



## ARIAS-U.S. 2017 Fall Conference Request for Proposals Submission Guidelines and Application

Proposal Submission Deadline: **July 10, 5:00 p.m. ET**

For questions or comments, contact Joyce Arawole at ARIAS-U.S. at [jarawole@arias-us.org](mailto:jarawole@arias-us.org) or 703.260.7515.

### Overview – Beyond the Traditional Reinsurance Arbitration – “Non-Traditional Disputes”

ARIAS-U.S. is seeking dynamic, relevant, and interesting content for the 2017 Fall Conference to be held November 2- 3 at the Marriott Marquis in New York. The planning committee is looking for presentations beyond the traditional reinsurance arbitration. While many reinsurance disputes involve the collection of long tail asbestos or environmental losses, at this conference, we plan to highlight other "non-traditional" disputes which can be and often are resolved through arbitration. These might include disputes involving a diverse array of products, businesses or lines, including disputes between policyholders and insurers as well as MGA, agency and/or broker disputes, workers compensation and/or life reinsurance disputes, structured finance disputes and other disputes focused on financial matters, disputes involving captives, Bermuda Form arbitrations and others.

ARIAS-U.S. is seeking submissions for 45 to 60 minute interactive presentations in a General or Breakout session format. Submissions should be interactive, skill-based and/or audience participative or other forms of presentation that encourage interaction and lively discussions. Special consideration will be given to proposals that incorporate unique presentation formats. The ARIAS-U.S. planning committee may also provide suggestions for enhancing the panel and overall conference experience for participants. The planning committee is looking to avoid “talking head” presentations for the Fall Conference and invites submissions that fit within the listed conference themes that explore specific challenges, topics and issues in-depth. Please review the details and guidelines of this RFP process thoroughly before proceeding.

### Guidelines for Submission

- Proposals may be submitted for targeted member audiences (i.e. Arbitrators/Umpires, Company Representatives, and Counsel).
- Presentations will be considered based on quality of topic, introduction of new and innovative concepts, importance of the subject-matter to insurance/reinsurance arbitration, and appeal to the target audience(s).
- The lead presenter organizes the presentation and is responsible for submitting the proposal application, forming the group session, moderating the session and leading the discussion.
- This request for proposals is open to all ARIAS-U.S. members and non-members. Interested parties may submit more than one proposal at a time.
- ARIAS-U.S. may request a submission be revised to better fit the conference agenda or combined with another presentation where appropriate.
- Submissions accepted must agree to adhere to a timeline provided by ARIAS-U.S. to submit conference materials, including PowerPoint presentations, and supplementary materials in advance of the conference.
- Speakers are strongly encouraged to submit an article for the quarterly journal based on their presentation or related to the topic’s focus area.
- All individuals accepted to present in any of the presentation types must be registered by the presenter registration deadline. *Please note: no registration or payment is necessary to submit a proposal. Only those accepted will be required to register.*
- Speakers are responsible for their own travel, room, board, incidental, and registration costs
- Completed proposal application must be submitted electronically by 5:00 pm ET on **July 10, 2017** to Joyce Arawole at [jarawole@arias-us.org](mailto:jarawole@arias-us.org).

# ARIAS·U.S. 2017 Fall Conference Submission Application

**SUBMISSION DEADLINE: July 10, 5:00 p.m. ET**

Email all completed applications to Joyce Arawole at [jarawole@arias-us.org](mailto:jarawole@arias-us.org)

## Proposal Timeline:

Proposal Submission Opens: June 19, 2017  
Proposal Submission Closes: July 10, 2017 by 5:00 p.m. ET  
Submission Status Notification: July 25, 2017  
Speaker Confirmation Deadline: August 1, 2017

Please type your responses and ensure that all fields are complete before submitting the application. All questions concerning this process should be directed to [info@arias-us.org](mailto:info@arias-us.org).

## CONTACT INFORMATION

### 1. CONTACT INFORMATION:

Please complete the contact information for the main speaker/ submitter of this proposal. This person will be notified regarding the status of the proposal submission. **Note:** If your presentation includes a co-speaker or panelists, you must submit "Speaker Information" for ALL of the presenters.

<b>Full Name:</b>	Donald E. Frechette
<b>Title/Position:</b>	Partner
<b>Telephone Number:</b>	860-541-7713
<b>Email Address:</b>	Donald.frechette@lockelord.com

## PRESENTATION INFORMATION

### 1. SESSION FORMAT:

Presentations may be designed for one or more presenters in either a general session or breakout session format.

