



Practical Session: Drafting of Pleadings in Investment Arbitration *

Summary

*** Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

The session from Washington Arbitration Week featured a panel of experienced legal professionals discussing key aspects of arbitration proceedings, particularly in the context of investor-state arbitration. Notable participants included Lisa and Ricardo, who emphasized the critical role of written pleadings in arbitration. They highlighted that these documents allow parties to present their cases comprehensively and help tribunals focus on key issues before oral hearings. Written submissions also facilitate the establishment of a narrative and initial impressions, which can significantly influence the tribunal's perspective.

The panelists discussed the importance of strategically drafting requests for arbitration and memorials, emphasizing that these documents should clearly outline the parties involved, applicable instruments, and the issues at stake. They noted that while the request for arbitration serves as a jurisdictional document, memorials allow for a more detailed presentation of arguments and evidence.

Nicholas elaborated on the differences between requests for arbitration and memorials, explaining that the latter should build upon the former by presenting a more developed legal strategy and addressing any evidence that may have emerged since the initial submission. The panelists stressed the need for effective planning and collaboration among team members to ensure a cohesive and persuasive final product.

Throughout the discussion, the importance of understanding the audience—specifically the tribunal's legal background and preferences—was emphasized. The panelists also touched on the integration of witness statements and expert evidence into the arbitration process, advocating for thorough preparation and collaboration with experts to ensure clarity and reliability in submissions.

In conclusion, the session provided valuable insights into the strategic considerations and procedural nuances involved in arbitration, underscoring the importance of effective communication and preparation in achieving favorable outcomes.



Authors

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Topics

Investment Arbitration, Drafting pleadings, Pleadings, Memorials, Counter-memorials, Replies, Rejoinders, Briefs

Category

WAW

Full Transcript

00:03:40

Turn off room and one.

00:03:45

one that was also specialize

00:03:49

in investor-state arbitration defending States

00:03:52

one of the one of

00:03:54

the Hallmark cases because we're

00:03:57

both Nationals from the same

00:03:58

country as is the case

00:04:01

where they defended electric on

00:04:02

eBay that was a difficult

00:04:05



case and they managed to

00:04:07

to actually defended successfully so

00:04:09

that that's the type of

00:04:11

Oliver that we have on

00:04:12

the table. She is also

00:04:15

a lawyer from my home

00:04:17

University in Columbia and are

00:04:20

there so many reasons why

00:04:21

we should be proud of

00:04:21

her. I'm proud of her

00:04:22

in any event. I want

00:04:25

I want embarrass her anymore,

00:04:27

but it's wonderful to have

00:04:29



you here and do keep

00:04:33

track of the various panels.

00:04:34

And this is part of

00:04:36

the experiment that were doing

00:04:38

and trying to bring to

00:04:39

you practical sessions somatic Arena.

00:04:47

Centennial something for the brake

00:04:55

lines inspection and thank you.

00:04:59

He knows he's a special

00:05:13

consultant at Covington specializes in

00:05:17

international commercial and he has

00:05:25

successfully Prosecuting High Plains in

00:05:29

our proceedings in English and

00:05:31



in Spanish, and it said

00:05:33

it said additional facility and

00:05:36

Beyonce close at least. She

00:05:48

has 25 years of experience

00:05:50

as an adviser in international

00:05:53

matters. She focuses on Extreme

00:05:57

Energy power and money mining

00:06:00

sectors and she has particular

00:06:03

expertise handling disputes involving States

00:06:06

and spent just under long-term

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contracts and disputes that implicate

00:06:14

both contract. Lexi Perez He's

00:06:21

an associate at freshfields besos

00:06:24



en Washington DC i c

00:06:33
c and b l c

00:06:35
i e rules and he

00:06:37
has experience across a variety

00:06:38
of Industries including Oil and

00:06:41
Gas Energy and Telecommunications. And

00:06:46
I know but not least.

00:06:48
He's a partner in Paris

00:06:57
specializes in international arbitration and

00:07:01
corporate litigation and he has

00:07:03
acted as counseling commercial and

00:07:05
investment arbitration proceedings involving complex

00:07:13
corporate disputes under commercial law.

00:07:19



Summarize we have people with

00:07:22

a lot of experience working

00:07:23

across a variety of Industries

00:07:25

and from those perspectives today.

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We will be discussing as

00:07:30

the face of the arbitration

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proceedings what ships you can

00:07:38

get from from this year's

00:07:41

what strategic decisions need to

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be shaking in the process

00:07:44

and what are the some

00:07:46

of the challenges that we

00:07:47

Face podcast. And it was

00:07:51



that will start with Lisa

00:07:53

and Ricardo. Why are the

00:07:56

recent ratings important in the

00:07:58

artichoke? I'm not sure I'm

00:08:02

connected to do so I'm

00:08:03

keeping one eye on the

00:08:04

screen is it looks like

00:08:05

I am sorry. That was

00:08:08

me. I would say that

00:08:13

the written things aren't as

00:08:14

important. They really are essential

00:08:16

in a case of any

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complexity whatsoever. I can't even

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imagine doing an arbitration without

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written pleadings that they provide

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the parties and their counsel

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with an opportunity to present

00:08:27

their case comprehensively logically systematically

00:08:31

end-to-end a feature of the

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evidence and arguments Authority that

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support their their case because

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they're exchanged before the parties

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can be in an oral

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hearing gives the tribunal and

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opportunity to engage with the

00:08:44

evidence and and the arguments

00:08:47



in advance which increases the

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focus on efficiency of the

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hearing process right across the

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range of issues. Then hearing

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can be focused on those

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issues such as you know

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finds most challenging or the

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other parties want to spend

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much attention on of course,

00:09:00

the parties have been able

00:09:01

to really engage with one

00:09:03

another completely in the fishing

00:09:07

process. I think the other

00:09:08



thing that I just Pick

00:09:12
up more on this is

00:09:13
what are Britain's leading gives

00:09:15
you a course is not

00:09:16
only the opportunity to said

00:09:17
I should arguments facts and

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law but it gives you

00:09:19
a chance to to set

00:09:21
the stage Ori and the

00:09:23
tribunal to the story that

00:09:25
you went to be telling

00:09:26
them. They can be hard

00:09:28
to do quickly and in

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the opening submissions that you

00:09:31
can start to lay the

00:09:32
somatic round or kiddo. Is

00:09:34
this a david-and-goliath case. This

00:09:35
is the case that turns

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on, you know, it's a

00:09:38
technical point of funerals going

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to need to be quite

00:09:40
so you can start to

00:09:41
use language and and the

00:09:43
framing of the argument that

00:09:44
you're putting Flora to sort

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of characterize the dispute characterize

00:09:48



what what important tell your

00:09:51

story or at yourself as

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the David in the David

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and Goliath about the narrative

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your dancing and those kind

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of pieces of mental Furniture

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those impressions of the tribunal

00:10:01

gets very early in a

00:10:02

case can be really hard

00:10:04

to dislodge. So if you

00:10:05

don't get control of a

00:10:08

narrative about the facts or

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the law Or at least

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try to do that and

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set out your stall on

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the on the narrative early

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in the case. It can

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be real it's a cuz

00:10:18

she can stand up. He'll

00:10:19

a very heavy Stone uphill

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to change a perception that

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has that has settled. So

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it's really important opportunity to

00:10:25

start to introduce your client

00:10:27

and their behavior and their

00:10:28

position in the most favorable

00:10:31



life points. I'll add a

00:10:36

few more and then perhaps

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Common Sense some of the

00:10:41

ones that you've mentioned already

00:10:42

really the opportunity for the

00:10:46

party to make a first

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impression on the tribunal and

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be able to develop their

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arguments persuade the tribunal of

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the strength of the case

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and of the weaknesses of

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the others are so essential

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to be able to give

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the tribunal that opportunity at

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to create their initial views

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on the Educate the tribunal

00:11:12

Jesus. Why should I win?

00:11:14

Why should my adversary lose

00:11:17

you really want to have

00:11:19

the tribunal come to the

00:11:20

hearing with some preliminary be

00:11:22

used as to what is

00:11:25

this case is about and

00:11:26

who gets to win and

00:11:27

you do that by articulating

00:11:30

your arguments and frame in

00:11:31



your argument in your briefs

00:11:33

ideal. You want them to

00:11:35

be predisposed to favor you

00:11:38

out of here and as

00:11:40

list that it's very important

00:11:42

to do so and and

00:11:44

to do an artfully of

00:11:45

the pleadings because I'm an

00:11:48

image in the back of

00:11:48

the truck and it's really

00:11:59

hard for them to change

00:12:01

them dramatically at the year.

00:12:04

So I threw the bleeding

00:12:06



through the briefs, this is

00:12:08

really the opportunity that you

00:12:09

have to build the confidence

00:12:11

of the tribunal and sort

00:12:13

of start with in case

00:12:14

from the beginning. They also

00:12:18

allow you in a minute

00:12:20

my own experience as a

00:12:22

benefit for the parties as

00:12:25

well. Cuz once you put

00:12:26

your writing it allows you

00:12:29

to think about your case

00:12:30

more carefully, once you sort

00:12:33



of you think you have

00:12:34

a case and you draft

00:12:35

a notice of dispute and

00:12:38

even a request for arbitration,

00:12:39

you know, the generalities out

00:12:41

the case, but it's really

00:12:42

when he gets to the

00:12:43

actual and waiting when you

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get to the memorial sometimes

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when you get to cover

00:12:47

a few things that perhaps

00:12:48

you didn't know before and

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things in writing allows you

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to understand your case better

00:12:55

and understand your opponent. So

00:12:58

it's a good way to

00:12:59

articulate your arguments in a

00:13:02

clear way. Marshall the facts

00:13:06

and develop the facts with

00:13:07

Bridget position and detail and

00:13:10

a good opportunity Supercenter work

00:13:18

product to the tribunal that

00:13:19

has been very well thought

00:13:21

you have drafted and now

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this draft this product that

00:13:30

you'll be touching the tribunal

00:13:31



really reflects what you want

00:13:33

to say after several rounds

00:13:35

of revision. This is an

00:13:36

advantage of having a written

00:13:39

submission versus a purely formal

00:13:41

procedure and they're convenient because

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they give the arbitrator's the

00:13:49

ability to read at their

00:13:50

own pace. They can reach

00:13:53

hands of a memorial and

00:13:55

go back to them when

00:13:56

they want and read them

00:13:58

more than one if they

00:14:00



want to refresh their memory

00:14:02

later on in time. And

00:14:04

related to this they're not

00:14:05

also convenient, but they last

00:14:08

in time they are they

00:14:09

are forever in a way.

00:14:11

Once you write something the

00:14:14

arguments will be written and

00:14:16

you can reference them and

00:14:18

go back to those memorials

00:14:19

and put those in the

00:14:20

Morales, you know, we got

00:14:23

limit during the proceedings and

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your opponent makes a silly

00:14:29

argument. Then you can go

00:14:31

back to that silly argument

00:14:33

in their memorial and throw

00:14:35

it in their face and

00:14:37

you know if they have

00:14:38

to depart from it, or

00:14:39

if they have to correct

00:14:42

something that they had said

00:14:44

that it was not that

00:14:46

then you know Obviously both

00:14:51

ways we have to put

00:14:54

in writing, but we have

00:15:01



a good chance to review

00:15:03

your work and percent a

00:15:04

very Polished Work product for

00:15:06

the advantage. And we'll we'll

00:15:19

start from here on going

00:15:21

step-by-step on the different seating

00:15:23

is that that happened to

00:15:24

do the procedure and the

00:15:26

very first meeting that we

00:15:27

have is the request for

00:15:29

arbitration. So Nicholas, what is

00:15:33

your process when dropped in

00:15:34

your face person to Memorial?

00:15:37



What is the difference between

00:15:42

Memorial and how do you

00:15:44

go about it? Thank you.

00:15:46

Thank you. Thank you everyone

00:15:49

for being here. Thank you

00:15:50

for the introductions. Let let

00:15:56

me go back one. So

00:15:58

rather than just going directly

00:16:00

to a difference between one

00:16:01

and the other I have

00:16:03

kind of identify five big

00:16:07

but producing features of a

00:16:09

r face weather commercial or

00:16:13



investor-state with one caveat to

00:16:16

the commercial launch control come

00:16:18

in a minute. And I

00:16:22

love you too weakened by

00:16:23

saying you are Our Fate

00:16:25

is kind of your your

00:16:26

case Theory. You never get

00:16:29

to a Kay's you never

00:16:30

filing our fee just to

00:16:32

see what happens next just

00:16:34

to see if you do

00:16:35

have a case coming forward

00:16:37

or not. Barring any discussions

00:16:40



on potential limitation issues. You

00:16:43

do draft your wife a

00:16:45

because you already know the

00:16:47

case. You already know kind

00:16:50

of the four pillars of

00:16:53

your table for anything going

00:16:55

forward. And that being said

00:16:58

they are afraid then becomes

00:17:00

more of a formal document

00:17:03

Be Our Fate is intended

00:17:05

by the purpose is to

00:17:05

be a jurisdictional document, right?

00:17:08

It is a document. Where

00:17:11



is the document that last

00:17:13

the longer? In and of

00:17:16

itself if it stands by

00:17:19

itself the longest in any

00:17:21

case you do have some

00:17:24

time differences between Memorial Country

00:17:27

Memorial reply babe rejoinder in

00:17:30

whether you have bifurcated cases,

00:17:33

but the document is going

00:17:35

to stand there alone for

00:17:37

the longest easier. If I

00:17:39

do want to have five

00:17:41

things kind of correct straightaway

00:17:43



one is a parties. It

00:17:47

sounds obvious. But you do

00:17:49

need to identify who the

00:17:51

parties are correctly from the

00:17:54

outside. Most of the jurisdiction

00:17:57

of Elections have coming from

00:17:59

a erase personal argument will

00:18:05

be focused on how you

00:18:07

present the parties in geography.

00:18:11

The second point is what

00:18:14

is your applicable instrument? Is

00:18:16

it a contract with a

00:18:17

VIP is an NFPA and

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then start a trickling down

00:18:24

through the various issues that

00:18:27

each of those my percent

00:18:29

Define your remedies. It defines

00:18:33

your right. It defines your

00:18:35

Venue it Define any time

00:18:38

limits that you need to

00:18:39

be careful or conscious about

00:18:41

and it also defines canvas

00:18:44

Kolb of the arbitration going

00:18:47

forward. And it is linked

00:18:50

to the third point which

00:18:52

is a dispute is not

00:18:55



intended for you to present

00:18:57

your positive case. 100% right

00:19:01

and sometimes were most of

00:19:04

the times you do have

00:19:04

cases that involve throughout the

00:19:08

arbitration so you don't yet

00:19:10

know the full scope of

00:19:12

what might be in dispute.

00:19:15

you may or may not

00:19:16

have the entire set of

00:19:17

documents that will support your

00:19:20

arbitration, but you will definitely

00:19:22

not have the entire set

00:19:25



of a Evidence that you

00:19:29

will need 2% on the

00:19:31

memorial you only start working

00:19:32

on the witness statements and

00:19:35

the and the extra ports

00:19:36

a bit later, but we

00:19:38

will we'll come to that

00:19:39

in a minute. But you

00:19:41

do need to present the

00:19:42

issues at this. At least

00:19:45

to provide some sense or

00:19:47

guidance to the potential arbitrators

00:19:50

as to what is the

00:19:53



u r a that you

00:19:56

are disputing if you love

00:20:01

me. Struggle by both the

00:20:05

argument you do want to

00:20:07

say look the measures of

00:20:10

dispute are these or these

00:20:12

is the action that was

00:20:15

taken by the counterparty that

00:20:17

affected my rights in such

00:20:20

are another way that brings

00:20:22

us here. You will have

00:20:24

additional time and made her

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pleading to perfect that argument.

00:20:29



You should fully supported will

00:20:31
you do when I get

00:20:31
a sensor but this this

00:20:33
is what we're here for.

00:20:36
the fourth point is You

00:20:40
do need to per cent.

00:20:41
They can find set of

00:20:42
documents to support those first

00:20:45
three point right? You do

00:20:47
need a complete set of

00:20:49
documents to prove to the

00:20:51
party Farm. You do need

00:20:53
a complete set of documents

00:20:54



to prove what the optical

00:20:56

instrument is. And you do

00:20:58

need I can find some

00:20:59

documents to prove the issues

00:21:01

a dispute. And when I

00:21:03

say confined is you do

00:21:05

need to be careful about

00:21:07

what you resend in the

00:21:10

opposite. Why because her face

00:21:11

her she physically my experience

00:21:14

written with a Time limitation

00:21:17

in mind. you try to

00:21:21

get the Irish say I

00:21:23



have to told a limitation.

00:21:26

Whatever that. Maybe. And you've

00:21:30

been after that started the

00:21:34

process of fully collecting the

00:21:36

evidence that you will need

00:21:37

in support of your case,

00:21:39

very rarely. You do have

00:21:41

a client the next case

00:21:43

that will provide you with

00:21:45

a call to delve into

00:21:49

documents potential Witnesses experts everything

00:21:53

before the filing of the

00:21:56

are fake that typically happens

00:21:58



after you have commands the

00:22:00

case so you do want

00:22:04

to have and those those

00:22:06

primary documents identified, but you

00:22:10

do you do not want

00:22:12

to Let's see Chris. Send

00:22:15

more than you need at

00:22:17

that point in time. And

00:22:20

the fifth point is only

00:22:22

relevant for for commercial cases,

00:22:25

which is you do need

00:22:27

to pick your arbitrator and

00:22:29

you do need to pick

00:22:29



your seat. And that is

00:22:32

a very demanding strategic tasks

00:22:36

that you do have to

00:22:37

embark on a very early

00:22:39

stage. It only happens in

00:22:41

commercial cases and cases you

00:22:43

pick them in a later

00:22:44

stage. but you do need

00:22:47

to make that determination with

00:22:49

geography and that will set

00:22:53

the tone for the other

00:22:57

parties appointment of these are

00:23:02

her own arbitrator cuz there

00:23:04



might be conflict involved the

00:23:06

potential issues regarding languages. So

00:23:10

if you have a case

00:23:12

in which most of the

00:23:13

documents are in Spanish most

00:23:15

of the Witnesses in Spanish,

00:23:16

but you picked from the

00:23:17

outside an arbitrator that only

00:23:19

speaks English or French then

00:23:22

you know from the outside

00:23:24

that translations are going to

00:23:25

be going to be the

00:23:27

TNT that you'll have to

00:23:28



go down to all of

00:23:30

that is the signs and

00:23:32

defined in the RV and

00:23:34

it is kind of sets

00:23:36

the tone for the memorial

00:23:39

which comes next and Without

00:23:42

prejudicing a Alex was going

00:23:45

to have a bit more

00:23:47

under the difference of primary

00:23:51

the friends that I've seen

00:23:52

between our face and the

00:23:54

memorials is how much do

00:23:57

you Hammer the fact? Write

00:23:59



the legal strategy as I

00:24:01

was saying is kind of

00:24:03

already there. You already know

00:24:05

what your case theory is

00:24:07

when you pretend we're your

00:24:07

file you are say, but

00:24:10

you may not know where

00:24:11

may not have access to

00:24:14

the full amount of documents

00:24:16

into the full amount of

00:24:17

people that will help to

00:24:19

prove your case. We will

00:24:21

discuss it later, how you

00:24:23



structure that but for me

00:24:26

the primary difference is back.

00:24:28

a action It's very similar.

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You kind of just develop

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it a bit further than

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you would you have done

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in the RFA. But as

00:24:40

long as you are face

00:24:41

to face and a robust

00:24:42

to prove it the parties

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that you choose and the

00:24:45

time is good. You shouldn't

00:24:46

be that worried at the

00:24:48



memorial face legal the legal

00:24:51

strategy one change that much.

00:24:54

You may want to add

00:24:55

a couple of cases. You

00:24:56

may have some time to

00:24:57

review recent decisions. But most

00:24:59

of your legal analysis has

00:25:01

already been done if it

00:25:03

because you never fail in

00:25:04

our face without dressing anything

00:25:06

before you usually have memos

00:25:09

they go to find you

00:25:10

should have a notice of

00:25:12



these people to a notice

00:25:13

of intent to invest in

00:25:14

cases. So that portion is

00:25:17

kind of already done. You

00:25:18

only allowed to operate a

00:25:20

bit more of that and

00:25:21

damages will come to kilometers.

