

CCA 2022 Associates Program Meeting Notes for December 12, 2022

- I. CCA Fellow Dana Welch, Chair of the CCA Committee on Committees, encouraged the Associates to become involved in CCA committees. Welch explained that most committees had both an “inward focus” and “outward focus”. The inward focus advances the mission of the CCA while the outward focus advances the arbitration process for all practitioners. Associates were advised to contact the committee chairs directly if they had an interest in participating in a particular committee.
 - A. Construction Committee. Steering committee of 12 fellows. Revived last year. More of an inward focus. Has 20-30 Fellows participate in programming. Meetings are held every two months. Past construction committee presentations have been:
 1. Panel Relations
 2. Expectations of chair and wings
 3. Expert witnesses
 - B. Diversity Committee. The inward focus is diversity within the CCA. The outward focus is diversity within the profession.
 - C. Education Committee. Presents webinars to the entire College.
 1. Next webinar is Jan. 11, 2023 – Arbitrator Notetaking
 2. Webinars are generally held every two months
 3. There is a subcommittee working with NITA to develop “Advocacy during Arbitration” programming
 - D. Ethics Committee. Addresses ethical problems within the college and the profession with an emphasis on how to fix the ethical problem. Has, and is, looking into ethical issues surrounding arbitrator referrals and ethical issues with appointed arbitrators.
 - E. International Arbitration Committee.
 - F. Public Policy Committee. – Monitors legislation and court cases that effect the CCA and the profession.
 - G. Website and Social Media Committee. Acts as the PR firm for the College. Its goal is to promote the College to the broader community.
 - H. Technology Committee. Advises the College about best uses of available technology for the Fellows. Is seeking additional members.
- II. CCA Fellow Gene Commander encouraged Associates to participate in CCA regional meetings as it is an opportunity for greater exposure within their respective regions.

III. CCA Fellow Jim Madison, led a discussion with Q&A re: commercial arbitration case management, including best practices for new case intake, disclosures, and preparation for preliminary hearing with third-party (e.g., AAA and JAMS referrals) and ad hoc (i.e., private referrals) case assignments.

A. Upon receiving an invitation by AAA, JAMS, etc., Madison advised that he immediately determines who the claimants and respondents are, who the lawyers are and what the nature of the case is.

1. Madison then reviews the demand (knowing that they are usually vague) and the Answering Statement.
2. Next, he reviews the Arbitration Agreement/Clause in full.
3. Madison is then able to determine if he will be the sole arbitrator or part of a tripartite panel. (The AAA predesignates chairs and wings.)
4. Madison further explained that he needs the aforementioned information to determine if he has the availability and/or interest to serve as an arbitrator.
5. Madison then explained the selection process for ad hoc arbitrations; distinguishing selections by appointment v. selections by committee.
 - i. Madison discussed the dynamics of having a neutral chair and two advocate wings. (CCA Fellows Ty Holt, Harrie Samaras, Mark Heley and Gene Commander provided their input and experiences regarding this scenario.)
6. Madison explained his process for conducting conflict checks as part of making his disclosures.
 - i. Maintains a spreadsheet of cases and arbitrations worked on reflecting: matters, counsel, co-counsel, opposing counsel, parties, judges, arbitrators, and experts.
 - ii. If you left a law firm and no longer have access to their data base, just advise the parties via your disclosures.
7. Madison discussed the proper handling of deposits.
 - i. Deposits should not be placed in a law firm trust account as they are not obtained via the practice of law.
 - ii. Require payment upfront.

- iii. Never get ahead of the fees.
 - iv. Keep AAA, JAMS, etc. apprised of the how the arbitration is progressing and how that may affect the account balance.
 - v. Utilize the “Finances” tab on the AAA website to keep track of the arbitration’s finances.
8. Madison discussed his method and consideration(s) for estimating his fee for the purpose of deposits. He determines the complexity and length of the following:
- A. Claims, defenses and counterclaims
 - B. Amount of dispute
 - C. Amount of documents
 - D. Documents not already disclosed
 - E. Scheduling Conference and Supplemental Scheduling Conference
 - F. Potential discovery disputes
 - G. Depositions. How many? Who? Why?
 - H. Experts. Expert disclosures and reports
 - I. Dispositive Motions
 - J. Length of evidentiary presentation. (Cross examination generally takes twice as long as direct examination.)
 - K. Deliberation
 - L. Expenses
9. Madison provided his policy regarding cancelation fees: one day of hearing fees for every week cancelled.
10. Madison reminded the Associates to always suggest mediation by others as a less expensive and efficient way for the parties to resolve their dispute.
- IV. Commander advised submitting a bill every month, no matter how small, because it keeps the case administrator apprised of the arbitrations progress.

- V. CCA Fellow Sandra Jeski, suggested the following:
- A. Talking in detail with counsel about the nature and complexity of the case as a way of identifying issues and determining how much it may cost to arbitrate the matter.
 - B. Reserving overflow days for the arbitration.
 - C. How to handle requests for adjournment/continuance.
- VI. After a brief discussion regarding the topics and presenters for our February 2023 program, the meeting was adjourned.

Note taker:
Scott L. Evans