

Fall 2026 Course Syllabus

LAW 391, Commercial Arbitration: Procedure and Practice

Course Number	LAW 391
Course Title	Commercial Arbitration: Procedure and Practice
Credit Hours	3
Grading Mode	Letter grade
Meeting Day(s)/Time(s)	Tuesdays, 6:05-9:00 p.m.
Meeting Mode	In person
Exam Day(s)/Time(s)	None. The course has no final examination.
Textbook	Do not purchase a textbook for this course. All materials are available online, primarily through the GMU Law Library databases, with additional materials posted on the course webpage. Students must sign up for the course page.
Final Exam Mode	Not applicable
Prerequisite(s)	None
Corequisite(s)	None
Instructor(s)	Prof. Shelly Ewald, Prof. Kathy Barnes, and Prof. Robbie Cimmino
Contact Information	sewald@gmu.edu , kbarne@gmu.edu , and rcimmino@gmu.edu
Office Hours	By appointment.

Course Overview

This course gives students a working command of the law and practice of domestic and international commercial arbitration, and the chance to put that knowledge into practice through coursework and the Willem C. Vis International Commercial Arbitration Moot. Arbitration is the preferred mechanism for resolving cross-border commercial disputes and one of the fastest growing areas of practice. Fluency in it will set you apart in your job search and in serving future clients.

The course runs in two connected parts over a single semester. The first part, Principles and Practice, builds the doctrine along with the research and writing skills. The second part, Memo Drafting, applies them to the Vis Moot problem. Both are described in detail under “How the Course Is Organized” below.

Participation in the Vis Moot is not required to do well in this course, but every student completes the full set of assignments, and the course doubles as the selection process for the GMU travel team that competes in Vienna each spring.

To learn more about the Vis Moot, visit their website at www.vismoot.org.

Course Learning Outcomes

By the end of the course, students will be able to do the following.

- Explain the history and policy of arbitration in the United States and internationally.
- Apply the Federal Arbitration Act, the UNCITRAL Model Law, and the New York Convention to questions of arbitrability, validity, jurisdiction, and enforcement.
- Draft and critique arbitration agreements and identify the consequences of common drafting choices.
- Analyze the appointment of and challenges to arbitrators, the jurisdiction of the tribunal, and the grounds for annulment and for refusing recognition of an award.
- Read and apply the CISG, including its rules on interpretation, general principles, formation, conformity, and remedies.
- Conduct international arbitration and international sales law research and evaluate the weight of treaties, model laws, arbitral awards, and scholarly commentary.
- Produce persuasive written memoranda and deliver effective oral argument in a simulated international arbitration.

How the Course Is Organized

Part 1, Principles and Practice (Weeks 1 to 7)

Doctrine is paired with individual assignments based on a mock international sales dispute in arbitration designed to resemble prior Vis Moot problems. You draft individually, complete a peer review, argue or discuss the issue in class, and receive feedback against a written rubric, so you know what strong work looks like. The assignments build on one another, from a short clause drafting exercise to substantive motions that build your skills in preparation for the second part of the course.

Two short research training sessions are built into Part 1, one for each motion assignment. International arbitration and international sales law research differ from what most students have done. We will show you where to look, including Kluwer Arbitration, the CISG databases, and UNCITRAL CLOUT, and how to identify and use quality sources.

Part 2, Memo Drafting (Weeks 8 to 13)

Once the 34th Vis Moot problem is released, the class operates as a single law firm for the Claimant. You will receive an individual issue, research and write it up, present it to the firm, and contribute named, individually graded sections to the Claimant's Memorandum. Part 2 ends with an oral argument tryout in which every student argues a single issue before the professors sitting as arbitrators.

Individual Work and Teamwork

Teamwork is essential to the success of disputes teams and the GMU Vis Moot team. But your individual effort will be recognized and credited individually. About two thirds of your grade is based on work that is entirely your own. The team memorandum is graded on the specific sections you draft rather than as an undifferentiated whole, and a confidential peer contribution form will help us understand students' relative contributions to the memorandum as a whole. You can commit fully and trust that your work will count as yours.

What It Takes to Excel

We expect a lot of our students because we have seen, year after year, that our students exceed our expectations, and because the professional world rewards exactly the skills we expect you to hone in this course. Everything in the course is built to help you excel.

Excellence in this course and in Vienna looks like precise framing of the legal issue, command of the CISG and the governing procedural law and rules, authority that is well chosen and correctly weighed, writing that is organized and persuasive and precise, and oral advocacy that stays confident and responsive under questioning.

Here is how to get there.

