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Arbitrator Insights: Practice Tips for Attorneys Based on Lessons Learned Over 10 Years as an Arbitrator

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Now that I have hit double digits as a neutral, I thought I would share some arbitration practice tips for attorneys based on lessons learned over the last 10 years.

Be Prepared: I prepare for the preliminary case management and scheduling conference, the final hearing, and each of the hearings in between. You should too. Preparation includes reviewing the applicable arbitration clause and arbitration rules and understanding how they impact the relief you are requesting or the process you are hoping to establish.

Be Focused: Arbitration is not an endurance competition. Be focused both in your writing and presenting. More is not better. It is just time-consuming. Concisely explain to the arbitrator(s) what you want and why you should get it.

Be Realistic: As a general rule, neither the rules of evidence nor the rules of civil procedure apply in arbitration. There may be specific instances where there is a compelling need to challenge a specific exhibit or specific testimony. Similarly, there may be cases where extensive discovery is warranted. However, as a general rule, in arbitration discovery is more limited and evidentiary objections are overruled.

Be in Touch: Not with the Arbitrator(s), but with the other side. The parties should meet and confer regularly throughout the arbitration, including before the preliminary case management and scheduling conference. Arbitration allows parties the flexibility to work together to tailor the process to the needs of their dispute.

While every arbitration is different, being prepared, focused, realistic, and in touch (with the other side) can help the parties in all arbitrations.