- Interactive Panel Session: 45 – 60 minutes
- Alternative Format: If there is an alternative format that you would like to explore, please explain

**A. Please select the presentation format for your proposed session by clicking on the gray box below:**

<input checked="" type="checkbox"/>	Interactive Panel Session
<input type="checkbox"/>	Alternative Format – Please explain:

### B. Will this be planned as a general session or breakout?

- General Session (Large conference audience up to 400): 45 - 60 minutes
- Breakout Session (Small group concurrent sessions of up to 100 people in a room): 45 – 60 minutes

<input checked="" type="checkbox"/>	General Session	<input type="checkbox"/>	Breakout Session
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**C. Please provide the technology that you plan on using, if any (PowerPoint, live polling, other?). Please note that audiovisual requests only apply to general sessions:**

**Power Point May Be Incorporated Based On Further Refinement Of The Presentation**

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## 2. CONFERENCE THEME AND FOCUS

We encourage proposals focused on a variety of topics that relate to the general themes provided below.

The planning committee is looking for presentations beyond the traditional reinsurance arbitration. While many reinsurance disputes involve the collection of long tail asbestos or environmental losses, at this conference, we plan to highlight other "non-traditional" disputes which can be and often are resolved through arbitration. These might include disputes involving a diverse array of products, businesses or lines, including the following below. Please select topic focus by clicking on the gray box below:

<input type="checkbox"/>	Disputes between policyholders and insurers, MGA, agency and/or broker disputes
<input type="checkbox"/>	Workers compensation and/or life reinsurance disputes
<input type="checkbox"/>	Structured finance disputes and other disputes focused on financial matters
<input type="checkbox"/>	Disputes involving captives, Bermuda Form arbitrations and others
<input type="checkbox"/>	Other disputes – please describe:

The conference planning committee is interested in providing fresh and relevant content to keep conference participants engaged. Please answer briefly, the following questions below to help us understand the focus and relevance of your submission to current events and issues within the selected conference topic.

- A. What is the specific topic you are proposing and why? Please see the attached. In our experience, discovery disputes are becoming more commonplace and often serve to undermine the fundamental purpose of arbitration – the efficient and inexpensive resolution of disputes. This presentation will address how to deal with such disputes, both prophylactically and after the fact.
  
- B. What makes this topic of interest to the conference audience? Please see the preceding response.
  
- C. Why is it relevant? Are there any current events or articles you can share? Anyone that has been involved in arbitration over the last ten years has experienced the challenges associated with discovery disputes and, in our view, such challenges have become more prevalent and complicated. This topic is intended to address that reality.
  
- D. How does this topic impact the business of reinsurance arbitration? Plainly, it impacts all arbitrations. However, reinsurance arbitrations often span multiple jurisdictions, involve large quantities of documentation (including ESI), and often are decided by panels that include non-lawyers. All of these factors can exacerbate the likelihood and effect of discovery disputes.

## 3. TARGET AUDIENCE:

Proposals may be submitted for targeted member audiences (i.e. Arbitrators/Umpires, Company Representatives, and Counsel). Please select the target audience(s) by clicking on the gray box below: All arbitration practitioners and panel members would benefit from this program.

<input type="checkbox"/>	Arbitrators / Umpires
<input type="checkbox"/>	Company Representatives
<input type="checkbox"/>	Counsel

**4. SESSION TITLE:**

List the presentation title as it will appear in the conference program. Please limit to 10 words or less.

Reinsurance Discovery Dispute Roundtable Discussion

**5. SESSION DESCRIPTION:**

Please provide a brief 25-50 word description of the presentation content. Describe the session in promotional terms for the registration brochure.

Discovery disputes are increasingly becoming part of the reinsurance arbitration landscape. How can they be avoided, and how can they be addressed when they arise. Join us as we address the issues in a roundtable discussion with panel members and practitioners.

**6. DETAILED SESSION DESCRIPTION:**

Please provide a detailed (no more than 300 words) description of the presentation content and how you plan to engage participants.

Please see attached.

**7. SESSION LEARNING OBJECTIVES:**

Learning objectives are a required component of the submission process so that ARIAS·U.S. can request for continuing legal education credits.

Please state what participants can expect to learn and /or do upon completion of the session in measurable, behavioral terms. **Examples of measurable words include: state, list, describe, explain, identify, name, demonstrate, etc.** [Click here for a link to examples](#)

Please include three to five learning objectives below:

1	Learn what can be done to avoid discovery disputes or to minimize their occurrence.
2	Identify effective strategies to address such disputes in a manner that fulfills the reasonable expectations of the parties and furthers the stated goals of arbitration.
3	Understand the limits of arbitral authority as regards the discovery process.
4	
5	

## SPEAKER INFORMATION

### 8. SPEAKER BIOGRAPHY:

Speaker biographies are a required component of the submission process so that ARIAS·U.S. can request for continuing legal education credits. **Please complete a speaker biography for each presenter. For additional speakers, please copy this page.**

#### A. Contact Information:

Full Name:	Donald Frechette
Title/Position:	Partner
Telephone Number:	860-541-7713
Email Address:	Donald.frechette@lockelord.com

#### B. Presentation History:

Have you presented at an ARIAS·U.S. conference or seminar previously?

