**COMMERCIAL ARBITRATION OF BUSINESS DISPUTES**

[**Fordham University School of Law**](http://www.fordham.edu/law)

**Spring 2018 Course Syllabus**

***Updated January 3, 2018***

Prof. [George H. Friedman](http://www.fordham.edu/info/23644/e_-_f/7813/george_h_friedman), Esq.

This course is offered to students interested in acquiring knowledge of arbitration as it relates to business disputes. We will also cover the impact of the expected Supreme Court decision in [*Epic Systems Corp. v. Lewis*](http://www.scotusblog.com/case-files/cases/epic-systems-corp-v-lewis/)*,* 137 S.Ct. 809 (2017), the first case of the Court's new Term argued October 2nd*.* Students registering for this course do not need any prerequisites except those already established by the [law school](http://www.fordham.edu/law) as to the manner and selection of elective course offerings. A general background in contract law and civil procedure is helpful.

Learning Outcomes:

* Acquire in-depth knowledge of arbitration as it relates to domestic and international business disputes.
* Master the key statutes, cases, and regulations impacting arbitration.
* Gain perspective on the emerging legislative and regulatory challenges to mandatory predispute arbitration clauses in consumer and employment contracts.
* Examine how the Trump administration has already impacted arbitration law and policies.
* Become familiar with the basics of other alternative dispute resolution methods, such as mediation, mini-trial, court-annexed arbitration and negotiation.
* Identify, analyze, and apply acquired knowledge through in-class group exercises.

Class Policies: In lieu of a final examination, students will submit a [paper](#Paperinstructions) on a pre-approved ADR topic. A sample list is attached to this syllabus. Attendance and participation is expected, but not graded. However, students can improve their paper by one-half a grade through class participation. Professor Friedman will submit the best paper(s) to the Dispute Resolution Journal for possible publication. A former student’s paper is assigned for class # 6. Students will receive a free online subscription to the weekly [*Securities Arbitration Alert*](http://sacarbitration.com/framecomm.htm) for the semester.

Classes meet **THURSDAY** afternoonsfrom **4:00 p.m. to 5:50 p.m.,** in Room **3-08**, unless otherwise noted.

Prof. Friedman can be contacted as follows:

E-Mail: [ProfGFriedman@gmail.com](mailto:ProfGFriedman@gmail.com) or [gfriedman@fordham.edu](mailto:gfriedman@fordham.edu)

Phone: 917-841-0521

Twitter: @GFriedmanADR; LinkedIn: [www.linkedin.com/pub/george-friedman/63/866/33b/](http://www.linkedin.com/pub/george-friedman/63/866/33b/" \o "View public profile)

Assigned Text: Matthew H. Adler, *Arbitration: Cases, Problems, and Practice* (Carolina Academic Press 2017). The text is available as an e-book at <https://redshelf.com/> (eISBN 9781611639834) or in hard copy at the law school book store. Pagination is the same in each version. **Note:** for all assignments from the text, you should ***skip*** the questions unless otherwise assigned.

Recommended: Websites of the American Arbitration Association, [http://www.adr.org](http://www.adr.org/), Arbitration Resolution Services, Inc., [www.arbresolutions.com](http://www.arbresolutions.com), and the Financial Industry Regulatory Authority (FINRA), <http://www.finra.org> (click on [“Arbitration & Mediation”](http://www.finra.org/ArbitrationAndMediation/)), which all contain a wealth of information about ADR. Also, the ABA Dispute Resolution Section has an excellent [resources page](https://www.americanbar.org/groups/dispute_resolution/policy_standards.html), and those interested in international ADR should check out Global Arbitration News, <https://globalarbitrationnews.com/>.

There are also many good (and free) ADR mobile apps: AAA, JAMS, and the Federal Arbitration Act. Also, Covington has an excellent app, *The Arbitration Handbook,* compiling arbitration rules, treaties, national laws and guidelines used in international arbitration.

The following ADR blogs are very good: [Arbitration Nation](http://arbitrationnation.com/), [Center for Public Resources](http://blog.cpradr.org/), [NY State Bar Ass’n Resolution Roundtable](http://nysbar.com/blogs/ResolutionRoundtable/), [Indisputably (ADR Law Profs](http://www.indisputably.org/)), [Securities Arbitration Commentator](http://www.sacarbitration.com/blog) and [JAMS](http://jamsadrblog.com/). The Lexology Navigator (<https://www.lexology.com/navigator/>) is a terrific research tool.

Aldo provided: There is a class website: <http://www.gfriedmanadr.com/fordham/>. The class website contains the class syllabus and links to most of the cases, articles and authorities covered in the course. The site also contains links to websites of interest, and printable forms. Professor Friedman also has an ADR blog at [Arbitration Resolution Services, Inc](https://www.arbresolutions.com/author/georgefriedman/)., and at the [Securities Arbitration Commentator](http://www.sacarbitration.com/blog/author/george-friedman/). Scholarly works are on his SSRN Author page: <http://ssrn.com/author=2492175>. He also has a business website: [www.gfriedmanadr.com](http://www.gfriedmanadr.com).

**COURSE SCHEDULE AND SYLLABUS**

***Please print out and take to class any group exercise in this syllabus***

**Class 1 [1/18/2018]: Introduction, Overview,** **and the Trump Administration**

Assignment: Read Matthew H. Adler, *Arbitration: Cases, Problems, and Practice* [hereinafter "Adler"] Chapter 1, “Why Study Arbitration?” [pp. 3 - 6]. Review and print the “[ADR Continuum](http://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546b87afe4b0ec4522ffc889/1416333231795/ADR+continuum.pdf)” and read P. Refo, [*The Vanishing Trial*](http://www.abanet.org/litigation/journal/opening_statements/04winter_openingstatement.pdf)*,* 30:2Litigation 2 (Winter 2004).

