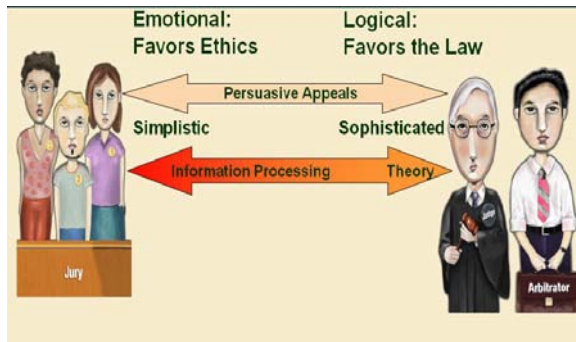


What Is the Real Difference? Arbitration v. Jury or Bench Trial in the Age of Anti-Corporate Bias

The decline of the jury trial, increasing past popularity of arbitration as a means of dispute resolution, and the continuing importance of judicial persuasion in litigation invites the question, "What are the real differences between these three various fact finders?" Are there some distinct similarities and differences among fact finders, or is the jury still out? This presentation highlights results of a case study analyzed and decided by a group of arbitrators, a district court judge, and a group of mock jurors. In addition, data from surveys and interviews with judges, arbitrators, and jurors will be shared and discussed. Strategy implications from these findings are also presented. Topics include:

- The parallels among the three fact finders
- Whether arbitrators are actually pro-defense
- The fact finder more likely to favor law over ethics
- The fact finder best equipped to decide highly emotional or highly technical cases
- The fact finder more likely to find for the plaintiff
- Whether arbitrators are more conservative on damages than juries
- When making an apology makes a difference



Jurors find high credentials and high pay to be more credible than low credentials and high pay.

True False

An expert who has testified frequently is believed to be more persuasive than an expert who has testified little.

True False

An expert who has testified very little is viewed as more credible when he charges a higher rate.

True False

Cooper & Neuhaus, 2000