

EFFECTIVE OPENING AND CLOSING SUBMISSIONS

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The business of relationships.

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Opening Submissions

- What are they for?
 - Bring Structure
 - Bring Clarity
 - The “Goodies” and the “Baddies”
- How is it done?

Opening Submissions

- STRUCTURE
 - This is a case about...
 - Factual timeline (Chronology)
 - Summarise the parties claims (neutrally) and what each side must show
 - Explain the probative relevance of the evidence
 - Apply the law to the facts

Opening Submissions

- CLARITY
 - Simplify complex issues
 - Neutralise “bad facts/law”
 - Deal with the opponents case and correct any mischaracterisations
 - Explain diagrams and flowcharts
 - Address new issues
 - **Answer questions**

Opening Submissions

- The Goodies and the Baddies
 - Convey why your client deserves to win (advocate, but delicately!)

Opening Submissions

- How is it done?
 - In writing? Orally? Whichever way the tribunal asks?
 - Both: talk to a written note provided to the tribunal – but don't follow it verbatim
- How long?
- State clearly the facts and legal arguments you rely on – cross refer to evidence
- Neutral and reasonable demeanour
- Leave space for handwritten notes

Opening Submissions

- Props?
- Know your case
- Answer questions
- **Do not:**
 - Be arrogant
 - Take cheap shots
 - Be discourteous to your opponent
 - Try to hide difficult issues

Closing Submissions

- What are they for?
 - Explain the evidence
 - Answer questions
 - Advocacy
- How is it done
 - Draft the award

Closing Submissions

- Explain the evidence
 - Explain how the oral evidence presented proves your client's case
 - Explain how the oral evidence does not support the opponent's case
 - Highlight other useful evidence
 - Deal with credibility of opponents witnesses?

Closing Submissions

- Answer questions
 - Tribunal's list of questions (solicit if necessary)
 - Answer the questions by reference to the documentary and oral evidence
- Advocacy
 - The art of "I told you so"

Closing Submissions

- How is it done?
 - Written? Oral? What the Tribunal wants?
 - Try to avoid closing orally and submitting a PHB
 - Try to draft a written “closing” or PHB in the form of the award you want:
 - Draft procedural chronology
 - Summarise the facts
 - Describe both parties arguments

Closing Submissions

- Cross refer to relevant evidence
 - Draw appropriate conclusions
 - List relief sought
 - Answer any questions posed by the Tribunal
 - Deal with costs?
- Provide to the Tribunal in an “open” word document