Also, see my blog posts:

* [*Trump in Charge – What Does It Mean for Arbitration?*](https://www.arbresolutions.com/trump-on-arbitration/) (January 20, 2017)
* [*The “First Hundred Days” of the Trump Administration are in the Books: Much Ado in the Arbitration and the Financial Worlds*](http://www.sacarbitration.com/blog/first-hundred-days-trump-administration-books/)(May 5, 2017)
* [*Supreme Court Nominee Gorsuch Seems to be Pro-Arbitration*](https://www.arbresolutions.com/supreme-court-nominee-gorsuch-seems-pro-arbitration) (Feb. 8, 2017)
* [*A Final Report Card on My 2017 Arbitration Predictions: “Pretty, Pretty, Pretty, Pretty Good!”*](https://www.arbresolutions.com/12522-2/)(Dec. 20, 2017)

Optional: There is a wealth of statistics kept by the U.S. Department of Justice Bureau of Justice Statistics at <http://www.bjs.gov/>. Also, the Law School has a webpage, “[Transition to Trump](https://news.law.fordham.edu/transition-to-trump/),” containing all things Trump impacting legal and regulatory issues.

**Class 2 [1/25/2018]: Negotiation – Overview of the Process**

Assignment: Review the “[ADR Continuum](http://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546b87afe4b0ec4522ffc889/1416333231795/ADR+continuum.pdf)” and print it. Read D. Hoffman, [*A Primer on Successful Negotiation*](http://www.blcadmin.kattare.com/blc/205-BLC/version/default/part/AttachmentData/data/2005-07-negotiation-primer.pdf?branch=main&language=default) (2007)

We will also do a group problem-solving [exercise](https://static1.squarespace.com/static/53272e28e4b055350d946bcb/t/59f9c5236c3194e9a68f5140/1509541156478/NASA+Exercise+%28NO+Ans%29.pdf) on negotiation.

**Class 3 [2/1/2018]: Mediation – Overview of the Process**

Assignment: Read: Adler, Chapter 1, “Arbitration Versus Mediation” [pp. 15 – 20]. [*Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association, (October 1, 2013)*](https://www.adr.org/sites/default/files/commercial_rules.pdf). **Read only the Mediation Procedures, rules M1– M17.**

Also, read:

* G. Friedman, [*How Do You Explain Mediation? Practical tips on how to approach the mediation process*](http://www.callawyer.com/2015/12/how-do-you-explain-mediation/), California Lawyer (Dec. 2015)
* J. Krivis, [*The Five Stages of Mediation*](http://www.mediate.com/articles/krivis.cfm#.)(Dec. 1999)
* G. Friedman, [*Mediation No Longer the Rodney Dangerfield of Dispute Resolution?*](http://www.sacarbitration.com/blog/mediation-no-longer-rodney-dangerfield-dispute-resolution/) (Mar. 29, 2016)
* Ellis, [*Good Faith, Bad Faith, No Faith: Will a Subjective Good Faith Standard Influence How Litigants Approach Mediation?*](https://www.lexology.com/library/detail.aspx?g=8712baad-b0e5-47a4-bb1b-ab49bf2bf1a9)Lexology (Nov. 16, 2017)

We will view the brief mediation part of the FINRA video, "[What Investors Can Expect from the FINRA Dispute Resolution Process](http://www.finra.org/ArbitrationAndMediation/FINRADisputeResolution/OverviewofArbitrationMediation/WhattoExpect/),” and the video, "Hearing Procedures in a Construction Mediation." Please review the [guide to the video](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2907e4b0c3b5cc211998/1416505607385/mediation+video+diagram.pdf).

We will also do a group problem-solving [exercise](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e28d2e4b003fc6e321421/1416505554367/mediation_benefits_exercise.pdf) on mediation benefits and drawbacks.

**\*\*\* Selection of Term Paper Topic Due \*\*\***

**Class 4 [2/8/2018]: Arbitration I - Overview**

Assignment: Read: J. Berkelhammer, [*Arbitration: A Comparison of the Pros and Cons*](http://www.lexology.com/library/detail.aspx?g=36fbe82c-37ea-4abf-8218-7f2b28531479)and ABA, [*Benefits of Arbitration for Commercial Disputes*](http://www.americanbar.org/content/dam/aba/events/dispute_resolution/committees/arbitration/arbitrationguide.authcheckdam.pdf) *.* Also, [NY Civil Practice Law & Rules, CPLR Art.](http://codes.lp.findlaw.com/nycode/CVP/75)  [[[75](http://caselaw.lp.findlaw.com/nycodes/c16/a55.html)](http://caselaw.lp.findlaw.com/nycodes/c16/a55.html)](http://caselaw.lp.findlaw.com/nycodes/c16/a55.html) , [Federal Arbitration Act ["FAA"] § 1 – 16](http://codes.lp.findlaw.com/uscode/9/1) and [Revised Uniform Arbitration Act](http://www.uniformlaws.org/shared/docs/arbitration/arbitration_final_00.pdf) and [accompanying guide](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2ac1e4b0242597699001/1416506049021/Basics+on+the+Revised+Uniform+Arbitration+Act.pdf).

