

**POSTPONED UNTIL 2017**

ADRIC Full-day Workshop, October 15, 2016, Toronto  
- in conjunction with ADRIC 2016: Annual National Conference.

# Getting the Most Out of Arbitration

## A Canadian Commercial Arbitration Workshop

### Chaired by William G. Horton C.Arb, FCI Arb

Canadian businesses are turning to arbitration with increasing frequency as a way to resolve business disputes within time frames and budgets that make business sense. All types of business disputes are being resolved in this manner and, increasingly, arbitration is seen as a way to provide customized solutions for particular types of disputes.

Commercial arbitration in Canada has many unique features that are often overlooked in programs that focus more heavily on international arbitration and arbitration institutions. The predominantly *ad hoc* nature of Canadian arbitration creates many opportunities for flexible and creative approaches to arbitration procedure. However, lawyers and arbitrators must be familiar with the available choices, trade offs and limitations in order to meet the expectation that arbitration will in fact provide more efficient and cost effective processes.

This program will focus on key elements of the commercial arbitration process in which participants will hear from and interact with leading practitioners to develop an enhanced understanding of how commercial arbitration is being practised in Canada today, and how it may be improved.



**William G. Horton** has arbitrated over 100 substantial commercial disputes and is ranked among the most highly recommended arbitrators in international and Canadian surveys. He has written and lectured extensively on arbitration and many of his publications are available on his website: [wgharb.com](http://wgharb.com)

#### Learn from an outstanding faculty:



Edward J. Babin,  
LL.M,  
Babin Bessner Spry  
LLP



J. Brian Casey,  
FCI Arb,  
Bay Street  
Chambers



Mary Comeau,  
LL.B, Norton Rose  
Fulbright Canada  
LLP



Bryan C. Duguid,  
Q.C., FCI Arb, Jensen  
Shawa Solomon  
Duguid Hawkes LLP



Gerald Ghikas,  
Q.C., C.Arb,  
Ghikas Arbitration



David  
McCutcheon,  
LL.B., C.Arb,  
Dentons Canada LLP

Participants will be encouraged to send in questions before the program and to present those or other questions during the program. Each module will begin with a 10 to 20 minute presentation in total by one or more speakers, followed by an open discussion format guided by the topic outline.

**Who Should Attend:** An ideal workshop for  
Corporate Counsel, Retired Judges and  
Others Interested in the Process.

**CPD ACCREDITATIONS PENDING FROM  
CANADIAN LAW SOCIETIES.  
EARN UP TO 12 ADRIC CEE POINTS.**

For more information and to register: [adric.ca/adric2016](http://adric.ca/adric2016)

# Getting the Most Out of Arbitration

## A Canadian Commercial Arbitration Workshop

Program:

8:00am Breakfast & Registration

9:00am **First Module:**

### The Decision to Arbitrate and the Arbitration Clause

- The idea of arbitration. How does it differ from court litigation?
- Why arbitrate? Why not?
- Dispute resolution problems to which arbitration may be the solution
- Pre-Dispute Agreements and Post Dispute Agreements? How they differ
- Building blocks of an arbitration agreement or clause:
  - Scope
  - Commitment
  - Reference to other ADR processes (step clauses)
  - Law and Place
  - *Ad hoc* vs institutional arbitration
  - International vs non-international arbitration (aka “domestic”)
  - The advisability (or not) for pre-agreed procedural rules
  - Choices regarding appeals (discussed more fully in fourth module)
  - Tribunal characteristics and selection (discussed more fully in next module)

10:30am Refreshment Break

11:00am **Second Module:**

### Tribunal Selection and Formation

- The critical importance of the tribunal appointment process
- One or three arbitrators
- *Ad hoc* appointment options
- Institutional appointment options
- Qualifications specified by the agreement
- Qualifications specified by law
- Dysfunctions and pathologies
- Financial arrangements with *ad hoc* tribunals
- Communications with the tribunal
- Decision making dynamics within the tribunal
- Performance standards

12:30pm Buffet Lunch

1:30pm **Third Module:**

### Arbitration Procedure

- Why following the *Rules of Civil Procedure* is almost always a mistake
- Common features of most “true” arbitration processes
- The key role of the tribunal with respect to setting and enforcing the rules
- The importance of the first procedural meeting
- Schedule and timeframe
- “Evidence first” arbitration
- “Documents only” arbitration
- Information and document requests
- Other forms of discovery
- Motion practice
- Hearing efficiencies and rules

3:00pm Refreshment Break

3:30pm **Fourth Module:**

### The Award and Recourse Against It

- Requirements of an award
  - Contractually based requirements
  - Requirements based on law
  - Institutional requirements
- Correcting awards
- Appeals
  - Where there is no contractual provision relating to appeals
  - Contractual expansion and limitation of right to appeal
  - Dysfunctional choices in arbitration clauses
  - Dysfunctional outcomes on appeal
  - Comparing the objectives of arbitration to the benefits of appeals
  - Appeals within the arbitration process
- Setting aside awards
  - Grounds relating to the parties
  - Grounds relating to the agreement to arbitrate
  - Grounds relating to the award
  - Grounds relating to the tribunal
  - Grounds relating to the process

5:00pm Workshop ends

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