



*The American Bar Association
Section of Dispute Resolution Presents*

The Second Annual

Arbitration Training Institute

A Comprehensive Training in Commercial Arbitration

Cooperating Organizations:
College of Commercial Arbitrators
JAMS
National Arbitration Forum
ABA Section of Litigation
CIDRA (invited)

May 18-21, 2005

Chicago, IL

**John Marshall School of Law
315 South Plymouth Court**

Reduced Hotel Rate Available
The Renaissance Chicago Hotel
One West Wacker Drive
Chicago, IL 60601
(312) 372-7200

CLE Credits Available

The world of Arbitration keeps changing. Disclosure rules are stricter. More class actions are being arbitrated. Arbitrability issues are being decided by arbitrators. Any person interested in arbitration needs to keep up. Come to this training if you are planning a career move to arbitration. Attend if you are a litigator wanting to better utilize arbitration. Register if you are an experienced arbitrator or advocate wanting to better understand recent issues in arbitration. This training will feature the top arbitration academics, advocates and practitioners who will share their insight, experience, best practices and expert advice about:

- **Conducting the Arbitration**
- **Representing Clients at all Phases of Arbitration**
- **Pre Arbitration Agreements and Selecting the Arbitrator**
- **Evidentiary Matters including Discovery**
- **Awards, Remedies, Vacatur and Enforcement**
- **Ethics and Disclosure**
- **Party Arbitrator Practice**
- **Class Actions**

and much more...

Planning Committee

Co-Chairs: Richard Chernick, Los Angeles, CA; Paul Dubow, Danville, CA
Mary Bedkian, East Lansing, MI; Lee Jay Berman, Los Angeles, CA;

Ruth V. Glick, Burlingame, CA; June Lehrman, Los Angeles, CA;
John Phillips, Kansas City, MO; Dennis Sharp, Washington, DC; Stephen Yusem, Philadelphia, PA

ABA
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ARBITRATION TRAINING INSTITUTE

Tuesday, May 17

6:30 p.m. – 8:00 p.m.

Welcome Reception

The Renaissance Chicago Hotel, the Rhine Room, 3rd floor

Wednesday, May 18

Commencing the Arbitration Through the First Preliminary Conference

9:00 a.m. – 9:30 a.m.

Welcome and Introduction *Richard Chernick, Los Angeles, CA*

9:30 a.m. – 10:15 a.m.

A1: Overview of Sources of Arbitral Authority *Dennis Sharp, Washington, DC; Mary Bedikian, East Lansing, MI*
Federal and state arbitration statutes; Pre-dispute arbitration clause; Post-dispute stipulation to arbitrate; Post-dispute stipulations; Post dispute submissions.

10:30 a.m. – 11:30 a.m.

A2: Role of Administrative Agencies *Mary Bedikian, East Lansing, MI*

Description of general function and agency limitations; Common applicable rules (AAA, JAMS, NAF, NASD); Important rule distinctions concerning jurisdictions, appointment, challenges to appointment, discovery, disclosure, conducting the hearing, writing and releasing the award, and post award proceedings.

11:30 a.m. – 12 noon

A3: The Role of the Arbitrator: "Reflections of an Experienced Commercial Arbitrator"

Leo G. Stern, Minneapolis, MN

In this section, Mr. Stern will offer his reflections on how to best effectuate the various roles that arbitrators assume when they agree to arbitrate and the importance of informed, deliberate decision-making.

12 noon – 1:15 p.m.

Lunch: Ethics and the Commercial Arbitration Process

Eugene Farber, White Plains, NY; Richard Chernick, Los Angeles, CA

1:15 p.m. – 3:00 p.m.

A4: The Disclosure Requirement *Mary Bedikian, East Lansing, MI; Dennis Sharp, Washington, DC*

Participants will break into groups to discuss the following aspects of the disclosure requirement: Definition and scope of disclosure; Continuing obligations of the duty to disclose; Post-award considerations.

3:15 p.m. – 4:00 p.m.