Read also:

* [*Investor's Guide to Securities Industry Disputes: How to Prevent and Resolve Disputes with Your Broker*](http://law.pace.edu/sites/default/files/John_Jay_Clinics/Investors_Guide_to_Securities_Industry_Disputes.pdf) (edited by Professor Jill Gross and Professor Elissa Germaine)

We will also see the *arbitration* part of the FINRA video, "[What Investors Can Expect from the FINRA Dispute Resolution Process](http://www.finra.org/ArbitrationAndMediation/FINRADisputeResolution/OverviewofArbitrationMediation/WhattoExpect/)” (PDF [study guide](http://www.finra.org/sites/default/files/Education/p117486.pdf)).

For those interested:

* R. Weinstein, C. Edes, J. Hale and N. Pearsall, [*Efficiency and Economic Benefits of Dispute Resolution through Arbitration Compared with U.S. District Court Proceedings*](http://go.adr.org/rs/294-SFS-516/images/Economic%20Impact%20of%20Delay%20Micronomics%20Final%20Report%20%282017-03-07%29.pdf) **(**March 2017)

We will also do a group [problem-solving exercise](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2beee4b02a5aa7576d2b/1416506349998/Arbitration+Benefits+Exercise+%282015%29.pdf) on arbitration benefits and drawbacks.

[[[[**Class 5 [2/15/2018]: Arbitration II - Enforcing the Promise to Arbitrate**](http://www4.law.cornell.edu/uscode/9/ch1.html)](http://www4.law.cornell.edu/uscode/9/ch1.html)](http://caselaw.lp.findlaw.com/nycodes/law16/art55.html)](http://caselaw.lp.findlaw.com/nycodes/law16/art55.html)

Assignment: Adler Chapter 3, “Who Decides Arbitrability?” [pp. 101-43]. Read also [[CPLR §§ 7501 - 3](http://codes.lp.findlaw.com/nycode/CVP/75)](http://codes.findlaw.com/ny/civil-practice-law-and-rules/#!tid=N2E4C20AA456E45E4AD51D3A3D50C295A), [FAA §§ 1 - 4](http://codes.lp.findlaw.com/uscode/9/1), [Revised Uniform Arbitration Act §§ 6 and 7](http://www.uniformlaws.org/Act.aspx?title=Arbitration%20Act%20%282000%29). See [compilation of CPLR sections](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2c2ee4b003fc6e3224ae/1416506414862/The+New+York+Arbitration+Law.pdf) on enforcing arbitration agreements in class website. Also, read and review the [AAA Construction Demand for Arbitration Form](https://www.adr.org/sites/default/files/Commercial%20Demand%20for%20Arbitration.pdf).

Also, read:

* [*Howsam v. DeanWitter*](https://supreme.justia.com/cases/federal/us/537/79/case.html)***,*** 123 U.S. 588 (2002)
* [*The Presidents and Arbitration: from Washington to Trump*](http://www.sacarbitration.com/blog/presidents-arbitration-washington-trump/) (Feb. 16, 2017)

Study aid: see this excellent (and funny) [flow-chart](http://arbitrationnation.com/wp-content/uploads/2015/08/Arbitration-Flow-Chart_FINAL1.pdf) published in *Arbitration Nation*

We will also do a group [problem-solving exercise on enforcing the promise to arbitrate](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e40a6e4b08da8ca3b1f4c/1416511654029/enforcing+promise+exercise+%282015+NO+ANSWERS%29.pdf)

**\*\*\*** [**Paper Outline**](http://static1.squarespace.com/static/53272e28e4b055350d946bcb/t/565c9322e4b08c62b9ed2e81/1448907554988/Sample+Outline.pdfhttp:/www.proffriedman.homestead.com/files/outlineonline.htm) **and List of Resources Due \*\*\***

[[[[**Class 6 [2/22/2018]: Arbitration III - Federal Preemption**](http://www4.law.cornell.edu/uscode/9/ch1.html)](http://www4.law.cornell.edu/uscode/9/ch1.html)](http://caselaw.lp.findlaw.com/nycodes/law16/art55.html)](http://caselaw.lp.findlaw.com/nycodes/law16/art55.html)**; Mandatory Predispute Arbitration Agreements & Class Actions in Consumer Contracts**

Assignment: Adler Chapter 2, “The FAA’s Presumption in Favor of Arbitration” [pp. 60-74] and Chapter 4, “Arbitration and Class Actions” [pp. 161-209]. Read the Supremacy Clause,([US Const., Art. 6, para 2](http://www.law.cornell.edu/constitution/articlevi)); and the Commerce Clause ([US Const., Art. 1, sec. 8, clause 3](http://www.law.cornell.edu/wex/commerce_clause)). Read sections 921, 922 and 1028 -- **only these sections** -- of the [Dodd-Frank Wall Street Reform and Investor Protection Act of 2010](http://docs.house.gov/rules/finserv/111_hr4173_finsrvcr.pdf). This link will give you the entire massive statute. ***Note:*** *it’s entirely possible Dodd-Frank will be repealed and replaced by this time, in which case we will examine the new law and how or if it impacts consumer arbitration.*

N. Aschen, *Tearing Down the Wall Protecting Mandatory Arbitration: A Critical Evaluation of Mandatory Arbitration Clauses in Consumer Contracts*, 71:3 Disp. Res. Journal 55 (Dec. 2016). The author, class of 2017, is my former student (Spring 2016). The paper in PDF will be emailed to the students, with permission of the AAA.

