



ABA Section of  
**Dispute Resolution**

4th Annual

# ARBITRATION TRAINING INSTITUTE

A COMPREHENSIVE TRAINING IN COMMERCIAL ARBITRATION

FEBRUARY 18-21, 2009 | HOTEL NIKKO | SAN FRANCISCO, CA



## WHO SHOULD ATTEND?

Attend this training if you are planning a career move to arbitration

Attend this training if you are an experienced arbitrator or advocate wanting to better understand recent issues in arbitration and improve your skills

Attend if you are a litigator wanting to better utilize arbitration and gain insights about how arbitrators approach their task

## WHY SHOULD I ATTEND?

Learn from top arbitration academics, advocates and practitioners who will share their experience, insight, expert advice and best practice tips

Network with seasoned practitioners about the finer points of arbitration

Stay current with the ever changing world of arbitration

## WHAT PAST PARTICIPANTS SAID . . .

“The Arbitration Training Institute was outstanding! The training provided me with the practical and substantive knowledge to move my arbitration practice forward.”

“Best course of this nature I’ve attended. Great balance of theory and practice.”

“Enjoyed camaraderie with other attendees, I would highly recommend this program to other ADR professionals.”

## PLANNING COMMITTEE

Richard Chernick, Los Angeles, CA

Paul Dubow, San Francisco, CA

June Lehrman, Los Angeles, CA

John R. Phillips, Kansas City, MO

## PROGRAM FACULTY

Laverne Y. Berry, Brooklyn, NY

Christine W.S. Byrd, Los Angeles, CA

Zela G. Claiborne, San Francisco, CA

Eugene I. Farber, White Plains, NY

William B. Fitzgerald, Los Angeles, CA

John Horn, Sherman Oaks, CA

Dwight James, San Francisco, CA

Louise A. LaMothe, Santa Barbara, CA

James R. Madison, Menlo Park, CA

Steven L. Smith, San Francisco, CA

## SPONSORS

JAMS

College of Commercial Arbitrators



## WEDNESDAY, FEBRUARY 18

### WELCOME RECEPTION

5:30 p.m. – 7:00 p.m.

Hotel Nikko  
San Francisco, CA

Sponsored by JAMS

## THURSDAY, FEBRUARY 19

### DAY ONE

### COMMENCING THE ARBITRATION THROUGH THE FIRST PRELIMINARY CONFERENCE

8:00 a.m. – 9:00 a.m.

#### Registration and Continental Breakfast

9:00 a.m. – 9:30 a.m.

#### Welcome and Introduction

Richard Chernick, Los Angeles, CA

9:30 a.m. – 10:30 a.m.

#### A1: Overview of Sources of Arbitral Authority; Administered Programs

Richard Chernick, Los Angeles, CA

Federal Arbitration Act of 1925; State arbitration statutes, including the Revised Uniform Arbitration Act; Pre-dispute arbitration clauses; Post-dispute stipulation to arbitrate (submission agreements); Institutional v. non-administered arbitration; Description of general function and limitations of arbitral providers; Common applicable rules – AAA, JAMS, CPR (non-administered) NAF, FINRA

10:30 a.m. – 10:45 a.m.

#### Break

10:45 a.m. – 12:00 noon

#### A2: The Role of the Arbitrator and the Disclosure Requirement

Laverne Berry, Brooklyn, NY  
Paul Dubow, San Francisco, CA

How to best effectuate the various roles arbitrators assume; The importance of informed, deliberate decision-making; Nature of the disclosure statement; The Commonwealth Coatings Standard; Duty to investigate disclosure issues; Continuing obligation of the duty to disclose; Arbitrator selection; Party arbitrator practice

12:00 noon – 1:15 p.m.

#### Luncheon: Classwide Arbitration

June Lehrman, Los Angeles, CA  
James Madison, Menlo Park, CA

1:30 p.m. – 3:00 p.m.

