COURSE NAME: Introduction to Arbitration & Selected Topics

COURSE NUMBER: Law 8788A

PROFESSOR: John J. McCauley

ESSENTIAL PREREQUISITES: Contracts I & II

DESIRABLE PREREQUISITES: Civil Procedure; Constitutional Law

COURSE BOOKS: The basic text for this course is the Arbitration section (approximately 100 pages) of Professor Stephen Ware’s excellent Hornbook, Alternative Dispute Resolution (West Publishing Company, 2nd edition, 2008). In addition, the course will make use of short excerpts from a variety of cases and other materials otherwise set forth in this syllabus.

METHOD OF GRADING & APPRAISAL OF STUDENT FOR GRADE: The course will be graded, based upon class participation and a final exam. Good preparation and participation in class will be expected.

SUMMARY DESCRIPTION OF COURSE: An academic course exploring the scope and optimal use of private commercial arbitration as an alternative to litigation in the United States.

COURSE CONTENT: This course explores selected topics in the field of commercial arbitration in the United States. The topics consist of (1) the doctrinal roots of arbitration in the common law as modified by Federal and State statutes, contrasted with widespread popular misconceptions regarding the topic, (2) the practical benefits and drawbacks of arbitration, as compared to litigation, as a means of adjudicating disputes, (3) the distinct requirements imposed by courts for enforcing arbitration agreements involving employees, consumers or patients in contrast to ordinary commercial arbitration agreements, (4) the circumstances in which courts will compel arbitration, and in which they will confirm, correct or vacate arbitration awards, (5) the unusual but sometimes important circumstances in which an arbitration award is (or can contractually be made to be) governed by substantive law and (6) a sampling of some of the little recognized ways in which both transactional lawyers and trial lawyers familiar with arbitration law can customize their adjudications to meet their clients’ special needs in extraordinary ways.

RELEVANCY OF COURSE FOR CAREER PURPOSES: Arbitration has now replaced Litigation as the primary means by which Business and Employment disputes are adjudicated in the United States. As a result, law students pursuing careers as trial lawyers will almost certainly find themselves representing clients in arbitration hearings far more often than in court trials. Moreover, law students pursuing careers as transactional lawyers will certainly find themselves frequently advising clients on the kinds of arbitration agreements best suited to their needs in the event disputes arise. For this reason, there is a case to be made that a legal education cannot be called complete without a course on the basics of arbitration law.