



Expedited Proceedings in International Investment and International Commercial Arbitration: Features and Steps that Parties, Counsel and Arbitrators Must Bear in Mind and Take. *

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 focused on expedited proceedings in international investment and commercial arbitration, emphasizing the importance of efficiency in resolving disputes. The panel featured notable participants, including Liam, the moderator and partner at Freshfields, and experts like Joe Dorado from JAMS and Rafael Carmona from the ICDR.

The discussion highlighted the mechanisms available in various arbitration rules that facilitate expedited proceedings, noting that these procedures are increasingly essential as parties seek quicker resolutions. Rafael provided insights into the International Centre for Dispute Resolution's (ICDR) expedited procedures, explaining the monetary thresholds and the flexibility allowed within the rules to ensure efficiency.

The panelists explored the challenges of lengthy written submissions, advocating for page limits to enhance clarity and reduce the time required for preparation. They shared experiences of how limiting submissions can lead to quicker arbitration processes and better engagement from arbitrators.

Mediation was also discussed as a parallel process that could help narrow disputes, although panelists noted that acceptance of mediation by parties can be inconsistent. The conversation underscored the evolving landscape of arbitration, with a call for practices that prioritize efficiency while maintaining due process.

Overall, the session provided valuable insights into the current trends and practices in expedited arbitration, emphasizing the need for innovative approaches to enhance the arbitral process.



Authors

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Topics

WAW

Category

WAW

Full Transcript

00:04:31

Okay, so welcome again to

00:04:36

Washington arbitration week and some

00:04:40

know now there's this many

00:04:41

familiar faces and and some

00:04:43

that thought maybe for the

00:04:45

first time to Washington arbitration

00:04:47

week in this session. First

00:04:50

of all, I would like

00:04:50

to thank very much fresh

00:04:53



Fields because he has been

00:04:55

a great supporter and also

00:04:57

a sponsor and this is

00:05:01

this is our third panel

00:05:04

of the day and I

00:05:06

know that things are going

00:05:08

well, this is a panel

00:05:11

on expedited proceedings in International

00:05:13

Investment and international commercial arbitration

00:05:15

features and steps. The parties

00:05:20

Council in arbitration must bear

00:05:21

in mind and take this.

00:05:24

I know I know that

00:05:26



there have been other forms

00:05:28

focusing on. This type of

00:05:32

authority cheating but as efficiency

00:05:35

becomes a value. So, so

00:05:39

important for a speedy resolution

00:05:41

expedite the proceedings. Is it

00:05:44

something that we, we ought

00:05:46

to take into account? And

00:05:47

no, we. We have the

00:05:49

pleasure of having both counsel,

00:05:51

arbitrators, and legal counsel of

00:05:55

important arbitration centers. That will

00:05:58

walk us through the experiences

00:06:01



and on some of their

00:06:02

features, to really do. I

00:06:07

successfully an arbitration proceeding in

00:06:10

an expedited manner. But, you

00:06:12

know, without stealing Lisa Thunder,

00:06:16

I would like to introduce

00:06:16

him. Who is our moderator?

00:06:19

He is a fresh Fields

00:06:21

partner of the New York

00:06:23

office. He has significant experience,

00:06:25

advising and representing clients in

00:06:28

complex international disputes. He spent

00:06:31

several years working abroad in

00:06:33



freshfields, Paris and Dubai offices.

00:06:36

And he spent significant time

00:06:37

on 2nd in one of

00:06:39

the world's leading energy companies

00:06:40

in Houston that he has

00:06:42

represented clients in commercial. For

00:06:46

investment and construction arbitrations across

00:06:48

a wide variety of Industry,

00:06:51

sectors. And he has no,

00:06:53

I'm not surprised. Okay, we

00:06:58

can qualified as as one

00:07:00

of the rising stars, under

00:07:02

40 in the field of

00:07:04



international arbitration. And I couldn't

00:07:06

keep on going in terms

00:07:08

of publication and I'm more

00:07:10

accolades, but I will stop

00:07:12

there and give you the

00:07:14

floor for you to take

00:07:16

it. Thank you. Another Stellar

00:07:22

edition with no impact impact

00:07:25

lineup. She shall be proud

00:07:27

of what you've introduced. Thank

00:07:34

you very much. I will

00:07:38

introduce our wonderful panel, and

00:07:41

I'll start at the at

00:07:42



the far end Joe Dorado.

00:07:43

We can give them to

00:07:45

different affiliations on the screen.

00:07:47

It says jams, because he's

00:07:48

obviously known as being a,

00:07:50

a formidable and well-known arbitrator

00:07:52

is also a partner at

00:07:53

getty. Guess, he's handled hundreds

00:07:56

of cases as Council as

00:07:58

arbitrator and while will surely

00:08:00

benefit from his wisdom, from

00:08:02

the various apps that he

00:08:04

where is he will bring

00:08:05



to bear, for our panel,

00:08:06

first and foremost, his experience

00:08:09

as an arbitrator in the

00:08:11

center, Rafael Carmona, who is

00:08:14

doing a wonderful job. If

00:08:15

you can see it on

00:08:15

the screen, representing an ICD

00:08:18

our branding with your Ballroom

00:08:22

Rafael very own brand, very

00:08:23

good. Rafael, a Spanish lawyer

00:08:26

practice, that would he have

00:08:27

an end as before? Coming

00:08:29

to the u.s. to do,

00:08:30



is that allow them is

00:08:31

about to celebrate his, his

00:08:32

tenth year at the ictr

00:08:34

and if you got a

00:08:36

case of the ictr he

00:08:37

probably got into. No. Raphael

00:08:39

at at some point in

00:08:40

time and to my immediate

00:08:41

left in the tally is

00:08:43

Barb, if you're worried about

00:08:44

not having DC content on

00:08:47

a panel Natalia's based here,

00:08:49

in DC, with Wiley Ryan,

00:08:50



a broad-based complex litigation and

00:08:53

arbitration practice. She spent some

00:08:55

time as well, as I

00:08:56

understand it at an institution

00:08:57

for a. Of time. And

00:08:59

so I'm sure we will

00:09:00

get to have her wisdom

00:09:02

from her time there. And

00:09:03

as I was getting, my

00:09:05

name is Liam, a partner

00:09:06

with fresh Fields based in

00:09:08

New York so we know

00:09:09

who our panelists are. Let

00:09:12



me tell you a little

00:09:12

bit about what we're going

00:09:13

to be talking about today.

00:09:14

So the title of our

00:09:15

panel is as was that

00:09:16

is expedited proceedings. International arbitration

00:09:20

generally And when we talked

00:09:23

about expedited proceedings, the title

00:09:25

obviously, alludes to different mechanisms.

00:09:28

Now appearing in virtually every

00:09:30

single set of rules to

00:09:32

allow arbitration, to go on

00:09:34

a fast track. And I'm

00:09:35



sure for many of us.

00:09:36

We all have cases that

00:09:37

we wish were on a

00:09:38

faster track than they might

00:09:40

have. Been I'm expecting an

00:09:42

annulment decision in a case

00:09:43

hopefully this month which will

00:09:45

be when you're 17. Surely

00:09:47

that is not what we

00:09:48

are talking about here in

00:09:50

any event. Different institutions obviously

00:09:52

do it in a variety

00:09:53

of different ways some more

00:09:55



often somewhere off doubt some

00:09:57

of my monetary threshold and

00:09:59

with Raphael on the panel

00:10:00

I'm sure we'll hear special

00:10:02

insight inside-baseball to how the

00:10:05

ictr is administering. Their expedited

00:10:08

arbitration. At least I'm hoping

00:10:09

to get some insight Rafael.

00:10:11

So we're going to put

00:10:11

you on the spot. Now

00:10:13

we will talk about expedited

00:10:15

proceedings but when we all

00:10:17

got together to talk about

00:10:18



any of the things that

00:10:19

we wanted to to to,

00:10:20

to discuss, What do you

00:10:22

all today? You know, the

00:10:24

whole ideas about improving efficiency

00:10:26

in the arbitral process and

00:10:27

so we've taken license on

00:10:29

the panels not just talk

00:10:30

about expedited proceedings, but Expediting

00:10:33

proceedings. How can proceedings go

00:10:35

faster? What are some of

00:10:36

the ways in which we

00:10:38

might all creatively. What the

00:10:40



institution on the council side

00:10:42

of the arbitrator side? How

00:10:44

can we find ways to

00:10:45

move more quickly through the

00:10:47

arbitral process? So that's the

00:10:51

plan in terms of form

00:10:52

at each of our wonderful

00:10:55

panelists will lead a conversation

00:10:57

for 5 to 7 minutes

00:10:59

and we'll probably open it

00:11:00

up. I might interrupt because

00:11:02

it's my right as moderated

00:11:04

interrupt when I want and

00:11:05



ask questions and probe and

00:11:07

our hope is that the

00:11:09

audience will also engage Network.

00:11:11

We are a great crowd,

00:11:14

but a small enough, the

00:11:15

number that we can have

00:11:16

something interactive obviously we can

00:11:18

answer questions at the end

00:11:19

but as much as possible,

00:11:20

please. Tract. And if I'm

00:11:22

feeling like the crowds, not

00:11:23

actively engaged, I might, I

00:11:25

might take on people as

00:11:27



well. So that's the format

00:11:28

now, One more administrative thing.

00:11:31

And then I'll shut up

00:11:32

for a few minutes at

00:11:33

least CLE importance to some

00:11:36

of you in this room

00:11:36

to get credit for the

00:11:37

time that we're spending together.

00:11:38

The way you do that

00:11:40

is on your way out

00:11:41

at the reception desk, desk

00:11:43

is a QR code scan

00:11:45

it on your phone. It

00:11:46



will bring you to a

00:11:46

form that you'll fill out.

00:11:47

And I'm going to give

00:11:48

you the secret password at

00:11:50

a moment sometime during the

00:11:52

course of the next hour,

00:11:53

when you're least expecting it.

00:11:54

So that is everything I

00:11:57

have to say by way

00:11:58

of introduction, we do have

00:11:59

people potentially virtually. We do

00:12:03

we do have a number

00:12:03

of people who have signed

00:12:04



an online to show 26,

00:12:06

participant. So minus the four

00:12:07

of us that makes about

00:12:08

20 to be taking questions

00:12:11

as well. So for those

00:12:12

online, don't feel like you

00:12:13

need to sit there in

00:12:15

silence, please feel free to

00:12:16

get on the chat and

00:12:18

if your question is good,

00:12:19

I'll ask him if it's

00:12:20

Battle of North, that's the

00:12:22

introduction. I think we're going

00:12:23



to start where we should

00:12:25

with with the institutions were

00:12:26

driving. A lot of the

00:12:27

innovation in this area. The

00:12:29

Raphael, the floor is yours.

00:12:31

And if they'll pass you

00:12:32

this microphone, this way, it's

00:12:36

easier for me to interrupt.

00:12:40

Perfect. Can you hear me?

00:12:42

Yeah. Sorry. And I were

00:13:01

to turn it off. So

00:13:05

thank you very much. Thank

00:13:09

you all very much for

00:13:10



being here or being. It's

00:13:12

still really a pleasure to

00:13:14

be part of the panel.

00:13:15

Let me one brief moment

00:13:19

to begin with about institutional

00:13:21

rules and explain the procedures,

00:13:24

right? At the end of

00:13:25

the day of you say

00:13:25

yes, we mention that the

00:13:27

goal is to make the

00:13:29

process more efficient ride and

00:13:32

I don't know, the times

00:13:34

really all these things and

00:13:35



explain things but I think

00:13:37

you probably can do ride

00:13:40

depending on their case. And

00:13:41

you know, also in the

00:13:43

parties agree, always something that

00:13:44

can be done, but rules

00:13:48

is to give cobbler also

00:13:50

to the arbitrator's to really

00:13:51

be efficient, like this is

00:13:52

what the rules say ride.

00:13:54

So you can, you can

00:13:55

do it, we always roll

00:13:58

that. You hear me say,

00:14:00



I meant to say, okay,

00:14:01

this is the default, otherwise,

00:14:04

right? So obviously the circumstances

00:14:07

can buy from case to

00:14:09

case supposed to be expedited,

00:14:12

JCPenney more complicated than others,

00:14:14

even though they claim amounts

00:14:15

may be small. So I

00:14:17

just wanted to start with

00:14:18

that because you can be

00:14:19

a, Richard is going to

00:14:20

have some leeway. If they

00:14:22

decide that, for example, they

00:14:23



need more time for a

00:14:24

particular procedure to stab, but

00:14:27

the procedures their main goal

00:14:31

is really, don't believe that.

00:14:32

Sometimes the process of the

00:14:34

arbitrators and get something called.

00:14:36

The parties have agreed to

00:14:37

this expedited rules, either specifically,

00:14:40

orbit, the stuff, you know,

00:14:41

the trash hole that applies

00:14:43

for procedures. So you can

00:14:45

just pull the step line.

00:14:47

Burning ban to, you know,

00:14:49



those threshold that I mention

00:14:52

and, of course, a chance

00:14:53

to do some, that's a

00:14:54

different. We can go to

00:14:55

talk about our age, our

00:14:56

International expedited procedures, they apply

00:15:00

when we have a case

00:15:03

where no play more counterclaim

00:15:04

exceeds half a million dollars,

00:15:06

so you could even have

00:15:07

a claim for, let's say,

00:15:09

\$499,000 an accountant, playing for

00:15:13

night at \$499,000 and I

00:15:17



would still fall under the

00:15:18

expedited procedures. If there is

00:15:22

a disagreement between the parties,

00:15:23

sometimes as to whether the

00:15:25

expedited procedures apply or not

00:15:27

the institution, the ictr would

00:15:29

make an initial determination if

00:15:31

there's no arbitrator and I

00:15:34

will be for the arbitrator

00:15:35

to make a final determination

00:15:36

of whether the expedited procedure

00:15:39

should apply or not. I

00:15:42

was saying that regard. Also

00:15:43



the rules in particular mention

00:15:46
that if they claim a

00:15:49
counterclaim is later amended to

00:15:51
exceed the threshold in principle,

00:15:53
the expedited procedures would still

00:15:55
apply and into the main

00:15:57
goal without us, that we

00:15:59
don't want some party trying

00:16:01
to game the system and

00:16:02
saying, well, we disagree with

00:16:04
the application of the driver

00:16:05
seat, right? About half a

00:16:12
million dollars and then we

00:16:13



need to get out of

00:16:14

it so that we can

00:16:18

review the situation. But even

00:16:19

if anime Claymore, play now,

00:16:22

exceeds half a million dollars,

00:16:24

the case will remain under

00:16:26

the expedited procedures. So you

00:16:29

filed the case, okay? With

00:16:31

you know that you have

00:16:32

a claim for this amount.

00:16:33

One thing though so that

00:16:34

I would mention when filing

00:16:36

vacations are the rules, provide

00:16:37



that they should be more

00:16:39

than the usual filing for

00:16:41

a regular track rules with

00:16:44

the bare bones of mission,

00:16:46

Suburbans, notice of arbitration. The

00:16:49

idea is to really start

00:16:50

presenting more detailed, submissions ride,

00:16:53

so that you would not

00:16:55

have to dinner, ideally, you

00:16:58

will even just a sensor

00:16:59

look, like a mended complain,

00:17:01

that line that, you know,

00:17:03

if you need to make

00:17:03



any sort of a madman's,

00:17:04

that's fine. But you do

00:17:05

need to file first, I

00:17:07

noticed arbitration and then the

00:17:09

4-mile mordida memorials. Although of

00:17:11

course, if you can imagine

00:17:12

being a party sometimes, especially

00:17:15

the claim and they may

00:17:16

not exactly do that. That

00:17:17

we're not going to be

00:17:19

banned because you're moving forward.

00:17:28

Related idea, that I was

00:17:29

saying, there are some deadlines

00:17:30



and describe. The procedure is

00:17:31

obviously, the parties agreed to

00:17:35

extend the deadline. So, I

00:17:36

mean, the parties can agree

00:17:38

to modify those deadlines, and

00:17:40

that's something that we encounter

00:17:41

from time to time that

00:17:43

we are the ones. Sometimes

00:17:44

I want to move forward

00:17:45

very quickly, but sometimes our

00:17:47

parties, they like you, do

00:17:48

you prepare whatever submissions I'll

00:17:56

mention Just One Last point,

00:17:58



which is selection of an

00:18:00

arbitrator. We use at least

00:18:03

method, also in the expedited

00:18:05

procedures and a little bit

00:18:08

different, from our default, mess

00:18:09

up, because we will have

00:18:10

only five candidates in the

00:18:12

latest, on each side will

00:18:14

have a party. I should

00:18:15

say should have only two

00:18:17

strikes. So the ADI study,

00:18:19

the structure known overlapping will

00:18:22

still have one arbitrator that

00:18:23



will be able to be

00:18:24

appointed. Now course. Situations that

00:18:29

are now that, that can

00:18:30

happen. Then I've seen is

00:18:31

like what happens to be

00:18:32

half of next week? I'd

00:18:33

appreciate your situation. Do? We

00:18:37

have three different represented party

00:18:39

and that'll be easy. It's

00:18:42

a little bit of a

00:18:43

problem is the first of

00:18:44

all you do is party

00:18:49

supposed to have an equal

00:18:51



right to participate in the

00:18:53

selection of an arbitrator. And

00:18:55

then also, there's the problem

00:18:56

of that kind of defeats

00:18:56

the purpose of the strike

00:18:59

and rank up in those

00:19:02

situations where we always have

00:19:03

a call with the parties.

00:19:04

For the very beginning, even

00:19:05

an expert at the procedures.

00:19:06

We talk about these things,

00:19:08

and if they agree that

00:19:10

each party would file separate

00:19:12



rankings, and they don't care

00:19:13

about us and we may

00:19:14

have more strikes done arbitrators

00:19:17

in the last war, find

00:19:18

following the party's agreement. Sometimes,

00:19:20

what I've seen is they

00:19:20

said well, we're working with

00:19:22

the expedited procedures that we

00:19:24

really like more of the

00:19:25

regular tracklist. So you must

00:19:28

Names and we have a

00:19:29

limited strike that also give

00:19:30

the more control right over

00:19:32



was going to be appointed

00:19:33

as an arbitrator. So that

00:19:35

is another thing that I've

00:19:36

seen enough to conclude very

00:19:39

briefly from the appointment of

00:19:40

an arbitrator or do. We

00:19:44

need to be issued within

00:19:45

14 days. Unless again, there's

00:19:48

some reason why me to

00:19:49

deviate from that. And the

00:19:50

idea is that there will

00:19:52

be a one-day hearing within

00:19:54

60 days after each runs

00:19:56



off. Scheduling orders, it should

00:19:58

be relatively fast. And then

00:20:00

the award will be issued

00:20:01

within 30 days after closing

00:20:04

off the hearing. So, I'll

00:20:07

stop right there because I

00:20:08

don't want to go over

00:20:08

time. But just give you

00:20:09

a brief overview of all

00:20:11

right, by the procedures. And

00:20:12

then, of course, we can

00:20:14

discuss if you have any

00:20:14

other comments or questions. Thank

00:20:18



thanks, Robert. I didn't get

00:20:19

along towards people to us

00:20:21

to stand up and then

00:20:22

participate, but I certainly have

00:20:23

a few at least take

00:20:24

us off. And in terms

00:20:26

of the monetary threshold, Raphael

00:20:27

are you seeing parties with

00:20:29

disputes that exceed? The monetary

00:20:31

threshold who are opting in

00:20:33

and what does that look

00:20:35

like? What what are the

00:20:36

trends that you're staying in

00:20:38



that regard? So, not that

00:20:41

often to be perfectly honest.

