



## Inside the Arbitrators' Chambers: Best Practices of Arbitrators in ICSID Proceedings. \*

### Summary

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

The session titled "Inside the Arbitrators' Chambers: Best Practices of Arbitrators and Exit Proceedings" at Washington Arbitration Week focused on improving the efficiency and cost-effectiveness of arbitration proceedings, particularly in investment arbitration. The discussion highlighted concerns about prolonged case durations and rising costs, which negatively impact access to justice, especially for small and medium-sized enterprises and resource-limited states.

Key participants included Anahola Bay, Lindsey Castro, Stanimir Alexandrov, Eduardo Silva, and others, each bringing extensive experience in arbitration. The panel emphasized the need for arbitrators to proactively manage cases and utilize available tools and best practices to enhance efficiency. They discussed the importance of tribunal-driven initiatives rather than relying solely on party cooperation, which is often not conducive to efficiency.

The panel also reviewed recommendations from the recent LCIA Roundtable, which emphasized the need for arbitrators to enforce efficient practices, such as imposing page limits on submissions and conducting midstream case management conferences to clarify issues and streamline processes. The discussion underscored the importance of early procedural orders and the role of arbitrators in guiding parties toward efficient practices.

Participants shared insights on various procedural aspects, including the ranking and selection of arbitrators, the structure of procedural orders, and the management of document production and interim applications. They also debated the balance between in-person and virtual hearings, advocating for a hybrid approach that maximizes efficiency while maintaining the human element of arbitration.

Overall, the session aimed to foster collaboration among arbitrators, users, and institutions to address the ongoing challenges in arbitration, with a commitment to improving practices for better outcomes in future cases. The panel concluded with a call for continued dialogue and initiatives to enhance the arbitration process.



## Authors

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## Topics

WAW

## Category

WAW

## Full Transcript

00:00:09

I am going to say,

00:02:29

Good afternoon everyone. Good afternoon.

00:02:40

I am delighted to welcome

00:02:42

you to except for this

00:02:45

sub panel titled, inside the

00:02:48

arbitrators chambers, best practices of

00:02:51

arbitrators, and exit proceedings. Now,

00:02:54

before I hand over to

00:02:56

my colleague and a Holloway

00:02:58



and distinguished panel, this, I

00:03:01

wanted to stay a few

00:03:03

introductory remarks about the topic

00:03:05

our discussion today will focus

00:03:08

exclusively on time and cost

00:03:12

of proceedings. And the focus

00:03:15

is really important Drake said,

00:03:17

because that is one of

00:03:19

our main institutional priorities, their

00:03:24

prolonged Eurasian and did the

00:03:26

high cost of cases and

00:03:28

especially investment, arbitrations are consistently

00:03:32

highlighted as the, a major

00:03:34



concern by all users, but

00:03:38

even though we all know,

00:03:40

Free on this and there's

00:03:42

Universal agreement that we have

00:03:44

to do something about it.

00:03:45

We have seen a troubling

00:03:47

Trend that case duration is

00:03:50

actually increasing and the longest

00:03:53

duration, typically have to face

00:03:55

the higher, the class. And

00:03:58

this in the end is

00:04:01

not conducive to access to

00:04:05

Justice and particularly for small

00:04:07



and medium-sized Enterprises and states

00:04:10

with very few resources. So

00:04:13

it's important that we do

00:04:14

and need to do something

00:04:16

about it because in the

00:04:17

end it's hurting business and

00:04:19

it's hurting International Investment. I

00:04:22

think it's fair that we

00:04:23

can say that improving efficiency

00:04:26

was a touchy subject of

00:04:28

the 2022 rules and we

00:04:31

have Provisions to Route. The

00:04:33

rules that are dressed as

00:04:35



including a whole chapter on

00:04:37

expedited arbitration and Time limits

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for arbitrators, to issue, decisions

00:04:44

and orders. But booze alone

00:04:47

are not sufficient and we

00:04:51

if we are really serious

00:04:52

about reducing time and cost,

00:04:55

we need parties Naga traders

00:04:58

to use the the tools

00:05:00

available to them. We need

00:05:02

to implement best practices and

00:05:05

we need a total new

00:05:08

approach and a change of

00:05:11



concert in proceedings and we

00:05:14

are excited. We're committed to

00:05:17

playing our role in this

00:05:18

endeavor and so will be

00:05:20

launching several initiatives, done to

00:05:24

put this goal in mind.

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And this panel discussion is

00:05:28

really the starting of those

00:05:31

initiatives focusing on the goal

00:05:34

of arbitrators. We really need

00:05:37

arbitrators to feel empowered to

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To use the tools at

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their disposal and to proactively

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manage cases. But of course,

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while considering specific circumstances of

00:05:50

the case and adjusting the

00:05:53

measures as as needed, and

00:05:56

we believe that this change

00:05:58

needs to be tribunal driven

00:06:00

because counting relying on the

00:06:04

party's voluntarily agreeing to efficiency

00:06:09

in the preceding or and

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party autonomy in, in general,

00:06:12

is not conducive, efficiency. So

00:06:17

Trevino's Archie arbitrators likely in

00:06:21

this Endeavour and the recent

00:06:23



Garra, el dia around table

00:06:25

report supports this view. We

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are very privileged to have

00:06:30

Lindsey Castro here was part

00:06:31

of that discussion until can

00:06:33

tell us more about the

00:06:35

reports and recommendations. And so

00:06:39

we intend to Build on

00:06:41

that discussion and collaborate with

00:06:43

you or users and with

00:06:45

other institutions to achieve this

00:06:49

common goal of efficiency. So,

00:06:52

thank you. And I now

00:06:53



hand over to anahola Bay

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senior counsel at the expense

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of been with except for

00:06:59

over 7 years and who

00:07:01

produced it was in private

00:07:03

practice mostly with that dealing

00:07:06

with the commercial arbitration. And

00:07:08

so she has experience from

00:07:10

both investment and Commercial and

00:07:12

his leading our efforts on

00:07:14

the time and cost agenda

00:07:15

so over to you. Coming

00:07:21

out this afternoon as much.

00:07:22



And I mention what a

00:07:24

best practice is to look

00:07:33

through this question or how

00:07:37

to reduce the time and

00:07:39

what Too bad and I'm

00:07:48

very excited to do today.

00:07:51

I feel like it's a

00:07:52

sign that I'm getting that

00:07:54

I have had no role

00:07:56

in the privilege of working

00:08:00

closely with every single one

00:08:02

of our endless. And so

00:08:03

I can safely say that,

00:08:04



we will be insightful comments

00:08:07

from my media list, the

00:08:11

sea Castro Lindsey's, an independent

00:08:14

arbitration, and mediation, and arbitration

00:08:37

of New York and London.

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Lindsey supposed to be an

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Adjunct professor of Laura American

00:08:43

universities nearly a decade as

00:08:47

she has been involved in

00:08:48

many complex, in high-value, in

00:08:50

his defense variance in managing

00:08:55

many procedural aspects of vibrations.

00:08:58

Thank you. To Lindsay's last

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we have is a satin

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Alexandro while also writes and

00:09:28

teaches offensively and a professor

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at George Washington University, Law

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School. A Bulgarian national Elliott

00:09:37

and send him his career.

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He such as his vice

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Minister of Foreign Affairs, way

00:09:41

helped shape, the Mystic strategy,

00:09:44

and the Spectrum gets in

00:09:49

some unique. Insights into certain

00:09:50

aspects of my best to

00:09:51

stay out of tradition. Practice,

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panels of many, International Education

00:10:01

institutions alone, send a message

00:10:07

with my son. Descendants mixed

00:10:13

is a listen to bissinger's

00:10:16

an independent arbitration and a

00:10:18

judicata pricing from what is

00:10:19

perhaps the international community's most

00:10:22

recent addition to the arbitration

00:10:25

B 16 low in Connecticut

00:10:27

resolution which she sounded threatening

00:10:29

with polemics, it sector General

00:10:31

Nick Cannon just as possible,

00:10:33

she gained international trade and

00:10:37



investment, International Regulatory Compliance and

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other complex. International business that

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is across a wide range

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of Industries. And for And

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practiced in these areas most

00:10:48

recently, as a pot roast

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do in Johnston. Of the

00:10:52

past several years has president,

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including a number received follow-up,

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appointment to the exit tunnel

00:11:00

of arbitration, National legal serving

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as the president of the

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American Society of international law

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in 2016 to 28%. This

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vast and varied International backgrounds,

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and his specific experience providing

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up positions Hills. I choose

00:11:26

the sentence left is Ian

00:11:28

live in as a seasoned

00:11:30

International arbitration, more than 25

00:11:33

years experience in investment, treaty

00:11:35

operation, as the country. Proud

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to see International dispute. Resolution

00:11:39

group in brings to his

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practice extensive GF inside having

00:11:44

served in senior positions within

00:11:45



the Canadian government. an exit,

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they contribute to the international

00:11:51

legal Community dialogue, and less

00:11:53

is the co-founder and co-chairman

00:11:57

of the Washington, And it

00:12:01

begins with his counsel, he

00:12:03

has received a number of

00:12:04

a traitor. Appointment at providing

00:12:06

also allowed in proceedings before

00:12:09

the ICC. And if you

00:12:14

see a counselor today, And

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last but not least is

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Eduardo Eduardo, arbitration Chambers operating

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out of Columbia Station, Eduardo's

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career. As an arbitrator has

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spent decades and he has

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resided of the numerous high-profile

00:12:41

come across multiple jurisdictions and

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other institutions and surprisingly Eduardo

00:13:00

speaks teachers of Rights in

00:13:01

a broad variety of topics

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and holderrieth how various positions

00:13:05

and it by three bullets

00:13:07

in arbitration quotes for the

00:13:12

expertise and resolution and it's

00:13:15

procedure. We appreciate you, making

00:13:17



your way here from Miami

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Eduardo to show your home

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today, and I'm sorry. Discussion.

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There are many places during

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the proceeding with time and

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expand rapidly, but I'd like

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to kick things off by

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specific knowledge in. But we

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are not supposed to be

00:13:52

discussing these issues and has

00:13:58

been conducted in particular in

00:14:00

the last couple of years

00:14:01

and she's gone, I'll see

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a Roundtable addressing the issues

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that took place in. Thank

00:14:28

you. Thank you so much

00:14:29

and I'm really happy to

00:14:30

be here. So, the Genesis

00:14:33

of the car LCA Round

00:14:34

Table is still rolling. What

00:14:39

was the driving force behind

00:14:41

it? And for those who

00:14:42

know Bill, he's been in

00:14:43

the field for a long

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time and will will quickly

00:14:47

tell you that he thinks

00:14:48



things are going very very

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badly in international arbitration and

00:14:53

of course that may all

00:14:54

be a bit Doom and

00:14:55

Gloom. But we've also heard

00:14:57

from some with more optimistic

00:15:00

tilt. That is true, many

00:15:03

arbitration. The many exit arbitrations

00:15:05

are too long, too expensive,

00:15:07

and too complicated cases are

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complicated, but they're more complicated

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than they need to be.

00:15:13

And as you said and

00:15:16



like, this is this is

00:15:19

been a problem with known

00:15:20

about, for a long time.

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There's so many initiatives that

00:15:23

have addressed it and yet

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She says just keep getting

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longer, nothing changes and the

00:15:30

conundrum is why there's all

00:15:32

of these fools out there

00:15:33

and why aren't they being

00:15:35

put in place? And so

00:15:37

for me, what was so

00:15:38

interesting about this? I mean,

00:15:39



the Roundtable what we really

00:15:41

did this, we got together

00:15:42

about two dozen of these

00:15:44

very highly experienced to all

00:15:46

the big names in arbitration

00:15:47

but the idea was to

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get a good mix of

00:15:52

users arbitrators and Council. Not

00:15:54

just having the one no

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offense to anybody like the

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token in-house Counsel on the

00:15:59

panel that really having a

00:16:00

discussion with everybody involved. And

00:16:03



and so we all got

00:16:06

together and had a discussion

00:16:08

about why why does it

00:16:09

keep getting worse or why

00:16:12

is there more room for

00:16:13

him to put it in

00:16:15

a positive way? And I

00:16:18

just want to talk about

00:16:18

one aspect of that because

00:16:20

I think it goes to

00:16:20

root causes. And part of

00:16:22

the discussion was like, Hey

00:16:24

buddy, don't think who is

00:16:25



to blame? Who's responsible for

00:16:30

the problem? Is it? The

00:16:33

arbitrator's is it? The parties

00:16:35

is a council and then

00:16:38

I think more importantly, who

00:16:40

is best placed to do

00:16:41

something about it, right? And

00:16:43

so, we had a long

00:16:44

discussion about that pretty expensive

00:16:46

than the main point was.

00:16:47

Like when you're talking about

00:16:49

enhancing efficiency, when, when you're

00:16:51

doing best practices here, or

00:16:53



anywhere, it's naive to think

00:16:56

that all the parties to

00:16:57

an arbitration are, are there

00:17:00

to be efficient or to

00:17:02

be cooperative, right? That's it.

00:17:04

It's just not the case

00:17:06

some, maybe but in some

00:17:08

cases it may be in

00:17:10

a party's interest to do

00:17:11

precise opposite. Right. And we

00:17:14

all hear the same example

00:17:15

over and over of commercial

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case or responded. He's waiting

00:17:19



for bankruptcy before bankruptcy before

00:17:22

getting the award. So this

00:17:24

idea that we have that

00:17:25

every party's goal is a

00:17:27

favorable award quick. Favorable award

00:17:29

is not really true. And

00:17:32

I think, you know, we

00:17:33

had call Hennessy there. Many

00:17:35

of you will know are

00:17:36

bison and he said, look,

00:17:37

where are the parties were

00:17:39

the user's? We know where

00:17:40

the problem, but we can't

00:17:42



fix it. You know, we

00:17:43

are not the ones who

00:17:44

can fix it and I

00:17:45

thought that was really interesting

00:17:47

and then we talked about

00:17:48

Council as well. Is the

00:17:53

idea of council being a

00:17:54

meaningful check on a, on

00:17:56

a client who wants to

00:17:58

be? Who doesn't want to

00:18:00

be efficient or cooperative? It

00:18:02

is. There obviously, you know,

00:18:04

council's there to serve the

00:18:06



interests of their clients and,

00:18:08

you know, we can debate

00:18:10

it but there's some Financial

00:18:11

incentive depending on the sea

00:18:13

arrangement for a protracted proceedings

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in one of the other

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in-house counsel said, you know,

00:18:19

the more they write, the

00:18:20

more we pay and that.

00:18:22

So these are the kinds

00:18:23

of incentives. We have to

00:18:24

be really serious about when

00:18:25

were when were trying to

00:18:26



come to solution? What does

00:18:28

that mean? But what was

00:18:29

the upshot? Then everybody looked

00:18:31

at the arbitrator's in the

00:18:32

room and said, so it's

00:18:33

up to you guys. So

00:18:34

it's up to all of

00:18:35

us here to do something

00:18:37

that ideas. If you don't

00:18:39

really comes down to it

00:18:41

on the ground, in a

00:18:46

case, it is up to

00:18:47

the arbitrator's to be the

00:18:49



ones to get it to.

00:18:51

really Force efficiency, they're the

00:18:53

only ones who can do

00:18:54

so, and I and to

00:18:56

that end the recommendations in

00:18:59

the report, which I won't

00:19:00

get into specifically at this

00:19:01

stage but there are Things

00:19:05

that arbitrators can put into

00:19:07

place to sort of in

00:19:09

Courage or maybe even Force

00:19:12

parties to conduct themselves more

00:19:15

efficiently. And so that's sort

00:19:17



of the force behind that

00:19:19

report. Thank you, I'm sure

00:19:23

that the guy I see

00:19:24

a concert at some point,

00:19:34

if we can chat when

00:19:35

I get to the next

00:19:37

stage, which is how do

00:19:38

I retrieve? The cheese, the

00:19:40

gold at this round table.

00:19:41

Agreed was in there tonight

00:19:42

and will stick into the

00:19:45

technology of the proceedings of

00:19:47

an arbitration proceeding. Involved in

00:20:01



executing our God, is a

00:20:02

great president, It Up by

00:20:10

Patti agreement. Do you find

00:20:11

efficient and useful and what

00:20:13

did he sound to be

00:20:14

unnecessarily creation of delays or

00:20:16

cost and then Helping providing

00:20:23

specific practices to ensure. The

00:20:34

process that I've been serving

00:20:36

more and more is the

00:20:38

so-called frankenstrike ghosts in this

00:20:42

is not new to this

00:20:45

process. Quite some time ago.

00:20:48



Offering the park is a

00:20:49

list of candidates for the

00:20:51

party store Rankin strike the

00:20:57

The difference between that takes

00:20:59

upon you. What I've been

00:21:04

observing lately is a process

00:21:06

driven by the partisan. The

00:21:08

party tray to send those

00:21:10

three important features when is

00:21:12

some of the names are

00:21:14

supplied by the list that

00:21:16

will be subject to strike.

00:21:18

So the party's feel that

00:21:20



they have and who is

00:21:22

going to be supplied by

00:21:27

the two car between. And

00:21:29

that's important because everybody wants,

00:21:34

it came on yesterday, you

00:21:35

know. And so the Cook

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Out of each other's agree

00:21:38

on a certain number of

00:21:39

names that they feel they

00:21:42

will work better with. And

00:21:45

number three, which is an

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important. Very important feature of

00:21:48

this process, is it ends

00:21:51



up with at least one

00:21:54

if not more candidates. If

00:21:56

somebody is Frank. There may

00:21:58

be a tie but you

00:22:00

don't need to repeat the

00:22:02

process, it ends with the

00:22:04

result. And that's what I've

00:22:06

been seeing more and more

00:22:08

and really in the majority

00:22:11

of cases works. This is

00:22:17

process, of course, has its

00:22:20

advantages some shortcomings On the

00:22:24

one hand, the fastest prefer

00:22:27



that the candidates running for

00:22:29

monster list is finalized until

00:22:32

you could be 57, 911

00:22:34

names. We don't have time

00:22:38

to discuss. Please often times

00:22:42

they want all the candidates

00:22:43

to run conflict to make

00:22:45

sure they are available and

00:22:46

to offer any disclosure of

00:22:49

test a list. Office. That

00:22:54

takes a lot of time

00:22:59

and effort to have nine

00:23:00

or eleven candidates ranked R6

00:23:03



checks, which is not an

00:23:04

easy proposition Law, Firm on

00:23:07

Meg disclosure and then you

00:23:10

have to communicate through all

00:23:13

of them. Minus one that

00:23:14

they are not selected. And

00:23:16

as a Winger, I sense

00:23:19

the frustration in many cases

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when they are disappointed, mostly

00:23:23

with the parties and these

00:23:25

parties, who encounter this arbitrator

00:23:28

at some point in the

00:23:28

future. So this process is

00:23:30



not a deal but as

00:23:34

Churchill once said about democracy

00:23:35

is bad. But it's better

00:23:38

than all the other phone

00:23:40

so bad and I think

00:23:42

this process may have its

00:23:45

own shortcomings. But I'm yet

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to see a process that

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necessary works better. In terms

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of a process that I

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really, really don't like. And

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believe it's inefficient, is the

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process where the park is

00:24:00



instead of negotiating between themselves,

00:24:04

which of course, is open

00:24:05

to them to do whenever

00:24:07

they want, they asked their

00:24:08

can be traitors to go,

00:24:10

she ate between them. About

00:24:14

the candidates. The park is

00:24:15

one for tomorrow and I

00:24:17

have to tell you buddy,

00:24:18

I'm case in such cases,

00:24:20

I just don't agree. And

00:24:22

I told about that appointed,

00:24:24

me acting is an arbitrator

00:24:27



cuz I'm not going to

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be your mouthpiece. I have

00:24:30

my own view on who

00:24:32

is suitable to be the

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presiding arbitrator. And I don't

00:24:35

want to be essentially. Getting

00:24:38

my car between the Wall

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Part One and Two CS

00:24:42

Go part one is a

00:24:44

candidate and Mike arbitrator doing

00:24:46

the same thing that the

00:24:47

party should they want to

00:24:48

do that. So I think

00:24:53



the bottom line is from

00:24:54

what I've seen this ranking,

00:24:57

strikeforce's, we're about 27 input,

00:25:00

because the traitors have an

00:25:02

input and the repair is

00:25:03

a guaranteed results, at least.