00:25:25

In a minute, but that's

00:25:26

kind of a beast of

00:25:27

its own. Fat is by

00:25:30

far. Would you kind of

00:25:33

focus the most Wonder pairing

00:25:34

on Memorial that is the

00:25:36



key difference between an IRA

00:25:39
and a fool to let

00:25:42
others, the map. And you

00:25:51
mentioned a little bit before

00:25:59
you bring your Memorial or

00:26:03
do you choose to put

00:26:06
everything? In my experience, I

00:26:14
have I have chosen the

00:26:17
former. So that's it. It's

00:26:21
always preferable to have a

00:26:23
linear but sufficiently robust a

00:26:28
document that you can file

00:26:30
and passes all the jurisdictional

00:26:31



tasks article 25 of exit

00:26:33

convention or whatever rule 33

00:26:36

is it doesn't it doesn't

00:26:40

harm if your percent the

00:26:43

lien but sufficiently robust are

00:26:45

Fae whereas if you go

00:26:47

full fledge and then A

00:26:52

negative documents arises or a

00:26:56

the other party presents an

00:26:58

issue that you didn't have

00:27:00

enough a full understanding up

00:27:02

in may be harder to

00:27:04

backtrack from that other academies

00:27:07



were saying the documents are

00:27:10

there, right? So you can

00:27:14

always you will have at

00:27:17

least two other channel chances

00:27:19

to put forward additional argument

00:27:21

additional fact. And if you

00:27:23

do that from the outside

00:27:26

from the earth a a

00:27:27

kind of that's it. Both

00:27:32

parties may decide to OVA.

00:27:34

The queen doesn't really matter

00:27:36

now. But I I typically

00:27:40

I would prefer the linear

00:27:44



a draft to Dan. how

00:27:50

to build them up a

00:27:53

in in the later stages

00:27:55

Can I just saw her

00:27:56

at the comments about when

00:27:58

you might think about it

00:27:59

more. Station sometimes we've done

00:28:04

that when you're really trying

00:28:05

to get the other side's

00:28:06

attention and sort of drive

00:28:08

them to really control the

00:28:10

strength of the case against

00:28:11

them and maybe come to

00:28:12



the table and engage in

00:28:14

dialogue. So probably not going

00:28:16

to be affected for reality

00:28:21

to set in in those

00:28:21

cases. Sometimes when you think

00:28:24

if we could just really

00:28:25

fire a shot across the

00:28:26

Bow Wow's show our hand

00:28:27

for the strength of the

00:28:28

evidence that we have if

00:28:30

it can the idea is

00:28:32

that it might generate a

00:28:33

discussion on settlement was it

00:28:35



works? Sometimes it doesn't but

00:28:36

it has all the risks

00:28:36

that you indicated on your

00:28:38

hands a little bit more

00:28:39

about the nearest that's that's

00:28:44

always true and Commercial settings

00:28:46

in which not always you

00:28:48

are required to notify the

00:28:49

other party before you file

00:28:51

an RV, right because you

00:28:52

typically have Hi, my brother

00:28:57

find setting to have those

00:28:59

discussions. So you already kind

00:29:00



of know what our settlements

00:29:01

are possible or not. We

00:29:08

knew that wasn't going to

00:29:11

be a huge amount of

00:29:12

factual today. We were confident

00:29:14

and exactly know how what

00:29:15

we did is we put

00:29:17

out a really flushed out

00:29:18

a request for all the

00:29:18

train station and we suggested

00:29:20

that the only be one

00:29:22

round two rounds of submission

00:29:23

think this is our first

00:29:24



run of submission. And if

00:29:26

you want to do an

00:29:27

ounce of the request of

00:29:28

arbitration and then you want

00:29:29

us to do a fully

00:29:30

patched bus Memorial then you'll

00:29:31

have to assume the cost

00:29:32

because we're ready. This case

00:29:33

is ready for us. I

00:29:35

think that puts in the

00:29:36

hounds pressure as well. How

00:29:37

confident you are. And also

00:29:38

this is the message that

00:29:40



you can bang to the

00:29:41

treadmill, which is when I

00:29:42

could be hiding away with

00:29:43

not going to attend games

00:29:44

getting more and more time

00:29:46

or evidence and doing talk

00:29:48

and production of this with

00:29:49

ready. We haven't yet on

00:29:50

the rack and let's go.

00:29:52

Finger has to the pressure

00:29:53

special needs to in commercial.

00:29:56

Blackbob 7th in basketball Call

00:30:12

to your question Mariah Carey

00:30:13



down there was so you've

00:30:15

been put in charge of

00:30:16

document. What do you do

00:30:17

first thing in my teenage

00:30:19

years as an associate? I

00:30:20

would have a couple beers

00:30:21

and go out and then

00:30:22

knowing that my social life

00:30:23

would be miserable the next

00:30:25

couple of months as I

00:30:26

have matured. I've decided to

00:30:28

take a different approach now,

00:30:30

I do it obviously print

00:30:32



out a calendar on Outlook

00:30:33

put it on a three

00:30:35

piece of paper and I

00:30:38

would you know, I would

00:30:40

try to figure out how

00:30:40

we're going to work because

00:30:41

this is going to be

00:30:42

a Race Against Time. However

00:30:46

Perpetual you will be you

00:30:48

never have to give you

00:30:49

enough time to do all

00:30:50

that is required. And so

00:30:52

the way by Prince now

00:30:55



is as a construction project,

00:30:56

that's a critical pass to

00:30:59

get a new Memorial in

00:31:00

at the right time and

00:31:01

there's a way of securing

00:31:02

that all the resources that

00:31:04

you will need for the

00:31:05

subcontractor. That you will need

00:31:07

to secure is that guy

00:31:09

is going to be there

00:31:10

on time. I'm not speaking.

00:31:12

My point is I think

00:31:17

it's really about setting out

00:31:19



the time you pretty I

00:31:20

think if you if you

00:31:21

if you were very proficient,

00:31:22

you probably started doing that

00:31:24

at the request of arbitration.

00:31:25

So you've already started thinking

00:31:27

about your case. He's not

00:31:27

in thinking about all the

00:31:28

evidence that you didn't have

00:31:29

at the time of the

00:31:31

request of arbitration or that

00:31:33

you chose not to introduce

00:31:34

at this time because you

00:31:35



didn't think it was absolutely

00:31:36

relevant to the surcharge The

00:31:38

Briefing initially, but when it

00:31:41

comes to the full rims

00:31:42

Mission as an accountant said

00:31:44

you have to have it

00:31:44

out the facts and that

00:31:45

means that you need to

00:31:46

make sure that you have

00:31:47

all of them and you

00:31:47

make sure that they can

00:31:48

be laid out correctly and

00:31:50

I think back and take

00:31:51



a huge amount of time.

00:31:52

So I have to make

00:31:53

it where all these are

00:31:54

all these facts. Are these.

00:31:56

Usually I mean, where are

00:31:57

the documents? Is it going

00:31:58

to be documentary evidence? Is

00:32:00

it going to be witness

00:32:00

evidence? Do we know where

00:32:01

the documents. Do we know

00:32:03

how we can extract them

00:32:05

do we know how we

00:32:06

can Do we know if

00:32:08



they need to be translated

00:32:09

and then we need to

00:32:11

be reviewed and selected and

00:32:12

properly prepared fighting itself is

00:32:16

a huge amount of project

00:32:18

document situated another country to

00:32:21

which we have no longer

00:32:22

access that can be a

00:32:24

huge amount of trouble the

00:32:27

same goes for your Witnesses

00:32:28

perhaps, you know, you're sending

00:32:30

companies some of these employees

00:32:31

have the company by halves

00:32:34



are in foreign countries eat

00:32:35

dogs esecure. How you going

00:32:37

to be approaching them? How

00:32:39

you going to be interviewing

00:32:40

them? They actually want to

00:32:43

agree to the house up

00:32:44

here in this arbitration or

00:32:46

does this takes a huge

00:32:47

amount of time because depending

00:32:48

on the results that you're

00:32:50

going to get and sometimes

00:32:51

you don't have order there.

00:32:52

I mean if you're lucky

00:32:53



you've done a lot of

00:32:55

that preparation before but sometimes

00:32:57

you're still running against the

00:32:58

clock to make sure that

00:32:59

you have all the documents

00:33:00

for that very first submission.

00:33:03

And so You need to

00:33:07

stop planning. You need to

00:33:08

go back in the truck.

00:33:09

And when is the first

00:33:10

week? Are you going to

00:33:11

send to your clients? When

00:33:12

what you need to do

00:33:13



that and that goes also

00:33:15

with the expert evidence that

00:33:18

you're going to be securing

00:33:19

because a lot of me

00:33:20

if you got a big

00:33:21

Quantum analysis, so you got

00:33:22

technical experts are going to

00:33:24

need to have taxes while

00:33:25

so you're going to need

00:33:26

to have at least asked

00:33:27

kindly for your grief after

00:33:29

their analysis and data analysis

00:33:31

has been going to come

00:33:32



to Sunday result which you

00:33:33

will then use. Perhaps discuss

00:33:37

with them and then integrate

00:33:39

into your own research. I

00:33:40

think that the keep when

00:33:42

I want to stress us.

00:33:43

This is really planning a

00:33:44

thing. It's it's just it's

00:33:46

just about planning and making

00:33:46

sure that older a delegate

00:33:49

to with a pretty strict

00:33:51

planning to all the members

00:33:52

of your team the toss

00:33:55



that they need to be

00:33:55

conducting at to make sure

00:33:57

that each of these different

00:33:59

master and you ready you

00:34:00

can just check off the

00:34:01

box and that your brief

00:34:02

is is moving forward for

00:34:03

fighting on D-Day. And on

00:34:06

that point list as we

00:34:09

all know, he likes. So,

00:34:20

how do you go up?

00:34:22

Along with that and how

00:34:23

do you marry the facts

00:34:26



to the rest of the

00:34:27

case specially when you have

00:34:29

different teams working on the

00:34:30

different issues. I'm about to

00:34:36

describe an ideal life process

00:34:38

about how to make it

00:34:47

easier I can get together

00:35:10

and get it into us.

00:35:16

There's things that you can

00:35:19

do to start yourself up

00:35:20

for Success before anybody really

00:35:22

keep your team as small

00:35:29

as in general the closer

00:35:43



to everyone's fingertips. Place you

00:35:54

can know that there are

00:35:57

things that the old spit

00:35:58

audience has the tribunal partner

00:36:00

on the plan for all

00:36:01

of the above like or

00:36:02

don't like in structural drafting

00:36:05

get those ground somebody spend

00:36:15

entire just texting all of

00:36:17

those inconsistencies. Also try not

00:36:23

to divvy up. I'm dropping

00:36:26

responsibility so that somebody knows

00:36:28

all of the fact is

00:36:29



not writing part of three

00:36:31

to responsibilities. And then this

00:36:38

really is it for how

00:36:41

do you get a product

00:36:42

when it's lying there on

00:36:44

the table having? If you

00:36:48

can do that, if you

00:36:49

actually ride a real outline

00:36:51

before anybody starts argue about

00:36:56

it figure out how you're

00:36:58

going to do it and

00:36:59

then actually write the album

00:37:01

and I'm just going to

00:37:02



take those steps and what

00:37:03

do I need to talk

00:37:11

about? an outline is one

00:37:18

that says all right, we're

00:37:20

clinging propositions that needs to

00:37:31

be a good support. And

00:37:34

this is the order in

00:37:38

Where's the detail going? Where

00:37:47

is this point going? And

00:37:52

so you do not get

00:38:04

everybody's buying about that? Certainly

00:38:11

got two senior members of

00:38:12

the team actually stop and

00:38:14



think about it more than

00:38:16

48 hours before the break.

00:38:27

Get that and then write

00:38:31

the outline. I'm so much

00:38:33

rather get a kind of

00:38:34

like the mechanical that isn't

00:38:37

he doesn't jump off the

00:38:39

page beautiful before it does

00:38:42

the work that we said

00:38:43

we needed to do and

00:38:44

setting out the argument that's

00:38:45

much easier to work with

00:38:47

than a beautifully together doesn't

00:38:53



follow the structure doesn't deal

00:38:54

with the other than the

00:38:55

way we need to deal

00:38:57

with it. So, you know

00:38:58

and then when you start

00:39:19

writing Start looking at the

00:39:30

ReliOn. We have a problem.

00:39:39

What change does not drive

00:39:42

in the oven instead were

00:39:43

developed and you know, and

00:39:46

you can try to stay

00:39:48

one step ahead. And then

00:39:52

you know, obviously keep the

00:39:54



fact evidence my tendency and

00:39:56

braces to send out the

00:39:58

text evidence in the background

00:40:00

section pretty comprehensively and then

00:40:03

to be relatively brief. It

00:40:17

kind of depends on the

00:40:18

size and shape of the

00:40:19

face. Or in isolation of

00:40:30

what Ashley and somebody consume

00:40:44

out and go? outline outline

00:40:55

outline This takes us to

00:41:00

the next point. So you

00:41:08

have got her as much

00:41:10



as you have the witness

00:41:13

interview. What is your process

00:41:16

of writing the factual section

00:41:18

on the central portion of

00:41:21

the logic Lee? To start

00:41:28

drafting you need to do

00:41:30

a lot of preparation. I

00:41:31

think Liz has described. The

00:41:33

first thing is obviously, you

00:41:42

know who organize documents that

00:41:43

you have the basic documents

00:41:53

and read the recent spend

00:41:56

some time reading understand. So

00:42:03



the first thing I know

00:42:04

I do and I encourage

00:42:06

everyone doing it when you're

00:42:08

extracting the back section of

00:42:09

a memorial is you will

00:42:13

you will learn more about

00:42:15

the case after reading the

00:42:17

documents you will identify portions

00:42:19

of those documents beautiful gems

00:42:22

the documents that really support

00:42:24

one of the arguments that

00:42:25

you're making. If you spend

00:42:29

enough time reading sometimes after

00:42:31



you read them ones the

00:42:33

document will not really a

00:42:35

show you all of the

00:42:36

beauty of that. You need

00:42:38

to read more than once

00:42:39

to squeeze all the Jews

00:42:41

from the doctor read and

00:42:42

read and read again the

00:42:44

documents so, you know exactly

00:42:46

what they say and how

00:42:48

you can use them or

00:42:49

how can the other side

00:42:50

of tax will try to

00:42:54



organize information and you try

00:42:56

to organize up the documents

00:42:58

that ideally sabbatical timeline on

00:43:04

Lisa Rowe neurology what came

00:43:08

first left after what happened?

00:43:10

What letter was sent out

00:43:12

the letter that you said

00:43:16

something say something after this

00:43:19

law was enacted you do

00:43:21

you want to I want

00:43:22

to ask some questions, but

00:43:23

also you want to try

00:43:24

to see you know, what

00:43:25



what is the sequence? Events

00:43:28

timeline or Knology make your

00:43:31

process you can go back

00:43:32

to it if you need

00:43:33

to not work, but I

00:43:36

wanted to doesn't go into

00:43:39

what we need to deliver.

00:43:40

What's sometimes if the kids

00:43:42

are complex if there is

00:43:43

a bullet bullet in his

00:43:44

record lots of documents a

00:43:46

lot of little things that

00:43:47

happen a lot of back-and-forth

00:43:48



Correspondence than you need to

00:43:50

know about a timeline Technologies.

00:43:53

Once you have a good

00:43:56

idea of your case, that's

00:44:05

when I get back section.

00:44:09

That's when I am ready

00:44:11

to prepare an outlet in

00:44:12

an outline, you know, the

00:44:15

different stages and they can

00:44:18

take their front porch. There

00:44:19

is a skeleton outline the

00:44:21

table contents outline that this

00:44:22

was referring to that even

00:44:24



one at once you've done

00:44:25

this for breed of the

00:44:26

documents. 2.0 version of God

00:44:31

that has a little bit

00:44:31

of content you lay out

00:44:33

in a while your arguments

00:44:34

are what the legal standard

00:44:36

is that you need to

00:44:37

need what the elements are.

00:44:39

What evidence are you planning

00:44:40

to use? And then how

00:44:42

you work you're going to

00:44:44

demonstrate that the new need

00:44:46



all the thresholds? That's the

00:44:53

point where I would say,

00:44:54

it's it's it's it's a

00:44:55

good moment to have a

00:44:57

good first robust outline that

00:45:00

can allow you to continue

00:45:02

drafting at Dupree's property. And

00:45:05

the outline is a good

00:45:09

plays are a good device

00:45:11

for you to understand and

00:45:14

and put in some form

00:45:17

in writing. Why is it

00:45:19

that I win and why

00:45:20



is it that the other

00:45:21

side loses and similarly is

00:45:24

a it's a good moment

00:45:25

to know exactly. What are

00:45:26

the weakness? Your own pace

00:45:28

and also the weaknesses of

00:45:30

your address are how you

00:45:40

will be attacked and how

00:45:41

you can respond to that

00:45:42

and maybe you know that

00:45:44

you will need to preemptive

00:45:45

argument. So you will put

00:45:47

yourself in a better position

00:45:48



to receive the party's attack.

00:45:51

I would respect you. Essentially

00:45:56

allows you to identify the

00:45:58

building blocks of your case

00:46:00

and always keep in mind

00:46:01

those building blocks ask you

00:46:03

to rap for me drafting

00:46:05

is as the outlaw is

00:46:07

this this essential aspect always

00:46:10

stick to your outline will

00:46:11

always take your outlet and

00:46:12

to the building blocks that

00:46:14

are reflected in the out

00:46:15



as you read and a

00:46:18

ton of information that you

00:46:21

will receive in that you

00:46:22

have to digest your job

00:46:24

is to make the memorial

00:46:26

pleasant experience to read for

00:46:29

the Tribune water your Memorial

00:46:32

which facts and useless information.

00:46:34

You will confuse the tribunal

00:46:36

it's not going to be

00:46:37

helpful. You will not enjoy

00:46:38

the process. So the idea

00:46:40

is for you to digest

00:46:42



That information is always remember.

00:46:44

What is it that I

00:46:46

need to prove my face?

00:46:48

What is really essential for

00:46:51

the arbitrator's to know and

00:46:53

my knowing that you will

00:46:55

start identifying as you go

00:46:56

up this I mean, this

00:46:58

is a colorful fact, but

00:46:59

do I really need it

00:47:00

or does this need to

00:47:02

go above the line or

00:47:03

this is really a footnote

00:47:04



point. You must start choosing.

00:47:06

Are you going to present

00:47:08

this information to the truck?

00:47:09

And then again, it's a

00:47:12

process that you don't do

00:47:13

it in one go this

00:47:15

requires several drafts and ultimately

00:47:19

after you know number of

00:47:20

revisions the input from different

00:47:22

members of the team. Then

00:47:23

you have the beautiful work

00:47:24

product that you want to

00:47:27

have gaps in the evidence

00:47:32



you will you will do

00:47:35

it in the Outlander. Do

00:47:36

you say this witness actually

00:47:39

said this or explain that

00:47:42

And it'll be great if

00:47:43

I have a plug from

00:47:44

the extra that I can

00:47:47

that I can add to

00:47:48

my to my free to

00:47:49

explain this very complicated process.

