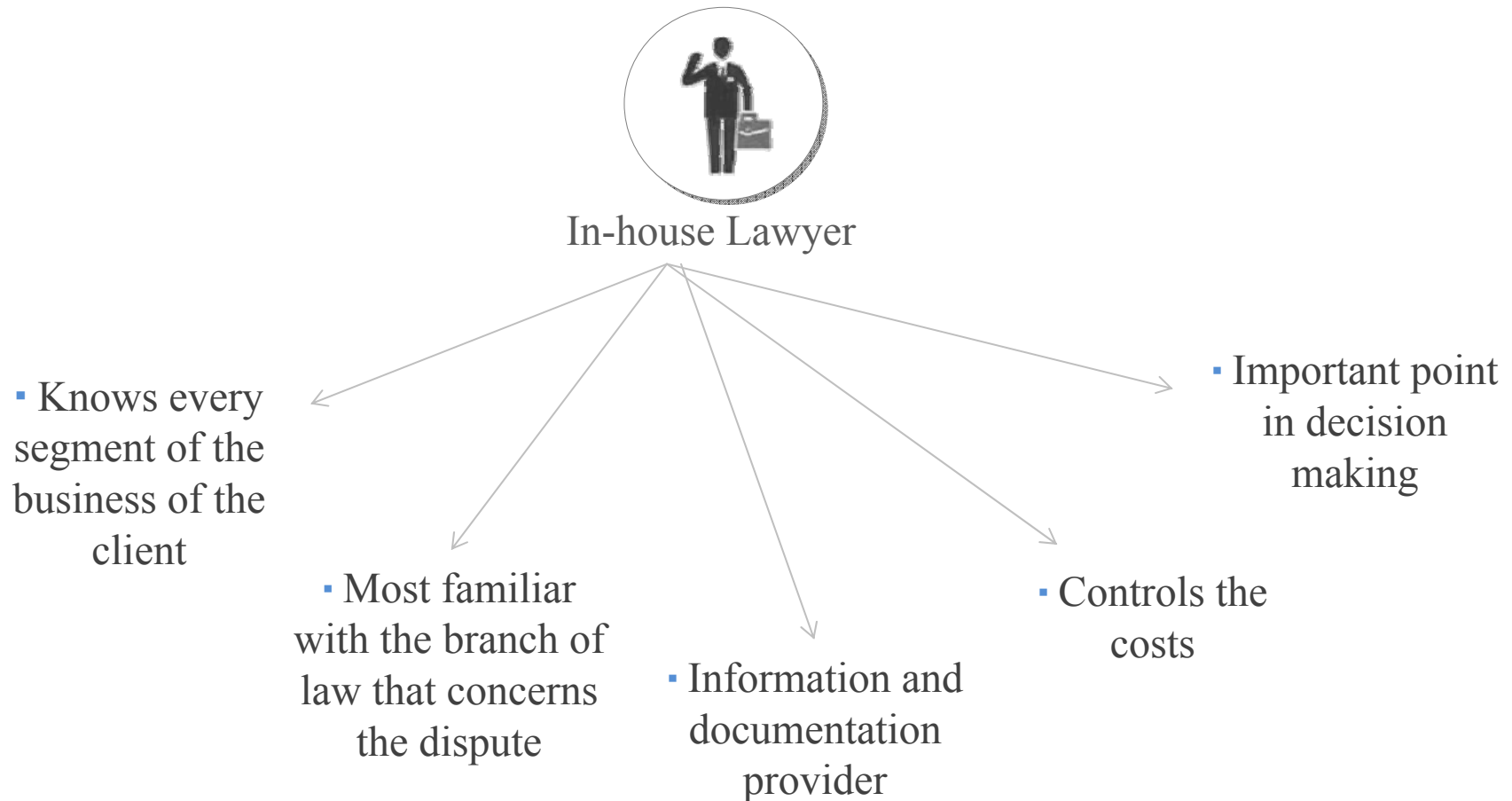


**karanovic/nikolic**

# /Cooperation between In-house Counsels and External Counsels

Milan Lazić, Partner / November 2013

# /Cooperation between In-house Counsels and External Counsels



# / Important phases

1

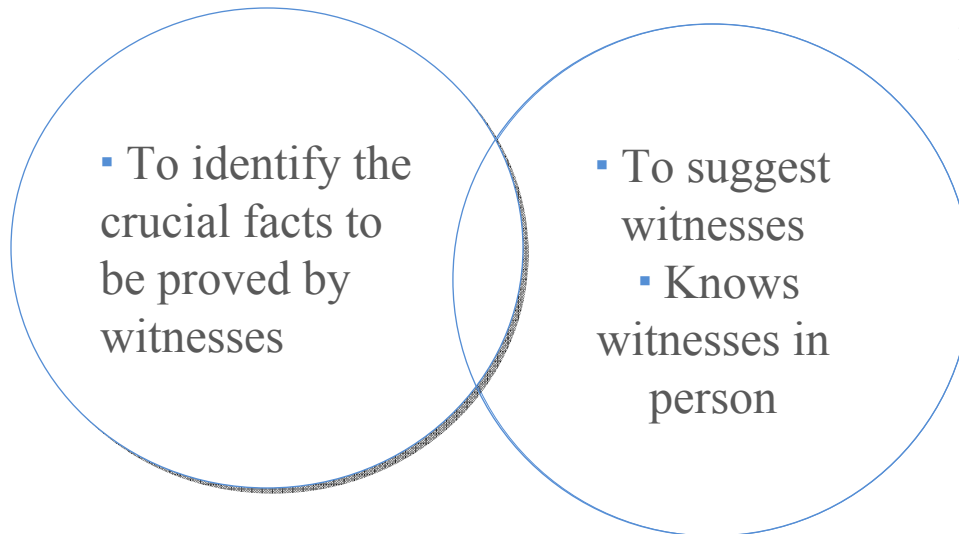
Preparation of the  
response to the  
notice of  
arbitration