00:20:42

When I see that it

00:20:45

has to be because the

00:20:46

arbitration agreement, specifically has already

00:20:47

mentioned. We won't be expedited

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procedures to apply, which is

00:20:53

sometimes there's a little bit

00:20:55

of a confusion of ambiguity

00:20:58

in terms of other things

00:20:59

that I've seen us like

00:21:00

we want to apply and

00:21:02

we want the next procedure

00:21:03



receiving or variation of that

00:21:08

with the word expedite. Your

00:21:10

body doesn't say, okay, we

00:21:11

will Tripoli rules. Expedited procedure,

00:21:14

specifically, ride, and we need

00:21:16

to see the specific language.

00:21:18

I haven't seen all that

00:21:19

much parties that once they

00:21:22

filed, they want to change

00:21:23

from the regular track to

00:21:25

be expedited procedures. I seen

00:21:29

also, the kind of APA

00:21:30

services that the parties have

00:21:32



a regular track procedure, but

00:21:35

they say, in the arbitration

00:21:38

agreement. No, no, this is,

00:21:39

we won the case. With

00:21:42

all these six months from

00:21:44

the fighting, we don't believe

00:21:47

that first call with other

00:21:48

parties. That's great. And all

00:21:50

we're going to do our

00:21:51

best. But you going to

00:21:52

have to work fast to

00:21:53

make this happen because he's

00:21:54

normally, you know, it's a

00:21:55



very exciting process if it's

00:21:58

just six months from the

00:21:59

filing, right? And then we

00:22:01

can probably have an arbitrary

00:22:02

point if everything goes smoothly

00:22:04

in a month or a

00:22:06

few weeks, I feel like

00:22:07

that, but I'd already Lease

00:22:08

Only 68, like 5 months

00:22:10

to resolve the case. I'm

00:22:11

not. There is no try

00:22:12

because it may be that

00:22:14

the party is somehow have

00:22:17



some sort of objection. But

00:22:19

we don't have jurisdiction, there's

00:22:20

an objection to an arbitrator,

00:22:21

right? So did their issues

00:22:24

there? But I seen that

00:22:25

happen and sometimes, you know,

00:22:27

we will get it done

00:22:28

it. If I met my

00:22:29

complaining to set, alarm when

00:22:31

there's a deadline like that

00:22:32

and when the arbitrator has

00:22:33

worked very hard to be

00:22:35

like 23 weeks, they do

00:22:36



later. Wait, with respect to

00:22:44

another, you have in your

00:22:46

in your set of rules

00:22:47

the ability for parties to

00:22:49

a jack. So if you're

00:22:50

automatically caught by the money

00:22:51

threshold, you're in the expedited

00:22:54

rules. But then, a party

00:22:55

can object, are you seeing

00:22:57

objections the application of the

00:22:59

rules? Are you seeing people

00:23:00

parties? Try to get out

00:23:01

of the set of the

00:23:03



expedited rules? 2. Sometimes it's

00:23:08

not super, I see, need

00:23:10

another situation of the rules

00:23:13

house instead of fresh holes

00:23:14

for, you know, now that

00:23:16

I should get rid of

00:23:17

the AAA, right? Depending on

00:23:19

the number of arbitrate threshold,

00:23:22

they claim amount May influence,

00:23:25

the default number of arbitrators,

00:23:26

there is nothing in the

00:23:27

rules and from what I

00:23:30

can tell you there's some

00:23:31



things there are discussions, that's

00:23:33

too well. You know who

00:23:34

they claim? They're saying that

00:23:37

they have a claymore, or

00:23:42

being all things like that

00:23:43

and I mean at the

00:23:45

end of the day for

00:23:45

a very hard not to

00:23:47

accept the claim and I'll

00:23:49

do the count them out

00:23:50

at face value ride because

00:23:52

You know, I unless there's

00:23:54

something really really wrong and

00:23:55



almost like I can be

00:23:57

fraudulent ride. Now they're also

00:24:00

going to take it at

00:24:01

face value, right? At the

00:24:07

end of the day is

00:24:09

going to be for an

00:24:09

arbitrator, so we see those

00:24:12

type of things sometime. So,

00:24:13

shouldn't be expedited procedures Morris.

00:24:17

I already kind of indicated,

00:24:18

some place. We have multiple

00:24:19

parties and there's some sort

00:24:20

of argument that wasn't. This

00:24:22



makes it even more complex.

00:24:23

That should be the case

00:24:24

for the expedited procedures, and

00:24:26

then it gets a little

00:24:27

bit more complicated on how

00:24:28

to handle that. Bridge the

00:24:33

gap from expedited to Expediting,

00:24:36

the first exciting transition of

00:24:39

the, of the afternoon and

00:24:41

asked and asked a question

00:24:42

maybe to that to that

00:24:44

to the group before asking

00:24:45

a question about fael, which

00:24:47



is, if, if you're on

00:24:47

a call with Raphael and

00:24:49

a brand new case and

00:24:51

you're having your first procedural

00:24:52

call with the administrator was,

00:24:54

it was Rafael. Who knows

00:24:56

what the last question is

00:24:57

that you typically asks on

00:24:59

that, on that call 3

00:25:03

acres. Graphing, what, what's usually?

00:25:06

The very last question that

00:25:07

you asked before you, let

00:25:08

us all hang up in

00:25:17



a way, we have to

00:25:19

be back for example, also,

00:25:20

like parties think it was.

00:25:25

The answer is hoping for

00:25:26

this shows that this is

00:25:30

all organic and you're not

00:25:31

all of it is perfectly

00:25:32

planned. Raphael ask. Maybe the

00:25:34

penultimate question is, what the

00:25:36

parties think about the icr

00:25:38

appointing a mediator in parallel

00:25:40

to the to the arbitration,

00:25:42

as the penultimate, we're going

00:25:44



there, but I didn't want

00:25:45

to give you, you don't

00:25:46

want to do that. So

00:25:57

maybe, maybe. As this was

00:25:59

the last last Topic at

00:26:00

while you're on the hot

00:26:01

seat, at least for now

00:26:02

you might be back on

00:26:02

the hot seat later. You

00:26:05

guys should have a special

00:26:06

feature of of the icr.

00:26:08

And then I guess with

00:26:09

the AAA as well, in

00:26:10



terms of pushing mediation, encouraging

00:26:12

mediation during the course of

00:26:14

of a proceeding. And so,

00:26:16

you know, what it, what

00:26:16

are your observations on network?

00:26:18

What are you seeing in

00:26:19

terms of parties opting in

00:26:21

to that service and and

00:26:22

to, what extent do you

00:26:23

feel like that ends up

00:26:25

narrowing disputes and ultimately Expediting

00:26:28

resolution cell? How to say

00:26:32

I haven't seen some changes

00:26:34



Trend in this and that.

00:26:35

Let me get some little

00:26:38

bit more background, right? We

00:26:41

could use. When we last

00:26:42

time, I need a rule

00:26:43

21, some reference to the

00:26:47

fiber party, right? Of course,

00:26:51

then we mentioned this out

00:26:52

of mediation and, you know,

00:26:54

we understand that maybe she

00:26:55

was not the most, like,

00:26:56

you know, I could work

00:26:57

here but this is really

00:26:59



to encourage the parts, right?

00:27:00

That's why the rule said

00:27:02

the party Shawn mediate their

00:27:03

dispute because we really want

00:27:05

to at least mention it

00:27:07

and really promoted a Stein

00:27:09

attorney fees mess up that

00:27:12

we can run again on

00:27:13

track to the arbitration. A

00:27:15

lot of the time to

00:27:16

party, say okay, when we

00:27:20

get to the appointment of

00:27:21

the arbitrator we probably will

00:27:23



be a little bit slower

00:27:24

than the appointment then I'll

00:27:26

then we'll decide if you

00:27:27

really want to but I

00:27:28

just have a call and

00:27:30

see where we go and

00:27:30

hopefully mediation. But I'm sure

00:27:33

we'll be about to take

00:27:34

place at the point. I

00:27:40

don't think I got that

00:27:42

many parties to agree to

00:27:45

mediation and then slowly. But

00:27:48

surely, I see an increase

00:27:49



in the number of parallel

00:27:50

mediations that we've had the

00:27:54

fever that we got is

00:27:55

generally positive because even if

00:27:57

you don't settle and closer

00:28:05

to the problems that we

00:28:08

really need to address during

00:28:10

the arbitration, some parts of

00:28:12

the explains may be resolved

00:28:14

feedback on a parallel track.

00:28:21

Lot of the times I've

00:28:23

been there ways to handle

00:28:28

that because Joe Jonas having

00:28:33



any anything on the mediation

00:28:34

point, from what you're saying

00:28:36

your practices. So unfortunately in

00:28:42

my experience has not been

00:28:43

successful at the end of

00:28:48

cases, that I've dealt with.

00:28:49

I can do parties at

00:28:50

this point or they just

00:28:52

don't want to do it

00:28:53

anymore. I ordered they just

00:28:55

lied on want to even

00:28:56

entertain the idea. So just

00:28:58

given light our experience with

00:29:00



how will have a lot

00:29:02

of success rate. It's not

00:29:03

something that we like push

00:29:05

our clients to do. But

00:29:06

I personally believe, you know,

00:29:07

there's like a lot of

00:29:08

potential and valuing that unfortunately,

00:29:11

maybe it's just the nature

00:29:11

of the cases have recently

00:29:13

been denied, because everybody's busy,

00:29:18

but I also try to

00:29:19

mention the party and I

00:29:20

think this is a Common

00:29:21



Thread understand. You may want

00:29:30

to go through some document

00:29:31

production and make sure where

00:29:33

you do your playing released

00:29:35

one's there to go through

00:29:36

all the disclosure of information.

00:29:40

Anytime, right? And I think

00:29:44

sometimes we do settlements normally,

00:29:49

with or without mediation. How

00:29:55

many? What I said he

00:29:59

seen is that mediation is

00:30:01

increasing, but slowly, I think

00:30:03

they said that involved in

00:30:04



the end. It on a

00:30:05

full-time basis. Really frustrated with

00:30:07

the, with the degree of

00:30:09

progress, but that depends where

00:30:12

you looking. So in the

00:30:13

UK, we have seen a

00:30:14

tremendous advancements since the 1980s

00:30:17

when we basically inherited from

00:30:19

all us colleagues. But in

00:30:21

places like Spain, now, beginning

00:30:23

to look at, um, mandatory

00:30:26

mediation slow, it's difficult to

00:30:34

sell it sometimes to you.

00:30:36



You wouldn't think it's so

00:30:37

true such a hard sell,

00:30:38

but sometimes you can be

00:30:39

perceived as not having faith

00:30:40

in your own case. If

00:30:42

you're trying to overly promotes

00:30:44

that mediation is an option,

00:30:46

I think it's kind of

00:30:46

important have the full gamut

00:30:48

of tools before you and

00:30:50

I think that one is

00:30:51

responding to the opportunity. You

00:30:53

know how to see what

00:30:53



you tend to see. Even

00:30:54

with those who are reluctant,

00:30:55

it's already in the contract,

00:30:57

for example, is the preliminary

00:30:58

off. An option as part

00:31:00

of the dispute resolution rules

00:31:02

out, something that can help

00:31:03

open the door to negotiation

00:31:05

to let me respond. Once

00:31:09

people, even the most cynical,

00:31:10

once I get in the

00:31:11

room and something, they feel

00:31:12

empowered and getting bold and

00:31:15



they can change. But I

00:31:16

think the real skill is

00:31:17

trying to create that situation

00:31:18

without looking weak and I

00:31:20

think just worrying about us

00:31:21

going to cancel, but we're

00:31:22

in his role as well

00:31:26

and can help by the

00:31:29

beat and then wouldn't, you

00:31:32

know, have you considered, there's

00:31:33

anything we can do, you

00:31:34

know of assisting proceedings if

00:31:36

there's no reason why I

00:31:39



am proceeding parallel to mediation,

00:31:42

but I think sending that

00:31:44

kind of Positive Single to

00:31:45

the policies and knowing that

00:31:46

you are looking, and sometimes

00:31:47

they could be a good

00:31:48

way of saying, this is

00:31:49

a real dogs breakfast in

00:31:51

the case and this is

00:31:52

going to cost a lot

00:31:53

of money getting bored. And

00:31:54

she can say, Results of

00:31:59

the tribunal, but I think

00:32:03



it's incumbent on us to

00:32:04

educate sometimes, it's as simple

00:32:08

as that or at least

00:32:09

promote social and courage, alternative

00:32:12

dispute resolution. I think mediation

00:32:14

suddenly on the up on

00:32:16

the commercial side and I'll

00:32:18

hand them, Mike back to

00:32:19

you the second about forever

00:32:20

because I think you want

00:32:21

to do it, but I

00:32:22

just want to have it

00:32:23

already wants to touch on

00:32:24



this Shining Light on because

00:32:25

I've been a little frustrated

00:32:27

if I'm perfectly content cuz

00:32:28

I was involved in part

00:32:29

of it, I think you

00:32:32

be forgiven if you think

00:32:33

you will have me have

00:32:33

this topic is going to

00:32:35

be always coming up on

00:32:36

every conference every year. And

00:32:37

I think frankly for the

00:32:38

last 20 years we've had

00:32:39

this issue of we need

00:32:42



to do things differently, a

00:32:44

little muscle in the UK.

00:32:45

I think she said in

00:32:47

2000 that we were things

00:32:49

you of killing the Golden

00:32:51

Goose because the century causing

00:32:53

the delay of arbitration, what

00:32:55

are the benefits of it

00:32:56

was being sold at work?

00:32:58

Remind by the increasing costs

00:33:00

and then it in about

00:33:02

the 2015 you saw the

00:33:05

Goodwill pound home front. So

00:33:06



she was a series of

00:33:07

conferences all around the world

00:33:08

with finals. Me, people involved

00:33:09

stakeholders from around the world.

00:33:12

Make came up with a

00:33:13

full contingent of the two

00:33:16

years of the first one

00:33:18

that came up with was

00:33:19

a real desire for efficiency.

00:33:22

It was the key priority

00:33:23

so that was the number

00:33:24

one thing from all these

00:33:25

people climb. So furiously that

00:33:26



something is still and then

00:33:30

10 years on, just the

00:33:30

roundabout. Now we are seeing

00:33:32

a renewed interest. We so

00:33:33

recently that people would read

00:33:35

a doll, no doubt. The

00:33:36

god El CIA, we heard

00:33:37

about it last night at

00:33:38

the exit event is well

00:33:39

looking at. It was basically

00:33:41

saying something is not working

00:33:43

and we are at we

00:33:44

still we have all these

00:33:45



mechanisms we have visits. Interesting,

00:33:47

I was looking at other

00:33:48

expedited rules if we have

00:33:50

time I mention the later

00:33:51

around around the world and

00:33:53

wanted to see in this

00:33:53

proliferation of rules and because

00:33:56

I have some coming out

00:33:57

of its but still interesting.

00:33:58

Are distinctions is wrong. But

00:34:01

what area was it in

00:34:02

Vesta States? A mediation is

00:34:05

what I wanted to mention

00:34:06



and plug because when you

00:34:08

look at the cost of

00:34:09

commercial arbitration, which is bad

00:34:11

enough, as hell, and takes

00:34:14

a lot longer. 17 years

00:34:15

were hearing that I'm counting

00:34:16

in an almond case over

00:34:18

here. I did not hang

00:34:23

up, putting a Spain on

00:34:25

4th, Street, on the wrong

00:34:26

end of a lot of

00:34:27

these awards at the moment

00:34:28

and not doing everything possible

00:34:29



to avoid paying. I also

00:34:31

tribunals are not getting anywhere

00:34:33

near the claimants are often,

00:34:35

so there's a lot of

00:34:36

incentive. I think I'm parties

00:34:38

to dry and do things

00:34:40

differently and that's what we're

00:34:41

hearing. Although, I would just

00:34:42

say that when we were

00:34:44

with respect to any clients

00:34:47

in the room, they tend

00:34:48

to be pretty schizophrenic if

00:34:49

they say one thing. And

00:34:50



then obviously, when you present

00:34:51

it to them, they want

00:34:52

to do something else if

00:34:53

it is a challenge. But

00:34:55

I think are you going

00:34:55

to do very briefly because

00:34:58

you mentioned, It's only for

00:34:59

like a question also because

00:35:01

the ones like one party

00:35:05

their protest saying, okay, now

00:35:07

we know we're going to

00:35:08

have these two in each

00:35:09

other, for sure. I will

00:35:09



call with the arbitrator's. Can

00:35:12

you reach out to the

00:35:13

arbitrator's? We got Richard Miller

00:35:15

mentioning in the right, the

00:35:16

whole party which party did

00:35:17

it? But tell them to

00:35:20

include remediation Caro in the

00:35:22

scheduling order because, you know,

00:35:24

confidentially we may want to

00:35:26

settle that. We don't want

00:35:27

to look weak and we

00:35:28

need to somehow salad. Do

00:35:30

you know that is something

00:35:31



that cannot have you seen

00:35:33

it? Or was it something

00:35:34

that doesn't happen all that

00:35:36

often? It doesn't have two

00:35:38

levels. Ms11 mediation. Anecdote before

00:35:45

I passed the floor, back

00:35:46

back back to Joe, two

00:35:49

weeks ago. I propose mediation

00:35:50

2 to a counterparty and

00:35:52

she asked me if we

00:35:54

are going to change our

00:35:54

position, if the mediation, the

00:35:56

mediator told us that our

00:35:57



position is very weak. I

00:35:59

said, probably not. And then

00:36:00

I asked her the same

00:36:01

question. You said probably not.

00:36:03

I said then we probably

00:36:04

ought not to do it,

00:36:06

but I think that's that

00:36:08

that's the same as is

00:36:09

you feel quite stuck stuck

00:36:12

in your positions. At once

00:36:14

you start arbitrating and you

00:36:16

feel like if you hear

00:36:17

something bad for one person,

00:36:18



maybe you'll hear something good

00:36:20

from at least two-thirds of

00:36:22

2/3 of a Tribunal. But

00:36:26

you won't let me pass

00:36:27

report back to you. If

00:36:28

the, if if Raphael was

00:36:30

applying his set of rules

00:36:32

of to have in front

00:36:32

of me, he would be

00:36:34

in charge of proposing five,

00:36:35

arbitrators and truly, Joe would

00:36:37

be one of the names

00:36:38

on on, on the top

00:36:39



of his list. Do you

00:36:41
want to pick up on

00:36:41
any other topics beyond the

00:36:42
mediation song to Evangelical? Not

00:36:51
put people off too, but

00:36:52
I think timing is everything

00:36:55
and I think that's the

00:36:56
beauty of it is not

00:36:57
to approach it as if

00:36:58
it's going to rehearsal for

00:37:00
a trial or a hearing,

00:37:02
it is there is a

00:37:03
different approach to it and

00:37:05



if nothing else, you got

00:37:06

to understand your own case,

00:37:08

mess up anything given the

00:37:14

cost in the potential cost

00:37:15

savings and time-saving. I think

00:37:19

you're not fat have a

00:37:20

really hard thing, it's worse

00:37:21

before discounting it. And, of

00:37:24

course, a lot really depends

00:37:25

on the mediator or mediator

00:37:26

tools. I'm a big fan

00:37:28

of immediate search solar powered

00:37:32

light with real estate location

00:37:33



location location. Mediations mediate immediate

00:37:36

immediate and they can help

00:37:37

facilitate even in the most

00:37:39

difficult of circumstances, be the

00:37:44

Catalyst to move. Things forward

00:37:46

in circumstances and it's a,

00:37:47

you go in there, somehow

00:37:53

something happens and it can

00:37:55

change things. What I was

00:37:59

going to say is that

00:38:00

I think any isn't Siri,

00:38:06

the existing rules, you are

00:38:08

a sufficient themselves with proper

00:38:10



engagement with the tribunal to

00:38:11

manipulate the Croft. What exactly

00:38:15

do you need? But having

00:38:16

some places It's helpful. I

00:38:19

just thought it was interesting

00:38:21

to see how that has

00:38:22

been this explosion of rules

00:38:25

well, over as well as

00:38:30

a money tree. Limb. It's

00:38:34

somewhere between any case normally

00:38:44

stay single, as you'd expect,

00:38:46

I think the teasing spawned

00:38:47

a single arbitrator or a

00:38:50



free admission and only most

00:38:55

of them are armed with

00:38:56

documents only. So hearings as

00:38:58

know, the default position towards

00:39:01

you see, Jen typically to

00:39:03

expect expectation. The most seems

00:39:05

to be about 6 months,

00:39:06

three months. What are the

00:39:10

element? Ella Mae in London,

00:39:13

London. Maritime Arbitration Association. They

00:39:16

have one month. But they

00:39:18

small claims is only \$100,000

00:39:20

but everything else. Basically, it

00:39:22



six weeks got to run

00:39:24

during the war of operations

00:39:31

at all being dealt with

00:39:32

expeditiously. I need a cost-effective

00:39:34

way on a day-in day-out

00:39:35

basis to be single all

00:39:42

betrayed her with a very

00:39:47

tight turn around. So it's

00:39:49

it's interesting to see that

00:39:51

I think it's old but

00:39:53

I think we have to

00:39:53

be a little bit careful

00:39:54

that would just not being

00:39:55



efficient for the sake of

00:39:56

being said, shouldn't I always

00:40:06

feel a little worried? I

00:40:07

think I under the English

00:40:08

of Patricia example. I'm under

00:40:10

juci to push things along.

