



ARBITRATION:

Expert Advice on Making the Most of the Process

Monday
September 18, 2017

WSBA Conference Center
1325 4th Avenue, Suite 600
Seattle, WA 98104
[live webcast option]

Approved for 6.5 CLE credits
(1 Ethics + 5.5 Law & Legal Procedure)

\$275 - Standard Tuition
\$199 - New Member Tuition*

*Members who have been admitted to practice in Washington for fewer than five years are eligible to receive the new member tuition.

Program Chair: *Craig C. Beles - The Beles Group, Vashon Island*

SCHEDULE

8:00 a.m. Check-in* Registration * Coffee & Pastry

8:25 a.m. Welcome and Introductions

Craig C. Beles - The Beles Group, Vashon Island

8:30 a.m. Arbitration Clauses

James A. Smith, Jr. - Smith & Hennessey PLLC, Seattle

Bryan Branon - American Arbitration Association, Seattle Regional Office, Seattle

Gregg Bertram - Pacific ADR Consulting, LLC, Seattle

9:15 a.m. Considerations in Choosing an Ad Hoc or an Administered Arbitration: A Frank Conversation

What are the issues in choosing an administered arbitration process? Join local arbitration administrators, who will discuss when an ad hoc arbitration may be appropriate, but should be done with eyes wide open and a clear understanding of what administration brings to the arbitral process.

Michelle Nemeth - JAMS, Seattle

Judy Mikel - Washington Arbitration & Mediation Service, Seattle

Serena Lee - American Arbitration Association - Seattle Regional Office, Seattle

Craig C. Beles - The Beles Group, Vashon Island

10:00 a.m. Break

10:15 a.m. The Art and Method of Selecting Arbitrators

The selection of an arbitrator may be the single most important step in assuring a fair, fast and cost efficient arbitration. It is up to the arbitrator to ensure these goals are met. In this session, we will focus on answering the following three questions:

- What is the right number of arbitrators, one or three?
- What qualities do you want in your arbitrator?
- How do you determine whether your candidate possesses those qualities?

Hon. Terrence Carroll (Ret.) - Dispute Resolution Services, Seattle

Craig C. Beles - The Beles Group, Vashon Island

Kim Stephens - Tousley Brain Stephens PLLC, Seattle

11:00 a.m. The All Important Preliminary Hearing

The preliminary hearing in arbitration is arguably the most important stage of the arbitration process. In this session, the panelists will address such questions as: Why is the preliminary hearing so important? What do you do to get ready? What are the arbitrator and counsel trying to accomplish? Who should attend? What are the major subjects to be covered and how? Should an agenda be circulated in advance? Where do you begin in setting dates? What about discovery—how do you keep it under control while permitting the parties to get the information they need? What about motions? What are the most important matters to be addressed in the Case Management Order that sets the course for future arbitration proceedings?

Hon. Sharon Armstrong (Ret.) - JAMS, Seattle

Larry Mills - JAMS, Seattle

ARBITRATION: Expert Advice on Making the Most of the Process

Program Chair: *Craig C. Beles – The Beles Group, Vashon Island*

SCHEDULE (continued)

11:45 a.m. Lunch

12:45 p.m. Discovery Issues and Electronic Discovery

Despite the oft-repeated canard that there is no, or very limited, discovery in arbitration, arbitrators commonly permit – indeed, encourage – the parties to exchange information about witnesses and documents material to understanding and development of the parties’ claims and defenses. Unlike discovery in court litigation, which most often is wide-ranging and untargeted, arbitrators analyze and authorize discovery that is proportional to the needs of the case. As most “documents” and information now are electronically generated, to avoid substantially burdening a party in the search for and production of electronically stored information, arbitrators condition such discovery on development and implementation of discovery parameters that are most likely to produce relevant and material information at reasonable cost. The panel will identify factors considered by arbitrators in determining the appropriate scope of discovery and address some issues relating to e-discovery, third-party discovery, and resolution of discovery disputes.

Phil Cutler – Cutler Nylander & Hayton P.S./Cutler ADR, Seattle

Larry Mills – JAMS, Seattle

**1:30 p.m. The Arbitration Hearing:
Candor + Clarity = Credibility**

Do detailed pretrial orders assist in an organized presentation at the hearing? Does it work to ask for more than what your client really wants (or has proven)? Should the arbitrator be invited to ask questions? Discussion tips for conducting an organized and persuasive hearing, including the benefits of candor and clarity.