#### A3: Preparing for and Conducting the Pre-Hearing Conference

Zela G. Claiborne, San Francisco, CA

Jurisdiction and arbitrability; Reviewing arbitration agreements/pleadings; Early issues (identifying claims/consolidation/mediation); Initial pre-arbitration information exchange (discovery, exhibits, witnesses, briefs); Hearing (date, location, special needs); Award (forum, written opinion, retention of jurisdiction); Demonstration of an effective pre-hearing conference; Pitfalls to avoid

3:00 p.m. – 3:15 p.m.

#### Break

3:15 p.m. – 4:30 p.m.

#### A4: Preliminary Issues and Motions

Richard Chernick, Los Angeles, CA  
Zela G. Claiborne, San Francisco, CA

Request to amend/add parties;  
Provisional relief; Motions to continue;  
Bifurcation; Consolidation

## FRIDAY, FEBRUARY 20

### DAY TWO

### MANAGING THE HEARING

8:00 a.m. – 8:45 a.m.

#### Registration and Continental Breakfast

8:45 a.m. – 10:15 a.m.

#### B1: Managing the Discovery Process

John R. Phillips, Kansas City, MO

Applicable rules regarding discovery; Expert discovery; Electronic discovery; Third party discovery; Confidentiality; Objections and motions to compel Sanctions

10:15 a.m. – 10:30 a.m.

#### Break

10:30 a.m. – 12:00 noon

#### B2: Managing the Parties and Their Lawyers

Christine W.S. Byrd, Los Angeles, CA

Absent parties – absent claimant, absent respondent, represented and unrepresented, at first session or later session; Pro se parties; Discharging or retaining counsel during hearing; Requests to postpone hearing; Attitude adjustment – orienting counsel to the dispute resolution process and mindset; Misbehavior of counsel or parties; Sanctions and enforceability; Non-compliance with arbitrator's rulings and orders; Sanctions; Scheduling and logistics; Dispositive Motions

12:00 noon – 1:30 p.m.

#### Luncheon Keynote: Steven L. Smith

San Francisco, CA  
O'Melveny & Myers LLP  
International Arbitration Practice



1:45 p.m. – 3:15 p.m.

**B3: Preparing for Hearing**

William B. Fitzgerald, Los Angeles, CA  
Chairing with neutral or non-neutral wing arbitrators; Request for mediation or settlement conference as impairing neutrality; Parallel proceedings in other arbitrations or court proceedings; Hearing subpoenas – issuance and enforceability in and outside the hearing jurisdiction; Pre-hearing exchange of witness exhibits and brief (if any)

Time management/allocation; Scheduling and logistics – coordinating calendars, room layout, etc.; Motions in limine; Pre-hearing briefs

3:15 p.m. – 3:30 p.m.

**Break**

3:30 p.m. – 5:00 p.m.

**B4: Conducting the Hearing and Managing the Evidence**

Louise A. LaMothe, Santa Barbara, CA  
Determining order of proof in advance; Opening statements; Exhibits; Testimony – lay, expert, affidavit, video, teleconference, sequestration; Direct and cross examination;

Surprise evidence and cumulative evidence; New conflict disclosures during hearing Eg.; Arbitrator discusses a professional or social connection with witness or others; Site visits;

Briefs and/or closing arguments; Closing the record

5:00 p.m. – 5:30 p.m.

**Additional Questions & Answers**

**SATURDAY, FEBRUARY 21**

**DAY THREE**

**THE AWARD AND POST-AWARD ACTIVITIES**

8:00 a.m. – 9:00 a.m.

**Registration and Continental Breakfast**

9:00 a.m. – 10:00 a.m.

**C1: An Approach to Award Writing**

June Lehrman, Los Angeles, CA  
Eugene Farber, White Plains, NY  
Building the Theory of the Case; Background and Facts; The Issues; Relevant Contract Provisions and Applicable Law; Positions of the Claimant and Respondent; Analysis (Discussion); The award

10:00 a.m. – 10:40 a.m.

