

**SINGAPORE MANAGEMENT UNIVERSITY
SCHOOL OF LAW
YEAR 2023/2024 TERM 2**

COURSE TITLE: DISPUTE RESOLUTION ADVOCACY

COURSE DESCRIPTION

The proliferation of cross-border business activity has generated an increased demand for international commercial dispute resolution. As alternatives to litigation, arbitration and mediation have emerged as viable routes to the timely and cost-effective settlement of disputes, particularly in Singapore. This course will provide an interdisciplinary perspective to the role of the dispute resolution advocate within these processes, the legal framework governing their procedure and enforcement, and practical issues of cost and speed across different mechanisms. Written submissions, oral presentations and groupwork will give participants a sound understanding of how an effective advocate must adopt a tailored approach to different processes of dispute resolution.

LEARNING OUTCOMES

- A comprehensive understanding of the stages, processes and advantages of different dispute resolution mechanisms
- The unique role of each participant in dispute resolution processes, with a focus on the advocate's role
- Knowledge of the models and theoretical approaches appropriate to settle disputes through negotiation and mediation
- Capacity to draft written submissions to clients, mediators, arbitrators and judges, and recognise the distinctive functions of these submissions
- Deliver persuasive and clear oral arguments in different dispute resolution fora

RECOMMENDED TEXTS AND READING

- Roger Fisher, William Ury and Bruce Patton, Getting to Yes: Negotiating Agreement without Giving in
- Nadja Alexander, Joel Lee Kit-Wye Lum, Singapore Mediation Handbook
- Stephen Jagusch, Philippe Pinsolle, and Timothy Foden, The Guide to Advocacy, Global Arbitration Review

ASSESSMENT METHODS

20% Class Participation
 50% Mediation Group Project
 30% Individual Arbitration Assignment

No questions from past year papers or published test banks will be used verbatim for the graded assessments in this course.

Week		Learning Outcomes	Reading (tbc)
<u>1.</u>	<u>Seminar 1</u> Dispute Prevention and Management Negotiation	<ul style="list-style-type: none"> - Stages of a dispute – prevention, management, facilitated resolution, binding resolution - Prevention - identifying potential disputes, risk allocation, incentives for cooperation - Negotiation - Approaches: adversarial, distributive, integrative, principled (interest-based) - Knowing how and why to use each approach - Contract-based settlement 	
<u>2.</u>	<u>Seminar 2 -</u> Facilitated Resolution I Mediation (Role, Styles and Skills)	<ul style="list-style-type: none"> - Advocacy Roles – spectrum of involvement: advisor to spokesperson 	

		<ul style="list-style-type: none"> - Models of Mediation – Facilitative, evaluative, wise-counsel etc - Skills = questioning, summarising, (active/effective) listening, framing and re-framing, reflecting and paraphrasing - Constructive, persuasive oral and written communications - Client – establish needs, preparation, understanding, culture documentation and authority to settle 	
<u>3.</u>	<u>Seminar 3</u> Facilitated Resolution II Mediation (Pre-Mediation Prep)	<ul style="list-style-type: none"> - Written preparation - case summary, issues paper, mediation memo, chronology, constellation - Process/Mediator Selection – model, hybrid etc - Oral Preparation – clarifying, evaluating and building client confidence in process, - Risk Analysis tools – compare settlement offer to life goals, eg. Health and well-being, financial situation 	
<u>4.</u>	<u>Seminar 4</u> Facilitated Resolution III Mediation (Phases of Mediation)	<ul style="list-style-type: none"> - General Skills – setting the agenda, effective communication, client coaching, collaboration with mediator - (1) Information and theme gathering – creating constructive conditions, agenda-setting, summarizing facts and interests - (2) Exploration – identify and prioritise interests and motivations - (3) Problem Solving – encourage constructive engagement, manage setback - Post-Settlement Monitoring and enforcement 	

		- Advocate Accreditation and Duties	
<u>5.</u>	<u>Seminar 5</u> Facilitated Resolution III Practice, In-Class Mediation	-	
<u>6</u>	<u>Seminar 5</u> Binding Resolution I Arbitration (Initiation and Preparation)	- Drafting agreements to arbitrate/ requests to arbitrate - Issuing notice pursuant to agreement - Institutional Rules - Devising case strategy - Procedural Options – scope of discovery, objecting to witnesses or expert testimony	
<u>7</u>	<u>Seminar 6</u> Binding Resolution II Arbitration (The Hearing)	- Written Advocacy – the 10 Commandments of Written Advocacy - Oral Advocacy – persuasive advocacy techniques, do not read, simple language, verbal pacing	
<u>8</u>	<u>Mid Term Recess Week</u>		
<u>9</u>	<u>Seminar 7</u> Binding Resolution III Arbitration/Litigation (Witness Testimony)	- Preparing witness statements - Cross-examination, witness conferencing, witness confrontation	
<u>10</u>	<u>(No Class)</u>	- Students work on written assignment on Arbitration	
<u>11</u>	<u>Seminar 8</u> Binding Resolution IV Litigation	- Jurisdiction - Advocacy Accreditation - Rules of Evidence - Witness Examination/Presentation	
<u>12</u>	<u>(No Class)</u>	- Students work on group projects (this may include mock mediations)	

<u>13</u>	<u>Seminar 9</u> <u>Group Project Presentation</u>		

DROPPING A COURSE

Students are reminded to follow the dates and procedures of add/drop modules found in <https://oasis.smu.edu.sg/Pages/RO/All-About-BOSS.aspx#parentHorizontalTab5>

UG and JD students need to drop the electives via BOSS unless otherwise instructed by the School for specific electives (e.g. Moots).

Students who fail to follow the correct procedures and stipulated timelines for dropping their modules will obtain a “W” or “F” grades as indicated on OASIS.

Do note that a “W” and ‘F’ grade is reflected **permanently** on a student’s transcript.

UNIVERSITY POLICIES

Academic Integrity

All acts of academic dishonesty (including, but not limited to, plagiarism, cheating, fabrication, facilitation of acts of academic dishonesty by others, unauthorized possession of exam questions, or tampering with the academic work of other students) are serious offences.

All work (whether oral or written) submitted for purposes of assessment must be the student’s own work. Penalties for violation of the policy range from zero marks for the component assessment to expulsion, depending on the nature of the offense.

When in doubt, students should consult the instructors of the course. Details on the SMU Code of Academic Integrity may be accessed at <https://oasis.smu.edu.sg/Pages/DOS-WKLSWC/UCSC.aspx>.

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Accessibility

SMU strives to make learning experiences accessible for all. If you anticipate or experience physical or academic barriers due to disability, please let me know immediately. You are also welcome to contact the university's disability services team if you have questions or concerns about academic provisions: DSS@smu.edu.sg. Please be aware that the accessible tables in our seminar room should remain available for students who require them.

Digital Readiness for Teaching and Learning (DRTL)

As part of emergency preparedness, instructors may conduct lessons online via the Zoom platform during the term, to prepare students for online learning. During an actual emergency, students will be notified to access the Zoom platform for their online lessons. The class schedule will mirror the current face-to-face class timetable unless otherwise stated.