00:47:51

You know, he's not going

00:47:55

to do it in the

00:47:56

best way in front of

00:47:57



the tribunal. So that's really

00:48:08

how I do it. And

00:48:09

again, it's not something that

00:48:12

you knew anyone go requires

00:48:14

lots of in Put liquid

00:48:15

bar. As a lot of

00:48:16

revisions practice makes the expert

00:48:21

on anything, you know, we

00:48:23

all have to embrace in

00:48:31

a way that is slightly

00:48:31

different but you have two

00:48:32

flexible and able to react

00:48:36

to the challenges that you

00:48:38



will maybe you will not

00:48:40

find and you will not

00:48:41

have all the information that

00:48:42

you want. But that's part

00:48:44

of the process and we

00:48:46

all need to be ready

00:48:47

to. Within this process. How

00:48:53

do you deal with with

00:48:54

backpacks? Do you dress them

00:48:56

in your reading feeding to

00:48:58

you too sweet nor them

00:48:59

and hope that nobody will

00:49:00

ever find them. Yeah, you

00:49:04



never ignored you deal with

00:49:07

that fact as they come

00:49:09

in. Can you have one

00:49:12

of those options either either

00:49:14

there is some explanation or

00:49:18

week after station of the

00:49:20

fact that you can and

00:49:23

put in your positive case

00:49:24

and it's only for the

00:49:25

right if if a backpack

00:49:27

comes with a country Memorial

00:49:28

then it becomes an argument

00:49:30

rather than a backpack that

00:49:32



he needs to do. It

00:49:35

looks this five letters are

00:49:37

wonderful, too my case. There's

00:49:39

one attachment one of those

00:49:41

letters that is crappy. Then

00:49:44

I cannot admit it. I

00:49:47

cannot say what the annex

00:49:48

doesn't exist. But can I

00:49:50

explain it somehow can I

00:49:52

provide the tribunal and the

00:49:53

other party with a sound

00:49:56

for colorful explanation of why

00:50:00

that is there? And that's

00:50:04



one option but the pain

00:50:05

severe effect specific, right? And

00:50:07

the other one is well,

00:50:09

I there's no way that

00:50:11

I can. reasonably explain this

00:50:14

without a kind of out

00:50:18

of sabotaging my case, but

00:50:21

I need to acknowledge that

00:50:22

it exists. So you start

00:50:25

playing with the above the

00:50:26

line below the line cross

00:50:28

reference the same try to

00:50:29

put it in such a

00:50:31



way that you're not you

00:50:34

are this closing the sides,

00:50:36

but you are saying In

00:50:39

my case. This is not

00:50:41

as relevant as you might

00:50:42

think and you just wait

00:50:45

to see whether the other

00:50:46

party or the tribunal eventually

00:50:48

makes an issue out of

00:50:50

that and fix it up

00:50:51

and starts debating it and

00:50:54

then perhaps you you will

00:50:56

need a defense strategy try

00:50:58



to come up with a

00:50:59

different document is right by,

00:51:00

by me doing a different

00:51:04

research of your database trying

00:51:08

to get to to explain

00:51:09

the documents were a witness.

00:51:10

Perhaps they didn't thought of

00:51:13

me for a if it

00:51:15

does become Andy My my

00:51:19

pony movie you do need

00:51:20

to acknowledge that fact. You

00:51:23

cannot omit that fact, but

00:51:26

you don't necessarily need to

00:51:27



engage with all the bad

00:51:29

facts in the same way

00:51:31

this process that we have

00:51:36

been describing different in any

00:51:38

way when you're riding the

00:51:39

legal at the Quan. I

00:51:43

think obviously the underlying principles

00:51:46

are the same to building

00:51:48

any section on any legal

00:51:49

brief specific circumstances, which differ

00:51:54

when you're writing a legal

00:51:56

section as to as to

00:51:57

when you like writing truly

00:51:58



the fastest action or where

00:52:01

you dropped in the contraception

00:52:02

say if we are going

00:52:03

out to the legal section,

00:52:05

I would differentiate very much

00:52:07

the legal side to the

00:52:10

quantum side, which I think

00:52:11

is again a monster of

00:52:13

a sign for the legal

00:52:15

side. This is where where

00:52:16

the most comfortable. This is

00:52:17

our expense. This is supposed

00:52:19

to be our expertise. Obviously,

00:52:21



we always see the legal

00:52:23

opinions of esteemed Professor the

00:52:24

floor but you know, we're

00:52:25

supposed to be understanding what

00:52:26

the saying which is very

00:52:27

different to what's happening the

00:52:28

quantum or in the technical

00:52:30

expert evidence where we are

00:52:32

sometimes you know, What's difficult

00:52:35

for us with figures and

00:52:37

numbers know about the time

00:52:38

when it comes to the

00:52:40

way I think about this

00:52:41



the middle section is? I

00:52:44

think it's a difference between

00:52:45

a commercial case in investing

00:52:47

time in the bathroom claim.

00:52:48

You should know quite easily.

00:52:50

What is the legal substantive

00:52:52

provision on which you're relying

00:52:53

to bring back home. If

00:52:54

you haven't figured that out.

00:52:55

You should already be fighting

00:52:56

that case or commercial cases.

00:52:59

It can be more mud.

00:53:00

You can be no more

00:53:01



money because you know, you

00:53:02

can be relying on a

00:53:03

very specific Niro Jewish Juris

00:53:06

Prudential grounds for an investment

00:53:11

case the way you going

00:53:13

to be dividing it the

00:53:13

way I should just lie

00:53:15

done is it needs to

00:53:16

be the more flavors possible

00:53:18

to the arbitral tribunal sir?

00:53:19

I would divide traditionally legal

00:53:23

section. I would divide on

00:53:24

what things you're playing before

00:53:26



the Tribunal for education. And

00:53:29

in that each of these

00:53:31

actions you do you want

00:53:32

you want it to be

00:53:33

as clear as possible so

00:53:34

that I know if they

00:53:34

want to see this needs

00:53:35

to be very well delineate

00:53:37

it and inside of each

00:53:38

of the sections you traditionally

00:53:41

go get some point. You're

00:53:42

going to have to hash

00:53:43

out the Dry legal principles

00:53:46



and that's going to have

00:53:48

to be put somewhere in

00:53:49

this is what you do

00:53:50

it and then you apply

00:53:52

that dry low to the

00:53:55

fact that you've been talking

00:53:57

about. So, you know hundreds

00:53:58

of pages just before now

00:54:00

that I think the trick

00:54:01

and it's always very difficult

00:54:02

is how much do do

00:54:03

you put and how much

00:54:05

do you rehash the facts

00:54:06



when you're applying. Go to

00:54:08

the fox actually, she found

00:54:12

that this kind of varies

00:54:14

substantially between the audience that

00:54:15

you have is an arbitral

00:54:16

tribunal. If you in front

00:54:19

of very very senior esteemed

00:54:22

arbitrators prices of those people

00:54:25

have been impounded tribunals in

00:54:27

investment case. Obviously, you're going

00:54:29

to be putting a lot

00:54:30

of principles, but you don't

00:54:31

want to give them a

00:54:32



lesson and I are probably

00:54:34

going to be that mean

00:54:35

sitting on most of the

00:54:36

panels of the arbitral award

00:54:37

that you going to be

00:54:38

sizing. I didn't think you

00:54:39

need to be telling them

00:54:40

exactly what they preach and

00:54:41

they probably know it better

00:54:42

than user doesn't mean that

00:54:43

you Incite them but there's

00:54:45

a sundry of deference in

00:54:46

the way. You're going to

00:54:46



be presenting that case to

00:54:47

them in a commercial case

00:54:50

and I'm talking here about

00:54:50

tonight. Bring some plain ICC

00:54:52

habitations be outside. You may

00:54:53

sometimes be called upon to

00:54:55

say as a tribunal in

00:54:56

instances where you're applying aloe

00:54:58

that you have very little

00:55:00

knowledge about buy for myself.

00:55:01

I'm right now sitting in

00:55:03

another station applying Swedish. No,

00:55:05

I don't have a Swedish

00:55:07



legal background, but I'm very

00:55:09

happy and I'm United at

00:55:11

the gate east side of

00:55:12

me is very happy that

00:55:13

the two parties in the

00:55:15

counsel of substantiating very forcefully

00:55:18

Swedish Lord if this had

00:55:20

been a French no experience,

00:55:22

which is when I'm I'm

00:55:22

I'm I'm I wouldn't want

00:55:26

to have a legal lesson

00:55:27

French door as much as

00:55:29

I would need to in

00:55:30



Swedish prison in this goes

00:55:32

back to what we were

00:55:33

saying before. You know, you're

00:55:36

servicing a dish and make

00:55:37

sure you're serving the dish

00:55:38

to the right customer. I

00:55:40

you you know, you don't

00:55:40

want to upset him by

00:55:42

putting things out on us

00:55:43

is unnecessary for him to

00:55:45

understand and to come to

00:55:46

the conclusion that he needs

00:55:47

to come to you and

00:55:48



say that goes back to

00:55:48

what you call it was

00:55:49

saying is like what do

00:55:50

you need to do to

00:55:51

demonstrate intend to win this

00:55:52

case? So I think yeah,

00:55:58

I think that that that's

00:55:59

kind of the point when

00:56:00

it comes to the quantum

00:56:01

section. I wish you she

00:56:02

comes at the end. I

00:56:06

think a you really very

00:56:07

much need to rely if

00:56:08



you just need to be

00:56:09

prepared very far when you

00:56:10

with your with your ex

00:56:12

sucks because if you and

00:56:14

you need to I need

00:56:15

to be preparing it with

00:56:16

them and disrespectful by saying

00:56:17

about planning you need to

00:56:18

make sure that you understand

00:56:20

what you're Drafting and need

00:56:21

to make sure that you've

00:56:22

collaborate with them all along

00:56:23

the preparation of their own

00:56:25



expert report because you can

00:56:27

just receive a report 2

00:56:29

weeks before fighting and expect

00:56:30

this to be plugged in

00:56:31

without you understanding what the

00:56:34

heck is going on. And

00:56:35

what is DCF and watch

00:56:36

these matches the valuation. It's

00:56:38

not going to happen. You

00:56:38

never going to be able

00:56:39

to be to ride a

00:56:40

compelling argument. If you don't

00:56:42

understand what you're writing you

00:56:44



need to understand every word

00:56:45

of what your pricing and

00:56:46

I think that's fundamentally suspect.

00:56:47

She is very difficult one

00:56:48

too because obviously in the

00:56:51

legal profession. The one thing

00:56:52

that we time do is

00:56:53

numbers and we don't have

00:56:55

any event we have right

00:56:57

now. We don't have any

00:56:57

accounting lessons that we need

00:56:59

for a financial transaction and

00:57:01

your dad said you learn

00:57:02



by doing but you don't

00:57:04

see me. Salon sauce in

00:57:05

the best way to do

00:57:06

is to challenge, you know,

00:57:06

there's never a dumb question.

00:57:07

These guys are getting paid

00:57:09

by your client to answer

00:57:10

your questions that pretty happy

00:57:11

to do it. So when

00:57:13

you're doing interview sessions with

00:57:14

your accountant experts you need

00:57:16

to ask every question anything

00:57:18

lb Steve you can Google

00:57:20



some of the time that

00:57:20

you'd understand on best of

00:57:22

investors invest out but you

00:57:24

obviously need to be making

00:57:25

especially because you're going to

00:57:26

have to digest this to

00:57:27

make sure that it's someone

00:57:29

understandable and comprehensive for the

00:57:31

arbitral tribunal so So yeah

00:57:35

and like them one last

00:57:36

one, which I think is

00:57:37

important. I've always found that

00:57:40

those usually quite a discrepancy

00:57:42



between the first interview that

00:57:44

you happen to come to

00:57:45

Macks. But whether value in

00:57:47

your case quite highly and

00:57:48

the first report that you

00:57:50

receive where someone seems to

00:57:51

be no way to diminished

00:57:53

and then ask him to

00:57:54

do with the fact that

00:57:56

they said you and then

00:57:57

obviously that's selling a business

00:57:58

that very attractive. I think

00:58:03

it's very important. This goes

00:58:04



back to when you co-sign

00:58:05

Yukon Hideaway backpacks in Yukon

00:58:07

Hideaway back claims as well.

00:58:08

It's your financial claim is

00:58:11

not as robust as you

00:58:12

found it were if you're

00:58:14

in the first round feeding,

00:58:15

make sure you diminishing it

00:58:16

unites know that it's not

00:58:18

an issue if you claimed

00:58:20

a lot of money in

00:58:21

your request for arbitration, but

00:58:22

you're somewhat being having emotions.

00:58:24



I approached. I think it's

00:58:26
better to do it as

00:58:27
the first Memorial City flash

00:58:29
memory comes in waiting until

00:58:31
the hearing to say well,

00:58:33
yes already send you a

00:58:34
time for what we are

00:58:34
planning for. I think this

00:58:37
ghost business will show you

00:58:39
more. You were supposed to

00:58:40
let me know something, you

00:58:43
know, which obviously will give

00:58:45
them more confidence trust their

00:58:47



to the treadmill. List, how

00:58:51

do you integrate the witnesses

00:58:52

and the witness statements into

00:58:54

the process of developing projects?

00:59:03

Depending on the door or

00:59:22

embody wild card. I have

00:59:30

never seen a witness went

00:59:31

okay, but I can't say

00:59:32

I've never seen what this

00:59:33

so I would have thought

00:59:40

it of course right there.

00:59:53

Early in the process to

00:59:54

understand what happened with their

00:59:56



take on it where the

00:59:57

documents who else knows about

00:59:58

it. I need to be

01:00:00

careful. If you are going

01:00:02

to end up having muddy

01:00:06

the waters with that either

01:00:07

by interviewing the group or

01:00:09

by telling them what to

01:00:12

say remember in a way

01:00:13

that leads to unreliable evidence.

01:00:19

Then you really need to.

01:00:22

You said really started to

01:00:23

understand the documentary evidence presented

01:00:27



because that is not only

01:00:29

going to do you know

01:00:30

about that. Right. So so

01:00:37

you need to be able

01:00:39

to in the nicest possible

01:00:41

way to front any witness

01:00:43

with what document actually say

01:00:45

that might differ from remember

01:00:48

and then you need to

01:00:52

get quite rigorous. I think

01:00:54

about evaluating ask yourself that

01:01:01

question. So if you get

01:01:16

that outline With the witness,

01:01:23



that's how I have culture

01:01:47

of the because I'm trying

01:01:51

to be civil or do

01:02:07

you need more than one

01:02:08

super dangerous. Do you need

01:02:10

more than one on navigate?

01:02:22

You need a witness to

01:02:25

drop sting on a document.

01:02:29

But otherwise you don't need

01:02:31

a witness to help yourself.

01:02:46

1 Cummins in which one

01:02:49

you have those initial discussion

01:02:51

and you talked to the

01:02:52



client and the people involved

01:02:54

in the project or you

01:02:58

may Identify some potential with

01:03:01

and some of them will

01:03:03

actually end up being with

01:03:04

this is because you made

01:03:06

the decision that you need

01:03:07

them. But others that you

01:03:10

initially chosen not to have

01:03:11

a 1 would be great

01:03:13

sources of information for you.

01:03:15

So you will still have

01:03:17

to treat them ass Witnesses

01:03:18



in a way because you

01:03:19

will be going to them

01:03:21

with questions every now and

01:03:22

then to clarify issues or

01:03:24

get more documents or any

01:03:26

find if there wasn't a

01:03:27

letter and responsive design other

01:03:29

letter or there's other letters

01:03:30

reference in this document, but

01:03:32

I don't have it to

01:03:32

you have it in one

01:03:34

way. You have to keep

01:03:36

the masked sources of information

01:03:37



and the fact that you

01:03:40

don't use them at first

01:03:41

doesn't mean that everybody you

01:03:44

will not need to use

01:03:45

that. What comes after you

01:03:48

receive the file or the

01:03:55

other side to reply depending

01:03:58

whether you say you see

01:03:59

actually now I need to

01:04:02

respond to this argument with

01:04:04

this in our statement from

01:04:05

this guy not initially. I

01:04:07

didn't think I was going

01:04:08



to need but now I

01:04:09

do be flexible and keep

01:04:13

your potential Witnesses with you

01:04:15

and until about the need

01:04:18

for potential activity from them

01:04:21

in the face. Does that

01:04:25

process thinking process by when

01:04:28

you're dealing with expertise? Do

01:04:31

you want to course we

01:04:32

will always be using damages

01:04:34

experts don't deal with numbers.

01:04:38

But do you usually have

01:04:41

other types of experts legal

01:04:44



experts? I've seen cases where

01:04:47

the parties have decided to

01:04:49

add an expert on the

01:05:00

matter we are so how

01:05:04

do you go about it?

01:05:06

So yeah, well, thank you

01:05:08

for making those things in

01:05:09

between valuation and other types

01:05:11

of experts cuz yeah violation

01:05:14

is something that you just

01:05:14

have to deal with but

01:05:18

with with those others, that's

01:05:20

where it becomes more interesting

01:05:22



cuz you usually have those

01:05:24

other Witnesses those other expert

01:05:26

story. As a source of

01:05:31

additional evidence for your facts,

01:05:33

right? So you do want

01:05:35

to prove how the local

01:05:38

wall for instance work than

01:05:39

a particular matter or how

01:05:41

a specific technical poem from

01:05:44

an industry perspective word to

01:05:46

bring in mining experts, which

01:05:48

will then work along with

01:05:50

a with a violation expert

01:05:53



son on some shoes or

01:05:54

oil and gas experts or

01:05:56

electricity electricity transmission experts that

01:06:00

can explain how when you

01:06:02

connect one generator to another

01:06:05

guess the electricity And they

01:06:09

will typically speak to the

01:06:11

fact that I can also

01:06:13

speak. To your legal Theory

01:06:16

they can also and often

01:06:17

speak to your evaluation section.

01:06:21

I have seen once the

01:06:28

let's say that the international

01:06:30



legal experts coming into plane

01:06:34

in a case in which

01:06:37

We needed someone to comment

01:06:40

on the specific treaty Provisions

01:06:43

to more than a general

01:06:46

list and international law. She

01:06:50

was brought in because of

01:06:52

his particular expertise on that

01:06:54

instrument that was applicable to

01:06:56

the case. Other than that.

01:06:59

I have I have not

01:07:00

seen a international legal experts

01:07:04

local legal experts are more

01:07:08



of the general. but you

01:07:10

need you do need to

01:07:11

be very careful cuz that

01:07:17

would immediately send the signal

01:07:20

to the tribunal that. The

01:07:23

local legal issues at stake

01:07:26

are not as clear as

01:07:29

you kind of said they

01:07:33

wear or wish they wear

01:07:37

if it's it's very tricky

01:07:39

to work with them in

01:07:42

the sense that they are

01:07:45

also lawyers and more often

01:07:48



than not they may not

01:07:50

be a hundred percent convinced

01:07:52

of your legal Theory from

01:07:55

an international perspective the same

01:07:57

and and I'll be speaking

01:07:59

here of investment treaty cases

01:08:01

close in commercial cases a

01:08:03

volume. You can bring them

01:08:05

in just a support of

01:08:07

your legal section rather than

01:08:09

your facts so that. Convincing

01:08:13

process of look this is

01:08:15

our Fury from an international

01:08:17



standpoint. This is what we

01:08:19

need to prove from a

01:08:21

local standpoint. 22% at fact

01:08:25

not as legally would we

01:08:28

will be presenting this as

01:08:29

how it actually works. Becomes

01:08:33

very it's very interesting relation

01:08:38

that that you start generating

01:08:40

with them. Also the type

01:08:42

of documents that you use

01:08:43

in support because you are

01:08:45

there more evidence is typically

01:08:48

what you would use as

01:08:50



a legal Authority right to

01:08:52

its judgments a Doctrine opinions

01:08:57

of specific body. I'm making

01:09:01

big reviewing that evidence for

01:09:04

them as well. It's painstaking

01:09:07

cuz if it's very rare

01:09:10

that you got a judgment

01:09:12

to test a judgment from

01:09:14

yesterday that says we've accounted

01:09:16

for all the judgments on

01:09:18

this specific matter in this

01:09:20

specific issue. And this is

01:09:22

as of today how an

01:09:25



issue has been decided or

01:09:26

the German so you do

01:09:29

need a very sweet to

01:09:32

engage in a very kind

01:09:36

of questioning exercise with an

01:09:40

a To get what you

01:09:43

want. and an out-of-state that's

01:09:47

kind of the biggest struggle

01:09:49

with legal experts is getting

01:09:54

them to a point in

01:09:55

which they feel comfortable enough

01:09:57

with your International strategy that

01:09:59

you can put their expertise

01:10:01



or work. But also that

01:10:05

you have sufficient confidence in

01:10:07

the evidence that they are

01:10:09

relying on and the and

01:10:12

the correctness sufficiency of that

01:10:15

evidence a cousin in some

01:10:18

instances. You may not be

01:10:19

sorry or their experience of

01:10:22

that specific jurisdiction. So you're

01:10:24

relying a lot on what

01:10:26

they are telling you would

01:10:30

more technical experts a relationship

01:10:35

seems to be a bit.

