University of Houston Law Center

Course Outline for “Advocacy in International Arbitration”

REVISED

Fall Term 2017

INSTRUCTORS

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CLASS TIMES

Thursdays, August 24, 2017 through November 16, 2017, 9:00 AM – 12:00 PM.

Note, that in lieu of a final, the students will participate in an evidentiary hearing. The hearing will be from 8:30 AM to 6:00 PM on Saturday, November 4, 2016. The students will also be required to turn in electronically, on or before the regularly scheduled final exam date, a post-hearing memorial. The post-hearing memorial is to be sent by email to Mary Smith at msmith@lockelord.com.

REQUIRED CLASS MATERIALS

Books

The Principles and Practices of International Commercial Arbitration
by Margaret Moses (latest edition)

Other References (available on Internet)

UNCITRAL Model Law on International Commercial Arbitration
UNCITRAL Arbitration Rules
International Bar Association Rules on the Taking of Evidence in International Arbitration
International Bar Association Guidelines on Conflicts of Interest in International Arbitration
The New York Convention

While you will be given specific chapters to read in The Principles and Practices of International Commercial Arbitration, for class preparation it is strongly suggested that you read the entire book during the first two weeks of class.
OTHER REFERENCES

Kluwer Arbitration (available online through the Law Library)
CISG Database  http://iicl.law.pace.edu/cisg/cisg

OF SPECIAL INTEREST

Student Memberships

Chartered Institute of Arbitrators – FREE
http://www.ciarb.org/membership/member-types/students

International Bar Association – 20 Euros

Class 1 – August 24, 2017

● Introduction and Overview of Course

● Lecture and in-class discussion: Legal structure of international arbitration (national arbitration statutes, treaties, and institutional rules); the arbitration agreement and the arbitral process; kompetenz-kompetenz; and the importance of the seat of arbitration.

● Reading Assignment: Chapters 3 and 6 of The Principles and Practices of International Commercial Arbitration.

Class 2 – August 31, 2017

● Lecture and in-class discussion: Preliminary issues in international arbitration (e.g., selection of the Tribunal and ethical conflicts involving arbitrators; dealing with pathological arbitration clauses).

● Introduction to hypothetical case

Reading Assignment: Chapter 7 of The Principles and Practices of International Commercial Arbitration.

Class 3 – September 7, 2017

● Lecture and in-class discussion: Lecture on preliminary issues continued; issues relating to the procedural timetable and procedural order.
• **Introduction to Exercise #1—**Negotiating the Procedural Timetable and Procedural Order

• **Assignment:** The parties will exchange draft procedural timetables and procedural orders outside of class. Counsel will prepare for oral argument on disputed points (one week to complete).

• **Reading Assignment:** Chapter 4 of *The Principles and Practices of International Commercial Arbitration*.

**Class 4 – September 14, 2017**

• **Lecture and in-class discussion:** Arbitral jurisdiction and choice-of-law issues.

• **Introduction to Exercise #2—**Jurisdiction and Choice of Law

• **Exercise #1:** Counsel will hold a meet-and-confer session to negotiate the procedural timetable and the procedural order. This meet and confer is to occur outside of class. Counsel will present argument to the Tribunal on points of disagreement.

• **Assignment:** Prepare short briefs on jurisdictional and choice of law issues in the arbitration and prepare for oral argument (2 weeks to complete).

**Class 5 – September 21, 2017**

• **Lecture and in-class discussion:** Arbitral jurisdiction and choice-of-law issues continued; introduction to document-exchange issues and IBA Rules on the Taking of Evidence in International Arbitration

• **Introduction to Exercise #3—**Resolving Document Disclosure Issues in International Arbitration

• **Assignment:** Preparation and exchange of Redfern schedules and preparation for oral argument.

**Class 6 – September 28, 2017**

• **Lecture and in-class discussion:** Pre-hearing submission, preparation of witness statements, hearing strategy

• **Introduction to Exercise #4—**Pre-Hearing Memorials

• **Exercise #3:** Resolving Document Disclosure Issues in International Arbitration: Oral argument on points of dispute and feedback on Redfern schedules.
• **Assignment:** Prepare pre-hearing memorials and witness statements (four weeks to complete).

**Class 7 — October 5, 2017**

• Further feedback on Redfern schedule presentations

• Exercise #2—*Jurisdiction and Choice of Law:* Oral argument on jurisdiction and choice-of-law issues.

• **Lecture and in-class discussion:** Pre-hearing submission, preparation of witness statements, hearing strategy

• **Further Introduction to Exercise #4—*Pre-Hearing Memorials***

**Class 8 — October 12, 2017**

• **Further lecture and in-class discussion:** Pre-hearing submission, preparation of witness statements, hearing strategy

• **Lecture and in-class discussion:** Cross-examination and presenting a damages case

• **Introduction to Exercise # 5 — The Evidentiary Hearing**

• **Assignment:** Witness examination outlines, and preparation for opening and closing summations.

**Class 9 — October 19, 2017**

• **Further lecture and in-class discussion:** Pre-hearing submission, preparation of witness statements, hearing strategy

• **Further lecture and in-class discussion:** Cross-examination and presenting a damages case

• **Assignment:** Reading assignment in preparation for presentation on civil versus common law approaches in international arbitration on November 9, 2017.

**Class 10 – October 26, 2017**

• Hearing preparation (no classroom time)

• Final witness statement to be turned in electronically by 5 PM to Mary Smith at msmith@lockelord.com
Class 11 – November 2, 2017

- Hearing preparation (no classroom time)

Class 12 – SATURDAY, November 4, 2017 - 8:30 AM to 5 PM

- FINAL (Part #1) -- Exercise # 5—*The Evidentiary Hearing*

- Pre-hearing Memorial is to be handed in following evidentiary hearing

Class 13 – November 9 2017

- Civil vs. Common Law Approaches in International Arbitration

Class 14 – November 16, 2017

- **Lecture and in-class discussion:** Challenging and enforcing the arbitral award and considerations in drafting the award

- Wrap-up

- FINAL (Part #2) – Post-hearing memorial due on or before scheduled final exam date. To be sent electronically to Mary Smith at msmith@lockelord.com

- Post-hearing memorial based on the evidentiary hearing

**GRADING BASIS**

Your final grade will based as follows:

Written Advocacy – 30%

Oral advocacy other than the final – 35%

Final – 35%

**COUNSELING AND PSYCHOLOGICAL SERVICES**

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus.

http://www.uh.edu/caps/outreach/lets_talk.html