00:40:12

So obviously the end of

00:40:14

the day you visitation with

00:40:15

pain, see which one of

00:40:16

me but I think it's

00:40:18

wouldn't be pushing back and

00:40:20

seem to be pushed back

00:40:20

and you conscious In Georgia,

00:40:31



says, stay with your role

00:40:33

as, as arbitrator. What what

00:40:35

have you found me? Some

00:40:35

of the effective ways to

00:40:37

help to help parties along

00:40:39

to help streamline things. I

00:40:40

mean, if you have two

00:40:41

parties who are proceeding in

00:40:43

a way that's in efficient

00:40:45

and effective, they seem to

00:40:47

be happy, maybe the lawyers

00:40:48

are happy because they're getting

00:40:49

paid. But, you know, they're

00:40:51



proceeding what what what what

00:40:52

what's in your toolbox that

00:40:54

you cannot deploy by example.

00:40:59

And number one, I think

00:41:00

it is proactive case management

00:41:03

in talkin to reminding people

00:41:05

of old UT and what's

00:41:08

your what your expectation is.

00:41:10

So and I think it's

00:41:12

trying to Indian sometimes that's

00:41:14

a lot of heat in

00:41:15

the room. You can set

00:41:17

the time and at you

00:41:18



while being professional and constructive

00:41:21
to try and take that

00:41:22
heat out because ultimately as

00:41:23
we could talk to you

00:41:24
and you're wrong, I think

00:41:25
and constructive dialogue. With the

00:41:27
other side is always much

00:41:28
better. Anyway, when they want

00:41:31
it done by consensus and

00:41:33
encouraging people to actually be

00:41:35
sensible and not argue about

00:41:36
it. And I have one

00:41:37
case with they were at

00:41:38



loggerheads as to whether the

00:41:39

hearing started at 12 or

00:41:41

2 and everybody's in the

00:41:42

same jurisdiction, all different, but

00:41:44

I mean they just could

00:41:45

not like kids. So you

00:41:51

try and try and see

00:41:53

reason. I don't know if

00:41:55

we went for 1 a.m.

00:41:56

just to split the difference,

00:41:57

but I think it is,

00:42:00

ultimately, you have to respect

00:42:06

me but you're in control

00:42:08



of it. And I think

00:42:09

that's a real difficulty of

00:42:11

balancing act and sending that

00:42:13

to a message. Because there

00:42:14

are falsely many, I think

00:42:16

I'll trade you a little

00:42:17

too much going to wait

00:42:19

on successful or fishing Expeditions

00:42:25

were talking and exchanging, for

00:42:26

example, rather than making something

00:42:27

in the back door, if

00:42:28

they'd not sure. Production Robin's,

00:42:33

taking it down the road

00:42:34



and incurring call. So yes

00:42:36

I think it's the tally

00:42:44

wants wants to share but

00:42:45

one thing is there any

00:42:47

German lawyers in the room

00:42:49

or online? I'd like to

00:42:50

hear from you. I had

00:42:51

a Frank at a very

00:42:52

interesting experience in a Frankfurt

00:42:55

seated arbitration we're at we

00:42:58

had a a, a German

00:43:02

and the chair. And then

00:43:03

to American wing arbitrators and

00:43:05



apparently a common feature of

00:43:08

arbitration in Germany under domestic

00:43:10

proceedings is after the first

00:43:12

round of submissions, the tribunal

00:43:14

asks you if you wanted

00:43:16

receive a non-binding indication of

00:43:19

things that are on the

00:43:20

tribunals mine and depending on

00:43:23

who's briefing first or second,

00:43:25

that sounds better or worse.

00:43:26

If you briefly last, I

00:43:28

think you're probably feeling pretty

00:43:29

good in. And feeling pretty

00:43:31



confident. In this if you

00:43:32

haven't briefed last and maybe

00:43:33

meant maybe less. So it

00:43:35

was something that made me

00:43:36

very uncomfortable. At we I

00:43:37

think we all ended up

00:43:39

saying yes and then no

00:43:40

and then so we didn't

00:43:41

end up having this experience

00:43:43

as an arbitrator. But again,

00:43:46

if if people had this

00:43:47

experience as well, I'd like

00:43:49

to hear from you. If

00:43:50



your German, I'd like to

00:43:51

hear from you as well.

00:43:52

Going to doctor giving indicating

00:43:56

to the parties where you

00:43:57

might be going or where

00:43:58

you might be. What, what

00:43:59

are the things that that

00:44:00

interest you that concern you

00:44:02

that you like that, you'd

00:44:03

like to see the parties

00:44:04

really focus on in their

00:44:05

next round of submissions? I

00:44:06

think all of which indicates

00:44:08



some form of narrowing so

00:44:10

that you don't just have,

00:44:11

you know, endlessly, long briefs

00:44:13

Natalia will talk about that

00:44:15

a little bit, but some

00:44:16

kind of of of narrowing

00:44:18

assisted by the tribunal. After

00:44:20

the first boy, was one

00:44:21

of the round table. One

00:44:28

of the recommendations, it was

00:44:29

suggested, I think anything that

00:44:30

is helpful in terms of

00:44:32

perhaps, at that stage, I'm

00:44:34



preparing a list of issues

00:44:37

concerning help Focus, the policy

00:44:40

issues. Tribunal driven. Yes. Yeah.

00:44:44

And I think indicating to

00:44:47

them with a wok that

00:44:49

you're still reading this or

00:44:50

is it still going along

00:44:52

with it? Witnesses are still

00:44:53

required along the way for

00:44:57

the witness statement been working

00:45:05

guide for what it would

00:45:06

be good to have a

00:45:07

statement. From that particular witness,

00:45:08



Holcomb bus that you talk

00:45:09

to other witness statements seem

00:45:12

to be pretty uncontroversial and

00:45:13

perhaps you can dispense with

00:45:15

them at the hearing, but

00:45:16

I think indicating that machine

00:45:18

cuz they I think it's

00:45:19

an evolving beats. This is

00:45:20

the issues, the realest. You

00:45:22

over this. I think you

00:45:23

do too often you have

00:45:24

your procedure number or the

00:45:25

number one, and I've been

00:45:26



to seems to have an

00:45:28

old ghost, you go. You

00:45:29

just take those bolts as

00:45:30

you go along. In this.

00:45:31

Ready in the other times,

00:45:33

you tend to speak to

00:45:33

one another as just before

00:45:35

the hearing itself, which is

00:45:37

helpful but it's going to

00:45:38

be in. And I could

00:45:38

be a year or two

00:45:39

down the road down the

00:45:41

road. I think having more

00:45:43



regular engagement along the way

00:45:44

to try and are those

00:45:45

dishes. And clarifications at the

00:45:47

end of the day, it

00:45:48

is about firefighting it to

00:45:49

you to determine the issue

00:45:51

and you want to make

00:45:51

sure you're in the snow.

00:45:52

You need to determine sucks

00:45:55

being proactive, and reactive to

00:46:00

what's going on with case

00:46:05

management. If you were, if

00:46:08

you were briefing first and

00:46:09



not last at, what, what

00:46:11

how do you feel is

00:46:11

a party as counsel for

00:46:13

a party when invited by

00:46:15

the tribunal, if you wanted

00:46:16

to hear their provisional thoughts?

00:46:18

What would be your reaction

00:46:20

shape that has structure and

00:46:30

organization of the breeze? Sandra.

00:46:33

Really let you you really

00:46:34

realize what that tribunal is

00:46:35

interested in and I feel

00:46:36

like the problem very often

00:46:38



as and I will talk

00:46:40

more later, is this kitchen

00:46:42

sink approach in a race

00:46:44

like to do more is

00:46:45

better and just the console

00:46:47

comes to Pho and all

00:46:48

these potential arguments and and

00:46:50

starts and Plex open up

00:46:52

something. That's not the most

00:46:54

efficient approach in of this

00:46:56

daylight. If you get around

00:46:58

my phone, the tribunal like

00:47:00

what are the stipulations that

00:47:01



they want to hear about

00:47:02

that? Will I find improve

00:47:04

their efficiency in and just

00:47:10

benefit the process? And at

00:47:12

the party Sgt, same thing?

00:47:16

I didn't see anyone stand

00:47:18

out so I guess no

00:47:19

German arbitration law has never

00:47:20

had this experience and solves

00:47:22

tribunal providing of you. Yes,

00:47:25

please. But I rather conference

00:47:30

in Dublin, the bag commercial

00:47:31

litigation that we have church

00:47:33



up the Frankfurt, Commercial Court

00:47:35

over. And she explained that

00:47:37

when a commercial court case

00:47:38

of the first thing, she

00:47:42

does this mean we're at

00:47:54

the mediator then, Yes, please.

00:48:02

Okay, it's about it's about

00:48:14

the tribunal saying we think

00:48:17

you have a strong case

00:48:19

here you have a weak

00:48:20

case there and more often

00:48:23

than not this week's to

00:48:24

settled but if you don't

00:48:26



want to settle a risk

00:48:29

is risky to hear the

00:48:30

tribunal's preliminary use, and if

00:48:33

they stay as they sometimes,

00:48:34

do claiming you don't have

00:48:37

a case, what do? So

00:48:39

it ends there are skeptical

00:48:43

but instead it's a long-standing

00:48:46

tradition and it helps settle

00:48:49

cases, open to the gentleman

00:48:55

right behind you to your

00:48:57

right as as a funder

00:48:58

of cases. Jeffrey, how do

00:49:00



you feel if you're at

00:49:03

your case that you funded

00:49:04

is maybe when I go

00:49:05

in and receive that type

00:49:06

of a provisional view? Is

00:49:07

that something is at as

00:49:09

a funder you'd like to

00:49:10

see more to get an

00:49:11

indication early. Diligence to do

00:49:18

of a matter. So we've

00:49:22

also profiled with the panel.

00:49:23

So if we don't at

00:49:26

that point know what was

00:49:27



it? They're going to say?

00:49:27

I think we're not in

00:49:31

the best spot but I

00:49:34

worry that in certain for

00:49:37

a good lead me to

00:49:38

Springs challenge or satellite. I've

00:50:17

done. I've done my cold

00:50:18

calling. Thanks Jeffrey. I just

00:50:26

don't know. I would have

00:50:26

to do, I have heard

00:50:28

everything. Can I think that

00:50:29

you are free judging and

00:50:30

down the road if you

00:50:35



would. And I think this

00:50:36
is where I have my

00:50:38
are my issue with this

00:50:39
whole issue. It might be

00:50:40
very efficient, but I'm not

00:50:42
sure that's really the interests

00:50:44
of Justice at the end

00:50:44
of the day as well.

00:50:45
And I think we have

00:50:48
to do that. We not

00:50:49
just being efficient, could be

00:50:51
safe if you like them

00:50:53
and sometimes if you do

00:50:55



need to take a little

00:50:55

longer, looking at each case

00:51:02

on its own individual merits.

00:51:03

But I think it would

00:51:11

certainly have the gravitas with

00:51:13

the hours at school, however

00:51:14

you want to put it.

00:51:23

At such a strong indication

00:51:25

that we all should be

00:51:30

speaking into the microphone, but

00:51:31

I think thank you, Joe.

00:51:33

I'm going to pass the

00:51:35

floor. It's a Natalia toot-toot

00:51:37



to take us through the

00:51:38

next part of the panel

00:51:39

on how can be more

00:51:41

efficient. Thank you so much.

00:51:44

I just published recently a

00:51:48

very lengthy articles, you've put

00:51:50

your article because I think

00:51:51

we should be shunned and

00:51:55

I need to know what,

00:51:58

whatever self-promotion and and show

00:52:01

a little bit of the

00:52:02

research and said of personal

00:52:04

personal professional experience, on the

00:52:07



most effective tools that I

00:52:09

think we were able to

00:52:11

employ to really expedite International

00:52:14

International arbitration proceedings. Start a

00:52:18

strange, some results of a

00:52:21

one-bed international arbitration survey from

00:52:23

2021, which asked participants various

00:52:28

stakeholders. What are the biggest

00:52:30

challenges to achieve efficiencies and

00:52:34

faster and cheaper arbitration. And

00:52:37

the overwhelming response was that

00:52:39

it is unlimited length of

00:52:41

written submission. This was the

00:52:43



focus of the chapter that

00:52:44

we bother with my colleagues

00:52:46

that each limitations is truly

00:52:50

can be the most effective

00:52:51

tool that the party's 10

00:52:52

introduced that will result in

00:52:56

more efficient. Efficient proceedings, very

00:53:01

much more of an exception

00:53:03

in international arbitration rather than

00:53:05

the normal. So I will

00:53:08

help focus a little bit

00:53:10

on the arguments. Why why?

00:53:10

That's such a great idea.

00:53:12



And and why how it's

00:53:14

been working on in practicing

00:53:15

the pieces that I've been

00:53:16

saying so instinctively like a

00:53:18

shorter, Braves will save time.

00:53:20

It just takes less time

00:53:22

to write a brief that

00:53:24

is 50 pages than 500

00:53:26

pages and not to do,

00:53:29

just not wanting me to

00:53:33

a Trader who said to

00:53:35

describe this sickening and depressing

00:53:37

stealing when he receive a

00:53:39



statement of claim, which is

00:53:40

800 Pages or reverse. Which

00:53:43

is 350 Pages, opening submissions

00:53:45

that are 500 pages of

00:53:47

closing, submissions of 300 pages

00:53:49

and it from one of

00:53:52

your arbitrators on one of

00:53:53

your briefs. It was not,

00:53:55

but it was, it was

00:53:56

a, it was a part

00:53:56

of the research that way

00:53:57

we come back to when

00:53:59

we were like looking at

00:53:59



that. So do, what is

00:54:01

the feeling them on Albert?

00:54:02

Raiders, on on the south

00:54:03

side and the overwhelming feeling

00:54:06

of not a cheater, says

00:54:07

that unlimited. Submissions are truly

00:54:09

the problem in international arbitration

00:54:11

right now. So instinctively like

00:54:14

short, just short of time.

00:54:16

I will save money, but

00:54:18

they're just a lot of

00:54:18

other benefits that that we

00:54:21

should consider shorter briefs. Will

00:54:24



just make it a lot

00:54:25

more feasible. And likely that

00:54:28

the parties are going to

00:54:29

stick to the sets timetables

00:54:31

and will ask for extension.

00:54:32

They will equalize if you'll

00:54:35

between different parties that might

00:54:37

have access to different resources.

00:54:39

Some parties will have access

00:54:41

to good law firms with

00:54:42

an army of Associate that

00:54:43

will plow for the record

00:54:45

and try to just put

00:54:47



everything in a breathe and

00:54:48

a lot of law firms

00:54:50

will use that kitchen sink

00:54:51

approach to just include every

00:54:53

possible spot information. Potentially relevant

00:54:56

to the dispute, just to

00:54:58

cover all the bases to

00:54:59

show the clients like how

00:55:01

diligent and comprehensive they can

00:55:03

be and then their parties

00:55:05

that doesn't have access to

00:55:06

the same resources. And yet

00:55:07

when they receive the breeze,

00:55:08



that is 800 Pages. There

00:55:10

is this compelling feeling that

00:55:12

they have to match or

00:55:14

exceed the same this length

00:55:16

of submissions to show that

00:55:17

they're equally prepared under heavy.

00:55:21

Police charger case, I need

00:55:24

it. When will cut the

00:55:25

hide, the cut the one,

00:55:29

that's what we can see.

00:55:31

That is a might have

00:55:32

a very soon if I

00:55:34

don't improve decision-making process and

00:55:36



there's been a lot of

00:55:38

writing on how In light

00:55:41

of this, unlimited submissions arbitrator

00:55:43

is very often. Employ different

00:55:45

biases are strategies to comprehend

00:55:49

information. One of them might

00:55:50

be anchoring. They'll just stick

00:55:52

to 15 like one narrative

00:55:54

the day. The Cardinal light

00:55:56

request, arbitration or some of

00:55:58

the early submissions. They might

00:56:01

they might take over rely

00:56:04

on tribella secretaries who will.

00:56:07



Then we'll be classed with

00:56:09

first reading to breathe and

00:56:10

providing a condensed summary of

00:56:12

the of, of, of the

00:56:14

material. So that the arbitrator's

00:56:16

don't have to, I don't

00:56:17

have to read everything. You

00:56:19

know that introduces, the rest

00:56:21

that are we sure are

00:56:21

betrothed secretaries become dislike filter

00:56:25

of information for the arbitrators

00:56:27

and this is not what

00:56:28

we want arbitrators to do.

00:56:31



It might have this, a

00:56:33

preconceived notion of, of set

00:56:37

of arguments that the device

00:56:40

Early early and you know,

00:56:42

when you had when they

00:56:43

have to then Paris for

00:56:44

the movie hundred at most

00:56:46

100 page submissions. It's it's

00:56:48

very hard to to change

00:56:51

that. Preconceived notion that is

00:56:53

so early. Develop the overwhelming

00:56:57

amount of information that they

00:56:59

are facing but the argument

00:57:02



that is very often and

00:57:03

raised and that's something I

00:57:05

never felt Mansion. Is this

00:57:06

due process paranoid that the

00:57:07

parties have the right to

00:57:09

fully present the case and

00:57:11

arbitrators are very off and

00:57:14

worried about allowing the peach

00:57:16

limits because that might potentially

00:57:19

considered grand for challenging the

00:57:20

award later, you know what

00:57:23

research we did not find

00:57:25

a single case that work

00:57:27



toward was successfully challenged because

00:57:29

there was that peach limits

00:57:33

were introduced. So this has

00:57:35

definitely I would say like

00:57:37

image inner sphere. And I

00:57:39

would also say that right

00:57:41

to be heard and do

00:57:42

you process are not the

00:57:44

rides that are just present

00:57:46

in international arbitration. There are

00:57:47

Universal rides that the parties

00:57:50

in interest General liquidation have

00:57:54

the right to present their

00:57:54



case, fully and the standard

00:57:57

and the norm around the

00:57:58

world in the United States

00:57:59

in Europe, is that National

00:58:01

course into this very strict

00:58:03

page limits. For example, Supreme

00:58:06

Court. The United States, I

00:58:09

think that opening briefs have

00:58:12

limitation of fifteen, thousand words.