01:10:36



Easier and more affluent some

01:10:39
of them if not, most

01:10:39
of them are already acquainted

01:10:42
with how an arbitration process

01:10:44
works today. They know what

01:10:47
to expect they know what

01:10:48
they need to do a

01:10:51
Princess and most of the

01:10:52
mining cases they know what

01:10:55
they like, what would you

01:10:56
will ask them to prove

01:10:58
whether there's a resource whether

01:11:00
it's an estimate weather how

01:11:03



to read that information which

01:11:05

are the documents that will

01:11:06

occur to them to them

01:11:07

and they duration is more

01:11:10

of a it is much

01:11:12

more similar to that with

01:11:13

evaluation. They will be producing

01:11:16

reports that will be producing

01:11:17

them around those that you

01:11:18

will then start questioning and

01:11:21

everybody dating every once in

01:11:23

a while. So I'll I'll

01:11:26

save those are Hello. the

01:11:30



biggest issue when interacting with

01:11:32

expertise Alexander are there any

01:11:40

consideration to take the alarm

01:11:49

from the cleaning spray for

01:11:50

you? When you're preparing to

01:11:52

come from a moral point

01:11:54

of view? What are the

01:11:56

key considerations? Have you say?

01:12:01

I think it's yeah, it's

01:12:02

it's always very different when

01:12:04

you're writing when when you're

01:12:05

buying second-hand, you know, when

01:12:06

you have a you have

01:12:08



a view first you have

01:12:09

an account at that time

01:12:10

that's always been most surprising

01:12:11

you receiving a request probably

01:12:12

about 30 days and times

01:12:16

you can extend to 60

01:12:17

days in so you you

01:12:20

got to show it to

01:12:20

calendar. So you've got to

01:12:22

get things moving. Obviously you

01:12:23

probably received a notice of

01:12:24

this week. So we'll see

01:12:25

you be able to start

01:12:26



of taxing and researching some

01:12:27

of these issues but you

01:12:28

have an inherent this adult

01:12:31

disadvantage compared to a client.

01:12:33

That's okay man, because you

01:12:34

have less time to address

01:12:36

some of the issues When

01:12:38

it comes to respond as

01:12:40

fast to a memorial, I

01:12:41

think this really lost. It

01:12:43

depends on how much time

01:12:44

you think I should in

01:12:44

your procedure calendar and I

01:12:46



can usually have quite a

01:12:47

strong leverage with the tribunal

01:12:49

because you all respond. And

01:12:50

I think that's even more

01:12:51

secure state in the great

01:12:53

deference for states to have

01:12:55

the time that they need

01:12:56

to prepare for the public

01:12:58

employees working in the government

01:13:00

authorities have the time to

01:13:01

basically up indicate that right

01:13:03

to protect their interests. It's

01:13:05

a different in a things

01:13:06



can be different with Metro

01:13:07

KC to break on how

01:13:08

blessed I'm less leverage to

01:13:10

negotiate a procedural calendar, especially

01:13:12

since you know you do,

01:13:12

you know the kinds of

01:13:15

Greenport against you so usually

01:13:16

you have to pay a

01:13:17

certain amount of damages. now

01:13:22

when it comes to I

01:13:23

think the second rounds of

01:13:24

the question they initially was

01:13:26

technology Memorial but I think

01:13:29



it said that the junction

01:13:30

when you come to a

01:13:31

second round of Memorial, it's

01:13:34

the junction because the first

01:13:36

round of the case, you

01:13:36

know, you have a fuss

01:13:38

set like a tennis game

01:13:39

in a way but it's

01:13:40

a fuss that and you

01:13:41

you've seen the strength Museum

01:13:43

some of the weaknesses and

01:13:44

hopefully a lot of it

01:13:46

as being already identified you're

01:13:48



claiming you've know you now

01:13:50

know if your clients P90

01:13:51

for instance, I see I'm

01:13:55

not the only one in

01:13:56

that situation before the big

01:13:58

corporations was not just you

01:14:00

know, if you receive a

01:14:02

briefing you like one of

01:14:04

these documents, you know, you

01:14:06

send us all the emails

01:14:07

and you like this happens

01:14:11

quite quite a bit and

01:14:12

then you now know whether

01:14:14



You know whether he needs

01:14:16

to be trying to figure

01:14:17

out that the settlement option

01:14:19

because your case isn't half

01:14:20

as strong as it used

01:14:21

to be or whether you're

01:14:22

actually very confident because you

01:14:24

didn't think that you haven't

01:14:24

listened to it against you

01:14:25

is actually that strong. You

01:14:26

know, you think I did

01:14:28

have a truthful case I

01:14:29

does how about you have

01:14:30



a strong position. I can

01:14:31

move forward in between this

01:14:33

Beast to first and second

01:14:34

Memorial day goes I think

01:14:35

a second. First issue about

01:14:38

Junction weather going to have

01:14:42

the option where you can

01:14:44

you can if that's the

01:14:47

case you're going to have

01:14:48

to also analyzed not have

01:14:50

the documents that you hadn't

01:14:51

received and whether they can

01:14:53

be used to be put

01:14:54



into your case for the

01:14:55

second rounding rule because Whether

01:14:58

it's the second round of

01:15:00

the morals of time until

01:15:01

the second round memorial for

01:15:02

responding this is going to

01:15:03

be your lost round of

01:15:05

written submission before the hearing.

01:15:06

It's your last chance to

01:15:07

make the strongest impression about

01:15:10

print in the Arbiter in

01:15:11

the tribunals mine before they

01:15:13

come and hear you out

01:15:14



for 2 days 3 days

01:15:15

4 days a week whatever

01:15:16

how long the hearing is

01:15:18

going to take place since

01:15:19

I think he's got three

01:15:20

concerns that you need to

01:15:21

have his first have I

01:15:25

tackled all the arguments of

01:15:27

the opposing party at least

01:15:31

in terms of counter arguments

01:15:32

over all that, but it's

01:15:33

flying in the air and

01:15:34

you know, maybe an arbitrator's

01:15:35



going to catch it and

01:15:36

it's going to end up

01:15:37

and deliberations and I'm going

01:15:38

to lose you would want

01:15:39

to know that I never

01:15:40

right? I literally witness this

01:15:42

in a case that it

01:15:43

was an argument raised as

01:15:45

one paragraph on the 200

01:15:47

Page freeze. It was a

01:15:49

it was a very common

01:15:51

know English do three of

01:15:52

like 1650s and it makes

01:15:55



you became the entire the

01:15:56

base during the hearings. Off

01:15:58

the drink. I see embraced

01:15:59

and they need to make

01:16:05

sure that you addressed everything

01:16:07

second point is how I

01:16:09

got all the evidence on

01:16:10

record because there's a point

01:16:12

at which the tribunal however

01:16:14

the Union in may be

01:16:14

in how the consent in

01:16:16

maybe about due process. They

01:16:17

will stalk new evidence from

01:16:19



being submitted that mean they

01:16:20

have a calendar that now

01:16:22

the case needs the referral

01:16:23

would they will put a

01:16:25

stop to that at some

01:16:26

point. So you want to

01:16:27

make sure in a second-round

01:16:28

submission that all the evidence

01:16:30

has been is now put

01:16:32

on record. I'm so that's

01:16:36

as big point. And and

01:16:39

I think the the third

01:16:40

point but this is more

01:16:41



again about being being providing

01:16:44

a comprehensive and agreeable digestible

01:16:47

document is to make sure

01:16:48

that you know repeating and

01:16:49

tidy what you been saying

01:16:50

your husband why I had

01:16:52

to phone the bus with

01:16:52

you on this supposed to

01:16:54

say, please with you basically

01:16:56

called out and type pages

01:16:58

is brief compressor see Caymans

01:17:01

faster than he would he

01:17:03

would basically yeah, he would

01:17:05



want the tribunal to S

01:17:07

brief to be something new

01:17:08

something you have to bring

01:17:09

something new to the table.

01:17:10

You not rehashing pages and

01:17:13

pages of what's right even

01:17:14

said in the hospital. That's

01:17:15

not that's not useful. Just

01:17:16

adding paper. So I think

01:17:17

these are the free kind

01:17:19

of concerns I would have

01:17:20

when I'm writing a second

01:17:21

round. And because sometimes happen

01:17:32



sometimes for the hearing mcrv

01:17:36

Traders will have received thousands

01:17:39

of hundreds or thousands of

01:17:42

activists will have heard the

01:17:47

witnesses. The experts are closed

01:17:50

hearings during grief. Well as

01:17:56

you make it sound like

01:17:57

they are not often. We

01:18:00

feel like they are closing

01:18:07

might be a good substitute

01:18:08

for pussy and rapes in

01:18:10

certain circumstances. We have jurisdiction.

01:18:17

Your only are you in

01:18:19



about the law in that

01:18:21

case and probably you can

01:18:23

deal with your conclusions orally

01:18:26

right at the earring without

01:18:28

need for further briefed. It

01:18:32

might just not be necessary

01:18:33

number of claims to be

01:18:54

After a week of the

01:18:56

earring that is very intense

01:18:58

and where everyone's working around

01:19:00

the clock. I think I'll

01:19:02

give you the ability to

01:19:04

have one benefit and gives

01:19:06



you the ability to reflect

01:19:08

as to what transpired at

01:19:10

the earnings organized information better

01:19:13

and prepare better. Some answers

01:19:16

questions that often the tribunal

01:19:19

raises during the hearing and

01:19:21

you'll be want to address

01:19:22

those questions after in a

01:19:24

goes back to your team

01:19:25

with some time thinking about

01:19:27

what those what's the best

01:19:29

answer to that question. If

01:19:30

you do it overnight during

01:19:32



the hearing you might not

01:19:33

have the chance to regroup

01:19:36

and get the best answer

01:19:37

that you can buy. And

01:19:40

I also applies to the

01:19:41

tribunal is a tribunal is

01:19:45

Forest to send questions to

01:19:47

the party right during the

01:19:49

here the week of the

01:19:50

hearing. They might be given

01:19:52

the chance to fully reflect

01:19:54

them what happened. Perhaps better

01:19:56

to give the tribunal a

01:19:58



chance to think about the

01:20:07

case after the hearing do

01:20:09

I have to short delivery

01:20:11

and determined that I need

01:20:16

answers from the parties in

01:20:18

order for me to drop?

01:20:19

Tell me about dropping the

01:20:21

award supposed to be Ray

01:20:23

weigh in a great resource.

01:20:26

If they are well-written there

01:20:29

a great resource to state

01:20:31

that the tribunal with a

01:20:33

rope or dropping the award

01:20:35



idea. I think I've seen

01:20:44

some tribunal's asking for certain

01:20:57

things. Another follow-up. Do you

01:21:01

think I should replace entirely?

01:21:05

I have seen parties just

01:21:12

go straight to Nicholas green

01:21:13

water heater closing arguments because

01:21:21

right after the hearing apps

01:21:26

and given the tribunal of

01:21:28

powerful concluding argument and summarizing

01:21:32

what happened at the Irrigon

01:21:33

reminding the tribunal, you know

01:21:35

with very specific individuals. What

01:21:39



is that beautiful quote from

01:21:41

to get into the operations

01:21:49

room and start driving again?

01:22:10

I think we can wrap

01:22:11

with that and open the

01:22:12

floor for questions. Try that

01:22:32

again. Do you have any

01:22:34

advice on a review of

01:22:35

your submissions best practices? It's

01:22:39

invaluable to the case is

01:22:44

not a life sentence or

01:22:51

or areas where yardman is

01:22:53

this Parish thought it was

01:22:54



supposed to say it's too

01:23:03

late at the end. But

01:23:04

yeah, you're right it is

01:23:05

I think about how we

01:23:08

tend to do it is

01:23:09

we tend to have peer

01:23:11

review involved. Well before the

01:23:15

final hearing But sometimes closer

01:23:20

to the written deadlines so,

01:23:22

you know within the final

01:23:23

couple weeks as the document

01:23:26

is coming together. Time to

01:23:28

change course, but it's kind

01:23:33



of all depends on availability.

01:23:45

An idea that was something

01:23:48

I was advocated for his

01:23:49

counsel and I care even

01:23:50

more about it as arbitrator,

01:23:52

but it seems to be

01:23:53

a dirty word in this

01:23:54

contact page limits. Why can't

01:23:58

we agree to them? Why

01:24:00

don't we have them? How

01:24:01

come they're not in our

01:24:02

rules? And should we have

01:24:03

I think a case of

01:24:06



a four-page them. It's certainly

01:24:10

in the in the later

01:24:12

rounds of submissions or in

01:24:13

push steering brace. It's hard

01:24:15

ex-ante to agree unless it's

01:24:19

a generous one if genuinely

01:24:23

Council and don't necessarily yet

01:24:26

have their arms around the

01:24:27

size of your case, but

01:24:28

I think as the case

01:24:30

develops and as a tribunal

01:24:31

can help Focus the party's

01:24:33

on with this is what's

01:24:34



really, you know, occupy our

01:24:36

minds every case bust. It

01:24:46

was an honor page You

01:24:47

Know chords to it, but

01:24:49

we're not in court for

01:24:50

a reason. That's hard. But

01:24:54

I've never I've never had

01:24:55

a case in which age

01:24:56

limits have been proposed from

01:25:00

the outset that I've been

01:25:05

involved in two half age

01:25:07

limit, but not the not

01:25:12

the name pleadings themselves. I've

01:25:15



I've never seen that I

01:25:16

had different experiences. I am

01:25:23

completely in favor favor to

01:25:31

synthesize their arguments and I

01:25:33

think even the most complex

01:25:35

case MB in 128. Reviews

01:25:55

for The Breeze to do

01:25:56

with work and then if

01:25:57

you need further detail, you

01:25:59

have an appendix that can

01:26:00

take care of that additional

01:26:02

detail be careful, but I

01:26:07

never done it except you

01:26:14



should be trying to make

01:26:15

places in here. What work

01:26:19

is just doing does it

01:26:20

need to be here if

01:26:21

not, take it out. So

01:26:23

yeah. I think the microphone

01:26:30

so you spoke quite a

01:26:34

bit about catering to your

01:26:36

audience when addressing the arbitration

01:26:38

and dropping the adults. Just

01:26:40

wondering how we have our

01:26:42

faces from different legal background

01:26:45

sun in different cultures. How

01:26:48



much of a role that

01:26:49

plays in the manner in

01:26:50

which you dropped the breeze.

01:26:53

I think it depends more

01:26:54

on the type of case

01:26:56

that you have rather than

01:26:58

to style your commercial case

01:27:03

that is very sensitive and

01:27:05

how you interpret a specific

01:27:10

contractual provision and you have

01:27:12

a I know of one

01:27:15

arbitrator with a CVS background

01:27:17

and the other two with

01:27:18



a common the background and

01:27:20

and your Handed to the

01:27:24

black letter of the contract

01:27:25

then you may want to

01:27:27

cater to think of it

01:27:28

more into the civil law

01:27:30

arbitrator rather than the, little

01:27:32

one. I think it depends

01:27:35

on the issues more than

01:27:37

the case if it's hell

01:27:39

a You know, you do

01:27:43

pick your arbitrators first with

01:27:45

that in mind and whether

01:27:49



its investment or a commercial

01:27:52

case. I had to get

01:27:55

something everybody wants to eat

01:27:58

your ass you try to

01:27:59

frame your argument. If you

01:28:00

can in a way that

01:28:02

works resonates across the peace

01:28:07

and it says a real

01:28:08

tension, you know, if you're

01:28:09

having to rely on what

01:28:15

I have to do more

01:28:19

work to convince them that

01:28:21

that's the right way. They

01:28:22



should be thinking about the

01:28:22
case. But I mean in

01:28:24
a perfect world you survived

01:28:25
something to eat or at

01:28:28
least part of it felt

01:28:29
like to eat. I've had

01:28:32
a funny the young Spanish

01:28:35
the case where we had

01:28:36
it was it was governed

01:28:39
by English Foods corporate litigation

01:28:40
and they was governed by

01:28:42
English law and they had

01:28:44
a provision to shareholders agreement

01:28:46



that mandated that be a

01:28:48

shareholder agreement be construed with

01:28:50

good faith in the part

01:28:51

in good faith, which is

01:28:52

not a legal principle from

01:28:54

I understand English do where

01:28:56

is Vinton pool in French?

01:28:57

Do you always have to

01:28:58

act in the face that

01:29:00

you don't need to specify

01:29:00

in by contract? You have

01:29:02

to be in the face.

01:29:02

It doesn't seem to be

01:29:04



the case with our English

01:29:05

friends. Anyway, it was the

01:29:06

case in this contract. I

01:29:08

know I'll try again. We

01:29:09

had to take an upper.

01:29:10

It was an English listen

01:29:12

to bring was practicing France

01:29:13

and the the chairman was

01:29:15

a Swedish law professor. So

01:29:17

very civil law background and

01:29:20

be English party had always

01:29:22

be selected a barrister and

01:29:24

it was very interesting because

01:29:26



obviously they had it sent

01:29:28

week and that when the

01:29:29

kids were very happy, but

01:29:30

we the The way we

01:29:32

presented it and the way

01:29:33

the feeling that we go

01:29:34

with the tribunals that didn't

01:29:35

really care that much about

01:29:37

witness statement so that he's

01:29:38

being his counterparts presented the

01:29:40

entire submission fruit. Exactly what

01:29:43

you were saying an expert

01:29:44

evidence. You were referring to

01:29:45



some exhibits but sometimes the

01:29:47

documents existed but they didn't

01:29:48

refer to the oxygen that

01:29:49

you're just stated. What they

01:29:51

have used was all feeding

01:29:54

was that this was not

01:29:55

going to lie. I do

01:29:56

with the with the with

01:29:58

the shower and that's what

01:30:00

happened to me today. It

01:30:01

came to countries like all

01:30:02

these people can't revise to

01:30:04

me. That was one of

01:30:05



the common which was which

01:30:05

could be around for a

01:30:08

long time. I think you

01:30:12

have to cater something that

01:30:16

is edible by everyone. But

01:30:18

if it's not going to

01:30:18

be eatable by everyone make

01:30:20

sure that it's tough, but

01:30:20

you're at your interest and

01:30:22

then that's where the president

01:30:27

is going to be at

01:30:28

the key tonight. I mean,

01:30:29

perhaps at the president being

01:30:32



a pasta we would have

01:30:34
lost this case. So I

01:30:35
think it's extremely extremely important

01:30:37
that I figure out that

01:30:38
the coaches and how how

01:30:39
they're going to want to

01:30:42
Stop it. I think we

01:30:44
have time for one more

01:30:45
question. Okay. Hello panelist. I'll

01:30:48
be at wondering when and

01:30:51
whether or how are you

01:30:52
taking use after? I say

01:30:54
I technology when you dropped

01:30:56



in his pleading or reading

01:30:58

such a long there's evidence.

01:31:00

Yes. Thank you. Music only

01:31:07

for purposes of reviewing documents.

01:31:09

I offer you no finding

01:31:19

documents that have you no

01:31:20

particular language and we want

01:31:22

to find your other documents

01:31:24

in a very beloved as

01:31:25

a record you get a

01:31:29

ton of documents from your

01:31:31

client in a thousands of

01:31:33

files and certainly using a

01:31:36



I allow you to identify

01:31:40

water, you know, the documents

01:31:42

that mentioned this particular war

01:31:44

that you're trying to find

01:31:45

us a person doing it

01:31:47

manually certainly in the creative

01:31:54

part of the war. I

01:31:55

guess still in draft and

01:31:57

use those documents and put

01:31:59

them in the freezer and

01:32:00

how you you you make

01:32:01

them how you squeeze the

01:32:03

juice I like to say

01:32:04



That's something that I don't

01:32:06

think you can trust me

01:32:07

I to do I don't

01:32:08

think it's a sequel to

01:32:09

trust again to do it

01:32:10

anyway, and I think it's

01:32:20

it's it's it's it's a

01:32:21

hard cell or you primarily

01:32:25

to ethical rules that I

01:32:30

never use that other than

01:32:32

or document review translation. I

01:32:43

I have seen. professors a

01:32:48

pasta or legal actions apply

01:32:56



them to X pure radical

01:33:01

trying to show their students

01:33:04

hard work and it's scary

01:33:08

how Summit how accurate can

01:33:12

be to you do need

01:33:19

to go past it after

01:33:20

work and then we may

01:33:24

all be acquainted with a

01:33:25

with a New York lawyer

01:33:27

that you tried to be

01:33:28

making a cake. But I

01:33:37

seen how you can play

01:33:39

around those not for fact

01:33:41



that maybe treat your butt

01:33:43

or legal the ones you've

01:33:45

been put through the system

01:33:47

and you say apply B's

01:33:49

legal rules apply. Then it's

01:33:56

scary how to date right

01:34:09

now. The machines have access

01:34:10

but they do have to

01:34:11

have access to the frequency

01:34:14

with which they had access

01:34:15

eating different the history of

01:34:19

bleeding from but I think

01:34:33

that I mean order to

01:34:48



Spanish. Thank you to everyone.