Also, see my short blog posts:

* [*Let’s Not Toss Out the Data-gathering Baby with the CFPB Arbitration Rule Bathwater*](https://www.arbresolutions.com/lets-not-toss-data-gathering-baby-cfpb-arbitration-rule-bathwater/) (Nov. 1, 2017)
* [*“Arb Rule, We Hardly Knew Ye.” CFPB Arbitration Rule Likely to Be No More (And Never Was)*](http://www.sacarbitration.com/blog/arb-rule-hardly-knew-ye-cfpb-arbitration-rule-likely-never-more/)(Oct. 27, 2017)
* [*The Mandatory Consumer Predispute Arbitration Agreement – Reports of its Demise May have been Greatly Exaggerated*](http://www.sacarbitration.com/blog/mandatory-consumer-predispute-arbitration-agreement-reports-demise-may-greatly-exaggerated/) (Apr. 16, 2017).

Read:

* New York [[GBL § 399-c](http://law.justia.com/newyork/codes/general-business/gbs0399-c_399-c.html)](http://codes.findlaw.com/ny/general-business-law/gbs-sect-399-c.html) (2006)

         [*Allied-Bruce Terminix v. Dobson*](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=U10326), 513 U.S. 265, 4079, 115 S.Ct. 834 (1995)

         [*Doctor's Associates v. Casarotto*](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=U10181), 517 U.S. 681, 116 S.Ct. 1653 (1996)

[[[[[Skim the following case:](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/01-800.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/01-800.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/u10326.html)](http://www.nasd.com/stellent/groups/med_arb/documents/mediation_arbitration/nasdw_009553.pdf)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/u10326.html)

        [*Citizens Bank v. Alafabco*](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=02-1295)*,* 539 U.S 52 (2003)

We will also do a group [problem solving exercise on Federal Arbitration Act preemption.](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2cb5e4b08af7083958fc/1416506549599/Preemption+Mad+Libs.pdf)

[[[[**Class 7 [3/1/2018]: Arbitration IV - The Arbitration Hearing**](http://www.law.cornell.edu/ny/ctap/091_0039.htm)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/01-800.html)](http://www.proffriedman.homestead.com/files/arbhealthcare.pdf)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=2nd&navby=case&no=949246)

Assignment: Read [CPLR § 7506,](http://codes.lp.findlaw.com/nycode/CVP/75/7506) [FAA §7](http://codes.lp.findlaw.com/uscode/9/1/7). See also [these study aids.](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2ceae4b0f81008bb73b9/1416506602445/ARB-III_revisions_.pdf)

Also, read:

      [[*Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association, (October 1, 2013*)](https://www.adr.org/sites/default/files/commercial_rules.pdf).](http://www.adr.org/aaa/ShowProperty?nodeId=/UCM/ADRSTG_004103&revision=latestreleased) **Read only the arbitration rules on hearings, rules R-24 – R36.**

Skim:

* [FINRA *Discovery Guide*](http://www.finra.org/web/groups/arbitrationmediation/@arbmed/@arbtors/documents/arbmed/p394527.pdf)

We will again view the “hearing” arbitration part of the FINRA video, "[What Investors Can Expect from the FINRA Dispute Resolution Process](http://www.finra.org/ArbitrationAndMediation/FINRADisputeResolution/OverviewofArbitrationMediation/WhattoExpect/)” and part of an AAA arbitrator training video ([read fact pattern](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2d13e4b0d415b9ad8544/1416506643270/hearing_video_fact_pattern.pdf)).

[[[**[Class 8 [3/8/2018]: Arbitration V - The Arbitration Award](http://www4.law.cornell.edu/uscode/9/7.html)**](http://www.adr.org/index2.1.jsp?JSPssid=15747)](http://www.adr.org/index2.1.jsp?JSPssid=15747)](http://www.adr.org/index2.1.jsp?JSPssid=15747)

Assignment: Adler Chapter 13, “Enforcing and Appealing Arbitration Awards” [pp. 447-511]; Chapter 14, “The Rise, Fall, and Uncertain Life of Manifest Disregard” [pp. 515-26]. ***Note: do not read the cases, except for:***

* *Oxford* [Adler. p. 453]
* *Stolt-Nielsen* [Adler p. 493]
* *Hall Street* [Adler p. 516]

See also [these study aids (click on link)](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2d51e4b0f30e9c653ae5/1416506705392/award+vacatur+grounds.pdf). Please read the AAA Commercial Arbitration Rules [sections on arbitration awards](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e2d7ae4b0dce5377c2622/1416506746793/AAA_Rules_on_Awards__2013_Rules_.pdf). Also, read: [CPLR §§ 7507 -11](http://codes.lp.findlaw.com/nycode/CVP/75), and [FAA §§ 9 -12](http://codes.lp.findlaw.com/uscode/9/1/9).

[[[[[Read and be prepared to discuss:](http://www4.law.cornell.edu/uscode/9/ch1.html)](http://www.adr.org/index2.1.jsp?JSPssid=15747)](http://www4.law.cornell.edu/uscode/9/ch1.html)](http://www.adr.org/index2.1.jsp?JSPssid=15747)](http://www.adr.org/index2.1.jsp?JSPssid=15747)

         [*Commonwealth Coatings Corp. v. Continental Casualty Corp*](http://www.law.cornell.edu/supremecourt/text/393/145)., 393 U.S. 145, 89 S. Ct. 337 (1968), *reh. den*. 393 U.S. 1112, 89 S. Ct. 848 (1969) [excerpted in Adler at pp. 223-25]

* Friedman, G. [*Like Rodney Dangerfield,*Commonwealth Coatings *“Don’t Get No Respect” – and it Shouldn’t!*](http://static1.squarespace.com/static/53272e28e4b055350d946bcb/t/55ae4954e4b0f7975558af11/1437485396245/SAC+2015-03Feature+Dangerfield.pdf)*,* 2015:3 Securities Arbitration Commentator 1 (July 2015)

