

2023 AIRLINE LABOR & EMPLOYMENT LAW SYMPOSIUM

WELCOME TO
SAN ANTONIO
THE LONE STAR STATE
TEXAS

Mastering Arbitration from Investigation to Resolution

Susan Kramer, Sr. Labor Relations Consultant, FH Solutions Group

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SEPTEMBER 21 AND SEPTEMBER 22, 2023 | ST. ANTHONY HOTEL | SAN ANTONIO, TX

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Best Practices - Do's and Don'ts

- Discipline & Discharge Cases
 - Investigation
 - Issuance of Discipline
 - Processing the Grievance
 - Prepping & Presenting the Case at Arbitration
- Contract Interpretation / Application Cases
 - Investigation
 - Processing the Grievance
 - Prepping & Presenting the Case at Arbitration



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Discipline & Discharge Cases

The Investigation

- Most critical step in the process (you're in control)
- Timing (be strategic)
- Visit and understand the setting
- Understand any applicable work processes and procedures
- Identify and question all potential witnesses
- Consider credibility (opportunity to observe, self-interest, animosity, motive, etc.)
- Ask for explanations and ask about mitigating circumstances--thoroughly investigate
- Document
- Preserve documents and other evidence
- Be skeptical & be neutral



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Discipline & Discharge Cases

Issuance of Discipline

- Don't become invested in the outcome (be patient & realistic)
- Consider
 - Notice / Fairness
 - Precedence
 - Mitigating Circumstances
 - Aggravating Circumstance
- Be patient & realistic
- Be strategic about your "decision maker"



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Contract Interpretation / Application Cases

Investigation

- Identify and interview anyone with potential knowledge (bargaining committee & operations)
- Group discussions/review can be helpful
- Thoroughly understand any historical application / past practice
- Identify any and all relevant (or potentially relevant) documents (e.g., prior contracts, bargaining notes, training documents, t/a summaries & roadshow materials, programming requests, emails, related grievances, etc.)



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Processing the Grievance

• **LISTEN** & take notes

- Be open minded
- Fill-in any gaps in the initial investigation (note: problematic with discipline & discharge cases)
- Determine and quantify any adverse impact to the Company and the workforce
- Consider settlement

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Prepping & Presenting the Case at Arbitration

Witnesses

- Credibility
- Vulnerability
- Role
- Prepare & Practice, then Prepare & Practice, Again, & Again...

Evidence

- Direct
- Demonstrative

Know your Arbitrator

Theories

Control your Fate

WIFI:



Questions?

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skramer@fhsolutionsgroup.com

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