

ORAL ADVOCACY (10): RESPONDING TO QUESTIONS

SL: Hi, welcome back. I'm Sabrina and this is the Quick Guide to Oral Advocacy. In this episode, we'll explore how to respond to questions appropriately in different situations. Specifically, we hope you'll learn how to: answer clarification questions directly; restate your arguments by responding to certain questions; ask for clarification politely when necessary.

SL: Not every question is a trick question! Sometimes, judges just want to check their, or your, understanding with a simple yes or no question. If you encounter this situation, just relax and confidently give a yes or no answer. Answering these questions hesitantly or ambiguously only shows you don't know your case well.

SL: Now, let's see how Lavesh responds to a clarification question:

President: Is your second issue a jurisdiction issue?

LK: Yes, Mr President, my second issue is a jurisdictional issue.

SL: In the example you've just watched, Lavesh confirms the jurisdictional nature of the second issue with a clear *yes, Mr President*.

SL: From time to time, judges may ask questions which seem to challenge you on the surface but in fact allow you to restate your arguments and take the issue to a higher level.

SL: Let's see how Harp handles such a question:

President: Isn't there a risk that this award will be unenforceable because this dispute as stated by the Respondent touches on issues of public policy?

HS: No, it wouldn't, Mr President and members of the Tribunal. Here the parties have a contractual dispute on a commercial matter. As noted in Procedural Order No. 2 at Clarification 29, the Gondwandan government has made a commercial reservation here, which is exactly why the

Tribunal should only focus on commercial matters and should disallow any application to admit the amicus curiae brief which relates to public issues.

SL: In the example, Harp kills two birds with one stone. He not only assures the judge that there's no risk of the award being unenforceable, but also uses the question as an opportunity to restate his argument – that the amicus curiae brief should not be admitted. Let's watch the relevant part again. Look at how he sets up the transition using the phrase *which is exactly why*:

HS: The Gondwandan government has made a commercial reservation here, which is exactly why the Tribunal should only focus on commercial matters and should disallow any application to admit the amicus curiae brief which relates to public issues.

SL: Another situation you may find yourself in is when you don't understand the question well and you want to hear it again. Don't panic! Be honest and politely ask the judge for clarification.

SL: Let's see how Priyanka asks for clarification:

Arbitrator: Did you terminate the contract ahead of the contracted time?

PM: Yes, Mr Arbitrator.

Arbitrator: What is the reason or ground on which you did that?

PM: I am sorry. Could you repeat the last part of the question, Mr Arbitrator?

SL: As you can see, Priyanka asks the arbitrator to repeat the question using *could* to form a polite request.

SL: So remember, answer clarification questions with a clear *yes* or *no*; make good use of questions that allow you to restate your arguments and give more elaborate responses; ask for clarification

politely.

SL: Thanks for watching. Join us again for the final episode in this series, which will be on rebuttals and surrebuttals. See you soon!