



## **Arbitrator Insights: Real World Practice Tips from an Arbitrator as You Prepare for Your Next Preliminary Case Management Hearing and Scheduling Conference**

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Every arbitration is unique – the parties, facts, law, complexities, procedures, schedule, and deadlines – it all varies with each case. But here are a few real-world practice tips that do not change from case to case. Keep these in mind as you prepare for your next preliminary case management hearing and scheduling conference.

To quote Jerry Maguire, I offer these tips so you can “help me help you.”

### **Preparation.**

I prepare before every preliminary hearing conference. You should too. Review the relevant pleadings, the administrative rules, and any guidance from the arbitrator(s).

For many administered arbitrations, the administrative rules include a list of topics to be addressed at the preliminary hearing conference. For example, for an American Arbitration Association (AAA) Commercial Arbitration, refer to Rule P-2 (<https://www.adr.org/sites/default/files/Commercial%20Rules.pdf>), and for an International Institute for Conflict Prevention and Resolution (CPR) Administered Arbitration, refer to Rule 9.3 ([https://www.cpradr.org/resource-center/rules/arbitration/administered-arbitration-rules-2019/res/id=Attachments/index=0/2019%20Administered%20Arbitration%20Rules Domestic 07.25.19 .pdf](https://www.cpradr.org/resource-center/rules/arbitration/administered-arbitration-rules-2019/res/id=Attachments/index=0/2019%20Administered%20Arbitration%20Rules%20Domestic%2007.25.19.pdf)).

### **Time.**

You are busy. I understand that. I am busy too. You should also understand that. If there is information that you want me to review before the hearing, then please provide it far enough in advance that I have time to review it.



Emergencies happen. I understand that. Deadlines happen too. Keep an eye on the schedule and deadlines established for the arbitration. If you do not already have a tickler system (i.e., reminders of upcoming deadlines), then you may want to adopt one.

While we may all be busy professionals, we are people too. When setting deadlines and schedules, I consider the parties' input and the need for a fair, efficient, and economical resolution of the arbitration. I also take holidays, vacations, and personal commitments into account. Please do not propose a schedule intended to jam the other side.

### **Dialog.**

Meet and confer. As noted above, the topics to be discussed at the preliminary hearing conference are often set out in the administrative rules or a pre-hearing communication from the arbitrator(s). Discuss these issues with opposing counsel in advance of the conference. It will help to streamline the hearing.

By the way, meet and confer is a recurring theme. Most arbitrators, this one included, will encourage or order the parties to meet and confer about disputes throughout the proceeding before seeking arbitrator intervention. Having an initial meet and confer before the preliminary hearing conference establishes a foundation for future dialog.

### **Conclusion.**

Prepare for the preliminary hearing conference by using your time wisely. Review the papers, rules, and any guidance from the arbitrator(s). Confer with opposing counsel to explore the topics to be addressed during the conference to identify areas of agreement and narrow the procedural matters in dispute. In summary, help me help you.

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