         [*Wilko v. Swan*](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=346&invol=427), 346 U.S. 427, 74 S.Ct. 182 (1953)

[[[[Supplemental/Optional Cases and Materials:](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=2nd&navby=case&no=977801&exact=1)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=2nd&navby=case&no=977801&exact=1)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/346/427.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/393/145.html)

        [*Garitty v. Lyle-Stuart*](http://scholar.google.com/scholar_case?case=14016683496433993604&hl=en&as_sdt=2&as_vis=1&oi=scholarr), 40 N.Y.2d 354, 386 N.Y.S.2d 831 (1976)

* [*Katz, Nannis & Solomon, P.C. v. Levine*](http://cases.justia.com/massachusetts/supreme-court/2016-sjc-11902.pdf?ts=1457535690)*,* 473 Mass. 784 (2016)
* Friedman, G., [*Federal Courts on Frivolous Motions to Vacate Arbitration Awards: “I’m as Mad as Hell and I’m Not Going to Take this Anymore!”*](https://www.arbresolutions.com/federal-courts-frivolous-motions-vacate-arbitration-awards/#.VG4Sk_ldX84)

We will also do a group [problem-solving exercise](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e32f8e4b0bb6434ea5eb2/1416508152581/vacate.pdf) on statutory grounds for vacating arbitration awards.

[[[[**Class 9 [3/15/2018]: Arbitration VI – Statutory Employment Arbitration**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/u10306.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/u10306.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/u10306.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/u10306.html)

Assignment: Read [FAA §§ 1 – 2](http://codes.lp.findlaw.com/uscode/9/1/1), AAA’s [*Resolving Employment Disputes*](https://www.adr.org/sites/default/files/document_repository/Resolving%20Employment%20Disputes%20-%20A%20Practical%20Guide.pdf), and H. Tavares-Erickson, [*Cutting edge companies use dispute resolution techniques to address workplace conflict: Analyzing the results of a 2013 CPR and Cornell survey on alternative dispute resolution*](http://www.insidecounsel.com/2015/04/21/cutting-edge-companies-use-dispute-resolution-tech)(April 21, 2015).

Read and be prepared to discuss:

* G. Friedman, [*Seems like I May Be Right After All on One of My 2015 Predictions – Just a Little Late*](https://www.arbresolutions.com/seems-like-may-right-one-2015-predictions-just-little-late/)(Sep. 5, 2016).
* If decided by this class, we will cover the impact of the Supreme Court decision in [*Epic Systems Corp. v. Lewis*](http://www.scotusblog.com/case-files/cases/epic-systems-corp-v-lewis/)*,* 137 S.Ct. 809 (argued Oct. 2, 2017). **If not**, read:
  + [*SCOTUS Hears Oral Argument in Lewis FAA Preemption Case. Lots of Questions for All Sides*](http://www.sacarbitration.com/blog/scotus-hears-oral-argument-nlrb-faa-preemption-case/)(Oct. 6, 2017)
* [*Gilmer v. Interstate/Johnson Lane Corp*](https://supreme.justia.com/cases/federal/us/500/20/case.html)*.,* 500 U.S. 20, 111 S. Ct. 1647 (1991)
* [*Circuit City Stores v. Adams*](http://www.law.cornell.edu/supct/html/99-1379.ZO.html)*,*532 U.S. 105 (2001)
* [*CompuCredit v. Greenwood*](https://www.supremecourt.gov/opinions/11pdf/10-948.pdf)*,* 132 S.Ct. 65 (2012)

Also, read:

* [Due Process Protocol for Mediation and Arbitration of Statutory Disputes Arising out of the Employment Relationship](https://www.americanbar.org/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_index/lab_emp.html) (1995)

[[[[Supplemental/Optional Cases:](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=2nd&navby=case&no=977801&exact=1)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=2nd&navby=case&no=977801&exact=1)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/346/427.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/393/145.html)

* [*Hill v. Rent-a-Center*](https://openjurist.org/398/f3d/1286/hill-v-rent-a-center-inc), 398 F.2d 1286 (11th Cir. 2005)
* [*EEOC v. Wafflehouse*](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/99%2D1823.html)*,* 534 U.S. 279 (2002)

We will also do a [group problem-solving exercise](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e338be4b06f036336416c/1416508299264/Employment+Issues+2015.pdf) on key issues in employment arbitration.

**\*\*\* No Class 3/22/2018: SPRING BREAK \*\*\* No Class 3/29/2018: EASTER BREAK \*\*\***

[[[[**Class 10 [4/5/2018]: Arbitration VII - Ethical Issues**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html)

[[[[Assignment: Read:](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/1st/981246a.html) [Revised AAA/ABA Code of Ethics for Arbitrators in Business Disputes (2004)](http://www.abanet.org/dispute/commercial_disputes.pdf) And FINRA’s [Oath of Arbitrator and Disclosure Checklist.](http://www.finra.org/sites/default/files/Oath-of-Arbitrator-Checklist.pdf)

Read:

* Friedman, G., [*Like Rodney Dangerfield,* Commonwealth Coatings *“Don’t Get No Respect” – and it Shouldn’t!*](http://www.sacarbitration.com/blog/like-rodney-dangerfield-commonwealth-coatings-dont-get-no-respect-shouldnt/) (Jul. 19, 2015)

Skim:

* [AAA/ABA/ACR Model Standards of Conduct for Mediators](https://www.americanbar.org/content/dam/aba/migrated/2011_build/dispute_resolution/model_standards_conduct_april2007.authcheckdam.pdf) (revised Sept. 2005)

Those who are writing their papers on this topic, or who are really interested in this topic, may want to check out:

       [ABA/College of Commercial Arbitrators, Annotated Code of Ethics for Arbitrators in Commercial Disputes (2014)](http://www.finra.org/sites/default/files/ArbMed/p123778.pdf)

We will also do a [group problem-solving exercise](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e33bfe4b0bcb9d21cf010/1416508351199/ETHICS-+2015+%28NO+answers%29.pdf) on ethics in arbitration.

