



Dispute Boards v2 *

Summary

*** Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

The session at Washington Arbitration Week, moderated by Margie Leese, focused on the role and effectiveness of dispute boards in international arbitration, particularly in the context of infrastructure projects. Jose Antonio Rivas, a partner at a law firm and co-founder of World Arbitration Update, opened the discussion by emphasizing the need for updates on international arbitration and the importance of decentralizing dispute resolution beyond major centers like New York and London.

Key speakers included Maria, an expert in international commercial arbitration; Jaime, a construction law specialist; Christian, an international arbitration practitioner; and Luis, a vice president of the International Centre for Dispute Resolution. They discussed the advantages of using dispute boards, which can help prevent disputes from escalating by facilitating communication and bringing in subject matter experts early in the project.

The panel highlighted the importance of selecting qualified dispute board members who understand the complexities of specific projects and possess the necessary soft skills for effective communication. They also discussed the procedural updates to dispute resolution rules, including the introduction of interim advisory processes and the potential for binding or non-binding recommendations.

Participants shared success stories, illustrating how dispute boards have effectively resolved conflicts in various infrastructure projects, including the Panama Canal expansion and the London Olympics. The session concluded with a call for greater awareness and integration of dispute boards in construction contracts to enhance project efficiency and minimize legal disputes.

Authors

Topics

B



Category

WAW

Full Transcript

00:00:33

Hello, everyone. This is World

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arbitration update and we have

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an incredible privilege of being

00:00:41

with the experts on dispute,

00:00:46

resolution panels and the before

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before moving on, and I

00:00:51

have missed introducing myself in

00:00:53

the past. So I will

00:00:54

not make that mistake. My

00:00:56

name is Jose, Antonio Rivas

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and that I am a

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partner at the extra glop



00:01:02

here in Washington DC and

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together with the Ender that

00:01:06

we co-founded World arbitration up

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data about two years ago

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and the world application update

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or the, wow has a

00:01:17

two objectives in mind, one

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of them is to update

00:01:21

on issues of the international

00:01:24

arbitration, investor arbitration, International commercial

00:01:28

arbitration. Dispute resolution and also

00:01:32

public international law. That's a

00:01:34

subjective. Know her number one



00:01:36

because as you know, in

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today's world in any of

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the major dispute resolution centers

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in any of the all

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the decisions that that is

00:01:47

a issued by an arbitration

00:01:50

panel's or dispute resolution panels

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at cetera and it would

00:01:54

be very difficult to, to

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read them all. So we

00:01:57

try to update the International

00:01:59

Community interested in these topics

00:02:02

on on, on those matters



00:02:04

that that have been happening

00:02:06

for the past year, or

00:02:07

two, or three years, depending

00:02:08

on the subject matter, the

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objective objective is to decentralize

00:02:18

Dispute, resolution International Patrician under

00:02:22

the notion that that International

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arbitration and dispute. Resolution does

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not only happen in the

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main centres of the world

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does not only happen in

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New York or or evening

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Washington, DC, or Paris or,



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or, or a London. It

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is happening at in many

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parts of the world geography

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in Latin America, and Africa

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and Asia in, in, in

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all three unusual places in

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Europe and in the states

00:02:52

at cetera. So we would

00:02:54

like to give also a

00:02:56

platform to individuals were experts

00:02:59

and War and rivers and

00:03:01

solid who may come from

00:03:04

other jurisdictions. And, and this



00:03:05

is a perfect example. So

00:03:07

we, we very much. Praise

00:03:10

diversity. And here we are.

00:03:13

So, it is my privilege

00:03:15

to introduce our moderator. Has

00:03:18

been a a forceful so

00:03:21

behind the world arbitration update

00:03:24

on that Washington arbitration week

00:03:26

and I are sister event.

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Our moderator today is Jeanne's,

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Jaime Martinez is in the

00:03:33

house, has a several several

00:03:35

degrees. I would start by



00:03:37
saying that she is a

00:03:38
PhD in law, Suma, Kum

00:03:40
laude from the University of

00:03:42
Paris and the, she also

00:03:44
has an llm international economic

00:03:47
Affairs. Also come laudie in

00:03:49
from the University of Paris,

00:03:52
and a pampillon molasses. And

00:03:54
so, I need a Norbert

00:03:56
ratio in international business law.

00:03:58
Also kumlawdi from the University

00:04:00
of grisaia. She's also another

00:04:04
limb from Georgetown, s. Okay,



00:04:08

we didn't lose the important

00:04:09

one. So, but agrees that

00:04:14

Margie needs is a legal

00:04:17

adviser at the ministry of

00:04:18

economy and Finance in 3D

00:04:20

bass, investment arbitrations filed, by

00:04:23

alleged foreign investors against the

00:04:25

Republic of Panama. She's a

00:04:26

former trade negotiator for the

00:04:29

Republic of Panama, having served

00:04:31

as chief of the trade,

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in services and investment Department

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of the ministry of trade



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and Industry in Panama. She

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is also a professor of

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law at the University of

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Panama private Law Department and

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she has authored, a

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white range of Publications in

00:04:47

her areas of expertise, and

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has participated as a speaker,

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in a large number of

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forms internationally. Her latest new

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short. Publication is a a

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a Blog on floor. Arbitration

00:05:02

asking the question whether the



00:05:04
proposed. Multilateral investment Court, namely

00:05:10
by Europe will release all

00:05:12
the unbalanced of the investor-state

00:05:17
arbitration is DS investor-state dispute

00:05:22
system. So as you can

00:05:24
see you, we had a

00:05:25
wonderful moderator who is very

00:05:28
much interested in in topics

00:05:30
that would allow dispute resolution.

00:05:34
Go hand-in-hand with the notion

00:05:39
of trying to finish projects

00:05:41
which are the dispute resolution

00:05:45
panels. I myself, am I



00:05:49
have been a dispute, resolution

00:05:51
your Palace in the past

00:05:53
and that's what is most

00:05:55
striking about this topic. Not

00:05:58
only the idea of solving

00:06:00
A dispute, but they making

00:06:02
sure that while you do

00:06:04
it you're not interrupting the

00:06:07
infrastructure or energy-related projects that

00:06:10
the parties initially agreed to

00:06:13
complete. So with that We're

00:06:16
very grateful to each. One

00:06:17
of you Margie, least you



00:06:19

have the floor. Thank you.

00:06:25

Meet here again at work.

00:06:26

Love you to you soon.

00:06:27

Okay, thank you. Also to

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Touhy and later. I know

00:06:32

the members of the organizing

00:06:35

Committee in this case so

00:06:40

I asked wasn't so we're

00:06:44

going to the Stars about

00:06:45

these beautiful words, as means

00:06:47

to conclude successfully investment projects

00:06:49

unresolved disputes. So as a

00:06:52

way of introduction to this



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is Boris can be defined

00:06:55

as permanent. And sometimes I'd

00:06:58

hook up channels set up

00:07:01

to accompany the parties during

00:07:04

times of the whole performance

00:07:05

of the contract, and to

00:07:08

assistant avoidance diffused, but overcoming

00:07:13

disagreements among them. So, over

00:07:17

the past several decades has

00:07:19

has emerged as one of

00:07:23

the High-resolution approach in particular

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in construction and infrastructure industry

00:07:31

at to officially avoid disputes



00:07:36
and he needs to go

00:07:40
to litigation and arbitration. We

00:07:43
can't fight for several emblematic.

00:07:46
Boundary Dam project in Washington

00:07:51
state in the 60s, 1960s

00:07:53
with the project and Elsa

00:08:03
course, we can slide the

00:08:05
UK friends Channel tunnel in

00:08:09
the early nineties coming from

00:08:13
Panama of Spurs. One of

00:08:16
the biggest cases that we

00:08:18
still ongoing is the expansion

00:08:21
of the Panama Canal. So



00:08:25

after having, you know that

00:08:27

he's bored, as you may

00:08:29

know, we have now several,

00:08:31

I see cases and there's

00:08:33

two parallel investment arbitration cases.

00:08:36

I sweat. So today it's

00:08:48

either model contract closest referring

00:08:52

the disputes to this Billboards.

00:08:55

And also we have become

00:08:57

a practice of cilantro agency,

00:09:01

social t. I TV show

00:09:04

to discuss this topic. We

00:09:07

have For experts. What else?



00:09:11

I would start with Maria

00:09:14

and it's me. She is

00:09:16

she has a substantial experience

00:09:19

as an advocate in complex,

00:09:22

International commercial arbitration. She has

00:09:26

particular expertise, in construction technology,

00:09:30

technology and energy this, but

00:09:34

I also has handled matters

00:09:35

that Cruz is a wide

00:09:36

range of Industry, sectors, legal

00:09:39

issues, and you're a physical

00:09:40

regions. She is one of

00:09:43

a small group of female.



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Pianist council is specializing in

00:09:48

construction and Technology disputes standing

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in the profession in the

00:09:55

profession is the most paid

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by her service on numerous

00:09:59

arbitrations and professional bodies, including

00:10:02

the bar. Council of England

00:10:05

and Wales and the chartered

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Institute for arbitrators Marion, who

00:10:09

are happy to have you

00:10:10

here with us today is

00:10:15

Jaime Gray Construction, law specialist,

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he founded in PG abogados,



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20 years ago, he said

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these people remember as well

00:10:27

as Senator National arbitrator. He

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has been involved in many

00:10:31

leading construction projects in the

00:10:34

region such as the Pan.

00:10:36

American games in 2019 and

00:10:41

many segments of the highway

00:10:44

in Central America, I'm on

00:10:46

others. He's currently president of

00:10:49

region for Latin America, OBD2

00:10:52

resolution board Foundation we have

00:10:56

than Christian Diaz Garcia Partners



00:11:04

in Costa Rica and the

00:11:06

director of the international arbitration

00:11:08

practice as mediator. Remember, an

00:11:13

arbitrator, he is the controversy

00:11:16

of the thief of Costa

00:11:17

Rica of the dispute resolution

00:11:20

board foundation and the president

00:11:22

of the board of directors

00:11:23

of the Latin American Association

00:11:26

of construction, no ass all

00:11:29

day. And then finally we

00:11:32

have to be smart Ynez.

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He is Vice President of



00:11:37

the international Centre for dispute

00:11:40

resolution icdr which is the

00:11:42

international division of the American

00:11:44

Arbitration Association and is an

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honorary president of the inter-american

00:11:51

commercial arbitration Commission. Race is

00:11:55

responsible for international arbitration and

00:11:59

mediation business development, for the

00:12:01

east coast of the United

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States, also for Central America,

00:12:05

and South America, and the

00:12:07

Caribbean, the EU. And the

00:12:09

UK is also responsible for



00:12:13
chasing attrition of international cases

00:12:17
out of the ictr Miami

00:12:21
office. So, we asked the

00:12:33
first question to Marion to

00:12:35
get you pooped in your

00:12:38
experience of what are you

00:12:40
over? Older edition resolution. Make

00:12:45
a nice man, in particular

00:12:46
in infrastructure. A long-term investment

00:12:49
projects. Thank you very much.

00:12:53
I thank you for that

00:12:54
generous introduction, and thank you

00:12:56
for that great. Seems that



00:12:58
thing with what a dispute

00:12:59
or what is let me

00:13:01
just everyone go in the

00:13:03
because I think you go

00:13:05
such great. Speak is here.

00:13:07
It would be nice for

00:13:09
us to get a conversation

00:13:10
going. I just put a

00:13:12
message in there saying where

00:13:14
I am. It would be

00:13:15
great if you could actually

00:13:17
just tell us where you'll

00:13:20
currently sitting, I don't want



00:13:21

to know you're sitting in

00:13:23

the kitchen back to goodness

00:13:25

me. I wasn't expecting that.

00:13:31

What's a reach? Yeah. If

00:13:33

it's really interesting, if anyone

00:13:35

else can get to the

00:13:36

the check just tell us

00:13:37

that we can get a

00:13:38

feel. We can get a

00:13:39

good conversation getting here. Anyone

00:13:42

else going to stay where

00:13:43

they are? That's a range.

00:13:46

Were you expecting that range?



00:13:50

Questions also, just put them

00:14:05

in there and we'll try

00:14:06

and cooperate living in today

00:14:08

and I'll see where we

00:14:09

get to come back to

00:14:10

the question. What are the

00:14:12

main advantage is a dispute

00:14:14

food? Let me tell you

00:14:15

the story. Why do they

00:14:18

use dispute food for the

00:14:20

Olympics in the United Kingdom?

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We have been a little

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reticent about using the speedboats.



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I would say this panel

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won't shoot me down if

00:14:32

that's wrong, but we don't

00:14:33

really use them in United

00:14:35

Kingdom, but we use them

00:14:37

for the London Olympics with

00:14:39

great success. And indeed they

00:14:42

were used for the Brazil

00:14:43

Olympics. Now, why What is

00:14:46

it? Well, if you think

00:14:48

about it but the Olympics

00:14:49

You've Got No Room for

00:14:52

delay. No room for people



00:14:56

to walk off site, you've

00:14:58

got no room for it.

00:15:00

Not to happen. It's just

00:15:02

got to deliver says very

00:15:05

interesting that they choose and

00:15:08

set up a dispute avoidance

00:15:10

and the dispute assessment decision

00:15:13

making scheme and it becomes

00:15:16

contractual and it's enforced now.

00:15:18

Why What are the advantages?

00:15:22

Make sure you did it.

00:15:24

Make sure on that first

00:15:26

day when they, like the



00:15:28

flame, You've got the building,

00:15:31

it's fair. It does not

00:15:35

remember recently, rumania is coming

00:15:37

to the books. Now, as

00:15:38

well. I Mexico City. I

00:15:39

love for juxtaposition of that.

00:15:42

You got it allows you

00:15:44

to bring in subject matter

00:15:46

expert. I know that in

00:15:48

this world, there is a

00:15:51

belief that we poppy on

00:15:53

Dexter. You don't need an

00:15:56

expert. I personally think that's



00:15:58

wrong, the X and the

00:16:01

what you can do when

00:16:03

you're using dispute boards, as

00:16:05

your dispute, resolution method is

00:16:07

bring the experts in early.

00:16:10

If you use your dispute

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food, process correctly, you maximize

00:16:16

the chances of avoiding the

00:16:19

dispute or avoiding the escalation

00:16:22

of the dispute and disputes

00:16:25

on site. During the project

00:16:28

of very, very disruptive human

00:16:33

beings. Guest knife vs. By



00:16:35

dispute and they stunk focusing

00:16:38

on the bills and they

00:16:39

start concentrating on the dispute.

00:16:42

Good question in all they've

00:16:44

had to prevent or settle

00:16:46

disputes. Unique. Because by the

00:16:53

time you get to a

00:16:54

state court, it's about settling

00:16:57

the dispute at what the

00:16:59

dispute board will do at

00:17:01

the beginning, is it will

00:17:02

prevent to dispute because it

00:17:04

encourages communication If you have



00:17:09

set up, he was standing

00:17:10

dispute board and I'll be

00:17:11

very interested in this tunnels

00:17:13

experience. Does that happen? If

00:17:17

you do and you set

00:17:19

it up from the beginning,

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you got experts who are

00:17:24

kept in touch with the

00:17:26

project they get regular updates,

00:17:28

they understand it that there

00:17:30

is it developing and they

00:17:32

can respond quickly as a

00:17:34

problem arises. They can all



00:17:37

seven of the schemes and

00:17:40

ask if only they give

00:17:43

you an opportunity to vent

00:17:44

just Saturday. Look, it's horrendous.

00:17:49

It's Dreadful find me. And

00:17:52

also, they will still have

00:17:54

your powers. She going off.

00:17:57

They don't have to sit

00:17:58

back and be told they

00:17:59

can go now. All the

00:18:02

facts could avoid the dispute

00:18:05

escalating, could get it out

00:18:07

of the way. If it



00:18:08

doesn't, it gives you a

00:18:09

quick solution. It gives you

00:18:12

a recorded here pay. Now

00:18:16

on you later. That's the

00:18:18

philosophy, just get a decision

00:18:21

and frankly, for most disputes

00:18:24

what they want is a

00:18:25

decision. Decision is just cut

00:18:31

through. Tell me what the

00:18:33

decision is and you will

00:18:34

get it in real time.

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You'll get it from people

00:18:37

where you can maximize the



00:18:39

chances that it's right. And

00:18:41

you probably have cheated at

00:18:43

a low-cost I know that

00:18:45

the industry believes they're expensive.

00:18:48

Statistics and data are difficult

00:18:51

to find because it confidential.

00:18:53

But everything you find tells

00:18:54

you that notes. They are

00:18:57

very very cost-effective and the

00:18:59

other problem is highlighted its

00:19:01

enforcement. Go to real time

00:19:03

Solutions project coming on my

00:19:06

experience, enforcement is not the



00:19:08

issue. Coustic and operated. They

00:19:10

just wanted the decision. They

00:19:13

might experience a successful addition

00:19:18

to the range will turn

00:19:20

it to the resolution techniques

00:19:22

and I think that's not

00:19:23

ugly. I'm too used. I

00:19:25

will shut up with this

00:19:26

Wednesday is going to come

00:19:30

in on Monday but I'm

00:19:31

back to you. Thank you,

00:19:34

Maria. So, you mentioned that,

00:19:36

hopefully, we will have a,



00:19:38

you know, these people were

00:19:39

members appointed Chief, didn't they

00:19:44

try to avoid? I would

00:19:50

like to ask you. So

00:19:51

how to select board members

00:19:54

to become a combination that

00:19:57

you could provide a party

00:19:59

when they are pointing. Thanks

00:20:06

a lot for your question.