**C2: Award Essentials and Formats**

Eugene Farber, White Plains, NY  
Planning for the Award; Required Elements; “Bare” Awards; Reasoned Awards; Findings of Fact/ Conclusions of Law; Baseball, Hi-lo Formats; Tripartite Processes and Deliberation

10:40 a.m. – 10:55 a.m.

**Break**

10:55 a.m. – 12:15 p.m.

**C3: 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**

John Horn, Sherman Oaks, CA  
Dwight James, San Francisco, CA

1:30 p.m. – 2:15 p.m.

**Debrief Award Writing Practicum**

2:15 p.m. – 2:50 p.m.

**C4: Interim Awards and Partial Final Awards**

Richard Chernick, Los Angeles, CA  
Bifurcation of liability/damages; Bifurcation of costs/attorney’s fees; Bifurcation of remedial processes; Provisional relief; Partial final awards (use in class wide arbitrations); Dismissals; Summary disposition and other less-than-final determinations.

2:50 p.m. – 3:05 p.m.

**Break**

3:05 p.m. – 3:45 p.m.

**C5: Remedies**

Richard Chernick, Los Angeles, CA  
Authority to craft remedies; Injunctions; other equitable remedies; Punitive damages; Attorneys’ fees and costs; Sanctions.

3:45 p.m. – 4:15 p.m.

**C6: Post Award Process**

June Lehrman, Los Angeles, CA  
Correcting the award (by the arbitrator); Judicial review: Confirming/vacating the award; Appellate arbitral review; Collateral Estoppel and Res Judicata.

4:15 p.m.

**C7: Additional Questions & Answers**

**ACCOMMODATIONS**

The Section of Dispute Resolution has secured a limited number of discounted lodging rooms for participants in the Arbitration Training Institute at:

**Hotel Nikko San Francisco**

222 Mason Street

San Francisco, CA 94102

**Room Rate: \$219.00 per night**

**Please Note: Hotel Space is limited!** Make your reservations early by calling 1-800-248-3308 and referencing the Fourth Annual Arbitration Program. The block of discounted rooms will be held until 5:00 pm CST on January 19, 2009.

# REGISTRATION FORM

**ARBITRATION TRAINING INSTITUTE | 4th Annual** | February 18-21, 2009, Hotel Nikko, San Francisco, CA

Register by Mail: **ABA Section of Dispute Resolution, 740 15th St. NW, Washington D.C., 20005** Fax: **202-662-1683** Phone: **202-662-1680**

Full Name		First Name for Badge	
Firm/Organization	Title		
Address			
City	State (Province)		Zip
Phone #	Fax #	E-mail	
Special Needs:			

## Registration Fee (All registrations after the 2/6/09 deadline must register on site at the conference.)

General Registration (including all lunches and reception)	\$1,250	\$
ABA Dispute Resolution Section Members	\$1,050	\$
	<b>Total Amount:</b>	<b>\$</b>

## Payment Information

By Check (enclosed). Check # \_\_\_\_\_ Payable to "The American Bar Association" and return to: ABA Section of Dispute Resolution, 740 15th St. NW, Washington DC 20005

By Credit Card     VISA     MasterCard     American Express

Card Number	Expiration Date	
Cardholder's Name	Signature	Billing Phone

**CANCELLATION POLICY:** Cancellations must be made in writing and received by February 6, 2009 for a total refund less a \$50 processing fee. No refund will be made after that date except in the written case of a medical emergency or extenuating circumstances approved by the Section.

### Registration Submission Options:

Fax: 202-662-1683 | Web: [abanet.org/dispute](http://abanet.org/dispute) | Mail: See above.

### For more information:

Visit the Dispute Resolution Section Web Site for updates and current information: [www.abanet.org/dispute](http://www.abanet.org/dispute).



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740 15th Street N.W.  
Washington, D.C. 20005



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