

Annual Meeting Break Out Session:

“Arbitration Pleading and Practice: Every Case It’s Own Way” 1 Hour

Jenice L. Malecki, Moderator and speaker
Rosemary Shockman, Panelist
Joseph Peiffer, Panelist
Ross Intelisano, Panelist

Robust discussion is encouraged!

Outline and Materials:

- I. Introduction.
- II. Statements of Claim: Unique arbitration tactics start with a distinct pleadings, showing your adversary that it will not be “more of the same” in this case. The message: “Get Ready”. Here are three examples:
 - a. **Exhibit A:** The Shockman Example: Use of Charts, the Technical claim approach;
 - b. **Exhibit B:** The Peiffer Example: “Broker’s Business” & “Advice to Retire On” approach;
 - c. **Exhibit C:** The Malecki Example: “Affinity Fraud, Non-Securities Related Notes & the Pure Failure to Supervise a Branch” claim approach.
- III. Discovery and Motion Practice, Preparation for the hearing:
 - a. Discussion of unique discovery and/or motion practice;
 - i. **Exhibit D:** Document Request for Exhibit C (above);
 - b. Hearing Exhibit Book Preparation, Not every case should be arranged in the same way, Arrange hearing books to best tell your story:
 - i. **Exhibit E:** Exhibit Index in Simple (document wise) Case;
 - ii. **Exhibit F:** Exhibit Index in More Complex (document wise) Case;
 - iii. **Exhibit G:** Exhibit Index in Mortgage & Insurance Related Case.
- IV. At the Hearing: Use the best materials you have and put them in front of the Panel; Good Powerpoint slides can also be tabbed and bound, then passed out as “demonstrative” exhibits for panel members to hold onto during the case or during deliberations;
 - a. Opening and Closing Powerpoint Statements:
 - i. **Exhibit H:** A Shockman Example;
 - ii. **Exhibit I:** Peiffer Example.
 - b. Witness Examinations: Your Hearing Book Index makes a great roadmap and chart for witness testimony/document use;
 - i. **Exhibit J:** Exhibit F (above) Annotated for Witness examination.

- c. Expert Witness Use: Ross Intelisano will discuss the use of “Book End” experts in complex product cases, One for educating the Panel at the beginning of the case to just describe the complex investment’s nature (non-controversial and educational), one analyzing data at the end;
 - i. **Exhibit K**: Example CVs for discussion.
- d. Closing Statements: Jenice Malecki will discuss some unique examples and “low tech” ways to do closings.

V. Question and Answer