

**International Commercial Arbitration**  
**Fall 2020**

Thursdays from 5:30-7:30 pm

Sashe Dimitroff, Baker Hostetler LLP  
(713) 646-1320 (work)  
[SDimitroff@bakerlaw.com](mailto:SDimitroff@bakerlaw.com)

William Russell, Reed Smith LLP  
(713) 469-3634 (work)  
[wrussell@reedsmith.com](mailto:wrussell@reedsmith.com)

- Course Materials: No book for the course. The course packet will be emailed to the students before the first day of class  
Office Hours: Monday-Friday – 9:00 AM – 4:00 PM
- Grading: 90% of grade will be based on a final exam that will be comprehensive and will cover the entire course material. The final 10% of the final grade will be tabulated based on class participation/involvement.
- Attendance: Attendance will be taken. Half a grade drop for every two unexcused absences. When attending via Zoom, students must keep cameras and audio on.
- Meeting: Please contact the professors at the above contact information to schedule a meeting if needed.

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](http://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](http://www.uh.edu/caps/outreach/lets_talk.html)

## University of Houston Syllabus Language

### Fall 2020

#### Face Covering Policy (required for courses with a face-to-face component)

To reduce the spread of COVID-19, the University [requires face coverings](#) on campus including classrooms for both faculty and students. Face coverings must cover your mouth and nose and be worn throughout the class session. A mask with a valve is not considered an adequate face covering and should not be used, as it can expel exhaled air, increasing the risk to others. Eating or drinking during class is discouraged and is not an excuse for removing the face covering for any extended length of time. For additional information on the use of face coverings, please see [Face Covering FAQs](#). Failure to comply with the requirement to wear a face covering in class will result in your being asked to leave the classroom immediately and a disciplinary referral through the Dean of Students Office. Requests for accommodations relating to the face covering policy may be directed to the [Center for Students with DisABILITIES \(CSD\)](#).

#### Required Daily Health Self-Assessment (required for courses with a face-to-face component)

Your presence in class each session means that you have completed a daily self-assessment of your health/exposure and you:

- Are NOT exhibiting any [Coronavirus Symptoms](#)
- Have NOT tested positive for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [COVID-19 Diagnosis/Symptoms Protocols](#) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](#) for what to do if you have potentially been exposed to COVID-19.

#### Recording of Class (required for all courses)

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

#### Syllabus Changes (required for all courses)

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through (*specify how students will be notified of changes*).

Course Syllabus

<b>CLASS #</b>	<b>DATE</b>	<b>TOPIC</b>	<b>ASSIGNMENT</b>
<b>1</b>	<b>8/27/20</b>	<b>Preliminary Considerations Bearing on the Selection of the International Arbitral Process</b>	<ol style="list-style-type: none"> <li><b>1. Coe, Chapter 1, Section 1.8</b></li> <li><b>2. Coe, Chapter 2</b></li> </ol>
<b>2</b>	<b>9/3/20</b>	<b>The Five Stages of the International Arbitral Process</b>	<ol style="list-style-type: none"> <li><b>1. Coe, Chapter 3, Sections 3.1-3.8</b></li> <li>2. Ben H. Sheppard, Jr., “<i>Commercial Arbitration: An Overview of the Preliminary Stages of the Arbitral Process</i>,” (hereinafter, “An Overview”) <b>Tab 12 of Supplemental Materials Notebook, Section I.</b></li> </ol>
<b>3</b>	<b>9/10/20</b>	<b>The Five Stages of the International Arbitral Process, continued</b>	<ol style="list-style-type: none"> <li><b>1. Coe, Chapter 6</b></li> <li>2. “An Overview”, <b>Tab 12 of Supplemental Materials Notebook, Section III</b></li> </ol>
<b>4</b>	<b>9/17/20</b>	<b><u>Stage I</u> The Making and Enforcement of the Arbitration Agreement</b>	<ol style="list-style-type: none"> <li><b>1. Coe, Chapter 5, Sections 5.1-5.5</b></li> <li>2. The New York Convention, <b>Coe Appendix 42</b></li> <li>3. U.S. Federal Arbitration Act, <b>Coe Appendix 11</b></li> <li>4. Texas International Arbitration Act, Texas Civil Practice &amp; Remedies Code § 172</li> </ol>
<b>5</b>	<b>9/24/20</b>	<b><u>Stage I</u> The Making and Enforcement of the Arbitration Agreement, continued</b>	<ol style="list-style-type: none"> <li>1. “An Overview”, <b>Tab 12 of Supplemental Materials Notebook, Sections II and IV.</b></li> <li>2. “The Moth, the Light and the United States Severability Doctrine”, <b>Tab 13 of Supplemental Materials Notebook</b></li> <li>3. <i>Buckeye Check Cashing, Inc. v. John Cardegna</i>, 126 S.Ct. 1204 (2006), <b>Tab 11 of Supplemental Materials Notebook</b></li> <li>4. <i>Schein v. Archer White Sales</i>, 139 S. Ct. 524 (2019).</li> </ol>