A5: Preparing for the Pre-Hearing: A Checklist of Considerations *Leo G. Stern, Minneapolis, MN*

Mr. Stern will review all aspects of the pre-hearing checklist and offer his recommendations on how to streamline the process. This will include: Reviewing the agreement to arbitrate; Arbitrability issues; Provisional/interim relief issues— Consolidation/joinder of necessary parties; Consideration of mediation; Statement of Claim, Defenses and Counterclaim; Information; Exchange; Third party discovery; Exhibits; Witnesses; Bifurcation of hearing/issues; Necessity of pre-hearing briefs; Special evidentiary hearing considerations (interpreter, transcript of proceeding, ADA accommodations); Award requirements; Retention of jurisdiction.

4:00 p.m. – 5:00 p.m.

A6: Conducting the Pre-Hearing Conference: A Demonstration *Eugene Farber, White Plains, NY*

This will be an interactive session in which Mr. Farber will demonstrate to participants how to conduct an effective pre-hearing conference and the pitfalls to avoid.

Thursday, May 19

From the Preliminary Conference to the Evidentiary Hearing Managing the Process

9:00 a.m. – 10:15 a.m.

B1: Preliminary Issues and Motions *Ruth V. Glick, Burlingame, CA; John R. Phillips, Kansas City, MO*

Jurisdiction; Identifying claims; Arbitrability; Provisional relief; Bifurcation and Severance; Joinder and Consolidation; Class actions.

10:30 a.m. – 11:45 a.m.

B2: Discovery Issues

John R. Phillips, Kansas City, MO; Elaine S. McChesney, Chicago, IL and James Stone, Denver, CO

Status conference; Defining the scope; Structuring exchanges (documents and electronic discovery); Confidentiality (protective orders, stipulations, and privileges); Third party discovery; Objections and motions to compel.

12 noon – 1:15 p.m.

Lunch: Role of Arbitration in the Resolution of Mass Claims

Ruth V. Glick, Burlingame, CA., moderator; Linda Friedman, Chicago, IL; Michael Fortunato, Paoli, PA

1:30 p.m. – 3:15 p.m.

B3: When the Going Gets Tough...Pre-hearing Management

John R. Phillips, Kansas City, MO; Stephen Hayford, Bloomington, IN

Summary judgment and other dispositive motions; Requests to amend proceedings; New and continuing discovery disputes; Practice Tips- Application.

3:30 p.m. – 5:15 p.m.

B4: Ready, Get Set, Go- Preparing for the Hearing

Ruth V. Glick, Burlingame, CA. moderator; Stuart Widman, Chicago, IL and Hon. Kathleen A. Roberts, New York, NY

Motions in limine; Pre hearing exchanges; Request to postpone; Time management (hearing time, experts); Preparing briefs.

ARBITRATION TRAINING INSTITUTE

Friday, May 20

The Arbitration Hearing: Best Management Practices

- 9:00 a.m. – 10:30 a.m. **C1: Managing the Parties** *William Jentes, Chicago, IL; Stuart Widman, Chicago, IL*
Scheduling and logistics; Absent parties; Pro se parties; New conflict disclosures; Sanctions.
- 10:45 a.m. – 11:15 a.m. **C2: Managing the Lawyers** *William Jentes, Chicago, IL; Stuart Widman, Chicago, IL*
Attitude adjustments; Misbehavior; Non-compliance; Amendments; Continuances.
- 11:15 a.m. – 12:15 p.m. **C3: Managing the Hearing Process** *William Jentes, Chicago, IL; Stuart Widman, Chicago, IL*
Requests for mediation or settlement conference; Parallel proceedings; Subpoenas; Bifurcating issues, e.g., liability/damages, punitive damages, fees and costs; Addressing motions, whether dispositive or otherwise, e.g., summary judgment; Rendering interim decisions.
- 12:15 p.m. – 1:30 p.m. **Lunch: Class Actions** *Robert Davidson, New York, NY*
- 1:30 p.m. – 2:30 p.m. **C4: Managing the Hearing Process II** *Stephen Yusem, Philadelphia, PA*
Additional ethics considerations.
- 2:45 p.m. – 3:45 p.m. **C5: Managing the Evidence** *Stephen Yusem, Philadelphia, PA; Louise LaMothe, Santa Barbara, CA*
Flexibility in determining the order of proof; Effect of the rules of evidence; Receiving testimonial evidence from lay and expert witnesses, whether in person, by affidavit, by other written document or by teleconference; Receiving and managing documentary evidence; Exhibits.
- 4:00 p.m. – 5:00 p.m. **C6: Managing the Evidence II** *Louise LaMothe, Santa Barbara, CA; Stephen Yusem, Philadelphia, PA*
Direct and cross examination; Surprise evidence; Cumulative evidence; Privilege; Site inspections; Allocating fees and costs; Closing briefs; Closing the hearing.

