SYLLABUS

COURSE DESCRIPTION

A basic understanding of the way international commercial arbitration works and functions is a necessary tool in comprehending international transactions.

This course will introduce students to the mechanics and basic concepts of international commercial arbitration, including the arbitration process, discovery, public policy, mediation and negotiation, all of which are integral parts of the way disputes involving international transactions are resolved. We will focus upon legislation, court decisions, arbitral awards and commentary from all parts of the world. Students will receive practical knowledge that can be used to draft and understand arbitration clauses in international contracts as well as a beginning understanding of how to litigate an international arbitration dispute.

Because of the importance of digital communications in international trade, each student will be asked to prepare PowerPoint presentations of the materials in our casebook. Part of the focus of the course will be an understanding of how to use digital technology in the international arbitration context in terms of the presentation of evidence, presentation to clients, and the importance of understanding digital communications in the discovery process.

OBJECTIVES

Objectives include: A comprehensive understanding of (a) the way global transactions are structured to resolve disputes; (b) significance of negotiation and mediation in resolving international business disputes; (c) the various methods and ways to draft an international arbitration agreement; (d) procedures involved in international arbitration;
(e) evidentiary and strategy issues in international arbitration; (f) conflict of law issues in an international arbitration setting; and (g) ways to enforce an international arbitration award. Through the class PowerPoint presentations, we will also seek to improve each student's presentations skills, knowledge and confidence in public speaking in an international arbitration setting.

Apart from an understanding of the legal concepts we hope to broaden our perspective, gain a better understanding of global economics and culture and not be afraid to do business in the vast world we live in.

**ADMINISTRATIVE ITEMS**

**Classes:** Classes will be held in Room 172 on Mondays from 3:30 p.m. – 5:20 p.m.

**Class Performance:** Specific case and/or text reporting assignments will be made in advance. Regular, punctual class attendance and participation are course requirements along with the final examination. Students will be asked to prepare PowerPoint presentations of the case material and to work with other students in the preparation of these materials into an overall class outline which will be used throughout the course. I reserve the right to raise or lower grades by half a letter based on classroom performance.

I will comply with the law school's policy on attendance. Accordingly, if you miss more than nine (9) classes for any reason, you will have to explain all your absences to Dean Claude Reeves Arrington and may receive no credit or a failing grade for the course.

**Recording Devices:** The use of recording devices is prohibited without my prior permission.

**Accommodations:** Students with disabilities or special needs are encouraged to contact Claude Reeves Arrington, Associate Dean for Students/Academic Services at 205-348-6557 so that any individual needs for support services can be evaluated and accommodated in a timely manner. Please let me know if I can be of assistance as well.

**TEXT AND OTHER MATERIALS**

We will be using Tibor Varady, John J. Barcelo, III and Arthur T. on Mehren’s *International Commercial Arbitration, A Transnational Perspective* (West, 5th ed. 2012). I may also assign readings and materials to supplement the required text.

You should get more out of the course – and a better understanding of international business law in general – by regularly reading the *Financial Times*, *Wall Street Journal*, the Sunday edition of *The New York Times*, and/or *Economist*. 
FINAL EXAMINATION

The final exam will be an open-book take home exam and will consist of one or more essay questions.

COURSE OUTLINE AND READING ASSIGNMENTS

Class 1 - January 12, 2015  Introductions. Assignment: Text pages 1 – 81
Begin: Chapter I, I.1. Approaches to dispute resolution

January 19, 2015  Martin Luther King, Jr. Holiday

Class 2 - January 26, 2015. Assignment: Text pages 81 - 161
Begin: I.3.b.ii Party Stipulation versus State Norms
Through: II.1.c.iii Separability Revisited and the Void Ab Initio Doctrine

Class 3 – February 2, 2015 Assignment: Text pages 161 – 236
Begin: II.1.d. The Form of the Arbitration Agreement
Through: Non-signatory Parties

Class 4 – February 9, 2015. Assignment: Text pages 237 - 309
Begin: II.1.h. Split Arbitration Clauses
Through: III.1. The Arbitrators Qualifications, Rights and Responsibilities

Class 5 – February 16, 2015. Assignment: Text pages 309 - 393
Begin: III.1.c. More Modern Considerations and Devices (Neutrality, Independence, Disclosure)
Through: III.1.g.i The Issue of Fees

Class 6 – February 23, 2015. Assignment: Text pages 393 - 469
Begin: III.1.g.ii Conduct and Misconduct of Arbitrators Regarding Fees
Through: III.2.c.iii An Appointing Authority That Ceased to Exist

Class 7 – March 2, 2015. Assignment: Text pages 469 - 547
Begin: III.2.d. The Role of Lists of Arbitrators in the Appointment Process
Through: IV.1.c. Organizing Arbitral Proceedings

Class 8 – March 9, 2015 Assignment: Text pages 548 - 624
Begin: IV 1.d. Party Discretion, discretion of The Arbitrators, and Due Process
Through: IV.1.h.iii. Language Issues

Class 9 – March 16, 2015 Assignment: Text pages 624 - 706
Begin: IV.1.i. Action or Inaction in Connection with the Presentation of the Case That Amounts to Waiver
Through: IV.2.c. Interpreting Choice of Law Clauses and the Role of the Lex Arbitri

March 23, 2015  Spring Break

Class 10 – March 30, 2015  Assignment: Text pages 707 - 781
Begin: IV.2.d The Role of Lex Mercatoria
Through: V.1.b. Confirmation, Leave to Enforce

Class 11 – April 6, 2015  Assignment: Text pages 781 - 865
Begin: V.1.c. Confirmation and Conversion
Through: V.2.c. Public Policy, Fraud, and Evidence Partiality as Grounds for Setting Aside

Class 12 – April 13, 2015  Assignment: Text pages 865 - 946
Begin: V.2.d. Standard of Review

Class 13 – April 20, 2015  Assignment: Text pages 946 – 1039
Begin: V.3.c.ii  Notice of Appointment of the Arbitrator and Waiverability
Through: End of Book

Make up day from January April 21, 2015 – Outside speaker to be announced.

FINAL EXAM – This will be a take home exam.