00:20:08

Dear marvolis, I'm very honored

00:20:11

to be part of this

00:20:12

wonderful panel and you know,

00:20:14

this has been confirmed after



00:20:17
listening to Marion. I'm, I'm

00:20:20
I'm really really glad to

00:20:22
hear what she said. I

00:20:26
would like to start by

00:20:27
saying that the selection of

00:20:30
District board members is of

00:20:33
the utmost importance as in

00:20:35
arbitration. It is key to

00:20:38
her, the right arbitrator in

00:20:41
dispute bores. You also will

00:20:43
need to to have the

00:20:46
correct. Improper members are part

00:20:48
of that panel. So, do



00:20:52

not practical point of view.

00:20:54

I would recommend parties that

00:20:57

they should identify the risk

00:21:00

of their project including technical

00:21:03

contractual on legal issues. And

00:21:07

then openly discussed how to

00:21:09

define their respective profiles of

00:21:13

the potential members within the

00:21:16

Crockery sticks on the specifics

00:21:18

of the project. I should

00:21:21

mention some of the Reverend

00:21:23

question that deserve to be

00:21:24

discussed. There's is it a



00:21:28
complex project complexity is something

00:21:32
which we should all be

00:21:34
reading Minds with discussing this

00:21:36
important issue is not the

00:21:39
same type of project. If

00:21:41
you were going to build

00:21:42
their facilities for a major

00:21:45
sports events such as the

00:21:48
Olympics of the Pan-American. Or

00:21:51
having a hospital or or

00:21:53
building a hospital or why

00:21:55
not a hydroelectric power plant

00:21:58
each of them that need



00:22:03

to be duly considered and

00:22:06

discussed. The second is, what

00:22:09

types of technical disciplines of

00:22:11

the project would generate. Disagreements,

00:22:15

or clean or disputes between

00:22:18

the parties? I think that

00:22:20

that is that is very,

00:22:22

very important is. So we

00:22:25

will need to have an

00:22:27

a specialist in concrete or

00:22:30

in an orange, the geological

00:22:32

mother's Etc. Are the types

00:22:36

of things that need that



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are needed to be also.

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What type of contracts are

00:22:46

the parties employing? Are they

00:22:49

pretty quick and easy, bespoke

00:22:52

times of Congress that should

00:22:55

also be considered in my

00:22:58

view and finally sufficiently trained

00:23:03

to properly understand and consequently

00:23:06

use this good boards. That's

00:23:08

very, very important to. So

00:23:12

that's it. Some of the

00:23:15

characteristics of the members of

00:23:18

our first experience in the



00:23:21
dark on the type of

00:23:22
project. They should have that

00:23:26
they should. You know, they

00:23:29
should also be part of

00:23:31
it raining in this group

00:23:33
boards and alternative dispute resolution,

00:23:35
they should have experienced the

00:23:39
Butte board members and also

00:23:41
bring some heels soft skills

00:23:46
to the table. Okay, listening

00:23:49
listening, that's very important going

00:23:51
to the point identify the

00:23:53
depositions and dangerous behind the



00:23:58

position of the parties soft

00:24:00

skills are kids nowadays. So

00:24:04

they should be you know

00:24:05

what I call being disputed?

00:24:09

Boy, them focused, professional. Okay.

00:24:13

Yes, it is very important.

00:24:15

Okay, we will be deciding

00:24:17

on date on the issues

00:24:18

that there that the parties

00:24:20

present a submission. But most

00:24:22

importantly dispute, a boy needs

00:24:25

to focus on yourself. If

00:24:28

you would avoidance, I will



00:24:31

today. I will I would

00:24:32

like to watch something additional,

00:24:34

you know, dispute board members

00:24:38

should be brave enough to

00:24:40

say yes to the party.

00:24:42

Who is right, okay? Bravery

00:24:45

be courageous. It's very, very

00:24:47

important. And the lack of

00:24:49

that important element, you know,

00:24:54

would be terrible practical advice

00:24:57

finally. And within the that

00:25:00

the time has been allocated

00:25:02

marjolein, okay? My practical advice



00:25:06

is that parties need to

00:25:08

be open and transparent when

00:25:11

negotiating, the appointment of the

00:25:14

members and they, you know,

00:25:18

should try, you know, clearly

00:25:20

what type of members they

00:25:22

need Please do not overestimate

00:25:25

the profile of the members.

00:25:28

Be realistic. Angels are in

00:25:31

heaven, only please, thank and

00:25:34

into consideration. If your board

00:25:37

members Market of your reading.

00:25:40

That's what I wanted to



00:25:42

say. Thank you. Thank you.

00:25:49

I actually was looking at

00:25:52

the comments that we have

00:25:53

to be shod and there's

00:25:54

that question as well. That

00:25:56

is like why. Now We

00:25:59

have these disputes, avoidance. Adjudication

00:26:01

works like a new kind

00:26:03

of dispute bored. So I

00:26:06

would like to ask you

00:26:07

it in your view. So

00:26:09

why should these people and

00:26:11

another company? Prevention? To be



00:26:14

the standard resolution. So how

00:26:18

in your view is important

00:26:20

to weed on the avoidance

00:26:24

of the equation, Thank you.

00:26:29

First of all, I would

00:26:30

like to say, thanks a

00:26:32

war of attrition update and

00:26:34

you Margie for the invitation

00:26:36

it to be in this

00:26:37

panel with my dear friend

00:26:39

Jaime. My dear friend Lewis

00:26:42

and my future near friend,

00:26:44

Mario tomorrow, my reporting from



00:26:46

Costa Rica, know as Paradise.

00:26:48

So you will be happy

00:26:51

to come here when you're

00:26:52

done whenever you want. So

00:26:53

I know what to do

00:26:55

to comments about something that

00:26:57

mindset and something that I'm

00:26:59

is it about the question,

00:27:02

regarding, if the dispute or

00:27:05

prevent or settle on, emergency

00:27:08

at 8. He's a versatile

00:27:11

and decide which is true,

00:27:12

but also to avoid it



00:27:17

is gorgeous to On the

00:27:21

side you have to avoid,

00:27:23

which is before settling. You

00:27:26

know. These people has to

00:27:29

be one step ahead from

00:27:32

the potty to try not

00:27:34

to have the disputes arise

00:27:37

of the difference. Because at

00:27:38

that moment might be, no

00:27:40

dispute might be a different

00:27:42

point of view. So if

00:27:44

you tried to avoid that

00:27:46

before is the reason you



00:27:49

do not give a great

00:27:52

opportunity for the bodies to

00:27:54

avoid disputes. So I'm free.

00:27:56

We need a stunt man.

00:27:58

Standing is report which I

00:28:00

do not tell me more

00:28:02

about later on. Also, these

00:28:04

statistics, I happy to say

00:28:06

Maria is 0.01% of the

00:28:11

value of the contract, but

00:28:13

the cost of the dispute

00:28:15

bored. And I have that

00:28:16

from several this week, but



00:28:17
had I have been so

00:28:19
he's a beast. Don't be.

00:28:21
So I'm not that your

00:28:22
BFF, but I can tell

00:28:24
you from experience. That is

00:28:26
way, way, way way less

00:28:28
expensive than going to trial.

00:28:31
I know I went to

00:28:32
a quick coming home. So

00:28:33
on a time is a

00:28:35
dissertation a first and he

00:28:38
said, I don't know how

00:28:39
to use this word at



00:28:41
this, dude. Better member has

00:28:43
to be patient passion passion.

00:28:45
A big person about this

00:28:46
Feud board, a big passion

00:28:48
in a construction loan. Is

00:28:55
it you're not for this

00:28:56
also be ready to travel,

00:28:58
be ready to have dirt

00:29:01
in your boots. We're not

00:29:03
using clothes, we don't use

00:29:04
it twice. I help, you

00:29:07
know, he's another story. So

00:29:10
you have to be ready



00:29:10
for that. You're not behind

00:29:13
a desk, you know, in

00:29:15
a nice suit. You're in

00:29:17
the sight of the works

00:29:19
with this rainy is cold

00:29:23
is hot. You have to

00:29:24
be ready for that if

00:29:26
you want to be a

00:29:27
district Department. Member member also

00:29:30
You got physical, you know,

00:29:33
you travel in a band

00:29:35
for 10 hours and go

00:29:37
back to the hotel. This



00:29:39
is a little thing that

00:29:40
we had calling in Spanish.

00:29:42
Look at what they don't

00:29:45
say. So that is something

00:29:48
that we going to develop

00:29:50
for the future. So going

00:29:52
back to your question. Am

00:29:54
I going to start the

00:29:56
answer when an example is

00:29:58
better to treat the patient?

00:30:02
Running to do an epoxy

00:30:04
to the patient. Okay. So

00:30:07
when we have a dispute



00:30:08

do we have the patient

00:30:09

alive? If we go to

00:30:12

another ATR to like mediation

00:30:16

or betray. So maybe we

00:30:18

going to have to join

00:30:19

a posse of the decline

00:30:21

of the patient. So while

00:30:23

we want, we want to

00:30:25

do for the patient before.

00:30:27

He likes What She Likes.

00:30:30

In 2017 fit includes and

00:30:34

you a date with a

00:30:36

boy, turns into a d,



00:30:38

a a b. Also politics

00:30:42

are for a Dodge, 2017,

00:30:45

fidic, contracts, address the body

00:30:48

to have Anna standard dispute,

00:30:51

understanding display board, which means

00:30:54

that you were going to

00:30:55

be a dispute member from

00:30:58

the beginning of the contract.

00:30:59

So that makes a huge

00:31:01

difference to have from the

00:31:06

beginning from day, one from

00:31:08

2028, Order or a decision

00:31:13

of The Works to have



00:31:16
standing dispute poor and the

00:31:19
middle of the contract or

00:31:21
just has a dock dispute

00:31:22
board to make decisions. And

00:31:24
I will talk more about

00:31:25
that in the next question

00:31:26
that I have. So what

00:31:28
benefits do we have it?

00:31:30
If we have a standing.

00:31:32
It really called meetings and

00:31:35
visits to the sides of

00:31:36
the works. So that that

00:31:38
members I going to give



00:31:41

you an example to other

00:31:43

contracts example could be different.

00:31:45

A what I do when

00:31:47

the doubts that I'm I'm

00:31:49

at this moment, I mean,

00:31:50

42 in Costa Rican to

00:31:51

improve. Why do is we

00:31:54

have each month? A quote

00:31:59

by soon like this, a,

00:32:01

we have a drone that

00:32:03

goes to the sides and,

00:32:05

and engineer show us how

00:32:07

the works. Are a team.



00:32:09

We don't, we have pictures

00:32:12

and we have a report

00:32:14

of the advances of what

00:32:16

happened last month, what is

00:32:19

going to happen next month?

00:32:21

What are the early alert

00:32:23

and what are the possible

00:32:25

things between the parties, okay?

00:32:29

That is every month, the

00:32:32

next month with a visit,

00:32:34

so we do the same,

00:32:35

but on the site and

00:32:38

talk to the party, talk



00:32:39

to the people that is

00:32:40

there in the side, note

00:32:42

to the manager supply companies.

00:32:43

Okay, so that is the

00:32:45

benefit of having a standing

00:32:48

this too bored doing Prairie.

00:32:50

Comedians on a visit to

00:32:52

the site. Also, when we

00:32:54

do that, we have direct

00:32:55

contact and communication between the

00:32:58

palace and the tops, and

00:33:00

a kind of a relationship

00:33:02

is develop with the representative



00:33:05

of the parties and the

00:33:07

school board members. So we

00:33:09

become, let's not say, friends,

00:33:11

because we have you, no

00:33:12

conflict of interest, but we've

00:33:14

become very close. It regarding

00:33:17

the project. So that helps

00:33:19

when you have to talk

00:33:21

to the to the parties

00:33:24

with a certain point of

00:33:25

you that they don't have

00:33:27

the same point does give

00:33:30

you more, you know, a



00:33:31
flexibility with the parties to

00:33:33
talk about it and try

00:33:35
to do a negotiation for

00:33:36
that, and that also brings

00:33:39
me to the other topic.

00:33:40
It. You can have what

00:33:43
we call in, for my

00:33:44
assistant, that the bodies have

00:33:46
an issue between them and

00:33:49
as a nano biting, open

00:33:53
noon to the table. So

00:33:55
that is blue board members.

00:33:56
Give them opinion that is



00:33:58
no binding for the parties

00:33:59
for the dispute board and

00:34:02
with that, the police can

00:34:03
decide to make a good

00:34:05
negotiation. So, from my point

00:34:08
of view. God is good.

00:34:09
What is more efficient with

00:34:11
a boy? Dance of dispute,

00:34:13
a Dan order, Because the

00:34:20
neutral party which is the

00:34:22
dispute board is with the

00:34:24
party in all the process

00:34:25
of the contracts. And it



00:34:28

seems the beginning of the

00:34:29

current. That will be my

00:34:30

answer to your question. Thank

00:34:32

you. Thank you, Christian Louis.

00:34:39

Yes, yes I see Dr.

00:34:41

Recently revised avoidance and resolution

00:34:46

board procedures. So we have

00:34:49

been, you know, Lisa nearest

00:34:51

Home, Depot, off of avoidance.

00:34:54

So I can you tell

00:34:55

me more about these new

00:34:58

rules and procedures for Starbase,

00:35:04

19, Jose, Antonio? And you



00:35:05

Margie, and wa you for

00:35:07

putting the program together. It's

00:35:09

a pleasure to join you.

00:35:10

And my distinguished colleagues here

00:35:12

on the dais, for example,

00:35:16

last year, in terms of

00:35:18

the AAA. And I cdrs

00:35:20

caseload we had over 3,700,

00:35:23

construction cases. Domestically, we had

00:35:26

55 International cases. We are

00:35:30

involved in infrastructure projects working

00:35:33

with several sovereigns and yet

00:35:35

we noticed that sharing Marion's



00:35:38

you caves. At least in

00:35:41

the United States, they are

00:35:43

not used as often as

00:35:45

we think they should be

00:35:46

because of the values that

00:35:48

Christina and others have already

00:35:50

described. And we had our

00:35:53

dispute review board rules in

00:35:55

effect. Going back to 2001

00:35:59

with little usage. So I'm

00:36:01

in the international division, I

00:36:03

work closely with our construction

00:36:05

domestic Division and they have



00:36:09

a very important advisory committee,

00:36:11

the National Construction dispute resolution

00:36:15

advisory committee and we convened

00:36:17

working with them and a

00:36:19

panel of international advisers. And

00:36:21

he said, let's look at

00:36:22

these procedures and see what

00:36:24

we can do in terms

00:36:26

of revising that I'm promoting

00:36:27

them and seeing if they

00:36:30

can be used more, considering

00:36:32

the case law and clearly

00:36:35

I mean we hear from



00:36:35

our users, the the complexity,

00:36:37

the long-term nature of Projects.

00:36:40

It really makes it impossible

00:36:42

to be outside to foresee

00:36:43

every detail and external factors,

00:36:45

but as an administrative provider,

00:36:48

as we are not for

00:36:49

profit focusing on dispute of

00:36:52

audience, conflict management and dispute

00:36:55

resolution Services. We wanted to

00:36:57

offer these updated procedure, so

00:37:00

we can help parties resolve

00:37:02

these disputes at the project



00:37:04

stage. We want to focus

00:37:06

on real-time resolution and all

00:37:09

the feedback that we received

00:37:11

from the user's. Give us

00:37:13

the tools because we must

00:37:15

keep the project moving forward

00:37:17

at all times and drb

00:37:20

procedures are. Those are one

00:37:23

of those tools. Would you

00:37:25

describe what they are? But

00:37:26

touch upon the way we

00:37:28

approach them drb's, they're in

00:37:31

pain and panels of experienced



00:37:33

professionals. There are pointed at

00:37:35

the beginning of a domestic

00:37:37

or International projects. Really the

00:37:39

monitor, the progress of the

00:37:41

project and most importantly help

00:37:43

parties avoid and resolve disputes

00:37:45

as they occur almost, as

00:37:48

they occur in a timely

00:37:49

manner. I think their primary

00:37:52

role of the way we'd

00:37:53

laid it out, is to

00:37:54

identify and address potential disputes

00:37:57

before they actually escalate into



00:37:59

a full-blown, they typically visit

00:38:03

the construction site regularly review

00:38:05

project documents incorporate technology to

00:38:10

make their services more efficient,

00:38:13

observe the projects. And I

00:38:15

think one of the great

00:38:16

tools as facilitating Communications among

00:38:20

those participating in the project

00:38:21

B, really proactive. Addressing these

00:38:25

issues and concerns as they

00:38:27

arise to Foster collaboration and

00:38:31

promote the successful completion of

00:38:33

the project. So, with the



00:38:36

focus of the rules, we

00:38:38

also vetted and developed a

00:38:40

roster of domestic and international

00:38:42

arb professionals, which we have

00:38:46

a standing list that we

00:38:48

finished updating. And those are

00:38:50

the people that we use

00:38:51

to a point for these

00:38:52

particular cases on how they

00:38:58

are appointed. The parties are

00:39:01

free to agree on any

00:39:02

method but if they don't

00:39:03

the rules say that the



00:39:05

board is going to consist

00:39:06

of one member nominated by

00:39:08

the owner. Another approved by

00:39:10

the contractor, and a third

00:39:13

member nominated by the first

00:39:15

two members approved by both

00:39:17

the owner and the contractor,

00:39:19

and the third member typically

00:39:21

served as the chair, unless

00:39:23

the parties agree. Otherwise And

00:39:25

if there's any breakdown in

00:39:26

the appointment process, the AAA

00:39:28

icdr will complete that appointment



00:39:31

process for a single member

00:39:34

aboard. Each side has given

00:39:36

three stripes, they don't have

00:39:38

to give us any reasons,

00:39:39

they number in order of

00:39:41

preference, and they send that

00:39:43

list back to us. And

00:39:44

we use that list for

00:39:45

that appointment process that the

00:39:49

board members must be impartial

00:39:51

not predisposed to any of

00:39:53

the positions of the parties.