<b>CLASS #</b>	<b>DATE</b>	<b>TOPIC</b>	<b>ASSIGNMENT</b>
<b>6</b>	<b>10/1/20</b>	<b><u>Application of the Arbitration Agreement to Non-Signatories</u></b>	<ol style="list-style-type: none"> <li><b>1. Strategic Options When Catastrophe Strikes the International Energy Project, Section C on pp. 61-63.</b></li> <li><b>2. “Motion for Stay Pending Arbitration, Marathon Oil Co. et al v. Ruhrgas AG”, Tab 5, of Supplemental Materials Notebook</b></li> <li><b>3. AAA Supplementary Rules For Class Arbitrations</b></li> </ol>
<b>7</b>	<b>10/8/20</b>	<b><u>Stage II</u></b> The Selection and Appointment of the Arbitral Tribunal	<ol style="list-style-type: none"> <li><b>1. Coe, Chapter 4, Section 4.13</b></li> <li><b>2. “An Overview”, Tab 12 of Supplemental Materials Notebook, Section V.</b></li> <li><b>3. London Court of International Arbitration (LCIA), Arbitration Rules effective 1 January 1998 (to be furnished by Professor Dimitroff). Articles 5-13.</b></li> </ol>
<b>8</b>	<b>10/15/20</b>	<b><u>Stage II</u></b> The Selection and Appointment of the Arbitral Tribunal, continued	<ol style="list-style-type: none"> <li><b>1. Code of Ethics for Arbitrators in Commercial Disputes – 2004 Revision, promulgated by the American Bar Association and American Arbitration Association, Tab 8 of Supplemental Materials Notebook.</b></li> <li><b>2. IBA Guidelines on Conflicts of Interest in International Arbitration (23 October 2014), Tab 9 of Supplemental Materials Notebook.</b></li> <li><b>3. Ben H. Sheppard, Jr., “A New Era of Arbitrator Ethics for the United States: The 2004 Revision to the AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes,” ARBITRATION INTERNATIONAL, Vol 21, No. 1 (2005), Tab 10 of Supplemental Materials Notebook.</b></li> <li><b>4. Sample Motions to Strike Arbitrator (to be provided by Prof. Dimitroff)</b></li> </ol>

<b>CLASS #</b>	<b>DATE</b>	<b>TOPIC</b>	<b>ASSIGNMENT</b>
<b>9</b>	<b>10/22/20</b>	<b><u>Stage III</u></b> Preliminary Proceedings, Including Procedural Orders and Interim Relief	<ol style="list-style-type: none"> <li>1. <b>Coe, Chapter 4</b>, Section 4.12</li> <li>2. <b>Coe, Chapter 9</b>, Sections 9.1 – 9.9.</li> <li>3. UNCITRAL Notes on Organizing Arbitral Proceedings, <b>Coe Appendix 8</b>.</li> </ol>
<b>10</b>	<b>10/29/20</b>	<b><u>Stage III</u></b> Preliminary Proceedings, Including Procedural Orders and Interim Relief, continued	<ol style="list-style-type: none"> <li>1. Samples of Procedural Order and Terms of Reference (<b>to be provided by Professor Dimitroff</b>)</li> <li>2. IBA Rules on the Taking of Evidence in International Commercial Arbitration, International Bar Association, 29 May 2010 revision, <b>Tab 7 of Supplemental Materials Notebook</b>.</li> <li>4. <b>3. Strategic Options When Catastrophe Strikes the International Energy Project</b>, pp. 14-16.</li> <li>5. Federal Rules of Civil Procedure 64 and 65..</li> </ol>
<b>11</b>	<b>11/5/20</b>	<b><u>Stage IV</u></b> The Evidentiary Hearing on the Merits	<ol style="list-style-type: none"> <li>1. IBA Rules on the Taking of Evidence in International Commercial Arbitration, International Bar Association, 29 May 2010 revision, <b>Tab 7 of Supplemental Materials Notebook</b>.</li> <li>2. UNCITRAL Notes on Organizing Arbitral Proceedings, <b>Coe Appendix 8</b>.</li> <li>3. <b>LCIA Arbitration Rules</b>, Articles 15-25.</li> <li>4. Rules on the Efficient Conduct of Proceedings in International Arbitration (<b>Prague Rules</b>)</li> </ol>

<b>CLASS #</b>	<b>DATE</b>	<b>TOPIC</b>	<b>ASSIGNMENT</b>
<b>12</b>	<b>11/12/20</b>	<u><b>Stage V</b></u> The Making and Enforcement of the Arbitral Award  A. The Making of the Arbitral Award  B. Recognition and Enforcement of the Award	1. <b>Coe, Chapter 12.</b>
<b>13</b>	<b>11/19/20</b>	<u><b>Stage V</b></u> The Making and Enforcement of the Arbitral Award, continued	1. LCIA Arbitration Rules 26-29.  2. The New York Convention, Articles III through VI, <b>Coe Appendix 42.</b>  3. U.S. Federal Arbitration Act, Sections 9 through 16, <b>Coe Appendix 11.</b>
<b>14</b>	<b>TUESDAY 12/1/20</b>	<u><b>Stage V</b></u> The Making and Enforcement of the Arbitral Award, continued	1. Hall Street Assoc., L.L.C. v. Mattel, Inc., <b>Tab 14 of Supplemental Materials Notebook.</b>  2. Articles 67 and 71 of the English Arbitration Act ( <b>to be provided by Professor Dimitroff</b> )  3. ICC Arbitration Rules, Article 35 ( <b>to be provided by Professor Dimitroff</b> )
		<b>Thanksgiving Holiday</b>	
		<b>Final Exam</b>	