00:25:05

One name is so far.

00:25:08

The best of the least

00:25:09

worst and Kiana. and I

00:25:14

should have mentioned jumping at

00:25:19

the end of anyone's answer,

00:25:20

if you feel like he

00:25:21

has well, I would just

00:25:27



say, I think there's no

00:25:31

That goes into a ranking

00:25:32

Stripes process for the party

00:25:36

game out. What the other

00:25:38

party May do, how they're

00:25:40

going to rain you in

00:25:43

terms of your way. So

00:25:44

it's actually a lot of

00:25:45

fun if you like game

00:25:47

theory in particular, but I

00:25:49

don't know what your experience

00:25:51

with this process with another

00:25:57

advantage of this process Game

00:26:00



Theory, and all is that

00:26:01

the parties that are outside

00:26:04

of the candidates that at

00:26:05

least desirable to the parties

00:26:08

at all. And I think

00:26:10

that's an important feature after

00:26:12

Thank you so much, but

00:26:15

we have our tribunal Constitution

00:26:17

has the most important time

00:26:20

when I try to look

00:26:22

for it and cost-efficient proceeding

00:26:25

is in those early days

00:26:27

as we move forward to

00:26:30



the first procedural music up

00:26:31

in the potties, and the

00:26:32

tribunal and the initial received

00:26:34

your order or, and it

00:26:35

said procedure. Even if I

00:26:40

can ask you a question

00:26:41

about this process, what do

00:26:42

you think of the key

00:26:43

aspects of case, four stages

00:26:45

that are addressed, in this

00:26:46

initial procedure order where I

00:26:48

can really see each one

00:26:49

time and cost efficiency? Well,

00:27:01



I'm very pleased to be

00:27:02

here and thanks the organizer.

00:27:04

A great kind of middle

00:27:15

of the week treats and

00:27:17

a place to be with

00:27:19

this eminent group, some extent

00:27:25

where the action really starts,

00:27:27

you can set the tone

00:27:28

or any arbitration and then

00:27:32

you really see a number

00:27:33

of different approaches and it

00:27:36

is, largely depends on parties

00:27:38

are the arbitrator's are and,

00:27:40



and how they want to

00:27:41

proceed with the arbitration. If

00:27:45

we're talking about template of

00:27:49

procedure order, number one of

00:27:51

the experience of the Secretariat

00:27:53

and getting that process going

00:27:54

that being said, you know,

00:27:57

and I do you counsel

00:27:59

and an arbitrator in Aksarben

00:28:00

Where did parties knowing that

00:28:04

the staircase and that they

00:28:05

want to take an active

00:28:06

process part in the process

00:28:08



and gave very early in.

00:28:10

And as the standing here

00:28:11

was talking about that they

00:28:12

get together and they start

00:28:14

their discussions early before the

00:28:15

tribunal brings out its procedural

00:28:18

order and they drop their

00:28:19

own procedures. And that's, that's

00:28:20

really a full expression of

00:28:23

that party autonomy. And that's

00:28:25

something we used to see

00:28:26

with more experienced counsel. But

00:28:28

is that then? I guess

00:28:30



it's those built-in question. This

00:28:32

battle is that the most

00:28:33

efficient way of going at

00:28:35

it, and I think it's

00:28:37

party can get together and

00:28:39

can work professionally in the

00:28:40

end up their quality and

00:28:42

experience a panel, the council

00:28:46

will likely take into account,

00:28:48

what they know. It's the

00:28:49

template cludes at and still

00:28:52

be kind of a dialectic

00:28:54

going on with that experience.

00:28:56



And I've seen our tribunal

00:28:59

accepted Approach. But you also

00:29:03

have the exact one I

00:29:04

think is clearly and arguably

00:29:08

the most efficient is that

00:29:10

early on in the process?

00:29:11

You know, pretty shortly after

00:29:12

the appointment of the tribunal

00:29:15

that president get together. Talk

00:29:17

with the wings, have the

00:29:20

template and place agree on

00:29:22

that fairly quickly and presented.

00:29:24

The party is the draft

00:29:25



and is that way that

00:29:27

just cost us off to

00:29:29

an excellent. Start course the

00:29:32

there's an invitation for the

00:29:34

parties to have him put

00:29:36

that document but you know

00:29:38

you supplying game Siri again

00:29:39

strategy, you know we're very

00:29:41

early in the case parties

00:29:42

are unlikely to want to

00:29:43

ask for too much or

00:29:45

the change the model too

00:29:46

much. And so you do

00:29:48



you like they got a

00:29:50

pretty good level of fences.

00:29:52

So in the overall and

00:29:55

work towards to see the

00:29:56

order number one I think

00:29:57

you can be very efficient

00:29:59

starting out Of course, the

00:30:02

devil is in the details

00:30:03

of what's in procedural. And

00:30:06

the schedule is a key

00:30:09

part of that and frequently,

00:30:11

the parties are invited to

00:30:13

go back and decide on

00:30:17



what works for them. And

00:30:19

again, you can see all

00:30:20

sorts of different approaches. And

00:30:21

I think this goes to

00:30:22

the fact of you, no

00:30:24

parties. Have different objectives and

00:30:26

priorities. Some parties actually do

00:30:28

want an efficient process. Others

00:30:30

want a very leisurely process

00:30:32

that, and I've seen parties

00:30:34

come back with that, their

00:30:36

proposal on the schedule, which

00:30:38

ghetto you talk about a

00:30:39



34-year arbitration and they put

00:30:42  
it right in the in

00:30:42  
the schedule. And as arbitrator,

00:30:45  
you look at that and

00:30:46  
you do. Well, that's pretty

00:30:47  
leisurely work. You know. I'm

00:30:49  
going to forget the case

00:30:50  
between each set of reasons

00:30:52  
of his going so legally.

00:30:53  
But I guess this is

00:30:55  
the balance that that Martina

00:30:58  
was talking about with the

00:30:59  
autonomy. And to the degree,

00:31:02



which the arbitrator's have to

00:31:04

take that into account and

00:31:05

buy that or they have

00:31:07

to come back to the

00:31:08

parties. They look, this is

00:31:09

a little too slow. We

00:31:12

don't feel, this is an

00:31:13

efficient process, we're going to

00:31:15

push that and I think

00:31:17

it might be a fairly

00:31:19

Brave tribunal to tell the

00:31:20

parties that have agreed on

00:31:22

something. That's fundamental know where

00:31:25



were Jackson. Here's our schedule

00:31:27

yet to seen that kind

00:31:30

of a dramatic, push back.

00:31:33

I think that's possible and

00:31:35

this goes to what occurred

00:31:37

I think. As part of

00:31:38

the lcia discussions, which is

00:31:40

this was recommendation number to,

00:31:43

which a Lindsey. I've had

00:31:45

a big part of which

00:31:47

is afoot within the procedure,

00:31:49

Warner an acknowledgment by the

00:31:50

parties of this kind, of

00:31:52



ability of the tribunal to

00:31:54

take to make efficiency a

00:31:56

priority and 22 actually. Give

00:32:00

permission in advance to do

00:32:02

that. Then there's wording that

00:32:03

provided in the dark Elsie

00:32:06

is 80 and it it's

00:32:08

it's basically allows for and

00:32:11

they have a part of

00:32:12

it which allows for costs

00:32:14

and for there to be

00:32:16

penalties. If the parties don't

00:32:19

go along with that approach,

00:32:20



does the approach tribunal take

00:32:22

incessant cost to the Saints

00:32:24

or inefficient disruptive tan? D'costa,

00:32:27

proved unnecessary with hindsight prolixin

00:32:29

of that word and repetitive

00:32:31

submissions and inappropriate request for

00:32:33

Disclosure. Document went blank was

00:32:36

there. Thank you. Lindsay. The

00:32:43

balance is too. I guess

00:32:48

we're all playing tag in

00:32:50

the in the in the

00:32:51

schoolyard. It's like you're at

00:32:52

know, you're it. I know

00:32:53



you're at the arbitrator's are

00:32:55

in, then that's the solution.

00:32:57

And if we truly believe

00:32:58

the deficiencies, Value. That is

00:33:02

the value. That that should

00:33:03

be prominent, then the tools

00:33:05

are here and we can

00:33:06

do Thank you again, for

00:33:23

example, to a protracted schedule.

00:33:24

I'm curious whether you have

00:33:26

any different diesel, the same

00:33:27

that you was to share

00:33:28

about how an application approach

00:33:31



balancing. The needs to achieve

00:33:34

against, how do you want

00:33:37

one of me and Anthony

00:33:38

across to establish, you could

00:33:40

come. So try being a

00:33:41

relationship with the beginning. Thank

00:33:45

you, Anna. And thanks, Jeff.

00:33:46

It said that the first

00:33:47

day organizers for allowing me

00:33:52

to participate, in this very

00:33:53

interesting and important discussion, I

00:33:58

approached serial number one with

00:34:00

the degree of humility and

00:34:03



caution, partly. Because at that

00:34:07

stage is very much about

00:34:10

the case. And and the

00:34:12

first session is going to

00:34:13

be the time when you

00:34:14

really get a sense of

00:34:16

where the parties are, where

00:34:18

they, where their counsel is,

00:34:21

whether they think they might

00:34:22

want to buy for Kate,

00:34:23

all the things that will

00:34:24

come out. It will give

00:34:26

you a much better sense

00:34:28



than you have at the

00:34:29

time. You dropped your number

00:34:30

one. If you take Ian's

00:34:31

options of of, which I

00:34:35

think is more efficient approach

00:34:36

chips. In fact, that you're

00:34:39

going to start to get

00:34:40

a sense of what you're

00:34:41

dealing with in the case.

00:34:42

So I think you have

00:34:44

to A little more about

00:34:46

what you can accomplish at

00:34:49

that early state. But there

00:34:51



are things you can do,

00:34:52

and I think we should

00:34:54

think about doing. I don't

00:34:56

know how far you want

00:34:57

to go. This time with

00:34:58

these penalties, are always a

00:35:00

sledgehammer to wheel. And, and

00:35:03

we see them, of course,

00:35:05

more with other institutions that

00:35:07

we have historic play with,

00:35:08

with, with exit, but, but,

00:35:10

but, but emphasizing efficiency. And

00:35:12

I think it's something you

00:35:16



can say at the first

00:35:17

session, even if you perceive

00:35:19

that the parties are, you

00:35:21

is the tribunal to send

00:35:22

the signal and often. What

00:35:24

we're doing is nudging after

00:35:27

all, they're there. They've appointed

00:35:29

us decide the case. We

00:35:31

need to let them do

00:35:32

their case, the parties, as,

00:35:35

as as they see fit

00:35:37

to up to a large

00:35:39

extent. And you don't want

00:35:40



to be cramming things down

00:35:42

to specially at the very

00:35:43

beginning. But but neither do

00:35:46

you have to go on

00:35:47

out at 2 to let

00:35:49

them just drive the process

00:35:52

or or let them do

00:35:54

whatever they do. So use

00:35:55

PO. Number one, use that

00:35:57

for session to fill everything

00:35:58

out. As I said you

00:36:02

can certainly smoke out whether

00:36:03

there's likely to be a

00:36:04



request for, but bifurcation in

00:36:07

a number of extreme cases.

00:36:08

I've done, we had to

00:36:09

Alternative calendar presented to the

00:36:11

parties at the beginning. One

00:36:13

that envisions bifurcation one that

00:36:15

doesn't, is kind of a

00:36:16

pain in the neck, but

00:36:19

on the other hand, if

00:36:20

you end up by 4

00:36:21

kidding, and you don't know

00:36:22

what that stage, whether you're

00:36:23

going to buy for cake.

00:36:24



If you end up bifurcating.

00:36:26

And then you find out,

00:36:27

you're looking at another three

00:36:28

years before, you can find

00:36:30

a hearing date because you

00:36:32

had your down the road

00:36:33

in calendar. So filled up,

00:36:35

you're better off trying to

00:36:36

nail that down at the

00:36:37

beginning and you can send

00:36:39

the message that you want

00:36:40

to do it efficiently. So

00:36:42

so do as much as

00:36:43



you can. With the calendar,

00:36:45

talk to them about the

00:36:47

document production process, cuz I

00:36:49

think that that's a stage

00:36:52

of great frustration for pretty

00:36:54

much everybody in it in

00:36:57

the whole process. How can

00:36:59

we focus that out and

00:37:00

we can press that page

00:37:02

limits kind of a hopeless

00:37:03

topic. I don't think anybody's

00:37:05

going to agree to page

00:37:06

limits and that's only the

00:37:08



very beginning. But I think

00:37:09

you was the arbitrator's can

00:37:12

say, no, we are concerned

00:37:14

about the deficiency. We want

00:37:16

you to think about how

00:37:17

you focus, you can schedule,

00:37:19

Midstream cmc's, which other institutions

00:37:23

are encouraging. And I think

00:37:25

it's the newest should rules

00:37:26

and courage and that's a

00:37:29

good thing. That's a good

00:37:30

thing. I love the fact

00:37:33

that it's the doesn't have

00:37:34



terms of reference because the

00:37:35

icc's thinking about getting rid

00:37:37

of terms of reference because

00:37:38

that that's something that you

00:37:40

have to take a lot

00:37:41

of time and do they

00:37:44

We got some people there

00:37:46

who may be wedded the

00:37:47

terms of reference. I'm not

00:37:48

opposed to that. Are they

00:37:51

would it be more efficient

00:37:53

to come up? Midstream with

00:37:55

us, Focus issues list and

00:37:58



try to give some feedback

00:37:59

as to what you might

00:38:00

really try to try to

00:38:02

focus on in the remainder

00:38:03

of the case. So those

00:38:04

are some things that I

00:38:05

think you can do to

00:38:07

set it to nudge and,

00:38:11

and to try to build

00:38:12

in even if their early

00:38:14

stage where you don't know

00:38:15

very much that you don't

00:38:17

know enough to really do

00:38:18



anything. Dramatic, and you shouldn't

00:38:20

do anything. Dramatic. You can

00:38:22

still do things that may

00:38:23

help you down the road.

00:38:25

Thank you so much as

00:38:31

a scratch on this development.

00:38:37

Is healthpointe, does anyone else

00:38:39

have any specific ideas? They

00:38:41

want to share regarding, yes,

00:38:49

I want to share two

00:38:51

point one on the right

00:38:53

side and want him to

00:38:54

miss. I hear well on

00:38:57



the bright side recently. I

00:39:01

had an encouraging experience which

00:39:03

was the first skin in

00:39:05

almost thirty years of practice

00:39:07

in this field. That was

00:39:09

that the parties agreed on

00:39:12

the number one and just

00:39:14

send it to the tribunal

00:39:15

saying this is it Do

00:39:20

you have any questions? If

00:39:22

you have any questions that

00:39:23

have been, okay then what

00:39:25

are we going to talk

00:39:25



about during our first session?

00:39:26

So that is a really

00:39:29

encouraging sign. But it's a

00:39:31

first on the gloomy side.

00:39:36

my view is that one

00:39:38

of the founding principles of

00:39:40

arbitration is the principle of

00:39:41

equality farms, and it has

00:39:44

been violently broken in relation

00:39:48

to the equality Farms between

00:39:50

the parties in the yard,

00:39:52

You have teams of thousands

00:39:54

of Lloyd each side and

00:39:56



you have VIP traits of

00:39:58

each, one of them has

00:39:59

to review the records and

00:40:02

I actually am not going

00:40:03

to spend the time. I

00:40:05

have to be looked at

00:40:08

Recent of Nacho recent a

00:40:10

few thousand cases that I've

00:40:11

had as an arbitrator. And

00:40:14

there are cases with over

00:40:16

2,500 written over 50 witness

00:40:22

statements including of course, the

00:40:24

bathroom, over 13 x Pursuit

00:40:26



4000 and the arbitrator's of

00:40:31

course, I'd expect to reveal

00:40:33

that sinjon top of the

00:40:34

Rex, where is the College

00:40:37

of arms. It's, it's nowhere

00:40:39

in the relation between an

00:40:40

English between the address to

00:40:42

the party and I think

00:40:43

that the first session is

00:40:46

the time to put this

00:40:47

issue on the table and

00:40:48

explain to the park is

00:40:50

that it is in their

00:40:50



interest to stick to an

00:40:53

efficient process. I actually am

00:40:57

a fan of facial image.

00:40:59

I think we can talk

00:41:00

later about whether it's the

00:41:02

first session where you can

00:41:03

impose them or or suggested

00:41:06

maybe maybe later, but I

00:41:09

think the age limit should

00:41:10

be on the table and

00:41:12

I also went back and

00:41:13

looked at cases that I

00:41:15

argued this Council some thirty

00:41:17



years ago. My first two

00:41:19

cases of spousal exceeded 100

00:41:23

page, and Justice was done.

00:41:30

They're just want to come

00:41:31

in the document production in

00:41:33

procedure. Other number one, the

00:41:35

referee schedule is one of

00:41:37

the most sophisticated instruments of

00:41:39

torture. And I think the

00:41:43

idea guidelines or rules on

00:41:46

The Taking of evidence are

00:41:47

not sufficient. So, it is

00:41:49

worth, it is worth it,

00:41:51



to put it to your

00:41:52

other. Number one, narrow down

00:41:55

any cases of objections, the

00:41:57

types of decision-making reference, just

00:42:01

an open reference to the

00:42:02

IPA rules. I don't think

00:42:04

that's sufficient. That is something

00:42:08

that makes very efficient issue

00:42:10

Back in Black. Thank you.