00:39:54

Independent not have any financial



00:39:57

interest in the outcome and

00:39:58

they have to disclose a

00:40:00

circumstances that perhaps are likely

00:40:03

to give rise to justifiable

00:40:05

doubts as to their in

00:40:07

partiality and Independence. If there's

00:40:10

any challenges we the institution

00:40:12

will decide and the main

00:40:15

deliverables are they're going to

00:40:17

receive reports and project process

00:40:20

and needing minutes throughout their

00:40:23

role is Operational darb. Now

00:40:27

in the event of a



00:40:29
dispute arises, there's several options,

00:40:31
the owner and the contractor,

00:40:33
they can refer the dispute

00:40:34
to the board through either

00:40:36
the interim advisory process. This

00:40:39
is really a fast-track proceeding.

00:40:41
It gives the party's immediate

00:40:43
verbal or written guidance on

00:40:46
any issues to help them

00:40:48
resolve the issue promptly. And

00:40:50
it's one of the reasons

00:40:51
why we incorporated avoidance in

00:40:54
this new procedures used to



00:40:56

be darb. We're stressing to

00:40:59

our darb professionals to use

00:41:01

all the tools available to

00:41:03

them to avoid escalation and

00:41:06

just keep it moving forward.

00:41:08

The boards advisory opinion is

00:41:10

not binding and the dispute

00:41:13

in later on be presented

00:41:15

to the formal process. For

00:41:17

the formal process, each party

00:41:19

has given the opportunity to

00:41:21

present its position in writing

00:41:22

and then it needed verbally



00:41:24

at a hearing hearings are

00:41:26

not always the in-person. All

00:41:28

the site visits tend to

00:41:31

be in personal that we

00:41:32

are talking War as mentioned

00:41:33

by Christian about using drones

00:41:36

but they're still discussion on

00:41:40

how effectively that is if

00:41:41

you ain't an actual project

00:41:44

through a drone, probably after

00:41:47

the completion of the formal

00:41:48

proceedings to board provides written

00:41:50

recommendations for the resolution of



00:41:53
the dispute. Now, depending on

00:41:55
the contract requirements or whatever

00:41:58
the parties have agreed to,

00:41:59
and I'm going to mention

00:42:00
the three-party agreement later on.

00:42:01
They can be either non-binding

00:42:03
recommendations or they can be

00:42:05
binding determinations until possibly overturned

00:42:10
and then a subsequent arbitration.

00:42:11
And if non-binding, the recommendations

00:42:15
may be designated as Is

00:42:17
admissible or not admissible in

00:42:20
any subsequent, dispute resolution proceeding.



00:42:22

If there's a designation On

00:42:25

Target, there's not a ignatian.

00:42:27

The default will be that.

00:42:28

The recommendation is admissible in

00:42:31

a l proceeding but not

00:42:34

find it. And finally recommendations

00:42:37

are not accepted by a

00:42:38

party. The dispute kicks out

00:42:40

to arbitration in a domestic

00:42:42

case, it's going to be

00:42:44

administered by the AAA refrained

00:42:46

are construction rules as governing

00:42:48

the preceding. And if it's



00:42:50

International, it'll kick out to

00:42:52

the ICD, are to be

00:42:54

resolved pursuant to our International

00:42:56

procedures. Thank you. At least

00:43:04

it'd have been very informative

00:43:05

and useful, you know, to

00:43:08

know better about the new

00:43:10

procedures and rules. And and

00:43:13

maybe we have later that

00:43:16

you can refer to how

00:43:17

to get into that roaster.

00:43:19

So because I'm sure, you

00:43:22

know, part of the holidays



00:43:23

will be interested in knowing

00:43:25

how to get into the

00:43:27

into the ICD are. So

00:43:30

if you go into more

00:43:34

practical recommendations and I would

00:43:37

like to ask, did you

00:43:41

remember how I made it

00:43:41

to Christiana? Sarmatian, it will

00:43:43

be V6 ride. So I

00:43:47

don't know. If you could,

00:43:48

have you, no practical recommendation

00:43:50

to either go with your

00:43:51

Chihuahua or in-person visits during



00:43:56
the Depression. It depends on

00:43:59
what the type of project.

00:44:01
And any other That you

00:44:03
can give a free sample.

00:44:06
Would you recommend advisory opinions

00:44:11
outside of the Divi members?

00:44:14
So the floor is yours.

00:44:17
Thank you. Thank you. What?

00:44:19
An interesting question. Margie least.

00:44:21
Let me say that. That

00:44:25
I really think the most

00:44:30
important tools for the Boyd

00:44:32
in disputes, that's my view.



00:44:34

And I, and I think

00:44:36

that Greece will agree with

00:44:39

me doing this visits their

00:44:43

members become acquainted with the

00:44:45

parties and the members of

00:44:49

the staff of the parties.

00:44:51

And that's very important. That's

00:44:52

a personal offense that are

00:44:55

members also become familiar with

00:44:58

the sight of the works.

00:44:59

And that's also very, very

00:45:01

important and they all discuss

00:45:05

their concerns of the parties



00:45:08

present. Not not only the

00:45:10

claim, not only that is

00:45:12

beautiful, but they concerned that

00:45:15

again, very, very Okay. And

00:45:21

I think that the members

00:45:22

have the receipt, they have

00:45:25

the person, the perfect opportunity

00:45:27

to Hell, the parties identify

00:45:30

potential, disagreements, and how to

00:45:34

resolve that. And that simply

00:45:36

priceless also visits are an

00:45:42

efficient way to generate trust

00:45:45

and confidence between the parties



00:45:48
and the members and Confidence

00:45:52
is built out of human

00:45:55
relationship. Again for that, you

00:45:58
know being there and shaking

00:46:01
hands is Obama doing this

00:46:07
visits. People meet listen to

00:46:12
each other actively not possibly,

00:46:15
they can meet they share

00:46:18
personal experience. I want to

00:46:20
know they laughed together again.

00:46:23
We're human beings human beings

00:46:26
that certainly have parties to

00:46:28
resolve the unresolved issues. They



00:46:31
may have sometimes the members

00:46:34
the members that the members

00:46:36
of the DAV request that

00:46:39
stuff representative of the bar

00:46:41
just to run in the

00:46:43
same bus with them in

00:46:45
order to generate camaraderie and

00:46:48
a can again trust. Trust.

00:46:51
That's again, very, very important.

00:46:53
And, you know, sometimes when

00:46:56
you call the top representative

00:46:58
of the parties, you know,

00:47:00
to go and to ride



00:47:01

in the same, but maybe

00:47:04

you could, you may have

00:47:05

the intention to separate this

00:47:07

decision makers from the years

00:47:10

Star, as it would be

00:47:12

perfectly normal. That some guys

00:47:15

who are members of that

00:47:16

stuff probably owe poses to

00:47:19

finding a good solution and

00:47:20

let's remember that that good

00:47:22

solution is not necessarily a

00:47:24

perfect solution. Let's, let's leave

00:47:29

the decision makers along with



00:47:32

the members and they will

00:47:34

find a good solution for

00:47:36

the project that's in my

00:47:39

view to do. I need

00:47:41

for some basic, he's Irreplaceable.

00:47:44

Okay. However, however, for follow-up

00:47:48

meetings, It is very efficient

00:47:51

and I'm very from meetings

00:47:53

as the cost of an

00:47:54

in-person visit in bold, Logistics

00:47:58

logistical expenditure hotels. YouTube cans

00:48:05

transportation for the members of

00:48:08

the parties at Cedar. Okay,



00:48:10

we can also use as

00:48:12

least, I said it wrong

00:48:13

and that's very, very efficient.

00:48:15

But you know, that's in

00:48:17

my view again for follow

00:48:19

up a meeting but the

00:48:21

most important events occur during

00:48:24

the visit now regarding advisory

00:48:29

opinions, advisory opinions are necessary

00:48:33

when party's request the members

00:48:37

to do so So let

00:48:41

me say that the member

00:48:42

to be very inductive, very



00:48:45

inducted, they should lead the

00:48:47

parties to find it the

00:48:49

issues and you know, proposed

00:48:52

how to resolve their differences.

00:48:54

And in my view I

00:48:58

seen that asked questions. How

00:49:03

to interrogate it is very

00:49:06

very important. And yes, it's

00:49:08

an excellent way to be

00:49:09

inducted, okay? Don't be affirmative,

00:49:12

you as a member should

00:49:14

be very careful, not affirming

00:49:16

things. Again, you should take



00:49:19
advantage of the richness of

00:49:21
the language. Okay. And then

00:49:24
again, you know, I'll ask

00:49:25
question this is perfect. Is

00:49:28
it a perfect way to

00:49:29
be inducted? And advisory is

00:49:32
a wonderful thing as Chris

00:49:34
has mentioned, okay? We are

00:49:36
there and we would be

00:49:37
happy to help the body.

00:49:39
Thank you, my dear Elise.

00:49:42
Thank you, Ian. Do you

00:49:51
have any success stories to



00:49:53

share with us? Do you

00:49:55

think that these people are

00:49:57

in a standard form? Contracts

00:50:00

are as a thank you.

00:50:05

I'll before going to your

00:50:06

question, I just want to

00:50:08

ask something from the comments

00:50:11

that I made on, my

00:50:12

comment is visits to the

00:50:15

site. A very important, especially,

00:50:18

if you are in a

00:50:19

dispute boring, Peru, because lunch

00:50:22

time is great stops besides



00:50:28

having the greatest food in

00:50:29

the Earth. Seriously. Now you

00:50:34

have us a time? Is

00:50:36

it during lunch time? And,

00:50:39

and you talked to the

00:50:41

manager's what restaurant we should

00:50:44

go. On the manager said.

00:50:46

Wait, why don't you be

00:50:47

called here and the other

00:50:48

and their start doing this

00:50:51

Encompass, to each other and

00:50:54

they get an agreement on

00:50:56

what restaurant to go. You



00:50:58

know, that's a way for

00:51:01

getting the parties together and

00:51:03

then you go to a

00:51:04

restaurant and you sit next

00:51:06

to one manager and next

00:51:08

to the other manager. And

00:51:09

there you don't talk about

00:51:11

the project. You know, you

00:51:13

build this trust, this relationship

00:51:16

between the top. And the

00:51:19

parties. So that's why I

00:51:21

want to do what a

00:51:24

from a dissertation from I'm.



00:51:28

Okay. So I have the

00:51:31

blessing to be into Congress.

00:51:33

A a, a win that

00:51:35

one was Salvador. It one

00:51:37

is Peru on. What is

00:51:39

Costa Rica? So I'm going

00:51:41

to give you my songs

00:51:43

is histories in some things

00:51:47

that have happened in those

00:51:49

countries. A, and each one

00:51:52

has a different conference. A

00:51:54

Ford contract standard contract, in

00:51:57

El Salvador, we have the



00:51:58

Millennium initiative, do we have

00:52:02

that NEC contracts neck? As

00:52:06

we say in Spanish, and

00:52:07

in Costa Rica, we have

00:52:08

defeated contacts. So, I have

00:52:10

experience in World, be different,

00:52:12

a standard forms, in all

00:52:16

of them, we have a

00:52:17

few boards as part of

00:52:20

the ADR classes at. So

00:52:24

I got to tell you

00:52:25

some stories about each country's

00:52:27

first with squats. My first



00:52:30
experience some twenty years ago,

00:52:32
I was acting as a

00:52:34
legal consult to a Spanish

00:52:36
company that was the day,

00:52:39
the Builder, you know? the

00:52:41
contrast on the The experience

00:52:46
that I have there was

00:52:48
that the dispute board was

00:52:50
meant to be an ad-hoc

00:52:53
dispute work, which is better

00:52:56
than nothing, but it turned

00:52:59
out to be a mini

00:53:01
arbitration process, which is not



00:53:04

the meaning of a dispute

00:53:05

word. So my, what my

00:53:07

learn unless there is. You

00:53:13

should have started this job

00:53:16

or not, an adult school

00:53:18

board because what an adult

00:53:20

dispute board will do is

00:53:23

make a decision about some

00:53:26

dispute but that don't help

00:53:28

in about insist. So that

00:53:31

is the history that I

00:53:33

have from your tablet, then,

00:53:37

I have to experience is



00:53:39

what we experience. Is one

00:53:41

also an addict, a dispute

00:53:45

board to draft a decision.

00:53:48

The good thing is that

00:53:50

this issue was settled between

00:53:54

the parties afterwards. So he

00:53:56

helped the parties to no-go

00:53:58

for application which is good.

00:54:01

And the other one which

00:54:03

is, I think one of

00:54:04

my best experiences AAA in

00:54:08

my truck history, in school

00:54:10

boards is Soldiers. Field Mob



00:54:15

member is standing in the

00:54:17

border from Nicaragua April, Costa

00:54:21

Rica and Panama the facility.

00:54:23

At the facility, we started

00:54:26

a one year ago since

00:54:28

day one. I was there

00:54:30

and there was no one

00:54:32

dispute. A given to the

00:54:35

doctor. All the differences between

00:54:37

the parties were settled between

00:54:39

them with a huge effort

00:54:43

from the engineer if you

00:54:45

think, has a janier to,



00:54:47

and from the school board

00:54:50

member, and the contract is

00:54:53

almost finish one month away

00:54:55

to be finished. And no

00:54:57

one, no one disputes. No

00:55:00

one. So that is another

00:55:02

issue that I can say

00:55:04

to my personal experience that

00:55:07

the school board's works for

00:55:09

boys in disputes. Then I

00:55:15

serve as a board member

00:55:17

in Fortescue course, they're most

00:55:22

of them. It. We have



00:55:24
a settlements in many disputes

00:55:27
so that is really good

00:55:28
but one of the greatest

00:55:31
story that I have is

00:55:32
we were in the meeting.

00:55:33
The hearings today's hearing I'm

00:55:36
in the middle of the

00:55:37
3 days that the palace

00:55:39
is topaz a sake. I

00:55:40
think we have an agreement,

00:55:41
let us work to this

00:55:43
afternoon and by the end

00:55:45
of the day we will



00:55:46

send you our settlement. So

00:55:49

I'm on time for us

00:55:50

was great because that. That

00:55:54

means that the main purpose

00:55:57

of the dispute was achieved,

00:56:01

you know. So just to

00:56:04

finish a this question I

00:56:06

want to talk at one

00:56:08

minute about the efficiency on

00:56:10

time and cost so it

00:56:12

with a dispute board. You

00:56:14

have the project finish mostly

00:56:17

in time and cost. The



00:56:20

cost is a way lower

00:56:22

than going to a judicial

00:56:25

process or arbitration. But let's

00:56:30

forget about us and Engineers.

00:56:33

The most important is that

00:56:36

dispute board. I use in

00:56:38

infrastructure projects such as schools

00:56:41

roads, Sports Hospital, several infrastructure

00:56:48

projects are a driver or

00:56:51

a country's economy is. So

00:56:53

the dab should be a

00:56:55

key of the development of

00:56:57

the country's support. A thank



00:56:59

you, Margie. Thank you. Thank

00:57:03

you, Christian for sharing those

00:57:04

experiences. So now like to

00:57:08

charge you twist it just

00:57:11

started talking about two different

00:57:15

options for tea parties, so

00:57:17

between recommendations recommendation on non

00:57:21

biting recommendations. And perhaps as

00:57:28

some other innovations that are

00:57:31

in the, in the new

00:57:32

procedure rules, in particular, you

00:57:40

know, something that cash, my

00:57:41

attention was the consolidation or



00:57:44
deposit of different disputes in

00:57:50
in just one. So, maybe

00:57:51
you can take you no

00:57:52
more done that. Thank you.

00:57:54
Dora. Thanks for the question.

00:57:56
Obviously we've discussed certain options

00:58:01
and certain approaches and hearing

00:58:05
Christians experiences. It really all

00:58:07
starts with a properly drafted

00:58:10
3, party agreement. And you

00:58:14
know, you need to know

00:58:15
the project, you need to

00:58:17
know the specifics about the



00:58:20
governing law and issues that

00:58:23
can arise before you release

00:58:25
it down to say, I

00:58:26
want to use a d,

00:58:28
a r b for this

00:58:29
particular project. And remember that

00:58:34
the board that's going to

00:58:36
be convened, is also a

00:58:38
signatory to the three-party agreement,

00:58:40
its owner contract, and the

00:58:43
prospective board and under our

00:58:45
procedures, they have to execute

00:58:48
this within 14 days, after



00:58:51
you completed the appointment of

00:58:54
Third member of the board,

00:58:55
but obviously thinking about how

00:59:01
to approach the agreement and

00:59:03
the board and using them

00:59:04
in the first place. You

00:59:05
have to give ideas to

00:59:08
some of the things that

00:59:09
you want to include in

00:59:12
the three-party agreement which will

00:59:13
govern and give the authority

00:59:15
of the DAR bees as

00:59:18
they begin to operate. So



00:59:20

as I mentioned, overview of

00:59:21

the project. What is the

00:59:23

actual specific purpose of the

00:59:25

agreement there? Their terms of

00:59:28

reference, if you will I

00:59:30

think it's important to lay

00:59:31

out another of the options

00:59:33

as to consider what is

00:59:35

the scope of these disputes?

00:59:36

What type of claims related

00:59:40

to the project is going

00:59:42

to fall under the purview

00:59:43

of this particular darb and



00:59:46

that should be listed clearly

00:59:48

in the sweet party remix.

