

**GEORGE MASON UNIVERSITY SCHOOL OF LAW**  
*INTRODUCTION TO INTERNATIONAL COMMERCIAL ARBITRATION (LAW 391)*  
*Fall 2023*

**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 24, 2023:**

*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. August 31, 2023**

*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](http://www.uncitral.org)

### **4. September 7, 2023: *Enforcing Agreements to Arbitrate and Arbitrability***

#### **Readings**

- Comparative International Commercial Arbitration, Chapters 7 & 9
- *Mitsubishi Motors Corp v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614 (1985)
- *Buckeye Check Cashing v. Cardegna*, 126 S. Ct. 1204 (2006)
- *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938 (1995)
- *Henry Schein, Inc. v. Archer & White Sales, Inc.* 139 S. Ct. 524 (2019)

### **5. September 14, 2023:**

*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](http://www.iccarbitration.org)

**6. September 21, 2023:**

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

**Readings**

- Comparative International Commercial Arbitration, Chapters 10, 13 & 14
- Review AAA Commercial Rules, R-11-R-19, [www.adr.org](http://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 28, 2023**

*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 5, 2023**

*Recent Developments*

**Readings:**

- To be provided

The Vis Moot Court problem will be distributed on October 12, 2023

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.**