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ARBITRATIONS



"Ahh! The arbitration team is here."

Techniques for
Winning
Arbitrations or:
How to
Increase Your
Odds at Rock,
Paper, Scissors

OUTLINE

- 1. Barriers to Success
- 2. Common Issues
- 3. Techniques for Success

BARRIERS TO SUCCESS

- 1. Knowing when to file arbitration.
 - Verify whether the opposing insurance carrier is a member of ICA.

BARRIERS TO SUCCESS

- 2. Knowing in which docket to file your arbitration.
 - Company A and Company B are members of ICA. Company A is only a member of the property docket and Company B is a member of the automobile and property dockets. B's Buick hits A's taco stand and severely damages his Buick and the taco stand. A claims B was driving badly and B claims A's taco stand was in the way. Can B file in arbitration against A? Can A file against B?



BARRIERS TO SUCCESS

- 3. Knowing the value of arbitration.
 - Arbitration is great for mediocre cases but mediocre for great cases. Be careful of the pitfalls.

COMMON ISSUES YOU MAY FACE

- 1. Circumstantial evidence—the benefit v. the detriment.

COMMON ISSUES YOU MAY FACE

- 2. Misleading or incorrect facts.

COMMON ISSUES YOU MAY FACE

- 3. Holes in your bridge.

COMMON ISSUES YOU MAY FACE

- 4. Telephone appearances.

COMMON ISSUES YOU MAY FACE

- 5. Rules changes.

COMMON ISSUES YOU MAY FACE

- 6. Arbitrators have likely already made up their minds before the hearing ever takes place.

COMMON ISSUES YOU MAY FACE

- 7. No questions.

TECHNIQUES FOR SUCCESS

- 1. Don't show your hand.

TECHNIQUES FOR SUCCESS

- 2. Recognize and utilize delays in the system.

TECHNIQUES FOR SUCCESS

- 3. Be specific, yet vague.

TECHNIQUES FOR SUCCESS

- 4. Call a spade a spade.

TECHNIQUES FOR SUCCESS

- 5. Monitor OIC's response and be prepared to address them.

TECHNIQUES FOR SUCCESS

- 6. Remember that while the standard is technically “preponderance of the evidence” or “more likely than not,” the arbitrators are able to use their own professional and personal experiences in rendering decisions (remember, local law and accepted claims practices).

TECHNIQUES FOR SUCCESS

- 7. Follow a tailored pattern to your arbitrations:
 - A. Introduction (who, what, when, where, why);
 - B. Argument (factual detail, what the law is, why the OIC should be held liable); and
 - C. Conclusion (closing prayer).

TECHNIQUES FOR SUCCESS

- 8. Dealing with the recent rules changes:
 - Personal appearance v. telephone appearance; and
 - Don't speak unless spoken to.

TECHNIQUES FOR SUCCESS

- 9. Affidavits from your insured can close potential holes in your argument.