01:34:51

Thank you everyone for being

01:34:52

here. Turn off room and

00:03:42

one. one that was also

00:03:48

specialize in investor-state arbitration defending

00:03:52

States one of the one

00:03:54

of the Hallmark cases because

00:03:56

we're both Nationals from the

00:03:58

same country as is the

00:04:00

case where they defended electric

00:04:02

on eBay that was a

00:04:05

difficult case and they managed

00:04:07

to to actually defended successfully

00:04:09



so that that's the type

00:04:11

of Oliver that we have

00:04:12

on the table. She is

00:04:15

also a lawyer from my

00:04:17

home University in Columbia and

00:04:19

are there so many reasons

00:04:20

why we should be proud

00:04:21

of her. I'm proud of

00:04:22

her in any event. I

00:04:24

want I want embarrass her

00:04:26

anymore, but it's wonderful to

00:04:29

have you here and do

00:04:32

keep track of the various

00:04:34



panels. And this is part

00:04:36

of the experiment that were

00:04:37

doing and trying to bring

00:04:39

to you practical sessions somatic

00:04:43

Arena. Centennial something for the

00:04:54

brake lines inspection and thank

00:04:57

you. He knows he's a

00:05:12

special consultant at Covington specializes

00:05:17

in international commercial and he

00:05:24

has successfully Prosecuting High Plains

00:05:28

in our proceedings in English

00:05:31

and in Spanish, and it

00:05:32

said it said additional facility

00:05:34



and Beyonce close at least.

00:05:48

She has 25 years of

00:05:49

experience as an adviser in

00:05:52

international matters. She focuses on

00:05:57

Extreme Energy power and money

00:05:59

mining sectors and she has

00:06:03

particular expertise handling disputes involving

00:06:05

States and spent just under

00:06:11

long-term contracts and disputes that

00:06:13

implicate both contract. Lexi Perez

00:06:20

He's an associate at freshfields

00:06:23

besos en Washington DC i

00:06:33

c c and b l

00:06:35



ci e rules and

00:06:36

he has experience across a

00:06:38

variety of Industries including Oil

00:06:41

and Gas Energy and Telecommunications.

00:06:46

And I know but not

00:06:48

least. He's a partner in

00:06:53

Paris specializes in international arbitration

00:06:59

and corporate litigation and he

00:07:03

has acted as counseling commercial

00:07:05

and investment arbitration proceedings involving

00:07:12

complex corporate disputes under commercial

00:07:17

law. Summarize we have people

00:07:22

with a lot of experience

00:07:23



working across a variety of

00:07:25

Industries and from those perspectives

00:07:27

today. We will be discussing

00:07:29

as the face of the

00:07:32

arbitration proceedings what ships you

00:07:38

can get from from this

00:07:40

year's what strategic decisions need

00:07:43

to be shaking in the

00:07:44

process and what are the

00:07:46

some of the challenges that

00:07:47

we Face podcast. And it

00:07:51

was that will start with

00:07:52

Lisa and Ricardo. Why are

00:07:56



the recent ratings important in

00:07:58

the artichoke? I'm not sure

00:08:02

I'm connected to do so

00:08:03

I'm keeping one eye on

00:08:04

the screen is it looks

00:08:05

like I am sorry. That

00:08:07

was me. I would say

00:08:12

that the written things aren't

00:08:14

as important. They really are

00:08:15

essential in a case of

00:08:17

any complexity whatsoever. I can't

00:08:19

even imagine doing an arbitration

00:08:21

without written pleadings that they

00:08:24



provide the parties and their

00:08:25

counsel with an opportunity to

00:08:27

present their case comprehensively logically

00:08:30

systematically end-to-end a feature of

00:08:33

the evidence and arguments Authority

00:08:36

that support their their case

00:08:38

because they're exchanged before the

00:08:40

parties can be in an

00:08:41

oral hearing gives the tribunal

00:08:42

and opportunity to engage with

00:08:44

the evidence and and the

00:08:45

arguments in advance which increases

00:08:49

the focus on efficiency of

00:08:50



the hearing process right across

00:08:52

the range of issues. Then

00:08:54

hearing can be focused on

00:08:55

those issues such as you

00:08:56

know finds most challenging or

00:08:57

the other parties want to

00:08:58

spend much attention on of

00:09:00

course, the parties have been

00:09:01

able to really engage with

00:09:03

one another completely in the

00:09:06

fishing process. I think the

00:09:08

other thing that I just

00:09:10

Pick up more on this

00:09:12



is what are Britain's leading

00:09:15

gives you a course is

00:09:15

not only the opportunity to

00:09:17

said I should arguments facts

00:09:18

and law but it gives

00:09:19

you a chance to to

00:09:21

set the stage Ori and

00:09:23

the tribunal to the story

00:09:24

that you went to be

00:09:25

telling them. They can be

00:09:27

hard to do quickly and

00:09:30

in the opening submissions that

00:09:31

you can start to lay

00:09:32



the somatic round or kiddo.

00:09:34

Is this a david-and-goliath case.

00:09:35

This is the case that

00:09:36

turns on, you know, it's

00:09:38

a technical point of funerals

00:09:40

going to need to be

00:09:40

quite so you can start

00:09:41

to use language and and

00:09:43

the framing of the argument

00:09:44

that you're putting Flora to

00:09:45

sort of characterize the dispute

00:09:47

characterize what what important tell

00:09:50

your story or at yourself

00:09:52



as the David in the

00:09:53

David and Goliath about the

00:09:54

narrative your dancing and those

00:09:57

kind of pieces of mental

00:09:59

Furniture those impressions of the

00:10:00

tribunal gets very early in

00:10:02

a case can be really

00:10:03

hard to dislodge. So if

00:10:05

you don't get control of

00:10:08

a narrative about the facts

00:10:10

or the law Or at

00:10:11

least try to do that

00:10:12

and set out your stall

00:10:14



on the on the narrative

00:10:15
early in the case. It

00:10:17
can be real it's a

00:10:18
cuz she can stand up.

00:10:19
He'll a very heavy Stone

00:10:20
uphill to change a perception

00:10:22
that has that has settled.

00:10:23
So it's really important opportunity

00:10:25
to start to introduce your

00:10:26
client and their behavior and

00:10:28
their position in the most

00:10:30
favorable life points. I'll add

00:10:36
a few more and then

00:10:38



perhaps Common Sense some of

00:10:41

the ones that you've mentioned

00:10:42

already really the opportunity for

00:10:46

the party to make a

00:10:48

first impression on the tribunal

00:10:50

and be able to develop

00:10:53

their arguments persuade the tribunal

00:10:57

of the strength of the

00:10:58

case and of the weaknesses

00:11:00

of the others are so

00:11:02

essential to be able to

00:11:06

give the tribunal that opportunity

00:11:07

at to create their initial

00:11:10



views on the Educate the

00:11:11

tribunal Jesus. Why should I

00:11:14

win? Why should my adversary

00:11:16

lose you really want to

00:11:19

have the tribunal come to

00:11:20

the hearing with some preliminary

00:11:22

be used as to what

00:11:25

is this case is about

00:11:25

and who gets to win

00:11:26

and you do that by

00:11:28

articulating your arguments and frame

00:11:31

in your argument in your

00:11:33

briefs ideal. You want them

00:11:35



to be predisposed to favor

00:11:38

you out of here and

00:11:40

as list that it's very

00:11:41

important to do so and

00:11:43

and to do an artfully

00:11:45

of the pleadings because I'm

00:11:47

an image in the back

00:11:48

of the truck and it's

00:11:59

really hard for them to

00:12:01

change them dramatically at the

00:12:03

year. So I threw the

00:12:05

bleeding through the briefs, this

00:12:08

is really the opportunity that

00:12:09



you have to build the

00:12:11

confidence of the tribunal and

00:12:13

sort of start with in

00:12:14

case from the beginning. They

00:12:18

also allow you in a

00:12:20

minute my own experience as

00:12:22

a benefit for the parties

00:12:25

as well. Cuz once you

00:12:26

put your writing it allows

00:12:28

you to think about your

00:12:29

case more carefully, once you

00:12:33

sort of you think you

00:12:34

have a case and you

00:12:35



draft a notice of dispute

00:12:37

and even a request for

00:12:39

arbitration, you know, the generalities

00:12:41

out the case, but it's

00:12:42

really when he gets to

00:12:42

the actual and waiting when

00:12:44

you get to the memorial

00:12:45

sometimes when you get to

00:12:46

cover a few things that

00:12:47

perhaps you didn't know before

00:12:48

and things in writing allows

00:12:53

you to understand your case

00:12:54

better and understand your opponent.

00:12:56



So it's a good way

00:12:59

to articulate your arguments in

00:13:02

a clear way. Marshall the

00:13:05

facts and develop the facts

00:13:07

with Bridget position and detail

00:13:09

and a good opportunity Supercenter

00:13:18

work product to the tribunal

00:13:19

that has been very well

00:13:21

thought you have drafted and

00:13:25

now this draft this product

00:13:30

that you'll be touching the

00:13:31

tribunal really reflects what you

00:13:32

want to say after several

00:13:34



rounds of revision. This is

00:13:36

an advantage of having a

00:13:39

written submission versus a purely

00:13:41

formal procedure and they're convenient

00:13:47

because they give the arbitrator's

00:13:49

the ability to read at

00:13:50

their own pace. They can

00:13:52

reach hands of a memorial

00:13:54

and go back to them

00:13:55

when they want and read

00:13:58

them more than one if

00:14:00

they want to refresh their

00:14:02

memory later on in time.

00:14:04



And related to this they're

00:14:05

not also convenient, but they

00:14:06

last in time they are

00:14:09

they are forever in a

00:14:11

way. Once you write something

00:14:13

the arguments will be written

00:14:15

and you can reference them

00:14:17

and go back to those

00:14:18

memorials and put those in

00:14:20

the Morales, you know, we

00:14:22

got limit during the proceedings

00:14:24

and your opponent makes a

00:14:29

silly argument. Then you can

00:14:31



go back to that silly

00:14:33

argument in their memorial and

00:14:34

throw it in their face

00:14:35

and you know if they

00:14:37

have to depart from it,

00:14:39

or if they have to

00:14:40

correct something that they had

00:14:44

said that it was not

00:14:44

that then you know Obviously

00:14:51

both ways we have to

00:14:54

put in writing, but we

00:14:57

have a good chance to

00:15:02

review your work and percent

00:15:04



a very Polished Work product

00:15:06

for the advantage. And we'll

00:15:19

we'll start from here on

00:15:20

going step-by-step on the different

00:15:23

seating is that that happened

00:15:24

to do the procedure and

00:15:26

the very first meeting that

00:15:27

we have is the request

00:15:29

for arbitration. So Nicholas, what

00:15:32

is your process when dropped

00:15:34

in your face person to

00:15:36

Memorial? What is the difference

00:15:42

between Memorial and how do

00:15:44



you go about it? Thank

00:15:46

you. Thank you. Thank you

00:15:48

everyone for being here. Thank

00:15:50

you for the introductions. Let

00:15:55

let me go back one.

00:15:58

So rather than just going

00:16:00

directly to a difference between

00:16:01

one and the other I

00:16:03

have kind of identify five

00:16:06

big bud producing features of

00:16:09

a r face weather commercial

00:16:12

or investor-state with one caveat

00:16:16

to the commercial launch control

00:16:17



come in a minute. And

00:16:21

I love you too weakened

00:16:23

by saying you are Our

00:16:24

Fate is kind of your

00:16:26

your case Theory. You never

00:16:28

get to a Kay's you

00:16:30

never filing our fee just

00:16:31

to see what happens next

00:16:33

just to see if you

00:16:34

do have a case coming

00:16:36

forward or not. Barring any

00:16:39

discussions on potential limitation issues.

00:16:43

You do draft your wife

00:16:45



a because you already know

00:16:46

the case. You already know

00:16:49

kind of the four pillars

00:16:52

of your table for anything

00:16:55

going forward. And that being

00:16:58

said they are afraid then

00:16:59

becomes more of a formal

00:17:02

document Be Our Fate is

00:17:04

intended by the purpose is

00:17:05

to be a jurisdictional document,

00:17:08

right? It is a document.

00:17:10

Where is the document that

00:17:13

last the longer? In and

00:17:16



of itself if it stands

00:17:18

by itself the longest in

00:17:21

any case you do have

00:17:23

some time differences between Memorial

00:17:27

Country Memorial reply babe rejoinder

00:17:30

in whether you have bifurcated

00:17:32

cases, but the document is

00:17:35

going to stand there alone

00:17:37

for the longest easier. If

00:17:39

I do want to have

00:17:40

five things kind of correct

00:17:43

straightaway one is a parties.

00:17:47

It sounds obvious. But you

00:17:49



do need to identify who

00:17:51

the parties are correctly from

00:17:53

the outside. Most of the

00:17:56

jurisdiction of Elections have coming

00:17:59

from a erase personal argument

00:18:04

will be focused on how

00:18:06

you present the parties in

00:18:10

geography. The second point is

00:18:13

what is your applicable instrument?

00:18:16

Is it a contract with

00:18:17

a VIP is an NFPA

00:18:19

and then start a trickling

00:18:24

down through the various issues

00:18:26



that each of those my

00:18:28

percent Define your remedies. It

00:18:32

defines your right. It defines

00:18:35

your Venue it Define any

00:18:38

time limits that you need

00:18:39

to be careful or conscious

00:18:41

about and it also defines

00:18:43

canvas Kolb of the arbitration

00:18:46

going forward. And it is

00:18:49

linked to the third point

00:18:52

which is a dispute is

00:18:55

not intended for you to

00:18:56

present your positive case. 100%

00:19:00



right and sometimes were most

00:19:03
of the times you do

00:19:04
have cases that involve throughout

00:19:07
the arbitration so you don't

00:19:10
yet know the full scope

00:19:11
of what might be in

00:19:13
dispute. you may or may

00:19:16
not have the entire set

00:19:17
of documents that will support

00:19:20
your arbitration, but you will

00:19:22
definitely not have the entire

00:19:24
set of a Evidence that

00:19:28
you will need 2% on

00:19:30



the memorial you only start

00:19:32

working on the witness statements

00:19:34

and the and the extra

00:19:36

ports a bit later, but

00:19:38

we will we'll come to

00:19:39

that in a minute. But

00:19:41

you do need to present

00:19:42

the issues at this. At

00:19:44

least to provide some sense

00:19:46

or guidance to the potential

00:19:49

arbitrators as to what is

00:19:52

the u r a that

00:19:56

you are disputing if you

00:20:00



love me. Struggle by both

00:20:05

the argument you do want

00:20:07

to say look the measures

00:20:09

of dispute are these or

00:20:12

these is the action that

00:20:15

was taken by the counterparty

00:20:16

that affected my rights in

00:20:19

such are another way that

00:20:22

brings us here. You will

00:20:24

have additional time and made

00:20:27

her pleading to perfect that

00:20:28

argument. You should fully supported

00:20:30

will you do when I

00:20:31



get a sensor but this

00:20:33

this is what we're here

00:20:34

for. the fourth point is

00:20:39

You do need to per

00:20:40

cent. They can find set

00:20:42

of documents to support those

00:20:44

first three point right? You

00:20:47

do need a complete set

00:20:49

of documents to prove to

00:20:51

the party Farm. You do

00:20:53

need a complete set of

00:20:54

documents to prove what the

00:20:55

optical instrument is. And you

00:20:58



do need I can find

00:20:59

some documents to prove the

00:21:00

issues a dispute. And when

00:21:03

I say confined is you

00:21:05

do need to be careful

00:21:06

about what you resend in

00:21:10

the opposite. Why because her

00:21:11

face her she physically my

00:21:14

experience written with a Time

00:21:17

limitation in mind. you try

00:21:21

to get the Irish say

00:21:23

I have to told a

00:21:25

limitation. Whatever that. Maybe. And

00:21:30



you've been after that started

00:21:33

the process of fully collecting

00:21:36

the evidence that you will

00:21:37

need in support of your

00:21:38

case, very rarely. You do

00:21:41

have a client the next

00:21:42

case that will provide you

00:21:44

with a call to delve

00:21:49

into documents potential Witnesses experts

00:21:53

everything before the filing of

00:21:56

the are fake that typically

00:21:58

happens after you have commands

00:22:00

the case so you do

00:22:03



want to have and those

00:22:06

those primary documents identified, but

00:22:10

you do you do not

00:22:11

want to Let's see Chris.

00:22:14

Send more than you need

00:22:16

at that point in time.

00:22:20

And the fifth point is

00:22:21

only relevant for for commercial

00:22:25

cases, which is you do

00:22:27

need to pick your arbitrator

00:22:28

and you do need to

00:22:29

pick your seat. And that

00:22:31

is a very demanding strategic

00:22:35



tasks that you do have

00:22:37

to embark on a very

00:22:39

early stage. It only happens

00:22:41

in commercial cases and cases

00:22:43

you pick them in a

00:22:44

later stage. but you do

00:22:46

need to make that determination

00:22:48

with geography and that will

00:22:52

set the tone for the

00:22:57

other parties appointment of these

00:23:02

are her own arbitrator cuz

00:23:04

there might be conflict involved

00:23:05

the potential issues regarding languages.

00:23:09



So if you have a

00:23:11

case in which most of

00:23:13

the documents are in Spanish

00:23:14

most of the Witnesses in

00:23:15

Spanish, but you picked from

00:23:17

the outside an arbitrator that

00:23:19

only speaks English or French

00:23:21

then you know from the

00:23:23

outside that translations are going

00:23:25

to be going to be

00:23:26

the TNT that you'll have

00:23:28

to go down to all

00:23:30

of that is the signs

00:23:31



and defined in the RV

00:23:33

and it is kind of

00:23:36

sets the tone for the

00:23:39

memorial which comes next and

00:23:42

Without prejudicing a Alex was

00:23:45

going to have a bit

00:23:47

more under the difference of

00:23:50

primary the friends that I've

00:23:52

seen between our face and

00:23:54

the memorials is how much

00:23:56

do you Hammer the fact?

00:23:59

Write the legal strategy as

00:24:01

I was saying is kind

00:24:03



of already there. You already

00:24:05

know what your case theory

00:24:06

is when you pretend we're

00:24:07

your file your are say,

00:24:09

but you may not know

00:24:11

where may not have access

00:24:13

to the full amount of

00:24:15

documents into the full amount

00:24:17

of people that will help

00:24:18

to prove your case. We

00:24:21

will discuss it later, how

00:24:23

you structure that but for

00:24:25

me the primary difference is

00:24:27



back. a action It's very

00:24:32

similar. You kind of just

00:24:35

develop it a bit further

00:24:37

than you would you have

00:24:38

done in the RFA. But

00:24:40

as long as you are

00:24:41

face to face and a

00:24:42

robust to prove it the

00:24:43

parties that you choose and

00:24:45

the time is good. You

00:24:46

shouldn't be that worried at

00:24:48

the memorial face legal the

00:24:51

legal strategy one change that

00:24:53



much. You may want to

00:24:55

add a couple of cases.

00:24:55

You may have some time

00:24:57

to review recent decisions. But

00:24:59

most of your legal analysis

00:25:01

has already been done if

00:25:03

it because you never fail

00:25:04

in our face without dressing

00:25:06

anything before you usually have

00:25:08

memos they go to find

00:25:10

you should have a notice

00:25:12

of these people to a

00:25:13

notice of intent to invest

00:25:14



in cases. So that portion

00:25:16

is kind of already done.

00:25:18

You only allowed to operate

00:25:19

a bit more of that

00:25:20

and damages will come to

00:25:22

kilometers. In a minute, but

00:25:25

that's kind of a beast

00:25:27

of its own. Fat is

00:25:30

by far. Would you kind

00:25:33

of focus the most Wonder

00:25:34

pairing on Memorial that is

00:25:36

the key difference between an

00:25:38

IRA and a fool to

00:25:40



let others, the map. And

00:25:51

you mentioned a little bit

00:25:52

before you bring your Memorial

00:26:03

or do you choose to

00:26:06

put everything? In my experience,

00:26:13

I have I have chosen

00:26:16

the former. So that's it.