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
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Has this presentation been delivered before at a different conference or event?

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
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If yes, when and where?

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#### C. Please describe your familiarity with the target audience and your expertise on this topic:

I have attended multiple ARIAS events and have arbitrated a number of reinsurance disputes, including at least one "bet the company" case. I have litigated numerous arbitration-related issues, including discovery-related issues.
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D. Please provide a biography of (up to 150 words) as it will appear in the conference program.

Mr. Frechette has been a trial lawyer for over 35 years and has appeared on behalf of clients in multiple reinsurance arbitrations and related litigation proceedings. His experience includes arbitrations involving life, P & C, MGA, agency/company acquisition, and bonding disputes.

A 1981 graduate of New York Law School, Mr. Frechette received his LL.M in 1985 from Boston University. He has been a partner at Locke Lord since 1991.

Thank you for completing the Call for Proposals Submission Application. Please email all completed applications to Joyce Arawole at [jarawole@arias-us.org](mailto:jarawole@arias-us.org) by 5:00 p.m. ET on **July 10, 2017**.

## DISCOVERY ISSUES IN ARBITRATION ROUNDTABLE OUTLINE

(The outline below contemplates a moderated roundtable discussion with 1-2 panel members and 1-2 lawyers who regularly engage in reinsurance arbitration. We have, for purposes of this proposal, provided only the broad contours of the discussion, but it is contemplated that, in advance of the presentation, panel members would be provided with specific case materials and/or fact patterns to facilitate the exchange. Course handouts would also include specific case authorities addressing such matters as the “right” to discovery, proportionality in the litigation context, and third-party discovery in arbitration.)

- I. Arbitration is billed as a faster and cheaper alternative to litigation. But discovery is often the most time-consuming and expensive aspect of the litigation process. Consequently, this presentation will seek to explore contemporary discovery issues in an effort to determine best practices for, on the one hand, assuring the parties a fair hearing while, on the other hand, fulfilling the parties’ underlying expectation that their dispute will be resolved in the quickest and most cost-effective manner possible.
- II. Recognition must first be given to the fact that the goals of arbitration and litigation are very different and, as such, discovery must likewise be viewed differently depending on the system with which it is applied.
  - A. Litigation has, at its core, a truth-finding function and, given the broad range of discovery available, it’s truth at any cost.
    1. Although, we are now finally seeing a movement towards proportionality.
  - B. Arbitration, on the other hand, is more about “rough justice.” The parties recognize, going in, that they are giving up some measure of the truth-finding function in exchange for a result that can be inexpensively obtained in a fairly short period of time.
- III. Brief Discussion of the Fact That There Is No “Right” To Discovery In The Arbitral Context.
- IV. Given The Absence of Any Such Right, Parties Are Free to Fashion Their Own Restrictions On The Discovery Process, And Preemptive Contract-Based Approaches to These Issues Should Receive Greater Attention.
  - A. Ban All Discovery
  - B. Limit The Number or Allowable Time For Depositions
  - C. Cap Costs, or Employ Fee-Shifting Mechanisms
  - D. Spell Out A Proportionality Defense

V. But What If A Contract Is Silent? What Approach Is Best In Addressing A Process That Seems To Be Spiraling Towards Nothing More Than “Litigation-Lite?”

A. Can Arbitrators Ban Discovery On Their Own If A Contract Is Silent?

1. If they can, when/why is it proper to do so?

B. In Those Cases Where An Outright Ban Is Too Draconian, What Kinds of Alternatives Are Available to a Panel?

C. What about fee-shifting? Or limitations based on proportionality? Can/should these be imposed if the parties didn't see fit to include them in their contract? And what factors should go into an assessment of their appropriateness in any given case?

VI. What About Third-Party Discovery?

A. Threshold Issue As To Its Legality

1. Which law governs? (This section would include a brief discussion of the current state of the law, with a focus on circuit court decisions.)

2. Should the Panel weigh into the legal issues, or simply issue the requisite subpoena and let the parties “fight it out?”

3. Does resulting litigation have to impede the arbitration itself? What factors should be considered in determining whether a stay is warranted?

B. Can The Testimony Be Just As Easily Taken At A Hearing? Why may the hearing setting be desirable/undesirable?

1. Contrasting views of panel members vs. arbitration counsel.

C. May The Panel Delegate The “Hearing” To The Umpire? Should It?

VII. Concluding Observations