

# Labour Arbitration Skills

Learning the Advocate's Art and Science of  
Building and Presenting Winning Arbitration Cases

Kingston: May 27-31, 2012



**Register at: [irc.queensu.ca](http://irc.queensu.ca) or call toll-free: 1-888-858-7838**



Queen's IRC open programs and practice-based research help next-generation leaders **resolve** disputes, **champion** change, and **align** people and purpose.

Effective advocacy before an arbitrator requires the same blend of skills, street smarts, and techniques as advocacy before a judge in a courtroom. It requires careful and extensive preparation before the hearing, concise opening statements, organized and efficient presentation of evidence, and persuasive argument. Leading advocates and arbitrators will coach you through the preparation and presentation of a challenging arbitration case. In this dynamic program, you will build presentation and advocacy skills and get immediate feedback from an experienced arbitrator.

## Learning Outcomes

By the end of the week, you will be better positioned to:

- Prepare effectively for the hearing and develop the theory of the case
- Assess your opponent's case
- Make opening and closing statements
- Examine and cross-examine effectively
- Establish the facts at the hearing and tender evidence and object to evidence

## Organizational Benefits

- Significant savings in grievance arbitration costs
- Faster and more streamlined preparation for hearings
- Better labour management relations
- Greater knowledge of employment law nuances

### Essentials

#### Date and Location

Five Days

**Kingston:** May 27-31, 2012

Please refer to our website, [irc.queensu.ca](http://irc.queensu.ca), for the latest information on venues.

#### Fee

\$4,995

### Who Benefits

Labour lawyers and labour relations professionals who are involved in the grievance process or who prepare and present cases before boards of arbitrators



### Takeaways

- Labour Arbitration Workbook



# Tour of the

## a) The First Principles of Arbitration

To ensure you have a solid foundation for the coming week, the opening session offers a picture of the environment in which an arbitrator must operate.

By the end of this session, you will have a foundation in:

- The role and powers of the arbitrator
- The purpose of arbitration
- Governing legislation
- Development of arbitral jurisprudence
- The evolution of doctrine

## b) Introduction to the Arbitration Hearing

To give a sense of the “look and feel” of the typical labour arbitration hearing, we offer this overview of the process and normal procedures to follow. At the same time, you get a chance to pick up a few pointers on typical presentation pitfalls to avoid.

## c) Advanced Topics in Arbitration

For more experienced advocates, we offer a parallel workshop on advanced topics such as streamlining the hearing. You will negotiate an agreed statement of facts and argue a preliminary motion on the admissibility of video surveillance.

## d) Preparing for the Hearing

Do you know the types of evidence that arbitrators require? What types of evidence will be excluded? What are the rules governing hearsay? We show you how to get essential facts into the evidentiary record, and how to assess your opponent’s theory of the case.

Learn the following eight steps of foolproof case prepping:

- Learn the facts
- Develop your theory
- Consider precedents
- Take stock of possible flaws or amendments
- Consider preliminaries
- Narrow your focus
- Prepare your witnesses
- Prepare opening/cross/closing

## e) Becoming a Research Hound

Legal research can be costly in terms of time and money. We offer a series of questions to help shape a research plan, introduce you to a basic research model, and give you tips and resources to get you going in the right direction.

## f) Arbitration and Human Rights

Delve deeper into the issues surrounding arbitration and human rights, such as sexual harassment and discrimination against the disabled. Take away an invaluable resource booklet on “the duty to accommodate at arbitration.”

## g) Mastering the Hearing

Learn how to prepare your witnesses and evidence. Practice what you have learned in a role play, and get a live demonstration of how to qualify an expert witness. Find out how to order your evidence and how to hold the attention of the arbitrator. We offer techniques on questioning and presenting exhibits that are highly effective.

# Program

Learn more about:

- Delivering effective opening and closing statements
- Examining, cross-examining, and reexamining witnesses
- Understanding key aspects of the rules of evidence
- Objecting at the right time and in the right way

## h) Mock Arbitration

Here is your once-in-a-lifetime chance to practice your new advocacy skills and get expert coaching along the way. With a partner, research your case and prepare an opening statement, examination-in-chief, cross examination, and closing argument. Deliver your case before an experienced arbitrator.

## i) Awards and Debriefing

In the final session, assemble with your colleagues to hear the arbitrators' awards and share impressions of the mock hearing. How did you fare? Did you encounter any surprises?

### Interactive Learning

Your learning team will present a mock arbitration case before an experienced arbitrator, from finely crafted opening statement through to probing cross examination and persuasive closing argument. The week concludes with a roundtable discussion and Arbitrators' Awards. How successful were you?



# Facilitators and Speakers

## **Deborah Leighton**

Deborah, an arbitrator and mediator, is an adjunct professor in the School of Policy Studies at Queen's University, where she teaches courses in labour and employment law, human rights, arbitration and mediation. Before joining the school, she was a practising lawyer. Her public appointments include vice-chair of the Public Service Grievance Board, and the Grievance Settlement Board. She has also served as an adjudicator for the Ontario Human Rights Tribunal.

Deborah is a member of the Florida Bar and the Law Society of Upper Canada.

