



ICC Austria Seminar on International Commercial Arbitration

# Succeeding in arbitral proceedings through Cross-Examination: "Learning by Doing"

From the courtroom to the hearing room:  
adapting cross-examination skills to the varying legal cultures of international arbitration.

- Did you ever have the feeling that cross-examination in arbitration could be conducted more effectively?
- Do you want to develop or refine your cross-examination skills in a controlled environment, under the guidance of a diverse group of experienced arbitrators?
- Do you feel confident when cross-examining an expert witness?

**12– 14 November 2015**

**from Thursday 1 p.m. – Saturday 1 p.m.**

DORDA BRUGGER JORDIS Rechtsanwälte GmbH

Universitätsring 10

1010 Vienna, Austria

In cooperation with:



**Mercer Island  
Arbitration Chambers  
International, LLC**



## Who should attend?

- ◆ Arbitration practitioners
- ◆ Litigators
- ◆ Lawyers looking to transition into dispute resolution
- ◆ In-house legal counsel
- ◆ You

The seminar is intended for anyone wishing to learn or perfect their cross-examination skills. This includes highly experienced litigators looking to expand their practice to international arbitration; transactional attorneys looking to transition or expand their practice area; attorneys just beginning their career in international arbitration; or experienced arbitration practitioners looking for constructive feedback and new insight.

**This course will be approved for 15.25 hours of MCLE credit by the State Bar of California, and as the result of the California Bar approval is entitled to New York CLE credit.**

### What past participants have to say:

*This ICC Seminar is an excellent advocacy training course focused on arbitration. With the help of highly experienced international arbitration practitioners, participants develop and improve skills that can be effectively put to use both inside and outside of an arbitration setting. The content of the course strikes a perfect balance between teaching segments that focus on highlighting the essentials of good advocacy, role play exercises, and feedback sessions during which faculty offer candid guidance through individual assessment. This is a format I can warmly recommend to anyone interested in challenging and improving their courtroom performance and perhaps even looking at advocacy in new terms.*

Anne-Karin Grill, Schönherr in Vienna

*Thanks to the hands-on guidance by experienced cross-examiners and the various work-shops, the seminar was a great opportunity to understand and actually experience how cross-examination works in practice, from the perspective of both counsel and witness, and to improve your interrogation skills and tactics. This was a very valuable program indeed.*

Dr. Nicholas Kessler, Orrick in Düsseldorf

## Background and Objective

Increasingly, cross-examination is a tool that skilled arbitration counsel must master and be prepared to deploy when appropriate. This workshop assists participants in building experience, expertise, and confidence in their cross-examination skills, using the proven "learning-by-doing" techniques used in programs such as those of the (U.S.) National Institute for Trial Advocacy.

The workshop focuses on the particular role and use of cross-examination in the international arbitration process, as distinct from litigation in national courts, as well as the need to adapt to tribunals composed predominantly of civil-law or common-law arbitrators. Also emphasized is that cross-examination is not an end in itself, but must be integrated into the overall case strategy.

The program focuses on practice cross-examination sessions interspersed with lectures, demonstrations, and strategy sessions. Participants will form groups, roughly sorted by experience, to represent the claimant or the respondent in a mock case (distributed in advance). In the practice sessions, participants will perform cross-examinations of witnesses based on the case file, followed by brief commentary from the workshop leaders in the room. A unique aspect of this seminar is that participants will have an opportunity to cross-examine highly experienced tax and accounting advisors from PwC Austria, who will act as the "expert witnesses". Participants will receive video recordings of their examinations which will be reviewed and discussed in one-on-one sessions with workshop leaders.

By the end of the workshop, participants will have performed multiple cross-examinations of fact and expert witnesses, received constructive comments and suggestions, reviewed their own performances on video, and increased their skill and confidence in using a critical advocacy tool. In addition, there will be a number of social activities planned for the evenings.

## Workshop leaders

This highly interactive seminar will bring together a diverse group of respected practitioners and arbitrators, representing a broad range of experiences and legal cultures. Participants will receive direct feedback from the following workshop leaders.

Australia / United Kingdom – **Prof. Peter Lyons** of CPD Training (UK) has taught advanced Arbitration Advocacy for many years to some of the top law firms in the world in countries such as Austria, France, Italy, Switzerland, the Netherlands and the United Kingdom.

Austria – **Christian Dorda** is - the founding partner of Dorda Brugger Jordis in Vienna – a highly experienced arbitrator and former member of the ICC Court.

Austria – **Günther Horvath** is the head of Freshfields' International Arbitration Group in Vienna. He has more than 35 years experience acting as party counsel and arbitrator.

Germany – **Amy Kläsener** is head of Shearman and Sterling's arbitration group in Germany and a U.S. trained lawyer.

Italy / United States – **Franco Ferrari** is a Professor at New York University School of Law and the Director of its Center for Transnational Litigation, Arbitration, and Commercial Law.

Latin America - **Ryan Reetz** is a partner at Bryan Cave in Miami with over 25 years of international dispute-resolution experience, including both litigation and arbitration.

Switzerland – **Christopher Koch**, a partner with Landolt & Koch in Geneva and a former ICC Counsel, has broad-based experience in international arbitration and is admitted to practice in both Geneva and New York.

United Kingdom / New Zealand – **Genevieve Poirier** is a counsel at Skadden, London. She advises on the resolution of high-value international commercial disputes.

United States – **Peter R. Day** is the Principal of Mercer Island Arbitration Chambers International LLC and teaches International Commercial Arbitration at the University of Washington School of Law..

