

Syllabus for International Arbitration: Practical Skills (LAW 279M)

Karl Bayer

Fall 2011

Course Description This course teaches the principles of effective client representation in international arbitration. Through some traditional (and not so traditional) teaching methods students will learn substantive law and practical written and oral advocacy techniques and practice with detailed real world problems.

Course Meetings **This class will meet on Wednesdays from 3:30-5:30pm in room TNH 3.115.**
Individual coaching and practice time will also be an essential part of this course.

Required Texts The Art of Advocacy in International Arbitration (**Bishop, D. & Kehoe, E.** eds., JurisNet 2nd ed. 2010)

Huber, P. / Mullis, A., The CISG: A new text book for students and practitioners, Sellier: München (2007).

Also, please see the Course Bibliography.

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Office Hours: 9a.m.-5p.m.
Assistant: Alyson Chaky, email: alyson@karlbayer.com

Attendance Policy Each student will be allowed one non-excused absence and one excused absence. Any other absence will result in an F grade absent an emergency.

Grades Grades will be based on class participation, writing assignments and presentations of oral arguments (see chart below). There is no mid-term or final exam.

Class participation + HW = 20%		
	Class Participation	10%
	HW assignments	10%
Written Advocacy grade = 45%		
	Outline	15%
	Draft 1	10%
	Draft 2	5%
	Final Draft	15%
Oral Advocacy grade = 35%		
	Oral argument 1	5%
	Oral argument 2	5%
	Oral argument 3	10%
	Oral argument 4	15%

Weekly Homework Assignment

In addition to what is specifically assigned, each week students will post to their own blog and post comments on every other students' blog.

Classroom Electronics

We will use all sorts of hard and software outside the class. During class, however, notes will be taken by hand.

Notices

Disabilities

Students with disabilities may request appropriate academic accommodations from the Division of Diversity and Community Engagement, Services for Students with Disabilities, 471-6259, <http://www.utexas.edu/diversity/ddce/ssd/>.

Religious Holidays

By UT Austin policy, you must notify me of your pending absence at least fourteen days prior to the date of observance of a religious holy day. If you must miss a class, an examination, a work assignment, or a project in order to observe a religious holy day, you will be given an opportunity to complete the missed work within a reasonable time after the absence.

Class Calendar & Assignments

Date	Class	Assignments due for the NEXT class
		Reading: Art of Advocacy in Int'l Arbitration Chp 1: Cultural Difference in Advocacy in International Arbitration (8 pgs) Chp 4: Psychological Dynamics in International Arbitration Advocacy (52 pgs) HW #1: Write a 2-page story about a particular major conflict in your life and how you and the other parties involved resolved it.

		<p>Set up your own blog and send me a link. I recommend using Wordpress or Blogger as the blogging platform.</p> <p>Email written story and link to karl@karlbayer.com by beginning of class on August 24th.</p> <p><i>Bring DVD-R or DVD+R to first day of class.</i></p>
<p>August 24 (I will be out of town for the first class)</p> <p>Professor Melinda Taylor, Senior Lecturer and Executive Director Center for Global Energy, International Arbitration and Environmental Law, will be my substitute.</p> <p>CLASS 1</p>	<p><u>Lecture: Intro to Syllabus and Housekeeping</u></p> <ul style="list-style-type: none"> - Guest Speaker on Oct. 19th - Rough outline (due October 19th) will determine what part of the brief you will be writing. -The November 23rd class has been rescheduled for November 21st. - Please make note of the attendance policy and email me any date that you know you will have to be absent. -Introduce the Vis Moot <p><u>Activity:</u></p> <p>Cheng</p> <ul style="list-style-type: none"> -Tour of the CISG database and experience at the Vis. <p>Andy Martinez</p> <ul style="list-style-type: none"> -Tutorial on video recording in ROOM 3.310 at 4:30pm -Format DVD. <p>Jonathan Pratter</p> <ul style="list-style-type: none"> -Tour of relevant library and online materials. -Meet at circulation desk at 5:00pm 	<p>Reading: Redfern & Hunter Introduction to International Arbitration para 1.01-1.07; 1.15-1.125; 1.152-1.197 (53 pgs)</p> <p>Art of Advocacy in Int'l Arbitration Chp 21: The European Perspective and Practice of Advocacy (20pgs)</p> <p>HW#2: Prepare a 10-minute oral presentation on the same personal story of dispute resolution.</p> <p>Before the next class, you will need to record your presentation. You will turn in your DVD with the recorded presentation at the end of class on August 31.</p> <p>Room 3.310 will be reserved from 9am-5:20pm on August 31 for that purpose.</p> <p>Should that day not be convenient, please contact Marla Massin to reserve an advocacy room for yourself on a different day (mmassin@law.utexas.edu).</p>
<p>August 31</p> <p>CLASS 2</p>	<p><u>Lecture: Introduction to International Commercial Arbitration</u></p> <p><u>Activity:</u> “Getting to know you”</p>	<p>Reading: Redfern & Hunter On law governing the arbitration, set aside, and the NY Convention para 3.34-3.87, 10.01-10.91, 11.01-11.120</p>

