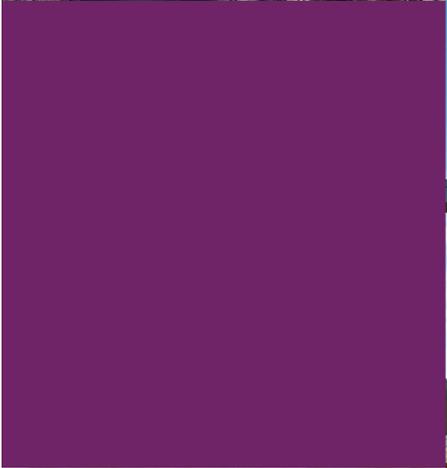




Durham
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2026 Durham Summer Program on International Arbitration





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MONDAY
FUNDAMENTALS OF COMMERCIAL
ARBITRATION

9:30am – 10:00am

Introduction to the Program

Instructor(s): John Fellas

10:14am – 11:30am:

Why Parties Select International Arbitration

This session will focus on explaining what international arbitration is and explaining why parties may choose arbitration for their international commercial contracts.

Instructor(s): John Fellas & TBD

ASSIGNED READING

Gary B. Born, *INTERNATIONAL ARBITRATION: LAW AND PRACTICE*, Chapters 1-5 (Kluwer Law International 2012); Jan Paulsson, *International Arbitration is Not Arbitration*, 2 *Stockholm Int'l Arb. Rev.* 1 (2008).

BREAK

11:45am – 12:45pm

What is International Arbitration

This session will focus on what an international arbitration looks like, how the process is run by the tribunal and parties, and what specifically occurs during the proceedings. We will share videos and photographs so you have a very real sense of this otherwise confidential process. We will also share examples of pleadings and the written documents exchanged during the proceeding, including arbitral awards.

Instructor(s): Christian Leathley & TBD

LUNCH

2:30 – 3:45PM

The Legal Basis and Rules That Govern International Commercial Arbitration

This session will focus on the law and rules that govern international arbitration: the New York Convention, domestic law, arbitration rules, and soft law instruments governing the arbitral process.

Instructor(s): John Fellas & Can Eken

ASSIGNED READING

United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958); UNCITRAL Model Law on International Commercial Arbitration (2006); IBA Rules on the Taking of Evidence (2010); ICC Arbitration Rules (2021); LCIA Arbitration Rules (2020); ICDR Arbitration Rules (2021); Arbitration Act of 1996 (Eng.); IBA Guidelines on Party Representation in International Arbitration (2013); IBA Guidelines on Conflict of Interest in International Arbitration (2014); Sample Procedural Order No. 1.

BREAK

4:00pm – 5.00pm

How to Draft an Arbitration Clause

Instructor(s): John Fellas & TBD

ASSIGNED READING

Model Arbitration Clauses.



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TUESDAY
FUNDAMENTALS OF COMMERCIAL
ARBITRATION

9:30am – 10:30am

Enforcement of Arbitration Agreements

This session will focus on the enforcement of arbitration agreements and in the courts, including the allocation of responsibility between courts and arbitrators, kompetenz-kompetenz and separability in leading arbitration jurisdictions around the world.

Instructor(s): Dr Ronán Feehily

ASSIGNED READING

Gary B. Born, *INTERNATIONAL ARBITRATION: LAW AND PRACTICE* 1-5 (Kluwer Law International 2012); Jan Paulsson, *International Arbitration is Not Arbitration*, 2 *Stockholm Int'l Arb. Rev.* 1 (2008), Ronán Feehily, *Separability in International Commercial Arbitration: Confluence, Conflict and the Appropriate Limitations in the Development and Application of the Doctrine*, *Arbitration International* (Volume 34, Issue 3, 2018, 355-383); Ronán Feehily, *International Commercial Mediation: Law and Regulation in Comparative Context*, Cambridge University Press, Cambridge, United Kingdom (2022), chapters 3 & 8.

BREAK

10:45am – 12.15pm

The Arbitration Process – PART 1

This session will discuss in more detail than that visited on Day 1, how a dispute unfolds from the beginning of the dispute to the issuance of an award.

It will include a discussion of preliminary relief, the commencement of arbitration proceeding, emergency arbitrators, the preliminary conference, the submission of memorials, witness statements and expert reports, the taking of evidence, and the hearings.

Instructor(s): John Fellas & TBD

ASSIGNED READING

United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958); UNCITRAL Model Law on International Commercial Arbitration (2006); IBA Rules on the Taking of Evidence (2010); ICC Arbitration Rules (2021); LCIA Arbitration Rules (2020); ICDR Arbitration Rules (2021); Arbitration Act of 1996 (Eng.); IBA Guidelines on Party Representation in International Arbitration (2013); IBA Guidelines on Conflict of Interest in International Arbitration (2014); Sample Procedural Order No. 1.

LUNCH

14:00pm – 15:00pm

The Arbitration Process – PART 2

BREAK

15:15pm – 16:30pm

Enforcement of Arbitration Awards

This session will focus on the enforcement of arbitration awards including the distinction between enforcement and set aside, the various defenses to enforcement and the standards for set aside.

