

**ULTIMATE DODGEBALL:
HOW TO AVOID DELAYING TACTICS BY ARBITRATION PARTICIPANTS
PRELIMINARY MATTERS - BEGINNING THE PROCESS WITH EFFICIENCY**

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***DODGEBALL IS PRIMARILY SELF-REFEREED, AND PLAYED WITH THE HONOUR RULES
TO HELP FACILITATE THE GAME, REFEREES START THE GAME, CONFIRM HITS AND
CATCHES, AND COUNT BALL POSSESSION TIME***

- Be prepared before you begin. Delay may be avoided if *all* players are fully prepared
 - Advance panel work sets the pace and helps avoid the potential for delays
- Party arbitrators – Getting the basics down
 - Preliminary discussions with counsel/parties (Non-neutral panels)
 - Understanding the details of the dispute (including amounts at issue)
 - Needs/wants for in-person or telephonic?
 - 30 days – or something more realistic?
 - Ex-Parte – Will it help the process?
 - Clarity of parties and affiliates

DODGEBALL IS PLAYED ON A COURT WITH A CENTERLINE AND TWO SIDELINES

- Selecting an Umpire – The Questionnaires
 - Case specific revisions
 - Realistic but tight timeframe for return

- Submission of responses to counsel *and* the party arbitrators
- The Lead - Umpires coordinate the panel and parties
 - Preliminary discussions with co-panelists
 - Common (general) understanding of the parties and the dispute including contracts, claims, policies, and amounts in dispute
 - Calendars/ Availability
 - Advance written disclosures (pre-circulate)
 - Decide up front the format of submissions

THE OPENING "RUSH"

- Requiring organizational meeting preparedness
 - Clear expectations and stating the obvious
 - Setting the roles of counsel and the parties (representatives)
 - Availability

IF YOU ARE OUT, YOUR TEAMMATE CAN CATCH A BALL, WHICH WILL ALLOW YOU TO REENTER THE GAME AFTER TOUCHING THE WALL

- Case management responsibilities
 - Who's on the team (first and second string)?
- Requiring Party attendance (representatives with authority)
- Requiring counsel to meet, confer and agree (or not) prior to the organizational meeting (to include contracts, identification/system numbers/ balances, etc.)
 - Single chart
- Confidentiality and Hold Harmless
- Full schedule for the case including regular (and brief) status reports/calls with the panel

- Proposed hearing date(s)

You can only hold ball for 10 seconds, afterwards it will be considered dead

- Process for meet and confer between counsel and dealing with non-responders (confirmations)
- Identification of administrative disagreements to be addressed by the panel at/during the organizational meeting
- Preliminary statements: Being complete (while reducing time and costs)
 - Affirmative and defensive positions and document productions
 - What you know, How you'll prove it and what you are prepared to give/what you'll need
 - Is case law *really* necessary?

You are out If you step over a sideline or centerline

- Before you go: Discuss potential sanctions or ramifications for delay tactics or unproductive behavior causing delays