

Conducting an Arbitration Hearing

Opening Statement of Counsel for the Defendant

I. Introduction

The opening statement in an arbitration hearing serves as the first opportunity for counsel for the defendant to present their case narrative, frame the issues, and establish credibility with the arbitrator or arbitration panel. Unlike court proceedings, arbitration is typically less formal, but the importance of a clear, concise, and persuasive opening remains critical.

This document outlines the purpose, structure, and best practices for delivering an effective opening statement on behalf of the defendant.

II. Purpose of the Opening Statement

The defendant's opening statement is not an argument, but a roadmap. Its primary purposes are to:

- Introduce the parties and provide context for the dispute
 - Present the defendant's theory of the case
 - Highlight key facts that will be supported by evidence
 - Identify weaknesses or inconsistencies in the claimant's case
 - Establish credibility and professionalism
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III. Structure of the Opening Statement

1. Greeting and Introduction

Begin with a respectful greeting to the arbitrator(s) and briefly introduce yourself, your client, and your role.

Example:

"Good morning, Arbitrator [Name]. My name is [Counsel Name], and I represent the Respondent, [Defendant's Name], in this matter."

2. Overview of the Case

Provide a concise summary of the dispute from the defendant's perspective. Focus on clarity and neutrality in tone.

Key elements:

- Nature of the dispute
 - Relevant background
 - What is at stake
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3. Defendant's Theory of the Case

Explain clearly why the defendant is not liable or why the claimant's claims are unfounded.

Consider including:

- Contractual interpretations
 - Factual disputes
 - Legal principles supporting the defense
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4. Key Facts and Evidence

Outline the most important facts that will be established during the hearing. Reference documents, witness testimony, and expert opinions that support the defense.

Tips:

- Present facts in a logical sequence
 - Avoid arguing—focus on what the evidence will show
 - Emphasize consistency and reliability
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5. Addressing the Claimant's Case

Without being argumentative, briefly identify the key weaknesses in the claimant's case.

Examples:

- Lack of supporting evidence
- Contradictory testimony

- Misinterpretation of contractual terms
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6. Conclusion and Relief Sought

End with a clear statement of what the defendant is asking the arbitrator to decide.

Example:

"At the conclusion of this hearing, the evidence will show that the claimant's allegations are unsupported, and we respectfully request that all claims be denied in their entirety."

IV. Style and Delivery Guidelines

- **Be clear and concise:** Avoid unnecessary legal jargon
 - **Maintain professionalism:** Address the arbitrator respectfully at all times
 - **Stay organized:** Follow a logical structure
 - **Be persuasive, not argumentative:** Save detailed arguments for closing
 - **Use plain language:** Arbitration often favors clarity over complexity
 - **Control tone and pace:** Speak confidently and steadily
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V. Sample Opening Statement (Defendant)

"Good morning, Arbitrator. My name is [Counsel Name], and I represent the Respondent, [Defendant's Name].

This case concerns a dispute arising from [brief description]. While the claimant alleges that [summary of claim], the evidence will demonstrate that these allegations are not supported by the facts or the governing agreement.

The Respondent acted in full compliance with its contractual obligations. The documents and testimony you will hear will show that [key fact 1], [key fact 2], and [key fact 3].

In contrast, the claimant's case relies heavily on assumptions and lacks credible supporting evidence. As will become clear during this hearing, there are significant inconsistencies in the claimant's position.

At the conclusion of the evidence, we are confident that you will find in favor of the Respondent and deny the claims in full.

Thank you."

VI. Conclusion

An effective opening statement sets the tone for the entire arbitration hearing. For the defendant, it is an opportunity to present a coherent narrative, build credibility, and guide the arbitrator's understanding of the case from the outset. Careful preparation and clear delivery are essential to achieving these objectives.

VII. Final Notes

- Tailor the statement to the specific arbitration rules and forum
 - Know your audience (single arbitrator vs. panel)
 - Rehearse to ensure timing and clarity
 - Anticipate key issues and address them strategically
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