Instructor(s): John Fellas & Ylli Dautaj



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WEDNESDAY
FUNDAMENTALS OF TREATY-BASED
ARBITRATION

9:30am – 10.30am

Introduction to Treaty-Based Arbitration

This session will introduce the theoretical basis of treaty-based arbitration, the various institutions, and mechanisms for dispute settlement

***Instructor(s):* Charles T. Kotuby Jr.; Christian Leathley**

ASSIGNED READING

Jan Paulsson, *The Power of States to Make Meaningful Promises to Foreigners*, 1 J. INT'L DISP. SETTLEMENT. 341 (2010); Kenneth J. Vandeveld, *A Brief History of International Investment Agreements*, 12 U.C. DAVIS J.INT'L L. & POL'Y 157 (2005); U.S. Model BIT

BREAK

10:45am – 12:30pm

Jurisdictional Issues in Treaty-Based Arbitration

This session will cover the definition of "investment," issues of temporal jurisdiction, treaty structuring and issues of corruption as a matter of jurisdiction and admissibility.

***Instructor(s):* Charles T. Kotuby Jr.; Christian Leathley**

ASSIGNED READING

Empresas Lucchetti, SA and Lucchetti Peru, SA v. Peru, ICSID Case No. ARB/03/4, Award, 7 Feb. 2005; *World Duty Free v. Kenya*, ICSID Case No. Arb/00/7.

LUNCH

2:30pm – 4:30pm

Substantive Protection in Treaty-Based Arbitration

This session will address the primary substantive protections of investment treaties and their jurisprudential development over the past few years.

Instructor(s): Charles T. Kotuby Jr.; & TBD

ASSIGNED READING

Kenneth J. Vandavelde, *A Unified Theory of Fair and Equitable Treatment*, 43 N.Y.U. J. Int'l L. & Politics 43 (2010); *Técnicas Medioambientales Tecmed, S.A. v. United Mexican States*, ICSID Case No. ARB(AF)/00/2; Kotuby & Sobota, *Practical Suggestions to Improve the Legitimacy and Vitality of Investment Arbitration*, ICSID Review, Vol. 28, No. 2 (2013).



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THURSDAY
DAMAGES AND WRITTEN ADVOCACY

9:30am – 10.30am

Damages in Commercial and Investment Arbitration

With the assistance of leading forensic economists, this session will address issues of reparation and compensation, strategic considerations of valuation dates and how various breaches and businesses implicate different quantum models.

Instructor(s): Wendy Miles & TBD

ASSIGNED READING

Mark W. Friedman and Floriane Lavaud, *Damages Principles in Investment Arbitration*, in THE GUIDE TO DAMAGES IN INVESTMENT ARBITRATION (Global Arbitration Review 2018).

BREAK

10:45am – 12.30pm

Introduction to Advocacy Skills Day

Instructor(s): Christian Leathley; John Fellas, Wendy Miles KC, Charles Kotuby & TBD

This will involve the introduction of a fact pattern that will guide instruction for the remaining two days. We will introduce a simple fact pattern that will be the basis for some exercises on written advocacy and oral advocacy on Friday. The focus on written advocacy will include some practical and interactive exercises.

LUNCH

2:30pm – 4:30pm

Best Practices in Written Advocacy: Pleadings, Witness Statements and Expert Reports

This session will highlight best practice in written advocacy, seeking to bridge the divide between different legal traditions

Instructor(s): Christian Leathley; John Fellas, Wendy Miles KC, Charles Kotuby & TBD

ASSIGNED READING

John Fellas, *Cross-Examination in International Arbitration*, *NYLJ* (2015); John Fellas, *Preparing Witness Statements in International Arbitration*, *NYLJ* (2017).



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**FRIDAY
ADVOCACY SKILLS DAY**

9:30am – 10.15am

KEYNOTE ADDRESS

BREAK

10:45am – 12.00pm

Best Practices in Oral Advocacy: Opening and Closing Statements, Cross-Examination

This session will address best practices in cross examination statements and include participant discussion and hands-on workshops. Instructors will reflect also on the performances of students in the previous group session.

To the extent time did not permit, those students who have not yet undertaken their advocacy will do so during this session.

***Instructor(s):* Christian Leathley; John Fellas, Wendy Miles KC, Charles Kotuby & TBD**

ASSIGNED READING

John Fellas, *Cross-Examination in International Arbitration*, NYLJ (2015); John Fellas, *Preparing Witness Statements in International Arbitration*, NYLJ (2017).

12:15pm – 1:15pm

A Fireside Chat with TBD

LUNCH

2:30pm – 5:00pm

Practical Advocacy Workshop Session

This will involve a practical exercise whereby students will have an opportunity to practice their own advocacy by asking questions in the form of a direct examination and cross examination. This will build on the previous day's fact pattern.

***Instructor(s):* Christian Leathley; John Fellas, Wendy Miles KC, Charles Kotuby & TBD**