00:42:15

And that not to put

00:42:15

you on the spot too

00:42:16

much Lindsay with a very

00:42:17

specific question, but would it

00:42:18



be helpful if you could

00:42:19

have cold the recommendations that

00:42:22

will made-it the LCA Round

00:42:23

Table specifically on page limit

00:42:27

production? And I think those

00:42:30

things that you were more

00:42:38

forceful, non autopilot, tribunal's a

00:42:41

lot of the the recommendation.

00:42:42

I'm particularly, thank you again,

00:42:45

for raising one of them,

00:42:46

which would go into p01.

00:42:48

And it's essentially just something

00:42:50

that says, look, we are

00:42:52



going to be a proactive

00:42:53

tribunal, right? Does that have

00:42:56

any of those that have

00:42:58

any legal effect? You know

00:42:59

that it's a bit again

00:43:00

about getting the idea that

00:43:03

we are empowered. Everyone is

00:43:05

here. We're at the first

00:43:06

session and where it telling

00:43:07

you that you know, we're

00:43:09

not going to deal with

00:43:11

a 350 page Redfern. I

00:43:14

wish it was only 450,

00:43:16



we're not going, and that's

00:43:20

what that is. That's what

00:43:21

that's about page, limit and

00:43:24

know that it's a divisive

00:43:27

issue. But I think we

00:43:28

came out from that discussion,

00:43:29

very much in favor of

00:43:31

page limit. You constantly are

00:43:33

hearing that in courts and

00:43:34

post page when it's, there's

00:43:35

just simply no reason. And

00:43:38

it says is so important,

00:43:41

we're getting beyond the limits

00:43:43



of human capacity when you're

00:43:45

starting to submit. I mean,

00:43:47

I have a cheese with

00:43:49

100,000 exhibit. You couldn't even

00:43:52

download bich on my computer.

00:43:55

I'm not joking. I mean,

00:43:56

it's just you can't do

00:43:59

that until it doesn't make

00:44:00

sense in the job of

00:44:01

council is to make it

00:44:02

make sense. So yes soap

00:44:05

age limits, there was a

00:44:07

big point there and I

00:44:10



adore. The idea of not

00:44:14

sensitive, putting a reference of

00:44:16

into the P0122, the IBA

00:44:19

rules, but setting out the

00:44:21

rules, in the order and

00:44:23

shows which shows a dedication,

00:44:26

these are going to be

00:44:27

applied. It's not as I

00:44:29

think really important as well.

00:44:30

And just a shout out

00:44:31

for the exam review. There

00:44:33

is also a, we have

00:44:35

a practice notes section in

00:44:37



the extra grab you and

00:44:38

we have a wonderful wonderful

00:44:40

article on document production and

00:44:42

how we might streamline that

00:44:44

and get away from the

00:44:46

torture of the reference schedule.

00:44:49

Hydroshot Russian singer. Thank you

00:44:54

so much, listen to mention

00:44:56

case management conferences and as

00:44:58

she she indicated we have

00:45:01

introduced to a mandatory requirement

00:45:04

for National Conference as if

00:45:22

you how have you met

00:45:25



stream cmc's to effectively really

00:45:29

Advanced cost efficiency and what

00:45:32

do you think of the

00:45:32

best practices for us both

00:45:35

to instigating in the first

00:45:36

instance of such conferences? It

00:45:43

is no one-size-fits-all when, of

00:45:45

course, cases are different, but

00:45:47

there's a general matter. I'm

00:45:48

a big fan of mixed

00:45:50

stream cmch has significant advantages

00:45:56

in terms of improving the

00:45:57

efficiency of the process. Perhaps

00:46:02



I should start with that

00:46:03

but it's an important point.

00:46:04

It helps discipline the arbitrary

00:46:06

others because he had betrayed

00:46:08

us have to be prepared

00:46:09

for the Midstream CMC. They

00:46:12

have to review the records

00:46:14

after the first round of

00:46:16

written submissions, that have to

00:46:17

move the case so that

00:46:19

they can interact with the

00:46:20

party in a minute away.

00:46:23

It also in my experience,

00:46:25



tremendous that helps Focus the

00:46:27

parties. They hear from the

00:46:30

arbitrator in the view of

00:46:33

the tribunal at that point

00:46:34

in time are the real

00:46:37

issues in dispute between the

00:46:38

parties water, tripping, and wants

00:46:40

to focus on, and therefore

00:46:42

wants to the parties to

00:46:43

focus on it. In my

00:46:46

work is count. So I

00:46:47

would die to have the

00:46:49

tribunal share with me what

00:46:52



their views of the case.

00:46:53

For issues are interested in.

00:46:54

What is Ruth are less

00:46:56

interested. Even if Council disagrees

00:46:58

with the assessment of the

00:47:00

case of that point in

00:47:01

time, it gives Council the

00:47:03

opportunity to explain to them

00:47:05

if I'm paying less attention

00:47:08

to certain point and why

00:47:10

they should pay more attention

00:47:11

is invaluable feedback. The tribunal

00:47:15

gifts the council but it

00:47:17



also helps you go because

00:47:19

Council understand what the tribunal

00:47:22

sees as the I wish

00:47:23

you sing the case. That's

00:47:25

where I think it is.

00:47:27

More than appropriate in many

00:47:29

cases. Please to put this

00:47:31

your page limit. With respect

00:47:32

to the second round of

00:47:33

written submissions, on the table.

00:47:35

That's where all so you

00:47:37

can put on the table.

00:47:38

Do should witness testimony weather

00:47:41



to be no one wants

00:47:41

to hear from witnesses to

00:47:44

the terminal. Now knows our

00:47:45

key players who have not

00:47:47

submitted and whether to be.

00:47:49

No, he's really keen on

00:47:51

sharing the oral testimony of

00:47:55

a witness told, the tribunal

00:47:56

believes his oldest can streamline.

00:48:00

The second round, written submissions,

00:48:02

and in line with you

00:48:03

again in general, terms are

00:48:08

one The park is need

00:48:13



to have opportunity to present

00:48:14

its case. In this may

00:48:16

affect that, right? And then

00:48:18

the parties, of course, have

00:48:20

the right to present their

00:48:22

case as they see fit.

00:48:23

But I called upon to

00:48:27

do, that is useful to

00:48:31

them to hear the views

00:48:32

of the tribunal and work.

00:48:34

If necessary to change the

00:48:37

font is right, to present

00:48:40

their cases. That is, if

00:48:42



it does not infect all

00:48:45

the time, everyone plays a

00:48:48

role in shaping, how the

00:48:51

party should present their cases.

00:48:53

And so I don't see

00:48:54

the case management conference in

00:48:58

between the two rounds of

00:48:59

admissions as interfering with any

00:49:01

party, right? In terms of

00:49:03

you crossing the one more

00:49:06

serious concern, Which I hasten

00:49:11

to say. I also disagree,

00:49:12

is that it and it's

00:49:16



a concern by many arbitrators.

00:49:18

I think it is those

00:49:19

who shared that with me

00:49:20

is that we don't want

00:49:22

the parties to believe that

00:49:25

the tribunal has already that

00:49:27

we have already made up

00:49:28

our minds, but that can

00:49:31

be handled in a, in

00:49:34

a way, where the tribunal

00:49:35

explains the party's, these are

00:49:38

tentative used. This is what

00:49:39

me understand about. The case

00:49:41



from the first round of

00:49:42

the reasons we haven't made

00:49:44

up our minds to talk

00:49:45

to you to work on

00:49:47

making up our minds after

00:49:49

the second round with the

00:49:50

submission but it's used it

00:49:52

stereoscope. I think to the

00:49:54

parties to know where Trevino

00:49:56

stand after the first round

00:49:58

and so I generally in

00:50:01

case management conference is very

00:50:05

useful. Separately from a CMC

00:50:08



relating to document production, which

00:50:10

may be a more narrowly

00:50:13

focused. Thank you in a

00:50:19

vacation. I think it's an

00:50:21

open area where we institution.

00:50:23

Another procedure is done. Tried

00:50:32

other procedural applications. I talk

00:50:42

sometimes time. And these can

00:50:44

have the potential to significantly

00:50:45

or escalation to an expensive

00:50:50

suit. You could share about

00:50:55

the best way to address.

00:50:57

Proceed replication. Eva bounce getting

00:51:01



a friend or just as

00:51:06

they arise in the closest

00:51:07

gas station? Thank you. And

00:51:11

why don't I give two

00:51:13

points they won extension. 16

00:51:14

posts. Oh and my first

00:51:17

point goes back to exactly

00:51:18

what we've already been talkin

00:51:20

about and it was back

00:51:21

to the first song I

00:51:23

am you've already said you

00:51:24

know that this is a

00:51:25

stage where the tribunal doesn't

00:51:27



know anything about the case.

00:51:28

The dove in there might

00:51:30

be a balance between the

00:51:34

parties as well with the

00:51:35

same as having had so

00:51:36

much time with the case

00:51:37

and it was fun and

00:51:38

proceedings that it's a bit

00:51:40

different. But so we have

00:51:42

all of these things going

00:51:43

on. But you know what?

00:51:44

You can do as a

00:51:45

tribunal, you can ask, you

00:51:49



can just ask. And I

00:51:51

think that is, there is

00:51:52

so much fear around looking,

00:51:55

as though you're trying to

00:51:56

force the parties, too hard

00:51:58

or the info. When you

00:52:01

have a session, the tribunal

00:52:03

can ask the parties, do

00:52:05

you foresee making any Interim

00:52:08

applications anytime soon or easily

00:52:11

foreseeable and listen to mention

00:52:13

bifurcation. This is this is

00:52:15

something that is so frustrating.

00:52:17



When there's there's just no

00:52:21

information given you're not saying

00:52:22

that you need to reveal

00:52:23

your strategy, or make a

00:52:25

decision right there at that

00:52:26

stage, but I signed that

00:52:28

just by raising the issue.

00:52:29

Even if parties are not

00:52:32

willing to State any in

00:52:35

any definite way, what they

00:52:36

plan to do it, you

00:52:38

can get some information that

00:52:39

gets the conversation going and

00:52:41



that will help you when

00:52:43

you need to prepare the

00:52:45

procedural calendar. See what kind

00:52:47

of leeway you might need

00:52:48

in there. If you feel

00:52:49

things are coming and sometimes

00:52:51

parties will just stay because

00:52:52

they are not trying to

00:52:55

hide anything, right? And my

00:52:57

point is simply doesn't hurt

00:52:58

to ask, but it's pretty

00:53:00

simple. And then expose, which

00:53:03

also ties into something we

00:53:05



talked about, which is the

00:53:06

case management conference, You know

00:53:10

what happens with the interim

00:53:12

application. Like you get the

00:53:14

application you right away. Okay,

00:53:16

well, I'm inviting comments and

00:53:17

X days then you get

00:53:19

the comments and then the

00:53:21

applicants that's old. I need

00:53:22

to respond and then there's

00:53:23

no and then suddenly you

00:53:26

are in a war of

00:53:27

written submissions, and you don't.

00:53:30



It's very difficult to stop

00:53:32  
that. And so what I

00:53:34  
find very useful is when

00:53:36  
you sense that it's going

00:53:37  
to be more than something

00:53:39  
that can just be decided

00:53:40  
on one round of submissions

00:53:41  
is to have a CMC

00:53:45  
and to avoid scheduling problem

00:53:47  
and to make it less

00:53:48  
formal. I learn something. From

00:53:50  
my, my mentor, Lucy Read,

00:53:52  
which is the idea of

00:53:55



just having the chair Call

00:53:57

counseling for informal. We can

00:54:02

use without prejudice even 4

00:54:04

to call. And I don't

00:54:05

know if I should check,

00:54:05

but I called the mommy

00:54:06

conference. Because essentially, you did

00:54:10

you call it really lowers

00:54:12

the temperature right now. We

00:54:16

understand there's an issue here.

00:54:17

What is it? Tell me

00:54:18

what the issue is and

00:54:19

how can the tribunal help

00:54:21



get this resolved and you'll

00:54:23

be shocked. You are shocked

00:54:25

at how the party is.

00:54:26

Well sort of all of

00:54:28

the vitriol that started this

00:54:31

stuff's the submission but it

00:54:33

goes to the side when

00:54:33

everybody is face-to-face on zoom

00:54:35

and it doesn't always work

00:54:37

but I think it can

00:54:38

be really effective. It may

00:54:41

not resolve the substantive issue

00:54:43

that's at play, but it

00:54:44



will, at least give the

00:54:45  
chair of a sort of

00:54:47  
vision of how to best

00:54:48  
deal with it without it.

00:54:50  
Going off the rails in

00:54:54  
my work, it says it's

00:54:57  
at the very least take

00:54:58  
the heat out of the

00:55:00  
conversation progressed. So we'll just

00:55:06  
to say kisses are so

00:55:09  
I have cases where there

00:55:12  
are no procedural applications to

00:55:15  
speak of it. I have

00:55:16



had cases where there's just

00:55:18

a torrent, how you keep

00:55:21

it under control, you can't

00:55:22

foresee all of them agree

00:55:24

with. You should ask if

00:55:26

the initial e. What's for

00:55:27

seeing that off of they

00:55:28

tell you even if you

00:55:29

don't have not just by

00:55:31

for caitian. But but but

00:55:33

but that we're going to

00:55:34

see. Provisional measures are there

00:55:36

going to be? So I

00:55:39



don't think you can. Toradol,

00:55:41

but you can develop a

00:55:43

try to develop, tries to

00:55:44

cease to keep it under

00:55:45

control. And I think that's,

00:55:47

that's really the key. No

00:55:49

unsolicited submissions. Do you get

00:55:52

in this war of words?

00:55:53

And you got to put

00:55:54

a stop to that decided

00:55:57

when one round is enough.

00:55:58

And and, and, and deaf,

00:56:00

because two rounds does, stretch

00:56:03



it out. Those are the

00:56:05

kinds of things. I think

00:56:06

you can do. Thank you,

00:56:09

so we've resolved, our issues

00:56:11

are submissions are in and

00:56:13

then we moving towards the

00:56:14

Herring. And I, I know

00:56:15

a lot of us with

00:56:18

an advanced. The application that

00:56:22

can often generated significant portion

00:56:24

of arbitration cost both during

00:56:25

the time, the implements were

00:56:33

observed that have successfully reduced

00:56:35



hearing duration, and, and cost

00:56:38

to maintain a hearing a

00:56:40

group of colleagues and friends.

00:56:46

Here, it seems to have

00:56:55

to close the gap between

00:56:55

civil law way of conducting

00:57:00

arbitration on, Louis. And finally,

00:57:03

it seems to be acceptable.

00:57:08

That's the correct way to.

00:57:11

We're going to be in

00:57:12

connection with the shooting itself.

00:57:13

Number one, what you doing

00:57:15

procedural or their? Number one,

00:57:17



will be back there. Here

00:57:18

in a very strict procedure.

00:57:22

You close Avenue in procedural

00:57:25

order. Number one, that's what

00:57:27

my issue is the second

00:57:31

issue. One of the things

00:57:33

I've done is to set

00:57:36

a minimum time. He's in

00:57:38

the last mission and a

00:57:40

hearing for the tribunal's, have

00:57:42

the opportunity to read prepare

00:57:45

and have a meaningful procedural.

00:57:48

Call for the preparation to

00:57:52



hear. You see cases where

00:57:54

the parties to meet you

00:57:55

at 5 months, 8 months

00:57:58

for the for the year

00:57:59

that Shaq and submission of

00:58:00

each party. And then heat

00:58:01

index for the hearing, I

00:58:06

have included them. The procedure

00:58:09

orders language to be affected

00:58:11

if the parties where to

00:58:12

agree to move it, move

00:58:14

it. Move the calendar. Then

00:58:15

don't even know who have

00:58:16



to move in here. Because

00:58:18

that's the only way you

00:58:19

have room to put the

00:58:22

third thing is that the

00:58:24

pre-hearing conference should not be

00:58:26

limited to strictly procedural. She's

00:58:29

what you see normally eats

00:58:30

at a freaking conference for

00:58:32

the parties discussed. How many

00:58:34

time will the witness be

00:58:36

cross-examined a home in time

00:58:38

for the opening of Sarah?

00:58:39

You have to go and

00:58:41



I was a hard that

00:58:43

you could ask the parties

00:58:46

are examples for skeleton brakes.

00:58:47

And I think they are

00:58:48

very helpful. Particularly when you

00:58:50

have extensive information for the

00:58:52

parties which is of course

00:58:53

if you have not put

00:58:57

limits on on pages, s

00:59:00

up under the guidance, which

00:59:03

is something that we have

00:59:04

heard on the table, repair

00:59:07

a joint list of issues,

00:59:10



a joint list of keys,

00:59:11

under the direction of the

00:59:14

guess, whatever the tissues are.

00:59:18

Without advancing with a tribunal

00:59:20

may be deciding but at

00:59:22

least give the part is

00:59:23

a list of relevant issues

00:59:25

and lists and possible in

00:59:27

the order of relevance that

00:59:29

the tribunal see, purposes of

00:59:31

Vick's to interact with the

00:59:38

experts and see if it's

00:59:39

possible to have a meeting

00:59:40



up here. So that the

00:59:42

expert at least agree in

00:59:44

there, openings to fuck was

00:59:46

on, what are the key

00:59:47

issues in which the reports?