Saturday, May 21

The Award and Post Award Activities

- 9:00 a.m. – 10:15 a.m. **D1: An Approach to Award Writing** *Stephen Hayford, Bloomington, IN*
- 10:30 a.m. – 11:00 a.m. **D2: Award Essentials and Formats** *Richard Chernick, Los Angeles, CA; June Lehrman, Los Angeles, CA*
Award essentials; "Bare" awards; Reasoned awards; Findings of fact/conclusions of law; Instructions on and lead into award-writing practicum.
- 11:00 a.m. – 12:15 p.m. **D3: Award Writing Practicum**
Group exercise focusing on the deliberation and award writing process.
- 12:15 p.m. – 1:30 p.m. **Lunch: Developing a Personal Career Plan**
Lee Jay Berman, Los Angeles, CA; Roger Haydock, Minneapolis, MN; Peter V. Baugher, Chicago, IL; Michael A. Williams, Denver, CO
- 1:45 p.m. – 2:15 p.m. **Debrief Award Writing Practicum**
- 2:15 p.m. – 3:00 p.m. **D4: Remedies** *June Lehrman, Los Angeles, CA*
Authority to craft remedies; Injunctions; Punitive damages; Attorney's fees and costs; Sanctions.
- 3:15 p.m. – 4:00 p.m. **D5: Interim Awards and Partial Final Awards** *Richard Chernick, Los Angeles, CA*
Bifurcation of liability and damages; Bifurcation of costs and attorney fees; Partial final awards; Dealing with multiple parties and cross complaints; Dismissals and summary judgment.
- 4:00p.m. – 5:00 p.m. **D6: Post Award Process** *June Lehrman, Los Angeles, CA*
Correcting the award (by the arbitrator); Judicial review of the award; Appellate arbitral review; Collateral estoppel and res judicata.

CLE Credits: 23.75 hours of MCLE credit have been requested in 60-minute states.
28.5 hours of MCLE credit have been requested in 50-minute states.

Accommodations: The Section of Dispute Resolution encourages participants in the Arbitration Training Institute to book their overnight accommodations at the **Renaissance Chicago Hotel**, One West Wacker Drive, Chicago, IL 60601. **Please note: There is a huge citywide convention in Chicago during the week of this training. Hotel space is very limited!** Make your hotel reservations early by calling (312) 372-7200 and referencing the Arbitration Institute II. The block of rooms with discounted rate of \$229 Single/Double will be held until Tuesday, April 19, 2005, after that date the Renaissance Chicago is not obligated to honor the discounted rate. The ABA makes every effort to secure the best possible rates for overnight accommodations and saves money if the number of attendees staying at the hotel meets a negotiated minimum, so please consider that when making your accommodation decisions.

REGISTRATION: Arbitration Training Institute II
May 18-22, 2005, John Marshall School of Law, Chicago, IL

Name: _____

Address: _____

City/State/Zip: _____

Email address: _____

Special needs: _____

Price: \$1,150 (including all lunches and reception)
\$ 950 (for ABA Section of Dispute Resolution members and members of sponsoring organizations)

Registration Fee Enclosed: \$ _____ (Advanced Registration Deadline — April 29, 2005.)

REFUNDS: Requests must be received in writing by 4/15 and will be processed, less an administrative fee of \$50, by the end of June.

Please make check payable to "The American Bar Association" and return to: ABA Section of Dispute Resolution, 740 15th St. NW, Washington DC 20005.

Or pay with Credit Card: M/C,VISA, AE: _____ Exp.: _____

Signature: _____ Phone: _____

and Fax to: 202-662-1683. Call 202-662-1680 for more information. E-mail: dispute@abanet.org

Please visit the DR Section Web Site for updates and current information: www.abanet.org/dispute



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