00:59:51

Do keep in mind that

00:59:52

our darb procedures covers, a

00:59:54

lot of issues aware, if

00:59:57

the parties do not agree,

00:59:58

or do not specify it

01:00:00

in the actual three-party meaning,

01:00:02

like the appointment, the rules

01:00:05

to have default mechanisms as

01:00:07

as the same way you

01:00:08

use arbitration and mediation. You

01:00:10

can use a short clause



01:00:11
in the rules have. All

01:00:13
the default mechanisms needed to

01:00:15
keep the moving the project

01:00:16
forward but you may want

01:00:18
to discuss how the drb

01:00:21
will be. Composed out will

01:00:23
be appointed. What are the

01:00:24
qualifications experience, expertise? You can

01:00:28
list that in that free

01:00:30
party green. You also want

01:00:32
to for have specified, the

01:00:34
hearing location, the seat if

01:00:37
you will for, for these



01:00:38

hearings be conducted in in

01:00:42

in person and what changes

01:00:44

and looking at RDA R&B

01:00:47

procedures, you may want to

01:00:48

opt out or often too.

01:00:50

So you want to make

01:00:51

Make customize it for the

01:00:53

sake of that particular project

01:00:55

costs and expenses are an

01:00:58

important issues if they're not

01:00:59

addressed specifically in the three-party

01:01:02

agreement but they incorporate our

01:01:04

procedures, it is listed there



01:01:07

that the cost of going

01:01:08

to be shared equally, I

01:01:09

think is important. The dispute

01:01:13

review board people professionals have

01:01:16

to consider the governing law

01:01:18

when they're rendering these opinions

01:01:20

and perhaps, and how they're

01:01:22

discussing them in person later

01:01:23

on and giving an overview

01:01:25

of this is not accepted

01:01:29

or this escalates to arbitration.

01:01:31

This is some of the

01:01:33

things you need to consider



01:01:34

with the application of this

01:01:35

particular governing law. You may

01:01:38

want to also could verbiage

01:01:39

in there, how it's going

01:01:40

to be terminated or suspended.

01:01:42

And then I really, as

01:01:45

we've all seen other impacts

01:01:47

to supply chain issues affecting

01:01:50

crotch. Force. Majeure pandemics etcetera,

01:01:53

do you want to include

01:01:55

any verbiage to deal with

01:01:57

the extraordinary in the unexpected

01:02:00

to me? I think, if



01:02:03
you really have experienced people,

01:02:05
we also recommend, Odyssey, legal

01:02:06
counsel, look these over, but

01:02:08
the board professionals as well,

01:02:10
that are going to be

01:02:10
experienced are going to know

01:02:12
what terms and what's needed

01:02:15
for the three-part agreements as

01:02:16
well as the owner and

01:02:17
contractor. So it's a great

01:02:20
tool that has to be

01:02:21
carefully executed. And I think

01:02:24
that adds a lot to



01:02:25

the possibility of convening, a

01:02:27

d, a r b that's

01:02:29

going to meet the expectations

01:02:30

of all and again, keeping

01:02:32

the project moving forward. Now,

01:02:33

you mentioned consolidation that seen

01:02:36

our International rules in our

01:02:37

construction rules. We do have

01:02:40

a clear verbiage on how

01:02:43

if we have an excellent

01:02:44

use in these types of

01:02:45

construction pieces, would multi-party agreements.

01:02:49

You may have subcontract There



01:02:51

may be verbiage that links

01:02:53

certain contracts to the general

01:02:55

contractor or subcontractor. It's the

01:02:58

party's not agree. We actually

01:03:00

pursuant to the rules. Can

01:03:01

appoint a specific consolidation arbitrator?

01:03:05

What is needed in the

01:03:07

pleadings is included in the

01:03:08

verbiage of the rules, and

01:03:10

then arbitrators going to make

01:03:11

a decision whether to consolidate

01:03:13

or not, separate tribunals already

01:03:17

in place, which tribunal will



01:03:18

continue under what rules at,

01:03:21

what stage, they make all

01:03:23

the necessary determinations to have

01:03:27

a successful consolidation and proceed.

01:03:30

Under one case, when it

01:03:31

meets the criteria of the

01:03:33

rules that having said that,

01:03:35

it's also not hardly at

01:03:39

all. We were advised that

01:03:42

part of the rules that

01:03:43

should include it in 2014.

01:03:45

We revised our rules in

01:03:48

2021 and I think maybe



01:03:52

there's been a handful of

01:03:53

cases, so the consolidation issue

01:03:56

at least under our experience,

01:03:58

doesn't happen that much or

01:04:00

they may agree beforehand, that

01:04:02

you don't need to actually

01:04:03

go down the road of

01:04:04

appointing a consolidation arbitrator. Thank

01:04:11

you, Luis and Anna, be

01:04:12

questioned of the roast. Absolutely,

01:04:19

and it's quite simple. Send

01:04:21

me an email. If you

01:04:22

don't mind, Martina cell at



01:04:24
adr.org, I'll put it in

01:04:26
the chat. We review it

01:04:28
every 6 months. I'll respond

01:04:31
to give you some of

01:04:32
the criteria that we had

01:04:34
asked, people, to provide us

01:04:35
regarding their experience and work

01:04:37
with garbs. And then I

01:04:39
get together with my construction,

01:04:41
brothers and sisters. And we

01:04:43
make a determination, usually twice

01:04:44
a year. Okay, well, thank

01:04:47
you that I didn't. He's



01:04:48
hoping for Matthew where the

01:04:50
Odeon. So these people do

01:04:57
you think they could replace

01:04:58
or help me? Find arbitrations?

01:05:02
I said, you said the

01:05:03
month of Last Resort. Okay,

01:05:07
let me explain. I'm going

01:05:09
to give you the answer.

01:05:10
Yes. And I'm going to

01:05:12
look at two aspects of

01:05:14
it. That's the first reason

01:05:15
I say yes. Is I

01:05:17
look at what has happened



01:05:19
in common law jurisdictions with

01:05:22
the use of adjudication? No

01:05:26
adjudication is to deal with

01:05:29
disputes decision-making that takes. It

01:05:33
looks of the second part.

01:05:34
It's nothing to do but

01:05:37
it has little to do

01:05:40
with dispute avoidance. Adjudication offers

01:05:45
and it is imposed, its

01:05:47
imposed its mandatory in the

01:05:49
United Kingdom, the Construction contract.

01:05:53
And it imposes the paid.

01:05:56
Now oculator Rashid it offers



01:06:00

for all construction dispute a

01:06:03

mandatory right take the dispute

01:06:06

to adjudication to get an

01:06:09

interim temporarily binding decision. I

01:06:14

sit very regularly as an

01:06:16

adjudicator and you have 28

01:06:18

days. Appointment to decision. It

01:06:22

is very, very focused, and

01:06:26

it has been a huge

01:06:27

success in the United Kingdom.

01:06:30

And it has, if I

01:06:33

might use an exaggerated word,

01:06:34

it has killed domestic construction



01:06:37
arbitration. Is simply honor game,

01:06:41
it's an exaggeration. But if

01:06:43
it makes the points heart

01:06:46
is take the decision of

01:06:49
the adjudicator except it's good

01:06:53
enough and they move on.

01:06:54
So I think dispute boards.

01:06:57
Daabz joke about have the

01:07:01
have the potential to achieve

01:07:03
it ready? Do I know

01:07:06
it's a good question in

01:07:07
the checkbook. Someone said look,

01:07:09
I'm physic use the computer



01:07:11

voice dictation board time to

01:07:14

withdraw the contracts. This will

01:07:16

be affected. I hope that

01:07:18

message come from all of

01:07:20

us every single contract. I

01:07:23

think it's concept that you

01:07:26

can take a look and

01:07:27

apply and it's huge ruined.

01:07:31

What is especially anything that

01:07:33

is a long time where

01:07:34

you more about keeping the

01:07:36

deal together. Then it is

01:07:38

about a short-term profit. So



01:07:41

I think that it's used

01:07:42

as Christian were saying in

01:07:44

the NEC, the ICC has

01:07:46

done to tell me some

01:07:47

Provisions, the ideas, they have

01:07:49

to take application institutions, also

01:07:53

their standard rules as well,

01:07:55

sit in the doctors, and

01:07:58

that's what I think the

01:07:59

second suspect I want to

01:08:00

look at, which is the

01:08:01

dispute. What's a parcel to

01:08:03

even more important to come



01:08:05

from? Which is the most

01:08:08

80th Street resolution. I think

01:08:12

that is something that we

01:08:14

are seeing increasing use self

01:08:15

throughout the big construction and

01:08:18

infrastructure project. I think it's

01:08:21

part is sitting down and

01:08:22

all seems so very, very

01:08:24

basic question was, how do

01:08:27

I fit the form to

01:08:28

the Expressions used? How do

01:08:31

I fit the form to

01:08:32

the bus? Where am I



01:08:34

going to rise? How do

01:08:36

I want to resolve them?

01:08:37

I mean escalation process. The

01:08:40

dispute board has a very

01:08:41

clear roads play. I did

01:08:43

not attend to. Lucia Flores

01:08:45

is ahead. Stay I think

01:08:47

dispute resolution boards. I can't

01:08:49

stay as well and I

01:08:50

think that they don't take

01:08:51

selfie enough because you don't

01:08:54

have enough sessions like this.

01:08:56

Coffee is getting that message



01:08:58

across and when you go

01:08:59

people, you can't let this

01:09:00

bunch of committed dispute before.

01:09:02

Practice for professionals, passionately explaining

01:09:07

what he gives you We

01:09:10

know that angels. But we

01:09:13

avoid having to resuscitate, the

01:09:15

devil knew the dead patients.

01:09:17

It gives human beings away

01:09:22

to actually focus on what

01:09:24

really matters. Improving Society getting

01:09:29

the road to the hospital.

01:09:31

Making sure that bridge is



01:09:33
that. I think it's going

01:09:35
to say. I hope it's

01:09:37
his day, I'm enough. What

01:09:41
do you all think? Thank

01:09:45
you Maria and we still

01:09:47
have a couple of minutes

01:09:48
to take the computer in

01:09:54
Super Mario 64. From each

01:09:56
of you said, I mean

01:09:57
sorry. We thank you. I

01:10:02
will start with three words,

01:10:04
only use dispute boards. Yes,

01:10:12
because, you know, if your



01:10:14

ethical issues in which we

01:10:16

could thoroughly discussed for years,

01:10:19

I think that from the

01:10:22

Practical point of view, they

01:10:24

have already demonstrated demonstrated that,

01:10:28

you know, didn't really work.

01:10:31

That is why I said

01:10:33

that, okay? Date they have

01:10:34

been employed, that's not going

01:10:36

to have set in the

01:10:38

Olympics in London and and

01:10:40

they work. They were here

01:10:42

in South America with the



01:10:43

project call Pan American Games

01:10:47

Lima 2019. And again they

01:10:51

wore and they even wore

01:10:54

in my country in Peru

01:10:56

in the general regime of

01:10:58

public procurement which is which

01:11:01

is really a nightmare, okay?

01:11:04

And they are working here.

01:11:05

So. Said you know, I

01:11:09

can only encourage all to

01:11:13

use dispute boards and that's

01:11:17

how I would lie to

01:11:18

concludes my presentation there a



01:11:21

Marshallese. thank you, honey, me

01:11:24

and will, will we have

01:11:25

in Panama City, Panama Canal

01:11:27

expansion as well, because otherwise

01:11:29

we would have finalized so

01:11:34

Christian, Okay, first, I going

01:11:39

to give my first product

01:11:42

provocative comments, where's the engineer?

01:11:46

I don't see engineers in

01:11:47

the panel. I see that

01:11:50

the reason we fukunaga, which

01:11:52

is a really good this

01:11:53

week but remembering that who



01:11:55

is in the audience. But

01:11:57

remember these people are not

01:11:59

for lawyers, we are an

01:12:01

invited party to the show.

01:12:04

This billboard for engineers and

01:12:06

we can help them a

01:12:07

lot, but we're missing Engineers

01:12:10

first. This is my first

01:12:12

comment dispute board and arbitration

01:12:15

are two different things. Makes

01:12:20

them want. One thing and

01:12:23

the other is another thing

01:12:24

they don't compete with each



01:12:26

other. Is Phil's Bar is

01:12:28

good for something. And arbitration

01:12:30

is good for something else,

01:12:31

and I both can coexist.

01:12:33

So, we we, we have

01:12:36

to try not to put

01:12:39

them against each other and

01:12:41

thank you for the opportunity.

01:12:42

I have a blast. Let's,

01:12:44

let's do one more hour,

01:12:46

please. Thank you Christians, always

01:12:49

with your turn as I've

01:12:54

been saying. Keep the project



01:12:56

moving forward and I do

01:12:59

agree with Christian. The DAR

01:13:01

bees are quite different from

01:13:02

arbitration, the arbitration is the

01:13:05

full-back mechanism. Should anything fail

01:13:08

at the DAR, bi-level the

01:13:09

saint of the efficiencies of

01:13:13

having these dispute board professionals

01:13:16

at the Sun, the relationship

01:13:18

building the knowledge of the

01:13:20

project, they are there to

01:13:21

defuse issues as they arise

01:13:23

and real-time. They are going



01:13:27

to be successful and it

01:13:29

is important to have more

01:13:30

conferences like these as Marian

01:13:32

mentioned in to keep getting

01:13:34

the word out of their

01:13:35

value because we're in the

01:13:37

conflict management and avoidance business.

01:13:40

And this is a tool

01:13:41

when properly set up has

01:13:44

value and works. And you

01:13:47

don't have Get to the

01:13:48

arbitration stage because think about

01:13:51

the knowledge and experience that



01:13:54
the DAR be professional, has

01:13:55
with the project as opposed

01:13:57
to not reaching a settlement

01:13:59
or not having them in

01:14:00
place and having to tell

01:14:03
an art panel of arbitrators

01:14:04
and educate them, not only

01:14:07
on all the issues and

01:14:09
the claims. But also the

01:14:10
project itself, the governing law,

01:14:12
it is just so much

01:14:14
more efficient to have the

01:14:16
DAR be in place, especially



01:14:18

in large, International infrastructure projects.

01:14:21

So keep the project moving

01:14:23

forward. Thank you, Luis and

01:14:26

Marion. May I have a

01:14:30

play date, sir. Dates a

01:14:33

day today. So I know

01:14:36

that the dispute pulled senior

01:14:38

professional Representatives here. If it's

01:14:40

a beautiful day to help,

01:14:43

we need to be able

01:14:45

to put in front of

01:14:47

some very hard-nosed Finance directors

01:14:51

and what's in it for



01:14:53

me. What's supposed to be

01:14:54

mine? We need the official.

01:14:56

I know it's difficult. I

01:14:58

know it's a confidential process

01:15:00

the private process but if

01:15:02

we could get the day

01:15:03

so it would make a

01:15:04

difference. And any other pragmatic

01:15:06

knows I want to say

01:15:07

is we have to recognize

01:15:08

there's enormous pressure on the

01:15:12

state court system. Glen Burnie

01:15:16

Enormous pressure on to an



01:15:19
extent. There is enormous discontent

01:15:21
with the state court process

01:15:23
and this is a prime

01:15:26
opportunity to offer the dispute

01:15:28
board as a result that

01:15:31
will resolve disputes supported. Take

01:15:34
the pressure away from cords

01:15:36
and ultimately gives them a

01:15:39
solution that they were Trust.

01:15:44
And that is a very

01:15:45
powerful piece to offer in

01:15:49
this riddled with doubt and

01:15:53
failure of fact reasonableness world,



01:15:57
that is a great time.

01:15:59
If this is the moment

01:16:00
if ever, they will swarm

01:16:02
to push this people and

01:16:04
to push that whole human

01:16:06
way of resolving disputes play

01:16:09
play. Thank you very much

01:16:11
for giving me that space

01:16:12
to make pasta political broadcast.

01:16:15
Thank you for being here

01:16:23
today. To share their experience

01:16:27
and Boris, and I would

01:16:31
like to turn now to



01:16:32
the organizers. I think I

01:16:34
saw Ian. They are. The

01:16:39
mic is yours. Thank you

01:16:41
so much more. It was

01:16:44
really enlightening Channel. I've learned

01:16:49
so much. This was a

01:16:50
great group. I'm so pleased

01:16:52
that we were able to

01:16:53
get everyone together and share

01:16:56
your views and your your

01:16:58
deep experience and knowledge about

01:17:00
these issues. Hopefully, we can

01:17:04
get some pick up in



01:17:05
the least a little more

01:17:06
education about these alternative routes,

01:17:09
particularly not in the investment,

01:17:12
arbitration investment context. There's absolutely

01:17:17
more room for this type

01:17:19
of thinking and it would

01:17:21
very appreciate your views and

01:17:23
coming today, it's takes a

01:17:27
little bit of work, a

01:17:28
little bit of time to

01:17:28
organize these panels. But I

01:17:30
think this is provided some

01:17:32
valuable information to our There's



01:17:36

a few hours and we'll

01:17:39

have these discussions available on

01:17:42

the website at some point

01:17:43

in the future and they

01:17:44

should be a resource for

01:17:45

folks who wanted to dive

01:17:47

into this these issues. So

01:17:51

I'll just have to wrap

01:17:52

up today's session. We are

01:17:55

continuing on with the world

01:17:57

arbitration update. We have two

01:18:01

more days. This is the

01:18:02

end of the day. For



01:18:04

and tomorrow, we're going to

01:18:08

start off with a panel

01:18:10

which is a bright and

01:18:12

early Eastern Time, 8 a.m.

01:18:14

But the in the afternoon,

01:18:16

Madrid time in Europe, time

01:18:19

on the ECT and it's

01:18:22

titled dect investment treaties in

01:18:24

Europe and international arbitration Awards

01:18:26

on favorable to European States,

01:18:28

colon demystifying, the conundrum of

01:18:32

international Regional European Regional European

01:18:35

and domestic. Clock. And that



01:18:37

looks to be super interesting

01:18:39

discussion and very timely one

01:18:42

in light of all the

01:18:43

goings-on, in the renewable energy

01:18:46

sector and with specifically with

01:18:48

regard to dect. So I

01:18:50

look forward to seeing everyone

01:18:52

tomorrow and thanks again to

01:18:54

Margie leaves and the entire

01:18:57

panel, this was fantastic. And

01:18:59

look forward to seeing everyone

01:19:01

again tomorrow, have a great

01:19:04

day and a great afternoon.