00:59:50

The fur I supposed to

00:59:51

have a 45-minute presentation, which

00:59:53

they will repeat, what they

00:59:55

have told you a hundred

00:59:57

times. Short openings that we

01:00:02

had a case where the

01:00:04

parties asked or 5 hours

01:00:06

opening each, it was a

01:00:08



very complex case. You are

01:00:10

a very long case. And

01:00:12

after engaging with the parties,

01:00:14

we ended up with something

01:00:16

that works great with a

01:00:19

very experienced. It was 2

01:00:21

hours, opening each and then

01:00:23

15 minutes in the opening

01:00:25

birthday, in which the parties

01:00:27

going on after the funeral

01:00:28

all the time and eat

01:00:30

a lot of party Supercenter

01:00:31

case. That's represent their kids

01:00:33



in a meeting in a

01:00:34

permanent I love, but the

01:00:35

tribunal as opposed to having

01:00:37

somebody listen to a lawyer

01:00:39

for 5 hours, which is

01:00:40

what I want come into

01:00:42

now. The meeting of the

01:00:48

expert is important because that

01:00:49

the truth that the experts

01:00:51

tend to talk to each

01:00:52

other. Now, to the tribunal

01:00:53

what the expert makes presentation

01:00:56

and talks to the other

01:00:57



experts, the meeting of the

01:00:59

experts and if yes, press

01:01:00

agree on the TV shows

01:01:02

that would be extremely helpful

01:01:03

and then The tribunal should

01:01:08

be extremely practice, don't be

01:01:11

shy. And intervening, there are

01:01:13

times with you as a

01:01:14

chair. For example, you see

01:01:15

an obvious objection and it

01:01:17

supposed to waiting for the

01:01:18

objections. You come from the

01:01:20

outside, but I'm not going

01:01:22



without a question. Just leaving,

01:01:23

I'm not going to that's

01:01:25

not it supposed to be

01:01:27

waiting for for the parties

01:01:29

to to start in The

01:01:30

NeverEnding discussion. And last but

01:01:34

not least, I think the

01:01:35

tribunal to Dan should sometimes

01:01:38

intervene with Blue October. Because

01:01:41

there are times when the

01:01:43

witness is simply wasting time,

01:01:46

the time of the party,

01:01:46

the part of the freaking

01:01:47



evading, the question and then

01:01:49

I think and sometimes lawyers

01:01:52

do not like it, but

01:01:53

I think that you're going

01:01:54

to shoot at that time

01:01:55

intervene until the witness. We

01:01:57

need a response from you.

01:01:58

This is there other issues

01:02:01

and I'm not going to

01:02:03

be seeing more and more

01:02:06

like, for example, what does

01:02:08

the tribunal to call witnesses

01:02:10

under the control of a

01:02:12



party? The party has not

01:02:14

called in. There are key

01:02:15

for the, I think, the

01:02:17

tribunal can, sometimes should. But,

01:02:21

again, there there because lawyers

01:02:24

some lawyers and you see

01:02:25

lawyers from the preceding of

01:02:29

counsel, you call the witness

01:02:32

on the other side that

01:02:33

we've done that under control

01:02:35

and doing things like for

01:02:39

example, The witness has to

01:02:42

submit a written statement with

01:02:45



questions posed. And if you

01:02:47

get a note and they're

01:02:48

both artists, have the right

01:02:49

to prosecute has allowed the

01:02:54

parties to have a witness.

01:02:56

It is very frustrating during

01:02:58

arbitrators. And you see the

01:03:00

parties mentioning it has little

01:03:02

or no. Have to say

01:03:13

for now, thank you very

01:03:16

much. And one of the

01:03:18

only ones that, you know,

01:03:25

if I could ask you,

01:03:25



but your parents always be

01:03:28

reduced costs and increasing scheduling

01:03:31

hearing. How do you view

01:03:32

at this point, 2025 the

01:03:35

balance between virtual hybrid in

01:03:37

person, Herring going for and

01:03:40

how do you say tribunal

01:03:41

should balance, the cost and

01:03:42

efficiency gains against Steve benefits?

01:03:49

What this rain eases the

01:03:50

tension again, if this is

01:03:55

sufficient CM cost exercise, I

01:03:57

think after our experience during

01:03:59



covid, we all know we

01:04:01

can do a very efficient

01:04:03

and property during a week-long

01:04:05

here into weeklong. Hearing all

01:04:07

virtually, maybe not comfortable with

01:04:11

or what we like. I

01:04:13

know in 2020 and 2021

01:04:15

at 6 here and go

01:04:16

very long, here it and

01:04:19

they went out. I had

01:04:21

a great experience to channel

01:04:22

off without a hitch. I

01:04:24

think some people had some

01:04:25



bad experiences. I don't think

01:04:27

it's just kind of thing

01:04:28

so you'll see a difference

01:04:30

of opinion I think in

01:04:31

the community but I think

01:04:34

that's clearly the way we

01:04:36

can go. It said they're

01:04:38

going to the other hand.

01:04:39

There's a very strong argument

01:04:41

for in-person hearing, but I

01:04:42

think many of us prefer

01:04:45

that in and we'd basically

01:04:46

gone back to in person

01:04:48



hearing For the, for the

01:04:50

very reason that arbitration is

01:04:52

a human endeavor. It's not

01:04:54

something I think that is

01:04:56

ideal in a virtual setting.

01:04:58

We'd like to see people.

01:05:00

We like to see the

01:05:01

witnesses would like to see

01:05:02

Council arbitrators lights deliberate with

01:05:05

other human beings in a

01:05:06

room have dinner talk over

01:05:08

the case. I think that's

01:05:11

part of the process and

01:05:12



I think that goes back

01:05:14

to the beginning of time

01:05:16

terms of dispute resolution and

01:05:18

so I think we're were

01:05:19

actually despite our experience with

01:05:21

kovid, we're still at early

01:05:23

days relatively with that. But

01:05:26

I think at the very

01:05:27

least it should unlock are

01:05:30

prejudiced, against being efficient about

01:05:33

how we deal at least

01:05:34

with, which has an expert

01:05:35

and if there's a witness

01:05:36



or an expert that perhaps

01:05:38

doesn't have a statement or

01:05:41

is, you know, not a

01:05:42

priority allowing a hybrid examination,

01:05:47

would be appropriate. Process. I

01:05:50

think many of us would

01:05:51

still like the main Witnesses

01:05:53

in the main experts would

01:05:54

like to see them, but

01:05:55

I think there's a balance

01:05:57

and I think we should

01:06:00

all be touched that we're

01:06:01

all Pros. We all know

01:06:02



how it works. So we

01:06:04

should embrace our our covid

01:06:06

mindset in our experiences and

01:06:09

try to alleviate some of

01:06:11

those costs. And I think

01:06:15

that's a valid obviously about

01:06:17

it objective and 1/2 more

01:06:22

often. Thank you so much.

01:06:25

The hearing is out of

01:06:26

the three of us during

01:06:31

briefing how that impacts the

01:06:37

time and cost efficiency proceedings.

01:06:46

Thank you, Adam. Let me

01:06:47



just say on the previous

01:06:48

Point haven't been through a

01:06:50

number of Bristol hearing as,

01:06:52

as as probably, many of

01:06:54

you have in this room.

01:06:56

Speaking from a tribunal perspective,

01:06:59

I think it's far preferable

01:07:00

for the tribunal to be

01:07:02

together for a year. And

01:07:04

I think there's just so

01:07:06

much more productive development of

01:07:10

of the, of the thinking

01:07:11

of the tribunal was a

01:07:12



hole in this as a

01:07:13

president, your understanding where where

01:07:15

the wings are and whatnot,

01:07:17

is enhanced materially if you're

01:07:20

in the same place. So

01:07:22

I'll just put that on

01:07:23

the table polish to English.

01:07:26

Ocean Breeze. Can of course

01:07:28

turn into a major exercise

01:07:30

that has an impact on

01:07:32

the cost and efficiency of

01:07:34

the preceding and may or

01:07:39

may not be that productive.

01:07:40



So so if you have

01:07:44  
opening and closing statements in

01:07:45  
the hearing that cuz you're

01:07:46  
pretty good with the case

01:07:48  
you don't need to repeat.

01:07:49  
That was from an arbitrator's

01:07:51  
perspective. Having something that simply

01:07:53  
highlights what came out of

01:07:55  
the hearing from a party

01:07:56  
perspectives Beyond what's in the

01:07:58  
closing statement. May also not

01:08:00  
be that much added value

01:08:02  
to the tribute of. There's

01:08:04



no closing statements. The picture

01:08:06

I think is potentially a

01:08:08

little different, but but the

01:08:09

post here in grief stage

01:08:11

is 180 degrees from the

01:08:15

stage of the case at

01:08:17

procedural order. Number one at

01:08:19

that point, the tribunal should

01:08:22

be as fully she's with

01:08:24

the case as it's ever.

01:08:26

Going to be read the

01:08:28

submissions they've heard from the

01:08:30

party. They know where should

01:08:32



know what their concerns are

01:08:34

post-hearing bridge. But at least

01:08:40

in my experience there often

01:08:42

content to focus on whatever

01:08:45

questions the tribunal has for

01:08:48

them at that point and

01:08:51

focus focus, any submissions on

01:08:54

those specific questions. And and

01:08:56

one thing I found works

01:08:58

pretty well in the tribunal

01:09:00

May at the end of

01:09:01

the hearing already know what

01:09:02

their questions are. They may

01:09:03



be formulating the questions just

01:09:06

I don't want but but

01:09:08

sometimes tribunal's want to reflect

01:09:10

and digest a little bit.

01:09:11

So it's also a useful

01:09:16

thing to have the tribunal

01:09:18

have a day of deliberations,

01:09:19

developed a list of questions

01:09:21

then and then go back

01:09:23

to the parties and say

01:09:24

okay here's what we find.

01:09:26

Helpful for you to focus

01:09:28

on. Now, if you want

01:09:28



to do something different, that's

01:09:31  
fine. But this is also

01:09:32  
a time when You can

01:09:36  
talk about the age limit

01:09:38  
because people are pretty exhausted,

01:09:40  
especially if you do it

01:09:42  
right at the end of

01:09:42  
the hearing and, and and

01:09:45  
their budgets may be exhausted.

01:09:47  
So it's is it it's

01:09:49  
it's a time when I

01:09:51  
found there's a lot of

01:09:52  
receptivity to to really trying

01:09:56



to talk to limit. What

01:09:59  
is submit it? And if

01:10:01  
they feel, they've really been

01:10:02  
heard during the hearing, which

01:10:04  
I think is the key

01:10:05  
goal from the tribunal's perspective,

01:10:07  
they may not feel, they

01:10:09  
need to hammer on all

01:10:11  
the same points against all.

01:10:12  
Those are some thoughts on

01:10:14  
post, you're in because I'm

01:10:15  
just curious. If anybody here

01:10:16  
in the audience love poster

01:10:18



in grief But I thought,

01:10:21

if I may add, very

01:10:26

quickly. I agree that the

01:10:31

tribunal has the discretion to

01:10:33

subpoena Witnesses within the control.

01:10:35

The part, you said, depending

01:10:37

on the case on the

01:10:38

specific exercise that are appropriate,

01:10:42

but we also, I have

01:10:48

to press this my point

01:10:49

by saying again. There's no

01:10:52

one size of his call,

01:10:53

but the general manager, I'm

01:10:54



a fan of Auto closing

01:10:58

arguments, you not to repeat

01:11:00

everything that we present her,

01:11:02

but to summarize, I find

01:11:06

it very useful for a

01:11:09

summary of what happened at

01:11:11

the hearing and how what

01:11:13

happened at the hearing show

01:11:15

their case. I'll because I

01:11:17

think this is a great

01:11:18

value of Great Value to

01:11:20

Pulsating Brees wide variety of

01:11:27

views among arbitrators of what

01:11:30



they should be on the

01:11:32

end of the spectrum. Center

01:11:34

said, Trevino asked questions whether

01:11:36

orally or in writing in

01:11:37

the parts are not simply

01:11:39

to address of questions with

01:11:41

a basement. At the other

01:11:43

end of that Spectrum, are

01:11:45

some Filipino soup. Before. The

01:11:47

park is, putting a post

01:11:49

getting brief summary of their

01:11:51

whole case. For he's afraid,

01:11:56

Again, no one-size-fits-all and it

01:11:58



depends on the specifics of

01:12:00

the case. I'm not going

01:12:01

to take a general position

01:12:02

on that. All I want

01:12:05

to say is it to

01:12:06

me is key. Plus the

01:12:07

parties agreed on what they

01:12:09

think is useful for showing

01:12:11

how they feel about you

01:12:13

including page limits A few

01:12:18

more topics before I change

01:12:19

the number 545. So, once

01:12:26

the hearing is John outfits,

01:12:27



turn, Grace's, they coming in

01:12:28

has come in. That, of

01:12:30

course, is not in the

01:12:30

process for the tribunal and

01:12:32

stayed this phase of the

01:12:34

proceedings deliberations. The hopeful reaching

01:12:36

of the consensus in the

01:12:37

progression of wood, can be

01:12:39

some of the most time

01:12:40

intensive for the tribunal other

01:12:42

than the Herring can I

01:12:44

ask you if there are

01:12:46

as many as president and

01:12:56



I would love to hear

01:13:04

from everyone at the table

01:13:05

on this actually because I

01:13:07

think it's an ongoing discussion

01:13:08

and it is a specific

01:13:10

but I think everyone sort

01:13:11

of has their own style.

01:13:12

I'm sorry to do this

01:13:13

but I do what I

01:13:15

just want to say something

01:13:15

about the first hearing brief

01:13:17

issue a release that one

01:13:24

issue. Particularly when they're voluminous

01:13:29



and comprehensive as an arbitrator,

01:13:31

I love that because it's

01:13:32

very easy then to work

01:13:34

from that. But one of

01:13:35

the problems is that it

01:13:38

gives the arbitrator the excuse,

01:13:40

not to think about the

01:13:41

case or however long. It's

01:13:42

going to take that that

01:13:44

submission to be made. And

01:13:46

I find that a little

01:13:47

bit difficult. It's also difficult

01:13:48

than, you know, a huge

01:13:49



submission is coming in when

01:13:51

you're at when everyone sitting

01:13:52

together at the last day

01:13:53

of the hearing and you

01:13:54

say in everyone practices with

01:13:56

with this is my preliminary

01:13:56

view. This is my limit.

01:13:58

We have to wait to

01:13:59

get the poster and commissions.

01:14:00

And you think will we've

01:14:01

just sat through a week

01:14:02

of hearings or two weeks

01:14:03

of hearing? You know, we

01:14:04



should go. There has to

01:14:05

be something there. And I

01:14:08

just want to give a

01:14:09

plug for the to bring

01:14:11

bring together. Some of the

01:14:12

questions for the zoom, closing

01:14:16

oral closings. Just a short

01:14:18

period after the hearing after

01:14:20

having received questions from the

01:14:22

parties, my very favorite way

01:14:24

to do it. Is the

01:14:25

tribunal time to after the

01:14:27

hearing sit down and they

01:14:28



have a goal. Is this

01:14:29

is not simply, how are

01:14:31

you feeling? But they need

01:14:32

for pup, proposed questions for

01:14:34

the parties and I think

01:14:35

that gets you thinking in

01:14:36

a more serious way. And

01:14:38

then it goes to the

01:14:40

party. The party is understand

01:14:41

what they need to cover,

01:14:42

and they're closing. And I

01:14:44

also, it gives you unlike

01:14:46

a blistering priest. You still

01:14:48



have the opportunity to engage

01:14:49

the council. If the question

01:14:50

you asked is not being

01:14:51

answered fully, or if you

01:14:53

still have some clarification, required,

01:14:55

can I put it in

01:14:59

that scenario? Has the that

01:15:02

model being agreed in advance

01:15:04

the hearing at the pre-hearing

01:15:05

conference or ultimately agreed to

01:15:07

in the last day of

01:15:08

the year, has proposed it

01:15:11

and had it and then

01:15:17



I have had experiences where

01:15:19  
it was agreed to at

01:15:20  
the close of the hearing.

01:15:21  
And I think at the

01:15:22  
clothes at the hearing, is

01:15:22  
a time where everyone has

01:15:23  
been together. We all know,

01:15:25  
you know, a lot of

01:15:27  
times people are more susceptible

01:15:29  
to suggestion, particularly when they

01:15:31  
don't involve drafting another three

01:15:33  
hundred page submission. Exactly. So

01:15:36  
because I know a lot

01:15:37



of people want to get

01:15:38

it done and over with,

01:15:39

but I think that that

01:15:40

can, that can be useful

01:15:41

on the deliberations. I really

01:15:44

do want to hear from

01:15:44

others, but I am a

01:15:46

huge fan, just in general,

01:15:48

and in life of decision

01:15:49

trees, I I think they're

01:15:52

so helpful. I, I like

01:15:54

to see submissions that are

01:15:55

sort of designs, like decision

01:15:56



trees. It's really helpful. And

01:15:59

so, when to meet what's

01:16:03

obviously, at the end of

01:16:04

the hearing, they'll be a

01:16:05

discussion. As in temperature taking

01:16:07

up the tribunal's order of

01:16:08

General to give the chairs

01:16:09

were General Vision of where

01:16:11

to go. But what I

01:16:14

think is very useful is

01:16:15

to actually draft all the

01:16:17

preliminary parts of the award

01:16:19

before the main deliberations. So

01:16:21



the introductions the party's position

01:16:23

and the And then include

01:16:27

instead of the analysis, a

01:16:29

decision, tree or decision table

01:16:31

where you can where you

01:16:34

can use that as your

01:16:35

guide as a sort of

01:16:37

agenda for deliberation. And that

01:16:39

way it's I think everyone's

01:16:42

really important and it helps

01:16:45

the Corbett, Raiders engage those

01:16:46

preliminary Parts as well. And

01:16:48

make comments on those who

01:16:49



can deal with those comments

01:16:50

and the the decision tree

01:16:54

all at once. But, you

01:16:56

know, there are many ways

01:16:56

to do this. I'm sure

01:16:57

others have a fuse. Ocean

01:17:03

point that it, interacts, with

01:17:15

the whole poster in Greece

01:17:16

process. And in this goes

01:17:19

to, the ultimate issue of

01:17:21

efficiency is how long will

01:17:22

it take? How long does

01:17:24

it take the war taking,

01:17:25



we know that is one

01:17:28  
of the areas and I

01:17:29  
had to come up definitely

01:17:30  
the else. Yeah yeah and

01:17:37  
I think it to have

01:17:39  
a contrary position clearly and

01:17:48  
if you've already gone through

01:17:49  
two rounds, three things and

01:17:51  
hearing and hopefully you have

01:17:53  
standing mirrors your president and

01:17:55  
you've done, you know, that

01:17:56  
intensive mid conference 22 actually

01:18:00  
that Yeah, I was focusing

01:18:02



on issues to make that

01:18:03

hearing most affected. Then you

01:18:06

really need that third round

01:18:08

of three things and hear

01:18:09

it. And, you know, I'd

01:18:11

be in the situation. One

01:18:13

was a commercial arbitration in

01:18:14

which I think is very

01:18:16

concerned about that. One of

01:18:18

the parties having they're saying

01:18:19

they were very loquacious. They

01:18:21

never took the, you know,

01:18:23

they would have an hour

01:18:24



schedule for 3 in a

01:18:26

one of those the council's

01:18:28

and are we had opposed

01:18:30

to hearing many hearing supposed

01:18:32

to last two or three

01:18:33

hours, you know? Just final

01:18:35

closing, remarks note wrap it

01:18:37

up in 10 hours long

01:18:39

and you know, that was

01:18:42

basically recapping the whole final

01:18:45

hear it. And it frankly

01:18:47

was that being said, the

01:18:50

arbitrator and I wanted to

01:18:52



give everyone their chance to

01:18:54

be heard and and that

01:18:56

was obviously really inefficient. So

01:19:01

you have this is the

01:19:02

balance and we talkin about

01:19:03

Efficiency, do we need really

01:19:06

need, and I just raised

01:19:06

the question. Three rounds of

01:19:08

three things and submission or

01:19:11

should to be enough. And

01:19:14

a couple of quick pawn

01:19:17

shop on deliberation. Karaoke style

01:19:26

in his MO is so

01:19:29



on the Run end of

01:19:30

the spectrum, the presiding arbitrator

01:19:32

wants to hear the views

01:19:33

of Kirk arbitrator and then

01:19:36

because you says, I'll take

01:19:38

that home and digestive and

01:19:41

doesn't state that few ever

01:19:42

tasted an early stage. Allowing

01:19:45

the to arbitrate us to

01:19:46

Century mental health issues, which

01:19:49

sometimes is very helpful and

01:19:52

courteous to to the Kazakh.