[[**\*\*\* DRAFT PAPERS DUE 3/31/2018 (if being submitted) \*\*\***](http://www.ilr.cornell.edu/alliance/model_standards_of_conduct_for_m.htm)](http://www.ilr.cornell.edu/alliance/model_standards_of_conduct_for_m.htm)

[[**Class 11 [4/12/2018]: Arbitration VIII - International Arbitration**](http://www.ilr.cornell.edu/alliance/model_standards_of_conduct_for_m.htm)](http://www.ilr.cornell.edu/alliance/model_standards_of_conduct_for_m.htm)

Assignment: Adler Chapter 15, “International Commercial Arbitration” [pp. 563-67] and “Enforcement of International Arbitration Awards” [pp. 600-17]. Read this [short article](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e3418e4b02c501fb0004d/1416508440777/taba017.pdf) about nation-nation arbitration; [*International Dispute Resolution Procedures of the American Arbitration Association*](https://www.adr.org/sites/default/files/ICDR%20Rules_0.pdf)(July 1, 2014).

Also, please print this [study aid](https://static1.squarespace.com/static/53272e28e4b055350d946bcb/t/5a10e7689140b7281e083058/1511057256589/INTLCOMP+%282014+Rules%29.pdf) comparing the AAA’s international and commercial arbitration rules.

Also read:

* Hausfeld LLP, [*Mandatory Arbitration in the United States and Europe*](http://www.lexology.com/library/detail.aspx?g=55e3ffe2-4176-4dac-9e76-31bd93da9be7&utm_source=Lexology+Daily+Newsfeed&utm_medium=HTML+email+-+Body+-+General+section&utm_campaign=Lexolog)(2016)
* [*International Arbitration Statistics 2016 – Busy Times for Arbitral Institutions*](https://globalarbitrationnews.com/international-arbitration-statistics-2016-busy-times-for-arbitral-institutions/)*,* published June 2017 in Baker & McKenzie’s Global Arbitration News*.* Provides detailed statistics on international arbitration case filings for 2012-16.

        [*United Nations Convention on the Recognition and Enforcement of Foreign Arbitration Awards*](http://www.jus.uio.no/lm/un.arbitration.recognition.and.enforcement.convention.new.york.1958/doc.html) (text) and [list of signatory countries](http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html) (also covered partially in the Adler reading)

         [Federal Arbitration Act Chapter 2, §§ 201-207](http://codes.lp.findlaw.com/uscode/9/2)

* [*C&L Enterprises, Inc. v. Potawatomi Indian Tribes of Oklahoma*](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=00-292)*,* 532 U.S. 411, 121 S.Ct. 1589 (2001)

Skim the following:

       [*International Dispute Resolution Procedures of the American Arbitration Association (June 1, 2014)*](https://www.adr.org/sites/default/files/ICDR%20Rules_0.pdf)

* [*Blue Ridge Investments, LLC v. Republic of Argentina*](http://f.datasrvr.com/fr1/513/31245/4_Blue_Ridge_v_Argentina.pdf)*,* 735 F.3d 72 (2d. Cir. 2013)
* [*Corporacion Mexicana De Mantenimiento Integral v. Pemex-Exploracion*](http://cases.justia.com/federal/appellate-courts/ca2/13-4022/13-4022-2016-08-02.pdf?ts=1470150006)*,* 832 F.3d 92 (2d Cir. 2016), ([Pet. for *Cert*](http://www.scotusblog.com/wp-content/uploads/2017/02/16-956-cert-petition.pdf)*.* withdrawn Apr.19, 2017)

Those writing about international ADR should consider subscribing to [*Global Arbitration News*](https://globalarbitrationnews.com/) (free). Also, students looking for a comprehensive yet manageable resource on international arbitration in New York should consider [*Arbitration in New York*](https://eguides.cmslegal.com/pdf/arbitration_volume_I/CMS%20GtA_Vol%20I_NEW%20YORK.pdf), a brochure excerpted from a larger work by William Lowery and Jeremy Wilson of CMS Cameron McKenna LLP (London), and [*Why Choose New York for International Arbitration*,](https://nyiac.org/nyiac-core/wp-content/uploads/2013/01/Choose-NY-for-IA.pdf) published by the New York State Bar Dispute Resolution Section and the New York International Arbitration Center.

[[**Class 12 [4/19/2018]: Hybrid ADR Systems**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/00%2D292.html)](http://www.adr.org/index2.1.jsp?JSPssid=15747)

Assignment: Adler Chapter 1, sec. 1.01, “Mediation and Arbitration – the Leading Alternative Dispute Resolution (“ADR”) Modalities” [pp 16 - 20]. G. Friedman, [*On the 1st day of Christmas/Chanukah/Kwanzaa, My True Love Gave to me…a New Form of ADR*](https://www.arbresolutions.com/1st-day-christmaschanukahkwanzaa-true-love-gave-mea-new-form-adr/) (Dec. 20, 2014)

Review the “[ADR Continuum](http://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546b87afe4b0ec4522ffc889/1416333231795/ADR+continuum.pdf)”

Read:

* [*Avista Management v. Wausau Ins. Co*](http://money.cnn.com/2006/06/07/magazines/fortune/judgerps_fortune/index.htm)*.,* M.D. Fla. (2006)
* W. Ruskin, [*The Success of the SDNY Mediation Program*](http://www.lexisnexis.com/legalnewsroom/litigation/b/litigation-blog/archive/2014/01/23/william-a-ruskin-the-success-of-the-sdny-mediation-program.aspx)
* [*Zapruder Heirs Get $16 Million for Dallas Film*](http://www.nytimes.com/1999/08/04/us/zapruder-heirs-get-16-million-for-dallas-film.html)*,* NY Times (Aug. 4, 1999)

We will also do a [group problem-solving exercise](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e3495e4b0af730f4c6afd/1416508565343/hybrid+group+exercises.pdf) on hybrid forms of ADR.

