

HOW TO WRITE WINNING ARBITRATION BRIEFS TELLING A STORY



#1 Blurb

Although it may seem pedestrian, forcing an arbitrator to follow disconnected strands of events to piece together a narrative will not help you on the battlefield of arbitration. Only by presenting a solid, pitch-perfect story will you entice the arbitrator to see things from your perspective—and ultimately win.



#2 Introduction

There is no perfect formula for a winning arbitration brief, but the most successful advocates leverage one critical tool: tell a good story. Narrative matters. An arbitrator is a human audience, moved by a coherent narrative, not just legal minutiae.



#3 The Importance of Narrative

Imagine two ways to tell the story of an employee found intoxicated in the workplace. Which introduction grabs your ear?

1. An employee was found exhibiting clear signs of intoxication, including visible shakes, hiding in the bushes, and opening an emergency door, setting off an alarm.
2. Shaking, shivering, hiding in bushes, and triggering an emergency door. This and more leads to one inescapable conclusion: this employee was intoxicated.

The first sentence conveys the same information as the second but fails to tell a story about what occurred at the workplace that night.

The second sentence places the arbitrator in the same position as the supervisors witnessing the employee's behavior and actions, rather than stating sterile facts.

DO: Begin the arbitration brief by using strong, descriptive language setting the scene for later arguments.

DO: Put the arbitrator in the same position as your client to fully allow the arbitrator to understand why your client acted the way they did.

DON'T: Use legalistic arguments in the first few sentences of the brief; the arbitrator has no context to understand why that legal argument is applicable.

Next, pay close attention to chronology. Often more important than what, is when. If an arbitrator can trace the sequence of steps from A to Z, they are more likely to agree with your client's actions because the arbitrator will have the proper context to understand those actions. Skipping through time can confuse or even frustrate the arbitrator. This is not to say beginning with a critical moment and then stepping back in time to set the stage cannot be effective, only that multiple jumps around in time are more likely to weaken your arguments rather than strengthen them.

Finally, use the narrative itself to develop your legal arguments. A strong narrative will bolster your arguments because, when laid out properly, the arbitrator will instinctively draw legal conclusions on his or her own—conclusions supporting your client's position. Properly developing the facts will also allow you to identify the strengths and weaknesses of your argument, allowing you to emphasize strengths and prop up weaker arguments.



BLAINE ADAMS
OF COUNSEL

DO: Lay out the story from beginning to end to allow the arbitrator to walk through the events from your client's perspective.

DON'T: Jump around in time, muddy the order in which events occurred, or fail to highlight significant events supporting your arguments.



#4 Conclusion

In conclusion, drafting a crisp narrative is the key for drafting winning arbitration briefs. Only humans can intuit how the story supports the legal argument. Only humans can understand how an arbitrator will feel when reading the brief and then tailor the brief to those instincts. Stories belong to humans.

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CONTACT ME

BADAMS@STEWARTLAWGRP.COM



Stewart Law Group
PLLC

We're on Defense.