01:19:54

Sometimes, when I'm sitting at

01:19:56



the party punch. I'm itching

01:19:58

to save, okay? Why don't

01:19:59

you tell us your yard

01:20:00

so that we can move

01:20:01

forward on the other end

01:20:03

of the spectrum is after

01:20:08

the time, circulates to the

01:20:13

This is my cue. And

01:20:16

in most cases, this is

01:20:17

the cost to have the

01:20:18

traitors if they disagree, the

01:20:21

presiding over the case. But

01:20:25

I prefer to do what

01:20:26



I'm presiding officer immediately after

01:20:33

the hearing to the extent

01:20:34

possible. But I'm going home,

01:20:37

repairing a paper with its

01:20:40

nice. The TV shows to

01:20:41

be side and whether or

01:20:44

not I would offer some

01:20:45

preliminary. Use depends on the

01:20:47

specifics of the case. May

01:20:49

be the cutest will be

01:20:50

lifted from survivors, have to

01:20:52

submit and tell him. I

01:20:58

do believe that I need

01:21:02



to be decided I would

01:21:04

also do and I can

01:21:06

lend to mention that. It

01:21:09

is very helpful to have

01:21:10

the positions of the partition,

01:21:11

the procedure of History before

01:21:14

the deliberation. I would say

01:21:16

it's very helpful to have

01:21:18

them before the hearing and

01:21:20

that they have to hear

01:21:21

from Dave Browns and the

01:21:26

earrings in after you have

01:21:31

that supplement supplement and then

01:21:36



one final Point. What I

01:21:38

do when I'm parking point

01:21:40

is, I go back home

01:21:41

and prepare for myself a

01:21:44

memo to the file. If

01:21:45

you will remind use images,

01:21:48

gospel to Sherry, helps me

01:21:50

realize what happened because then

01:21:52

moms Mako by and I

01:21:54

will forget, I may or

01:21:55

may not circulating, sometimes you

01:21:59

don't want to have something

01:22:03

like that so that you

01:22:05



have the memory of your

01:22:06

views images. I see you

01:22:11

listen to know you are

01:22:21

traitors with his people that

01:22:23

you've seen is after the

01:22:26

witness statements, have a meeting

01:22:29

and before the experts go,

01:22:30

because then you have some

01:22:32

views on issues that maybe

01:22:34

can easily be agreed upon

01:22:37

to be irrelevant or easily

01:22:39

to the side. So that

01:22:41

that's one thing that I've

01:22:42



tried, but it depends, it

01:22:44

depends is a game, depends

01:22:46

too much. Sometimes, I'm on

01:22:50

who you're sitting. If I

01:22:53

could just build on that

01:22:54

because it's not an entirely

01:22:55

dissimilar weight of it as

01:22:58

the president, I think, unless

01:23:00

you're going to take the

01:23:01

more autocratic approach that stanimir

01:23:05

identified. But but for me

01:23:07

the benefit of The tribunal

01:23:09

has three years that you

01:23:10



have three, and you should

01:23:12

get those you. So, so

01:23:13

sitting down immediately to understand

01:23:17

that leaves pulmonary reactions is

01:23:18

actually, is the president that

01:23:20

only helpful but really quite

01:23:22

important. But I, I think

01:23:24

you could also look for

01:23:26

what I call the low-hanging

01:23:27

fruit that is and then

01:23:30

that's similar to what it

01:23:31

said. The issues that probably

01:23:33

could be easily dealt with.

01:23:34



So your dad are away

01:23:35

your list and you're getting

01:23:37

a sense of what it,

01:23:38

what are the things that

01:23:39

are the trickiest the hardest?

01:23:41

Maybe you have the lease

01:23:43

agreement or maybe you need

01:23:44

to go back but thanks

01:23:46

so if you can do

01:23:46

a little bit of a

01:23:47

sorting exercise pretty quickly and

01:23:50

and and and a reconnaissance

01:23:52

exercise I think that can

01:23:54



be a very useful approach

01:23:56

to making subsequent deliberations more

01:23:59

effective. You're not last couple

01:24:03

of minutes once we have

01:24:05

deliberated and agree. Hopefully we

01:24:08

have to produce. You have

01:24:09

to reduce the this award

01:24:11

and I need size that

01:24:12

can be Lexie and so

01:24:13

ask add water to you

01:24:14

wave. A magic wand to

01:24:26

make a change to what

01:24:27

has become I guess the

01:24:29



photo to the pool exit

01:24:30

out of attrition award and

01:24:32

what would you do to

01:24:33

change that and make it

01:24:34

large Route? 59 says a

01:24:41

brief summary of the proceedings

01:24:43

on a brief summary of

01:24:45

the submissions of the parties

01:24:47

as a content to be

01:24:48

a word. The word brief

01:24:50

me on sides short and

01:24:53

the word summary in a

01:24:54

brief statement. So that what

01:24:57



is the breed of a

01:24:58

bunch of sticks? So that's

01:25:00

the first thing that we

01:25:01

should consider. The second thing

01:25:03

is that the traditional structural

01:25:06

the award is Sterling Vision,

01:25:07

that is very difficult to

01:25:09

grasp by the artist because

01:25:11

he's the position of the

01:25:12

claimant, the position of the

01:25:14

respondent and then the tribunal

01:25:15

of third-party, they're out of

01:25:18

the blue saying about change.

01:25:25



In a having the award

01:25:28

State, the issues to be

01:25:29

determined. And then in the

01:25:32

siding issue, I issued stating

01:25:34

the position of the party's

01:25:36

position and decision. In other

01:25:39

words, what are the positions

01:25:41

of the parties that are

01:25:42

relevant to the analysis for

01:25:44

the relevant facts? What is

01:25:45

the law? And what decision

01:25:48

did everything in, on an

01:25:50

item-by-item Basics? Supposed to the

01:25:53



description of everything, the blame

01:25:55

instead and everything D. And

01:25:58

another words is to incorporate

01:25:59

the the the tribunal's reasoning

01:26:02

within the parties. Are you

01:26:04

on. That works very good.

01:26:06

We leave an experiment in

01:26:09

an extra suitcase to, to

01:26:10

find a way to to

01:26:12

draft the war ended. I

01:26:13

need a beautiful. We have

01:26:15

two parties to draft the

01:26:17

position of the parties for

01:26:19



the war. And we gave

01:26:21

them Specific Instructions, on limited

01:26:26

words, the topics, they need

01:26:27

to discuss the way they

01:26:29

should approach. And we, of

01:26:35

course, we indicated to the

01:26:36

parties that we could, or

01:26:38

could not use, but I

01:26:39

believe it was not mandatory

01:26:41

for us if they produce

01:26:43

something that was totally useless

01:26:44

and that's it, we will

01:26:46

drive from scratch. And we

01:26:49



ended up a argument with

01:26:53

the March Warden. If we

01:26:58

have drafted that in the,

01:26:59

in the traditional way, I

01:27:03

think we've been anyone has

01:27:06

a burning comment on a

01:27:07

wood drafting of heavy to

01:27:08

stretch it by a minute

01:27:09

or two would you show?

01:27:12

So. So well there's a

01:27:17

difference between primary and exclusive

01:27:19

with respect to drafttek. I

01:27:21

think I like yeah but

01:27:25



it's in my experience you

01:27:27

have to assess who your

01:27:28

Co-operators are with the issues

01:27:30

of the case are. Ideally

01:27:32

you backed up, how was

01:27:34

the ability to contribute with

01:27:37

issue. That's, that's the best

01:27:40

circumstances that I had an

01:27:42

ICC case. Where French law

01:27:46

governing we had one French

01:27:48

officer and he did everything

01:27:49

that was related to Fred

01:27:51

and and we all looked

01:27:53



at it and and the

01:27:55

president I was but I

01:27:56

was away some of the

01:27:59

contractual issues and I did

01:28:00

some of the defense and

01:28:01

it was all kind of

01:28:04

highest and best use and

01:28:06

it worked extremely well. You

01:28:07

don't always have that kind

01:28:09

of situation where everybody can

01:28:11

contribute that that way. But

01:28:13

I think you get a

01:28:14

better if everybody contributes. So

01:28:17



that's my girl to figure

01:28:18  
out how best to do

01:28:19  
that as well. Sometimes you

01:28:25  
go backwards. That's why you

01:28:28  
have to use your judgment

01:28:29  
as to what is going

01:28:31  
to work based on the

01:28:33  
issues, but they could be

01:28:34  
faster if it works. I'm

01:28:46  
your comments would be intimate

01:28:47  
for to see how we

01:28:48  
can sequoia trees and pushing

01:28:50  
a vacations to more costly.

01:28:52



At least. It is costly

01:28:54

and more time efficient outcome.

01:29:10

Indeed, a lot to build

01:29:11

on a very good job

01:29:14

that we can use for

01:29:17

it for more concrete products

01:29:18

and recommendations. So for the

01:29:22

next step in this process

01:29:24

and we hope that everyone

01:29:26

can join us or the

01:29:28

reception, which is on the

01:29:29

second floor, in the World

01:29:32

Bank cafeteria here and jammed,

01:29:35



it starts now. So I'll

01:29:37

see you up there. Indeed,

01:29:11

a lot to build on

01:29:12

a very good job that

01:29:15

we can use for it

01:29:17

for more concrete products and

01:29:18

recommendations. So for the next

01:29:22

step in this process and

01:29:25

we hope that everyone can

01:29:26

join us or the reception,

01:29:28

which is on the second

01:29:29

floor, in the World Bank

01:29:32

cafeteria here and jammed, it

01:29:36



starts now. So I'll see

01:29:38

you up there. I am

00:00:10

going to say, Good afternoon

00:02:30

everyone. Good afternoon. I am

00:02:41

delighted to welcome you to

00:02:43

except for this sub panel

00:02:46

titled, inside the arbitrators chambers,

00:02:49

best practices of arbitrators, and

00:02:52

exit proceedings. Now, before I

00:02:55

hand over to my colleague

00:02:56

and a Holloway and distinguished

00:03:00

panel, this, I wanted to

00:03:01

stay a few introductory remarks

00:03:04



about the topic our discussion

00:03:07

today will focus exclusively on

00:03:10

time and cost of proceedings.

00:03:13

And the focus is really

00:03:16

important Drake said, because that

00:03:18

is one of our main

00:03:20

institutional priorities, their prolonged Eurasian

00:03:25

and did the high cost

00:03:27

of cases and especially investment,

00:03:29

arbitrations are consistently highlighted as

00:03:33

the, a major concern by

00:03:36

all users, but even though

00:03:39

we all know, Free on

00:03:41



this and there's Universal agreement

00:03:43  
that we have to do

00:03:44  
something about it. We have

00:03:46  
seen a troubling Trend that

00:03:49  
case duration is actually increasing

00:03:51  
and the longest duration, typically

00:03:55  
have to face the higher,

00:03:56  
the class. And this in

00:03:59  
the end is not conducive

00:04:04  
to access to Justice and

00:04:06  
particularly for small and medium-sized

00:04:08  
Enterprises and states with very

00:04:11  
few resources. So it's important

00:04:14



that we do and need

00:04:15

to do something about it

00:04:16

because in the end it's

00:04:18

hurting business and it's hurting

00:04:20

International Investment. I think it's

00:04:23

fair that we can say

00:04:24

that improving efficiency was a

00:04:27

touchy subject of the 2022

00:04:30

rules and we have Provisions

00:04:32

to Route. The rules that

00:04:34

are dressed as including a

00:04:36

whole chapter on expedited arbitration

00:04:39

and Time limits for arbitrators,

00:04:42



to issue, decisions and orders.

00:04:45

But booze alone are not

00:04:48

sufficient and we if we

00:04:51

are really serious about reducing

00:04:53

time and cost, we need

00:04:56

parties Naga traders to use

00:04:59

the the tools available to

00:05:01

them. We need to implement

00:05:03

best practices and we need

00:05:06

a total new approach and

00:05:09

a change of concert in

00:05:12

proceedings and we are excited.

00:05:15

We're committed to playing our

00:05:18



role in this endeavor and

00:05:20

so will be launching several

00:05:22

initiatives, done to put this

00:05:24

goal in mind. And this

00:05:27

panel discussion is really the

00:05:29

starting of those initiatives focusing

00:05:33

on the goal of arbitrators.

00:05:35

We really need arbitrators to

00:05:38

feel empowered to To use

00:05:40

the tools at their disposal

00:05:42

and to proactively manage cases.

00:05:45

But of course, while considering

00:05:48

specific circumstances of the case

00:05:51



and adjusting the measures as

00:05:54

as needed, and we believe

00:05:57

that this change needs to

00:05:59

be tribunal driven because counting

00:06:03

relying on the party's voluntarily

00:06:06

agreeing to efficiency in the

00:06:09

preceding or and party autonomy

00:06:11

in, in general, is not

00:06:13

conducive, efficiency. So Trevino's Archie

00:06:20

arbitrators likely in this Endeavour

00:06:22

and the recent Garra, el

00:06:24

dia around table report supports

00:06:27

this view. We are very

00:06:29



privileged to have Lindsey Castro

00:06:31

here was part of that

00:06:32

discussion until can tell us

00:06:34

more about the reports and

00:06:36

recommendations. And so we intend

00:06:40

to Build on that discussion

00:06:42

and collaborate with you or

00:06:44

users and with other institutions

00:06:48

to achieve this common goal

00:06:50

of efficiency. So, thank you.

00:06:53

And I now hand over

00:06:54

to anahola Bay senior counsel

00:06:57

at the expense of been

00:06:58



with except for over 7

00:07:00

years and who produced it

00:07:02

was in private practice mostly

00:07:05

with that dealing with the

00:07:06

commercial arbitration. And so she

00:07:09

has experience from both investment

00:07:11

and Commercial and his leading

00:07:12

our efforts on the time

00:07:14

and cost agenda so over

00:07:17

to you. Coming out this

00:07:21

afternoon as much. And I

00:07:23

mention what a best practice

00:07:24

is to look through this

00:07:33



question or how to reduce

00:07:38

the time and what Too

00:07:47

bad and I'm very excited

00:07:49

to do today. I feel

00:07:52

like it's a sign that

00:07:52

I'm getting that I have

00:07:55

had no role in the

00:07:56

privilege of working closely with

00:08:01

every single one of our

00:08:02

endless. And so I can

00:08:03

safely say that, we will

00:08:05

be insightful comments from my

00:08:10

media list, the sea Castro

00:08:12



Lindsey's, an independent arbitration, and

00:08:16

mediation, and arbitration of New

00:08:38

York and London. Lindsey supposed

00:08:41

to be an Adjunct professor

00:08:42

of Laura American universities nearly

00:08:44

a decade as she has

00:08:47

been involved in many complex,

00:08:49

in high-value, in his defense

00:08:54

variance in managing many procedural

00:08:56

aspects of vibrations. Thank you.

00:09:03

To Lindsay's last we have

00:09:05

is a satin Alexandro while

00:09:22

also writes and teaches offensively

00:09:29



and a professor at George

00:09:30

Washington University, Law School. A

00:09:35

Bulgarian national Elliott and send

00:09:37

him his career. He such

00:09:39

as his vice Minister of

00:09:40

Foreign Affairs, way helped shape,

00:09:42

the Mystic strategy, and the

00:09:48

Spectrum gets in some unique.

00:09:49

Insights into certain aspects of

00:09:51

my best to stay out

00:09:52

of tradition. Practice, panels of

00:10:00

many, International Education institutions alone,

00:10:05

send a message with my

00:10:07



son. Descendants mixed is a

00:10:14

listen to bissinger's an independent

00:10:17

arbitration and a judicata pricing

00:10:19

from what is perhaps the

00:10:20

international community's most recent addition

00:10:24

to the arbitration B 16

00:10:26

low in Connecticut resolution which

00:10:28

she sounded threatening with polemics,

00:10:30

it sector General Nick Cannon

00:10:32

just as possible, she gained

00:10:34

international trade and investment, International

00:10:39

Regulatory Compliance and other complex.

00:10:41

International business that is across

00:10:43



a wide range of Industries.

00:10:44

And for And practiced in

00:10:47

these areas most recently, as

00:10:49

a pot roast do in

00:10:50

Johnston. Of the past several

00:10:52

years has president, including a

00:10:57

number received follow-up, appointment to

00:10:59

the exit tunnel of arbitration,

00:11:01

National legal serving as the

00:11:07

president of the American Society

00:11:08

of international law in 2016

00:11:11

to 28%. This vast and

00:11:17

varied International backgrounds, and his

00:11:18



specific experience providing up positions

00:11:21

Hills. I choose the sentence

00:11:26

left is Ian live in

00:11:29

as a seasoned International arbitration,

00:11:31

more than 25 years experience

00:11:33

in investment, treaty operation, as

00:11:36

the country. Proud to see

00:11:38

International dispute. Resolution group in

00:11:40

brings to his practice extensive

00:11:42

GF inside having served in

00:11:44

senior positions within the Canadian

00:11:46

government. an exit, they contribute

00:11:50

to the international legal Community

00:11:51



dialogue, and less is the

00:11:56

co-founder and co-chairman of the

00:11:57

Washington, And it begins with

00:12:01

his counsel, he has received

00:12:03

a number of a traitor.

00:12:04

Appointment at providing also allowed

00:12:06

in proceedings before the ICC.