00:58:13

It was brief star naturally,

00:58:15

always focusing more on legal

00:58:18

issues, and Do You Don't

00:58:19

Be Tardy. Don't get in

00:58:21



till I develop development. But

00:58:25

even the federal circuit boards,

00:58:27

have a very similar paid

00:58:29

word limit where you do

00:58:32

that into that, our development

00:58:34

to develop your argument and

00:58:35

those differ between like 13

00:58:37

to 16 thousand words and

00:58:41

get parties and National courts

00:58:43

forced to obey. By the

00:58:46

limit are somehow able to

00:58:47

present their cases which are

00:58:49

not necessarily any less complex

00:58:51



that the case is that

00:58:52

we see any International arbitration

00:58:54

so it can be done.

00:58:56

It is done as chief.

00:58:59

Justice Roberts famously said, I

00:59:01

have yet to put down

00:59:02

a brief and say, oh,

00:59:03

I wish that it was

00:59:04

longer and I feel like

00:59:06

that sentiment is Ask Emily

00:59:09

president on arbitrators. So we

00:59:11

do see a receipt. We

00:59:14

have this example for national

00:59:15



forests in the New York.

00:59:16

A, that's a 25-page limits

00:59:19

for the timer, some missions

00:59:20

in metal, on 225 Pages,

00:59:22

International European court of justice.

00:59:26

Their primary submissions are limited

00:59:28

to 50 pages. So, you

00:59:31

know, it's it's still a

00:59:33

lot and yet when we,

00:59:35

when we hear those numbers

00:59:38

as International Patrician practitioners, it's

00:59:40

just, I spend that. I

00:59:43

just needed you like a

00:59:44



ton of be done because

00:59:45

we just are really became

00:59:47

accustomed to this monster monster

00:59:50

number or side of multi

00:59:52

hundred-page pleadings that it is

00:59:55

truly became a standard these

00:59:57

days. So this is worth

01:00:01

talking about numbers 75/25, that's

01:00:06

for c, l e, code

01:00:07

75250, the perfect time, alright,

01:00:11

but I wanted to tell

01:00:12

you to have a water

01:00:14

back to you, would you

01:00:16



impose page limits? What do

01:00:18

you poach impose page limits?

01:00:20

If the parties did not

01:00:21

that requested? And under the

01:00:39

bus rules, the ability to

01:00:40

impose that because he just

01:00:43

quit. I mean, how about

01:00:43

how long is too long

01:00:45

and I think the reality

01:00:46

of 100 Pages, you can

01:00:49

say, who sings even the

01:00:51

biggest of cases only several

01:00:53

times as well, and they

01:00:54



will do any expectation of

01:00:57

carrying out your duties. I

01:01:08

mean, I'm hesitating and I

01:01:11

would hope that with that

01:01:12

engagement that you can take

01:01:14

probably come around to the

01:01:14

opposite end of the day

01:01:15

that I want to. I

01:01:16

want to walk around to

01:01:19

your way of thinking Worried

01:01:27

whether it's 25 Pages or

01:01:28

30 if it's raining and

01:01:30

realistic actually agree. I can

01:01:39



really truly depends on the

01:01:40

nature of the case and,

01:01:41

and how complex it has,

01:01:43

and each case is obviously

01:01:44

different. But from personal professional

01:01:48

experience in in last three,

01:01:50

arbitrations with this is something

01:01:52

that we suggested in before

01:01:55

the management conference and we

01:01:58

negotiate that that was the

01:01:59

opposing counsel. In every case

01:02:01

we were actually successful, even

01:02:03

though the arbitration agreement did

01:02:05



not, I did not call

01:02:06

for expedited president. That was

01:02:08

not something I was involved

01:02:10

included before the dispute arose

01:02:12

and I truly think it's

01:02:14

just not something that like,

01:02:16

it's a, it's a fault

01:02:18

a Mina in castles Minds

01:02:20

when they are preparing to

01:02:21

procedural orders and then they

01:02:23

are proposed. Are they wanted?

01:02:26

I comment. But when one

01:02:29

party does, then the other

01:02:31



party meet Lee like starts

01:02:33

to end it, okay, maybe

01:02:34

it's not, such a bad

01:02:35

idea, and it's truly recovered.

01:02:39

It's a challenge that is

01:02:41

recognized by their community, in

01:02:42

arbitration, and yet, it's not

01:02:44

the proposal that the party

01:02:46

Smeg, but it was the

01:02:47

first proposal has made that

01:02:48

actually, from our experience. It's

01:02:50

something that they'll poison Castle,

01:02:53

s, usually willing to, and

01:02:54



Adrian, and it's truly led

01:02:58

to some very efficient and

01:03:00

expedited proceedings. Last year, we

01:03:03

had an arbitration worked up

01:03:05

value of about a hundred

01:03:08

million dollars and yet and

01:03:10

we imposed very strict age

01:03:12

limits and mentally like the

01:03:14

fights were not very complicated.

01:03:15

And it was a little

01:03:16

bit more of a little

01:03:17

dispute and turn on some

01:03:18

a very narrow 5, but

01:03:20



it'll allow us to take

01:03:22

the arbitration from the statement

01:03:23

of claim to the hearing

01:03:25

and computer. Always. I'm just

01:03:27

like one year, which was

01:03:29

really remarkable. And that are

01:03:32

all say, another effective tool

01:03:34

was introducing, and, and suggesting

01:03:36

very expedited timetable, which the

01:03:39

parties, both parties agreed to,

01:03:41

and we discussed Ezra before

01:03:43

the panel. We also spend

01:03:45

the relationship. They will the

01:03:46



opposing counsel can be like

01:03:47

one of the most important

01:03:48

factors and how amazing your

01:03:52

proceedings affection because it's truly

01:03:54

sometimes the Doritos. And the

01:03:58

fighting between the council, that

01:03:59

is the Fertile ground for

01:04:02

attempting to sight-read the proceedings

01:04:05

were improper requires like attempting

01:04:08

to delay and I do

01:04:10

have just miss align incentives

01:04:13

and she knows one party

01:04:15

wants to resolve the dispute

01:04:16



faster than the other one.

01:04:18

But very often there is

01:04:20

a lot of brown for

01:04:21

compromise and even if like

01:04:23

one party, introduces an idea

01:04:25

of Plymouth Indiana party would

01:04:28

be opposed to it. A

01:04:29

better day has been proposed

01:04:30

to the tribunal arbitrators very

01:04:33

often. Just want to split

01:04:34

the baby. So if you

01:04:35

ask for a 50-page limit

01:04:37

and the other party doesn't

01:04:38



want to have, doesn't want

01:04:40

to have any page limit,

01:04:42

it's very likely that the

01:04:44

arbitrator's will just say, Okay

01:04:46

hundred Pages. Which, you know,

01:04:48

it's still a big number

01:04:48

but it's a hundred pages

01:04:50

is better than three or

01:04:51

four hundred and what happens

01:04:52

is like very often. It's

01:04:54

just people don't think about

01:04:55

it, I still don't think

01:04:56

about it. This first submission,

01:04:58



we just cannot resist this

01:05:00

temptation of like the more

01:05:02

is better. We just end

01:05:04

up with this first briefed,

01:05:05

that is just so long

01:05:06

and the other party just

01:05:07

feels compelled to like matching

01:05:08

and then it's just this

01:05:09

rabbit hole and that just

01:05:12

created just, you know, inefficient

01:05:17

and efficient procedure that could

01:05:19

just be like a lot.

01:05:20

I'm proof from the beginning

01:05:23



from The Deco is the

01:05:24

parties had fought about it.

01:05:26

at the very early age

01:05:28

stages of the Case, Case

01:05:31

Management conference It says you're

01:05:35

speaking, it made me think

01:05:36

you have the best experience

01:05:39

I've had with a case

01:05:41

moving quickly is where the

01:05:43

other side wasn't participating. So

01:05:44

I think, you know, to

01:05:46

the extent that you can

01:05:46

find cases, where the other

01:05:47



side is not participating. I

01:05:49

think they tend to go.

01:05:50

It's going to go pretty

01:05:51

quickly. We have about 7

01:05:54

minutes. If, if you've been

01:05:57

holding in thoughts, wonderful brilliant.

01:05:59

Thoughts about expedited proceedings. Even

01:06:04

if they're not, brilliant thoughts,

01:06:06

and they're just thoughts that

01:06:07

you want to share. It

01:06:08

would be happy to hear

01:06:09

them, otherwise what will will

01:06:11

continue for a few more

01:06:12



minutes and then we can

01:06:12

take a break before the

01:06:13

next panel. But let me

01:06:15

let me pause there, I

01:06:16

am happy to take thoughts

01:06:18

online or from the, from

01:06:21

the people in the room.

01:06:23

Please stop asking questions about.

01:06:27

At the ICC are currently

01:06:29

considering a proposal to increase

01:06:31

the trash out there, expedite.

01:06:34

The proceedings, I'm on desecration

01:06:37

of the fact that would

01:06:42



be the 505 million dollars

01:06:45

is the median value for

01:06:47

the transfer huge portion of

01:06:51

the ice into expedited. Preceding

01:06:54

their views about the increase

01:06:59

in value. I think that's

01:07:02

a good idea safe for

01:07:04

small and medium Enterprises has

01:07:05

repeat the question for people

01:07:07

online and also the back

01:07:08

through the questions about the

01:07:10

icc's consideration of increasing the

01:07:12

threshold from 3 million to

01:07:15



526 million, the threshold for

01:07:19

the automatic, get into the

01:07:21

expedited percentage of it. And

01:07:23

the question is for the

01:07:23

panel's thoughts and show your

01:07:25

up first. Remember when they

01:07:28

introduce the the original image

01:07:31

of two and it was

01:07:32

a lot of debate and

01:07:32

surprise. I think that it

01:07:33

was so low that time

01:07:35

that was a few years

01:07:36

ago and went up to

01:07:37



3. And it seems rather

01:07:38

timid The increased. I I

01:07:41

welcome it personally and I

01:07:42

think when you see again,

01:07:43

it's going back to the

01:07:44

marketing thing in the competition.

01:07:45

Use the other institutions that

01:07:47

have higher, I think that

01:07:48

James is 5:00. So I

01:07:51

think it's another one of

01:07:52

keeping up with the other,

01:07:54

is how I think that's

01:07:55

called to make a call

01:07:57



to make sense, but I

01:07:58

think it's a surprise, it

01:08:00

was to begin with but

01:08:04

your monetary threshold, any, any

01:08:06

thoughts about without giving up

01:08:08

giving away any big reveal

01:08:10

their caseload? And what they

01:08:17

think is fast and everyone

01:08:19

will have their own now.

01:08:20

So different that lines. So

01:08:22

bad from our perspective are

01:08:27

As far as I know,

01:08:28

to change our rules and

01:08:30



the thresholds for our blood

01:08:32

procedures. So, but we need

01:08:36

to do I personally think

01:08:42

it's a great idea, and

01:08:45

Play city of the case

01:08:46

does not always as does

01:08:49

not always correlate with the

01:08:50

value of the flames. And

01:08:51

this is the light. I

01:08:52

had to taste last year.

01:08:54

That was hundred million dollars

01:08:54

in the issues were truly.

01:08:56

It was very conceptually, very

01:09:00



easy case and haven't under

01:09:03

\$10 case. Now that it's

01:09:05

just incredibly complex where I

01:09:07

was just a lot of

01:09:08

Patrol developmental, it's truly, I

01:09:12

find the value of the

01:09:18

claims and I am all

01:09:20

for just moving the process

01:09:22

and proceedings as smoothly and

01:09:25

efficiently as possible, line. Expedited

01:09:27

procedural has has that in

01:09:28

time, so the more often

01:09:31

we can introduce said, I

01:09:32



think I'm all for it.

01:09:35

Friend, please. I told him

01:09:40

to come away with the

01:09:41

impression that expedited proceedings or

01:09:44

something that everybody thinks is

01:09:45

great in the abstract and

01:09:47

nobody wants to do it

01:09:48

when they when the time

01:09:48

comes and particularly clients tend

01:09:52

to love to write into

01:09:53

their contract, the idea that

01:09:55

the whole disputes can be

01:09:56

resolved in six months and

01:09:57



then Council get those dispute

01:09:59

resolution Clauses when the client

01:10:01

called them and shake their

01:10:03

heads. How can we possibly?

01:10:04

I've also heard from arbitrators

01:10:06

who are in expedited proceedings

01:10:08

were they've accepted the appointment

01:10:09

for an expedited proceeding and

01:10:11

then they get there and

01:10:12

just still want to do

01:10:14

everything. But in six months,

01:10:16

right? They won't have to

01:10:17

run a submission. They want

01:10:19



to document production within six

01:10:22
months and so, so I

01:10:24
wonder if I'm curious about

01:10:26
Rafael's experience. Do you find

01:10:28
parties that are actually happy

01:10:29
to be there doing it

01:10:30
that way? Because I tend

01:10:32
to hear stories on the

01:10:33
other side. Yeah. That sounds

01:10:38
like Mom's my experience. Most

01:10:45
of the times I guess

01:10:46
who has very hard because

01:10:47
we have this deadline and

01:10:48



we need to work very

01:10:50

hard. But when they actually

01:10:52

see them or doing the

01:10:54

zoom call with the arbitrators

01:10:55

and start talking about, when

01:10:57

are we going to produce

01:10:57

documents right now? The hearing

01:10:59

and there's going to be

01:11:00

some sort of motion relative

01:11:01

position or something like that.

01:11:02

Maybe maybe six months is

01:11:03

not realistic in case, you

01:11:08

know they hot. The 6

01:11:09



months or 8 months, I

01:11:11

don't remember how much it

01:11:11

was, and the case was

01:11:13

really moving forward to kiss

01:11:14

mentally stable, but we were

01:11:15

going to have the hearings

01:11:16

and all like, again, expected

01:11:19

timeline and a compressed. But

01:11:22

in my experience, when I

01:11:23

seen those type of classes

01:11:24

at a party sent out

01:11:26

by Green to some sort

01:11:27

of extension to HobbyTown in

01:11:33



one year, or something like

01:11:34

that instead of everything in

01:11:36

6 months. But I experience

01:11:42

without seeing the dispute has

01:11:48

made right? In bed reconsider,

01:11:49

or the council may have

01:11:51

to go through. Is venom

01:11:54

out of the risk of

01:11:55

stating the obvious. I think

01:11:56

the interest another line. Finish

01:11:58

the claimant, generally push it

01:12:00

through faster than the respondent

01:12:03

reasons. But I have seen

01:12:05



the other way around and

01:12:06

that's a curious situation to

01:12:08

take away as the albatross

01:12:10

used to me. I thinking

01:12:11

you would have expected the

01:12:12

the the claimant to have

01:12:14

their wanting to push through

01:12:15

prophecy. First of reasons, might

01:12:17

be funding reasons, they, they

01:12:18

want to slow things down

01:12:20

having already started it. So

01:12:21

that's the exception to the

01:12:25

rule that you would want

01:12:28



to see. You want to

01:12:29

push things, go with faster

01:12:30

than they responded. Sometimes they

01:12:32

both might want that, but

01:12:33

a very bad thing responded.

01:12:34

He's understandably. Just happy to

01:12:37

let things go too slow

01:12:39

to write. Take the case

01:12:41

in which I suggested mediation

01:12:43

is where we responded and

01:12:44

we're trying to go as

01:12:45

fast as possible to get

01:12:47

to a summer motion for

01:12:49



summary disposition, which we haven't

01:12:50

talked about today. Maybe that's

01:12:52

for coffee break. We are

01:12:54

exactly at 3:45, but in

01:12:56

the interest of being inclusive

01:12:57

to our friends virtually the

01:12:59

last one, quick question will

01:13:00

do it in 60 seconds

01:13:01

doctor Kishore. Deer asks, what

01:13:04

are the risks posed by

01:13:05

arbitral tribunals restrictions on page

01:13:07

limits and a number of

01:13:09

hearing? And I need dovetails

01:13:10



a little bit Joe, with

01:13:11

some of these you're saying

01:13:12

or Natalia whichever you want

01:13:14

to take. It will be

01:13:15

the last question of the

01:13:16

day off. I Elliott. You're

01:13:19

holding the mic. Can you

01:13:24

change the risks posed by

01:13:26

arbitral tribunals restrictions on page

01:13:28

limited number of hearings from

01:13:31

a due process probably DuckTales

01:13:33

with what you're saying about

01:13:33

the process. So I said

01:13:37



as I said, like every

01:13:38

case is different and and

01:13:39

you cannot impose page limits

01:13:43

or restrictions in a vacuum

01:13:44

but Once you are familiar

01:13:48

with Cerberus Triple B Clay's,

01:13:50

the value of the claims,

01:13:51

the position of the parties.

01:13:52

I thank, and I'm just

01:13:55

given what we the perspective

01:13:56

from the national core Comfort

01:13:59

spaces can be explained and

01:14:02

the the, the law can

01:14:03



be explained with in like

01:14:05

50 70 page limit that

01:14:08

are we just those are

01:14:09

just like real Dilemma to

01:14:11

see around the world and

01:14:13

I said we have not

01:14:14

seen a successful challenge, their

01:14:16

arbitration award because some of

01:14:17

those procedural limits were imposed.

01:14:22

So I send, you know,

01:14:25

I don't think like a

01:14:26

peach limited like 10 pages

01:14:28

if it's a reasonable, but

01:14:29



once you have all the

01:14:30

way, how come Prince of

01:14:31

Peace, as I find, R

01:14:33

Us a a, you know,

01:14:35

starting with 50 between 25

01:14:37

and 100 pages and this

01:14:40

is what you want to

01:14:41

be a DSi, we introducing

01:14:42

our chapter like four, depending

01:14:44

on the value of the

01:14:45

claims and $1/2 * 3$.

01:14:46

Call the directions to different

01:14:47

age limits with starting with

01:14:49



fifteen Pages. If it's if

01:14:50

it's a claim under half

01:14:52

a billion dollars up to

01:14:53

125 125 Pages, if this

01:14:57

Diwali of the time over

01:14:59

500, 500 million dollars or

01:15:02

something similar, so we can

01:15:04

have the similar limitations introduce,

01:15:08

depending on the value of

01:15:08

the claims. They're only like

01:15:09

I see she has different

01:15:12

administrative you administered. If he's,

01:15:15

depending on the volume calculator,

01:15:20



you can use online. And

01:15:21

similarly, you can add the

01:15:23

idea was that you can

01:15:24

plant in your numbers and

01:15:25

that will just turn off.

01:15:26

Calculates your calculate, your pay

01:15:30

stub. Mission age limits based

01:15:32

on. But find pending the

01:15:35

tribunals approval depending on the

01:15:38

complexity of the case. But

01:15:39

it says I have not

01:15:42

seen a successful challenge. So

01:15:43

I do think it's at

01:15:44



would be Tool 22 made

01:15:48

the proceedings more efficient. Well,

01:15:52

I think all that's left

01:15:53

is to thank our wonderful

01:15:54

panelist for their insights. So

01:15:56

it's going to Round of

01:15:57

Applause. Thank you very much,

01:15:59

Joe. Raphael to tell you.

