

LALIVE



ASA below 40 – 2017 Spring Seminar

**The Hearing Schedule:
Getting the most out of the hearing**

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The purpose of the hearing

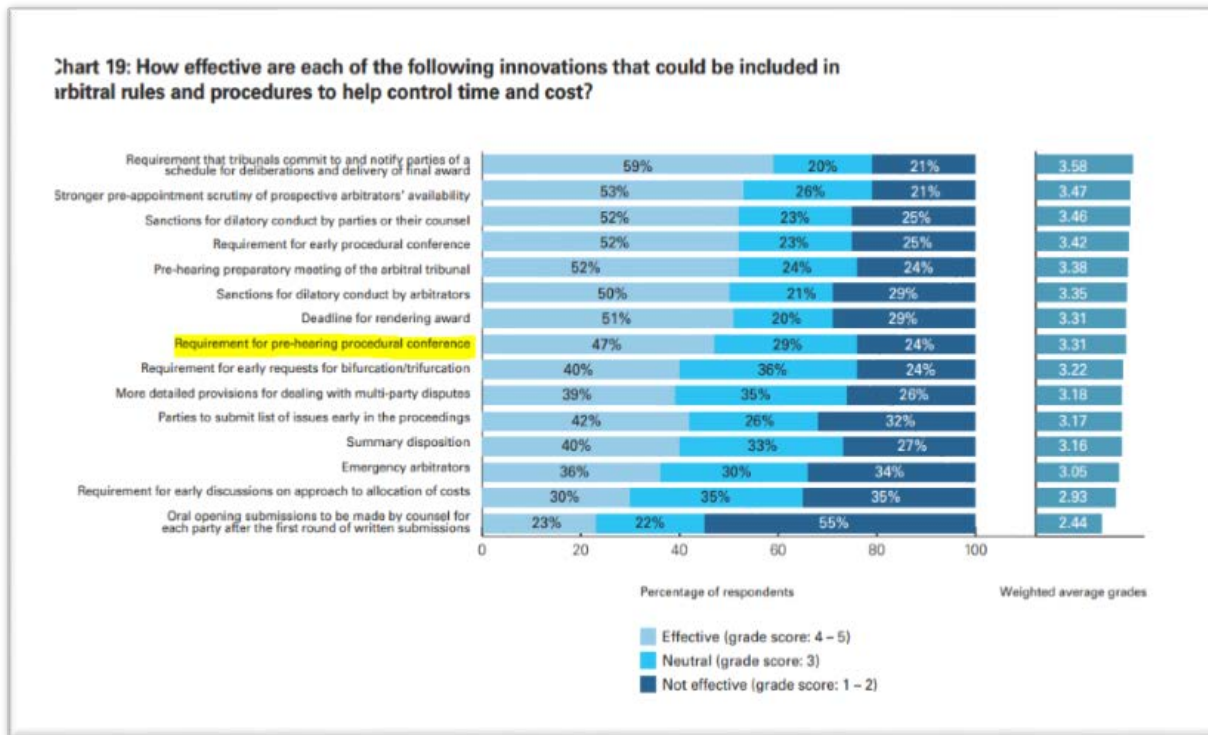
- Is it necessary to hold a hearing at all?
 - Risk/benefit analysis;
 - Risk of having the case decided solely on the basis of written pleadings and documentary evidence;
 - Client's attachment to the hearing;
 - Opportunity to finally meeting the people you have been exchanging e-mails with for months.

If a hearing is suitable then...

- What is the purpose of the hearing, and how to get the most out of it?

The Pre-Hearing Conference Call

- Is it useful?



2015 International Arbitration Survey: Improvements and Innovations in International Arbitration (Queen Mary/ White and Case)

Appropriate location and duration

- Is there a more convenient location than the place of arbitration?
 - Accessibility /Convenience
 - Other important issues to keep in mind

- What should be the length of the hearing?
 - Reducing the overall duration / Planning realistic daily schedules
 - Giving yourself (and everyone else) sufficient (and efficient) breaks

Hearing sequence and time allocation

- **Equitable division of time between the parties: what to keep in mind?**
 - Using a chess clock?
 - Taking translations into account
 - Saving (sufficient) time for the Tribunal
 - Keeping the rules flexible
- **Opening statements:**
 - What is the purpose of opening statements?
 - How long should they be?
 - Will there be a power point presentation?

Hearing sequence and time allocation

- **Cross and Direct examinations:** what to keep in mind when agreeing on a hearing schedule?
 - Preempting the opposing party's questions
 - Will there be closing statements or post-hearing briefs?
 - Taking transcripts into account
 - Will the Tribunal deliberate immediately after the hearing?

- Experts' **hot-tubbing:** is it a good idea?

Determining the hearing attendees

- **Who should attend the hearing?**
 - Limiting the number of participants
- **Case of a party-representative who is also a witness**
 - Fixing the appropriate “sequestration” rule
- Dealing with uncommon requests

Demonstratives

- Submitting an agreed **list of core documents**?
- **Pre-hearing memoranda**: are they helpful?
- Providing a **copy of the entire file**
- Making great **hearing bundles**
- Avoiding misuse of **technology**
- Traveling light (if possible)