00:12:13

And if you see a

00:12:14

counselor today, And last but

00:12:24

not least is Eduardo Eduardo,

00:12:29

arbitration Chambers operating out of

00:12:33

Columbia Station, Eduardo's career. As

00:12:38

an arbitrator has spent decades

00:12:39



and he has resided of

00:12:40

the numerous high-profile come across

00:12:44

multiple jurisdictions and other institutions

00:12:54

and surprisingly Eduardo speaks teachers

00:13:01

of Rights in a broad

00:13:02

variety of topics and holderrieth

00:13:04

how various positions and it

00:13:06

by three bullets in arbitration

00:13:08

quotes for the expertise and

00:13:13

resolution and it's procedure. We

00:13:16

appreciate you, making your way

00:13:18

here from Miami Eduardo to

00:13:20

show your home today, and

00:13:21



I'm sorry. Discussion. There are

00:13:35

many places during the proceeding

00:13:37

with time and expand rapidly,

00:13:41

but I'd like to kick

00:13:49

things off by specific knowledge

00:13:51

in. But we are not

00:13:51

supposed to be discussing these

00:13:53

issues and has been conducted

00:13:59

in particular in the last

00:14:00

couple of years and she's

00:14:02

gone, I'll see a Roundtable

00:14:12

addressing the issues that took

00:14:23

place in. Thank you. Thank

00:14:28



you so much and I'm

00:14:29

really happy to be here.

00:14:30

So, the Genesis of the

00:14:33

car LCA Round Table is

00:14:35

still rolling. What was the

00:14:40

driving force behind it? And

00:14:42

for those who know Bill,

00:14:43

he's been in the field

00:14:44

for a long time and

00:14:46

will will quickly tell you

00:14:47

that he thinks things are

00:14:49

going very very badly in

00:14:51

international arbitration and of course

00:14:54



that may all be a

00:14:54

bit Doom and Gloom. But

00:14:56

we've also heard from some

00:14:58

with more optimistic tilt. That

00:15:01

is true, many arbitration. The

00:15:03

many exit arbitrations are too

00:15:06

long, too expensive, and too

00:15:08

complicated cases are complicated, but

00:15:11

they're more complicated than they

00:15:12

need to be. And as

00:15:15

you said and like, this

00:15:18

is this is been a

00:15:19

problem with known about, for

00:15:21



a long time. There's so

00:15:22

many initiatives that have addressed

00:15:24

it and yet She says

00:15:26

just keep getting longer, nothing

00:15:28

changes and the conundrum is

00:15:31

why there's all of these

00:15:32

fools out there and why

00:15:33

aren't they being put in

00:15:35

place? And so for me,

00:15:37

what was so interesting about

00:15:39

this? I mean, the Roundtable

00:15:40

what we really did this,

00:15:41

we got together about two

00:15:43



dozen of these very highly

00:15:45

experienced to all the big

00:15:47

names in arbitration but the

00:15:49

idea was to get a

00:15:51

good mix of users arbitrators

00:15:53

and Council. Not just having

00:15:55

the one no offense to

00:15:56

anybody like the token in-house

00:15:58

Counsel on the panel that

00:15:59

really having a discussion with

00:16:01

everybody involved. And and so

00:16:05

we all got together and

00:16:07

had a discussion about why

00:16:08



why does it keep getting

00:16:10

worse or why is there

00:16:13

more room for him to

00:16:13

put it in a positive

00:16:15

way? And I just want

00:16:18

to talk about one aspect

00:16:19

of that because I think

00:16:20

it goes to root causes.

00:16:21

And part of the discussion

00:16:22

was like, Hey buddy, don't

00:16:25

think who is to blame?

00:16:26

Who's responsible for the problem?

00:16:32

Is it? The arbitrator's is

00:16:34



it? The parties is a

00:16:36

council and then I think

00:16:38

more importantly, who is best

00:16:40

placed to do something about

00:16:42

it, right? And so, we

00:16:43

had a long discussion about

00:16:45

that pretty expensive than the

00:16:46

main point was. Like when

00:16:48

you're talking about enhancing efficiency,

00:16:50

when, when you're doing best

00:16:52

practices here, or anywhere, it's

00:16:55

naive to think that all

00:16:57

the parties to an arbitration

00:16:58



are, are there to be

00:17:01

efficient or to be cooperative,

00:17:02

right? That's it. It's just

00:17:05

not the case some, maybe

00:17:07

but in some cases it

00:17:10

may be in a party's

00:17:10

interest to do precise opposite.

00:17:13

Right. And we all hear

00:17:14

the same example over and

00:17:15

over of commercial case or

00:17:18

responded. He's waiting for bankruptcy

00:17:20

before bankruptcy before getting the

00:17:22

award. So this idea that

00:17:25



we have that every party's

00:17:26

goal is a favorable award

00:17:28

quick. Favorable award is not

00:17:31

really true. And I think,

00:17:33

you know, we had call

00:17:34

Hennessy there. Many of you

00:17:35

will know are bison and

00:17:36

he said, look, where are

00:17:38

the parties were the user's?

00:17:39

We know where the problem,

00:17:41

but we can't fix it.

00:17:43

You know, we are not

00:17:44

the ones who can fix

00:17:45



it and I thought that

00:17:45

was really interesting and then

00:17:47

we talked about Council as

00:17:49

well. Is the idea of

00:17:53

council being a meaningful check

00:17:56

on a, on a client

00:17:57

who wants to be? Who

00:17:59

doesn't want to be efficient

00:18:01

or cooperative? It is. There

00:18:03

obviously, you know, council's there

00:18:05

to serve the interests of

00:18:06

their clients and, you know,

00:18:10

we can debate it but

00:18:10



there's some Financial incentive depending

00:18:12

on the sea arrangement for

00:18:14

a protracted proceedings in one

00:18:17

of the other in-house counsel

00:18:18

said, you know, the more

00:18:20

they write, the more we

00:18:21

pay and that. So these

00:18:22

are the kinds of incentives.

00:18:24

We have to be really

00:18:24

serious about when were when

00:18:26

were trying to come to

00:18:27

solution? What does that mean?

00:18:29

But what was the upshot?

00:18:30



Then everybody looked at the

00:18:32

arbitrator's in the room and

00:18:33

said, so it's up to

00:18:33

you guys. So it's up

00:18:35

to all of us here

00:18:36

to do something that ideas.

00:18:38

If you don't really comes

00:18:40

down to it on the

00:18:44

ground, in a case, it

00:18:47

is up to the arbitrator's

00:18:48

to be the ones to

00:18:50

get it to. really Force

00:18:52

efficiency, they're the only ones

00:18:53



who can do so, and

00:18:55

I and to that end

00:18:57

the recommendations in the report,

00:18:59

which I won't get into

00:19:00

specifically at this stage but

00:19:01

there are Things that arbitrators

00:19:06

can put into place to

00:19:08

sort of in Courage or

00:19:10

maybe even Force parties to

00:19:14

conduct themselves more efficiently. And

00:19:17

so that's sort of the

00:19:17

force behind that report. Thank

00:19:21

you, I'm sure that the

00:19:23



guy I see a concert

00:19:33

at some point, if we

00:19:35

can chat when I get

00:19:36

to the next stage, which

00:19:38

is how do I retrieve?

00:19:39

The cheese, the gold at

00:19:40

this round table. Agreed was

00:19:42

in there tonight and will

00:19:44

stick into the technology of

00:19:46

the proceedings of an arbitration

00:19:48

proceeding. Involved in executing our

00:20:02

God, is a great president,

00:20:03

It Up by Patti agreement.

00:20:10



Do you find efficient and

00:20:12

useful and what did he

00:20:13

sound to be unnecessarily creation

00:20:15

of delays or cost and

00:20:17

then Helping providing specific practices

00:20:25

to ensure. The process that

00:20:35

I've been serving more and

00:20:37

more is the so-called frankenstrike

00:20:40

ghosts in this is not

00:20:42

new to this process. Quite

00:20:47

some time ago. Offering the

00:20:49

park is a list of

00:20:50

candidates for the party store

00:20:52



Rankin strike the The difference

00:20:58

between that takes upon you.

00:21:03

What I've been observing lately

00:21:05

is a process driven by

00:21:07

the partisan. The party tray

00:21:08

to send those three important

00:21:12

features when is some of

00:21:13

the names are supplied by

00:21:14

the list that will be

00:21:17

subject to strike. So the

00:21:19

party's feel that they have

00:21:20

and who is going to

00:21:23

be supplied by the two

00:21:28



car between. And that's important

00:21:30

because everybody wants, it came

00:21:34

on yesterday, you know. And

00:21:36

so the Cook Out of

00:21:37

each other's agree on a

00:21:38

certain number of names that

00:21:39

they feel they will work

00:21:42

better with. And number three,

00:21:46

which is an important. Very

00:21:48

important feature of this process,

00:21:49

is it ends up with

00:21:52

at least one if not

00:21:54

more candidates. If somebody is

00:21:57



Frank. There may be a

00:21:58

tie but you don't need

00:22:01

to repeat the process, it

00:22:03

ends with the result. And

00:22:06

that's what I've been seeing

00:22:07

more and more and really

00:22:10

in the majority of cases

00:22:12

works. This is process, of

00:22:18

course, has its advantages some

00:22:21

shortcomings On the one hand,

00:22:25

the fastest prefer that the

00:22:28

candidates running for monster list

00:22:31

is finalized until you could

00:22:32



be 57, 911 names. We

00:22:37

don't have time to discuss.

00:22:38

Please often times they want

00:22:42

all the candidates to run

00:22:43

conflict to make sure they

00:22:45

are available and to offer

00:22:47

any disclosure of test a

00:22:51

list. Office. That takes a

00:22:59

lot of time and effort

00:22:59

to have nine or eleven

00:23:01

candidates ranked R6 checks, which

00:23:04

is not an easy proposition

00:23:05

Law, Firm on Meg disclosure

00:23:08



and then you have to

00:23:11

communicate through all of them.

00:23:13

Minus one that they are

00:23:14

not selected. And as a

00:23:16

Winger, I sense the frustration

00:23:20

in many cases when they

00:23:21

are disappointed, mostly with the

00:23:24

parties and these parties, who

00:23:26

encounter this arbitrator at some

00:23:28

point in the future. So

00:23:29

this process is not a

00:23:31

deal but as Churchill once

00:23:35

said about democracy is bad.

00:23:36



But it's better than all

00:23:40

the other phone so bad

00:23:41

and I think this process

00:23:43

may have its own shortcomings.

00:23:45

But I'm yet to see

00:23:47

a process that necessary works

00:23:50

better. In terms of a

00:23:54

process that I really, really

00:23:56

don't like. And believe it's

00:23:57

inefficient, is the process where

00:24:00

the park is instead of

00:24:02

negotiating between themselves, which of

00:24:04

course, is open to them

00:24:05



to do whenever they want,

00:24:07

they asked their car be

00:24:09

traitors to go, she ate

00:24:10

between them. About the candidates.

00:24:14

The park is one for

00:24:16

tomorrow and I have to

00:24:17

tell you buddy, I'm case

00:24:19

in such cases, I just

00:24:21

don't agree. And I told

00:24:23

about that appointed, me acting

00:24:26

is an arbitrator cuz I'm

00:24:28

not going to be your

00:24:29

mouthpiece. I have my own

00:24:31



view on who is suitable

00:24:32

to be the presiding arbitrator.

00:24:34

And I don't want to

00:24:35

be essentially. Getting my car

00:24:39

between the Wall Part One

00:24:41

and Two CS Go part

00:24:43

one is a candidate and

00:24:45

Mike arbitrator doing the same

00:24:46

thing that the party should

00:24:48

they want to do that.

00:24:49

So I think the bottom

00:24:53

line is from what I've

00:24:55

seen this ranking, strikeforce's, we're

00:24:58



about 27 input, because the

00:25:01

traitors have an input and

00:25:03

the repair is a guaranteed

00:25:04

results, at least. One name

00:25:06

is so far. The best

00:25:09

of the least worst and

00:25:11

Kiana. and I should have

00:25:15

mentioned jumping at the end

00:25:19

of anyone's answer, if you

00:25:20

feel like he has well,

00:25:27

I would just say, I

00:25:28

think there's no That goes

00:25:31

into a ranking Stripes process

00:25:33



for the party game out.

00:25:37

What the other party May

00:25:39

do, how they're going to

00:25:40

rain you in terms of

00:25:43

your way. So it's actually

00:25:45

a lot of fun if

00:25:46

you like game theory in

00:25:48

particular, but I don't know

00:25:50

what your experience with this

00:25:55

process with another advantage of

00:25:58

this process Game Theory, and

00:26:00

all is that the parties

00:26:03

that are outside of the

00:26:04



candidates that at least desirable

00:26:06

to the parties at all.

00:26:08

And I think that's an

00:26:10

important feature after Thank you

00:26:14

so much, but we have

00:26:16

our tribunal Constitution has the

00:26:18

most important time when I

00:26:20

try to look for it

00:26:23

and cost-efficient proceeding is in

00:26:26

those early days as we

00:26:29

move forward to the first

00:26:30

procedural music up in the

00:26:32

potties, and the tribunal and

00:26:33



the initial received your order

00:26:34

or, and it said procedure.

00:26:38

Even if I can ask

00:26:40

you a question about this

00:26:41

process, what do you think

00:26:43

of the key aspects of

00:26:44

case, four stages that are

00:26:45

addressed, in this initial procedure

00:26:47

order where I can really

00:26:49

see each one time and

00:26:51

cost efficiency? Well, I'm very

00:27:01

pleased to be here and

00:27:03

thanks the organizer. A great

00:27:13



kind of middle of the

00:27:15

week treats and a place

00:27:18

to be with this eminent

00:27:20

group, some extent where the

00:27:25

action really starts, you can

00:27:27

set the tone or any

00:27:30

arbitration and then you really

00:27:32

see a number of different

00:27:34

approaches and it is, largely

00:27:37

depends on parties are the

00:27:39

arbitrator's are and, and how

00:27:41

they want to proceed with

00:27:43

the arbitration. If we're talking

00:27:45



about template of procedure order,

00:27:50

number one of the experience

00:27:52

of the Secretariat and getting

00:27:54

that process going that being

00:27:56

said, you know, and I

00:27:58

do you counsel and an

00:27:59

arbitrator in Aksarben Where did

00:28:02

parties knowing that the staircase

00:28:05

and that they want to

00:28:06

take an active process part

00:28:08

in the process and gave

00:28:09

very early in. And as

00:28:10

the standing here was talking

00:28:12



about that they get together

00:28:13

and they start their discussions

00:28:14

early before the tribunal brings

00:28:17

out its procedural order and

00:28:18

they drop their own procedures.

00:28:19

And that's, that's really a

00:28:21

full expression of that party

00:28:23

autonomy. And that's something we

00:28:26

used to see with more

00:28:26

experienced counsel. But is that

00:28:30

then? I guess it's those

00:28:31

built-in question. This battle is

00:28:32

that the most efficient way

00:28:34



of going at it, and

00:28:35

I think it's party can

00:28:38

get together and can work

00:28:39

professionally in the end up

00:28:41

their quality and experience a

00:28:43

panel, the council will likely

00:28:47

take into account, what they

00:28:48

know. It's the template cludes

00:28:50

at and still be kind

00:28:52

of a dialectic going on

00:28:54

with that experience. And I've

00:28:58

seen our tribunal accepted Approach.

00:29:01

But you also have the

00:29:04



exact one I think is

00:29:06

clearly and arguably the most

00:29:08

efficient is that early on

00:29:10

in the process? You know,

00:29:11

pretty shortly after the appointment

00:29:13

of the tribunal that president

00:29:16

get together. Talk with the

00:29:18

wings, have the template and

00:29:21

place agree on that fairly

00:29:23

quickly and presented. The party

00:29:25

is the draft and is

00:29:26

that way that just cost

00:29:28

us off to an excellent.

00:29:30



Start course the there's an

00:29:33

invitation for the parties to

00:29:34

have him put that document

00:29:37

but you know you supplying

00:29:38

game Siri again strategy, you

00:29:40

know we're very early in

00:29:41

the case parties are unlikely

00:29:43

to want to ask for

00:29:44

too much or the change

00:29:45

the model too much. And

00:29:47

so you do you like

00:29:50

they got a pretty good

00:29:50

level of fences. So in

00:29:53



the overall and work towards

00:29:55

to see the order number

00:29:56

one I think you can

00:29:57

be very efficient starting out

00:30:00

Of course, the devil is

00:30:02

in the details of what's

00:30:03

in procedural. And the schedule

00:30:07

is a key part of

00:30:10

that and frequently, the parties

00:30:12

are invited to go back

00:30:13

and decide on what works

00:30:17

for them. And again, you

00:30:19

can see all sorts of

00:30:20



different approaches. And I think

00:30:22

this goes to the fact

00:30:23

of you, no parties. Have

00:30:25

different objectives and priorities. Some

00:30:28

parties actually do want an

00:30:29

efficient process. Others want a

00:30:31

very leisurely process that, and

00:30:33

I've seen parties come back

00:30:34

with that, their proposal on

00:30:37

the schedule, which ghetto you

00:30:39

talk about a 34-year arbitration

00:30:41

and they put it right

00:30:42

in the in the schedule.

00:30:43



And as arbitrator, you look

00:30:45  
at that and you do.

00:30:46  
Well, that's pretty leisurely work.

00:30:48  
You know. I'm going to

00:30:49  
forget the case between each

00:30:51  
set of reasons of his

00:30:52  
going so legally. But I

00:30:55  
guess this is the balance

00:30:56  
that that Martina was talking

00:30:58  
about with the autonomy. And

00:31:01  
to the degree, which the

00:31:03  
arbitrator's have to take that

00:31:04  
into account and buy that

00:31:06



or they have to come

00:31:07

back to the parties. They

00:31:09

look, this is a little

00:31:10

too slow. We don't feel,

00:31:12

this is an efficient process,

00:31:14

we're going to push that

00:31:15

and I think it might

00:31:18

be a fairly Brave tribunal

00:31:20

to tell the parties that

00:31:21

have agreed on something. That's

00:31:23

fundamental know where were Jackson.

00:31:25

Here's our schedule yet to

00:31:29

seen that kind of a

00:31:31



dramatic, push back. I think

00:31:33

that's possible and this goes

00:31:36

to what occurred I think.

00:31:38

As part of the Ica

00:31:39

discussions, which is this was

00:31:41

recommendation number to, which a

00:31:44

Lindsey. I've had a big

00:31:45

part of which is afoot

00:31:48

within the procedure, Warner an

00:31:50

acknowledgment by the parties of

00:31:51

this kind, of ability of

00:31:53

the tribunal to take to

00:31:55

make efficiency a priority and

00:31:57



22 actually. Give permission in

00:32:01

advance to do that. Then

00:32:03

there's wording that provided in

00:32:04

the dark Elsie is 80

00:32:06

and it it's it's basically

00:32:09

allows for and they have

00:32:12

a part of it which

00:32:13

allows for costs and for

00:32:15

there to be penalties. If

00:32:18

the parties don't go along

00:32:19

with that approach, does the

00:32:21

approach tribunal take incessant cost

00:32:23

to the Saints or inefficient

00:32:25



disruptive tan? D'costa, proved unnecessary

00:32:27

with hindsight prolixin of that

00:32:30

word and repetitive submissions and

00:32:32

inappropriate request for Disclosure. Document

00:32:34

went blank was there. Thank

00:32:37

you. Lindsay. The balance is

00:32:46

too. I guess we're all

00:32:49

playing tag in the in

00:32:50

the in the schoolyard. It's

00:32:52

like you're at know, you're

00:32:53

it. I know you're at

00:32:53

the arbitrator's are in, then

00:32:56

that's the solution. And if

00:32:58



we truly believe the deficiencies,

00:33:00

Value. That is the value.