- Treat every assignment as a part of building real legal skills. The work is deliberately cumulative, so consistent weekly effort compounds and cramming does not.
- Research the right way and show your work. Strong memoranda rest on the right sources, weighed correctly.
- Seek out feedback and act on it. Incorporating feedback is an essential part of becoming an effective lawyer.
- Own your sections and support your team. Excellent advocates make the whole firm better while taking full responsibility for their own work.
- Argue out loud, early and often. Oral advocacy is a skill you develop through practice. Use every in-class discussion and argument as practice and proving ground for your arguments.

This is a demanding course that we believe comes with an outsized reward. GMU has competed in the Vis Moot since 2012, regularly reaching the elimination rounds, and students consistently describe it as the closest thing to real practice they do in law school. We expect a great deal from you because we are confident you can achieve it, and we have built the structure to ensure you can. We improve this course based on student feedback and hope it supports each of your educational and professional goals.

Grading Policies

Participation and preparation count for 5 of the 100 points. There is no midterm and no final examination.

The course is graded on a simple 100-point scale tied to specific assignments rather than to abstract categories. Each submission is scored out of a fixed number of points, and the points add straight down to the course total. There is no exam and no separate paper track, and every student completes the same set of graded assignments. Your final grade is not set on a fixed letter grade scale. It is curved based on your final point total.

Graded Assignment	Points
Assignment 1. Arbitration clause drafting	5
Assignment 2. Procedural motion and argument	15
Assignment 3. Substantive CISG motion and argument	15
Assignment 4. Vis Moot problem individual issue research memo	15
Assignment 5. Group issue presentation	10
Claimant's memorandum	25
Oral argument tryout	10
Informed participation and preparation	5
COURSE TOTAL	100

Confidential Peer Contribution Form

Because Part 2 involves team work product, each student submits a confidential peer contribution form near the end of the semester. The form is advisory. It informs the individual grade on the team memorandum but does not by itself set that grade. However, submitting it is mandatory. A student who fails to submit the form will have their final course grade reduced by one full letter grade.

Course Schedule & Assignments

Schedule subject to change.

Week and Date	Topic	Assignments and Readings
Week 1 Tue, Aug 18	- Introduction to the course and to arbitration. - Development of arbitration from the <i>lex mercatoria</i> to today. - Elements of arbitration agreements. - The mock problem is released.	- Read Lew, Mistelis, and Kroll, Ch. 1-3. - Wilko v. Swan (1953). - Sign up for the course webpage. Assignment 1 - Arbitration clause drafting is assigned.
Week 2 Tue, Aug 25	Assignment 1 – Arbitration clause drafting, discussed in class. - The statutory framework. The FAA, the New York Convention, and the UNCITRAL Model Law. - Arbitration rules, and an introduction to the ICDR Rules that govern the 34th Vis Moot. - Procedural research training.	- Read Lew Ch. 8. - Southland v. Keating (1984). - Skim the FAA, the UNCITRAL Model Law, and the New York Convention. - Skim the ICDR Rules. Assignment 1 - Arbitration clause drafting is DUE and discussed in class. Assignment 2 - Procedural motion is assigned.
Week 3 Tue, Sep 1	- Enforcing agreements to arbitrate. Formation, validity, and interpretation. Arbitrability, separability, and competence-competence. - The CISG, Part I. Sphere of application, interpretation under Article 7, and general principles. - Oral argument basics	- Read Born Ch. 2.04-2.06 and 8.01-8.09. - Lew Ch. 7 and 9. - Mitsubishi Motors (1985), Henry Schein (2019), and Buckeye Check Cashing (2006). - Read the CISG text, Part I, and skim the CISG Digest.
Week 4 Tue, Sep 8	Assignment 2 - Procedural motion is argued in class. - Challenging and enforcing awards. - Appointment and challenge of arbitrators, and arbitration ethics.	- Read Lew Ch. 10, 13, 25, and 26. - Skim the IBA Guidelines on Conflicts of Interest. Assignment 2 - Procedural motion is DUE before class.
Week 5 Tue, Sep 15	- The CISG, Part II. Formation. - The CISG, Part III. Obligations of the buyer and the seller's remedies. - CISG research training.	- Read the CISG text. Assignment 2 - Procedural motion peer review is DUE before class. Assignment 3 - CISG motion is assigned.
Week 6 Tue, Sep 22	The CISG, Part III. Obligations of the seller and the buyer's remedies.	- Read the CISG text. - Additional reading TBD.