[[**Class 13 [4/26/2018]: FINAL CLASS - Drafting the ADR Clause; Putting it All Together**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/00%2D292.html)](http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&court=US&case=/us/000/00%2D292.html)**. What does the future hold?**

Assignment: Adler Chapter 1(V), “Drafting Alternative Dispute Resolution Clauses” [pp 22 - 29]. AAA, [*Drafting Dispute Resolution Clauses: a Practical Guide*](https://www.adr.org/sites/default/files/document_repository/Drafting%20Dispute%20Resolution%20Clauses%20A%20Practical%20Guide.pdf) and A. Daley, [*Recent Court Decisions Highlight the Importance of Customizing Arbitration Agreements,*](http://www.natlawreview.com/article/recent-court-decisions-highlight-importance-customizing-arbitration-agreements) published in the National Law Journal (12/5/2013).

Read my short blog posts:

* [*Arbitration – the Wave of the Future?*](https://www.arbresolutions.com/arbitration-the-wave-of-the-future/) (Feb. 5, 2016)
* [*Mandatory Consumer Arbitration on the Eve of the Election*](https://www.arbresolutions.com/mandatory-consumer-arbitration-eve-election) (Nov. 1, 2016)
* [*The Election is Finally Over – What Does It Mean for Arbitration?*](https://www.arbresolutions.com/2016-election-arbitration/) (Nov. 10, 2016)
* [*Consumer and Employment Arbitration – Five Things to Look for in 2018*](https://www.arbresolutions.com/consumer-employment-arbitration-six-things-look-2018/)(Dec. 27, 2017)

**Skim:**

* **AAA’s** [ClauseBuilder](https://www.clausebuilder.org/cb/faces/index?_afrLoop=923855852511304&_afrWindowMode=0&_adf.ctrl-state=rgv7bbcfr_4)**TM system.**

Students will be grouped in teams for the purpose of developing an ADR clause for a given [set of acts](https://static.squarespace.com/static/53272e28e4b055350d946bcb/t/546e34e5e4b0116c45f5a3ee/1416508645565/drafting_form.pdf).

**\*\*\* Official Last Day of Classes is April 27, 2018: TERM PAPERS DUE \*\*\***

**[FORDHAM UNIVERSITY SCHOOL OF LAW](http://law.fordham.edu/)**

[[[**Commercial Arbitration for Business Disputes**](http://www.adr.org/index2.1.jsp?JSPssid=9714&JSPsrc=upload\LIVESITE\Rules_Procedures\ADR_Guides\clausebook.html)](http://www.adr.org/index2.1.jsp?JSPssid=9714&JSPsrc=upload\LIVESITE\Rules_Procedures\ADR_Guides\clausebook.html)](http://www.adr.org/index2.1.jsp?JSPssid=9714&JSPsrc=upload\LIVESITE\Rules_Procedures\ADR_Guides\clausebook.html)

[[[**List of Topics for Student Papers**](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.adr.org/index2.1.jsp?JSPssid=9714&JSPsrc=upload\LIVESITE\Rules_Procedures\ADR_Guides\clausebook.html)

[[[1. Dispositive Motions in Arbitration](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[2. Class Actions and Arbitration](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[3. The Arbitration of Federal Statutory Rights](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law) Claims

[[[4. Arbitrator Immunity](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[5. ADR and the Unauthorized Practice of Law](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[6. The Arbitration Clause as an Enforceable Contract of Adhesion](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[7. The Arbitration of Consumer Disputes](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[8. The Use of Discovery in Arbitration](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[9. Judicial Review of Arbitration Awards](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[10. Mandatory ADR and the Right to a Jury Trial](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[11. Time Bars and Arbitration](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[12. The Arbitrator's Duty to Disclose](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[13. Punitive Damages in Arbitration](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[14. Enforceability of Online ADR Agreements](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[15. Enforceability of Agreements to Mediate](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[16. Must the Mediator Ensure Fairness?](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[17. Arbitration of Non-union Employment Disputes](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[18. Arbitration of Securities Disputes](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[19. Arbitration of Bankruptcy Disputes](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[20. The Use of ADR to Resolve Amateur Sports Disputes](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[21. The Use of ADR to Resolve Professional Sports Disputes](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[22. Use of Minitrial to Resolve Complex, Multi-Party Cases](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[23. Enforceability of Arbitration Awards Abroad [specify nation]](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[24. Enforceability of Foreign Arbitration Awards in the U.S.](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[**\* \* \* OR \* \* \***](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[**Creating Dispute Resolution Systems**](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[Students can create a dispute resolution system for the following types of transaction/situation.](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[1. Bankruptcy Claims](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[2. Class Actions](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[3. Employment Discrimination Claims](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[4. Computer Licensing Agreement with a Foreign Party](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[6. Environmental Disputes](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[7. Sexual Harassment Claims](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[8. Construction Project to Build a Hotel](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[9. Commercial Loan Agreement](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[10. Law Firm Partnership Agreement](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[11. Internet Service Provider Agreement](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[**[INFORMATION REGARDING PAPER REQUIREMENT](http://www.fordham.edu/law)**](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[Successful completion of this course requires that students fulfill a writing requirement. Students have the option of: 1) submitting a paper on a pre-approved topic - OR - 2) creating an ADR system for a given circumstance.](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[Requirements for each are discussed below.](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