## **Felicity Briggs**

Felicity has been a mediator and arbitrator since 1991. Felicity began her career in labour management relations after working for six years as a registered nurse. She spent 12 years with the Ontario Nurses' Association in a variety of positions, including manager of the arbitration department. She has chaired numerous rights and interest boards of arbitration, served as a vice-chair of the Grievance Settlement Board, and participated in special projects with the Ontario government and the Ontario Public Service Employees Union.

## **Don Carter**

Don is professor emeritus at the Queen's University Faculty of Law. Formerly, he served as dean of law at Queen's and director of the Queen's Industrial Relations Centre/School of Industrial Relations. He has also served as president of the Canadian Industrial Relations Association and as chair of the Ontario Labour Relations Board. Presently, he is chair of Ontario's Public Service Grievance Board. Don is the author of numerous articles and monographs relating to labour law and industrial relations in Canada and is currently an associate editor of Labour Arbitration Xpress. Don continues to be active as both an arbitrator and mediator.

## **Craig Flood**

Craig practises in the area of labour law representing unions and has developed a special expertise in the area of workplace safety and insurance. He is the head of Koskie Minsky's Labour Law Group. Craig has represented trade unions and employees in proceedings involving the

acquisition and preservation of bargaining rights, unfair labour practice complaints, discipline and discharge, occupational health and safety, essential services and grievances arising under collective agreements.

As well, he has acted as counsel in judicial review matters, including before the Supreme Court of Canada.

## **William Hayter**

William is a labour and employment lawyer based in the Niagara region who acts for employers in disputes with their employees. He is engaged in a broad spectrum of disputes associated with the negotiation or administration of collective agreements, whether in court or before a variety of administrative and labour tribunals. He has appeared before courts at every level in Ontario, as well as the Supreme Court of Canada. He has a Bachelor of Commerce and law degree from Queen's University.

## **Rick Jackson**

Rick is an emeritus professor at Queen's School of Business. He has been teaching at Queen's for more than 30 years, specializing in labour relations, negotiation, and dispute resolution. He works as a consultant and third-party neutral, including serving as an arbitrator and mediator in both labour and commercial disputes. Rick is currently a vice-chair of the Ontario Public Service Grievance Settlement Board and acts as an arbitrator under the Ontario Labour Relations Act, Canada Labour Code, and Ontario Police Services Act. He has also acted as a fact-finder, mediator, and arbitrator under the Ontario School Boards and Teachers Collective Negotiations Act.

## **Megan Telford**

Megan practises labour, employment, and administrative law at the Toronto-Dominion Bank Financial Group. Previously, Megan worked as legal counsel for the Permanent Court of Arbitration in The Hague, Netherlands. She has published articles on a wide range of labour, employment, administrative law, and human resources issues. Megan obtained both her Masters of Industrial Relations and her Bachelor of Laws as a student in the inaugural year of the Queen's University MIR/LLB program.

*The roster of speakers may change. We will do our best to keep you informed of program changes.*

# Registration Kiosk

## Labour Arbitration Skills

- **Kingston:** May 27-31, 2012: \$4,995

### We offer four easy ways to register:

**Web:** Complete the online form at: [irc.queensu.ca](http://irc.queensu.ca)

**Telephone:** Reserve by calling toll-free: 1-888-858-7838

**Fax:** (613) 533-6812

**E-mail:** [irc@queensu.ca](mailto:irc@queensu.ca)

Confirmation and information on program location, check-in time, and agenda will follow.

### Registration and Fees

Program fees include tuition, workbook materials, lunches, and some dinners. For all programs, payment in full is required one month before the program begins.

Register and pay two months before the start of a program and save \$300 on the tuition of four- and five-day programs, and \$150 on two- and three-day programs.

Register three people **from the same organization in the same program at the same time**, and receive a **10% discount** on program fees. Register five or more people **in the same program at the same time**, and receive a **20% discount**.

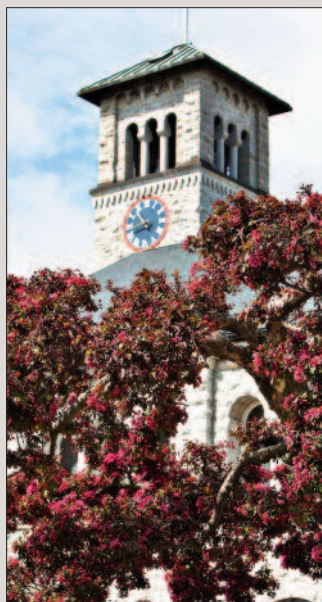
If you know you will be pursuing a Queen's Certificate and would like to remit tuition in one payment before your first program, we offer a special fee with a considerable saving. Contact our Program Administration office for details.

**Note:** Only *one* discount may be applied.

**Cancellations and No-Shows:** Substitutions are permitted with no penalty at any time. Transfers and cancellations are permitted with no penalty **up to 3 weeks prior to the program start date**. There will be a \$500 fee charged for cancellations, transfers, and no-shows **within 3 weeks of the program start date**.

### Location and Accommodation

Please refer to our website, [irc.queensu.ca](http://irc.queensu.ca), for the latest information on venues.



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