United States / Austria – **Jarred Pinkston** is a U.S. trained attorney in the international dispute resolution practice group of Dorda Brugger Jordis in Vienna.

## Program

### DAY ONE (12 November) – Thursday Afternoon

<b>Introduction</b>	1:00 – 1:15 pm
<b>1<sup>st</sup> session – Demonstration of cross examination</b> (30 min.) Use of leading questions, controlling the witness Importance of a plan, realistic expectations	1:15 – 1:45 pm
<b>2<sup>nd</sup> session – Case strategy; Preparation for cross</b> (45 min.) Theory of case, goals for cross of each witness Theory of opponent's case; strength and weakness of each Adapting to the panel	1:45 – 2:30pm
<b>BREAK</b>	
<b>3<sup>rd</sup> session – Exercise 1 in classic cross-examination</b> (90 min.) (including videotape review)	2:45 – 4:15 pm
<b>4<sup>th</sup> session – Instructor and student observations on exercises</b> (15 min.)	4:15 - 4:30 pm
<b>BREAK</b>	
<b>5<sup>th</sup> session – Exercise 2 in cross-examination</b> (90 min.) (including videotape review)	4:45 – 6:00 pm
<b>ADJOURN</b>	
<b>Dinner</b>	7:00 – 9:30 pm

## Program

### DAY TWO (13 November) – Friday

<b>6<sup>th</sup> session – Demonstration of cross examination (cont.) (30 min.)</b> Use of exhibits, impeachment, redirect examination	9:00 – 9:30 am
<b>7<sup>th</sup> session – Exercise 3 in cross-examination (90 min.)</b> (including videotape review) Focus on impeachment, use of documents	9:30 - 11:00 am
<b>BREAK</b>	
<b>8<sup>th</sup> session – Exercise 4 in cross-examination, redirect exam (75 min.)</b> With different interventions by the panel (including videotape review) Focus on impeachment, use of documents	11:15 - 12:30 pm
<b>LUNCH</b>	
<b>9<sup>th</sup> session – Demonstration of cross-examination of experts (45 min.)</b> Party selected experts & panel appointed experts Key points of expert report, previous work product of expert Previous testimony, other authorities	1:30 – 2:15 pm
<b>10<sup>th</sup> session – Case strategy; Preparation for expert cross-exam (45 min.)</b> Theory of case, goals for cross of each witness	2:15 – 3:00 pm
<b>BREAK</b>	
<b>11<sup>th</sup> session – Exercises in expert cross-examination (90 min.)</b> (including videotape review)	3:15 – 4:45 pm
<b>BREAK</b>	
<b>12<sup>th</sup> session – Exercises in expert cross-examination (60 min.)</b> (including videotape review)	5:00 – 6:00 pm
<b>ADJOURN</b>	

### DAY THREE (14 November) – Saturday Morning

<b>13<sup>th</sup> session – Exercises: Interacting with different panels and review of particular areas of focus (90 min.)</b> With and without panel interruptions Focus on identifying inconsistencies, when to stop (including videotape review)	9:00 – 10:30 am
<b>14<sup>th</sup> session – Demonstration of “hot-tubbing” expert witnesses (30 min.)</b> Preparation of experts, role of panel (chair), role of counsel Seek and narrow real areas of disagreement, resolve semantic issues	10:30 – 11:00 am
<b>BREAK</b>	
<b>15<sup>th</sup> session – Exercises in expert witness cross-examination (90 min.)</b> Panel-appointed experts & hot-tubbing (including videotape review)	11:00 – 12:30am
<b>Wrap-up</b>	12:30 pm – 12:45

## Registration form

Mail or Fax to: ICC Austria, **Mrs. Marcel Hribernik**  
 @ E-Mail: [m.hribernik@icc-austria.org](mailto:m.hribernik@icc-austria.org)  
 Responsible for the content: **Eleonore Treu**  
 @ E-Mail: [e.treu@icc-austria.org](mailto:e.treu@icc-austria.org)

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 ☎ Fax: +43-1-504 83 00-3703  
 ☎ Tel.: +43-1-504 83 00-3706

Participant Information		ICC CZ
<input type="checkbox"/> Mr. <input type="checkbox"/> Mrs.		
Family Name: ..... First (given) Name: .....		
Organization / Company: .....		
Address: .....		
Postal Code, City: ..... Country: .....		
Telephone: ..... Fax: .....		
E-Mail: ..... Job Title / Position: .....		
Invoice data		
Organization / Company: .....		
VAT Number (obligatory for invoicing for European participants): .....		
Address: .....		
Postal Code, City: ..... Country: .....		
Registration		
<b>Cross-Examination</b>		
DORDA BRUGGER JORDIS Rechtsanwälte GmbH; Universitätsring 10; 1010 Vienna, Austria		
<b>I want to register for</b> and agree that my name/ address is registered electronically by ICC Austria who will inform me about further programs by e-mail.	12 November 2015: 13.00 – 18.00	
	13 November 2015: 9.00 – 18.00	
	14 November 2015: 9.00 – 13.00	
	<input type="checkbox"/>	
<b>Participation fee:</b> incl. Seminar documentation, Coffee break, Lunch	<b>EUR 840,--</b> (excl. 20% VAT)	
<b>Closing date:</b> 4 working days before Seminar		
<b>Please be advised that your registration is already valid with the written confirmation!</b> <b>The fee must be paid verifiably before the closing date!</b>		

## Cancellation Policy

A full refund will only be given for cancellations received up to 4 working days before the event. Cancellations must be made in writing. Should you be unable to attend you can nominate a colleague as replacement.

.....  
Date

.....  
Signature