	Video record your 10-minute story presentations in room 3.310 if you have not done so. Turn in your DVDs at the end of class.	(97 pgs.) HW# 3: By next class, schedule a time between September 14-21 to meet individually with me for at least an hour. Contact my assistant Alyson Chaky to schedule meeting.
September 7 CLASS 3	<u>Lecture: The interrelation of NY Convention, National Arbitration Laws (ML) and Institutional Rules</u> <i>Groups A and B will be assigned as will Claimant and Respondent.</i>	Reading: The CISG: A New Textbook for students and practitioners pgs 1-40 HW#4: Using a hypothetical dispute found on BB under Arbitration Exercise, prepare a 10-minute oral argument regarding the procedural matters of the dispute. Look to the important articles of the NY Convention, the UNCITRAL Model Law for support. GROUP A will present on September 14 GROUP B will present on September 21
September 14 CLASS 4	<u>Lecture: CISG (30min)</u> With a focus on some of the key articles: 7, 8, 9, 14-19, 25, 29, 35, 37-40, 46-51, 63, 64, 66-73, 77, 79 <u>Activity (1.5hr):</u> GROUP A will present oral arguments in class from HW #3 (Working through the arbitration legal instruments, <i>e.g.</i> , the NY Convention, The UNCITRAL Model Law, and institutional rules) in Room 3.310	Reading: Art of Advocacy in Int'l Arbitration Chp 14: Opening Statements (27 pgs) Chp 19: Closing Arguments (6 pgs) HW#4: GROUP B will present their 10min oral argument on the procedural issues on September 21.
September 21 CLASS 5	<u>Lecture: The Five Types of Legal Argument (30min)</u> GROUP B will present oral arguments in class from HW #3	Reading: Speed Read all of The Five Types of Legal Argument

	(Working through the arbitration legal instruments, <i>e.g.</i> , the NY Convention, The UNCITRAL Model Law, and institutional rules) in Room 3.310	Art of Advocacy in Int'l Arbitration Chp 22: The US Perspective and Practice of Advocacy (44 pgs) HW#5: Using a hypothetical dispute found on BB under CISG exercise, prepare a 10-minute oral argument regarding the merits of the case using the relevant articles of the CISG. GROUP A will present on September 28. GROUP B will present on October 5.
September 28 CLASS 6	<u>Lecture: Oral Advocacy (30min)</u> <u>Activity (1.5hr):</u> GROUP A will present oral arguments in class from HW #4 (Arguments on the merits using the CISG) in Room 3.310.	Reading: <i>Research in International Commercial Arbitration: Special Skills, Special Sources</i> , by Stacie Strong (39 pgs.) on BB. Art of Advocacy in Int'l Arbitration Chp 8: Effective Written Advocacy (14 pgs) Chp 9: Pleadings, Memorials, and Post-Hearing Briefs (26 pgs) HW #5: GROUP B will present their 10min oral argument on the CISG issues on October 5.
October 5 CLASS 7	<u>Lecture: Written Advocacy (30min)</u> Talk about the different parts of the brief (table of authorities, statement of fact, summary of arguments, request for relief) <u>Activity (1.5hr):</u> GROUP B will present oral	Reading: Get the Vis problem from the Vis website http://www.cisg.law.pace.edu/cisg/moot/mootlist.html#18) and read it twice. The Vis Book Chp 3 The Road to Vindobona: Preparing for the Moot (17pgs)

	<p>arguments in class from HW #4 (Arguments on the merits using the CISG) in Room 3.310.</p>	<p>Look at the Vis Rules (on BB) for their brief requirements.</p> <p>HW#6: Put together a timeline chart of both procedural and merits issues. Turn in Timeline before next class via email.</p> <p>Timeline chart headings: Date, Type of Document (Witness statement, exhibit, letter from chamber, etc.), quoted relevant text.</p>
<i>October 7 (Friday)</i>	<i>Moot Problem comes out</i>	
<p>October 12</p> <p>CLASS 8</p>	<p><u>Lecture: Breakdown of the problem</u></p> <p>In class, come up with “theme” for claimant and respondent.</p> <p>Brainstorm on arguments for both sides with Professor Rau</p>	<p>Research</p> <p>HW#7: Prepare graded questions for Guest Speaker(s) regarding the moot problem.</p> <p>Rough Outlines due by October 19th via email.</p> <p>Prepare 5 written questions for the guest speaker on October 19th. Email them to me and post them to your blog by October 17th.</p>
<p>October 19 (I will be out of town)</p> <p>CLASS 9</p>	<p><i>Rough outlines due (this will determine oral argument groups. See below chart for example of division)</i></p> <p><u>GUEST SPEAKER:</u> Lecture topic: Arbitration topic related to Vis problem</p> <p><u>Activity:</u> Talk to Guest Speaker(s) and ask questions about the lecture and problems you’re having with the Moot Problem.</p>	<p>Claimant & Respondent detailed outline due</p> <p>HW#8: Set up a time to meet with me individually to discuss Rough outline. Contact Alyson Chaky to set up meeting</p> <p>Turn in clarification questions by email by next class October 26th</p>
<p>October 26</p> <p>CLASS 10</p>	<p><i>Claimant & Respondent annotated outline with table of authorities due (via email)</i></p>	<p>Prepare 1st oral argument with partner 1 (bring your DVD-R)</p>