01:19:09

Thank you. Have a nice

01:19:11

day. Thank you. Hello, everyone.

00:00:34

This is World arbitration update

00:00:36

and we have an incredible

00:00:40

privilege of being with the

00:00:41

experts on dispute, resolution panels

00:00:47

and the before before moving

00:00:50

on, and I have missed

00:00:52

introducing myself in the past.

00:00:53

So I will not make

00:00:54

that mistake. My name is

00:00:56

Jose, Antonio Rivas and that

00:00:58

I am a partner at



00:01:00

the extra glop here in

00:01:02

Washington DC and together with

00:01:05

the Ender that we co-founded

00:01:07

World arbitration up data about

00:01:10

two years ago and the

00:01:13

world application update or the,

00:01:15

wow has a two objectives

00:01:18

in mind, one of them

00:01:19

is to update on issues

00:01:22

of the international arbitration, investor

00:01:27

arbitration, International commercial arbitration. Dispute

00:01:30

resolution and also public international

00:01:33

law. That's a subjective. Know



00:01:35

her number one because as

00:01:36

you know, in today's world

00:01:38

in any of the major

00:01:40

dispute resolution centers in any

00:01:45

of the all the decisions

00:01:46

that that is a issued

00:01:48

by an arbitration panel's or

00:01:51

dispute resolution panels at cetera

00:01:53

and it would be very

00:01:54

difficult to, to read them

00:01:56

all. So we try to

00:01:57

update the International Community interested

00:02:01

in these topics on on,



00:02:03

on those matters that that

00:02:05

have been happening for the

00:02:06

past year, or two, or

00:02:08

three years, depending on the

00:02:09

subject matter, the objective objective

00:02:13

is to decentralize Dispute, resolution

00:02:19

International Patrician under the notion

00:02:22

that that International arbitration and

00:02:25

dispute. Resolution does not only

00:02:27

happen in the main centres

00:02:28

of the world does not

00:02:29

only happen in New York

00:02:31

or or evening Washington, DC,



00:02:34

or Paris or, or, or

00:02:36

a London. It is happening

00:02:39

at in many parts of

00:02:42

the world geography in Latin

00:02:44

America, and Africa and Asia

00:02:46

in, in, in all three

00:02:49

unusual places in Europe and

00:02:51

in the states at cetera.

00:02:52

So we would like to

00:02:54

give also a platform to

00:02:57

individuals were experts and War

00:03:00

and rivers and solid who

00:03:03

may come from other jurisdictions.



00:03:04

And, and this is a

00:03:06

perfect example. So we, we

00:03:09

very much. Praise diversity. And

00:03:12

here we are. So, it

00:03:15

is my privilege to introduce

00:03:16

our moderator. Has been a

00:03:20

a forceful so behind the

00:03:22

world arbitration update on that

00:03:24

Washington arbitration week and I

00:03:26

are sister event. Our moderator

00:03:29

today is Jeanne's, Jaime Martinez

00:03:33

is in the house, has

00:03:34

a several several degrees. I



00:03:36

would start by saying that

00:03:37

she is a PhD in

00:03:39

law, Suma, Kum laude from

00:03:41

the University of Paris and

00:03:44

the, she also has an

00:03:44

llm international economic Affairs. Also

00:03:48

come laudie in from the

00:03:51

University of Paris, and a

00:03:52

pampillon molasses. And so, I

00:03:55

need a Norbert ratio in

00:03:57

international business law. Also kumlawdi

00:03:59

from the University of grisaia.

00:04:02

She's also another limb from



00:04:05

Georgetown, s. Okay, we didn't

00:04:09

lose the important one. So,

00:04:11

but agrees that Margie needs

00:04:14

is a legal adviser at

00:04:17

the ministry of economy and

00:04:19

Finance in 3D bass, investment

00:04:21

arbitrations filed, by alleged foreign

00:04:24

investors against the Republic of

00:04:25

Panama. She's a former trade

00:04:27

negotiator for the Republic of

00:04:29

Panama, having served as chief

00:04:31

of the trade, in services

00:04:33

and investment Department of the



00:04:35
ministry of trade and Industry

00:04:36
in Panama. She is also

00:04:39
a professor of law at

00:04:41
the University of Panama private

00:04:42
Law Department and she has

00:04:44
a authored, a white range

00:04:46
of Publications in her areas

00:04:48
of expertise, and has participated

00:04:50
as a speaker, in a

00:04:52
large number of forms internationally.

00:04:54
Her latest new short. Publication

00:04:59
is a a a Blog

00:05:00
on floor. Arbitration asking the



00:05:03

question whether the proposed. Multilateral

00:05:08

investment Court, namely by Europe

00:05:11

will release all the unbalanced

00:05:15

of the investor-state arbitration is

00:05:20

DS investor-state dispute system. So

00:05:24

as you can see you,

00:05:25

we had a wonderful moderator

00:05:26

who is very much interested

00:05:28

in in topics that would

00:05:31

allow dispute resolution. Go hand-in-hand

00:05:36

with the notion of trying

00:05:40

to finish projects which are

00:05:43

the dispute resolution panels. I



00:05:47

myself, am I have been

00:05:49

a dispute, resolution your Palace

00:05:52

in the past and that's

00:05:55

what is most striking about

00:05:56

this topic. Not only the

00:05:58

idea of solving A dispute,

00:06:01

but they making sure that

00:06:03

while you do it you're

00:06:05

not interrupting the infrastructure or

00:06:08

energy-related projects that the parties

00:06:11

initially agreed to complete. So

00:06:14

with that We're very grateful

00:06:16

to each. One of you



00:06:18

Margie, least you have the

00:06:20

floor. Thank you. Meet here

00:06:25

again at work. Love you

00:06:26

to you soon. Okay, thank

00:06:29

you. Also to Touhy and

00:06:31

later. I know the members

00:06:33

of the organizing Committee in

00:06:39

this case so I asked

00:06:41

wasn't so we're going to

00:06:44

the Stars about these beautiful

00:06:46

words, as means to conclude

00:06:47

successfully investment projects unresolved disputes.

00:06:51

So as a way of



00:06:52

introduction to this is Boris

00:06:55

can be defined as permanent.

00:06:57

And sometimes I'd hook up

00:06:59

channels set up to accompany

00:07:02

the parties during times of

00:07:05

the whole performance of the

00:07:06

contract, and to assist avoidance

00:07:11

diffused, but overcoming disagreements among

00:07:16

them. So, over the past

00:07:18

several decades has emerged

00:07:21

as one of the High-resolution

00:07:25

approach in particular in construction

00:07:28

and infrastructure industry at to



00:07:32
officially avoid disputes and he

00:07:39
needs to go to litigation

00:07:40
and arbitration. We can't fight

00:07:44
for several emblematic. Boundary Dam

00:07:49
project in Washington state in

00:07:52
the 60s, 1960s with the

00:07:59
project and Elsa course, we

00:08:04
can slide the UK friends

00:08:06
Channel tunnel in the early

00:08:10
nineties coming from Panama of

00:08:14
Spurs. One of the biggest

00:08:16
cases that we still ongoing

00:08:18
is the expansion of the



00:08:21

Panama Canal. So after having,

00:08:26

you know that he's bored,

00:08:27

as you may know, we

00:08:30

have now several, I see

00:08:31

cases and there's two parallel

00:08:34

investment arbitration cases. I sweat.

00:08:37

So today it's either model

00:08:49

contract closest referring the disputes

00:08:53

to this Billboards. And also

00:08:56

we have become a practice

00:08:58

of cilantro agency, social t.

00:09:01

I TV show to discuss

00:09:04

this topic. We have For



00:09:10
experts. What else? I would

00:09:12
start with Maria and it's

00:09:14
me. She is she has

00:09:18
a substantial experience as an

00:09:19
advocate in complex, International commercial

00:09:24
arbitration. She has particular expertise,

00:09:28
in construction technology, technology and

00:09:31
energy this, but I also

00:09:34
has handled matters that Cruz

00:09:36
is a wide range of

00:09:37
Industry, sectors, legal issues, and

00:09:40
you're a physical regions. She

00:09:42
is one of a small



00:09:44

group of female. Pianist council

00:09:47

is specializing in construction and

00:09:49

Technology disputes standing in the

00:09:54

profession in the profession is

00:09:56

the most paid by her

00:09:57

service on numerous arbitrations and

00:10:00

professional bodies, including the bar.

00:10:03

Council of England and Wales

00:10:05

and the chartered Institute for

00:10:07

arbitrators Marion, who are happy

00:10:10

to have you here with

00:10:11

us today is Jaime Gray

00:10:16

Construction, law specialist, he founded



00:10:21

in PG abogados, 20 years

00:10:24

ago, he said these people

00:10:26

remember as well as Senator

00:10:28

National arbitrator. He has been

00:10:30

involved in many leading construction

00:10:33

projects in the region such

00:10:35

as the Pan. American games

00:10:37

in 2019 and many segments

00:10:43

of the highway in Central

00:10:44

America, I'm on others. He's

00:10:47

currently president of region for

00:10:50

Latin America, OBD2 resolution board

00:10:53

Foundation we have than Christian



00:10:58

Diaz Garcia Partners in Costa

00:11:05

Rica and the director of

00:11:07

the international arbitration practice as

00:11:10

mediator. Remember, an arbitrator, he

00:11:14

is the controversy of the

00:11:17

thief of Costa Rica of

00:11:18

the dispute resolution board foundation

00:11:21

and the president of the

00:11:23

board of directors of the

00:11:25

Latin American Association of construction,

00:11:27

no ass all day. And

00:11:30

then finally we have to

00:11:34

be smart Ynez. He is



00:11:36

Vice President of the international

00:11:38

Centre for dispute resolution icdr

00:11:41

which is the international division

00:11:43

of the American Arbitration Association

00:11:46

and is an honorary president

00:11:50

of the inter-american commercial arbitration

00:11:52

Commission. Race is responsible for

00:11:56

international arbitration and mediation business

00:12:00

development, for the east coast

00:12:02

of the United States, also

00:12:04

for Central America, and South

00:12:06

America, and the Caribbean, the

00:12:08

EU. And the UK is



00:12:12

also responsible for chasing attrition

00:12:14

of international cases out of

00:12:17

the ictr Miami office. So,

00:12:23

we asked the first question

00:12:33

to Marion to get you

00:12:37

pooped in your experience of

00:12:39

what are you over? Older

00:12:43

edition resolution. Make a nice

00:12:45

man, in particular in infrastructure.

00:12:47

A long-term investment projects. Thank

00:12:52

you very much. I thank

00:12:53

you for that generous introduction,

00:12:55

and thank you for that



00:12:56
great. Seems that thing with

00:12:58
what a dispute or what

00:12:59
is let me just everyone

00:13:03
go in the because I

00:13:04
think you go such great.

00:13:06
Speak is here. It would

00:13:08
be nice for us to

00:13:09
get a conversation going. I

00:13:12
just put a message in

00:13:13
there saying where I am.

00:13:15
It would be great if

00:13:16
you could actually just tell

00:13:18
us where you'll currently sitting,



00:13:21

I don't want to know

00:13:21

you're sitting in the kitchen

00:13:23

back to goodness me. I

00:13:26

wasn't expecting that. What's a

00:13:31

reach? Yeah. If it's really

00:13:33

interesting, if anyone else can

00:13:35

get to the the check

00:13:36

just tell us that we

00:13:37

can get a feel. We

00:13:39

can get a good conversation

00:13:40

getting here. Anyone else going

00:13:42

to stay where they are?

00:13:45

That's a range. Were you



00:13:46
expecting that range? Questions also,

00:14:04
just put them in there

00:14:05
and we'll try and cooperate

00:14:06
living in today and I'll

00:14:08
see where we get to

00:14:09
come back to the question.

00:14:11
What are the main advantage

00:14:12
is a dispute food? Let

00:14:15
me tell you the story.

00:14:15
Why do they use dispute

00:14:19
food for the Olympics in

00:14:22
the United Kingdom? We have

00:14:24
been a little reticent about



00:14:26
using the speedboats. I would

00:14:28
say this panel won't shoot

00:14:31
me down if that's wrong,

00:14:32
but we don't really use

00:14:34
them in United Kingdom, but

00:14:36
we use them for the

00:14:37
London Olympics with great success.

00:14:40
And indeed they were used

00:14:43
for the Brazil Olympics. Now,

00:14:44
why What is it? Well,

00:14:47
if you think about it

00:14:48
but the Olympics You've Got

00:14:51
No Room for delay. No



00:14:55

room for people to walk

00:14:57

off site, you've got no

00:14:59

room for it. Not to

00:15:01

happen. It's just got to

00:15:04

deliver says very interesting that

00:15:07

they choose and set up

00:15:09

a dispute avoidance and the

00:15:11

dispute assessment decision making scheme

00:15:14

and it becomes contractual and

00:15:17

it's enforced now. Why What

00:15:21

are the advantages? Make sure

00:15:23

you did it. Make sure

00:15:25

on that first day when



00:15:27
they, like the flame, You've

00:15:30
got the building, it's fair.

00:15:34
It does not remember recently,

00:15:36
rumania is coming to the

00:15:37
books. Now, as well. I

00:15:38
Mexico City. I love for

00:15:40
juxtaposition of that. You got

00:15:43
it allows you to bring

00:15:45
in subject matter expert. I

00:15:48
know that in this world,

00:15:49
there is a belief that

00:15:52
we poppy on Dexter. You

00:15:55
don't need an expert. I



00:15:56
personally think that's wrong, the

00:15:59
X and the what you

00:16:02
can do when you're using

00:16:03
dispute boards, as your dispute,

00:16:06
resolution method is bring the

00:16:08
experts in early. If you

00:16:12
use your dispute food, process

00:16:14
correctly, you maximize the chances

00:16:17
of avoiding the dispute or

00:16:20
avoiding the escalation of the

00:16:23
dispute and disputes on site.

00:16:27
During the project of very,

00:16:30
very disruptive human beings. Guest



00:16:34

knife vs. By dispute and

00:16:36

they stunk focusing on the

00:16:38

bills and they start concentrating

00:16:41

on the dispute. Good question

00:16:44

in all they've had to

00:16:45

prevent or settle disputes. Unique.

00:16:52

Because by the time you

00:16:54

get to a state court,

00:16:55

it's about settling the dispute

00:16:57

at what the dispute board

00:17:00

will do at the beginning,

00:17:01

is it will prevent to

00:17:03

dispute because it encourages communication



00:17:07

If you have set up,

00:17:09

he was standing dispute board

00:17:11

and I'll be very interested

00:17:12

in this tunnels experience. Does

00:17:15

that happen? If you do

00:17:18

and you set it up

00:17:19

from the beginning, you got

00:17:21

experts who are kept in

00:17:25

touch with the project they

00:17:27

get regular updates, they understand

00:17:30

it that there is it

00:17:31

developing and they can respond

00:17:33

quickly as a problem arises.



00:17:35

They can all seven of

00:17:38

the schemes and ask if

00:17:41

only they give you an

00:17:43

opportunity to vent just Saturday.

00:17:46

Look, it's horrendous. It's Dreadful

00:17:51

find me. And also, they

00:17:54

will still have your powers.

00:17:55

She going off. They don't

00:17:58

have to sit back and

00:17:58

be told they can go

00:17:59

now. All the facts could

00:18:04

avoid the dispute escalating, could

00:18:06

get it out of the



00:18:07

way. If it doesn't, it

00:18:08

gives you a quick solution.

00:18:10

It gives you a recorded

00:18:15

here pay. Now on you

00:18:17

later. That's the philosophy, just

00:18:20

get a decision and frankly,

00:18:22

for most disputes what they

00:18:25

want is a decision. Decision

00:18:30

is just cut through. Tell

00:18:32

me what the decision is

00:18:33

and you will get it

00:18:35

in real time. You'll get

00:18:37

it from people where you



00:18:38

can maximize the chances that

00:18:40

it's right. And you probably

00:18:42

have cheated at a low-cost

00:18:44

I know that the industry

00:18:45

believes they're expensive. Statistics and

00:18:50

data are difficult to find

00:18:52

because it confidential. But everything

00:18:53

you find tells you that

00:18:55

notes. They are very very

00:18:57

cost-effective and the other problem

00:19:00

is highlighted its enforcement. Go

00:19:03

to real time Solutions project

00:19:05

coming on my experience, enforcement



00:19:07

is not the issue. Coustic

00:19:09

and operated. They just wanted

00:19:11

the decision. They might experience

00:19:15

a successful addition to the

00:19:19

range will turn it to

00:19:20

the resolution techniques and I

00:19:23

think that's not ugly. I'm

00:19:24

too used. I will shut

00:19:26

up with this Wednesday is

00:19:27

going to come in on

00:19:30

Monday but I'm back to

00:19:31

you. Thank you, Maria. So,

00:19:35

you mentioned that, hopefully, we



00:19:37

will have a, you know,

00:19:38

these people were members appointed

00:19:41

Chief, didn't they try to

00:19:46

avoid? I would like to

00:19:50

ask you. So how to

00:19:52

select board members to become

00:19:56

a combination that you could

00:19:57

provide a party when they

00:20:00

are pointing. Thanks a lot

00:20:07

for your question. Dear marvolis,

00:20:09

I'm very honored to be

00:20:11

part of this wonderful panel

00:20:13

and you know, this has



00:20:15

been confirmed after listening to

00:20:18

Marion. I'm, I'm I'm really

00:20:21

really glad to hear what

00:20:23

she said. I would like

00:20:26

to start by saying that

00:20:29

the selection of District board

00:20:31

members is of the utmost

00:20:33

importance as in arbitration. It

00:20:37

is key to her, the

00:20:39

right arbitrator in dispute bores.

