided prior to the first class.