[[[***Paper Option***](http://www.fordham.edu/law)](http://www.fordham.edu/law)](http://www.fordham.edu/law)

Students are to prepare a 5,000 to 6,000-word, double-spaced paper (including notes) on a pre-approved topic. This amounts to 20 - 25 double-spaced pages if you were to use the type font and size utilized for this syllabus. The usual citation method should be followed. The usual number of footnotes will be about 50. A topic should be selected by **February 1, 2018** using the form below. If a student desires to write about a topic not on the list, specific approval from Prof. Friedman is required. The [Outline and List of Resources](http://static1.squarespace.com/static/53272e28e4b055350d946bcb/t/565c9322e4b08c62b9ed2e81/1448907554988/Sample+Outline.pdfhttp:/www.proffriedman.homestead.com/files/outlineonline.htm) is to be submitted by **February 15, 2018.** It should be no more than 2 - 3 pages in length, consisting of the basic outline the student intends to follow, and a list of the major resources to be used (key cases, articles, authorities, etc.) The final paper is due **April 27, 2018.** It is not necessary to submit a draft paper for approval unless you are using this course to satisfy the Upper Class Writing Requirement, but you may do so if you desire, **by March 31, 2018.**

[[[***ADR System Option***](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.fordham.edu/law)

[[Students are to prepare a 5,000 to 6,000 word, doublespaced paper (including notes) in which they describe the creation of an alternative dispute resolution system for a specific type of transaction. This amounts to 20 - 25 doublespaced pages if you were to use the type font and size utilized for this syllabus. The usual citation method should be followed, and the typical number of footnotes will be about 50. The paper will consist of the actual wording of the dispute resolution portion of the contract or other agreement the parties enter into, followed by a point-by-point dissection of the clause. In effect, the student creates an annotated ADR system, with a detailed explanation, including relevant cases and points of authority, on each substantive provision of the clause. For example, if the clause provides for discovery under the F.R.C.P. in an arbitration, the paper would discuss the availability of discovery in arbitration, relevant points of law, as well as the merits of including such a provision in an ADR system. This format would be repeated for each substantive part of the clause. The usual citation method should be followed.](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

A topic should be selected by **February 1, 2018**, using the form below. If a student desires to design an ADR system for a transaction topic not on the list, specific approval from Prof. Friedman is required. The [Outline and List of Resources](http://static1.squarespace.com/static/53272e28e4b055350d946bcb/t/565c9322e4b08c62b9ed2e81/1448907554988/Sample+Outline.pdfhttp:/www.proffriedman.homestead.com/files/outlineonline.htm) is to be submitted by **February 15, 2018**. It should be no more than 2 - 3 pages in length, consisting of the basic outline the student intends to follow, and a list of the major resources to be used (key cases, articles, authorities, etc.) The final paper is due **April 27, 2018**. t is not necessary to submit a draft paper for approval unless you are using this course to satisfy the Upper Class Writing Requirement, but you may do so if you desire, **by March 31, 2018.**

[[[**SELECTION OF PAPER OPTION FORM**](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[**Commercial Arbitration for Business Disputes**](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[Student Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[Option Selected: 🞏 PAPER 🞏 ADR SYSTEM DESIGN](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[**PAPER Topic Selected (circle number):**](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[1. Dispositive Motions in Arbitration](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[2. Class Actions and Arbitration](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[3. The Arbitration of Statutory Rights](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[4. Arbitrator Immunity](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[5. ADR and the Unauthorized Practice of Law](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[6. The Arbitration Clause as an Enforceable Contract of Adhesion](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[7. The Arbitration of Consumer Disputes](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[8. The Use of Discovery in Arbitration](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[9. Judicial Review of Arbitration Awards](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[10. Mandatory ADR and the Right to a Jury Trial](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[11. Time Bars and Arbitration](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[12. The Arbitrator's Duty to Disclose](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[13. Punitive Damages in Arbitration](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[14. Enforceability of Online ADR Agreements](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[15. Enforceability of Agreements to Mediate](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[16. Must the Mediator Ensure Fairness?](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[17. Arbitration of Non-union Employment Disputes](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[18. Arbitration of Securities Disputes](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[19. Arbitration of Bankruptcy Disputes](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[20. The Use of ADR to Resolve Amateur Sports Disputes](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[21. The Use of ADR to Resolve Professional Sports Disputes](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[22. Use of Minitrial to Resolve Complex, Multi-Party Cases](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[23. Enforceability of Arbitration Awards Abroad [specify nation:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[24. Enforceability of Foreign Arbitration Awards in the U.S.](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[Other:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[**\* \* \* OR \* \* \***](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[**ADR SYSTEM DESIGN Topic Selected (circle one):**](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[1. Bankruptcy Claims](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[2. Class Actions](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[3. Employment Discrimination Claims](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[4. Computer Licensing Agreement with a Foreign Party](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[6. Environmental Disputes](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[7. Sexual Harassment Claims](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[8. Construction Project to Build a Hotel](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[9. Commercial Loan Agreement](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[10. Law Firm Partnership Agreement](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[11. Internet Service Provider Agreement](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)

[[[Other:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)](http://www.proffriedman.homestead.com/files/outlineonline.htm)