00:20:42

You also will need to

00:20:44

to have the correct. Improper

00:20:47

members are part of that



00:20:49

panel. So, do not practical

00:20:53

point of view. I would

00:20:55

recommend parties that they should

00:20:58

identify the risk of their

00:21:01

project including technical contractual on

00:21:05

legal issues. And then openly

00:21:08

discussed how to define their

00:21:10

respective profiles of the potential

00:21:13

members within the Crockery sticks

00:21:18

on the specifics of the

00:21:20

project. I should mention some

00:21:22

of the Reverend question that

00:21:23

deserve to be discussed. There's



00:21:27

is it a complex project

00:21:29

complexity is something which we

00:21:33

should all be reading Minds

00:21:35

with discussing this important issue

00:21:37

is not the same type

00:21:40

of project. If you were

00:21:42

going to build their facilities

00:21:44

for a major sports events

00:21:47

such as the Olympics of

00:21:49

the Pan-American. Or having a

00:21:51

hospital or or building a

00:21:53

hospital or why not a

00:21:56

hydroelectric power plant each of



00:21:59

them that need to be

00:22:04

duly considered and discussed. The

00:22:07

second is, what types of

00:22:09

technical disciplines of the project

00:22:12

would generate. Disagreements, or clean

00:22:16

or disputes between the parties?

00:22:19

I think that that is

00:22:21

that is very, very important

00:22:23

is. So we will need

00:22:26

to have an a specialist

00:22:28

in concrete or in an

00:22:31

orange, the geological mother's Etc.

00:22:34

Are the types of things



00:22:37

that need that are needed

00:22:39

to be also. What type

00:22:45

of contracts are the parties

00:22:47

employing? Are they pretty quick

00:22:50

and easy, bespoke times of

00:22:53

Congress that should also be

00:22:56

considered in my view and

00:22:59

finally sufficiently trained to properly

00:23:04

understand and consequently use this

00:23:07

good boards. That's very, very

00:23:09

important to. So that's it.

00:23:14

Some of the characteristics of

00:23:17

the members of our first



00:23:19

experience in the dark on

00:23:22

the type of project. They

00:23:25

should have that they should.

00:23:28

You know, they should also

00:23:30

be part of it raining

00:23:32

in this group boards and

00:23:34

alternative dispute resolution, they should

00:23:37

have experienced the Butte board

00:23:39

members and also bring some

00:23:43

heels soft skills to the

00:23:46

table. Okay, listening listening, that's

00:23:50

very important going to the

00:23:52

point identify the depositions and



00:23:56
dangerous behind the position of

00:23:58
the parties soft skills are

00:24:01
kids nowadays. So they should

00:24:04
be you know what I

00:24:07
call being disputed? Boy, them

00:24:10
focused, professional. Okay. Yes, it

00:24:14
is very important. Okay, we

00:24:16
will be deciding on date

00:24:18
on the issues that there

00:24:19
that the parties present a

00:24:20
submission. But most importantly dispute,

00:24:24
a boy needs to focus

00:24:26
on yourself. If you would



00:24:28

avoidance, I will today. I

00:24:32

will I would like to

00:24:33

watch something additional, you know,

00:24:35

dispute board members should be

00:24:38

brave enough to say yes

00:24:41

to the party. Who is

00:24:42

right, okay? Bravery be courageous.

00:24:46

It's very, very important. And

00:24:48

the lack of that important

00:24:53

element, you know, would be

00:24:54

terrible practical advice finally. And

00:24:58

within the that the time

00:25:01

has been allocated marjolein, okay?



00:25:04

My practical advice is that

00:25:07

parties need to be open

00:25:09

and transparent when negotiating, the

00:25:12

appointment of the members and

00:25:15

they, you know, should try,

00:25:18

you know, clearly what type

00:25:21

of members they need Please

00:25:24

do not overestimate the profile

00:25:27

of the members. Be realistic.

00:25:29

Angels are in heaven, only

00:25:32

please, thank and into consideration.

00:25:34

If your board members Market

00:25:39

of your reading. That's what



00:25:41

I wanted to say. Thank

00:25:43

you. Thank you. I actually

00:25:51

was looking at the comments

00:25:53

that we have to be

00:25:53

shod and there's that question

00:25:55

as well. That is like

00:25:57

why. Now We have these

00:25:59

disputes, avoidance. Adjudication works like

00:26:03

a new kind of dispute

00:26:05

bored. So I would like

00:26:06

to ask you it in

00:26:08

your view. So why should

00:26:10

these people and another company?



00:26:12

Prevention? To be the standard

00:26:15

resolution. So how in your

00:26:18

view is important to weed

00:26:23

on the avoidance of the

00:26:27

equation, Thank you. First of

00:26:30

all, I would like to

00:26:31

say, thanks a war of

00:26:33

attrition update and you Margie

00:26:35

for the invitation it to

00:26:37

be in this panel with

00:26:38

my dear friend Jaime. My

00:26:40

dear friend Lewis and my

00:26:43

future near friend, Mario tomorrow,



00:26:45
my reporting from Costa Rica,

00:26:47
know as Paradise. So you

00:26:49
will be happy to come

00:26:51
here when you're done whenever

00:26:52
you want. So I know

00:26:54
what to do to comments

00:26:55
about something that mindset and

00:26:58
something that I'm is it

00:26:59
about the question, regarding, if

00:27:04
the dispute or prevent or

00:27:06
settle on, emergency at 8.

00:27:09
He's a versatile and decide

00:27:11
which is true, but also



00:27:13

to avoid it is gorgeous

00:27:18

to On the side you

00:27:23

have to avoid, which is

00:27:24

before settling. You know. These

00:27:27

people has to be one

00:27:30

step ahead from the potty

00:27:33

to try not to have

00:27:35

the disputes arise of the

00:27:37

difference. Because at that moment

00:27:39

might be, no dispute might

00:27:42

be a different point of

00:27:43

view. So if you tried

00:27:45

to avoid that before is



00:27:47

the reason you do not

00:27:50

give a great opportunity for

00:27:53

the bodies to avoid disputes.

00:27:54

So I'm free. We need

00:27:57

a stunt man. Standing is

00:28:00

report which I do not

00:28:01

tell me more about later

00:28:03

on. Also, these statistics, I

00:28:05

happy to say Maria is

00:28:08

0.01% of the value of

00:28:11

the contract, but the cost

00:28:13

of the dispute bored. And

00:28:16

I have that from several



00:28:17

this week, but had I

00:28:18

have been so he's a

00:28:20

beast. Don't be. So I'm

00:28:21

not that your BFF, but

00:28:23

I can tell you from

00:28:24

experience. That is way, way,

00:28:26

way way less expensive than

00:28:29

going to trial. I know

00:28:32

I went to a quick

00:28:33

coming home. So on a

00:28:34

time is a dissertation a

00:28:37

first and he said, I

00:28:38

don't know how to use



00:28:39

this word at this, dude.

00:28:41

Better member has to be

00:28:43

patient passion passion. A big

00:28:46

person about this Feud board,

00:28:47

a big passion in a

00:28:49

construction loan. Is it you're

00:28:55

not for this also be

00:28:58

ready to travel, be ready

00:29:00

to have dirt in your

00:29:01

boots. We're not using clothes,

00:29:03

we don't use it twice.

00:29:05

I help, you know, he's

00:29:08

another story. So you have



00:29:10

to be ready for that.

00:29:11

You're not behind a desk,

00:29:13

you know, in a nice

00:29:15

suit. You're in the sight

00:29:18

of the works with this

00:29:20

rainy is cold is hot.

00:29:23

You have to be ready

00:29:25

for that if you want

00:29:26

to be a district Department.

00:29:28

Member member also You got

00:29:31

physical, you know, you travel

00:29:34

in a band for 10

00:29:35

hours and go back to



00:29:37

the hotel. This is a

00:29:39

little thing that we had

00:29:41

calling in Spanish. Look at

00:29:43

what they don't say. So

00:29:47

that is something that we

00:29:49

going to develop for the

00:29:50

future. So going back to

00:29:52

your question. Am I going

00:29:55

to start the answer when

00:29:57

an example is better to

00:29:59

treat the patient? Running to

00:30:03

do an epoxy to the

00:30:05

patient. Okay. So when we



00:30:07

have a dispute do we

00:30:09

have the patient alive? If

00:30:11

we go to another ATR

00:30:13

to like mediation or betray.

00:30:16

So maybe we going to

00:30:18

have to join a posse

00:30:20

of the decline of the

00:30:21

patient. So while we want,

00:30:23

we want to do for

00:30:26

the patient before. He likes

00:30:28

What She Likes. In 2017

00:30:32

fit includes and you a

00:30:34

date with a boy, turns



00:30:36
into a d, a a

00:30:38
b. Also politics are for

00:30:42
a Dodge, 2017, fidic, contracts,

00:30:46
address the body to have

00:30:49
Anna standard dispute, understanding display

00:30:52
board, which means that you

00:30:55
were going to be a

00:30:56
dispute member from the beginning

00:30:58
of the contract. So that

00:31:00
makes a huge difference to

00:31:03
have from the beginning from

00:31:07
day, one from 2028, Order

00:31:12
or a decision of The



00:31:13

Works to have standing dispute

00:31:18

poor and the middle of

00:31:19

the contract or just has

00:31:21

a dock dispute board to

00:31:23

make decisions. And I will

00:31:24

talk more about that in

00:31:25

the next question that I

00:31:27

have. So what benefits do

00:31:29

we have it? If we

00:31:31

have a standing. It really

00:31:33

called meetings and visits to

00:31:35

the sides of the works.

00:31:37

So that that members I



00:31:41

going to give you an

00:31:41

example to other contracts example

00:31:44

could be different. A what

00:31:47

I do when the doubts

00:31:48

that I'm I'm at this

00:31:49

moment, I mean, 42 in

00:31:51

Costa Rican to improve. Why

00:31:53

do is we have each

00:31:56

month? A quote by soon

00:31:59

like this, a, we have

00:32:01

a drone that goes to

00:32:03

the sides and, and engineer

00:32:06

show us how the works.



00:32:08

Are a team. We don't,

00:32:11

we have pictures and we

00:32:13

have a report of the

00:32:15

advances of what happened last

00:32:17

month, what is going to

00:32:19

happen next month? What are

00:32:22

the early alert and what

00:32:24

are the possible things between

00:32:27

the parties, okay? That is

00:32:30

every month, the next month

00:32:33

with a visit, so we

00:32:35

do the same, but on

00:32:37

the site and talk to



00:32:38

the party, talk to the

00:32:40

people that is there in

00:32:41

the side, note to the

00:32:42

manager supply companies. Okay, so

00:32:45

that is the benefit of

00:32:47

having a standing this too

00:32:48

bored doing Prairie. Comedians on

00:32:51

a visit to the site.

00:32:52

Also, when we do that,

00:32:54

we have direct contact and

00:32:57

communication between the palace and

00:32:59

the tops, and a kind

00:33:01

of a relationship is develop



00:33:03
with the representative of the

00:33:05
parties and the school board

00:33:07
members. So we become, let's

00:33:10
not say, friends, because we

00:33:11
have you, no conflict of

00:33:13
interest, but we've become very

00:33:15
close. It regarding the project.

00:33:17
So that helps when you

00:33:20
have to talk to the

00:33:22
to the parties with a

00:33:24
certain point of you that

00:33:26
they don't have the same

00:33:27
point does give you more,



00:33:30

you know, a flexibility with

00:33:33

the parties to talk about

00:33:34

it and try to do

00:33:35

a negotiation for that, and

00:33:37

that also brings me to

00:33:39

the other topic. It. You

00:33:42

can have what we call

00:33:43

in, for my assistant, that

00:33:45

the bodies have an issue

00:33:47

between them and as a

00:33:50

nano biting, open noon to

00:33:53

the table. So that is

00:33:55

blue board members. Give them



00:33:57

opinion that is no binding

00:33:59

for the parties for the

00:34:01

dispute board and with that,

00:34:02

the police can decide to

00:34:04

make a good negotiation. So,

00:34:07

from my point of view.

00:34:09

God is good. What is

00:34:10

more efficient with a boy?

00:34:11

Dance of dispute, a Dan

00:34:14

order, Because the neutral party

00:34:22

which is the dispute board

00:34:23

is with the party in

00:34:25

all the process of the



00:34:26

contracts. And it seems the

00:34:28

beginning of the current. That

00:34:30

will be my answer to

00:34:31

your question. Thank you. Thank

00:34:34

you, Christian Louis. Yes, yes

00:34:39

I see Dr. Recently revised

00:34:43

avoidance and resolution board procedures.

00:34:47

So we have been, you

00:34:49

know, Lisa nearest Home, Depot,

00:34:52

off of avoidance. So I

00:34:55

can you tell me more

00:34:56

about these new rules and

00:34:59

procedures for Starbase, 19, Jose,



00:35:04

Antonio? And you Margie, and

00:35:06

wa you for putting the

00:35:08

program together. It's a pleasure

00:35:09

to join you. And my

00:35:11

distinguished colleagues here on the

00:35:12

dais, for example, last year,

00:35:17

in terms of the AAA.

00:35:19

And I cdrs caseload we

00:35:21

had over 3,700, construction cases.

00:35:24

Domestically, we had 55 International

00:35:28

cases. We are involved in

00:35:30

infrastructure projects working with several

00:35:33

sovereigns and yet we noticed



00:35:36

that sharing Marion's you caves.

00:35:39

At least in the United

00:35:41

States, they are not used

00:35:44

as often as we think

00:35:45

they should be because of

00:35:47

the values that Christina and

00:35:49

others have already described. And

00:35:52

we had our dispute review

00:35:55

board rules in effect. Going

00:35:57

back to 2001 with little

00:35:59

usage. So I'm in the

00:36:02

international division, I work closely

00:36:04

with our construction domestic Division



00:36:07

and they have a very

00:36:10

important advisory committee, the National

00:36:12

Construction dispute resolution advisory committee

00:36:16

and we convened working with

00:36:18

them and a panel of

00:36:19

international advisers. And he said,

00:36:21

let's look at these procedures

00:36:23

and see what we can

00:36:24

do in terms of revising

00:36:27

that I'm promoting them and

00:36:28

seeing if they can be

00:36:30

used more, considering the case

00:36:33

law and clearly I mean



00:36:35

we hear from our users,

00:36:36

the the complexity, the long-term

00:36:38

nature of Projects. It really

00:36:41

makes it impossible to be

00:36:42

outside to foresee every detail

00:36:44

and external factors, but as

00:36:47

an administrative provider, as we

00:36:49

are not for profit focusing

00:36:50

on dispute of audience, conflict

00:36:53

management and dispute resolution Services.

00:36:56

We wanted to offer these

00:36:58

updated procedure, so we can

00:37:00

help parties resolve these disputes



00:37:03

at the project stage. We

00:37:06

want to focus on real-time

00:37:07

resolution and all the feedback

00:37:10

that we received from the

00:37:11

user's. Give us the tools

00:37:14

because we must keep the

00:37:16

project moving forward at all

00:37:18

times and drb procedures are.

00:37:22

Those are one of those

00:37:23

tools. Would you describe what

00:37:26

they are? But touch upon

00:37:27

the way we approach them

00:37:29

drb's, they're in pain and



00:37:31
panels of experienced professionals. There

00:37:35
are pointed at the beginning

00:37:36
of a domestic or International

00:37:37
projects. Really the monitor, the

00:37:40
progress of the project and

00:37:42
most importantly help parties avoid

00:37:44
and resolve disputes as they

00:37:47
occur almost, as they occur

00:37:49
in a timely manner. I

00:37:51
think their primary role of

00:37:52
the way we'd laid it

00:37:53
out, is to identify and

00:37:55
address potential disputes before they



00:37:58

actually escalate into a full-blown,

00:38:00

they typically visit the construction

00:38:03

site regularly review project documents

00:38:07

incorporate technology to make their

00:38:11

services more efficient, observe the

00:38:14

projects. And I think one

00:38:16

of the great tools as

00:38:17

facilitating Communications among those participating

00:38:20

in the project B, really

00:38:23

proactive. Addressing these issues and

00:38:26

concerns as they arise to

00:38:29

Foster collaboration and promote the

00:38:32

successful completion of the project.



00:38:33

So, with the focus of

00:38:37

the rules, we also vetted

00:38:39

and developed a roster of

00:38:41

domestic and international darb professionals,

00:38:44

which we have a standing

00:38:46

list that we finished updating.

00:38:48

And those are the people

00:38:50

that we use to a

00:38:51

point for these particular cases

00:38:53

on how they are appointed.

00:38:59

The parties are free to

00:39:01

agree on any method but

00:39:02

if they don't the rules



00:39:04

say that the board is

00:39:05

going to consist of one

00:39:06

member nominated by the owner.

00:39:08

Another approved by the contractor,

00:39:11

and a third member nominated

00:39:14

by the first two members

00:39:15

approved by both the owner

00:39:18

and the contractor, and the

00:39:20

third member typically served as

00:39:22

the chair, unless the parties

00:39:23

agree. Otherwise And if there's

00:39:25

any breakdown in the appointment

00:39:27

process, the AAA icdr will



00:39:29
complete that appointment process for

00:39:33
a single member aboard. Each

00:39:36
side has given three stripes,

00:39:37
they don't have to give

00:39:38
us any reasons, they number

00:39:40
in order of preference, and

00:39:42
they send that list back

00:39:44
to us. And we use

00:39:45
that list for that appointment

00:39:46
process that the board members

00:39:50
must be impartial not predisposed

00:39:52
to any of the positions

00:39:54
of the parties. Independent not



00:39:56

have any financial interest in

00:39:57

the outcome and they have

00:39:59

to disclose a circumstances that

00:40:01

perhaps are likely to give

00:40:03

rise to justifiable doubts as

00:40:06

to their in partiality and

00:40:08

Independence. If there's any challenges

00:40:10

we the institution will decide

00:40:13

and the main deliverables are

00:40:17

they're going to receive reports

00:40:18

and project process and needing

00:40:22

minutes throughout their role is

00:40:24

Operational darb. Now in the



00:40:28

event of a dispute arises,

00:40:30

there's several options, the owner

00:40:32

and the contractor, they can

00:40:33

refer the dispute to the

00:40:35

board through either the interim

00:40:37

advisory process. This is really

00:40:40

a fast-track proceeding. It gives

00:40:42

the party's immediate verbal or

00:40:45

written guidance on any issues

00:40:46

to help them resolve the

00:40:49

issue promptly. And it's one

00:40:50

of the reasons why we

00:40:52

incorporated avoidance in this new



00:40:55

procedures used to be darb.