01:16:00

We have a great handle

01:16:02

up at 4 that my

01:16:03

partner, Carolyn Richards leading. I

01:16:05

can't tell you what it's

01:16:06

about but I'm sure it's

01:16:07



going to be very, very

01:16:08

good. So hang around for

01:16:10

12 or 13 minutes, and

01:16:12

she will appear here with

01:16:13

some some friends and colleagues

01:16:15

on. I think about remedies

01:16:18

in International Investment arbitration. Thank

01:16:21

you for the assist. I

01:16:24

can tell you what, what,

01:16:25

what it what it will

01:16:26

be about. It's about a

01:16:27

prospective, it's about damages. Future

01:16:32

damages, awarded now, Okay, so

00:04:34



welcome again to Washington arbitration

00:04:38

week and some know now

00:04:40

there's this many familiar faces

00:04:41

and and some that thought

00:04:44

maybe for the first time

00:04:46

to Washington arbitration week in

00:04:48

this session. First of all,

00:04:50

I would like to thank

00:04:51

very much fresh Fields because

00:04:54

he has been a great

00:04:55

supporter and also a sponsor

00:04:58

and this is this is

00:05:02

our third panel of the

00:05:04



day and I know that

00:05:07

things are going well, this

00:05:09

is a panel on expedited

00:05:12

proceedings in International Investment and

00:05:14

international commercial arbitration features and

00:05:18

steps. The parties Council in

00:05:20

arbitration must bear in mind

00:05:22

and take this. I know

00:05:25

I know that there have

00:05:26

been other forms focusing on.

00:05:31

This type of authority cheating

00:05:34

but as efficiency becomes a

00:05:36

value. So, so important for

00:05:40



a speedy resolution expedite the

00:05:43

proceedings. Is it something that

00:05:45

we, we ought to take

00:05:46

into account? And no, we.

00:05:48

We have the pleasure of

00:05:49

having both counsel, arbitrators, and

00:05:52

legal counsel of important arbitration

00:05:57

centers. That will walk us

00:05:59

through the experiences and on

00:06:01

some of their features, to

00:06:04

really do. I successfully an

00:06:08

arbitration proceeding in an expedited

00:06:11

manner. But, you know, without

00:06:13



stealing Lisa Thunder, I would

00:06:16

like to introduce him. Who

00:06:17

is our moderator? He is

00:06:20

a fresh Fields partner of

00:06:22

the New York office. He

00:06:24

has significant experience, advising and

00:06:27

representing clients in complex international

00:06:29

disputes. He spent several years

00:06:32

working abroad in freshfields, Paris

00:06:35

and Dubai offices. And he

00:06:36

spent significant time on 2nd

00:06:38

in one of the world's

00:06:39

leading energy companies in Houston

00:06:41



that he has represented clients

00:06:43

in commercial. For investment and

00:06:46

construction arbitrations across a wide

00:06:49

variety of Industry, sectors. And

00:06:52

he has no, I'm not

00:06:55

surprised. Okay, we can qualified

00:06:59

as as one of the

00:07:00

rising stars, under 40 in

00:07:04

the field of international arbitration.

00:07:05

And I couldn't keep on

00:07:07

going in terms of publication

00:07:09

and I'm more accolades, but

00:07:11

I will stop there and

00:07:12



give you the floor for

00:07:15

you to take it. Thank

00:07:17

you. Another Stellar edition with

00:07:23

no impact impact lineup. She

00:07:25

shall be proud of what

00:07:28

you've introduced. Thank you very

00:07:34

much. I will introduce our

00:07:39

wonderful panel, and I'll start

00:07:41

at the at the far

00:07:42

end Joe Dorado. We can

00:07:44

give them to different affiliations

00:07:46

on the screen. It says

00:07:47

jams, because he's obviously known

00:07:49



as being a, a formidable

00:07:50

and well-known arbitrator is also

00:07:53

a partner at getty. Guess,

00:07:54

he's handled hundreds of cases

00:07:56

as Council as arbitrator and

00:07:59

while will surely benefit from

00:08:01

his wisdom, from the various

00:08:03

apps that he where is

00:08:04

he will bring to bear,

00:08:06

for our panel, first and

00:08:07

foremost, his experience as an

00:08:10

arbitrator in the center, Rafael

00:08:13

Carmona, who is doing a

00:08:14



wonderful job. If you can

00:08:15

see it on the screen,

00:08:15

representing an ICD our branding

00:08:21

with your Ballroom Rafael very

00:08:23

own brand, very good. Rafael,

00:08:24

a Spanish lawyer practice, that

00:08:27

would he have an end

00:08:28

as before? Coming to the

00:08:29

u.s. to do, is that

00:08:30

allow them is about to

00:08:31

celebrate his, his tenth year

00:08:33

at the ictr and if

00:08:35

you got a case of

00:08:36



the ictr he probably got

00:08:38

into. No. Raphael at at

00:08:39

some point in time and

00:08:41

to my immediate left in

00:08:42

the tally is Barb, if

00:08:44

you're worried about not having

00:08:45

DC content on a panel

00:08:47

Natalia's based here, in DC,

00:08:49

with Wiley Ryan, a broad-based

00:08:51

complex litigation and arbitration practice.

00:08:54

She spent some time as

00:08:55

well, as I understand it

00:08:56

at an institution for a.

00:08:58



Of time. And so I'm

00:08:59

sure we will get to

00:09:01

have her wisdom from her

00:09:02

time there. And as I

00:09:04

was getting, my name is

00:09:05

Liam, a partner with fresh

00:09:07

Fields based in New York

00:09:08

so we know who our

00:09:10

panelists are. Let me tell

00:09:12

you a little bit about

00:09:12

what we're going to be

00:09:13

talking about today. So the

00:09:15

title of our panel is

00:09:16



as was that is expedited

00:09:18
proceedings. International arbitration generally And

00:09:22
when we talked about expedited

00:09:24
proceedings, the title obviously, alludes

00:09:26
to different mechanisms. Now appearing

00:09:29
in virtually every single set

00:09:31
of rules to allow arbitration,

00:09:33
to go on a fast

00:09:34
track. And I'm sure for

00:09:35
many of us. We all

00:09:36
have cases that we wish

00:09:38
were on a faster track

00:09:39
than they might have. Been

00:09:41



I'm expecting an annulment decision

00:09:43

in a case hopefully this

00:09:44

month which will be when

00:09:45

you're 17. Surely that is

00:09:48

not what we are talking

00:09:48

about here in any event.

00:09:50

Different institutions obviously do it

00:09:52

in a variety of different

00:09:53

ways some more often somewhere

00:09:56

off doubt some of my

00:09:57

monetary threshold and with Raphael

00:09:59

on the panel I'm sure

00:10:01

we'll hear special insight inside-baseball

00:10:03



to how the ictr is

00:10:06

administering. Their expedited arbitration. At

00:10:09

least I'm hoping to get

00:10:09

some insight Rafael. So we're

00:10:11

going to put you on

00:10:12

the spot. Now we will

00:10:14

talk about expedited proceedings but

00:10:16

when we all got together

00:10:17

to talk about any of

00:10:18

the things that we wanted

00:10:19

to to to, to discuss,

00:10:21

What do you all today?

00:10:22

You know, the whole ideas

00:10:25



about improving efficiency in the

00:10:26

arbitral process and so we've

00:10:28

taken license on the panels

00:10:30

not just talk about expedited

00:10:32

proceedings, but Expediting proceedings. How

00:10:35

can proceedings go faster? What

00:10:36

are some of the ways

00:10:37

in which we might all

00:10:38

creatively. What the institution on

00:10:41

the council side of the

00:10:42

arbitrator side? How can we

00:10:44

find ways to move more

00:10:46

quickly through the arbitral process?

00:10:48



So that's the plan in

00:10:51
terms of form at each

00:10:53
of our wonderful panelists will

00:10:56
lead a conversation for 5

00:10:59
to 7 minutes and we'll

00:10:59
probably open it up. I

00:11:01
might interrupt because it's my

00:11:03
right as moderated interrupt when

00:11:04
I want and ask questions

00:11:05
and probe and our hope

00:11:07
is that the audience will

00:11:09
also engage Network. We are

00:11:12
a great crowd, but a

00:11:14



small enough, the number that

00:11:15

we can have something interactive

00:11:17

obviously we can answer questions

00:11:18

at the end but as

00:11:20

much as possible, please. Tract.

00:11:22

And if I'm feeling like

00:11:23

the crowds, not actively engaged,

00:11:24

I might, I might take

00:11:25

on people as well. So

00:11:28

that's the format now, One

00:11:30

more administrative thing. And then

00:11:31

I'll shut up for a

00:11:32

few minutes at least CLE

00:11:35



importance to some of you

00:11:36
in this room to get

00:11:37
credit for the time that

00:11:38
we're spending together. The way

00:11:39
you do that is on

00:11:40
your way out at the

00:11:41
reception desk, desk is a

00:11:43
QR code scan it on

00:11:45
your phone. It will bring

00:11:46
you to a form that

00:11:47
you'll fill out. And I'm

00:11:48
going to give you the

00:11:48
secret password at a moment

00:11:50



sometime during the course of

00:11:52

the next hour, when you're

00:11:54

least expecting it. So that

00:11:56

is everything I have to

00:11:57

say by way of introduction,

00:11:58

we do have people potentially

00:12:00

virtually. We do we do

00:12:03

have a number of people

00:12:04

who have signed an online

00:12:04

to show 26, participant. So

00:12:07

minus the four of us

00:12:08

that makes about 20 to

00:12:09

be taking questions as well.

00:12:11



So for those online, don't

00:12:13

feel like you need to

00:12:14

sit there in silence, please

00:12:16

feel free to get on

00:12:17

the chat and if your

00:12:18

question is good, I'll ask

00:12:19

him if it's Battle of

00:12:20

North, that's the introduction. I

00:12:23

think we're going to start

00:12:24

where we should with with

00:12:25

the institutions were driving. A

00:12:27

lot of the innovation in

00:12:28

this area. The Raphael, the

00:12:30



floor is yours. And if

00:12:31

they'll pass you this microphone,

00:12:32

this way, it's easier for

00:12:37

me to interrupt. Perfect. Can

00:12:42

you hear me? Yeah. Sorry.

00:13:00

And I were to turn

00:13:02

it off. So thank you

00:13:06

very much. Thank you all

00:13:10

very much for being here

00:13:11

or being. It's still really

00:13:13

a pleasure to be part

00:13:15

of the panel. Let me

00:13:16

one brief moment to begin

00:13:19



with about institutional rules and

00:13:23

explain the procedures, right? At

00:13:24

the end of the day

00:13:25

of you say yes, we

00:13:26

mention that the goal is

00:13:28

to make the process more

00:13:31

efficient ride and I don't

00:13:33

know, the times really all

00:13:34

these things and explain things

00:13:36

but I think you probably

00:13:38

can do ride depending on

00:13:40

their case. And you know,

00:13:42

also in the parties agree,

00:13:43



always something that can be

00:13:44

done, but rules is to

00:13:49

give cobbler also to the

00:13:50

arbitrator's to really be efficient,

00:13:52

like this is what the

00:13:53

rules say ride. So you

00:13:54

can, you can do it,

00:13:56

we always roll that. You

00:13:58

hear me say, I meant

00:14:01

to say, okay, this is

00:14:02

the default, otherwise, right? So

00:14:05

obviously the circumstances can buy

00:14:08

from case to case supposed

00:14:11



to be expedited, JCPenney more

00:14:13

complicated than others, even though

00:14:15

they claim amounts may be

00:14:16

small. So I just wanted

00:14:18

to start with that because

00:14:19

you can be a, Richard

00:14:19

is going to have some

00:14:21

leeway. If they decide that,

00:14:22

for example, they need more

00:14:24

time for a particular procedure

00:14:26

to stab, but the procedures

00:14:30

their main goal is really,

00:14:31

don't believe that. Sometimes the

00:14:32



process of the arbitrators and

00:14:35

get something called. The parties

00:14:36

have agreed to this expedited

00:14:38

rules, either specifically, orbit, the

00:14:40

stuff, you know, the trash

00:14:42

hole that applies for procedures.

00:14:44

So you can just pull

00:14:45

the step line. Burning ban

00:14:48

to, you know, those threshold

00:14:51

that I mention and, of

00:14:52

course, a chance to do

00:14:54

some, that's a different. We

00:14:54

can go to talk about

00:14:55



our age, our International expedited

00:14:58

procedures, they apply when we

00:15:01

have a case where no

00:15:03

play more counterclaim exceeds half

00:15:05

a million dollars, so you

00:15:07

could even have a claim

00:15:08

for, let's say, \$499,000 an

00:15:12

accountant, playing for night at

00:15:13

\$499,000 and I would still

00:15:17

fall under the expedited procedures.

00:15:20

If there is a disagreement

00:15:22

between the parties, sometimes as

00:15:24

to whether the expedited procedures

00:15:26



apply or not the institution,

00:15:28

the ictr would make an

00:15:30

initial determination if there's no

00:15:31

arbitrator and I will be

00:15:34

for the arbitrator to make

00:15:36

a final determination of whether

00:15:37

the expedited procedure should apply

00:15:40

or not. I was saying

00:15:42

that regard. Also the rules

00:15:45

in particular mention that if

00:15:48

they claim a counterclaim is

00:15:49

later amended to exceed the

00:15:52

threshold in principle, the expedited

00:15:54



procedures would still apply and

00:15:56

into the main goal without

00:15:58

us, that we don't want

00:15:59

some party trying to game

00:16:01

the system and saying, well,

00:16:03

we disagree with the application

00:16:04

of the driver seat, right?

00:16:11

About half a million dollars

00:16:12

and then we need to

00:16:13

get out of it so

00:16:14

that we can review the

00:16:18

situation. But even if anime

00:16:21

Claymore, play now, exceeds half

00:16:23



a million dollars, the case

00:16:25

will remain under the expedited

00:16:27

procedures. So you filed the

00:16:30

case, okay? With you know

00:16:32

that you have a claim

00:16:33

for this amount. One thing

00:16:34

though so that I would

00:16:35

mention when filing vacations are

00:16:36

the rules, provide that they

00:16:39

should be more than the

00:16:40

usual filing for a regular

00:16:42

track rules with the bare

00:16:45

bones of mission, Suburbans, notice

00:16:47



of arbitration. The idea is

00:16:49

to really start presenting more

00:16:51

detailed, submissions ride, so that

00:16:54

you would not have to

00:16:55

dinner, ideally, you will even

00:16:58

just a sensor look, like

00:16:59

a mended complain, that line

00:17:02

that, you know, if you

00:17:03

need to make any sort

00:17:04

of a madman's, that's fine.

00:17:05

But you do need to

00:17:06

file first, I noticed arbitration

00:17:07

and then the 4-mile mordida

00:17:10



memorials. Although of course, if

00:17:11

you can imagine being a

00:17:13

party sometimes, especially the claim

00:17:15

and they may not exactly

00:17:16

do that. That we're not

00:17:18

going to be banned because

00:17:19

you're moving forward. Related idea,

00:17:29

that I was saying, there

00:17:30

are some deadlines and describe.

00:17:31

The procedure is obviously, the

00:17:33

parties agreed to extend the

00:17:35

deadline. So, I mean, the

00:17:36

parties can agree to modify

00:17:39



those deadlines, and that's something

00:17:40

that we encounter from time

00:17:42

to time that we are

00:17:44

the ones. Sometimes I want

00:17:44

to move forward very quickly,

00:17:46

but sometimes our parties, they

00:17:47

like you, do you prepare

00:17:53

whatever submissions I'll mention Just

00:17:57

One Last point, which is

00:17:59

selection of an arbitrator. We

00:18:03

use at least method, also

00:18:04

in the expedited procedures and

00:18:07

a little bit different, from

00:18:08



our default, mess up, because

00:18:10

we will have only five

00:18:11

candidates in the latest, on

00:18:13

each side will have a

00:18:14

party. I should say should

00:18:16

have only two strikes. So

00:18:18

the ADI study, the structure

00:18:20

known overlapping will still have

00:18:22

one arbitrator that will be

00:18:24

able to be appointed. Now

00:18:26

course. Situations that are now

00:18:29

that, that can happen. Then

00:18:30

I've seen is like what

00:18:31



happens to be half of

00:18:32

next week? I'd appreciate your

00:18:34

situation. Do? We have three

00:18:38

different represented party and that'll

00:18:41

be easy. It's a little

00:18:43

bit of a problem is

00:18:43

the first of all you

00:18:49

do is party supposed to

00:18:50

have an equal right to

00:18:52

participate in the selection of

00:18:53

an arbitrator. And then also,

00:18:55

there's the problem of that

00:18:56

kind of defeats the purpose

00:18:57



of the strike and rank

00:18:59

up in those situations where

00:19:03

we always have a call

00:19:04

with the parties. For the

00:19:04

very beginning, even an expert

00:19:05

at the procedures. We talk

00:19:07

about these things, and if

00:19:09

they agree that each party

00:19:11

would file separate rankings, and

00:19:12

they don't care about us

00:19:13

and we may have more

00:19:14

strikes done arbitrators in the

00:19:17

last war, find following the

00:19:18



party's agreement. Sometimes, what I've

00:19:20

seen is they said well,

00:19:21

we're working with the expedited

00:19:23

procedures that we really like

00:19:25

more of the regular tracklist.

00:19:27

So you must Names and

00:19:29

we have a limited strike

00:19:30

that also give the more

00:19:31

control right over was going

00:19:32

to be appointed as an

00:19:34

arbitrator. So that is another

00:19:35

thing that I've seen enough

00:19:38

to conclude very briefly from

00:19:39



the appointment of an arbitrator

00:19:41
or do. We need to

00:19:44
be issued within 14 days.

00:19:45
Unless again, there's some reason

00:19:48
why me to deviate from

00:19:49
that. And the idea is

00:19:51
that there will be a

00:19:52
one-day hearing within 60 days

00:19:55
after each runs off. Scheduling

00:19:58
orders, it should be relatively

00:19:59
fast. And then the award

00:20:01
will be issued within 30

00:20:02
days after closing off the

00:20:05



hearing. So, I'll stop right

00:20:07

there because I don't want

00:20:08

to go over time. But

00:20:09

just give you a brief

00:20:10

overview of all right, by

00:20:11

the procedures. And then, of

00:20:12

course, we can discuss if

00:20:14

you have any other comments

00:20:16

or questions. Thank thanks, Robert.

00:20:19

I didn't get along towards

00:20:20

people to us to stand

00:20:21

up and then participate, but

00:20:22

I certainly have a few

00:20:23



at least take us off.

00:20:24

And in terms of the

00:20:26

monetary threshold, Raphael are you

00:20:28

seeing parties with disputes that

00:20:30

exceed? The monetary threshold who

00:20:32

are opting in and what

00:20:34

does that look like? What

00:20:35

what are the trends that

00:20:36

you're staying in that regard?