00:26:20

It's always preferable to have

00:26:23

a linear but sufficiently robust

00:26:26

a document that you can

00:26:29

file and passes all the

00:26:31

jurisdictional tasks article 25 of

00:26:33

exit convention or whatever rule

00:26:36



33 is it doesn't it

00:26:40

doesn't harm if your percent

00:26:43

the lien but sufficiently robust

00:26:45

are Fae whereas if you

00:26:47

go full fledge and then

00:26:51

A negative documents arises or

00:26:55

a the other party presents

00:26:58

an issue that you didn't

00:26:59

have enough a full understanding

00:27:02

up in may be harder

00:27:04

to backtrack from that other

00:27:07

academies were saying the documents

00:27:09

are there, right? So you

00:27:14



can always you will have

00:27:17

at least two other channel

00:27:18

chances to put forward additional

00:27:21

argument additional fact. And if

00:27:23

you do that from the

00:27:26

outside from the earth a

00:27:27

a kind of that's it.

00:27:31

Both parties may decide to

00:27:33

OVA. The queen doesn't really

00:27:36

matter now. But I I

00:27:39

typically I would prefer the

00:27:43

linear a draft to Dan.

00:27:50

how to build them up

00:27:52



a in in the later

00:27:54

stages Can I just saw

00:27:56

her at the comments about

00:27:58

when you might think about

00:27:59

it more. Station sometimes we've

00:28:04

done that when you're really

00:28:05

trying to get the other

00:28:06

side's attention and sort of

00:28:07

drive them to really control

00:28:09

the strength of the case

00:28:11

against them and maybe come

00:28:12

to the table and engage

00:28:14

in dialogue. So probably not

00:28:16



going to be affected for

00:28:19

reality to set in in

00:28:21

those cases. Sometimes when you

00:28:24

think if we could just

00:28:24

really fire a shot across

00:28:26

the Bow Wow's show our

00:28:27

hand for the strength of

00:28:28

the evidence that we have

00:28:29

if it can the idea

00:28:31

is that it might generate

00:28:32

a discussion on settlement was

00:28:34

it works? Sometimes it doesn't

00:28:35

but it has all the

00:28:36



risks that you indicated on

00:28:37

your hands a little bit

00:28:39

more about the nearest that's

00:28:43

that's always true and Commercial

00:28:46

settings in which not always

00:28:48

you are required to notify

00:28:48

the other party before you

00:28:50

file an RV, right because

00:28:52

you typically have Hi, my

00:28:57

brother find setting to have

00:28:59

those discussions. So you already

00:29:00

kind of know what our

00:29:01

settlements are possible or not.

00:29:02



We knew that wasn't going

00:29:11

to be a huge amount

00:29:12

of factual today. We were

00:29:13

confident and exactly know how

00:29:14

what we did is we

00:29:16

put out a really flushed

00:29:18

out a request for all

00:29:18

the train station and we

00:29:20

suggested that the only be

00:29:21

one round two rounds of

00:29:23

submission think this is our

00:29:24

first run of submission. And

00:29:25

if you want to do

00:29:26



an ounce of the request

00:29:28

of arbitration and then you

00:29:29

want us to do a

00:29:29

fully patched bus Memorial then

00:29:31

you'll have to assume the

00:29:32

cost because we're ready. This

00:29:33

case is ready for us.

00:29:34

I think that puts in

00:29:36

the hounds pressure as well.

00:29:37

How confident you are. And

00:29:38

also this is the message

00:29:40

that you can bang to

00:29:40

the treadmill, which is when

00:29:42



I could be hiding away

00:29:43

with not going to attend

00:29:44

games getting more and more

00:29:46

time or evidence and doing

00:29:47

talk and production of this

00:29:48

with ready. We haven't yet

00:29:50

on the rack and let's

00:29:51

go. Finger has to the

00:29:53

pressure special needs to in

00:29:54

commercial. Blackbob 7th in basketball

00:30:08

Call to your question Mariah

00:30:13

Carey down there was so

00:30:15

you've been put in charge

00:30:15



of document. What do you

00:30:17

do first thing in my

00:30:18

teenage years as an associate?

00:30:19

I would have a couple

00:30:20

beers and go out and

00:30:21

then knowing that my social

00:30:23

life would be miserable the

00:30:25

next couple of months as

00:30:26

I have matured. I've decided

00:30:28

to take a different approach

00:30:29

now, I do it obviously

00:30:31

print out a calendar on

00:30:33

Outlook put it on a

00:30:35



three piece of paper and

00:30:37

I would you know, I

00:30:39

would try to figure out

00:30:40

how we're going to work

00:30:41

because this is going to

00:30:42

be a Race Against Time.

00:30:45

However Perpetual you will be

00:30:47

you never have to give

00:30:49

you enough time to do

00:30:50

all that is required. And

00:30:52

so the way by Prince

00:30:55

now is as a construction

00:30:56

project, that's a critical pass

00:30:58



to get a new Memorial

00:30:59
in at the right time

00:31:01
and there's a way of

00:31:02
securing that all the resources

00:31:04
that you will need for

00:31:05
the subcontractor. That you will

00:31:07
need to secure is that

00:31:09
guy is going to be

00:31:10
there on time. I'm not

00:31:12
speaking. My point is I

00:31:16
think it's really about setting

00:31:19
out the time you pretty

00:31:20
I think if you if

00:31:21



you if you were very

00:31:21

proficient, you probably started doing

00:31:23

that at the request of

00:31:24

arbitration. So you've already started

00:31:26

thinking about your case. He's

00:31:27

not in thinking about all

00:31:28

the evidence that you didn't

00:31:29

have at the time of

00:31:31

the request of arbitration or

00:31:33

that you chose not to

00:31:34

introduce at this time because

00:31:35

you didn't think it was

00:31:36

absolutely relevant to the surcharge

00:31:37



The Briefing initially, but when

00:31:41
it comes to the full

00:31:42
rims Mission as an accountant

00:31:43
said you have to have

00:31:44
it out the facts and

00:31:45
that means that you need

00:31:46
to make sure that you

00:31:47
have all of them and

00:31:47
you make sure that they

00:31:48
can be laid out correctly

00:31:49
and I think back and

00:31:50
take a huge amount of

00:31:52
time. So I have to

00:31:53



make it where all these

00:31:54

are all these facts. Are

00:31:55

these. Usually I mean, where

00:31:57

are the documents? Is it

00:31:57

going to be documentary evidence?

00:31:59

Is it going to be

00:32:00

witness evidence? Do we know

00:32:01

where the documents. Do we

00:32:03

know how we can extract

00:32:05

them do we know how

00:32:06

we can Do we know

00:32:08

if they need to be

00:32:09

translated and then we need

00:32:11



to be reviewed and selected

00:32:12

and properly prepared fighting itself

00:32:16

is a huge amount of

00:32:17

project document situated another country

00:32:21

to which we have no

00:32:22

longer access that can be

00:32:24

a huge amount of trouble

00:32:25

the same goes for your

00:32:28

Witnesses perhaps, you know, you're

00:32:30

sending companies some of these

00:32:31

employees have the company by

00:32:34

halves are in foreign countries

00:32:35

eat dogs esecure. How you

00:32:36



going to be approaching them?

00:32:38

How you going to be

00:32:39

interviewing them? They actually want

00:32:43

to agree to the house

00:32:44

up here in this arbitration

00:32:45

or does this takes a

00:32:47

huge amount of time because

00:32:48

depending on the results that

00:32:50

you're going to get and

00:32:51

sometimes you don't have order

00:32:52

there. I mean if you're

00:32:53

lucky you've done a lot

00:32:55

of that preparation before but

00:32:56



sometimes you're still running against

00:32:58

the clock to make sure

00:32:59

that you have all the

00:33:00

documents for that very first

00:33:02

submission. And so You need

00:33:07

to stop planning. You need

00:33:07

to go back in the

00:33:09

truck. And when is the

00:33:10

first week? Are you going

00:33:10

to send to your clients?

00:33:11

When what you need to

00:33:13

do that and that goes

00:33:15

also with the expert evidence

00:33:18



that you're going to be

00:33:19

securing because a lot of

00:33:20

me if you got a

00:33:21

big Quantum analysis, so you

00:33:22

got technical experts are going

00:33:24

to need to have taxes

00:33:25

while so you're going to

00:33:26

need to have at least

00:33:27

asked kindly for your grief

00:33:28

after their analysis and data

00:33:31

analysis has been going to

00:33:32

come to Sunday result which

00:33:33

you will then use. Perhaps

00:33:37



discuss with them and then

00:33:38

integrate into your own research.

00:33:40

I think that the keep

00:33:42

when I want to stress

00:33:43

us. This is really planning

00:33:44

a thing. It's it's just

00:33:45

it's just about planning and

00:33:46

making sure that older a

00:33:48

delegate to with a pretty

00:33:50

strict planning to all the

00:33:52

members of your team the

00:33:55

toss that they need to

00:33:55

be conducting at to make

00:33:57



sure that each of these

00:33:58

different master and you ready

00:34:00

you can just check off

00:34:01

the box and that your

00:34:02

brief is is moving forward

00:34:03

for fighting on D-Day. And

00:34:06

on that point list as

00:34:09

we all know, he likes.

00:34:10

So, how do you go

00:34:21

up? Along with that and

00:34:23

how do you marry the

00:34:26

facts to the rest of

00:34:27

the case specially when you

00:34:29



have different teams working on

00:34:30

the different issues. I'm about

00:34:35

to describe an ideal life

00:34:37

process about how to make

00:34:47

it easier I can get

00:35:10

together and get it into

00:35:11

us. There's things that you

00:35:19

can do to start yourself

00:35:20

up for Success before anybody

00:35:22

really keep your team as

00:35:29

small as in general the

00:35:42

closer to everyone's fingertips. Place

00:35:52

you can know that there

00:35:57



are things that the old

00:35:58

spit audience has the tribunal

00:35:59

partner on the plan for

00:36:01

all of the above like

00:36:02

or don't like in structural

00:36:04

drafting get those ground somebody

00:36:14

spend entire just texting all

00:36:16

of those inconsistencies. Also try

00:36:23

not to divvy up. I'm

00:36:25

dropping responsibility so that somebody

00:36:27

knows all of the fact

00:36:29

is not writing part of

00:36:31

three to responsibilities. And then

00:36:38



this really is it for

00:36:40

how do you get a

00:36:41

product when it's lying there

00:36:44

on the table having? If

00:36:47

you can do that, if

00:36:49

you actually ride a real

00:36:51

outline before anybody starts argue

00:36:56

about it figure out how

00:36:57

you're going to do it

00:36:58

and then actually write the

00:37:00

album and I'm just going

00:37:02

to take those steps and

00:37:02

what do I need to

00:37:11



talk about? an outline is

00:37:18

one that says all right,

00:37:19

we're clinging propositions that needs

00:37:31

to be a good support.

00:37:33

And this is the order

00:37:34

in Where's the detail going?

00:37:46

Where is this point going?

00:37:48

And so you do not

00:37:53

get everybody's buying about that?

00:38:11

Certainly got two senior members

00:38:12

of the team actually stop

00:38:14

and think about it more

00:38:15

than 48 hours before the

00:38:17



break. Get that and then

00:38:31

write the outline. I'm so

00:38:33

much rather get a kind

00:38:34

of like the mechanical that

00:38:37

isn't he doesn't jump off

00:38:39

the page beautiful before it

00:38:41

does the work that we

00:38:43

said we needed to do

00:38:43

and setting out the argument

00:38:45

that's much easier to work

00:38:46

with than a beautifully together

00:38:53

doesn't follow the structure doesn't

00:38:54

deal with the other than

00:38:55



the way we need to

00:38:56

deal with it. So, you

00:38:57

know and then when you

00:39:19

start writing Start looking at

00:39:30

the ReliOn. We have a

00:39:34

problem. What change does not

00:39:42

drive in the oven instead

00:39:43

were developed and you know,

00:39:45

and you can try to

00:39:48

stay one step ahead. And

00:39:52

then you know, obviously keep

00:39:54

the fact evidence my tendency

00:39:56

and braces to send out

00:39:58



the text evidence in the

00:39:59

background section pretty comprehensively and

00:40:02

then to be relatively brief.

00:40:04

It kind of depends on

00:40:18

the size and shape of

00:40:19

the face. Or in isolation

00:40:30

of what Ashley and somebody

00:40:43

consume out and go? outline

00:40:54

outline outline This takes us

00:41:00

to the next point. So

00:41:02

you have got her as

00:41:10

much as you have the

00:41:12

witness interview. What is your

00:41:16



process of writing the factual

00:41:17

section on the central portion

00:41:21

of the logic Lee? To

00:41:28

start drafting you need to

00:41:29

do a lot of preparation.

00:41:30

I think Liz has described.

00:41:33

The first thing is obviously,

00:41:41

you know who organize documents

00:41:42

that you have the basic

00:41:52

documents and read the recent

00:41:55

spend some time reading understand.

00:41:58

So the first thing I

00:42:04

know I do and I

00:42:05



encourage everyone doing it when

00:42:08

you're extracting the back section

00:42:09

of a memorial is you

00:42:13

will you will learn more

00:42:14

about the case after reading

00:42:17

the documents you will identify

00:42:18

portions of those documents beautiful

00:42:21

gems the documents that really

00:42:24

support one of the arguments

00:42:25

that you're making. If you

00:42:28

spend enough time reading sometimes

00:42:30

after you read them ones

00:42:33

the document will not really

00:42:34



a show you all of

00:42:36

the beauty of that. You

00:42:38

need to read more than

00:42:39

once to squeeze all the

00:42:40

Jews from the doctor read

00:42:42

and read and read again

00:42:44

the documents so, you know

00:42:45

exactly what they say and

00:42:48

how you can use them

00:42:49

or how can the other

00:42:50

side of tax will try

00:42:54

to organize information and you

00:42:56

try to organize up the

00:42:57



documents that ideally sabbatical timeline

00:43:04

on Lisa Rowe neurology what

00:43:07

came first left after what

00:43:09

happened? What letter was sent

00:43:11

out the letter that you

00:43:15

said something say something after

00:43:19

this law was enacted you

00:43:20

do you want to I

00:43:22

want to ask some questions,

00:43:23

but also you want to

00:43:24

try to see you know,

00:43:25

what what is the sequence?

00:43:27

Events timeline or Knology make

00:43:31



your process you can go

00:43:32

back to it if you

00:43:33

need to not work, but

00:43:35

I wanted to doesn't go

00:43:38

into what we need to

00:43:39

deliver. What's sometimes if the

00:43:41

kids are complex if there

00:43:43

is a bullet bullet in

00:43:44

his record lots of documents

00:43:46

a lot of little things

00:43:47

that happen a lot of

00:43:48

back-and-forth Correspondence than you need

00:43:50

to know about a timeline

00:43:52



Technologies. Once you have a

00:43:56

good idea of your case,

00:44:04

that's when I get back

00:44:09

section. That's when I am

00:44:10

ready to prepare an outlet

00:44:12

in an outline, you know,

00:44:14

the different stages and they

00:44:17

can take their front porch.

00:44:19

There is a skeleton outline

00:44:21

the table contents outline that

00:44:22

this was referring to that

00:44:24

even one at once you've

00:44:25

done this for breed of

00:44:26



the documents. 2.0 version of

00:44:30

God that has a little

00:44:31

bit of content you lay

00:44:33

out in a while your

00:44:34

arguments are what the legal

00:44:35

standard is that you need

00:44:37

to need what the elements

00:44:38

are. What evidence are you

00:44:40

planning to use? And then

00:44:41

how you work you're going

00:44:44

to demonstrate that the new

00:44:46

need all the thresholds? That's

00:44:53

the point where I would

00:44:54



say, it's it's it's it's

00:44:55

a good moment to have

00:44:57

a good first robust outline

00:45:00

that can allow you to

00:45:01

continue drafting at Dupree's property.

00:45:04

And the outline is a

00:45:09

good plays are a good

00:45:10

device for you to understand

00:45:14

and and put in some

00:45:16

form in writing. Why is

00:45:18

it that I win and

00:45:20

why is it that the

00:45:21

other side loses and similarly

00:45:24



is a it's a good

00:45:25

moment to know exactly. What

00:45:26

are the weakness? Your own

00:45:28

pace and also the weaknesses

00:45:29

of your address are how

00:45:39

you will be attacked and

00:45:40

how you can respond to

00:45:42

that and maybe you know

00:45:44

that you will need to

00:45:45

preemptive argument. So you will

00:45:47

put yourself in a better

00:45:48

position to receive the party's

00:45:50

attack. I would respect you.

00:45:55



Essentially allows you to identify

00:45:57

the building blocks of your

00:46:00

case and always keep in

00:46:01

mind those building blocks ask

00:46:03

you to rap for me

00:46:04

drafting is as the outlaw

00:46:06

is this this essential aspect

00:46:09

always stick to your outline

00:46:11

will always take your outlet

00:46:12

and to the building blocks

00:46:13

that are reflected in the

00:46:15

out as you read and

00:46:18

a ton of information that

00:46:21



you will receive in that

00:46:22

you have to digest your

00:46:23

job is to make the

00:46:26

memorial pleasant experience to read

00:46:29

for the Tribune water your

00:46:31

Memorial which facts and useless

00:46:34

information. You will confuse the

00:46:35

tribunal it's not going to

00:46:37

be helpful. You will not

00:46:38

enjoy the process. So the

00:46:40

idea is for you to

00:46:41

digest That information is always

00:46:44

remember. What is it that

00:46:46



I need to prove my

00:46:47

face? What is really essential

00:46:50

for the arbitrator's to know

00:46:52

and my knowing that you

00:46:54

will start identifying as you

00:46:56

go up this I mean,

00:46:58

this is a colorful fact,

00:46:59

but do I really need

00:47:00

it or does this need

00:47:01

to go above the line

00:47:03

or this is really a

00:47:03

footnote point. You must start

00:47:06

choosing. Are you going to

00:47:07



present this information to the

00:47:09

truck? And then again, it's

00:47:12

a process that you don't

00:47:13

do it in one go

00:47:15

this requires several drafts and

00:47:18

ultimately after you know number

00:47:20

of revisions the input from

00:47:22

different members of the team.

00:47:23

Then you have the beautiful

00:47:24

work product that you want

00:47:26

to have gaps in the

00:47:32

evidence you will you will

00:47:35

do it in the Outlander.

00:47:36



Do you say this witness

00:47:39

actually said this or explain

00:47:41

that And it'll be great

00:47:43

if I have a plug

00:47:44

from the extra that I

00:47:46

can that I can add

00:47:47

to my to my free

00:47:49

to explain this very complicated

00:47:51

process. You know, he's not

00:47:55

going to do it in

00:47:56

the best way in front

00:47:57

of the tribunal. So that's

00:48:07

really how I do it.

00:48:08



And again, it's not something

00:48:12

that you knew anyone go

00:48:13

requires lots of in Put

00:48:15

liquid bar. As a lot

00:48:16

of revisions practice makes the

00:48:20

expert on anything, you know,

00:48:23

we all have to embrace

00:48:23

in a way that is

00:48:31

slightly different but you have

00:48:32

two flexible and able to

00:48:36

react to the challenges that

00:48:38

you will maybe you will

00:48:39

not find and you will

00:48:40



not have all the information

00:48:42

that you want. But that's

00:48:44

part of the process and

00:48:45

we all need to be

00:48:47

ready to. Within this process.

00:48:52

How do you deal with

00:48:53

with backpacks? Do you dress

00:48:56

them in your reading feeding

00:48:57

to you too sweet nor

00:48:59

them and hope that nobody

00:49:00

will ever find them. Yeah,

00:49:04

you never ignored you deal

00:49:07

with that fact as they

00:49:09



come in. Can you have

00:49:12

one of those options either

00:49:13

either there is some explanation

00:49:16

or week after station of

00:49:20

the fact that you can

00:49:22

and put in your positive

00:49:24

case and it's only for

00:49:25

the right if if a

00:49:26

backpack comes with a country

00:49:28

Memorial then it becomes an

00:49:30

argument rather than a backpack

00:49:32

that he needs to do.

00:49:32

It looks this five letters

00:49:37



are wonderful, too my case.

00:49:39

There's one attachment one of

00:49:41

those letters that is crappy.