00:40:57

We're stressing to our darb

00:40:59

professionals to use all the

00:41:02

tools available to them to

00:41:03

avoid escalation and just keep

00:41:07

it moving forward. The boards

00:41:09

advisory opinion is not binding

00:41:11

and the dispute in later

00:41:14

on be presented to the

00:41:15

formal process. For the formal

00:41:18

process, each party has given

00:41:20

the opportunity to present its

00:41:21

position in writing and then



00:41:23

it needed verbally at a

00:41:25

hearing hearings are not always

00:41:26

the in-person. All the site

00:41:29

visits tend to be in

00:41:31

personal that we are talking

00:41:32

War as mentioned by Christian

00:41:34

about using drones but they're

00:41:38

still discussion on how effectively

00:41:41

that is if you ain't

00:41:42

an actual project through a

00:41:44

drone, probably after the completion

00:41:47

of the formal proceedings to

00:41:49

board provides written recommendations for



00:41:52

the resolution of the dispute.

00:41:53

Now, depending on the contract

00:41:56

requirements or whatever the parties

00:41:58

have agreed to, and I'm

00:41:59

going to mention the three-party

00:42:00

agreement later on. They can

00:42:02

be either non-binding recommendations or

00:42:05

they can be binding determinations

00:42:07

until possibly overturned and then

00:42:10

a subsequent arbitration. And if

00:42:12

non-binding, the recommendations may be

00:42:16

designated as Is admissible or

00:42:18

not admissible in any subsequent,



00:42:20
dispute resolution proceeding. If there's

00:42:23
a designation On Target, there's

00:42:25
not a designation. The default

00:42:28
will be that. The recommendation

00:42:29
is admissible in a l

00:42:32
proceeding but not find it.

00:42:35
And finally recommendations are not

00:42:37
accepted by a party. The

00:42:39
dispute kicks out to arbitration

00:42:41
in a domestic case, it's

00:42:43
going to be administered by

00:42:44
the AAA refrained are construction

00:42:47
rules as governing the preceding.



00:42:49

And if it's International, it'll

00:42:51

kick out to the ICD,

00:42:52

are to be resolved pursuant

00:42:55

to our International procedures. Thank

00:43:03

you. At least it'd have

00:43:04

been very informative and useful,

00:43:07

you know, to know better

00:43:08

about the new procedures and

00:43:12

rules. And and maybe we

00:43:14

have later that you can

00:43:16

refer to how to get

00:43:17

into that roaster. So because

00:43:21

I'm sure, you know, part



00:43:23

of the holidays will be

00:43:24

interested in knowing how to

00:43:26

get into the into the

00:43:28

ICD are. So if you

00:43:33

go into more practical recommendations

00:43:36

and I would like to

00:43:38

ask, did you remember how

00:43:41

I made it to Christiana?

00:43:42

Sarmatian, it will be V6

00:43:44

ride. So I don't know.

00:43:47

If you could, have you,

00:43:48

no practical recommendation to either

00:43:50

go with your Chihuahua or



00:43:52

in-person visits during the Depression.

00:43:57

It depends on what the

00:44:00

type of project. And any

00:44:02

other That you can give

00:44:05

a free sample. Would you

00:44:07

recommend advisory opinions outside of

00:44:12

the Divi members? So the

00:44:15

floor is yours. Thank you.

00:44:18

Thank you. What? An interesting

00:44:19

question. Margie least. Let me

00:44:24

say that. That I really

00:44:26

think the most important tools

00:44:31

for the Boyd in disputes,



00:44:33

that's my view. And I,

00:44:34

and I think that Greece

00:44:37

will agree with me doing

00:44:42

this visits their members become

00:44:44

acquainted with the parties and

00:44:47

the members of the staff

00:44:50

of the parties. And that's

00:44:51

very important. That's a personal

00:44:53

offense that are members also

00:44:56

become familiar with the sight

00:44:59

of the works. And that's

00:45:00

also very, very important and

00:45:03

they all discuss their concerns



00:45:06
of the parties present. Not

00:45:10
not only the claim, not

00:45:11
only that is beautiful, but

00:45:13
they concerned that again, very,

00:45:16
very Okay. And I think

00:45:21
that the members have the

00:45:23
receipt, they have the person,

00:45:25
the perfect opportunity to Hell,

00:45:28
the parties identify potential, disagreements,

00:45:33
and how to resolve that.

00:45:35
And that simply priceless also

00:45:39
visits are an efficient way

00:45:43
to generate trust and confidence



00:45:46

between the parties and the

00:45:48

members and Confidence is built

00:45:53

out of human relationship. Again

00:45:57

for that, you know being

00:45:59

there and shaking hands is

00:46:02

Obama doing this visits. People

00:46:09

meet listen to each other

00:46:13

actively not possibly, they can

00:46:16

meet they share personal experience.

00:46:19

I want to know they

00:46:21

laughed together again. We're human

00:46:24

beings human beings that certainly

00:46:27

have parties to resolve the



00:46:30
unresolved issues. They may have

00:46:32
sometimes the members the members

00:46:36
that the members of the

00:46:37
DAV request that stuff representative

00:46:41
of the bar just to

00:46:42
run in the same bus

00:46:44
with them in order to

00:46:46
generate camaraderie and a can

00:46:48
again trust. Trust. That's again,

00:46:52
very, very important. And, you

00:46:54
know, sometimes when you call

00:46:57
the top representative of the

00:46:59
parties, you know, to go



00:47:00

and to ride in the

00:47:01

same, but maybe you could,

00:47:04

you may have the intention

00:47:06

to separate this decision makers

00:47:09

from the years Star, as

00:47:12

it would be perfectly normal.

00:47:13

That some guys who are

00:47:16

members of that stuff probably

00:47:18

owe poses to finding a

00:47:19

good solution and let's remember

00:47:21

that that good solution is

00:47:23

not necessarily a perfect solution.

00:47:25

Let's, let's leave the decision



00:47:31

makers along with the members

00:47:33

and they will find a

00:47:35

good solution for the project

00:47:36

that's in my view to

00:47:40

do. I need for some

00:47:42

basic, he's Irreplaceable. Okay. However,

00:47:46

however, for follow-up meetings, It

00:47:50

is very efficient and I'm

00:47:52

very from meetings as the

00:47:53

cost of an in-person visit

00:47:56

in bold, Logistics logistical expenditure

00:48:00

hotels. YouTube cans transportation for

00:48:08

the members of the parties



00:48:09
at Cedar. Okay, we can

00:48:10
also use as least, I

00:48:12
said it wrong and that's

00:48:14
very, very efficient. But you

00:48:16
know, that's in my view

00:48:18
again for follow up a

00:48:19
meeting but the most important

00:48:22
events occur during the visit

00:48:25
now regarding advisory opinions, advisory

00:48:31
opinions are necessary when party's

00:48:34
request the members to do

00:48:38
so So let me say

00:48:41
that the member to be



00:48:42
very inductive, very inducted, they

00:48:46
should lead the parties to

00:48:48
find it the issues and

00:48:50
you know, proposed how to

00:48:52
resolve their differences. And in

00:48:57
my view I seen that

00:48:59
asked questions. How to interrogate

00:49:03
it is very very important.

00:49:06
And yes, it's an excellent

00:49:09
way to be inducted, okay?

00:49:11
Don't be affirmative, you as

00:49:13
a member should be very

00:49:14
careful, not affirming things. Again,



00:49:17
you should take advantage of

00:49:20
the richness of the language.

00:49:22
Okay. And then again, you

00:49:25
know, I'll ask question this

00:49:26
is perfect. Is it a

00:49:28
perfect way to be inducted?

00:49:30
And advisory is a wonderful

00:49:33
thing as Chris has mentioned,

00:49:34
okay? We are there and

00:49:36
we would be happy to

00:49:38
help the body. Thank you,

00:49:40
my dear Elise. Thank you,

00:49:43
Ian. Do you have any



00:49:52

success stories to share with

00:49:54

us? Do you think that

00:49:56

these people are in a

00:49:57

standard form? Contracts are as

00:50:02

a thank you. I'll before

00:50:06

going to your question, I

00:50:07

just want to ask something

00:50:08

from the comments that I

00:50:12

made on, my comment is

00:50:13

visits to the site. A

00:50:16

very important, especially, if you

00:50:19

are in a dispute boring,

00:50:20

Peru, because lunch time is



00:50:23
great stops besides having the

00:50:28
greatest food in the Earth.

00:50:32
Seriously. Now you have us

00:50:35
a time? Is it during

00:50:37
lunch time? And, and you

00:50:40
talked to the manager's what

00:50:42
restaurant we should go. On

00:50:46
the manager said. Wait, why

00:50:47
don't you be called here

00:50:48
and the other and their

00:50:49
start doing this Encompass, to

00:50:53
each other and they get

00:50:55
an agreement on what restaurant



00:50:57

to go. You know, that's

00:51:00

a way for getting the

00:51:02

parties together and then you

00:51:03

go to a restaurant and

00:51:04

you sit next to one

00:51:07

manager and next to the

00:51:08

other manager. And there you

00:51:10

don't talk about the project.

00:51:11

You know, you build this

00:51:14

trust, this relationship between the

00:51:17

top. And the parties. So

00:51:20

that's why I want to

00:51:22

do what a from a



00:51:25

dissertation from I'm. Okay. So

00:51:29

I have the blessing to

00:51:31

be into Congress. A a,

00:51:34

a win that one was

00:51:36

Salvador. It one is Peru

00:51:38

on. What is Costa Rica?

00:51:40

So I'm going to give

00:51:41

you my songs is histories

00:51:44

in some things that have

00:51:47

happened in those countries. A,

00:51:50

and each one has a

00:51:52

different conference. A Ford contract

00:51:55

standard contract, in El Salvador,



00:51:57
we have the Millennium initiative,

00:52:00
do we have that NEC

00:52:04
contracts neck? As we say

00:52:06
in Spanish, and in Costa

00:52:08
Rica, we have defeated contacts.

00:52:09
So, I have experience in

00:52:11
World, be different, a standard

00:52:14
forms, in all of them,

00:52:16
we have a few boards

00:52:18
as part of the ADR

00:52:21
classes at. So I got

00:52:24
to tell you some stories

00:52:25
about each country's first with



00:52:29

squats. My first experience some

00:52:31

twenty years ago, I was

00:52:33

acting as a legal consult

00:52:34

to a Spanish company that

00:52:37

was the day, the Builder,

00:52:40

you know? the contrast on

00:52:42

the The experience that I

00:52:46

have there was that the

00:52:49

dispute board was meant to

00:52:52

be an ad-hoc dispute work,

00:52:54

which is better than nothing,

00:52:56

but it turned out to

00:53:00

be a mini arbitration process,



00:53:02

which is not the meaning

00:53:04

of a dispute word. So

00:53:06

my, what my learn unless

00:53:08

there is. You should have

00:53:14

started this job or not,

00:53:17

an adult school board because

00:53:19

what an adult dispute board

00:53:21

will do is make a

00:53:23

decision about some dispute but

00:53:28

that don't help in about

00:53:29

insist. So that is the

00:53:32

history that I have from

00:53:33

your tablet, then, I have



00:53:38

to experience is what we

00:53:39

experience. Is one also an

00:53:43

addict, a dispute board to

00:53:46

draft a decision. The good

00:53:50

thing is that this issue

00:53:51

was settled between the parties

00:53:55

afterwards. So he helped the

00:53:57

parties to no-go for application

00:53:59

which is good. And the

00:54:02

other one which is, I

00:54:03

think one of my best

00:54:05

experiences AAA in my truck

00:54:09

history, in school boards is



00:54:11

Soldiers. Field Mob member is

00:54:16

standing in the border from

00:54:19

Nicaragua April, Costa Rica and

00:54:21

Panama the facility. At the

00:54:23

facility, we started a one

00:54:27

year ago since day one.

00:54:29

I was there and there

00:54:31

was no one dispute. A

00:54:34

given to the doctor. All

00:54:36

the differences between the parties

00:54:37

were settled between them with

00:54:41

a huge effort from the

00:54:44

engineer if you think, has



00:54:45

a janier to, and from

00:54:49

the school board member, and

00:54:52

the contract is almost finish

00:54:54

one month away to be

00:54:55

finished. And no one, no

00:54:58

one disputes. No one. So

00:55:01

that is another issue that

00:55:04

I can say to my

00:55:05

personal experience that the school

00:55:07

board's works for boys in

00:55:09

disputes. Then I serve as

00:55:16

a board member in Fortescue

00:55:19

course, they're most of them.



00:55:23

It. We have a settlements

00:55:26

in many disputes so that

00:55:28

is really good but one

00:55:30

of the greatest story that

00:55:31

I have is we were

00:55:33

in the meeting. The hearings

00:55:34

today's hearing I'm in the

00:55:36

middle of the 3 days

00:55:37

that the palace is topaz

00:55:39

a sake. I think we

00:55:41

have an agreement, let us

00:55:43

work to this afternoon and

00:55:44

by the end of the



00:55:45
day we will send you

00:55:47
our settlement. So I'm on

00:55:49
time for us was great

00:55:51
because that. That means that

00:55:55
the main purpose of the

00:55:58
dispute was achieved, you know.

00:56:02
So just to finish a

00:56:05
this question I want to

00:56:07
talk at one minute about

00:56:08
the efficiency on time and

00:56:10
cost so it with a

00:56:13
dispute board. You have the

00:56:15
project finish mostly in time



00:56:17

and cost. The cost is

00:56:21

a way lower than going

00:56:24

to a judicial process or

00:56:25

arbitration. But let's forget about

00:56:32

us and Engineers. The most

00:56:35

important is that dispute board.

00:56:37

I use in infrastructure projects

00:56:40

such as schools roads, Sports

00:56:43

Hospital, several infrastructure projects are

00:56:50

a driver or a country's

00:56:52

economy is. So the dab

00:56:54

should be a key of

00:56:56

the development of the country's



00:56:57

support. A thank you, Margie.

00:57:02

Thank you. Thank you, Christian

00:57:03

for sharing those experiences. So

00:57:07

now like to charge you

00:57:09

twist it just started talking

00:57:14

about two different options for

00:57:16

tea parties, so between recommendations

00:57:19

recommendation on non biting recommendations.

00:57:23

And perhaps as some other

00:57:29

innovations that are in the,

00:57:31

in the new procedure rules,

00:57:35

in particular, you know, something

00:57:40

that cash, my attention was



00:57:42
the consolidation or deposit of

00:57:46
different disputes in in just

00:57:50
one. So, maybe you can

00:57:51
take you no more done

00:57:53
that. Thank you. Dora. Thanks

00:57:55
for the question. Obviously we've

00:58:00
discussed certain options and certain

00:58:02
approaches and hearing Christians experiences.

00:58:06
It really all starts with

00:58:08
a properly drafted 3, party

00:58:11
agreement. And you know, you

00:58:14
need to know the project,

00:58:16
you need to know the



00:58:18
specifics about the governing law

00:58:21
and issues that can arise

00:58:24
before you release it down

00:58:25
to say, I want to

00:58:26
use a d, a r

00:58:28
b for this particular project.

00:58:30
And remember that the board

00:58:34
that's going to be convened,

00:58:37
is also a signatory to

00:58:39
the three-party agreement, its owner

00:58:41
contract, and the prospective board

00:58:44
and under our procedures, they

00:58:47
have to execute this within



00:58:49

14 days, after you completed

00:58:53

the appointment of Third member

00:58:55

of the board, but obviously

00:58:58

thinking about how to approach

00:59:01

the agreement and the board

00:59:03

and using them in the

00:59:05

first place. You have to

00:59:06

give ideas to some of

00:59:08

the things that you want

00:59:10

to include in the three-party

00:59:12

agreement which will govern and

00:59:14

give the authority of the

00:59:16

DAR bees as they begin



00:59:18
to operate. So as I

00:59:20
mentioned, overview of the project.

00:59:22
What is the actual specific

00:59:24
purpose of the agreement there?

00:59:27
Their terms of reference, if

00:59:28
you will I think it's

00:59:30
important to lay out another

00:59:32
of the options as to

00:59:33
consider what is the scope

00:59:35
of these disputes? What type

00:59:38
of claims related to the

00:59:41
project is going to fall

00:59:42
under the purview of this



00:59:44
particular darb and that should

00:59:46
be listed clearly in the

00:59:49
sweet party remix. Do keep

00:59:51
in mind that our darb

00:59:53
procedures covers, a lot of

00:59:55
issues aware, if the parties

00:59:57
do not agree, or do

00:59:59
not specify it in the

01:00:01
actual three-party meaning, like the

01:00:02
appointment, the rules to have

01:00:05
default mechanisms as as the

01:00:08
same way you use arbitration

01:00:09
and mediation. You can use



01:00:10

a short clause in the

01:00:12

rules have. All the default

01:00:13

mechanisms needed to keep the

01:00:16

moving the project forward but

01:00:18

you may want to discuss

01:00:19

how the drb will be.

01:00:21

Composed out will be appointed.

01:00:24

What are the qualifications experience,

01:00:27

expertise? You can list that

01:00:28

in that free party green.