Week and Date	Topic	Assignments and Readings
Week 7 Tue, Sep 29	• Assignment 3. CISG motion is argued in class. • Part 1 wrap up. Vis Moot orientation and the standards of the competition. • The 34th Vis Moot problem will be released on Friday, October 2.	• Assignment 3. CISG motion is DUE before class. • Read the Vis Moot Rules and a recent winning Claimant memorandum from the 33rd Vis Moot.
Week 8 Tue, Oct 6	• Part 2 begins. Walkthrough of the 34th Vis Moot problem and Procedural Order No. 1. • The class becomes the law firm for the Claimant.	• Individual issues are assigned. - Read the moot problem and identify potential legal issues to research. • Assignment 3. CISG motion peer review is DUE before class. • Assignment 4. Issue research memo is assigned.
Week 9 Tue, Oct 13	• Mapping the legal issues in the problem, and issue deep dives. - Students are assigned to groups for drafting based on Procedural Order No. 1.	• Assignment 4. Issue research memo is DUE. • Assignment 5. Group issue presentation is assigned.
Week 10 Tue, Oct 20	• Oral argument basics and introductions. • Issue discussion. • Claimant's memorandum drafting workshop.	
Week 11 Tue, Oct 27	• Oral argument introductions.	• Requests for Clarification are drafted by each group. The official deadline is Friday, November 13.
Tue, Nov 3	No class. Election Day.	Claimant's Memorandum first draft is DUE.
Week 12 Tue, Nov 10	• Assignment 5. Group issue presentations. • Claimant's memorandum section workshop.	• Peer review of the first draft is DUE before class. • Assignment 5. Group issue presentations.
Week 13 Tue, Nov 17	• Oral argument tryouts, in class. Each student argues a single issue for the Claimant before the professors sitting as arbitrators. END OF SEMESTER!	• Claimant's Memorandum final drafts are due by Friday, November 20. • The team is announced on or about Saturday, November 21. • Confidential peer contribution forms are due. Submission is mandatory.

Joining the GMU Vis Moot Team in the Spring

This course is the tryout for the GMU Vis Moot team that competes in the spring. Your work on the assignments throughout the semester, together with your Week 13 oral argument, constitutes your tryout. The exact size of the team depends on funding and other factors, but we generally select four students for the travel team. The team is announced after the oral argument tryouts are completed.

Joining the team is a significant commitment that includes the following.

1. Complete the Claimant's Memorandum for submission to Vienna, due December 10.
2. Draft the Respondent's Memorandum, due January 21.
3. Attend twice weekly oral argument practice sessions, scheduled after the team is selected.
4. Compete in the John B. Tieder Jr. Vis Pre-Moot at GMU in late January, on a date to be determined.
5. Travel to the competition.
 - March 13-17, Budapest, Hungary, for the Budapest Pre-Moot.
 - March 17-18, Vienna, Austria, for the Pitt Consortium Pre-Moot.
 - March 18-26, Vienna, Austria, for the Vis Moot competition.

The full set of dates and deadlines is available at [34TH VIS MOOT](#).

We work closely with the team on drafting feedback, practice scheduling, and travel logistics. It is a substantial commitment, and we are confident it will be a better educational experience than any other course you take.

Classroom Policies

Attendance

Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.” Because your grade depends on informed participation, attendance affects your grade. Please notify the professors in advance if you must miss a class.

Absences

Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Use of Technology & AI

Generative AI tools may be used in this course for the following purposes and subject to the following guidelines. Students may use AI to research, proofread, edit, translate documents and legal sources, generate ideas, and prepare outlines or summaries that are not submitted as written assignments. Students may not use AI to produce any written component of their writing assignments. Students must use AI tools responsibly, verify facts presented by AI, disclose when AI tools are used to create coursework products, properly cite any AI tools used, and be prepared to produce the transcript of prompts and responses on request. Misuse will be treated as a violation of academic standards.

Vis Moot AI rules control the memorandum. Students working on the group memorandum and any student who joins the spring travel team must also follow the AI guidelines published by the Vis Moot Association for the current year, which may be stricter than the course policy.

Use of Electronic Text Books During Exams

This course has no final examination. The Law School’s standard policy nonetheless applies to any in-class assessment. Students are permitted one laptop computer for exam-taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor’s written exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student’s computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e-book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor’s standards for all examinations, which are included in the examination materials.

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

[Student Support and Advocacy Center \(SSAC\)](#)

[Mason Square Clinic](#)

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[University Life](#)

Mason Square Safety

Van Metre Hall, Room 110

Emergency, dial 911

Escort Services, 703-993-8070

Dispatch, 703-993-2810

Mason Square Sexual Assault Services, Van Metre Hall, Room 222D, 703-993-8186

Mason Square Clinic, Van Metre Hall, Room B102, 703-993-2831

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking

As faculty members, we are designated as “Non-Confidential Employees,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as the Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.