

Conducting an Arbitration Hearing: Plaintiff Case-in-Chief & Cross-Examination

Introduction

This document provides a practical guide for presenting a Plaintiff's Case-in-Chief and conducting cross-examination in an arbitration hearing. While arbitration is generally less formal than court litigation, effective advocacy still requires careful preparation, structured presentation of evidence, and strategic questioning.

I. Plaintiff's Case-in-Chief

A. Purpose

The Plaintiff's Case-in-Chief is the opportunity to present all evidence necessary to meet the burden of proof. This includes:

- Establishing each element of the claim
- Presenting witnesses and documentary evidence
- Building a clear and persuasive narrative

B. Preparation

1. Develop a Theory of the Case

- Identify the legal claims and required elements
- Create a compelling story supported by facts
- Anticipate defenses

2. Organize Evidence

- Witness testimony
- Documents, emails, contracts, records
- Expert reports (if applicable)

3. Prepare Witnesses

- Review key facts and exhibits
- Practice direct examination questions
- Emphasize clarity, credibility, and consistency

C. Structure of Presentation

1. Opening Statement

- Provide a roadmap of the case
- Highlight key facts and evidence
- Avoid argument (depending on arbitrator preference)

2. Direct Examination of Witnesses

Key Principles:

- Use open-ended questions
- Avoid leading questions (except for background matters)
- Let the witness tell the story

Sample Structure:

- Background and credentials
- Personal knowledge of facts
- Key events in chronological order
- Introduction of exhibits

3. Introducing Exhibits

- Authenticate documents through witnesses
- Explain relevance
- Follow agreed exhibit procedures

4. Use of Experts

- Establish qualifications
- Lay foundation for opinions
- Connect opinions to case theory

D. Key Advocacy Tips

- Be concise and organized
 - Maintain a logical flow
 - Use clear, simple language
 - Focus on credibility and consistency
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II. Cross-Examination

A. Purpose

Cross-examination is used to:

- Challenge credibility
- Highlight inconsistencies
- Elicit favorable testimony
- Undermine the opposing party's case

B. Preparation

1. Set Clear Objectives

- What do you want to prove?
- Which facts need to be weakened or established?

2. Know the Witness

- Review prior statements, depositions, and documents
- Identify inconsistencies

3. Plan Questions Carefully

- Use leading questions
 - Keep questions short and focused
 - Avoid asking questions without knowing the answer
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C. Techniques for Effective Cross-Examination

1. Leading Questions

- Suggest the answer within the question
- Example: "You signed the contract on March 5, correct?"

2. Control the Witness

- Ask one fact per question
- Do not allow explanations unless helpful

3. Use Documents Strategically

- Confront witness with prior inconsistent statements
- Confirm key admissions

4. Impeachment

- Show contradictions using prior testimony or documents
 - Maintain a calm and professional tone
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D. Common Pitfalls to Avoid

- Asking open-ended questions
 - Arguing with the witness
 - Repeating direct examination
 - Asking one question too many
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III. Re-Direct Examination (Optional)

- Clarify issues raised on cross-examination
 - Limit to matters addressed during cross
 - Avoid repetition
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IV. Closing Considerations

- Tie evidence back to legal elements
- Reinforce key themes

- Highlight admissions from cross-examination
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Conclusion

A successful arbitration presentation requires clear organization, persuasive storytelling, and disciplined questioning. The Plaintiff's Case-in-Chief should establish a strong factual and legal foundation, while cross-examination should strategically weaken the opposing case and reinforce your own narrative.