01:00:31

You also want to for

01:00:33

have specified, the hearing location,

01:00:35

the seat if you will



01:00:37

for, for these hearings be

01:00:40

conducted in in in person

01:00:43

and what changes and looking

01:00:46

at RDA R&B procedures, you

01:00:48

may want to opt out

01:00:49

or often too. So you

01:00:50

want to make Make customize

01:00:52

it for the sake of

01:00:53

that particular project costs and

01:00:57

expenses are an important issues

01:00:59

if they're not addressed specifically

01:01:01

in the three-party agreement but

01:01:03

they incorporate our procedures, it



01:01:05

is listed there that the

01:01:07

cost of going to be

01:01:08

shared equally, I think is

01:01:11

important. The dispute review board

01:01:14

people professionals have to consider

01:01:16

the governing law when they're

01:01:18

rendering these opinions and perhaps,

01:01:21

and how they're discussing them

01:01:23

in person later on and

01:01:24

giving an overview of this

01:01:26

is not accepted or this

01:01:30

escalates to arbitration. This is

01:01:32

some of the things you



01:01:33

need to consider with the

01:01:34

application of this particular governing

01:01:36

law. You may want to

01:01:38

also could verbiage in there,

01:01:39

how it's going to be

01:01:40

terminated or suspended. And then

01:01:43

I really, as we've all

01:01:46

seen other impacts to supply

01:01:49

chain issues affecting crotch. Force.

01:01:51

Majeure pandemics etcetera, do you

01:01:54

want to include any verbiage

01:01:56

to deal with the extraordinary

01:01:58

in the unexpected to me?



01:02:01

I think, if you really

01:02:03

have experienced people, we also

01:02:05

recommend, Odyssey, legal counsel, look

01:02:07

these over, but the board

01:02:09

professionals as well, that are

01:02:10

going to be experienced are

01:02:12

going to know what terms

01:02:14

and what's needed for the

01:02:15

three-part agreements as well as

01:02:16

the owner and contractor. So

01:02:18

it's a great tool that

01:02:21

has to be carefully executed.

01:02:23

And I think that adds



01:02:25

a lot to the possibility

01:02:26

of convening, a d, a

01:02:28

r b that's going to

01:02:29

meet the expectations of all

01:02:31

and again, keeping the project

01:02:33

moving forward. Now, you mentioned

01:02:34

consolidation that seen our International

01:02:36

rules in our construction rules.

01:02:38

We do have a clear

01:02:42

verbiage on how if we

01:02:43

have an excellent use in

01:02:45

these types of construction pieces,

01:02:47

would multi-party agreements. You may



01:02:49

have subcontract There may be

01:02:52

verbiage that links certain contracts

01:02:55

to the general contractor or

01:02:56

subcontractor. It's the party's not

01:02:59

agree. We actually pursuant to

01:03:01

the rules. Can appoint a

01:03:02

specific consolidation arbitrator? What is

01:03:06

needed in the pleadings is

01:03:08

included in the verbiage of

01:03:09

the rules, and then arbitrators

01:03:11

going to make a decision

01:03:12

whether to consolidate or not,

01:03:14

separate tribunals already in place,



01:03:17
which tribunal will continue under

01:03:20
what rules at, what stage,

01:03:21
they make all the necessary

01:03:24
determinations to have a successful

01:03:27
consolidation and proceed. Under one

01:03:30
case, when it meets the

01:03:32
criteria of the rules that

01:03:34
having said that, it's also

01:03:36
not hardly at all. We

01:03:41
were advised that part of

01:03:43
the rules that should include

01:03:43
it in 2014. We revised

01:03:47
our rules in 2021 and



01:03:50

I think maybe there's been

01:03:53

a handful of cases, so

01:03:55

the consolidation issue at least

01:03:57

under our experience, doesn't happen

01:03:59

that much or they may

01:04:01

agree beforehand, that you don't

01:04:02

need to actually go down

01:04:03

the road of appointing a

01:04:05

consolidation arbitrator. Thank you, Luis

01:04:11

and Anna, be questioned of

01:04:13

the roast. Absolutely, and it's

01:04:20

quite simple. Send me an

01:04:21

email. If you don't mind,



01:04:23

Martina cell at adr.org, I'll

01:04:25

put it in the chat.

01:04:26

We review it every 6

01:04:29

months. I'll respond to give

01:04:31

you some of the criteria

01:04:32

that we had asked, people,

01:04:34

to provide us regarding their

01:04:36

experience and work with garbs.

01:04:38

And then I get together

01:04:40

with my construction, brothers and

01:04:42

sisters. And we make a

01:04:43

determination, usually twice a year.

01:04:45

Okay, well, thank you that



01:04:48

I didn't. He's hoping for

01:04:49

Matthew where the Odeon. So

01:04:51

these people do you think

01:04:57

they could replace or help

01:05:00

me? Find arbitrations? I said,

01:05:02

you said the month of

01:05:03

Last Resort. Okay, let me

01:05:08

explain. I'm going to give

01:05:10

you the answer. Yes. And

01:05:12

I'm going to look at

01:05:12

two aspects of it. That's

01:05:15

the first reason I say

01:05:16

yes. Is I look at



01:05:17

what has happened in common

01:05:20

law jurisdictions with the use

01:05:22

of adjudication? No adjudication is

01:05:28

to deal with disputes decision-making

01:05:31

that takes. It looks of

01:05:33

the second part. It's nothing

01:05:35

to do but it has

01:05:39

little to do with dispute

01:05:41

avoidance. Adjudication offers and it

01:05:45

is imposed, its imposed its

01:05:48

mandatory in the United Kingdom,

01:05:50

the Construction contract. And it

01:05:54

imposes the paid. Now ocuator



01:05:58

Rashid it offers for all

01:06:01

construction dispute a mandatory right

01:06:04

take the dispute to adjudication

01:06:07

to get an interim temporarily

01:06:11

binding decision. I sit very

01:06:14

regularly as an adjudicator and

01:06:17

you have 28 days. Appointment

01:06:21

to decision. It is very,

01:06:23

very focused, and it has

01:06:26

been a huge success in

01:06:29

the United Kingdom. And it

01:06:31

has, if I might use

01:06:33

an exaggerated word, it has



01:06:35
killed domestic construction arbitration. Is

01:06:39
simply honor game, it's an

01:06:42
exaggeration. But if it makes

01:06:43
the points heart is take

01:06:47
the decision of the adjudicator

01:06:50
except it's good enough and

01:06:54
they move on. So I

01:06:55
think dispute boards. Daabz joke

01:07:00
about have the have the

01:07:01
potential to achieve it ready?

01:07:04
Do I know it's a

01:07:06
good question in the checkbook.

01:07:07
Someone said look, I'm physic



01:07:10

use the computer voice dictation

01:07:12

board time to withdraw the

01:07:15

contracts. This will be affected.

01:07:17

I hope that message come

01:07:20

from all of us every

01:07:21

single contract. I think it's

01:07:24

concept that you can take

01:07:26

a look and apply and

01:07:29

it's huge ruined. What is

01:07:32

especially anything that is a

01:07:33

long time where you more

01:07:35

about keeping the deal together.

01:07:38

Then it is about a



01:07:39
short-term profit. So I think

01:07:41
that it's used as Christian

01:07:43
were saying in the NEC,

01:07:45
the ICC has done to

01:07:47
tell me some Provisions, the

01:07:48
ideas, they have to take

01:07:50
application institutions, also their standard

01:07:54
rules as well, sit in

01:07:57
the doctors, and that's what

01:07:58
I think the second suspect

01:07:59
I want to look at,

01:08:00
which is the dispute. What's

01:08:02
a parcel to even more



01:08:04
important to come from? Which

01:08:07
is the most 80th Street

01:08:08
resolution. I think that is

01:08:13
something that we are seeing

01:08:14
increasing use self throughout the

01:08:17
big construction and infrastructure project.

01:08:20
I think it's part is

01:08:21
sitting down and all seems

01:08:23
so very, very basic question

01:08:25
was, how do I fit

01:08:27
the form to the Expressions

01:08:30
used? How do I fit

01:08:31
the form to the bus?



01:08:32

Where am I going to

01:08:34

rise? How do I want

01:08:36

to resolve them? I mean

01:08:38

escalation process. The dispute board

01:08:41

has a very clear roads

01:08:42

play. I did not attend

01:08:44

to. Lucia Flores is ahead.

01:08:46

Stay I think dispute resolution

01:08:48

boards. I can't stay as

01:08:49

well and I think that

01:08:51

they don't take selfie enough

01:08:52

because you don't have enough

01:08:54

sessions like this. Coffee is



01:08:57
getting that message across and

01:08:59
when you go people, you

01:09:00
can't let this bunch of

01:09:01
committed dispute before. Practice for

01:09:04
professionals, passionately explaining what he

01:09:08
gives you We know that

01:09:11
angels. But we avoid having

01:09:14
to resuscitate, the devil knew

01:09:16
the dead patients. It gives

01:09:18
human beings away to actually

01:09:22
focus on what really matters.

01:09:26
Improving Society getting the road

01:09:30
to the hospital. Making sure



01:09:32

that bridge is that. I

01:09:35

think it's going to say.

01:09:36

I hope it's his day,

01:09:37

I'm enough. What do you

01:09:42

all think? Thank you Maria

01:09:45

and we still have a

01:09:48

couple of minutes to take

01:09:51

the computer in Super Mario

01:09:55

64. From each of you

01:09:56

said, I mean sorry. We

01:09:58

thank you. I will start

01:10:03

with three words, only use

01:10:07

dispute boards. Yes, because, you



01:10:13

know, if your ethical issues

01:10:15

in which we could thoroughly

01:10:18

discussed for years, I think

01:10:21

that from the Practical point

01:10:23

of view, they have already

01:10:25

demonstrated demonstrated that, you know,

01:10:29

didn't really work. That is

01:10:32

why I said that, okay?

01:10:33

Date they have been employed,

01:10:35

that's not going to have

01:10:36

set in the Olympics in

01:10:39

London and and they work.

01:10:41

They were here in South



01:10:42

America with the project call

01:10:45

Pan American Games Lima 2019.

01:10:49

And again they wore and

01:10:52

they even wore in my

01:10:54

country in Peru in the

01:10:56

general regime of public procurement

01:10:59

which is which is really

01:11:02

a nightmare, okay? And they

01:11:04

are working here. So. Said

01:11:08

you know, I can only

01:11:10

encourage all to use dispute

01:11:14

boards and that's how I

01:11:17

would lie to concludes my



01:11:20
presentation there a Marshallese. thank

01:11:24
you, honey, me and will,

01:11:25
will we have in Panama

01:11:26
City, Panama Canal expansion as

01:11:28
well, because otherwise we would

01:11:30
have finalized so Christian, Okay,

01:11:37
first, I going to give

01:11:40
my first product provocative comments,

01:11:43
where's the engineer? I don't

01:11:47
see engineers in the panel.

01:11:48
I see that the reason

01:11:51
we fukunaga, which is a

01:11:52
really good this week but



01:11:53

remembering that who is in

01:11:55

the audience. But remember these

01:11:58

people are not for lawyers,

01:11:59

we are an invited party

01:12:02

to the show. This billboard

01:12:05

for engineers and we can

01:12:07

help them a lot, but

01:12:09

we're missing Engineers first. This

01:12:11

is my first comment dispute

01:12:14

board and arbitration are two

01:12:17

different things. Makes them want.

01:12:21

One thing and the other

01:12:23

is another thing they don't



01:12:25
compete with each other. Is

01:12:27
Phil's Bar is good for

01:12:29
something. And arbitration is good

01:12:30
for something else, and I

01:12:32
both can coexist. So, we

01:12:35
we, we have to try

01:12:37
not to put them against

01:12:40
each other and thank you

01:12:41
for the opportunity. I have

01:12:43
a blast. Let's, let's do

01:12:45
one more hour, please. Thank

01:12:48
you Christians, always with your

01:12:51
turn as I've been saying.



01:12:54

Keep the project moving forward

01:12:57

and I do agree with

01:13:00

Christian. The DAR bees are

01:13:01

quite different from arbitration, the

01:13:04

arbitration is the full-back mechanism.

01:13:06

Should anything fail at the

01:13:08

DAR, bi-level the saint of

01:13:10

the efficiencies of having these

01:13:13

dispute board professionals at the

01:13:16

Sun, the relationship building the

01:13:19

knowledge of the project, they

01:13:21

are there to defuse issues

01:13:23

as they arise and real-time.



01:13:24

They are going to be

01:13:27

successful and it is important

01:13:29

to have more conferences like

01:13:31

these as Marian mentioned in

01:13:32

to keep getting the word

01:13:34

out of their value because

01:13:36

we're in the conflict management

01:13:38

and avoidance business. And this

01:13:41

is a tool when properly

01:13:43

set up has value and

01:13:45

works. And you don't have

01:13:47

Get to the arbitration stage

01:13:49

because think about the knowledge



01:13:52
and experience that the DAR

01:13:54
be professional, has with the

01:13:56
project as opposed to not

01:13:58
reaching a settlement or not

01:13:59
having them in place and

01:14:01
having to tell an art

01:14:03
panel of arbitrators and educate

01:14:06
them, not only on all

01:14:08
the issues and the claims.

01:14:09
But also the project itself,

01:14:11
the governing law, it is

01:14:13
just so much more efficient

01:14:15
to have the DAR be



01:14:17

in place, especially in large,

01:14:18

International infrastructure projects. So keep

01:14:22

the project moving forward. Thank

01:14:25

you, Luis and Marion. May

01:14:29

I have a play date,

01:14:31

sir. Dates a day today.

01:14:33

So I know that the

01:14:36

dispute pulled senior professional Representatives

01:14:40

here. If it's a beautiful

01:14:41

day to help, we need

01:14:44

to be able to put

01:14:46

in front of some very

01:14:47

hard-nosed Finance directors and what's



01:14:52
in it for me. What's

01:14:53
supposed to be mine? We

01:14:55
need the official. I know

01:14:57
it's difficult. I know it's

01:14:59
a confidential process the private

01:15:01
process but if we could

01:15:03
get the day so it

01:15:04
would make a difference. And

01:15:05
any other pragmatic knows I

01:15:06
want to say is we

01:15:08
have to recognize there's enormous

01:15:10
pressure on the state court

01:15:13
system. Glen Burnie Enormous pressure



01:15:17

on to an extent. There

01:15:20

is enormous discontent with the

01:15:21

state court process and this

01:15:24

is a prime opportunity to

01:15:27

offer the dispute board as

01:15:30

a result that will resolve

01:15:32

disputes supported. Take the pressure

01:15:35

away from cords and ultimately

01:15:38

gives them a solution that

01:15:41

they were Trust. And that

01:15:45

is a very powerful piece

01:15:47

to offer in this riddled

01:15:51

with doubt and failure of



01:15:55
fact reasonableness world, that is

01:15:58
a great time. If this

01:16:00
is the moment if ever,

01:16:01
they will swarm to push

01:16:03
this people and to push

01:16:05
that whole human way of

01:16:07
resolving disputes play play. Thank

01:16:10
you very much for giving

01:16:11
me that space to make

01:16:13
pasta political broadcast. Thank you

01:16:17
for being here today. To

01:16:25
share their experience and Boris,

01:16:30
and I would like to



01:16:31

turn now to the organizers.

01:16:33

I think I saw Ian.

01:16:36

They are. The mic is

01:16:39

yours. Thank you so much

01:16:42

more. It was really enlightening

01:16:46

Channel. I've learned so much.

01:16:49

This was a great group.

01:16:51

I'm so pleased that we

01:16:53

were able to get everyone

01:16:54

together and share your views

01:16:56

and your your deep experience

01:16:58

and knowledge about these issues.

01:17:01

Hopefully, we can get some



01:17:04
pick up in the least

01:17:05
a little more education about

01:17:07
these alternative routes, particularly not

01:17:11
in the investment, arbitration investment

01:17:14
context. There's absolutely more room

01:17:17
for this type of thinking

01:17:20
and it would very appreciate

01:17:21
your views and coming today,

01:17:25
it's takes a little bit

01:17:27
of work, a little bit

01:17:28
of time to organize these

01:17:29
panels. But I think this

01:17:31
is provided some valuable information



01:17:33
to our There's a few

01:17:37
hours and we'll have these

01:17:39
discussions available on the website

01:17:42
at some point in the

01:17:43
future and they should be

01:17:45
a resource for folks who

01:17:46
wanted to dive into this

01:17:48
these issues. So I'll just

01:17:51
have to wrap up today's

01:17:53
session. We are continuing on

01:17:56
with the world arbitration update.

01:17:59
We have two more days.

01:18:01
This is the end of



01:18:03

the day. For and tomorrow,

01:18:07

we're going to start off

01:18:09

with a panel which is

01:18:11

a bright and early Eastern

01:18:13

Time, 8 a.m. But the

01:18:15

in the afternoon, Madrid time

01:18:17

in Europe, time on the

01:18:21

ECT and it's titled dect

01:18:23

investment treaties in Europe and

01:18:25

international arbitration Awards on favorable

01:18:27

to European States, colon demystifying,

01:18:31

the conundrum of international Regional

01:18:33

European Regional European and domestic.



01:18:36

Clock. And that looks to

01:18:38

be super interesting discussion and

01:18:40

very timely one in light

01:18:42

of all the goings-on, in

01:18:44

the renewable energy sector and

01:18:47

with specifically with regard to

01:18:49

dect. So I look forward

01:18:51

to seeing everyone tomorrow and

01:18:53

thanks again to Margie leaves

01:18:55

and the entire panel, this

01:18:57

was fantastic. And look forward

01:19:00

to seeing everyone again tomorrow,

01:19:02

have a great day and



01:19:04

a great afternoon. Thank you.

01:19:10

Have a nice day. Thank

01:19:13

you.