	<p><u>Lecture: Outline of Proof</u></p> <p><u>Activity:</u> In class, walk through Outline of Proof for Claimant together on the white board. Refine the Claimant's argument and find the holes that may need more research.</p> <p>Talk about request for clarification</p>	<p>HW#9: Do Outline of Proof for Respondent.</p>
<i>October 27</i>	<i>Deadline for requests for clarification</i>	
November 2 CLASS 11	<p><u>Lecture: Feedback and Discussion</u></p> <p>- Feedback on outlines from attorneys and professors.</p>	<p>1st draft of briefs due</p> <p>2nd oral argument with partner 2 (Bring DVD-R)</p> <p>HW#10: Set up a time to meet with me individually to discuss 1st oral argument and address individual styling. Contact my assistant Alyson Chaky to schedule meeting.</p>
November 9 CLASS 12	<p><i>1st Draft of Briefs due at beginning of class including summary of arguments and statement of facts (via email)</i></p> <p><i>2nd oral argument (with partner 2) as RESPONDENT (10min) in ROOM 3.310 (from 3:30-5:30)</i></p>	<p>3rd oral argument with partner 3. (Bring DVD-R)</p> <p>HW # 11 Text me your main arguments for your oral argument by Tuesday Nov 13.</p>
November 16 CLASS 13	<p>Give students feedback on the 1st draft of Brief. <i>Because of time constraints this may have to be done by email</i></p> <p><i>3rd oral argument (with partner 3) as CLAIMANT (10 min) in ROOM 3.310 (from 3:30-5:30)</i></p>	<p>2nd Draft of Briefs due.</p> <p>Reading: Art of Advocacy in Int'l Arbitration Chp 20: The British Perspective and Practice of Advocacy (26 pgs). Chp 23: The Asian Perspective and Practice of Advocacy (18 pgs).</p> <p>Hw#12: Come up with a storyboard</p>

		framing your story. Due at the beginning of the next class.
November 23 CLASS 14 Moved to 21st	<i>2nd Draft of Briefs due at beginning of class including summary of arguments and statement of facts (via email)</i> <i>Email students feedback on the 2nd draft of Claimant's Brief because Final Draft is due the next class.</i> <i>Students read their classmates portions of the brief and choose which ones will be sent to the Vis.</i>	Final Drafts of Briefs due. 4 th Oral Argument with partner 4 (Bring DVD-R) HW # 12: <i>Everyone text me a rebuttal response.</i>
November 30 LAST DAY OF CLASS CLASS 15	<i>Claimant's Brief Final Draft due at the beginning of class including summary of arguments and statement of facts (via email)</i> <i>4th oral argument (with partner 4) as RESPONDENT (10min) in ROOM 3.310 (from 3:30-5:30)</i>	
<i>December 8</i>	<i>Claimant's Brief is due to the VIS</i>	

Partner Breakdown Example

CLAIMANT Procedural Team	Student 1	RESPONDENT Merits Team
	Student 2	
	Student 3	
	Student 4	
	Student 5	
	Student 6	
CLAIMANT Merits Team	Student 7	RESPONDENT Procedural Team
	Student 8	
	Student 9	
	Student 10	
	Student 11	
	Student 12	
	GROUP A	GROUP B
Oral Argument 1	Student 1 & Student 7 Student 2 & Student 8 Student 3 & Student 9	Student 4 & Student 10 Student 5 & Student 11 Student 6 & Student 12

Oral Argument 2	Student 1 & Student 8 Student 2 & Student 9 Student 3 & Student 7	Student 4 & Student 11 Student 5 & Student 12 Student 6 & Student 10
Oral Argument 3	Student 1 & Student 9 Student 2 & Student 7 Student 3 & Student 8	Student 4 & Student 12 Student 5 & Student 10 Student 6 & Student 11

After-Class List of Vis related happenings:

1. Claimant's Brief due December 8
2. Writing Respondent's Brief over the winter break
3. Respondent's Brief due January 19
4. Try-outs for the Vis oralist team February_____
5. MAA Welcoming Party March 29
6. Official Welcome and reception March 30
7. General Rounds of arguments March 31 - April 3
8. Awards Banquet April 5