00:49:43

Then I cannot admit it.

00:49:47

I cannot say what the

00:49:48

annex doesn't exist. But can

00:49:50

I explain it somehow can

00:49:52

I provide the tribunal and

00:49:53

the other party with a

00:49:55

sound for colorful explanation of

00:49:59

why that is there? And

00:50:03

that's one option but the

00:50:05

pain severe effect specific, right?

00:50:07



And the other one is

00:50:08

well, I there's no way

00:50:11

that I can. reasonably explain

00:50:14

this without a kind of

00:50:17

out of sabotaging my case,

00:50:20

but I need to acknowledge

00:50:21

that it exists. So you

00:50:24

start playing with the above

00:50:26

the line below the line

00:50:27

cross reference the same try

00:50:29

to put it in such

00:50:31

a way that you're not

00:50:34

you are this closing the

00:50:36



sides, but you are saying

00:50:38

In my case. This is

00:50:41

not as relevant as you

00:50:42

might think and you just

00:50:45

wait to see whether the

00:50:46

other party or the tribunal

00:50:47

eventually makes an issue out

00:50:50

of that and fix it

00:50:51

up and starts debating it

00:50:53

and then perhaps you you

00:50:56

will need a defense strategy

00:50:57

try to come up with

00:50:59

a different document is right

00:51:00



by, by me doing a

00:51:03

different research of your database

00:51:06

trying to get to to

00:51:09

explain the documents were a

00:51:10

witness. Perhaps they didn't thought

00:51:12

of me for a if

00:51:15

it does become Andy My

00:51:19

my pony movie you do

00:51:20

need to acknowledge that fact.

00:51:22

You cannot omit that fact,

00:51:25

but you don't necessarily need

00:51:27

to engage with all the

00:51:29

bad facts in the same

00:51:31



way this process that we

00:51:35

have been describing different in

00:51:37

any way when you're riding

00:51:38

the legal at the Quan.

00:51:41

I think obviously the underlying

00:51:45

principles are the same to

00:51:48

building any section on any

00:51:49

legal brief specific circumstances, which

00:51:54

differ when you're writing a

00:51:55

legal section as to as

00:51:57

to when you like writing

00:51:58

truly the fastest action or

00:52:01

where you dropped in the

00:52:01



contraception say if we are

00:52:03

going out to the legal

00:52:04

section, I would differentiate very

00:52:07

much the legal side to

00:52:10

the quantum side, which I

00:52:11

think is again a monster

00:52:13

of a sign for the

00:52:15

legal side. This is where

00:52:16

where the most comfortable. This

00:52:17

is our expense. This is

00:52:18

supposed to be our expertise.

00:52:20

Obviously, we always see the

00:52:22

legal opinions of esteemed Professor

00:52:24



the floor but you know,

00:52:25

we're supposed to be understanding

00:52:26

what the saying which is

00:52:27

very different to what's happening

00:52:28

the quantum or in the

00:52:29

technical expert evidence where we

00:52:32

are sometimes you know, What's

00:52:35

difficult for us with figures

00:52:37

and numbers know about the

00:52:38

time when it comes to

00:52:39

the way I think about

00:52:41

this the middle section is?

00:52:44

I think it's a difference

00:52:45



between a commercial case in

00:52:46

investing time in the bathroom

00:52:47

claim. You should know quite

00:52:50

easily. What is the legal

00:52:51

substantive provision on which you're

00:52:53

relying to bring back home.

00:52:54

If you haven't figured that

00:52:55

out. You should already be

00:52:56

fighting that case or commercial

00:52:59

cases. It can be more

00:53:00

mud. You can be no

00:53:01

more money because you know,

00:53:02

you can be relying on

00:53:03



a very specific Niro Jewish

00:53:05

Juris Prudential grounds for an

00:53:11

investment case the way you

00:53:13

going to be dividing it

00:53:13

the way I should just

00:53:14

lie done is it needs

00:53:16

to be the more flavors

00:53:18

possible to the arbitral tribunal

00:53:19

sir? I would divide traditionally

00:53:22

legal section. I would divide

00:53:24

on what things you're playing

00:53:26

before the Tribunal for education.

00:53:29

And in that each of

00:53:31



these actions you do you

00:53:32

want you want it to

00:53:33

be as clear as possible

00:53:33

so that I know if

00:53:34

they want to see this

00:53:35

needs to be very well

00:53:37

delineate it and inside of

00:53:38

each of the sections you

00:53:40

traditionally go get some point.

00:53:42

You're going to have to

00:53:42

hash out the Dry legal

00:53:45

principles and that's going to

00:53:48

have to be put somewhere

00:53:48



in this is what you

00:53:50

do it and then you

00:53:51

apply that dry low to

00:53:55

the fact that you've been

00:53:56

talking about. So, you know

00:53:58

hundreds of pages just before

00:53:59

now that I think the

00:54:00

trick and it's always very

00:54:02

difficult is how much do

00:54:03

do you put and how

00:54:04

much do you rehash the

00:54:06

facts when you're applying. Go

00:54:08

to the fox actually, she

00:54:12



found that this kind of

00:54:13

varies substantially between the audience

00:54:15

that you have is an

00:54:16

arbitral tribunal. If you in

00:54:18

front of very very senior

00:54:20

esteemed arbitrators prices of those

00:54:24

people have been impounded tribunals

00:54:27

in investment case. Obviously, you're

00:54:29

going to be putting a

00:54:30

lot of principles, but you

00:54:31

don't want to give them

00:54:32

a lesson and I are

00:54:33

probably going to be that

00:54:35



mean sitting on most of

00:54:36

the panels of the arbitral

00:54:37

award that you going to

00:54:38

be sizing. I didn't think

00:54:39

you need to be telling

00:54:40

them exactly what they preach

00:54:41

and they probably know it

00:54:42

better than user doesn't mean

00:54:43

that you Incite them but

00:54:44

there's a sundry of deference

00:54:46

in the way. You're going

00:54:46

to be presenting that case

00:54:47

to them in a commercial

00:54:49



case and I'm talking here

00:54:50

about tonight. Bring some plain

00:54:52

ICC habitations be outside. You

00:54:53

may sometimes be called upon

00:54:55

to say as a tribunal

00:54:56

in instances where you're applying

00:54:57

also that you have very

00:55:00

little knowledge about buy for

00:55:01

myself. I'm right now sitting

00:55:03

in another station applying Swedish.

00:55:05

No, I don't have a

00:55:06

Swedish legal background, but I'm

00:55:09

very happy and I'm United

00:55:11



at the gate east side

00:55:12

of me is very happy

00:55:13

that the two parties in

00:55:15

the counsel of substantiating very

00:55:17

forcefully Swedish Lord if this

00:55:20

had been a French no

00:55:21

experience, which is when I'm

00:55:22

I'm I'm I'm I wouldn't

00:55:26

want to have a legal

00:55:27

lesson French door as much

00:55:28

as I would need to

00:55:30

in Swedish prison in this

00:55:32

goes back to what we

00:55:33



were saying before. You know,

00:55:35

you're serving a dish and

00:55:37

make sure you're serving the

00:55:38

dish to the right customer.

00:55:39

I you you know, you

00:55:40

don't want to upset him

00:55:42

by putting things out on

00:55:43

us is unnecessary for him

00:55:44

to understand and to come

00:55:45

to the conclusion that he

00:55:46

needs to come to you

00:55:47

and say that goes back

00:55:48

to what you call it

00:55:49



was saying is like what

00:55:50

do you need to do

00:55:51

to demonstrate intend to win

00:55:52

this case? So I think

00:55:58

yeah, I think that that

00:55:59

that's kind of the point

00:56:00

when it comes to the

00:56:00

quantum section. I wish you

00:56:02

she comes at the end.

00:56:04

I think a you really

00:56:06

very much need to rely

00:56:08

if you just need to

00:56:09

be prepared very far when

00:56:10



you with your with your

00:56:12

ex sucks because if you

00:56:14

and you need to I

00:56:15

need to be preparing it

00:56:16

with them and disrespectful by

00:56:17

saying about planning you need

00:56:18

to make sure that you

00:56:19

understand what you're Drafting and

00:56:21

need to make sure that

00:56:21

you've collaborate with them all

00:56:23

along the preparation of their

00:56:25

own expert report because you

00:56:27

can just receive a report

00:56:28



2 weeks before fighting and

00:56:30

expect this to be plugged

00:56:31

in without you understanding what

00:56:33

the heck is going on.

00:56:34

And what is DCF and

00:56:36

watch these matches the valuation.

00:56:37

It's not going to happen.

00:56:38

You never going to be

00:56:39

able to be to ride

00:56:40

a compelling argument. If you

00:56:42

don't understand what you're writing

00:56:43

you need to understand every

00:56:45

word of what your pricing

00:56:46



and I think that's fundamentally

00:56:47

suspect. She is very difficult

00:56:48

one too because obviously in

00:56:51

the legal profession. The one

00:56:52

thing that we time do

00:56:53

is numbers and we don't

00:56:55

have any event we have

00:56:57

right now. We don't have

00:56:57

any accounting lessons that we

00:56:58

need for a financial transaction

00:57:00

and your dad said you

00:57:01

learn by doing but you

00:57:03

don't see me. Salon sauce

00:57:05



in the best way to

00:57:05

do is to challenge, you

00:57:06

know, there's never a dumb

00:57:07

question. These guys are getting

00:57:08

paid by your client to

00:57:10

answer your questions that pretty

00:57:11

happy to do it. So

00:57:12

when you're doing interview sessions

00:57:14

with your accountant experts you

00:57:16

need to ask every question

00:57:17

anything lb Steve you can

00:57:19

Google some of the time

00:57:20

that you'd understand on best

00:57:21



of investors invest out but

00:57:24

you obviously need to be

00:57:25

making especially because you're going

00:57:26

to have to digest this

00:57:27

to make sure that it's

00:57:28

someone understandable and comprehensive for

00:57:31

the arbitral tribunal so So

00:57:35

yeah and like them one

00:57:36

last one, which I think

00:57:37

is important. I've always found

00:57:40

that those usually quite a

00:57:41

discrepancy between the first interview

00:57:44

that you happen to come

00:57:45



to Macks. But whether value

00:57:46

in your case quite highly

00:57:48

and the first report that

00:57:50

you receive where someone seems

00:57:51

to be no way to

00:57:52

diminished and then ask him

00:57:54

to do with the fact

00:57:56

that they said you and

00:57:57

then obviously that's selling a

00:57:58

business that very attractive. I

00:58:03

think it's very important. This

00:58:04

goes back to when you

00:58:05

co-sign Yukon Hideaway backpacks in

00:58:07



Yukon Hideaway back claims as

00:58:08

well. It's your financial claim

00:58:10

is not as robust as

00:58:12

you found it were if

00:58:14

you're in the first round

00:58:14

feeding, make sure you diminishing

00:58:16

it unites know that it's

00:58:17

not an issue if you

00:58:19

claimed a lot of money

00:58:20

in your request for arbitration,

00:58:21

but you're somewhat being having

00:58:24

emotions. I approached. I think

00:58:25

it's better to do it

00:58:26



as the first Memorial City

00:58:29

flash memory comes in waiting

00:58:30

until the hearing to say

00:58:33

well, yes already send you

00:58:34

a time for what we

00:58:34

are planning for. I think

00:58:37

this ghost business will show

00:58:39

you more. You were supposed

00:58:40

to let me know something,

00:58:43

you know, which obviously will

00:58:45

give them more confidence trust

00:58:47

their to the treadmill. List,

00:58:51

how do you integrate the

00:58:52



witnesses and the witness statements

00:58:54

into the process of developing

00:58:55

projects? Depending on the door

00:59:21

or embody wild card. I

00:59:29

have never seen a witness

00:59:30

went okay, but I can't

00:59:32

say I've never seen what

00:59:33

this so I would have

00:59:40

thought it of course right

00:59:41

there. Early in the process

00:59:54

to understand what happened with

00:59:56

their take on it where

00:59:57

the documents who else knows

00:59:58



about it. I need to

00:59:59

be careful. If you are

01:00:02

going to end up having

01:00:05

muddy the waters with that

01:00:07

either by interviewing the group

01:00:09

or by telling them what

01:00:11

to say remember in a

01:00:13

way that leads to unreliable

01:00:14

evidence. Then you really need

01:00:20

to. You said really started

01:00:23

to understand the documentary evidence

01:00:26

presented because that is not

01:00:29

only going to do you

01:00:30



know about that. Right. So

01:00:37
so you need to be

01:00:39
able to in the nicest

01:00:41
possible way to front any

01:00:42
witness with what document actually

01:00:45
say that might differ from

01:00:46
remember and then you need

01:00:52
to get quite rigorous. I

01:00:53
think about evaluating ask yourself

01:01:01
that question. So if you

01:01:16
get that outline With the

01:01:23
witness, that's how I have

01:01:47
culture of the because I'm

01:01:51



trying to be civil or

01:02:00

do you need more than

01:02:08

one super dangerous. Do you

01:02:10

need more than one on

01:02:11

navigate? You need a witness

01:02:25

to drop sting on a

01:02:27

document. But otherwise you don't

01:02:30

need a witness to help

01:02:32

yourself. 1 Cummins in which

01:02:48

one you have those initial

01:02:51

discussion and you talked to

01:02:52

the client and the people

01:02:54

involved in the project or

01:02:56



you may Identify some potential

01:03:00

with and some of them

01:03:03

will actually end up being

01:03:04

with this is because you

01:03:05

made the decision that you

01:03:07

need them. But others that

01:03:09

you initially chosen not to

01:03:11

have a 1 would be

01:03:13

great sources of information for

01:03:15

you. So you will still

01:03:17

have to treat them ass

01:03:18

Witnesses in a way because

01:03:19

you will be going to

01:03:21



them with questions every now

01:03:22

and then to clarify issues

01:03:24

or get more documents or

01:03:26

any find if there wasn't

01:03:27

a letter and responsive design

01:03:29

other letter or there's other

01:03:30

letters reference in this document,

01:03:31

but I don't have it

01:03:32

to you have it in

01:03:34

one way. You have to

01:03:35

keep the masked sources of

01:03:37

information and the fact that

01:03:39

you don't use them at

01:03:41



first doesn't mean that everybody

01:03:43

you will not need to

01:03:44

use that. What comes after

01:03:47

you receive the file or

01:03:55

the other side to reply

01:03:56

depending whether you say you

01:03:59

see actually now I need

01:04:01

to respond to this argument

01:04:03

with this in our statement

01:04:05

from this guy not initially.

01:04:07

I didn't think I was

01:04:08

going to need but now

01:04:09

I do be flexible and

01:04:12



keep your potential Witnesses with

01:04:14

you and until about the

01:04:17

need for potential activity from

01:04:21

them in the face. Does

01:04:25

that process thinking process by

01:04:28

when you're dealing with expertise?

01:04:30

Do you want to course

01:04:32

we will always be using

01:04:33

damages experts don't deal with

01:04:37

numbers. But do you usually

01:04:41

have other types of experts

01:04:43

legal experts? I've seen cases

01:04:46

where the parties have decided

01:04:49



to add an expert on

01:04:51

the matter we are so

01:05:04

how do you go about

01:05:05

it? So yeah, well, thank

01:05:07

you for making those things

01:05:09

in between valuation and other

01:05:11

types of experts cuz yeah

01:05:13

violation is something that you

01:05:14

just have to deal with

01:05:16

but with with those others,

01:05:20

that's where it becomes more

01:05:22

interesting cuz you usually have

01:05:24

those other Witnesses those other

01:05:26



expert story. As a source

01:05:31

of additional evidence for your

01:05:33

facts, right? So you do

01:05:35

want to prove how the

01:05:37

local wall for instance work

01:05:39

than a particular matter or

01:05:41

how a specific technical poem

01:05:44

from an industry perspective word

01:05:46

to bring in mining experts,

01:05:48

which will then work along

01:05:50

with a with a violation

01:05:52

expert son on some shoes

01:05:54

or oil and gas experts

01:05:55



or electricity electricity transmission experts

01:05:59

that can explain how when

01:06:02

you connect one generator to

01:06:05

another guess the electricity And

01:06:09

they will typically speak to

01:06:11

the fact that I can

01:06:12

also speak. To your legal

01:06:16

Theory they can also and

01:06:17

often speak to your evaluation

01:06:19

section. I have seen once

01:06:25

the let's say that the

01:06:29

international legal experts coming into

01:06:34

plane in a case in

01:06:35



which We needed someone to

01:06:40

comment on the specific treaty

01:06:43

Provisions to more than a

01:06:45

general list and international law.

01:06:48

She was brought in because

01:06:51

of his particular expertise on

01:06:54

that instrument that was applicable

01:06:56

to the case. Other than

01:06:59

that. I have I have

01:06:59

not seen a international legal

01:07:03

experts local legal experts are

01:07:07

more of the general. but

01:07:10

you need you do need

01:07:11



to be very careful cuz

01:07:16

that would immediately send the

01:07:19

signal to the tribunal that.

01:07:23

The local legal issues at

01:07:26

stake are not as clear

01:07:28

as you kind of said

01:07:32

they wear or wish they

01:07:36

wear if it's it's very

01:07:39

tricky to work with them

01:07:41

in the sense that they

01:07:44

are also lawyers and more

01:07:48

often than not they may

01:07:49

not be a hundred percent

01:07:51



convinced of your legal Theory

01:07:54

from an international perspective the

01:07:57

same and and I'll be

01:07:58

speaking here of investment treaty

01:08:00

cases close in commercial cases

01:08:02

a volume. You can bring

01:08:05

them in just a support

01:08:07

of your legal section rather

01:08:09

than your facts so that.

01:08:13

Convincing process of look this

01:08:15

is our Fury from an

01:08:17

international standpoint. This is what

01:08:19

we need to prove from

01:08:21



a local standpoint. 22% at

01:08:24

fact not as legally would

01:08:28

we will be presenting this

01:08:29

as how it actually works.

01:08:33

Becomes very it's very interesting

01:08:37

relation that that you start

01:08:39

generating with them. Also the

01:08:41

type of documents that you

01:08:43

use in support because you

01:08:45

are there more evidence is

01:08:48

typically what you would use

01:08:50

as a legal Authority right

01:08:52

to its judgments a Doctrine

01:08:55



opinions of specific body. I'm

01:09:00

making big reviewing that evidence

01:09:03

for them as well. It's

01:09:06

painstaking cuz if it's very

01:09:09

rare that you got a

01:09:11

judgment to test a judgment

01:09:14

from yesterday that says we've

01:09:16

accounted for all the judgments

01:09:18

on this specific matter in

01:09:20

this specific issue. And this

01:09:21

is as of today how

01:09:24

an issue has been decided

01:09:26

or the German so you

01:09:28



do need a very sweet

01:09:32

to engage in a very

01:09:33

kind of questioning exercise with

01:09:40

an a To get what

01:09:43

you want. and an out-of-state

01:09:46

that's kind of the biggest

01:09:48

struggle with legal experts is

01:09:53

getting them to a point

01:09:55

in which they feel comfortable

01:09:56

enough with your International strategy

01:09:58

that you can put their

01:10:01

expertise or work. But also

01:10:04

that you have sufficient confidence

01:10:07



in the evidence that they

01:10:09

are relying on and the

01:10:11

and the correctness sufficiency of

01:10:14

that evidence a cousin in

01:10:17

some instances. You may not

01:10:19

be sorry or their experience

01:10:22

of that specific jurisdiction. So

01:10:24

you're relying a lot on

01:10:26

what they are telling you

01:10:27

would more technical experts a

01:10:33

relationship seems to be a

01:10:35

bit. Easier and more affluent

01:10:38

some of them if not,

01:10:39



most of them are already

01:10:41

acquainted with how an arbitration

01:10:44

process works today. They know

01:10:46

what to expect they know

01:10:48

what they need to do

01:10:49

a Princess and most of

01:10:52

the mining cases they know

01:10:54

what they like, what would

01:10:56

you will ask them to

01:10:57

prove whether there's a resource

01:11:00

whether it's an estimate weather

01:11:02

how to read that information

01:11:05

which are the documents that

01:11:06



will occur to them to

01:11:07

them and they duration is

01:11:10

more of a it is

01:11:12

much more similar to that

01:11:13

with evaluation. They will be

01:11:15

producing reports that will be

01:11:16

producing them around those that

01:11:18

you will then start questioning

01:11:20

and everybody dating every once

01:11:23

in a while. So I'll

01:11:25

I'll save those are Hello.

