

# **Lecture on Pretrial Preparation**

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**Sorry!**

**We must interrupt our  
normal program to discuss  
One more thing about  
arbitration**

**If you want to force  
arbitration, make  
sure you actually  
enter an arbitration  
agreement**

**Did the parties REALLY  
agree to arbitrate?**

IN WITNESS WHEREOF, by their signatures below, the Parties each have approved and executed this Agreement as of the effective date first set forth above.

DATED: \_\_\_\_\_, 2016

DD

DATED: Oct 28, 2016

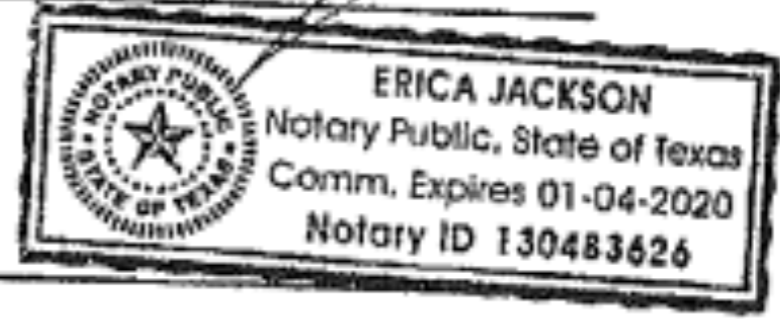
*[Handwritten signatures]*

PP

DATED: 10/28, 2016

*[Handwritten signature]*

EC, LLC



*[Handwritten signature]*  
PP

*EC*  
DD

5.2 Dispute Resolution. In recognition of the mutual benefits to DD and PP of a voluntary system of alternative dispute resolution which involves binding confidential arbitration of all disputes which may arise between them, it is their intention and agreement that any and all claims or controversies arising between DD on the one hand, and PP on the other hand, shall be resolved by binding confidential Arbitration to the greatest extent permitted by law. Arbitration shall take place before JAMS ENDISPUTE ("JAMS") pursuant to JAMS Comprehensive Arbitration Rules and Procedures (including Interim Measures) ("JAMS Rules") and the law selected by DD, (such selection shall be limited to either, California, Nevada or Arizona), or

to pay Ms. Clifford, thus further insulating Mr. Trump from later discovery and scrutiny.

6           18.     By design of Mr. Cohen, the Hush Agreement used aliases to refer to Ms. Clifford and  
7 Mr. Trump. Specifically, Ms. Clifford was referred to by the alias "Peggy Peterson" or "PP." Mr.  
8 Trump, on the other hand, was referred to by the alias "David Dennison" or "DD."

9           19.     Attached hereto as Exhibit 1 is a true and correct copy of the Hush Agreement, titled  
10 Confidential Settlement Agreement and Mutual Release; Assignment of Copyright and Non-  
11 Disparagement [sic] Agreement. Exhibit 1 is incorporated herein by this reference and made a part of  
12 this Complaint as if fully set forth herein.

13           20.     Attached hereto as Exhibit 2 is a true and correct copy of the draft Side Letter

23           33.     Because there was never a valid agreement and thus, no agreement to arbitrate, any  
24 subsequent order obtained by Mr. Cohen and/or Mr. Trump in arbitration is of no consequence or  
25 effect.  
26



29. To be clear, the attempts to intimidate Ms. Clifford into silence and “shut her up” in order to “protect Mr. Trump” continue unabated. For example, only days ago on or about February 27, 2018, Mr. Trump’s attorney Mr. Cohen surreptitiously initiated a bogus arbitration proceeding against Ms. Clifford in Los Angeles. Remarkably, he did so without even providing Ms. Clifford with notice of the proceeding and basic due process.

6           30. Put simply, considerable steps have been taken by Mr. Cohen in the last week to  
7 silence Ms. Clifford through the use of an improper and procedurally defective arbitration proceeding  
8 hidden from public view. The extent of Mr. Trump's involvement in these efforts is presently  
9 unknown, but it strains credibility to conclude that Mr. Cohen is acting on his own accord without the  
10 express approval and knowledge of his client Mr. Trump.

**Back to our  
Scheduled  
Lecture . . .**



**Don't do This on the Day before**

**Prepare well BEFORE TRIAL!!!!!!**

**If you don't prepare the  
case well, you won't have  
much to show at trial.**

**Good things don't  
just happen.**

**Only do things that  
advance your theory.**

# Beware of the Confirmation Bias

**Confirmation bias**, also called **confirmatory bias** is the tendency to search for, interpret, favor, and recall information in a way that confirms one's preexisting beliefs or hypotheses. It is a type of **cognitive bias** and a systematic error of **inductive reasoning**.



**Work closely with your  
client and protect  
yourself from your client  
and misunderstandings**

**Create a system for  
organizing everything  
you will need at trial.**

**Be a voracious learner about  
your client and your case.**

**Nurture your client, so they trust you and they will look relaxed in front of the court.**

# **Importance of Venue (both Judge and Jury choices)**

**Framing your case.**

**example:**

**Federal Express case.**

**What is the case about?**

**Abortion**

**500% loans – freedom of contract vs. dangerous products?**

## 2<sup>nd</sup> Amendment

**“A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.”**



**Metaphors EVERYWHERE!**

**“TYPES OF METAPHORS IN THE  
ENGLISH LEGAL DISCOURSE”**

[https://www.degruyter.com/downloadpdf/j/rjes.  
2012.9.issue-1/v10319-012-0032-9/v10319-012-0032-9.pdf](https://www.degruyter.com/downloadpdf/j/rjes.2012.9.issue-1/v10319-012-0032-9/v10319-012-0032-9.pdf)

- 'Action *brought against* the decision of the First Board...'
  - -'*This legal battle* has dragged on for several years'
- 'a point not really *contested* by the applicant in reply to a question from the Court at the hearing'
- 'the intervener has pursued a marketing *strategy* aimed at ...'
- 'Regulation No 40/94 is not a ground of *opposition* within the meaning of Article 42(1) of that regulation'
- 'It follows from all the foregoing that the action must be *dismissed* '
- 'It is, moreover, *undisputed* and was confirmed by the statements of the parties'
- ,the applicant *submitted* to OHIM such observations'
  - 'an action may be *brought before*'

**Document Everything  
Important in Writing.**

**Allow enough time to write  
clearly and precisely.**

**Bryan Garner's Suggestions.  
"The Winning Brief"**

**Delete ALL unnecessary  
written and spoken words**

**Stipulate to Facts and  
legal issues where  
everyone agrees.**

**For pretrial matters in Court,**

**Be the most trusted person  
in the courtroom.**

# **Under-promise and over-deliver in the Courtroom**

# **Be a Buddhist when working with difficult attorneys and judges**

These are just things swirling around you.

Keep your focus

Avoid Monkey Mind.



**Don't be afraid to  
bring up  
the topic of settlement.**

**Give yourself  
LOTS of time to  
prepare for trial.**