00:20:39

So, not that often to

00:20:41

be perfectly honest. When I

00:20:44

see that it has to

00:20:45

be because the arbitration agreement,

00:20:46



specifically has already mentioned. We

00:20:49

won't be expedited procedures to

00:20:51

apply, which is sometimes there's

00:20:55

a little bit of a

00:20:56

confusion of ambiguity in terms

00:20:58

of other things that I've

00:20:59

seen us like we want

00:21:01

to apply and we want

00:21:03

the next procedure receiving or

00:21:06

variation of that with the

00:21:09

word expedite. Your body doesn't

00:21:10

say, okay, we will Tripoli

00:21:12

rules. Expedited procedure, specifically, ride,

00:21:15



and we need to see

00:21:16

the specific language. I haven't

00:21:19

seen all that much parties

00:21:21

that once they filed, they

00:21:23

want to change from the

00:21:24

regular track to be expedited

00:21:26

procedures. I seen also, the

00:21:29

kind of APA services that

00:21:30

the parties have a regular

00:21:33

trach procedure, but they say,

00:21:36

in the arbitration agreement. No,

00:21:39

no, this is, we won

00:21:42

the case. With all these

00:21:43



six months from the fighting,

00:21:44

we don't believe that first

00:21:47

call with other parties. That's

00:21:49

great. And all we're going

00:21:50

to do our best. But

00:21:51

you going to have to

00:21:53

work fast to make this

00:21:54

happen because he's normally, you

00:21:55

know, it's a very exciting

00:21:56

process if it's just six

00:21:58

months from the filing, right?

00:22:00

And then we can probably

00:22:01

have an arbitrary point if

00:22:03



everything goes smoothly in a

00:22:05

month or a few weeks,

00:22:06

I feel like that, but

00:22:07

I'd already Lease Only 68,

00:22:09

like 5 months to resolve

00:22:11

the case. I'm not. There

00:22:12

is no try because it

00:22:13

may be that the party

00:22:16

is somehow have some sort

00:22:17

of objection. But we don't

00:22:19

have jurisdiction, there's an objection

00:22:21

to an arbitrator, right? So

00:22:23

did their issues there? But

00:22:25



I seen that happen and

00:22:26

sometimes, you know, we will

00:22:27

get it done it. If

00:22:29

I met my complaining to

00:22:30

set, alarm when there's a

00:22:31

deadline like that and when

00:22:32

the arbitrator has worked very

00:22:34

hard to be like 23

00:22:36

weeks, they do later. Wait,

00:22:43

with respect to another, you

00:22:45

have in your in your

00:22:46

set of rules the ability

00:22:48

for parties to a jack.

00:22:49



So if you're automatically caught

00:22:51

by the money threshold, you're

00:22:53

in the expedited rules. But

00:22:55

then, a party can object,

00:22:56

are you seeing objections the

00:22:58

application of the rules? Are

00:22:59

you seeing people parties? Try

00:23:01

to get out of the

00:23:02

set of the expedited rules?

00:23:04

2. Sometimes it's not super,

00:23:10

I see, need another situation

00:23:12

of the rules house instead

00:23:13

of fresh holes for, you

00:23:15



know, now that I should

00:23:17

get rid of the AAA,

00:23:18

right? Depending on the number

00:23:20

of arbitrate threshold, they claim

00:23:23

amount May influence, the default

00:23:26

number of arbitrators, there is

00:23:27

nothing in the rules and

00:23:29

from what I can tell

00:23:30

you there's some things there

00:23:31

are discussions, that's too well.

00:23:33

You know who they claim?

00:23:35

They're saying that they have

00:23:37

a claymore, or being all

00:23:43



things like that and I

00:23:45
mean at the end of

00:23:45
the day for a very

00:23:46
hard not to accept the

00:23:48
claim and I'll do the

00:23:49
count them out at face

00:23:50
value ride because You know,

00:23:53
I unless there's something really

00:23:54
really wrong and almost like

00:23:56
I can be fraudulent ride.

00:23:59
Now they're also going to

00:24:01
take it at face value,

00:24:01
right? At the end of

00:24:08



the day is going to

00:24:09

be for an arbitrator, so

00:24:11

we see those type of

00:24:12

things sometime. So, shouldn't be

00:24:13

expedited procedures Morris. I already

00:24:17

kind of indicated, some place.

00:24:18

We have multiple parties and

00:24:20

there's some sort of argument

00:24:20

that wasn't. This makes it

00:24:22

even more complex. That should

00:24:23

be the case for the

00:24:25

expedited procedures, and then it

00:24:27

gets a little bit more

00:24:27



complicated on how to handle

00:24:29

that. Bridge the gap from

00:24:34

expedited to Expediting, the first

00:24:37

exciting transition of the, of

00:24:40

the afternoon and asked and

00:24:42

asked a question maybe to

00:24:43

that to that to the

00:24:44

group before asking a question

00:24:45

about fael, which is, if,

00:24:47

if you're on a call

00:24:48

with Raphael and a brand

00:24:49

new case and you're having

00:24:51

your first procedural call with

00:24:53



the administrator was, it was

00:24:54

Rafael. Who knows what the

00:24:56

last question is that you

00:24:57

typically asks on that, on

00:24:59

that call 3 acres. Graphing,

00:25:05

what, what's usually? The very

00:25:06

last question that you asked

00:25:07

before you, let us all

00:25:08

hang up in a way,

00:25:17

we have to be back

00:25:19

for example, also, like parties

00:25:22

think it was. The answer

00:25:25

is hoping for this shows

00:25:29



that this is all organic

00:25:30

and you're not all of

00:25:31

it is perfectly planned. Raphael

00:25:33

ask. Maybe the penultimate question

00:25:35

is, what the parties think

00:25:37

about the icr appointing a

00:25:39

mediator in parallel to the

00:25:41

to the arbitration, as the

00:25:42

penultimate, we're going there, but

00:25:44

I didn't want to give

00:25:45

you, you don't want to

00:25:46

do that. So maybe, maybe.

00:25:58

As this was the last

00:25:59



last Topic at while you're

00:26:01
on the hot seat, at

00:26:01
least for now you might

00:26:02
be back on the hot

00:26:02
seat later. You guys should

00:26:05
have a special feature of

00:26:07
of the icr. And then

00:26:08
I guess with the AAA

00:26:09
as well, in terms of

00:26:10
pushing mediation, encouraging mediation during

00:26:13
the course of of a

00:26:14
proceeding. And so, you know,

00:26:16
what it, what are your

00:26:17



observations on network? What are

00:26:18

you seeing in terms of

00:26:19

parties opting in to that

00:26:21

service and and to, what

00:26:22

extent do you feel like

00:26:24

that ends up narrowing disputes

00:26:26

and ultimately Expediting resolution cell?

00:26:32

How to say I haven't

00:26:33

seen some changes Trend in

00:26:35

this and that. Let me

00:26:36

get some little bit more

00:26:38

background, right? We could use.

00:26:42

When we last time, I

00:26:43



need a rule 21, some

00:26:46

reference to the fiber party,

00:26:47

right? Of course, then we

00:26:51

mentioned this out of mediation

00:26:53

and, you know, we understand

00:26:55

that maybe she was not

00:26:56

the most, like, you know,

00:26:57

I could work here but

00:26:58

this is really to encourage

00:27:00

the parts, right? That's why

00:27:01

the rule said the party

00:27:02

Shawn mediate their dispute because

00:27:05

we really want to at

00:27:06



least mention it and really

00:27:07

promoted a Stein attorney fees

00:27:09

mess up that we can

00:27:12

run again on track to

00:27:14

the arbitration. A lot of

00:27:16

the time to party, say

00:27:17

okay, when we get to

00:27:20

the appointment of the arbitrator

00:27:22

we probably will be a

00:27:23

little bit slower than the

00:27:24

appointment then I'll then we'll

00:27:26

decide if you really want

00:27:27

to but I just have

00:27:28



a call and see where

00:27:30

we go and hopefully mediation.

00:27:32

But I'm sure we'll be

00:27:34

about to take place at

00:27:35

the point. I don't think

00:27:41

I got that many parties

00:27:42

to agree to mediation and

00:27:46

then slowly. But surely, I

00:27:48

see an increase in the

00:27:49

number of parallel mediations that

00:27:51

we've had the fever that

00:27:54

we got is generally positive

00:27:56

because even if you don't

00:27:57



settle and closer to the

00:28:06

problems that we really need

00:28:08

to address during the arbitration,

00:28:11

some parts of the explains

00:28:13

may be resolved feedback on

00:28:17

a parallel track. Lot of

00:28:22

the times I've been there

00:28:27

ways to handle that because

00:28:31

Joe Jonas having any anything

00:28:33

on the mediation point, from

00:28:35

what you're saying your practices.

00:28:40

So unfortunately in my experience

00:28:42

has not been successful at

00:28:44



the end of cases, that

00:28:48

I've dealt with. I can

00:28:50

do parties at this point

00:28:51

or they just don't want

00:28:53

to do it anymore. I

00:28:54

ordered they just lied on

00:28:55

want to even entertain the

00:28:56

idea. So just given light

00:28:59

our experience with how will

00:29:01

have a lot of success

00:29:02

rate. It's not something that

00:29:04

we like push our clients

00:29:05

to do. But I personally

00:29:07



believe, you know, there's like

00:29:08

a lot of potential and

00:29:08

valuing that unfortunately, maybe it's

00:29:11

just the nature of the

00:29:12

cases have recently been denied,

00:29:17

because everybody's busy, but I

00:29:18

also try to mention the

00:29:20

party and I think this

00:29:21

is a Common Thread understand.

00:29:30

You may want to go

00:29:30

through some document production and

00:29:32

make sure where you do

00:29:33

your playing released one's there

00:29:35



to go through all the

00:29:36

disclosure of information. Anytime, right?

00:29:42

And I think sometimes we

00:29:48

do settlements normally, with or

00:29:53

without mediation. How many? What

00:29:59

I said he seen is

00:30:00

that mediation is increasing, but

00:30:02

slowly, I think they said

00:30:03

that involved in the end.

00:30:05

It on a full-time basis.

00:30:06

Really frustrated with the, with

00:30:08

the degree of progress, but

00:30:09

that depends where you looking.

00:30:12



So in the UK, we

00:30:13

have seen a tremendous advancements

00:30:15

since the 1980s when we

00:30:17

basically inherited from all us

00:30:20

colleagues. But in places like

00:30:22

Spain, now, beginning to look

00:30:24

at, um, mandatory mediation slow,

00:30:32

it's difficult to sell it

00:30:34

sometimes to you. You wouldn't

00:30:36

think it's so true such

00:30:38

a hard sell, but sometimes

00:30:39

you can be perceived as

00:30:40

not having faith in your

00:30:41



own case. If you're trying

00:30:42

to overly promotes that mediation

00:30:45

is an option, I think

00:30:46

it's kind of important have

00:30:47

the full gamut of tools

00:30:48

before you and I think

00:30:50

that one is responding to

00:30:52

the opportunity. You know how

00:30:53

to see what you tend

00:30:54

to see. Even with those

00:30:55

who are reluctant, it's already

00:30:56

in the contract, for example,

00:30:57

is the preliminary off. An

00:30:59



option as part of the

00:31:00

dispute resolution rules out, something

00:31:03

that can help open the

00:31:04

door to negotiation to let

00:31:06

me respond. Once people, even

00:31:09

the most cynical, once I

00:31:10

get in the room and

00:31:11

something, they feel empowered and

00:31:14

getting bold and they can

00:31:15

change. But I think the

00:31:16

real skill is trying to

00:31:17

create that situation without looking

00:31:19

weak and I think just

00:31:20



worrying about us going to

00:31:22

cancel, but we're in his

00:31:23

role as well and can

00:31:26

help by the beat and

00:31:31

then wouldn't, you know, have

00:31:32

you considered, there's anything we

00:31:34

can do, you know of

00:31:35

assisting proceedings if there's no

00:31:39

reason why I am proceeding

00:31:40

parallel to mediation, but I

00:31:43

think sending that kind of

00:31:44

Positive Single to the policies

00:31:45

and knowing that you are

00:31:46



looking, and sometimes they could

00:31:48

be a good way of

00:31:48

saying, this is a real

00:31:50

dogs breakfast in the case

00:31:51

and this is going to

00:31:52

cost a lot of money

00:31:53

getting bored. And she can

00:31:54

say, Results of the tribunal,

00:32:01

but I think it's incumbent

00:32:03

on us to educate sometimes,

00:32:07

it's as simple as that

00:32:08

or at least promote social

00:32:10

and courage, alternative dispute resolution.

00:32:13



I think mediation suddenly on

00:32:15

the up on the commercial

00:32:17

side and I'll hand them,

00:32:18

Mike back to you the

00:32:19

second about forever because I

00:32:21

think you want to do

00:32:21

it, but I just want

00:32:23

to have it already wants

00:32:24

to touch on this Shining

00:32:25

Light on because I've been

00:32:26

a little frustrated if I'm

00:32:27

perfectly content cuz I was

00:32:29

involved in part of it,

00:32:30



I think you be forgiven

00:32:32

if you think you will

00:32:33

have me have this topic

00:32:34

is going to be always

00:32:35

coming up on every conference

00:32:37

every year. And I think

00:32:37

frankly for the last 20

00:32:39

years we've had this issue

00:32:40

of we need to do

00:32:43

things differently, a little muscle

00:32:45

in the UK. I think

00:32:46

she said in 2000 that

00:32:48

we were things you of

00:32:50



killing the Golden Goose because

00:32:52

the century causing the delay

00:32:54

of arbitration, what are the

00:32:55

benefits of it was being

00:32:56

sold at work? Remind by

00:32:59

the increasing costs and then

00:33:01

it in about the 2015

00:33:04

you saw the Goodwill pound

00:33:05

home front. So she was

00:33:06

a series of conferences all

00:33:07

around the world with finals.

00:33:08

Me, people involved stakeholders from

00:33:11

around the world. Make came

00:33:12



up with a full contingent

00:33:15
of the two years of

00:33:16
the first one that came

00:33:19
up with was a real

00:33:20
desire for efficiency. It was

00:33:22
the key priority so that

00:33:23
was the number one thing

00:33:24
from all these people climb.

00:33:26
So furiously that something is

00:33:29
still and then 10 years

00:33:30
on, just the roundabout. Now

00:33:31
we are seeing a renewed

00:33:32
interest. We so recently that

00:33:34



people would read a doll,

00:33:35

no doubt. The god El

00:33:36

CIA, we heard about it

00:33:38

last night at the exit

00:33:39

event is well looking at.

00:33:41

It was basically saying something

00:33:42

is not working and we

00:33:43

are at we still we

00:33:45

have all these mechanisms we

00:33:46

have visits. Interesting, I was

00:33:47

looking at other expedited rules

00:33:49

if we have time I

00:33:50

mention the later around around

00:33:52



the world and wanted to

00:33:53

see in this proliferation of

00:33:54

rules and because I have

00:33:56

some coming out of its

00:33:57

but still interesting. Are distinctions

00:33:59

is wrong. But what area

00:34:02

was it in Vesta States?

00:34:03

A mediation is what I

00:34:05

wanted to mention and plug

00:34:07

because when you look at

00:34:08

the cost of commercial arbitration,

00:34:10

which is bad enough, as

00:34:12

hell, and takes a lot

00:34:14



longer. 17 years were hearing

00:34:16

that I'm counting in an

00:34:17

almond case over here. I

00:34:19

did not hang up, putting

00:34:24

a Spain on 4th, Street,

00:34:25

on the wrong end of

00:34:26

a lot of these awards

00:34:27

at the moment and not

00:34:28

doing everything possible to avoid

00:34:30

paying. I also tribunals are

00:34:32

not getting anywhere near the

00:34:34

claimants are often, so there's

00:34:35

a lot of incentive. I

00:34:37



think I'm parties to dry

00:34:39

and do things differently and

00:34:40

that's what we're hearing. Although,

00:34:42

I would just say that

00:34:42

when we were with respect

00:34:46

to any clients in the

00:34:47

room, they tend to be

00:34:48

pretty schizophrenic if they say

00:34:49

one thing. And then obviously,

00:34:50

when you present it to

00:34:52

them, they want to do

00:34:52

something else if it is

00:34:54

a challenge. But I think

00:34:55



are you going to do

00:34:56

very briefly because you mentioned,

00:34:58

It's only for like a

00:35:00

question also because the ones

00:35:03

like one party their protest

00:35:06

saying, okay, now we know

00:35:08

we're going to have these

00:35:08

two in each other, for

00:35:09

sure. I will call with

00:35:10

the arbitrator's. Can you reach

00:35:12

out to the arbitrator's? We

00:35:14

got Richard Miller mentioning in

00:35:15

the right, the whole party

00:35:17



which party did it? But

00:35:19

tell them to include remediation

00:35:20

Caro in the scheduling order

00:35:22

because, you know, confidentially we

00:35:26

may want to settle that.

00:35:27

We don't want to look

00:35:27

weak and we need to

00:35:28

somehow salad. Do you know

00:35:30

that is something that cannot

00:35:31

have you seen it? Or

00:35:34

was it something that doesn't

00:35:35

happen all that often? It

00:35:37

doesn't have two levels. Ms11

00:35:42



mediation. Anecdote before I passed

00:35:45

the floor, back back back

00:35:46

to Joe, two weeks ago.

00:35:49

I propose mediation 2 to

00:35:51

a counterparty and she asked

00:35:53

me if we are going

00:35:54

to change our position, if

00:35:55

the mediation, the mediator told

00:35:56

us that our position is

00:35:57

very weak. I said, probably

00:35:59

not. And then I asked

00:36:01

her the same question. You

00:36:02

said probably not. I said

00:36:03



then we probably ought not

00:36:05
to do it, but I

00:36:07
think that's that that's the

00:36:08
same as is you feel

00:36:10
quite stuck stuck in your

00:36:12
positions. At once you start

00:36:14
arbitrating and you feel like

00:36:16
if you hear something bad

00:36:18
for one person, maybe you'll

00:36:19
hear something good from at

00:36:21
least two-thirds of 2/3 of

00:36:23
a Tribunal. But you won't

00:36:27
let me pass report back

00:36:28



to you. If the, if

00:36:29

if Raphael was applying his

00:36:31

set of rules of to

00:36:32

have in front of me,

00:36:33

he would be in charge

00:36:34

of proposing five, arbitrators and

00:36:36

truly, Joe would be one

00:36:37

of the names on on,

00:36:39

on the top of his

00:36:39

list. Do you want to

00:36:41

pick up on any other

00:36:41

topics beyond the mediation song

00:36:49

to Evangelical? Not put people

00:36:51



off too, but I think

00:36:52

timing is everything and I

00:36:55

think that's the beauty of

00:36:56

it is not to approach

00:36:57

it as if it's going

00:36:58

to rehearsal for a trial

00:37:00

or a hearing, it is

00:37:02

there is a different approach

00:37:03

to it and if nothing

00:37:06

else, you got to understand

00:37:07

your own case, mess up

00:37:08

anything given the cost in

00:37:14

the potential cost savings and

00:37:16



time-saving. I think you're not

00:37:19

fat have a really hard

00:37:20

thing, it's worse before discounting

00:37:23

it. And, of course, a

00:37:24

lot really depends on the

00:37:25

mediator or mediator tools. I'm

00:37:27

a big fan of immediate

00:37:31

search solar powered light with

00:37:32

real estate location location location.

00:37:34

Mediations mediate immediate immediate and

00:37:36

they can help facilitate even

00:37:39

in the most difficult of

00:37:40

circumstances, be the Catalyst to

00:37:45



move. Things forward in circumstances

00:37:47
and it's a, you go

00:37:48
in there, somehow something happens

00:37:53
and it can change things.

00:37:55
What I was going to

00:37:59
say is that I think

00:38:00
any isn't Siri, the existing

00:38:07
rules, you are a sufficient

00:38:08
themselves with proper engagement with

00:38:10
the tribunal to manipulate the

00:38:13
Croft. What exactly do you

00:38:15
need? But having some places

00:38:18
It's helpful. I just thought

00:38:20



it was interesting to see

00:38:22

how that has been this

00:38:23

explosion of rules well, over

00:38:26

as well as a money

00:38:33

tree. Limb. It's somewhere between

00:38:36

any case normally stay single,

00:38:45

as you'd expect, I think

00:38:46

the teasing spawned a single

00:38:49

arbitrator or a free admission

00:38:53

and only most of them

00:38:55

are armed with documents only.