Margo Keller – Washington Arbitration & Mediation Service, Seattle

Hon. Terrence Carroll (Ret.) – Alternative Dispute Resolution Services, Seattle

2:30 p.m. Break

2:45 p.m. Dealing with Delay; Sanction Authority of Arbitrators

This session will address the tension between the advocate’s duty to most effectively represent the client and the advocate’s duty under RPCs and arbitration rules to expedite the process and keep arbitration expenses reasonable. Advocates must also avoid actions that conflict with the arbitrator’s duty to keep the process expeditious, efficient and less complex than litigation. But how does an advocate respond to possibly manipulative opposing counsel, who may seek delay or increased costs of arbitration through excess discovery, unnecessary motions or extended schedules? How should an advocate respond to opposing counsel’s contention that failure to grant broad leeway to a party will result in an award challengeable on appeal? This session will give tips on how to respond, what the arbitrator’s authority and limits are to sanction parties, and how to convince the arbitrator to use that authority. Because many of the causes of delay can be prevented by a well-drafted arbitration clause, the session will conclude with tips for drafting future arbitration clauses.

Mel Simburg – Simburg Ketter Sheppard & Purdy LLP, Seattle

3:30 p.m. Ethical Practices for Arbitrators and Advocates

While the arbitration process is intended to act as a less formal alternative to the traditional court trial, the ethical duties and standards imposed on attorney-advocates and attorney-arbitrators are the same. An advocate in arbitration must be knowledgeable about both the facts and the law applicable to his or her client’s case. The advocate must be prepared to the same extent as if he or she was trying the case to a judge or a jury. The advocate must treat the opposing party, opposing advocate and the arbitrator professionally and with civility. The arbitrator must be neutral, treat all parties and advocates with respect, be prepared to hear the evidence and then rule based solely on the facts and the applicable law. We will explore what these aspirational goals mean in practice.

Lish Whitson – Lish Whitson PLLC, Seattle

Melissa Fuller – Washington Arbitration & Mediation Services, Seattle

4:30 p.m. Adjourn

ARBITRATION: Expert Advice on Making the Most of the Process

Monday, September 18, 2017

Please fill out the registration form and mail or fax to WSBA. To register online, go to www.wsbacl.org/seminars and enter 17125 in the search box.

First Name _____ M.I. _____ Last Name _____

WSBA No. _____ Firm/Company Name: _____

Street Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Email _____

17125SEA, attend in Seattle, 9/18/17

17125WEB, attend via webcast, 9/18/17

\$275 - Standard Tuition

\$275 - Standard Tuition

\$199 - New Member Tuition*

\$199 - New Member Tuition*

*Members who have been admitted to practice in Washington for fewer than five years are eligible to receive the new member tuition.

Please note: Our service provider will charge you a separate, non-refundable transaction fee of 2.5% on all bank card transactions. There is no transaction fee if you mail in your check.

If special accommodations are needed, please email cle@wsba.org or call toll-free at 1-800-945-WSBA.

PAYMENT INFORMATION

Check enclosed payable to WSBA

Visa

MasterCard

AmEx

Card No. _____

Cardholder Name (print) _____

Exp. Date _____

Authorized Signature _____

Registrations received less than 48 hours before a seminar are not guaranteed a coursebook or other presentation materials on-site.

Register:

Mail: WSBA, 1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539

Internet: Register online at www.wsbacl.org/seminars • Order products online at www.wsbacl.org.

Phone: 800-945-WSBA or 206-443-WSBA with credit card and registration/order form in hand.

Fax: 206-727-8324 Include credit card information

PAYMENT POLICIES

PAYMENT: Individual registrants must use a separate form, however, payment may be made with a single check or credit card for multiple parties.

NOTE: Please keep a copy of this flier for your records.

REFUNDS: Registration fees may be refunded, less \$25 for handling, for written cancellations postmarked, emailed, or faxed by 5 p.m., up to 3 business days before the seminar. No refunds after that date, but you will receive the coursebook. Canceled registrations may not be transferred to other seminars. You may send a substitute (e.g., someone from your firm) in lieu of canceling.