00:33:02

That that should be prominent,

00:33:04

then the tools are here

00:33:06

and we can do Thank

00:33:09

you again, for example, to

00:33:23

a protracted schedule. I'm curious

00:33:25

whether you have any different

00:33:27

diesel, the same that you

00:33:28

was to share about how

00:33:29

an application approach balancing. The

00:33:33

needs to achieve against, how

00:33:37

do you want one of

00:33:37



me and Anthony across to

00:33:39

establish, you could come. So

00:33:40

try being a relationship with

00:33:41

the beginning. Thank you, Anna.

00:33:45

And thanks, Jeff. It said

00:33:47

that the first day organizers

00:33:48

for allowing me to participate,

00:33:52

in this very interesting and

00:33:54

important discussion, I approached serial

00:33:59

number one with the degree

00:34:01

of humility and caution, partly.

00:34:06

Because at that stage is

00:34:08

very much about the case.

00:34:10



And and the first session

00:34:13

is going to be the

00:34:14

time when you really get

00:34:16

a sense of where the

00:34:17

parties are, where they, where

00:34:20

their counsel is, whether they

00:34:21

think they might want to

00:34:22

buy for Kate, all the

00:34:23

things that will come out.

00:34:24

It will give you a

00:34:26

much better sense than you

00:34:28

have at the time. You

00:34:29

dropped your number one. If

00:34:31



you take Ian's options of

00:34:32

of, which I think is

00:34:35

more efficient approach chips. In

00:34:37

fact, that you're going to

00:34:40

start to get a sense

00:34:41

of what you're dealing with

00:34:42

in the case. So I

00:34:43

think you have to A

00:34:44

little more about what you

00:34:47

can accomplish at that early

00:34:49

state. But there are things

00:34:51

you can do, and I

00:34:53

think we should think about

00:34:54



doing. I don't know how

00:34:56

far you want to go.

00:34:57

This time with these penalties,

00:34:59

are always a sledgehammer to

00:35:02

wheel. And, and we see

00:35:04

them, of course, more with

00:35:06

other institutions that we have

00:35:07

historic play with, with, with

00:35:09

exit, but, but, but, but

00:35:11

emphasizing efficiency. And I think

00:35:15

it's something you can say

00:35:16

at the first session, even

00:35:18

if you perceive that the

00:35:19



parties are, you is the

00:35:21

tribunal to send the signal

00:35:23

and often. What we're doing

00:35:24

is nudging after all, they're

00:35:27

there. They've appointed us decide

00:35:30

the case. We need to

00:35:31

let them do their case,

00:35:33

the parties, as, as as

00:35:35

they see fit to up

00:35:38

to a large extent. And

00:35:40

you don't want to be

00:35:41

cramming things down to specially

00:35:43

at the very beginning. But

00:35:46



but neither do you have

00:35:47

to go on out at

00:35:47

2 to let them just

00:35:50

drive the process or or

00:35:52

let them do whatever they

00:35:54

do. So use PO. Number

00:35:56

one, use that for session

00:35:58

to fill everything out. As

00:36:01

I said you can certainly

00:36:02

smoke out whether there's likely

00:36:04

to be a request for,

00:36:05

but bifurcation in a number

00:36:07

of extreme cases. I've done,

00:36:08



we had to Alternative calendar

00:36:10

presented to the parties at

00:36:12

the beginning. One that envisions

00:36:13

bifurcation one that doesn't, is

00:36:16

kind of a pain in

00:36:17

the neck, but on the

00:36:19

other hand, if you end

00:36:20

up by 4 kidding, and

00:36:21

you don't know what that

00:36:22

stage, whether you're going to

00:36:24

buy for cake. If you

00:36:25

end up bifurcating. And then

00:36:26

you find out, you're looking

00:36:28



at another three years before,

00:36:29

you can find a hearing

00:36:31

date because you had your

00:36:33

down the road in calendar.

00:36:34

So filled up, you're better

00:36:36

off trying to nail that

00:36:37

down at the beginning and

00:36:38

you can send the message

00:36:39

that you want to do

00:36:40

it efficiently. So so do

00:36:42

as much as you can.

00:36:44

With the calendar, talk to

00:36:46

them about the document production

00:36:48



process, cuz I think that

00:36:49

that's a stage of great

00:36:52

frustration for pretty much everybody

00:36:55

in it in the whole

00:36:58

process. How can we focus

00:36:59

that out and we can

00:37:01

press that page limits kind

00:37:03

of a hopeless topic. I

00:37:04

don't think anybody's going to

00:37:05

agree to page limits and

00:37:07

that's only the very beginning.

00:37:09

But I think you was

00:37:10

the arbitrator's can say, no,

00:37:13



we are concerned about the

00:37:15

deficiency. We want you to

00:37:16

think about how you focus,

00:37:18

you can schedule, Midstream cmc's,

00:37:21

which other institutions are encouraging.

00:37:24

And I think it's the

00:37:26

newest should rules and courage

00:37:27

and that's a good thing.

00:37:29

That's a good thing. I

00:37:32

love the fact that it's

00:37:33

the doesn't have terms of

00:37:34

reference because the icc's thinking

00:37:36

about getting rid of terms

00:37:37



of reference because that that's

00:37:39

something that you have to

00:37:40

take a lot of time

00:37:42

and do they We got

00:37:44

some people there who may

00:37:47

be wedded the terms of

00:37:48

reference. I'm not opposed to

00:37:49

that. Are they would it

00:37:53

be more efficient to come

00:37:54

up? Midstream with us, Focus

00:37:56

issues list and try to

00:37:58

give some feedback as to

00:38:00

what you might really try

00:38:01



to try to focus on

00:38:02

in the remainder of the

00:38:03

case. So those are some

00:38:05

things that I think you

00:38:07

can do to set it

00:38:08

to nudge and, and to

00:38:11

try to build in even

00:38:13

if their early stage where

00:38:15

you don't know very much

00:38:16

that you don't know enough

00:38:18

to really do anything. Dramatic,

00:38:19

and you shouldn't do anything.

00:38:20

Dramatic. You can still do

00:38:22



things that may help you

00:38:23

down the road. Thank you

00:38:26

so much as a scratch

00:38:31

on this development. Is healthpointe,

00:38:38

does anyone else have any

00:38:39

specific ideas? They want to

00:38:41

share regarding, yes, I want

00:38:49

to share two point one

00:38:52

on the right side and

00:38:54

want him to miss. I

00:38:55

hear well on the bright

00:38:57

side recently. I had an

00:39:02

encouraging experience which was the

00:39:04



first skin in almost thirty

00:39:06

years of practice in this

00:39:07

field. That was that the

00:39:09

parties agreed on the number

00:39:13

one and just send it

00:39:14

to the tribunal saying this

00:39:15

is it Do you have

00:39:21

any questions? If you have

00:39:22

any questions that have been,

00:39:23

okay then what are we

00:39:25

going to talk about during

00:39:26

our first session? So that

00:39:28

is a really encouraging sign.

00:39:30



But it's a first on

00:39:32

the gloomy side. my view

00:39:36

is that one of the

00:39:38

founding principles of arbitration is

00:39:41

the principle of equality farms,

00:39:42

and it has been violently

00:39:46

broken in relation to the

00:39:48

equality Farms between the parties

00:39:50

in the yard, You have

00:39:53

teams of thousands of Lloyd

00:39:55

each side and you have

00:39:57

VIP traits of each, one

00:39:58

of them has to review

00:40:00



the records and I actually

00:40:03

am not going to spend

00:40:04

the time. I have to

00:40:06

be looked at Recent of

00:40:09

Nacho recent a few thousand

00:40:11

cases that I've had as

00:40:12

an arbitrator. And there are

00:40:14

cases with over 2,500 written

00:40:19

over 50 witness statements including

00:40:23

of course, the bathroom, over

00:40:25

13 x Pursuit 4000 and

00:40:30

the arbitrator's of course, I'd

00:40:32

expect to reveal that sinjon

00:40:33



top of the Rex, where

00:40:36

is the College of arms.

00:40:37

It's, it's nowhere in the

00:40:39

relation between an English between

00:40:41

the address to the party

00:40:42

and I think that the

00:40:45

first session is the time

00:40:46

to put this issue on

00:40:47

the table and explain to

00:40:49

the park is that it

00:40:50

is in their interest to

00:40:51

stick to an efficient process.

00:40:55

I actually am a fan

00:40:58



of facial image. I think

00:41:00

we can talk later about

00:41:01

whether it's the first session

00:41:02

where you can impose them

00:41:05

or or suggested maybe maybe

00:41:07

later, but I think the

00:41:09

age limit should be on

00:41:11

the table and I also

00:41:12

went back and looked at

00:41:13

cases that I argued this

00:41:16

Council some thirty years ago.

00:41:18

My first two cases of

00:41:20

spousal exceeded 100 page, and

00:41:24



Justice was done. They're just

00:41:31

want to come in the

00:41:31

document production in procedure. Other

00:41:33

number one, the referee schedule

00:41:36

is one of the most

00:41:37

sophisticated instruments of torture. And

00:41:42

I think the idea guidelines

00:41:45

or rules on The Taking

00:41:46

of evidence are not sufficient.

00:41:48

So, it is worth, it

00:41:51

is worth it, to put

00:41:52

it to your other. Number

00:41:53

one, narrow down any cases

00:41:56



of objections, the types of

00:41:57

decision-making reference, just an open

00:42:01

reference to the IPA rules.

00:42:04

I don't think that's sufficient.

00:42:05

That is something that makes

00:42:09

very efficient issue Back in

00:42:10

Black. Thank you. And that

00:42:15

not to put you on

00:42:15

the spot too much Lindsay

00:42:16

with a very specific question,

00:42:18

but would it be helpful

00:42:19

if you could have cold

00:42:20

the recommendations that will made-it

00:42:22



the LCA Round Table specifically

00:42:24

on page limit production? And

00:42:29

I think those things that

00:42:31

you were more forceful, non

00:42:39

autopilot, tribunal's a lot of

00:42:41

the the recommendation. I'm particularly,

00:42:44

thank you again, for raising

00:42:45

one of them, which would

00:42:47

go into p01. And it's

00:42:49

essentially just something that says,

00:42:51

look, we are going to

00:42:53

be a proactive tribunal, right?

00:42:55

Does that have any of

00:42:57



those that have any legal

00:42:58

effect? You know that it's

00:43:00

a bit again about getting

00:43:02

the idea that we are

00:43:04

empowered. Everyone is here. We're

00:43:05

at the first session and

00:43:06

where it telling you that

00:43:08

you know, we're not going

00:43:09

to deal with a 350

00:43:12

page Redfern. I wish it

00:43:15

was only 450, we're not

00:43:18

going, and that's what that

00:43:20

is. That's what that's about

00:43:22



page, limit and know that

00:43:24

it's a divisive issue. But

00:43:27

I think we came out

00:43:28

from that discussion, very much

00:43:30

in favor of page limit.

00:43:31

You constantly are hearing that

00:43:34

in courts and post page

00:43:35

when it's, there's just simply

00:43:36

no reason. And it says

00:43:40

is so important, we're getting

00:43:42

beyond the limits of human

00:43:43

capacity when you're starting to

00:43:46

submit. I mean, I have

00:43:47



a cheese with 100,000 exhibit.

00:43:50

You couldn't even download bich

00:43:53

on my computer. I'm not

00:43:56

joking. I mean, it's just

00:43:57

you can't do that until

00:44:00

it doesn't make sense in

00:44:01

the job of council is

00:44:02

to make it make sense.

00:44:03

So yes soap age limits,

00:44:06

there was a big point

00:44:09

there and I adore. The

00:44:12

idea of not sensitive, putting

00:44:15

a reference of into the

00:44:17



P0122, the IBA rules, but

00:44:20

setting out the rules, in

00:44:22

the order and shows which

00:44:24

shows a dedication, these are

00:44:26

going to be applied. It's

00:44:28

not as I think really

00:44:29

important as well. And just

00:44:30

a shout out for the

00:44:32

exam review. There is also

00:44:34

a, we have a practice

00:44:36

notes section in the extra

00:44:37

grab you and we have

00:44:39

a wonderful wonderful article on

00:44:41



document production and how we

00:44:43

might streamline that and get

00:44:45

away from the torture of

00:44:46

the reference schedule. Hydroshot Russian

00:44:50

singer. Thank you so much,

00:44:54

listen to mention case management

00:44:57

conferences and as she she

00:44:59

indicated we have introduced to

00:45:02

a mandatory requirement for National

00:45:06

Conference as if you how

00:45:24

have you met stream cmc's

00:45:27

to effectively really Advanced cost

00:45:30

efficiency and what do you

00:45:32



think of the best practices

00:45:33

for us both to instigating

00:45:36

in the first instance of

00:45:37

such conferences? It is no

00:45:43

one-size-fits-all when, of course, cases

00:45:46

are different, but there's a

00:45:47

general matter. I'm a big

00:45:48

fan of mixed stream cmch

00:45:54

has significant advantages in terms

00:45:56

of improving the efficiency of

00:45:58

the process. Perhaps I should

00:46:02

start with that but it's

00:46:03

an important point. It helps

00:46:05



discipline the arbitrary others because

00:46:07

he had betrayed us have

00:46:09

to be prepared for the

00:46:10

Midstream CMC. They have to

00:46:13

review the records after the

00:46:15

first round of written submissions,

00:46:17

that have to mow the

00:46:17

case so that they can

00:46:19

interact with the party in

00:46:21

a minute away. It also

00:46:23

in my experience, tremendous that

00:46:26

helps Focus the parties. They

00:46:29

hear from the arbitrator in

00:46:33



the view of the tribunal

00:46:34

at that point in time

00:46:35

are the real issues in

00:46:38

dispute between the parties water,

00:46:39

tripping, and wants to focus

00:46:40

on, and therefore wants to

00:46:42

the parties to focus on

00:46:44

it. In my work is

00:46:47

count. So I would die

00:46:48

to have the tribunal share

00:46:50

with me what their views

00:46:52

of the case. For issues

00:46:53

are interested in. What is

00:46:55



Ruth are less interested. Even

00:46:57

if Council disagrees with the

00:46:59

assessment of the case of

00:47:01

that point in time, it

00:47:02

gives Council the opportunity to

00:47:04

explain to them if I'm

00:47:07

paying less attention to certain

00:47:09

point and why they should

00:47:11

pay more attention is invaluable

00:47:13

feedback. The tribunal gifts the

00:47:15

council but it also helps

00:47:17

you go because Council understand

00:47:20

what the tribunal sees as

00:47:23



the I wish you sing

00:47:24

the case. That's where I

00:47:26

think it is. More than

00:47:27

appropriate in many cases. Please

00:47:29

to put this your page

00:47:31

limit. With respect to the

00:47:33

second round of written submissions,

00:47:34

on the table. That's where

00:47:36

all so you can put

00:47:37

on the table. Do should

00:47:39

witness testimony weather to be

00:47:41

no one wants to hear

00:47:42

from witnesses to the terminal.

00:47:45



Now knows our key players

00:47:46

who have not submitted and

00:47:48

whether to be. No, he's

00:47:49

really keen on sharing the

00:47:53

oral testimony of a witness

00:47:55

told, the tribunal believes his

00:47:57

oldest can streamline. The second

00:48:00

round, written submissions, and in

00:48:03

line with you again in

00:48:07

general, terms are one The

00:48:12

park is need to have

00:48:13

opportunity to present its case.

00:48:15

In this may affect that,

00:48:17



right? And then the parties,

00:48:19

of course, have the right

00:48:20

to present their case as

00:48:22

they see fit. But I

00:48:25

called upon to do, that

00:48:30

is useful to them to

00:48:32

hear the views of the

00:48:33

tribunal and work. If necessary

00:48:35

to change the font is

00:48:39

right, to present their cases.

00:48:41

That is, if it does

00:48:42

not infect all the time,

00:48:46

everyone plays a role in

00:48:49



shaping, how the party should

00:48:51

present their cases. And so

00:48:53

I don't see the case

00:48:55

management conference in between the

00:48:59

two rounds of admissions as

00:49:00

interfering with any party, right?

00:49:03

In terms of you crossing

00:49:04

the one more serious concern,

00:49:08

Which I hasten to say.

00:49:11

I also disagree, is that

00:49:15

it and it's a concern

00:49:16

by many arbitrators. I think

00:49:18

it is those who shared

00:49:20



that with me is that

00:49:21

we don't want the parties

00:49:22

to believe that the tribunal

00:49:26

has already that we have

00:49:27

already made up our minds,

00:49:29

but that can be handled

00:49:31

in a, in a way,

00:49:34

where the tribunal explains the

00:49:36

party's, these are tentative used.

00:49:39

This is what me understand

00:49:40

about. The case from the

00:49:41

first round of the reasons

00:49:43

we haven't made up our

00:49:44



minds to talk to you

00:49:45

to work on making up

00:49:48

our minds after the second

00:49:50

round with the submission but

00:49:51

it's used it stereoscope. I

00:49:53

think to the parties to

00:49:54

know where Trevino stand after

00:49:57

the first round and so

00:50:00

I generally in case management

00:50:03

conference is very useful. Separately

00:50:07

from a CMC relating to

00:50:09

document production, which may be

00:50:11

a more narrowly focused. Thank

00:50:15



you in a vacation. I

00:50:21

think it's an open area

00:50:22

where we institution. Another procedure

00:50:31

is done. Tried other procedural

00:50:40

applications. I talk sometimes time.

00:50:43

And these can have the

00:50:44

potential to significantly or escalation

00:50:49

to an expensive suit. You

00:50:54

could share about the best

00:50:56

way to address. Proceed replication.

00:50:59

Eva bounce getting a friend

00:51:01

or just as they arise

00:51:07

in the closest gas station?