2

Taking of  
evidence  
(i) witnesses and  
(ii) expertise

# /Witnesses

Role of  
external counsel

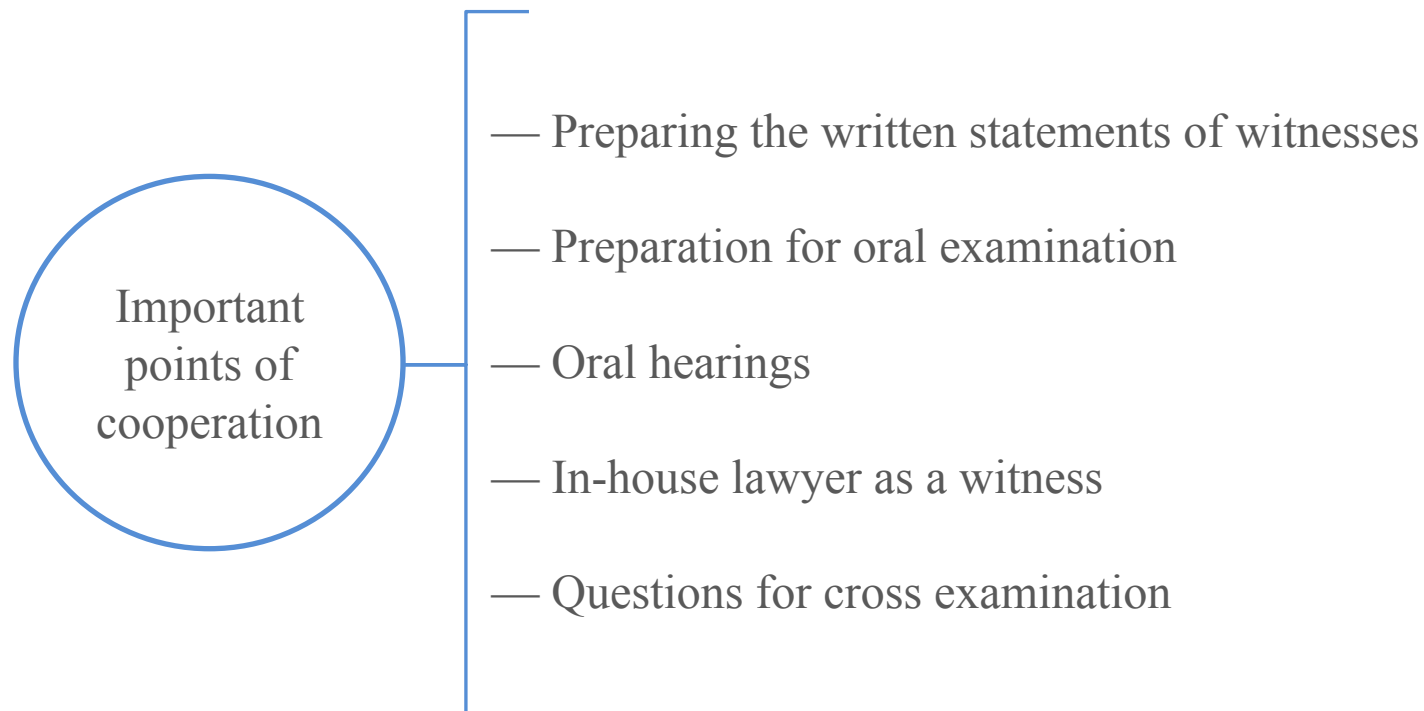


Role of  
In-house counsel

Article 4 (1) of IBA Rules on Taking of Evidence:

It shall not be improper for a party, its officers, employees, legal advisors or other representatives to interview its witnesses or potential witnesses and to discuss their prospective testimony with them.

# /Witnesses



# /Experts

Three points in cooperation:

1

Pre dispute  
expertise

2

Party appointed  
experts

3

Tribunal appointed  
expertise

# 1 Pre dispute expertise

- Highly technical disputes –construction disputes, food industry, pharmaceuticals industry, mechanics, machinery, etc.
- Task for both counsels – to identify the need of pre dispute expertise

# 2 Party appointed expertise

Article 5 of the IBA Rules on Taking of Evidence

Communication between counsels:

- Initiative is on the external counsel,
- Decision is on the in-house counsel (costs vs. variety of evidence),
- List of instructions and questions for the expert,
- Methodology for the party appointed expert,
- Review of expert reports.



# 3 Tribunal appointed experts

Article 6 of the IBA Rules on Taking of Evidence.

Benefits in terms of efficiency and cost effectiveness.

Communication:

- Understanding advantages and disadvantages of different types of expertise,
- Selection of tribunal appointed experts,
- Identification of instructions and questions for experts,
- Preparation of the expert report,
- Objections to the expert report,
- Oral hearings.

# Conclusion

1. Quality – two heads are smarter than one,
2. Proactive role in communication throughout the proceedings,
3. Transparency,
4. Raising the responsibility,
5. Distribution of responsibility and risk between in house counsel and external counsel.

**karanovic/nikolic**

**/ Thank you**