

# In the Alternative

The newsletter of the Illinois State Bar Association's Section on Alternative Dispute Resolution

## Teaching Advocacy in Arbitration on the International Stage

BY KRISTEN E. HUDSON, ESQ.

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Autumn has arrived, and with it, crisp air, falling leaves, and for most of us, memories of sharpened pencils and new textbooks from our law school days. For UIC John Marshall Law School, it also brings with it the excitement and anticipation a new season and new team to compete in the Willem C. Vis International Commercial Arbitration Moot.

### What Is Vis?

The Vis competition was named for Willem Cornelius Vis, a world-renowned expert in international commercial transactions and dispute settlement procedures. Among his many accolades, Willem Vis was deputy secretary general of the International Institute for the Unification of Private Law (UNIDROIT) in Rome and served on the faculty of the Pace University School of Law from 1980 until his death in 1993. At Pace, Professor Vis was a champion of international commercial law, and the founding director of Pace Institute of International Commercial Law. Today, Pace University, along with Stockholm University, Queen Mary (University of London),

the University of Vienna and others, are instrumental in hosting and organizing the Vis competition.

The purpose of the competition is to train law students in resolving international commercial disputes by arbitration. Each year, the problem involves a transaction between merchants in two fictitious countries governed by the United Nations Convention on Contracts for the International Sale of Goods (the "CISG") in the context of arbitration under a specified set of arbitration rules. There is a procedural problem for the students to resolve. In years past, the procedural issues, for example, have involved arbitrator impartiality in connection with third-party litigation funding, the admissibility of hacked information, among other cutting-edge topics. There are also substantive contract issues to resolve, and these are likewise emerging issues, dealing with, for example, warranties for "sustainable" products and whether tariffs unexpectedly imposed by one country qualify as hardship or force majeure. Bright young legal minds are tasked with analyzing and creatively advocating for positions that practitioners grapple with in real time.

There are two sites for the competition. The first situs for the competition was Vienna, Austria, and the competition there is now in its 27th year. More recently, Hong Kong, China, has hosted the Vis East competition, now in its 17th

year. Worldwide, more than 300 teams participate in the competition. There is no better training ground for students to participate in a realistic arbitral experience and to be exposed to diverse approaches to factual analysis and legal argument—it is like the Olympics of law school.

The competition is divided into two phases, a written advocacy phase and an oral advocacy phase. Students are required to first submit a claimant's memorandum based on a problem that contains a packet of real-world materials like those a lawyer would use to work up a case. In years past, the problem has included a variety of documents, including contracts, correspondence, and witness statements. From these materials, students must distill the relevant facts and legal issues. Once the claimant's brief is done, the team must then flip sides and present the respondent's counter arguments in a responsive memorandum. Thereafter, the students practice oral arguments in preparation for four preliminary arguments of one hour each in Vienna or Hong Kong to kick off the oral portion of the competition.

The 2018-19 Vis competition was a great success for the JMLS team. For the first time in the school's history, the team brought home awards for both briefs, earning honorable mention for Best Claimant's Brief and honorable mention for Best Respondent's Brief.

## Vis Is Not Just for Students!

While this might all sound very “academic,” the Vis competition is not just for students. There are opportunities for practitioners to participate in and be a part of the international arbitration community. UIC John Marshall Law School is always looking for arbitrators to moot the team before travel abroad for competition. In addition, each year, Loyola University Chicago School of Law hosts a pre-moot in or about February, where schools from the region come to participate and practice their arguments. More information can be found at <https://www.luc.edu/law/academics/centersinstitutesandprograms/disputeresolutionprogram/eventsandcompetitions/>. Sign up to be an arbitrator to learn more about this opportunity.

Practitioners can also learn more about international commercial arbitration and get involved in the community by joining the Chicago International Dispute Resolution Association, or CIDRA, <http://www.cidra.org/>. CIDRA is a supporter of and its members participate in Loyola’s Vis Pre-Moot.

## What Does the Vis Competition Teach?

In an interview with their coach, UIC JMLS students from the 2018-19 Vis team reflect on their experience and what they learned as competitors in the Vis competition, and how they plan to use these lessons in their practice.