00:38:57

So hearings as know, the

00:38:59

default position towards you see,

00:39:02



Jen typically to expect expectation.

00:39:04

The most seems to be

00:39:05

about 6 months, three months.

00:39:07

What are the element? Ella

00:39:12

Mae in London, London. Maritime

00:39:14

Arbitration Association. They have one

00:39:17

month. But they small claims

00:39:19

is only \$100,000 but everything

00:39:21

else. Basically, it six weeks

00:39:23

got to run during the

00:39:24

war of operations at all

00:39:31

being dealt with expeditiously. I

00:39:33

need a cost-effective way on

00:39:34



a day-in day-out basis to

00:39:42

be single all betrayed her

00:39:43

with a very tight turn

00:39:48

around. So it's it's interesting

00:39:50

to see that I think

00:39:52

it's old but I think

00:39:53

we have to be a

00:39:54

little bit careful that would

00:39:55

just not being efficient for

00:39:56

the sake of being said,

00:39:57

shouldn't I always feel a

00:40:06

little worried? I think I

00:40:08

under the English of Patricia

00:40:09



example. I'm under juci to

00:40:11

push things along. So obviously

00:40:13

the end of the day

00:40:14

you visitation with pain, see

00:40:16

which one of me but

00:40:17

I think it's wouldn't be

00:40:19

pushing back and seem to

00:40:20

be pushed back and you

00:40:27

conscious In Georgia, says, stay

00:40:33

with your role as, as

00:40:34

arbitrator. What what have you

00:40:35

found me? Some of the

00:40:36

effective ways to help to

00:40:38



help parties along to help

00:40:39

streamline things. I mean, if

00:40:41

you have two parties who

00:40:42

are proceeding in a way

00:40:44

that's in efficient and effective,

00:40:45

they seem to be happy,

00:40:47

maybe the lawyers are happy

00:40:48

because they're getting paid. But,

00:40:50

you know, they're proceeding what

00:40:52

what what what what's in

00:40:53

your toolbox that you cannot

00:40:55

deploy by example. And number

00:40:59

one, I think it is

00:41:01



proactive case management in talkin

00:41:03

to reminding people of old

00:41:06

UT and what's your what

00:41:09

your expectation is. So and

00:41:11

I think it's trying to

00:41:13

Indian sometimes that's a lot

00:41:14

of heat in the room.

00:41:15

You can set the time

00:41:17

and at you while being

00:41:19

professional and constructive to try

00:41:21

and take that heat out

00:41:22

because ultimately as we could

00:41:24

talk to you and you're

00:41:24



wrong, I think and constructive

00:41:26

dialogue. With the other side

00:41:27

is always much better. Anyway,

00:41:30

when they want it done

00:41:31

by consensus and encouraging people

00:41:34

to actually be sensible and

00:41:35

not argue about it. And

00:41:36

I have one case with

00:41:37

they were at loggerheads as

00:41:39

to whether the hearing started

00:41:40

at 12 or 2 and

00:41:41

everybody's in the same jurisdiction,

00:41:43

all different, but I mean

00:41:45



they just could not like

00:41:46

kids. So you try and

00:41:51

try and see reason. I

00:41:54

don't know if we went

00:41:55

for 1 a.m. just to

00:41:56

split the difference, but I

00:41:58

think it is, ultimately, you

00:42:06

have to respect me but

00:42:07

you're in control of it.

00:42:09

And I think that's a

00:42:09

real difficulty of balancing act

00:42:12

and sending that to a

00:42:13

message. Because there are falsely

00:42:15



many, I think I'll trade

00:42:17

you a little too much

00:42:19

going to wait on successful

00:42:23

or fishing Expeditions were talking

00:42:25

and exchanging, for example, rather

00:42:27

than making something in the

00:42:27

back door, if they'd not

00:42:28

sure. Production Robin's, taking it

00:42:34

down the road and incurring

00:42:35

call. So yes I think

00:42:37

it's the tally wants wants

00:42:45

to share but one thing

00:42:47

is there any German lawyers

00:42:49



in the room or online?

00:42:50

I'd like to hear from

00:42:50

you. I had a Frank

00:42:52

at a very interesting experience

00:42:55

in a Frankfurt seated arbitration

00:42:56

we're at we had a

00:42:59

a, a German and the

00:43:02

chair. And then to American

00:43:04

wing arbitrators and apparently a

00:43:07

common feature of arbitration in

00:43:09

Germany under domestic proceedings is

00:43:11

after the first round of

00:43:12

submissions, the tribunal asks you

00:43:14



if you wanted receive a

00:43:17

non-binding indication of things that

00:43:20

are on the tribunals mine

00:43:21

and depending on who's briefing

00:43:24

first or second, that sounds

00:43:26

better or worse. If you

00:43:27

briefly last, I think you're

00:43:28

probably feeling pretty good in.

00:43:30

And feeling pretty confident. In

00:43:31

this if you haven't briefed

00:43:33

last and maybe meant maybe

00:43:34

less. So it was something

00:43:35

that made me very uncomfortable.

00:43:36



At we I think we

00:43:38

all ended up saying yes

00:43:39

and then no and then

00:43:41

so we didn't end up

00:43:41

having this experience as an

00:43:45

arbitrator. But again, if if

00:43:46

people had this experience as

00:43:48

well, I'd like to hear

00:43:49

from you. If your German,

00:43:51

I'd like to hear from

00:43:51

you as well. Going to

00:43:53

doctor giving indicating to the

00:43:57

parties where you might be

00:43:57



going or where you might

00:43:59

be. What, what are the

00:44:00

things that that interest you

00:44:01

that concern you that you

00:44:03

like that, you'd like to

00:44:03

see the parties really focus

00:44:05

on in their next round

00:44:06

of submissions? I think all

00:44:06

of which indicates some form

00:44:09

of narrowing so that you

00:44:10

don't just have, you know,

00:44:11

endlessly, long briefs Natalia will

00:44:15

talk about that a little

00:44:15



bit, but some kind of

00:44:16

of of narrowing assisted by

00:44:19

the tribunal. After the first

00:44:20

boy, was one of the

00:44:21

round table. One of the

00:44:28

recommendations, it was suggested, I

00:44:30

think anything that is helpful

00:44:31

in terms of perhaps, at

00:44:33

that stage, I'm preparing a

00:44:35

list of issues concerning help

00:44:39

Focus, the policy issues. Tribunal

00:44:42

driven. Yes. Yeah. And I

00:44:46

think indicating to them with

00:44:48



a wok that you're still

00:44:49

reading this or is it

00:44:51

still going along with it?

00:44:52

Witnesses are still required along

00:44:56

the way for the witness

00:45:00

statement been working guide for

00:45:05

what it would be good

00:45:06

to have a statement. From

00:45:08

that particular witness, Holcomb bus

00:45:09

that you talk to other

00:45:10

witness statements seem to be

00:45:12

pretty uncontroversial and perhaps you

00:45:13

can dispense with them at

00:45:16



the hearing, but I think

00:45:17

indicating that machine cuz they

00:45:18

I think it's an evolving

00:45:19

beats. This is the issues,

00:45:21

the realest. You over this.

00:45:23

I think you do too

00:45:23

often you have your procedure

00:45:25

number or the number one,

00:45:26

and I've been to seems

00:45:27

to have an old ghost,

00:45:29

you go. You just take

00:45:30

those bolts as you go

00:45:31

along. In this. Ready in

00:45:32



the other times, you tend

00:45:33

to speak to one another

00:45:33

as just before the hearing

00:45:36

itself, which is helpful but

00:45:38

it's going to be in.

00:45:38

And I could be a

00:45:39

year or two down the

00:45:40

road down the road. I

00:45:41

think having more regular engagement

00:45:44

along the way to try

00:45:45

and are those dishes. And

00:45:46

clarifications at the end of

00:45:47

the day, it is about

00:45:48



firefighting it to you to

00:45:50

determine the issue and you

00:45:51

want to make sure you're

00:45:52

in the snow. You need

00:45:53

to determine sucks being proactive,

00:45:57

and reactive to what's going

00:46:00

on with case management. If

00:46:07

you were, if you were

00:46:08

briefing first and not last

00:46:10

at, what, what how do

00:46:11

you feel is a party

00:46:12

as counsel for a party

00:46:13

when invited by the tribunal,

00:46:16



if you wanted to hear

00:46:16

their provisional thoughts? What would

00:46:19

be your reaction shape that

00:46:29

has structure and organization of

00:46:31

the breeze? Sandra. Really let

00:46:33

you you really realize what

00:46:35

that tribunal is interested in

00:46:36

and I feel like the

00:46:37

problem very often as and

00:46:39

I will talk more later,

00:46:42

is this kitchen sink approach

00:46:43

in a race like to

00:46:44

do more is better and

00:46:46



just the console comes to

00:46:47

Pho and all these potential

00:46:48

arguments and and starts and

00:46:51

Plex open up something. That's

00:46:54

not the most efficient approach

00:46:56

in of this daylight. If

00:46:57

you get around my phone,

00:46:58

the tribunal like what are

00:47:00

the stipulations that they want

00:47:01

to hear about that? Will

00:47:03

I find improve their efficiency

00:47:05

in and just benefit the

00:47:11

process? And at the party

00:47:13



Sgt, same thing? I didn't

00:47:17

see anyone stand out so

00:47:18

I guess no German arbitration

00:47:20

law has never had this

00:47:21

experience and solves tribunal providing

00:47:24

of you. Yes, please. But

00:47:29

I rather conference in Dublin,

00:47:30

the bag commercial litigation that

00:47:32

we have church up the

00:47:33

Frankfurt, Commercial Court over. And

00:47:36

she explained that when a

00:47:37

commercial court case of the

00:47:38

first thing, she does this

00:47:42



mean we're at the mediator

00:47:56

then, Yes, please. Okay, it's

00:48:13

about it's about the tribunal

00:48:16

saying we think you have

00:48:17

a strong case here you

00:48:19

have a weak case there

00:48:21

and more often than not

00:48:23

this week's to settled but

00:48:25

if you don't want to

00:48:26

settle a risk is risky

00:48:29

to hear the tribunal's preliminary

00:48:31

use, and if they stay

00:48:33

as they sometimes, do claiming

00:48:35



you don't have a case,

00:48:37

what do? So it ends

00:48:40

there are skeptical but instead

00:48:45

it's a long-standing tradition and

00:48:47

it helps settle cases, open

00:48:51

to the gentleman right behind

00:48:56

you to your right as

00:48:57

as a funder of cases.

00:48:59

Jeffrey, how do you feel

00:49:00

if you're at your case

00:49:03

that you funded is maybe

00:49:05

when I go in and

00:49:05

receive that type of a

00:49:06



provisional view? Is that something

00:49:08
is at as a funder

00:49:09
you'd like to see more

00:49:10
to get an indication early.

00:49:14
Diligence to do of a

00:49:19
matter. So we've also profiled

00:49:22
with the panel. So if

00:49:25
we don't at that point

00:49:26
know what was it? They're

00:49:27
going to say? I think

00:49:29
we're not in the best

00:49:31
spot but I worry that

00:49:35
in certain for a good

00:49:37



lead me to Springs challenge

00:49:40

or satellite. I've done. I've

00:50:18

done my cold calling. Thanks

00:50:20

Jeffrey. I just don't know.

00:50:26

I would have to do,

00:50:27

I have heard everything. Can

00:50:28

I think that you are

00:50:29

free judging and down the

00:50:34

road if you would. And

00:50:36

I think this is where

00:50:36

I have my are my

00:50:39

issue with this whole issue.

00:50:40

It might be very efficient,

00:50:41



but I'm not sure that's

00:50:43

really the interests of Justice

00:50:44

at the end of the

00:50:45

day as well. And I

00:50:45

think we have to do

00:50:49

that. We not just being

00:50:49

efficient, could be safe if

00:50:52

you like them and sometimes

00:50:54

if you do need to

00:50:55

take a little longer, looking

00:51:01

at each case on its

00:51:02

own individual merits. But I

00:51:03

think it would certainly have

00:51:12



the gravitas with the hours

00:51:14

at school, however you want

00:51:15

to put it. At such

00:51:24

a strong indication that we

00:51:30

all should be speaking into

00:51:30

the microphone, but I think

00:51:33

thank you, Joe. I'm going

00:51:34

to pass the floor. It's

00:51:35

a Natalia toot-toot to take

00:51:37

us through the next part

00:51:38

of the panel on how

00:51:41

can be more efficient. Thank

00:51:44

you so much. I just

00:51:47



published recently a very lengthy

00:51:48

articles, you've put your article

00:51:50

because I think we should

00:51:51

be shunned and I need

00:51:57

to know what, whatever self-promotion

00:51:59

and and show a little

00:52:01

bit of the research and

00:52:02

said of personal personal professional

00:52:05

experience, on the most effective

00:52:08

tools that I think we

00:52:09

were able to employ to

00:52:12

really expedite International International arbitration

00:52:15

proceedings. Start a strange, some

00:52:19



results of a one-bed international

00:52:22

arbitration survey from 2021, which

00:52:25

asked participants various stakeholders. What

00:52:30

are the biggest challenges to

00:52:32

achieve efficiencies and faster and

00:52:35

cheaper arbitration. And the overwhelming

00:52:37

response was that it is

00:52:39

unlimited length of written submission.

00:52:42

This was the focus of

00:52:43

the chapter that we bother

00:52:45

with my colleagues that each

00:52:48

limitations is truly can be

00:52:50

the most effective tool that

00:52:51



the party's 10 introduced that

00:52:54

will result in more efficient.

00:52:57

Efficient proceedings, very much more

00:53:02

of an exception in international

00:53:04

arbitration rather than the normal.

00:53:06

So I will help focus

00:53:09

a little bit on the

00:53:10

arguments. Why why? That's such

00:53:12

a great idea. And and

00:53:13

why how it's been working

00:53:14

on in practicing the pieces

00:53:15

that I've been saying so

00:53:17

instinctively like a shorter, Braves

00:53:19



will save time. It just

00:53:21

takes less time to write

00:53:23

a brief that is 50

00:53:24

pages than 500 pages and

00:53:27

not to do, just not

00:53:32

wanting me to a Trader

00:53:33

who said to describe this

00:53:36

sickening and depressing stealing when

00:53:38

he receive a statement of

00:53:39

claim, which is 800 Pages

00:53:41

or reverse. Which is 350

00:53:43

Pages, opening submissions that are

00:53:46

500 pages of closing, submissions

00:53:47



of 300 pages and it

00:53:50

from one of your arbitrators

00:53:53

on one of your briefs.

00:53:53

It was not, but it

00:53:55

was, it was a, it

00:53:56

was a part of the

00:53:56

research that way we come

00:53:58

back to when we were

00:53:59

like looking at that. So

00:54:00

do, what is the feeling

00:54:02

them on Albert? Raiders, on

00:54:03

on the south side and

00:54:04

the overwhelming feeling of not

00:54:06



a cheater, says that unlimited.

00:54:08

Submissions are truly the problem

00:54:10

in international arbitration right now.

00:54:12

So instinctively like short, just

00:54:16

short of time. I will

00:54:17

save money, but they're just

00:54:18

a lot of other benefits

00:54:19

that that we should consider

00:54:22

shorter briefs. Will just make

00:54:25

it a lot more feasible.

00:54:27

And likely that the parties

00:54:28

are going to stick to

00:54:29

the sets timetables and will

00:54:31



ask for extension. They will

00:54:34

equalize if you'll between different

00:54:36

parties that might have access

00:54:38

to different resources. Some parties

00:54:40

will have access to good

00:54:41

law firms with an army

00:54:42

of Associate that will plow

00:54:44

for the record and try

00:54:46

to just put everything in

00:54:47

a breathe and a lot

00:54:49

of law firms will use

00:54:50

that kitchen sink approach to

00:54:52

just include every possible spot

00:54:54



information. Potentially relevant to the

00:54:57

dispute, just to cover all

00:54:59

the bases to show the

00:55:00

clients like how diligent and

00:55:02

comprehensive they can be and

00:55:04

then their parties that doesn't

00:55:05

have access to the same

00:55:06

resources. And yet when they

00:55:07

receive the breeze, that is

00:55:08

800 Pages. There is this

00:55:11

compelling feeling that they have

00:55:13

to match or exceed the

00:55:15

same this length of submissions

00:55:17



to show that they're equally

00:55:18

prepared under heavy. Police charger

00:55:21

case, I need it. When

00:55:24

will cut the hide, the

00:55:26

cut the one, that's what

00:55:30

we can see. That is

00:55:31

a might have a very

00:55:33

soon if I don't improve

00:55:34

decision-making process and there's been

00:55:37

a lot of writing on

00:55:39

how In light of this,

00:55:41

unlimited submissions arbitrator is very

00:55:43

often. Employ different biases are

00:55:47



strategies to comprehend information. One

00:55:50

of them might be anchoring.

00:55:51

They'll just stick to 15

00:55:53

like one narrative the day.

00:55:55

The Cardinal light request, arbitration

00:55:58

or some of the early

00:55:59

submissions. They might they might

00:56:02

take over rely on tribella

00:56:05

secretaries who will. Then we'll

00:56:08

be classed with first reading

00:56:10

to breathe and providing a

00:56:11

condensed summary of the of,

00:56:13

of, of the material. So

00:56:15



that the arbitrator's don't have

00:56:16
to, I don't have to

00:56:18
read everything. You know that

00:56:19
introduces, the rest that are

00:56:21
we sure are betrothed secretaries

00:56:23
become dislike filter of information

00:56:26
for the arbitrators and this

00:56:27
is not what we want

00:56:29
arbitrators to do. It might

00:56:32
have this, a preconceived notion

00:56:35
of, of set of arguments

00:56:38
that the device Early early

00:56:40
and you know, when you

00:56:42



had when they have to

00:56:43

then Paris for the movie

00:56:44

hundred at most 100 page

00:56:47

submissions. It's it's very hard

00:56:49

to to change that. Preconceived

00:56:52

notion that is so early.

00:56:53

Develop the overwhelming amount of

00:56:58

information that they are facing

00:56:59

but the argument that is

00:57:02

very often and raised and

00:57:04

that's something I never felt

00:57:05

Mansion. Is this due process

00:57:06

paranoid that the parties have

00:57:09



the right to fully present

00:57:10

the case and arbitrators are

00:57:13

very off and worried about

00:57:15

allowing the peach limits because

00:57:17

that might potentially considered grand

00:57:20

for challenging the award later,

00:57:22

you know what research we

00:57:24

did not find a single

00:57:25

case that work toward was

00:57:28

successfully challenged because there was

00:57:30

that peach limits were introduced.

00:57:33

So this has definitely I

00:57:37

would say like image inner

00:57:38



sphere. And I would also

00:57:40
say that right to be

00:57:41
heard and do you process

00:57:43
are not the rides that

00:57:44
are just present in international

00:57:46
arbitration. There are Universal rides

00:57:48
that the parties in interest

00:57:52
General liquidation have the right

00:57:54
to present their case, fully

00:57:55
and the standard and the

00:57:57
norm around the world in

00:57:59
the United States in Europe,

00:58:00
is that National course into

00:58:01



this very strict page limits.

00:58:04

For example, Supreme Court. The

00:58:08

United States, I think that

00:58:10

opening briefs have limitation of

00:58:12

fifteen, thousand words. It was

00:58:14

brief star naturally, always focusing

00:58:18

more on legal issues, and

00:58:19

Do You Don't Be Tardy.