01:11:29

the biggest issue when interacting

01:11:31

with expertise Alexander are there

01:11:40



any consideration to take the

01:11:49

alarm from the cleaning spray

01:11:50

for you? When you're preparing

01:11:52

to come from a moral

01:11:53

point of view? What are

01:11:56

the key considerations? Have you

01:12:01

say? I think it's yeah,

01:12:02

it's it's always very different

01:12:03

when you're writing when when

01:12:05

you're buying second-hand, you know,

01:12:06

when you have a you

01:12:08

have a view first you

01:12:09

have an account at that

01:12:10



time that's always been most

01:12:11

surprising you receiving a request

01:12:12

probably about 30 days and

01:12:15

times you can extend to

01:12:17

60 days in so you

01:12:19

you got to show it

01:12:20

to calendar. So you've got

01:12:21

to get things moving. Obviously

01:12:23

you probably received a notice

01:12:24

of this week. So we'll

01:12:25

see you be able to

01:12:26

start of taxing and researching

01:12:27

some of these issues but

01:12:28



you have an inherent this

01:12:31

adult disadvantage compared to a

01:12:32

client. That's okay man, because

01:12:34

you have less time to

01:12:35

address some of the issues

01:12:37

When it comes to respond

01:12:40

as fast to a memorial,

01:12:41

I think this really lost.

01:12:43

It depends on how much

01:12:43

time you think I should

01:12:44

in your procedure calendar and

01:12:46

I can usually have quite

01:12:47

a strong leverage with the

01:12:48



tribunal because you all respond.

01:12:50

And I think that's even

01:12:51

more secure state in the

01:12:53

great deference for states to

01:12:55

have the time that they

01:12:56

need to prepare for the

01:12:57

public employees working in the

01:12:59

government authorities have the time

01:13:01

to basically up indicate that

01:13:03

right to protect their interests.

01:13:04

It's a different in a

01:13:06

things can be different with

01:13:07

Metro KC to break on

01:13:08



how blessed I'm less leverage

01:13:09

to negotiate a procedural calendar,

01:13:11

especially since you know you

01:13:12

do, you know the kinds

01:13:15

of Greenport against you so

01:13:16

usually you have to pay

01:13:17

a certain amount of damages.

01:13:21

now when it comes to

01:13:23

I think the second rounds

01:13:24

of the question they initially

01:13:26

was technology Memorial but I

01:13:27

think it said that the

01:13:29

junction when you come to

01:13:31



a second round of Memorial,

01:13:32

it's the junction because the

01:13:35

first round of the case,

01:13:36

you know, you have a

01:13:37

fuss set like a tennis

01:13:39

game in a way but

01:13:39

it's a fuss that and

01:13:40

you you've seen the strength

01:13:42

Museum some of the weaknesses

01:13:44

and hopefully a lot of

01:13:46

it as being already identified

01:13:47

you're claiming you've know you

01:13:50

now know if your clients

01:13:51



P90 for instance, I see

01:13:55

I'm not the only one

01:13:56

in that situation before the

01:13:58

big corporations was not just

01:14:00

you know, if you receive

01:14:02

a briefing you like one

01:14:04

of these documents, you know,

01:14:05

you send us all the

01:14:07

emails and you like this

01:14:11

happens quite quite a bit

01:14:12

and then you now know

01:14:13

whether You know whether he

01:14:16

needs to be trying to

01:14:17



figure out that the settlement

01:14:18

option because your case isn't

01:14:20

half as strong as it

01:14:21

used to be or whether

01:14:22

you're actually very confident because

01:14:23

you didn't think that you

01:14:24

haven't listened to it against

01:14:25

you is actually that strong.

01:14:26

You know, you think I

01:14:28

did have a truthful case

01:14:29

I does how about you

01:14:30

have a strong position. I

01:14:31

can move forward in between

01:14:33



this Best to first and

01:14:34

second Memorial day goes I

01:14:35

think a second. First issue

01:14:38

about Junction weather going to

01:14:42

have the option where you

01:14:44

can you can if that's

01:14:47

the case you're going to

01:14:48

have to also analyzed not

01:14:50

have the documents that you

01:14:50

hadn't received and whether they

01:14:52

can be used to be

01:14:53

put into your case for

01:14:55

the second rounding rule because

01:14:58



Whether it's the second round

01:15:00
of the morals of time

01:15:01
until the second round memorial

01:15:01
for responding this is going

01:15:03
to be your lost round

01:15:05
of written submission before the

01:15:06
hearing. It's your last chance

01:15:07
to make the strongest impression

01:15:09
about print in the Arbitrator

01:15:11
in the tribunals mine before

01:15:12
they come and hear you

01:15:13
out for 2 days 3

01:15:15
days 4 days a week

01:15:16



whatever how long the hearing

01:15:18

is going to take place

01:15:18

since I think he's got

01:15:20

three concerns that you need

01:15:21

to have his first have

01:15:25

I tackled all the arguments

01:15:27

of the opposing party at

01:15:29

least in terms of counter

01:15:31

arguments over all that, but

01:15:33

it's flying in the air

01:15:34

and you know, maybe an

01:15:35

arbitrator's going to catch it

01:15:36

and it's going to end

01:15:37



up and deliberations and I'm

01:15:38

going to lose you would

01:15:39

want to know that I

01:15:40

never right? I literally witness

01:15:42

this in a case that

01:15:43

it was an argument raised

01:15:44

as one paragraph on the

01:15:46

200 Page freeze. It was

01:15:49

a it was a very

01:15:50

common know English do three

01:15:52

of like 1650s and it

01:15:54

makes you became the entire

01:15:56

the base during the hearings.

01:15:58



Off the drink. I see

01:15:59

embraced and they need to

01:16:05

make sure that you addressed

01:16:06

everything second point is how

01:16:09

I got all the evidence

01:16:10

on record because there's a

01:16:12

point at which the tribunal

01:16:13

however the Union in may

01:16:14

be in how the consent

01:16:16

in maybe about due process.

01:16:17

They will stalk new evidence

01:16:19

from being submitted that mean

01:16:20

they have a calendar that

01:16:21



now the case needs the

01:16:23

referral would they will put

01:16:25

a stop to that at

01:16:26

some point. So you want

01:16:27

to make sure in a

01:16:28

second-round submission that all the

01:16:30

evidence has been is now

01:16:32

put on record. I'm so

01:16:36

that's as big point. And

01:16:39

and I think the the

01:16:40

third point but this is

01:16:41

more again about being being

01:16:43

providing a comprehensive and agreeable

01:16:45



digestible document is to make

01:16:48

sure that you know repeating

01:16:49

and tidy what you been

01:16:50

saying your husband why I

01:16:51

had to phone the bus

01:16:52

with you on this supposed

01:16:54

to say, please with you

01:16:55

basically called out and type

01:16:57

pages is brief compressor see

01:17:00

Caymans faster than he would

01:17:03

he would basically yeah, he

01:17:04

would want the tribunal to

01:17:06

S brief to be something

01:17:08



new something you have to

01:17:09

bring something new to the

01:17:10

table. You not rehashing pages

01:17:12

and pages of what's right

01:17:13

even said in the hospital.

01:17:15

That's not that's not useful.

01:17:16

Just adding paper. So I

01:17:17

think these are the free

01:17:18

kind of concerns I would

01:17:19

have when I'm writing a

01:17:20

second round. And because sometimes

01:17:32

happen sometimes for the hearing

01:17:35

mcrv Traders will have received

01:17:38



thousands of hundreds or thousands

01:17:42

of activists will have heard

01:17:44

the witnesses. The experts are

01:17:50

closed hearings during grief. Well

01:17:55

as you make it sound

01:17:56

like they are not often.

01:18:00

We feel like they are

01:18:01

closing might be a good

01:18:07

substitute for pussy and rapes

01:18:10

in certain circumstances. We have

01:18:15

jurisdiction. Your only are you

01:18:19

in about the law in

01:18:21

that case and probably you

01:18:23



can deal with your conclusions

01:18:25

orally right at the earring

01:18:28

without need for further briefed.

01:18:29

It might just not be

01:18:33

necessary number of claims to

01:18:46

be After a week of

01:18:55

the earring that is very

01:18:57

intense and where everyone's working

01:18:59

around the clock. I think

01:19:01

I'll give you the ability

01:19:04

to have one benefit and

01:19:06

gives you the ability to

01:19:07

reflect as to what transpired

01:19:10



at the earnings organized information

01:19:13

better and prepare better. Some

01:19:16

answers questions that often the

01:19:19

tribunal races during the hearing

01:19:21

and you'll be want to

01:19:21

address those questions after in

01:19:24

a goes back to your

01:19:24

team with some time thinking

01:19:27

about what those what's the

01:19:28

best answer to that question.

01:19:30

If you do it overnight

01:19:32

during the hearing you might

01:19:33

not have the chance to

01:19:35



regroup and get the best

01:19:37

answer that you can buy.

01:19:40

And I also applies to

01:19:41

the tribunal is a tribunal

01:19:43

is Forest to send questions

01:19:47

to the party right during

01:19:49

the here the week of

01:19:50

the hearing. They might be

01:19:52

given the chance to fully

01:19:54

reflect them what happened. Perhaps

01:19:56

better to give the tribunal

01:19:58

a chance to think about

01:20:07

the case after the hearing

01:20:09



do I have to short

01:20:11

delivery and determined that I

01:20:15

need answers from the parties

01:20:18

in order for me to

01:20:18

drop? Tell me about dropping

01:20:21

the award supposed to be

01:20:22

Ray weigh in a great

01:20:25

resource. If they are well-written

01:20:28

there a great resource to

01:20:30

state that the tribunal with

01:20:32

a rope or dropping the

01:20:35

award idea. I think I've

01:20:44

seen some tribunal's asking for

01:20:46



certain things. Another follow-up. Do

01:21:01

you think I should replace

01:21:04

entirely? I have seen parties

01:21:07

just go straight to Nicholas

01:21:13

green water heater closing arguments

01:21:19

because right after the hearing

01:21:25

apps and given the tribunal

01:21:28

of powerful concluding argument and

01:21:31

summarizing what happened at the

01:21:33

Irrigon reminding the tribunal, you

01:21:35

know with very specific individuals.

01:21:38

What is that beautiful quote

01:21:41

from to get into the

01:21:49



operations room and start driving

01:21:50

again? I think we can

01:22:11

wrap with that and open

01:22:12

the floor for questions. Try

01:22:32

that again. Do you have

01:22:34

any advice on a review

01:22:35

of your submissions best practices?

01:22:37

It's invaluable to the case

01:22:43

is not a life sentence

01:22:51

or or areas where yardman

01:22:53

is this Parish thought it

01:22:54

was supposed to say it's

01:23:03

too late at the end.

01:23:04



But yeah, you're right it

01:23:05

is I think about how

01:23:07

we tend to do it

01:23:08

is we tend to have

01:23:10

peer review involved. Well before

01:23:14

the final hearing But sometimes

01:23:19

closer to the written deadlines

01:23:21

so, you know within the

01:23:22

final couple weeks as the

01:23:26

document is coming together. Time

01:23:28

to change course, but it's

01:23:33

kind of all depends on

01:23:34

availability. An idea that was

01:23:47



something I was advocated for

01:23:49

his counsel and I care

01:23:50

even more about it as

01:23:51

arbitrator, but it seems to

01:23:53

be a dirty word in

01:23:54

this contact page limits. Why

01:23:58

can't we agree to them?

01:23:59

Why don't we have them?

01:24:01

How come they're not in

01:24:02

our rules? And should we

01:24:03

have I think a case

01:24:05

of a four-page them. It's

01:24:10

certainly in the in the

01:24:11



later rounds of submissions or

01:24:13

in push steering brace. It's

01:24:14

hard ex-ante to agree unless

01:24:18

it's a generous one if

01:24:22

genuinely Council and don't necessarily

01:24:25

yet have their arms around

01:24:27

the size of your case,

01:24:28

but I think as the

01:24:30

case develops and as a

01:24:31

tribunal can help Focus the

01:24:32

party's on with this is

01:24:34

what's really, you know, occupy

01:24:35

our minds every case bust.

01:24:46



It was an honor page

01:24:47

You Know chords to it,

01:24:49

but we're not in court

01:24:49

for a reason. That's hard.

01:24:54

But I've never I've never

01:24:55

had a case in which

01:24:56

age limits have been proposed

01:25:00

from the outset that I've

01:25:05

been involved in two half

01:25:07

age limit, but not the

01:25:11

not the name pleadings themselves.

01:25:14

I've I've never seen that

01:25:16

I had different experiences. I

01:25:23



am completely in favor favor

01:25:29

to synthesize their arguments and

01:25:33

I think even the most

01:25:34

complex case MB in 128.

01:25:54

Reviews for The Breeze to

01:25:56

do with work and then

01:25:57

if you need further detail,

01:25:58

you have an appendix that

01:26:00

can take care of that

01:26:01

additional detail be careful, but

01:26:07

I never done it except

01:26:09

you should be trying to

01:26:15

make places in here. What

01:26:19



work is just doing does

01:26:20

it need to be here

01:26:21

if not, take it out.

01:26:22

So yeah. I think the

01:26:29

microphone so you spoke quite

01:26:34

a bit about catering to

01:26:36

your audience when addressing the

01:26:37

arbitration and dropping the adults.

01:26:40

Just wondering how we have

01:26:42

our faces from different legal

01:26:44

background sun in different cultures.

01:26:46

How much of a role

01:26:49

that plays in the manner

01:26:50



in which you dropped the

01:26:51

breeze. I think it depends

01:26:54

more on the type of

01:26:56

case that you have rather

01:26:58

than to style your commercial

01:27:02

case that is very sensitive

01:27:05

and how you interpret a

01:27:09

specific contractual provision and you

01:27:12

have a I know of

01:27:15

one arbitrator with a CVS

01:27:16

background and the other two

01:27:18

with a common the background

01:27:20

and and your Handed to

01:27:23



the black letter of the

01:27:25

contract then you may want

01:27:27

to cater to think of

01:27:28

it more into the civil

01:27:29

law arbitrator rather than the,

01:27:32

little one. I think it

01:27:35

depends on the issues more

01:27:36

than the case if it's

01:27:39

hell a You know, you

01:27:42

do pick your arbitrators first

01:27:45

with that in mind and

01:27:48

whether its investment or a

01:27:51

commercial case. I had to

01:27:55



get something everybody wants to

01:27:58

eat your ass you try

01:27:59

to frame your argument. If

01:28:00

you can in a way

01:28:02

that works resonates across the

01:28:06

peace and it says a

01:28:07

real tension, you know, if

01:28:09

you're having to rely on

01:28:10

what I have to do

01:28:18

more work to convince them

01:28:21

that that's the right way.

01:28:22

They should be thinking about

01:28:22

the case. But I mean

01:28:24



in a perfect world you

01:28:24

survived something to eat or

01:28:27

at least part of it

01:28:28

felt like to eat. I've

01:28:32

had a funny the young

01:28:33

Spanish the case where we

01:28:36

had it was it was

01:28:38

governed by English Foods corporate

01:28:40

litigation and they was governed

01:28:41

by English law and they

01:28:43

had a provision to shareholders

01:28:45

agreement that mandated that be

01:28:48

a shareholder agreement be construed

01:28:50



with good faith in the

01:28:51

part in good faith, which

01:28:52

is not a legal principle

01:28:54

from I understand English do

01:28:56

where is Vinton pool in

01:28:57

French? Do you always have

01:28:58

to act in the face

01:28:59

that you don't need to

01:29:00

specify in by contract? You

01:29:01

have to be in the

01:29:02

face. It doesn't seem to

01:29:04

be the case with our

01:29:04

English friends. Anyway, it was

01:29:06



the case in this contract.

01:29:07

I know I'll try again.

01:29:08

We had to take an

01:29:09

upper. It was an English

01:29:11

listen to bring was practicing

01:29:12

France and the the chairman

01:29:15

was a Swedish law professor.

01:29:17

So very civil law background

01:29:18

and be English party had

01:29:22

always be selected a barrister

01:29:23

and it was very interesting

01:29:25

because obviously they had it

01:29:27

sent week and that when

01:29:29



the kids were very happy,

01:29:29

but we the The way

01:29:32

we presented it and the

01:29:33

way the feeling that we

01:29:34

go with the tribunals that

01:29:35

didn't really care that much

01:29:36

about witness statement so that

01:29:38

he's being his counterparts presented

01:29:39

the entire submission fruit. Exactly

01:29:43

what you were saying an

01:29:43

expert evidence. You were referring

01:29:45

to some exhibits but sometimes

01:29:47

the documents existed but they

01:29:48



didn't refer to the oxygen

01:29:49

that you're just stated. What

01:29:51

they have used was all

01:29:54

feeding was that this was

01:29:55

not going to lie. I

01:29:56

do with the with the

01:29:58

with the shower and that's

01:29:59

what happened to me today.

01:30:00

It came to countries like

01:30:02

all these people can't revise

01:30:04

to me. That was one

01:30:04

of the common which was

01:30:05

which could be around for

01:30:08



a long time. I think

01:30:11

you have to cater something

01:30:15

that is edible by everyone.

01:30:17

But if it's not going

01:30:18

to be eatable by everyone

01:30:19

make sure that it's tough,

01:30:20

but you're at your interest

01:30:22

and then that's where the

01:30:24

president is going to be

01:30:27

at the key tonight. I

01:30:29

mean, perhaps at the president

01:30:32

being a pasta we would

01:30:33

have lost this case. So

01:30:35



I think it's extremely extremely

01:30:37
important that I figure out

01:30:38
that the coaches and how

01:30:39
how they're going to want

01:30:40
to Stop it. I think

01:30:44
we have time for one

01:30:45
more question. Okay. Hello panelist.

01:30:48
I'll be at wondering when

01:30:50
and whether or how are

01:30:52
you taking use after? I

01:30:54
say I technology when you

01:30:56
dropped in his pleading or

01:30:57
reading such a long there's

01:31:00



evidence. Yes. Thank you. Music

01:31:05

only for purposes of reviewing

01:31:09

documents. I offer you no

01:31:19

finding documents that have you

01:31:20

no particular language and we

01:31:22

want to find your other

01:31:23

documents in a very beloved

01:31:25

as a record you get

01:31:29

a ton of documents from

01:31:31

your client in a thousands

01:31:33

of files and certainly using

01:31:36

a I allow you to

01:31:40

identify water, you know, the

01:31:41



documents that mentioned this particular

01:31:43

war that you're trying to

01:31:45

find us a person doing

01:31:47

it manually certainly in the

01:31:54

creative part of the war.

01:31:55

I guess still in draft

01:31:56

and use those documents and

01:31:58

put them in the freezer

01:31:59

and how you you you

01:32:01

make them how you squeeze

01:32:03

the juice I like to

01:32:04

say That's something that I

01:32:06

don't think you can trust

01:32:07



me I to do I

01:32:08

don't think it's a sequel

01:32:09

to trust again to do

01:32:10

it anyway, and I think

01:32:20

it's it's it's it's it's

01:32:21

a hard cell or you

01:32:25

primarily to ethical rules that

01:32:30

I never use that other

01:32:32

than or document review translation.

01:32:43

I I have seen. professors

01:32:47

a pasta or legal actions

01:32:51

apply them to X pure

01:33:00

radical trying to show their

01:33:03



students hard work and it's

01:33:07

scary how Summit how accurate

01:33:12

can be to you do

01:33:18

need to go past it

01:33:20

after work and then we

01:33:23

may all be acquainted with

01:33:25

a with a New York

01:33:26

lawyer that you tried to

01:33:28

be making a cake. But

01:33:37

I seen how you can

01:33:39

play around those not for

01:33:41

fact that maybe treat your

01:33:43

butt or legal the ones

01:33:44



you've been put through the

01:33:47

system and you say apply

01:33:49

B's legal rules apply. Then

01:33:55

it's scary how to date

01:34:08

right now. The machines have

01:34:10

access but they do have

01:34:11

to have access to the

01:34:12

frequency with which they had

01:34:15

access eating different the history

01:34:19

of bleeding from but I

01:34:33

think that I mean order

01:34:48

to Spanish. Thank you to

01:34:50

everyone. Thank you everyone for



01:34:51
being here.