



PRESENTATION TO CIArb UAE
30th August & 11th October 2016

PREPARING TO GIVE EXPERT EVIDENCE

BY

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INTRODUCTION

- 1. Role of the Expert to provide impartial and independent to assist a judge or other decision maker.**
- 2. Suitably qualified**
- 3. Hearing is the most important element.**
- 4. Pitfalls for the Expert. Van Ord v Allseas Judge criticised the Expert and provided guidelines**
- 5. Preparation to give evidence starts from the inception of the commission to the completion of the Arbitration.**

COMMENCEMENT

- 1. Terms of reference and instructions**
- 2. The scope of duties**
- 3. Extent of specialist experience**
- 4. Conflicts of interest with one or both of the parties.**
- 5. Document lists**
- 6. Fee agreement**
- 7. Client expectations**

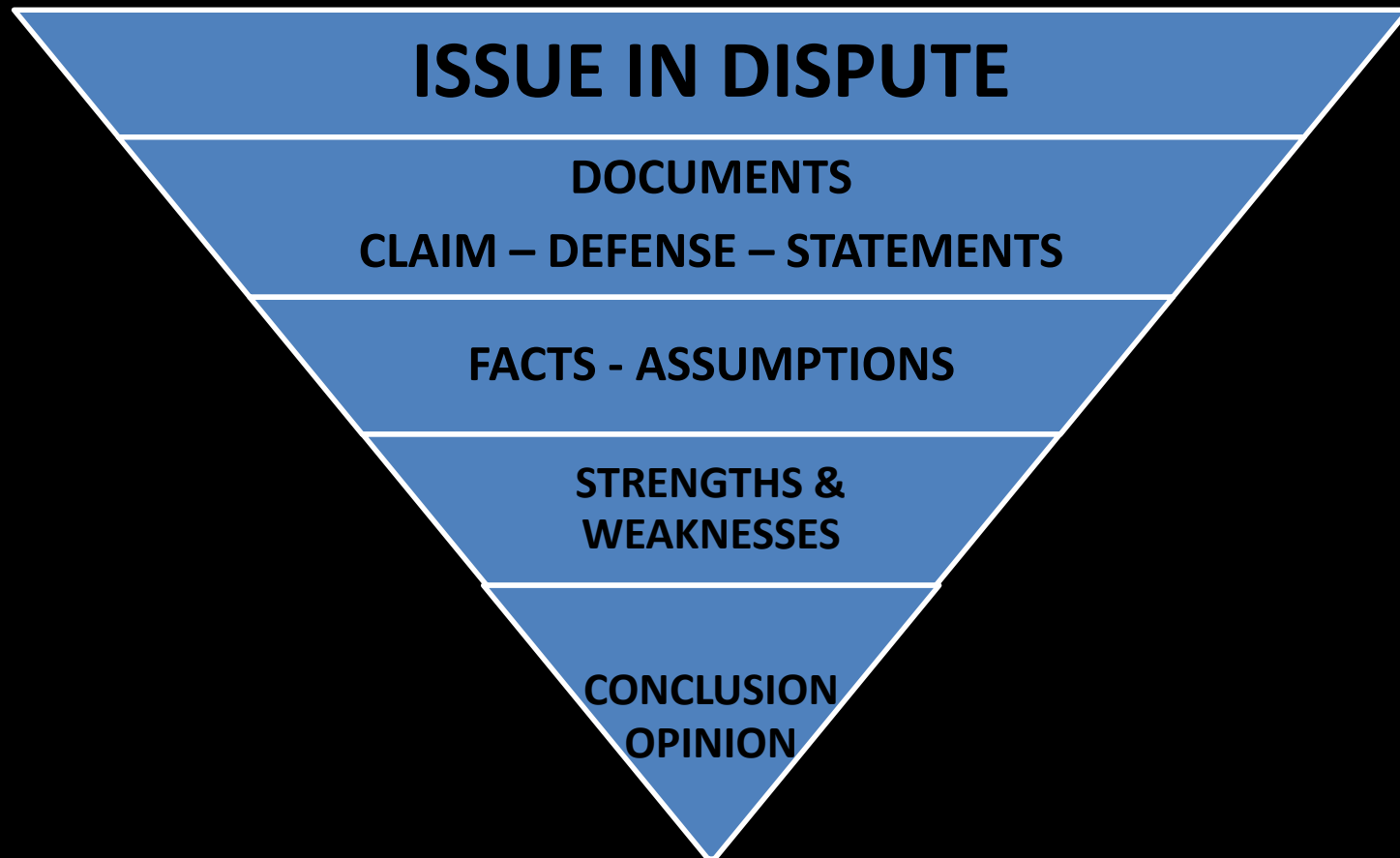
EXPERT REPORT



- 1. Prepare for the report and consider issues and evidence**
- 2. Reasoning to support opinion**
- 3. Clear and consistent**
- 4. Facts and assumptions**
- 5. Consider all Evidence**

EXPERT REPORT

3. Funnel Approach



JOINT REPORT



1. Purpose of the Joint Report:

- to agree upon the issues
- narrow differences

2. Legal Privelege

3. Important part of the preparation for giving evidence

4. Differences between Experts

5. Are joint meetings and reports time wasting?

JOINT REPORT



5. Requirements:

- **An Agenda to allow the experts to prepare and also for the input of Counsel and Lawyers.**
- **Agreements and disagreements should be recorded at the meeting.**
- **Consider the evidence of the opposing Expert**
- **Changes of mind**

HEARING

The most important part - success or failure!

In preparing to give evidence:

- 1. Review all relevant evidence again**
- 2. Consider the strengths and weaknesses**
- 3. Is there a Silver Bullet?**
- 4. Overriding duty to present impartial opinion**
- 5. Review the instructions again**

HEARING

5. Consistent approach in answering questions

6. The key points for cross examination include:

- **Navigational expertise of the Expert Report and evidence**
- **Evidence should be given in a clear and helpful manner**
- **Maintain honesty and stay within the area of evidence and expertise.**
- **Avoid speculation**
- **Evidence should be given objectively**

SUMMARY

Preparation at all stages

Effective preparation will:

- **Demonstrate knowledge and expertise**
- **Maintain credibility**
- **Ensure consistency**

.....and provide convincing Expert opinion