

Closing the Arbitration After Post-Arbitration Briefs

Introduction

Arbitration is designed to provide a final, binding resolution to disputes in a streamlined and efficient manner. After hearings conclude, parties are often invited or required to submit post-arbitration briefs. These briefs summarize evidence, present legal arguments, and clarify issues for the arbitrator. Once these submissions are complete, the arbitration enters its final phase: closing the record and moving toward the final award.

This document outlines the steps, considerations, and best practices involved in closing an arbitration after post-arbitration briefs have been submitted.

1. Submission of Post-Arbitration Briefs

Post-arbitration briefs typically include:

- Findings of fact supported by the evidentiary record
- Legal arguments applying governing law or contract provisions
- Responses to opposing party arguments
- Damages calculations or requested remedies

Key Considerations

- **Deadlines:** Arbitrators usually set strict deadlines for submission.
 - **Format Requirements:** Page limits, citation style, and organization may be prescribed.
 - **Simultaneous vs. Sequential Filing:**
 - *Simultaneous:* Both parties submit at the same time.
 - *Sequential:* One party files first, and the other responds.
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2. Reply Briefs (If Permitted)

In some arbitrations, the arbitrator allows reply briefs. These are limited responses to the opposing party's post-hearing brief.

Best Practices

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- Focus only on rebuttal, not repetition
 - Address key misstatements or legal errors
 - Maintain concise and targeted arguments
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3. Closing the Record

Once all briefs (and reply briefs, if any) are submitted, the arbitrator formally closes the record.

What “Closing the Record” Means

- No further evidence or arguments may be submitted
- The case is deemed fully submitted for decision
- The timeline for issuing the award begins

Methods of Closure

- **Explicit Order:** Arbitrator issues a formal notice
 - **Deemed Closure:** Record closes automatically after final submission per procedural order
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4. Post-Submission Requests by the Arbitrator

Before issuing a decision, the arbitrator may request:

- Clarification of specific factual issues
- Supplemental briefing on narrow legal questions
- Updated damages calculations

Party Responsibilities

- Respond promptly and precisely
 - Avoid introducing new arguments unless permitted
 - Adhere strictly to the scope of the arbitrator’s request
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5. Deliberation Phase

After the record is closed, the arbitrator begins deliberations.

Activities During Deliberation

- Reviewing evidence and transcripts
- Evaluating witness credibility
- Applying relevant law or contractual provisions
- Weighing arguments presented in briefs

Timeframe

- Typically governed by arbitration rules or agreement
 - May range from a few weeks to several months
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6. The Final Award

The arbitration concludes with the issuance of a final award.

Components of the Award

- Summary of the dispute
- Findings of fact
- Conclusions of law (if required)
- Decision on liability
- Damages or remedies awarded
- Allocation of costs and fees

Types of Awards

- **Reasoned Award:** Includes explanations and legal reasoning
 - **Standard Award:** Provides outcome without detailed reasoning
 - **Interim or Partial Awards:** Resolve specific issues before final resolution
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7. Post-Award Considerations

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After the award is issued, several actions may follow:

Correction or Clarification

- Parties may request correction of clerical errors
- Requests must usually be made within a short timeframe

Enforcement

- Awards are generally binding and enforceable in courts
- International awards may be enforced under treaties such as the New York Convention

Challenge or Vacatur

- Limited grounds exist to challenge an award
- Courts typically defer to the arbitrator's decision

8. Best Practices for Parties

To effectively close an arbitration after post-hearing briefs:

- **Be Clear and Persuasive:** Present a cohesive narrative in briefs
- **Follow Procedural Orders:** Strict compliance avoids delays
- **Anticipate Final Questions:** Address potential arbitrator concerns proactively
- **Maintain Professional Tone:** Credibility matters in final submissions
- **Prepare for Enforcement:** Ensure requested relief is practical and enforceable

Conclusion

Closing an arbitration after post-arbitration briefs is a critical phase that transitions the dispute from advocacy to decision-making. By understanding the procedural steps and adhering to best practices, parties can ensure that their positions are fully and effectively presented before the arbitrator renders a final and binding award.

Appendix (Optional)

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Sample Closing Statement in a Post-Arbitration Brief

"For the foregoing reasons, Claimant respectfully requests that the Tribunal enter an award in its favor, granting all requested relief, including damages, costs, and any further relief deemed just and proper."