### **Why were you interested in joining the Vis team?**

Gabrielle Neace: I wanted to find the most challenging competition that John Marshall had to offer and prove to myself that I could rise to the challenge. I also wanted coaches that would continually push me to reach my full potential, which is why I wanted to join even more after meeting the coaches.

Caroline Mazurek: I was taking a global investments class at the time when I heard about Vis and was interested in expanding my knowledge of international trade beyond what I was learning in the classroom. I also wanted to work with coaches that would challenge me to further develop my advocacy

skills. The information session convinced me this competition would do that, so I tried out!

Ariel Yang: I have always been interested in pursuing a career in international commercial law. However, our law school did not offer the exact course that I wanted to take during that time. I originally learned of Vis Competition while I was trying out for a trial team. I researched a little bit about the competition and I thought that this could be a great learning experience for me.

### **What was one thing that you learned that was surprising about arbitration that you didn’t know before you joined the Vis team?**

Gabrielle Neace: The different way of phrasing and demeanor that they follow on an international scale rather than the more (aggressive) American style. It really is a very particular style that you cannot fully realize until you go to Hong Kong to meet the community of participants, coaches, and arbitrators.

Caroline Mazurek: The style in which the competition is conducted, particularly the way in which arguments are presented and the cadence necessary to advance in the competition. Vis, as an international competition, was different than any other moot court or trial advocacy program I had been a part of and it took some time to get familiar with the style.

### **What was the most rewarding part of your experience on the Vis team?**

Gabrielle Neace: Getting to work with people who have the same goal and passion for the program.

Caroline Mazurek: Being a part of a team that truly worked hard toward a common goal. We all had the same drive, passion, and work ethic which made the experience so great!

Humza Ansari: Building relationships with my the team members and the coaches that we will remember for the rest of our careers, discovering a new skill and developing it with my teammates, and winning two awards!

Ariel Yang: The opportunity to collaborate with a group of people who share the same passion with me. We worked together for six months and we grew as a team. It has

been one of the best experiences during law school.

### **What was your least favorite part of your experience on the Vis team?**

Gabrielle Neace: The long flight! But it was not that bad. I also wish our school offered more coursework to support the program, but I know the coaches are working on changing that.

Caroline Mazurek: Not being familiar with international law prior to the start of the competition. It would have been helpful to know the Hague Principles, the HKIAC, and any other model rules before writing the briefs. The coaches and the team discussed implementing a program or class that would teach those rules, which would be beneficial to the whole process.

Has learning about alternative dispute resolution, and in particular arbitration, changed your view of litigation in the United States and internationally?

Gabrielle Neace: Yes, I like the formal, yet conversational style in Vis. It also seems more rooted in fostering a rapport and politeness. It is also less theatrical than some of the styles in the U.S.

Caroline Mazurek: It has. Stylistically, U.S. litigation is more aggressive and allows attorneys to be zealous advocates for their clients. Although international litigation has the same intention, Vis was more conversational and polite. This makes me believe that international litigation is more culturally sensitive, but both styles are effective.

### **Has your experience on the Vis team influenced a particular area of law in which you wish to practice?**

Caroline Mazurek: Absolutely! I always knew that I wanted to litigate but I am now more interested in doing so abroad! I would like to work for a firm or company that has offices both in the U.S. and overseas and allows its attorneys to practice or be a part of various disputes.

Humza Ansari: Yes, it has. Before joining the Vis team I was primarily interested in transactional work, but after this competition I developed a passion for litigation.

If you had to do it all over again, would you (and will you)?

Gabrielle Neace: Yes. It is the best

competition and the best team (coaches and participants) I have worked with! I consider my teammates as close friends that I am very thankful to have met. Aside from the team, the arbitrators were very supportive and clearly enjoyed being part of the competition. The team running the competition was efficient and welcoming. Best of all, the problem was very complex and even fun to argue!