00:58:20

Don't get in till I

00:58:21

develop development. But even the

00:58:25

federal circuit boards, have a

00:58:28

very similar paid word limit

00:58:31

where you do that into

00:58:32



that, our development to develop

00:58:34

your argument and those differ

00:58:36

between like 13 to 16

00:58:38

thousand words and get parties

00:58:42

and National courts forced to

00:58:45

obey. By the limit are

00:58:46

somehow able to present their

00:58:48

cases which are not necessarily

00:58:50

any less complex than the

00:58:52

case is that we see

00:58:53

any International arbitration so it

00:58:55

can be done. It is

00:58:56

done as chief. Justice Roberts

00:58:59



famously said, I have yet

00:59:01

to put down a brief

00:59:02

and say, oh, I wish

00:59:03

that it was longer and

00:59:06

I feel like that sentiment

00:59:07

is Ask Emily president on

00:59:09

arbitrators. So we do see

00:59:12

a receipt. We have this

00:59:15

example for national forests in

00:59:16

the New York. A, that's

00:59:17

a 25-page limits for the

00:59:19

timer, some missions in metal,

00:59:20

on 225 Pages, International European

00:59:25



court of justice. Their primary

00:59:27

submissions are limited to 50

00:59:29

pages. So, you know, it's

00:59:32

it's still a lot and

00:59:34

yet when we, when we

00:59:36

hear those numbers as International

00:59:38

Patrician practitioners, it's just, I

00:59:41

spend that. I just needed

00:59:43

you like a ton of

00:59:44

be done because we just

00:59:45

are really became accustomed to

00:59:48

this monster monster number or

00:59:51

side of multi hundred-page pleadings

00:59:54



that it is truly became

00:59:56

a standard these days. So

01:00:00

this is worth talking about

01:00:02

numbers 75/25, that's for c,

01:00:07

l e, code 75250, the

01:00:10

perfect time, alright, but I

01:00:11

wanted to tell you to

01:00:12

have a water back to

01:00:14

you, would you impose page

01:00:18

limits? What do you poach

01:00:19

impose page limits? If the

01:00:20

parties did not that requested?

01:00:26

And under the bus rules,

01:00:39



the ability to impose that

01:00:41

because he just quit. I

01:00:43

mean, how about how long

01:00:44

is too long and I

01:00:46

think the reality of 100

01:00:48

Pages, you can say, who

01:00:50

sings even the biggest of

01:00:51

cases only several times as

01:00:53

well, and they will do

01:00:54

any expectation of carrying out

01:01:05

your duties. I mean, I'm

01:01:08

hesitating and I would hope

01:01:11

that with that engagement that

01:01:13



you can take probably come

01:01:14

around to the opposite end

01:01:15

of the day that I

01:01:16

want to. I want to

01:01:17

walk around to your way

01:01:19

of thinking Worried whether it's

01:01:27

25 Pages or 30 if

01:01:29

it's raining and realistic actually

01:01:39

agree. I can really truly

01:01:40

depends on the nature of

01:01:41

the case and, and how

01:01:42

complex it has, and each

01:01:44

case is obviously different. But

01:01:46



from personal professional experience in

01:01:49

in last three, arbitrations with

01:01:51

this is something that we

01:01:52

suggested in before the management

01:01:56

conference and we negotiate that

01:01:59

that was the opposing counsel.

01:02:00

In every case we were

01:02:01

actually successful, even though the

01:02:03

arbitration agreement did not, I

01:02:05

did not call for expedited

01:02:07

president. That was not something

01:02:08

I was involved included before

01:02:12

the dispute arose and I

01:02:13



truly think it's just not

01:02:14

something that like, it's a,

01:02:17

it's a fault a Mina

01:02:19

in castles Minds when they

01:02:21

are preparing to procedural orders

01:02:22

and then they are proposed.

01:02:24

Are they wanted? I comment.

01:02:27

But when one party does,

01:02:30

then the other party meet

01:02:32

Lee like starts to end

01:02:33

it, okay, maybe it's not,

01:02:34

such a bad idea, and

01:02:37

it's truly recovered. It's a

01:02:40



challenge that is recognized by

01:02:41

their community, in arbitration, and

01:02:44

yet, it's not the proposal

01:02:45

that the party Smeg, but

01:02:47

it was the first proposal

01:02:48

has made that actually, from

01:02:49

our experience. It's something that

01:02:51

they'll poison Castle, s, usually

01:02:53

willing to, and Adrian, and

01:02:55

it's truly led to some

01:02:58

very efficient and expedited proceedings.

01:03:01

Last year, we had an

01:03:04

arbitration worked up value of

01:03:07



about a hundred million dollars

01:03:08

and yet and we imposed

01:03:11

very strict age limits and

01:03:13

mentally like the fights were

01:03:14

not very complicated. And it

01:03:16

was a little bit more

01:03:16

of a little dispute and

01:03:17

turn on some a very

01:03:19

narrow 5, but it'll allow

01:03:21

us to take the arbitration

01:03:23

from the statement of claim

01:03:24

to the hearing and computer.

01:03:26

Always. I'm just like one

01:03:27



year, which was really remarkable.

01:03:30

And that are all say,

01:03:33

another effective tool was introducing,

01:03:35

and, and suggesting very expedited

01:03:37

timetable, which the parties, both

01:03:40

parties agreed to, and we

01:03:42

discussed Ezra before the panel.

01:03:44

We also spend the relationship.

01:03:45

They will the opposing counsel

01:03:47

can be like one of

01:03:47

the most important factors and

01:03:50

how amazing your proceedings affection

01:03:53

because it's truly sometimes the

01:03:56



Doritos. And the fighting between

01:03:58

the council, that is the

01:04:00

Fertile ground for attempting to

01:04:03

sight-read the proceedings were improper

01:04:07

requires like attempting to delay

01:04:09

and I do have just

01:04:11

miss align incentives and she

01:04:14

knows one party wants to

01:04:16

resolve the dispute faster than

01:04:17

the other one. But very

01:04:19

often there is a lot

01:04:21

of brown for compromise and

01:04:23

even if like one party,

01:04:24



introduces an idea of Plymouth

01:04:27

Indiana party would be opposed

01:04:28

to it. A better day

01:04:29

has been proposed to the

01:04:30

tribunal arbitrators very often. Just

01:04:33

want to split the baby.

01:04:34

So if you ask for

01:04:35

a 50-page limit and the

01:04:37

other party doesn't want to

01:04:39

have, doesn't want to have

01:04:40

any page limit, it's very

01:04:43

likely that the arbitrator's will

01:04:45

just say, Okay hundred Pages.

01:04:46



Which, you know, it's still

01:04:48

a big number but it's

01:04:49

a hundred pages is better

01:04:50

than three or four hundred

01:04:51

and what happens is like

01:04:53

very often. It's just people

01:04:55

don't think about it, I

01:04:56

still don't think about it.

01:04:57

This first submission, we just

01:04:59

cannot resist this temptation of

01:05:01

like the more is better.

01:05:02

We just end up with

01:05:04

this first briefed, that is

01:05:05



just so long and the

01:05:06

other party just feels compelled

01:05:07

to like matching and then

01:05:08

it's just this rabbit hole

01:05:10

and that just created just,

01:05:13

you know, inefficient and efficient

01:05:18

procedure that could just be

01:05:19

like a lot. I'm proof

01:05:22

from the beginning from The

01:05:24

Deco is the parties had

01:05:25

fought about it. at the

01:05:27

very early age stages of

01:05:28

the Case, Case Management conference

01:05:33



It says you're speaking, it

01:05:36

made me think you have

01:05:37

the best experience I've had

01:05:40

with a case moving quickly

01:05:41

is where the other side

01:05:43

wasn't participating. So I think,

01:05:45

you know, to the extent

01:05:46

that you can find cases,

01:05:47

where the other side is

01:05:48

not participating. I think they

01:05:49

tend to go. It's going

01:05:51

to go pretty quickly. We

01:05:53

have about 7 minutes. If,

01:05:56



if you've been holding in

01:05:58

thoughts, wonderful brilliant. Thoughts about

01:06:01

expedited proceedings. Even if they're

01:06:05

not, brilliant thoughts, and they're

01:06:07

just thoughts that you want

01:06:08

to share. It would be

01:06:08

happy to hear them, otherwise

01:06:10

what will will continue for

01:06:11

a few more minutes and

01:06:12

then we can take a

01:06:13

break before the next panel.

01:06:14

But let me let me

01:06:15

pause there, I am happy

01:06:17



to take thoughts online or

01:06:20

from the, from the people

01:06:21

in the room. Please stop

01:06:24

asking questions about. At the

01:06:28

ICC are currently considering a

01:06:30

proposal to increase the trash

01:06:32

out there, expedite. The proceedings,

01:06:34

I'm on desecration of the

01:06:41

fact that would be the

01:06:42

505 million dollars is the

01:06:45

median value for the transfer

01:06:50

huge portion of the ice

01:06:51

into expedited. Preceding their views

01:06:57



about the increase in value.

01:06:59

I think that's a good

01:07:02

idea safe for small and

01:07:04

medium Enterprises has repeat the

01:07:06

question for people online and

01:07:08

also the back through the

01:07:09

questions about the icc's consideration

01:07:11

of increasing the threshold from

01:07:14

3 million to 526 million,

01:07:17

the threshold for the automatic,

01:07:20

get into the expedited percentage

01:07:22

of it. And the question

01:07:23

is for the panel's thoughts

01:07:24



and show your up first.

01:07:27

Remember when they introduce the

01:07:30

the original image of two

01:07:31

and it was a lot

01:07:32

of debate and surprise. I

01:07:33

think that it was so

01:07:34

low that time that was

01:07:35

a few years ago and

01:07:36

went up to 3. And

01:07:38

it seems rather timid The

01:07:39

increased. I I welcome it

01:07:41

personally and I think when

01:07:42

you see again, it's going

01:07:44



back to the marketing thing

01:07:45

in the competition. Use the

01:07:46

other institutions that have higher,

01:07:48

I think that James is

01:07:49

5:00. So I think it's

01:07:52

another one of keeping up

01:07:52

with the other, is how

01:07:54

I think that's called to

01:07:55

make a call to make

01:07:57

sense, but I think it's

01:07:59

a surprise, it was to

01:08:01

begin with but your monetary

01:08:05

threshold, any, any thoughts about

01:08:06



without giving up giving away

01:08:08

any big reveal their caseload?

01:08:16

And what they think is

01:08:18

fast and everyone will have

01:08:20

their own now. So different

01:08:21

that lines. So bad from

01:08:24

our perspective are As far

01:08:28

as I know, to change

01:08:29

our rules and the thresholds

01:08:31

for our blood procedures. So,

01:08:33

but we need to do

01:08:40

I personally think it's a

01:08:42

great idea, and Play city

01:08:46



of the case does not

01:08:47

always as does not always

01:08:49

correlate with the value of

01:08:50

the flames. And this is

01:08:52

the light. I had to

01:08:53

taste last year. That was

01:08:54

hundred million dollars in the

01:08:55

issues were truly. It was

01:08:58

very conceptually, very easy case

01:09:01

and haven't under \$10 case.

01:09:04

Now that it's just incredibly

01:09:06

complex where I was just

01:09:08

a lot of Patrol developmental,

01:09:10



it's truly, I find the

01:09:16

value of the claims and

01:09:19

I am all for just

01:09:21

moving the process and proceedings

01:09:23

as smoothly and efficiently as

01:09:25

possible, line. Expedited procedural has

01:09:28

has that in time, so

01:09:29

the more often we can

01:09:32

introduce said, I think I'm

01:09:33

all for it. Friend, please.

01:09:39

I told him to come

01:09:40

away with the impression that

01:09:41

expedited proceedings or something that

01:09:44



everybody thinks is great in

01:09:45

the abstract and nobody wants

01:09:47

to do it when they

01:09:48

when the time comes and

01:09:51

particularly clients tend to love

01:09:52

to write into their contract,

01:09:54

the idea that the whole

01:09:55

disputes can be resolved in

01:09:56

six months and then Council

01:09:58

get those dispute resolution Clauses

01:10:00

when the client called them

01:10:01

and shake their heads. How

01:10:03

can we possibly? I've also

01:10:05



heard from arbitrators who are

01:10:07

in expedited proceedings were they've

01:10:09

accepted the appointment for an

01:10:10

expedited proceeding and then they

01:10:12

get there and just still

01:10:13

want to do everything. But

01:10:15

in six months, right? They

01:10:17

won't have to run a

01:10:18

submission. They want to document

01:10:19

production within six months and

01:10:23

so, so I wonder if

01:10:25

I'm curious about Rafael's experience.

01:10:27

Do you find parties that

01:10:28



are actually happy to be

01:10:29

there doing it that way?

01:10:31

Because I tend to hear

01:10:32

stories on the other side.

01:10:33

Yeah. That sounds like Mom's

01:10:43

my experience. Most of the

01:10:45

times I guess who has

01:10:46

very hard because we have

01:10:47

this deadline and we need

01:10:50

to work very hard. But

01:10:51

when they actually see them

01:10:52

or doing the zoom call

01:10:54

with the arbitrators and start

01:10:56



talking about, when are we

01:10:57

going to produce documents right

01:10:58

now? The hearing and there's

01:10:59

going to be some sort

01:11:00

of motion relative position or

01:11:01

something like that. Maybe maybe

01:11:03

six months is not realistic

01:11:04

in case, you know they

01:11:08

hot. The 6 months or

01:11:10

8 months, I don't remember

01:11:11

how much it was, and

01:11:12

the case was really moving

01:11:13

forward to kiss mentally stable,

01:11:15



but we were going to

01:11:15

have the hearings and all

01:11:16

like, again, expected timeline and

01:11:20

a compressed. But in my

01:11:23

experience, when I seen those

01:11:24

type of classes at a

01:11:26

party sent out by Green

01:11:27

to some sort of extension

01:11:28

to HobbyTown in one year,

01:11:34

or something like that instead

01:11:35

of everything in 6 months.

01:11:36

But I experience without seeing

01:11:45

the dispute has made right?

01:11:48



In bed reconsider, or the

01:11:49

council may have to go

01:11:52

through. Is venom out of

01:11:55

the risk of stating the

01:11:56

obvious. I think the interest

01:11:57

another line. Finish the claimant,

01:11:59

generally push it through faster

01:12:02

than the respondent reasons. But

01:12:05

I have seen the other

01:12:06

way around and that's a

01:12:06

curious situation to take away

01:12:09

as the albatross used to

01:12:10

me. I thinking you would

01:12:11



have expected the the the

01:12:12

claimant to have their wanting

01:12:15

to push through prophecy. First

01:12:16

of reasons, might be funding

01:12:18

reasons, they, they want to

01:12:19

slow things down having already

01:12:21

started it. So that's the

01:12:23

exception to the rule that

01:12:25

you would want to see.

01:12:28

You want to push things,

01:12:29

go with faster than they

01:12:30

responded. Sometimes they both might

01:12:32

want that, but a very

01:12:34



bad thing responded. He's understandably.

01:12:36

Just happy to let things

01:12:37

go too slow to write.

01:12:39

Take the case in which

01:12:42

I suggested mediation is where

01:12:43

we responded and we're trying

01:12:44

to go as fast as

01:12:46

possible to get to a

01:12:48

summer motion for summary disposition,

01:12:50

which we haven't talked about

01:12:51

today. Maybe that's for coffee

01:12:53

break. We are exactly at

01:12:55

3:45, but in the interest

01:12:56



of being inclusive to our

01:12:58

friends virtually the last one,

01:12:59

quick question will do it

01:13:00

in 60 seconds doctor Kishore.

01:13:03

Deer asks, what are the

01:13:04

risks posed by arbitral tribunals

01:13:06

restrictions on page limits and

01:13:08

a number of hearing? And

01:13:09

I need dovetails a little

01:13:10

bit Joe, with some of

01:13:11

these you're saying or Natalia

01:13:12

whichever you want to take.

01:13:14

It will be the last

01:13:15



question of the day off.

01:13:18

I Elliott. You're holding the

01:13:19

mic. Can you change the

01:13:25

risks posed by arbitral tribunals

01:13:27

restrictions on page limited number

01:13:28

of hearings from a due

01:13:31

process probably DuckTales with what

01:13:33

you're saying about the process.

01:13:34

So I said as I

01:13:38

said, like every case is

01:13:39

different and and you cannot

01:13:41

impose page limits or restrictions

01:13:43

in a vacuum but Once

01:13:47



you are familiar with Cerberus

01:13:49

Triple B Clay's, the value

01:13:50

of the claims, the position

01:13:52

of the parties. I thank,

01:13:53

and I'm just given what

01:13:55

we the perspective from the

01:13:56

national core Comfort spaces can

01:14:00

be explained and the the,

01:14:02

the law can be explained

01:14:04

with in like 50 70

01:14:06

page limit that are we

01:14:08

just those are just like

01:14:09

real Dilemma to see around

01:14:12



the world and I said

01:14:13

we have not seen a

01:14:15

successful challenge, their arbitration award

01:14:17

because some of those procedural

01:14:18

limits were imposed. So I

01:14:23

send, you know, I don't

01:14:26

think like a peach limited

01:14:27

like 10 pages if it's

01:14:28

a reasonable, but once you

01:14:30

have all the way, how

01:14:31

come Prince of Peace, as

01:14:32

I find, R Us a

01:14:34

a, you know, starting with

01:14:36



50 between 25 and 100

01:14:38

pages and this is what

01:14:40

you want to be a

01:14:41

DSi, we introducing our chapter

01:14:42

like four, depending on the

01:14:44

value of the claims and

01:14:45

$1/2 * 3$. Call the

01:14:47

directions to different age limits

01:14:48

with starting with fifteen Pages.

01:14:50

If it's if it's a

01:14:51

claim under half a billion

01:14:52

dollars up to 125 125

01:14:56

Pages, if this Diwali of

01:14:57



the time over 500, 500

01:15:01

million dollars or something similar,

01:15:03

so we can have the

01:15:04

similar limitations introduce, depending on

01:15:08

the value of the claims.

01:15:09

They're only like I see

01:15:10

she has different administrative you

01:15:13

administered. If he's, depending on

01:15:15

the volume calculator, you can

01:15:20

use online. And similarly, you

01:15:22

can add the idea was

01:15:23

that you can plant in

01:15:24

your numbers and that will

01:15:26



just turn off. Calculates your

01:15:28

calculate, your pay stub. Mission

01:15:30

age limits based on. But

01:15:33

find pending the tribunals approval

01:15:37

depending on the complexity of

01:15:38

the case. But it says

01:15:40

I have not seen a

01:15:42

successful challenge. So I do

01:15:44

think it's at would be

01:15:46

Tool 22 made the proceedings

01:15:49

more efficient. Well, I think

01:15:52

all that's left is to

01:15:53

thank our wonderful panelist for

01:15:55



their insights. So it's going

01:15:56

to Round of Applause. Thank

01:15:59

you very much, Joe. Raphael

01:16:00

to tell you. We have

01:16:01

a great handle up at

01:16:02

4 that my partner, Carolyn

01:16:04

Richards leading. I can't tell

01:16:06

you what it's about but

01:16:06

I'm sure it's going to

01:16:08

be very, very good. So

01:16:09

hang around for 12 or

01:16:11

13 minutes, and she will

01:16:12

appear here with some some

01:16:14



friends and colleagues on. I

01:16:17

think about remedies in International

01:16:19

Investment arbitration. Thank you for

01:16:22

the assist. I can tell

01:16:25

you what, what, what it

01:16:25

what it will be about.

01:16:26

It's about a prospective, it's

01:16:29

about damages. Future damages, awarded

01:16:37

now,