

SUBSEQUENT SUBMISSIONS – WHAT EVIDENCE AND ARGUMENTS TO BRING WHEN AND HOW TO DEAL WITH CONSTRAINTS BY PREVIOUS SUBMISSIONS

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What are „subsequent submissions“?

1. Rebuttal or responsive submissions;
2. Submissions filed at the end of the proceedings.

Responding to Sylvia's Statement of Claim...

Analysing your opponent's arguments

1. Should you have seen it coming?
2. Does it make sense? The tale that will not tell.
3. What has your opponent included and left out?

Telltale signs of a bad contractual argument

1. Beware of law professors.
2. The *deus ex machina*.
3. Strained use of nuance.

Testing the factual evidence

1. Use of witness evidence, in particular to explain the contract.
2. Vagueness.
3. Contextualization and decontextualization.

Setting out your response

1. Pick your battles.
2. Show you have understood your opponent's case.
3. Respond directly to arguments.
4. Expose your opponent's ruses.

Don't forget your own case

1. Keep control of the key issues.
2. Develop your case.
3. Manage your retreat.

Post-Hearing Briefs

1. Restate your case.
2. Tell the Arbitral Tribunal what you want.
3. Remember to explain and justify your claim for interest.
4. Give the Arbitral Tribunal the tools to write the award.

And remember...

Le mieux est l'ennemi du bien.