Caroline Mazurek: Yes! This was the best competition at JMLS and the best team I had been a part of! My teammates have become some of my closest friends and my coaches are attorneys that I aspire to be like. The host school, competition coordinators, arbitrators, and opposing teams were also welcoming and extremely supportive. The problem was complex but so much fun to argue and I would do this competition again and again if I could!

Humza Ansari: I would absolutely do Vis again. This competition has been the highlight of my time in law school, and I would recommend it to anybody who has a passion for contract law and an interest in litigation. The time I spent with my teammates and coaches, through ups and downs, was worth every bit of effort I put into this competition.

Ariel Yang: Yes, and in fact I competed in Vis twice. When I first participated in the 2017-2018 Vis Competition, I really enjoyed the collaboration with the team and the coaches. We not only supported each other throughout the brief writing phase and the oral argument phase, we also challenged each other to become better advocates. More importantly, this competition opened my eyes and helped me develop continuing interests in international commercial arbitration. The Vis competition gave us the opportunity to learn about international business law in depth while our law school did not offer the same course. By competing in Vis, I was able to learn what I am passionate about. This was the main reason

why I chose to compete in Vis again.

**How do you think this experience will impact the way that you practice law in the future?**

Sara Geoghegan: I think that the Vis experience will impact the way that I practice law in the future because it taught us adaptability. The Vis experience exposed our team to a new area of law with different issues. We had to adapt to a new style of persuasion and rules. I think this exposure and ability to self-correct after receiving feedback will benefit the way we practice in the future.

Gabrielle Neace: Confidence! Now that I have competed against the world, I feel like I can take on anything. It also helped with research and being able to self-teach as international law is such a HUGE area of law.

Caroline Mazurek: Vis has given me the confidence to advocate any position and has helped me perfect my research skills. It also required a professional demeanor and resilience, all great attributes to have as a future attorney.

**Do you feel better prepared to enter practice than your classmates?**

Gabrielle Neace: Yes, which is why I would recommend this competition to anyone looking for a competition to best prepare them to be practice ready. However, it is not for the faint of heart as you must be willing to be broken down then built back up, take constructive criticism and make yourself better. While I still have much to learn, I feel more equipped. I am very grateful to have been given this opportunity.

Caroline Mazurek: Yes. This competition prepares you for real practice and challenges you to be a better advocate. It is both the most challenging and the most rewarding experience in law school because you have you to be willing to receive feedback, including criticism. I am so thankful to have been a part of Vis!

Ariel Yang: Yes. Vis uses a fictional problem closely related to the emerging legal

issues, and also requires tons of practical skills such as communication, teamwork, legal research and writing. Vis challenged us both intellectually and practically. I am very thankful that I was able to participate in Vis and share this journey with my teammates and coaches.

**What is next?**

After two years competing in the Vis East competition in Hong Kong, the UIC JMLS team has their sights set on a return to the Vienna stage. This year, the team will be led by returning veterans Humza Ansari, Sara Geoghegan, and Gabrielle Neace. These veterans are excited about a new Vis year. As third-year student Gabrielle Neace indicates, "I truly feel that I gained a Vis family last year, so I couldn't imagine not returning to this team. We are very excited to get started on another complex, intellectually challenging problem. This year will be another strong team. We hope to continue the coaches' mission to make the program stronger every year with alumni, students, and practitioners who love the program as much as we do!"

According to co-coach of the team Daniel Saeedi, esq., partner at Taft Stettinius and Hollister, LLP and former Vis participant, "This year's team has big shoes to fill, but we believe we will hit the ground running where we left off last year. In addition to strong and talented veterans, we have a talented set of 2Ls that are excited to join us in our journey. It is an honor and a pleasure to coach this talented group of young lawyers." The three returning veterans are joined by Lexi Hudson, Alexandra Pruitt, Wyatt Sugrue, and Skylar Young.

Good luck, team! We hope for good things to come. ■

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*For more information about how to get involved with the Vis Competition or the UIC JMLS Vis team, please email coaches Kristen Hudson at [khudson@chuhak.com](mailto:khudson@chuhak.com) or Daniel Saeedi at [dsaeedi@taftlaw.com](mailto:dsaeedi@taftlaw.com).*