

# **CONSIDERATIONS FOR HAVING A SUCCESSFUL VIDEO ARBITRATION HEARING**

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**Presented by**

**Jeanne Charles, NAA**

**Arbitrator and Mediator**

# DECIDE ON A PLATFORM AND PRACTICE

- ❖ Evaluate Security concerns (What are they?)
- ❖ Features should allow simulation to in-person experience
- ❖ Several platforms exist:
  - Zoom
  - Go To Meeting
  - WebEx
  - Microsoft Teams
  - Google Meets
  - FreeConferenceCall.com
  - Skype/Skype For Business
  - Government Facilities/Court Reporting Firms
- ❖ Practicing the features is critical

## SECURE A FILE-SHARING APPLICATION

- ❖ Allows transmission of large data files including pictures and video
  - DropBox
  - Google Drive
  - OneDrive
  - Private file-sharing service
- ❖ Minimizes the need for managing paper documents



## OBTAIN THE PROPER EQUIPMENT

- ❖ Computer with a web camera (can be integrated or USB)
- ❖ Tablets and cell phones work for appearances
  - Limited ability to share screen and manipulate documents
- ❖ Noise-cancelling headset
- ❖ Lighting
- ❖ USB microphones
- ❖ 360 degree view camera

## ADVOCATES MUST ENGAGE IN EARLY PREPARATION

- ❖ Early identification of witnesses
- ❖ Stipulate to issues, if possible
- ❖ Stipulate to exhibits/authentication
- ❖ Can this be a hybrid hearing on documents with limited witnesses?

## DETERMINE LOGISTICS

- ❖ Where will witnesses be?
- ❖ Where will the advocates and clients be?
- ❖ Will a court report be present?
- ❖ How will caucus sessions be handled?



## DETERMINE WHETHER YOU NEED A TECHNICAL ASSISTANT

- ❖ Complex document handling
- ❖ Unfamiliar platform
- ❖ Discomfort with operating video(s)
- ❖ Arbitrator should be a co-host to maintain appropriate control of the hearing

## PREPARE CLEAR INSTRUCTIONS TO THE PARTIES IN ADVANCE

- ❖ NAA website for resource documents and instructional videos



## PRE-HEARING CONFERENCE USING THE PLATFORM

- ❖ Review hearing instructions
- ❖ Allow participants to use features

## TAKE FREQUENT BREAKS

- ❖ Blue light exhaustion effect
- ❖ Allows parties to consult, as necessary

**DO THE BEST TO ASSURE PARTIES OF A FAIR  
PROCESS AND OPPORTUNITY TO BE HEARD**





## CAUTIONARY NOTES

- ❖ Blue light exhaustion effect



## Disagreement about In-Person vs. Video Hearing

- ❖ Encourage agreement
- ❖ Arbitrator's Authority to Order *See*
  - NAA Advisory Opinion No. 26
  - AAA Labor/Employment Rules and Model Orders
- ❖ Be mindful of the Arbitrator's duty under the Code of Professional Responsibility for Arbitrators of Labor Management Disputes to
  - Recognize limitations conferred by a CBA
  - Seek to persuade the parties to alter or eliminate arbitration procedures or tactics that cause unnecessary delay. CPR 2Jc

# Technical Troubleshooting

- ❖ **Internet connectivity** - Some locations like Correctional Institutions may have bandwidth or structural impediments to a stable connection. In those cases, use the telephone call-in option while using camera on a computer/device.
- ❖ **No Audio** – Can quickly resolved with a phone call to the affected party to walk through options.
- ❖ **Cell Phones** – Work too!
  - Can be used for witness appearance without home Wi-Fi
  - Use to contact parties when things go wrong



# Thoughts About Demeanor

## ❖ Witnesses with Masks

- May affect ability to observe demeanor
- Body language is still observable

## ❖ The Arbitrator's Ability to Make Such Determinations

- Should be the arbitrator's call

## ❖ Pin the Witness

- A videoconference without a mask can provide a closer view

# Summary

- Arbitration hearings can be successfully accomplished by use of videoconferencing platforms.
- Using videoconferencing platforms avoids delay in the negotiated grievance process.
- The key is to obtain proficiency in the use of technology and prepare.
- Recognize any limitations and communicate to minimize their impact.

Jeanne Charles, Esq.  
Arbitrator & Mediator

Website:

[www.JCharlesADR.com](http://www.JCharlesADR.com)

Contact directly:

[jcharles@jcharlesadr.com](mailto:jcharles@jcharlesadr.com)

Jeanne Charles resides in Florida with a multi-state ADR practice in the Fort Lauderdale and Chicago areas involving workplace disputes. She earned her Juris Doctorate (J.D.) degree from DePaul University College of Law in Chicago. She serves as a labor arbitrator on various private and public sector panels which include professional sports. In addition to serving as Chair of the National Academy of Arbitrators (NAA) Videoconferencing Task Force, Jeanne serves on the Board of Governors for the NAA and is on its Executive Committee. Jeanne is also on faculty with the Pennsylvania State University's School of Labor and Employment Relations. Prior to becoming an arbitrator, Jeanne practiced as staff counsel for a federal sector labor union in Chicago and in private practice.