00:51:10



Thank you. And why don't

00:51:12

I give two points they

00:51:13

won extension. 16 posts. Oh

00:51:15

and my first point goes

00:51:18

back to exactly what we've

00:51:19

already been talkin about and

00:51:20

it was back to the

00:51:21

first song I am you've

00:51:23

already said you know that

00:51:24

this is a stage where

00:51:26

the tribunal doesn't know anything

00:51:27

about the case. The dove

00:51:30

in there might be a

00:51:30



balance between the parties as

00:51:34

well with the same as

00:51:35

having had so much time

00:51:37

with the case and it

00:51:37

was fun and proceedings that

00:51:39

it's a bit different. But

00:51:41

so we have all of

00:51:42

these things going on. But

00:51:44

you know what? You can

00:51:45

do as a tribunal, you

00:51:47

can ask, you can just

00:51:49

ask. And I think that

00:51:51

is, there is so much

00:51:52



fear around looking, as though

00:51:55

you're trying to force the

00:51:57

parties, too hard or the

00:52:00

info. When you have a

00:52:02

session, the tribunal can ask

00:52:04

the parties, do you foresee

00:52:05

making any Interim applications anytime

00:52:10

soon or easily foreseeable and

00:52:12

listen to mention bifurcation. This

00:52:14

is this is something that

00:52:16

is so frustrating. When there's

00:52:20

there's just no information given

00:52:22

you're not saying that you

00:52:23



need to reveal your strategy,

00:52:24

or make a decision right

00:52:25

there at that stage, but

00:52:27

I signed that just by

00:52:28

raising the issue. Even if

00:52:30

parties are not willing to

00:52:33

State any in any definite

00:52:36

way, what they plan to

00:52:37

do it, you can get

00:52:38

some information that gets the

00:52:40

conversation going and that will

00:52:42

help you when you need

00:52:43

to prepare the procedural calendar.

00:52:47



See what kind of leeway

00:52:48

you might need in there.

00:52:49

If you feel things are

00:52:50

coming and sometimes parties will

00:52:51

just stay because they are

00:52:54

not trying to hide anything,

00:52:55

right? And my point is

00:52:57

simply doesn't hurt to ask,

00:52:58

but it's pretty simple. And

00:53:01

then expose, which also ties

00:53:04

into something we talked about,

00:53:05

which is the case management

00:53:06

conference, You know what happens

00:53:11



with the interim application. Like

00:53:13

you get the application you

00:53:15

right away. Okay, well, I'm

00:53:16

inviting comments and X days

00:53:18

then you get the comments

00:53:20

and then the applicants that's

00:53:21

old. I need to respond

00:53:23

and then there's no and

00:53:24

then suddenly you are in

00:53:26

a war of written submissions,

00:53:29

and you don't. It's very

00:53:31

difficult to stop that. And

00:53:33

so what I find very

00:53:34



useful is when you sense

00:53:37

that it's going to be

00:53:38

more than something that can

00:53:39

just be decided on one

00:53:40

round of submissions is to

00:53:43

have a CMC and to

00:53:45

avoid scheduling problem and to

00:53:48

make it less formal. I

00:53:50

learn something. From my, my

00:53:51

mentor, Lucy Read, which is

00:53:53

the idea of just having

00:53:55

the chair Call counseling for

00:53:59

informal. We can use without

00:54:02



prejudice even 4 to call.

00:54:04

And I don't know if

00:54:05

I should check, but I

00:54:06

called the mommy conference. Because

00:54:08

essentially, you did you call

00:54:11

it really lowers the temperature

00:54:12

right now. We understand there's

00:54:16

an issue here. What is

00:54:17

it? Tell me what the

00:54:19

issue is and how can

00:54:20

the tribunal help get this

00:54:22

resolved and you'll be shocked.

00:54:24

You are shocked at how

00:54:25



the party is. Well sort

00:54:28  
of all of the vitriol

00:54:29  
that started this stuff's the

00:54:32  
submission but it goes to

00:54:33  
the side when everybody is

00:54:34  
face-to-face on zoom and it

00:54:37  
doesn't always work but I

00:54:38  
think it can be really

00:54:38  
effective. It may not resolve

00:54:41  
the substantive issue that's at

00:54:43  
play, but it will, at

00:54:44  
least give the chair of

00:54:46  
a sort of vision of

00:54:48



how to best deal with

00:54:49

it without it. Going off

00:54:50

the rails in my work,

00:54:55

it says it's at the

00:54:58

very least take the heat

00:54:59

out of the conversation progressed.

00:55:05

So we'll just to say

00:55:07

kisses are so I have

00:55:11

cases where there are no

00:55:13

procedural applications to speak of

00:55:16

it. I have had cases

00:55:17

where there's just a torrent,

00:55:19

how you keep it under

00:55:21



control, you can't foresee all

00:55:23

of them agree with. You

00:55:24

should ask if the initial

00:55:26

e. What's for seeing that

00:55:28

off of they tell you

00:55:29

even if you don't have

00:55:29

not just by for caitian.

00:55:32

But but but but that

00:55:34

we're going to see. Provisional

00:55:35

measures are there going to

00:55:37

be? So I don't think

00:55:40

you can. Toradol, but you

00:55:42

can develop a try to

00:55:43



develop, tries to cease to

00:55:45

keep it under control. And

00:55:46

I think that's, that's really

00:55:48

the key. No unsolicited submissions.

00:55:50

Do you get in this

00:55:53

war of words? And you

00:55:54

got to put a stop

00:55:54

to that decided when one

00:55:57

round is enough. And and,

00:55:59

and, and deaf, because two

00:56:02

rounds does, stretch it out.

00:56:04

Those are the kinds of

00:56:06

things. I think you can

00:56:07



do. Thank you, so we've

00:56:09

resolved, our issues are submissions

00:56:12

are in and then we

00:56:13

moving towards the Herring. And

00:56:14

I, I know a lot

00:56:15

of us with an advanced.

00:56:21

The application that can often

00:56:22

generated significant portion of arbitration

00:56:24

cost both during the time,

00:56:29

the implements were observed that

00:56:34

have successfully reduced hearing duration,

00:56:36

and, and cost to maintain

00:56:39

a hearing a group of

00:56:45



colleagues and friends. Here, it

00:56:54

seems to have to close

00:56:55

the gap between civil law

00:56:59

way of conducting arbitration on,

00:57:01

Louis. And finally, it seems

00:57:04

to be acceptable. That's the

00:57:09

correct way to. We're going

00:57:12

to be in connection with

00:57:13

the shooting itself. Number one,

00:57:15

what you doing procedural or

00:57:16

their? Number one, will be

00:57:17

back there. Here in a

00:57:19

very strict procedure. You close

00:57:24



Avenue in procedural order. Number

00:57:26

one, that's what my issue

00:57:28

is the second issue. One

00:57:33

of the things I've done

00:57:34

is to set a minimum

00:57:36

time. He's in the last

00:57:39

mission and a hearing for

00:57:41

the tribunal's, have the opportunity

00:57:43

to read prepare and have

00:57:46

a meaningful procedural. Call for

00:57:50

the preparation to hear. You

00:57:53

see cases where the parties

00:57:54

to meet you at 5

00:57:56



months, 8 months for the

00:57:58

for the year that Shaq

00:58:00

and submission of each party.

00:58:01

And then heat index for

00:58:02

the hearing, I have included

00:58:08

them. The procedure orders language

00:58:10

to be affected if the

00:58:11

parties where to agree to

00:58:13

move it, move it. Move

00:58:14

the calendar. Then don't even

00:58:15

know who have to move

00:58:16

in here. Because that's the

00:58:18

only way you have room

00:58:20



to put the third thing

00:58:23

is that the pre-hearing conference

00:58:25

should not be limited to

00:58:27

strictly procedural. She's what you

00:58:29

see normally eats at a

00:58:31

freaking conference for the parties

00:58:32

discussed. How many time will

00:58:35

the witness be cross-examined a

00:58:38

home in time for the

00:58:39

opening of Sarah? You have

00:58:41

to go and I was

00:58:43

a hard that you could

00:58:45

ask the parties are examples

00:58:46



for skeleton brakes. And I

00:58:48

think they are very helpful.

00:58:49

Particularly when you have extensive

00:58:51

information for the parties which

00:58:52

is of course if you

00:58:55

have not put limits on

00:58:58

on pages, s up under

00:59:01

the guidance, which is something

00:59:03

that we have heard on

00:59:05

the table, repair a joint

00:59:09

list of issues, a joint

00:59:10

list of keys, under the

00:59:13

direction of the guess, whatever

00:59:16



the tissues are. Without advancing

00:59:19

with a tribunal may be

00:59:21

deciding but at least give

00:59:23

the part is a list

00:59:24

of relevant issues and lists

00:59:26

and possible in the order

00:59:28

of relevance that the tribunal

00:59:29

see, purposes of Vick's to

00:59:36

interact with the experts and

00:59:39

see if it's possible to

00:59:40

have a meeting up here.

00:59:41

So that the expert at

00:59:42

least agree in there, openings

00:59:45



to fuck was on, what

00:59:47

are the key issues in

00:59:48

which the reports? The fur

00:59:50

I supposed to have a

00:59:51

45-minute presentation, which they will

00:59:54

repeat, what they have told

00:59:55

you a hundred times. Short

01:00:01

openings that we had a

01:00:03

case where the parties asked

01:00:05

or 5 hours opening each,

01:00:07

it was a very complex

01:00:09

case. You are a very

01:00:10

long case. And after engaging

01:00:14



with the parties, we ended

01:00:15

up with something that works

01:00:17

great with a very experienced.

01:00:20

It was 2 hours, opening

01:00:22

each and then 15 minutes

01:00:24

in the opening birthday, in

01:00:26

which the parties going on

01:00:27

after the funeral all the

01:00:28

time and eat a lot

01:00:30

of party Supercenter case. That's

01:00:32

represent their kids in a

01:00:33

meeting in a permanent I

01:00:34

love, but the tribunal as

01:00:36



opposed to having somebody listen

01:00:38  
to a lawyer for 5

01:00:39  
hours, which is what I

01:00:41  
want come into now. The

01:00:47  
meeting of the expert is

01:00:48  
important because that the truth

01:00:50  
that the experts tend to

01:00:52  
talk to each other. Now,

01:00:53  
to the tribunal what the

01:00:55  
expert makes presentation and talks

01:00:57  
to the other experts, the

01:00:59  
meeting of the experts and

01:01:00  
if yes, press agree on

01:01:01



the TV shows that would

01:01:02

be extremely helpful and then

01:01:07

The tribunal should be extremely

01:01:09

practice, don't be shy. And

01:01:11

intervening, there are times with

01:01:13

you as a chair. For

01:01:14

example, you see an obvious

01:01:16

objection and it supposed to

01:01:17

waiting for the objections. You

01:01:18

come from the outside, but

01:01:21

I'm not going without a

01:01:22

question. Just leaving, I'm not

01:01:24

going to that's not it

01:01:26



supposed to be waiting for

01:01:28

for the parties to to

01:01:29

start in The NeverEnding discussion.

01:01:31

And last but not least,

01:01:35

I think the tribunal to

01:01:36

Dan should sometimes intervene with

01:01:38

Blue October. Because there are

01:01:41

times when the witness is

01:01:44

simply wasting time, the time

01:01:46

of the party, the part

01:01:47

of the freaking evading, the

01:01:48

question and then I think

01:01:50

and sometimes lawyers do not

01:01:52



like it, but I think

01:01:53

that you're going to shoot

01:01:54

at that time intervene until

01:01:56

the witness. We need a

01:01:57

response from you. This is

01:01:58

there other issues and I'm

01:02:03

not going to be seeing

01:02:06

more and more like, for

01:02:07

example, what does the tribunal

01:02:09

to call witnesses under the

01:02:11

control of a party? The

01:02:13

party has not called in.

01:02:15

There are key for the,

01:02:16



I think, the tribunal can,

01:02:18

sometimes should. But, again, there

01:02:22

there because lawyers some lawyers

01:02:25

and you see lawyers from

01:02:26

the preceding of counsel, you

01:02:30

call the witness on the

01:02:33

other side that we've done

01:02:34

that under control and doing

01:02:38

things like for example, The

01:02:40

witness has to submit a

01:02:44

written statement with questions posed.

01:02:46

And if you get a

01:02:47

note and they're both artists,

01:02:48



have the right to prosecute

01:02:49

has allowed the parties to

01:02:55

have a witness. It is

01:02:57

very frustrating during arbitrators. And

01:02:59

you see the parties mentioning

01:03:01

it has little or no.

01:03:12

Have to say for now,

01:03:13

thank you very much. And

01:03:17

one of the only ones

01:03:24

that, you know, if I

01:03:25

could ask you, but your

01:03:27

parents always be reduced costs

01:03:29

and increasing scheduling hearing. How

01:03:32



do you view at this

01:03:33

point, 2025 the balance between

01:03:36

virtual hybrid in person, Herring

01:03:38

going for and how do

01:03:40

you say tribunal should balance,

01:03:41

the cost and efficiency gains

01:03:43

against Steve benefits? What this

01:03:50

rain eases the tension again,

01:03:51

if this is sufficient CM

01:03:56

cost exercise, I think after

01:03:58

our experience during covid, we

01:04:00

all know we can do

01:04:02

a very efficient and property

01:04:04



during a week-long here into

01:04:06

weeklong. Hearing all virtually, maybe

01:04:09

not comfortable with or what

01:04:11

we like. I know in

01:04:13

2020 and 2021 at 6

01:04:15

here and go very long,

01:04:17

here it and they went

01:04:20

out. I had a great

01:04:21

experience to channel off without

01:04:23

a hitch. I think some

01:04:25

people had some bad experiences.

01:04:25

I don't think it's just

01:04:27

kind of thing so you'll

01:04:29



see a difference of opinion

01:04:30

I think in the community

01:04:32

but I think that's clearly

01:04:35

the way we can go.

01:04:37

It said they're going to

01:04:38

the other hand. There's a

01:04:39

very strong argument for in-person

01:04:42

hearing, but I think many

01:04:43

of us prefer that in

01:04:45

and we'd basically gone back

01:04:47

to in person hearing For

01:04:49

the, for the very reason

01:04:50

that arbitration is a human

01:04:53



endeavor. It's not something I

01:04:55

think that is ideal in

01:04:57

a virtual setting. We'd like

01:04:59

to see people. We like

01:05:00

to see the witnesses would

01:05:02

like to see Council arbitrators

01:05:04

lights deliberate with other human

01:05:05

beings in a room have

01:05:07

dinner talk over the case.

01:05:08

I think that's part of

01:05:11

the process and I think

01:05:13

that goes back to the

01:05:14

beginning of time terms of

01:05:16



dispute resolution and so I

01:05:18

think we're were actually despite

01:05:20

our experience with kovid, we're

01:05:22

still at early days relatively

01:05:24

with that. But I think

01:05:26

at the very least it

01:05:28

should unlock are prejudiced, against

01:05:31

being efficient about how we

01:05:33

deal at least with, which

01:05:35

has an expert and if

01:05:36

there's a witness or an

01:05:37

expert that perhaps doesn't have

01:05:40

a statement or is, you

01:05:41



know, not a priority allowing

01:05:44

a hybrid examination, would be

01:05:47

appropriate. Process. I think many

01:05:51

of us would still like

01:05:52

the main Witnesses in the

01:05:53

main experts would like to

01:05:54

see them, but I think

01:05:56

there's a balance and I

01:05:58

think we should all be

01:06:00

touched that we're all Pros.

01:06:01

We all know how it

01:06:02

works. So we should embrace

01:06:04

our our covid mindset in

01:06:07



our experiences and try to

01:06:10

alleviate some of those costs.

01:06:12

And I think that's a

01:06:15

valid obviously about it objective

01:06:19

and 1/2 more often. Thank

01:06:25

you so much. The hearing

01:06:25

is out of the three

01:06:27

of us during briefing how

01:06:36

that impacts the time and

01:06:38

cost efficiency proceedings. Thank you,

01:06:46

Adam. Let me just say

01:06:47

on the previous Point haven't

01:06:50

been through a number of

01:06:51



Bristol hearing as, as as

01:06:52

probably, many of you have

01:06:54

in this room. Speaking from

01:06:57

a tribunal perspective, I think

01:06:59

it's far preferable for the

01:07:01

tribunal to be together for

01:07:04

a year. And I think

01:07:05

there's just so much more

01:07:07

productive development of of the,

01:07:10

of the thinking of the

01:07:12

tribunal was a hole in

01:07:13

this as a president, your

01:07:14

understanding where where the wings

01:07:16



are and whatnot, is enhanced

01:07:19

materially if you're in the

01:07:21

same place. So I'll just

01:07:23

put that on the table

01:07:23

polish to English. Ocean Breeze.

01:07:28

Can of course turn into

01:07:29

a major exercise that has

01:07:31

an impact on the cost

01:07:33

and efficiency of the preceding

01:07:35

and may or may not

01:07:39

be that productive. So so

01:07:42

if you have opening and

01:07:44

closing statements in the hearing

01:07:45



that cuz you're pretty good

01:07:47

with the case you don't

01:07:49

need to repeat. That was

01:07:50

from an arbitrator's perspective. Having

01:07:52

something that simply highlights what

01:07:54

came out of the hearing

01:07:55

from a party perspectives Beyond

01:07:57

what's in the closing statement.

01:07:59

May also not be that

01:08:01

much added value to the

01:08:03

tribute of. There's no closing

01:08:05

statements. The picture I think

01:08:06

is potentially a little different,

01:08:08



but but the post here

01:08:10  
in grief stage is 180

01:08:12  
degrees from the stage of

01:08:16  
the case at procedural order.

01:08:18  
Number one at that point,

01:08:20  
the tribunal should be as

01:08:22  
fully she's with the case

01:08:25  
as it's ever. Going to

01:08:27  
be read the submissions they've

01:08:30  
heard from the party. They

01:08:31  
know where should know what

01:08:33  
their concerns are post-hearing bridge.

01:08:40  
But at least in my

01:08:41



experience there often content to

01:08:44

focus on whatever questions the

01:08:46

tribunal has for them at

01:08:48

that point and focus focus,

01:08:52

any submissions on those specific

01:08:55

questions. And and one thing

01:08:57

I found works pretty well

01:08:59

in the tribunal May at

01:09:00

the end of the hearing

01:09:01

already know what their questions

01:09:03

are. They may be formulating

01:09:05

the questions just I don't

01:09:06

want but but sometimes tribunal's

01:09:09



want to reflect and digest

01:09:10  
a little bit. So it's

01:09:13  
also a useful thing to

01:09:17  
have the tribunal have a

01:09:19  
day of deliberations, developed a

01:09:21  
list of questions then and

01:09:23  
then go back to the

01:09:23  
parties and say okay here's

01:09:25  
what we find. Helpful for

01:09:27  
you to focus on. Now,

01:09:28  
if you want to do

01:09:29  
something different, that's fine. But

01:09:31  
this is also a time

01:09:33



when You can talk about

01:09:37

the age limit because people

01:09:39

are pretty exhausted, especially if

01:09:41

you do it right at

01:09:42

the end of the hearing

01:09:43

and, and and their budgets

01:09:46

may be exhausted. So it's

01:09:49

is it it's it's a

01:09:50

time when I found there's

01:09:51

a lot of receptivity to

01:09:54

to really trying to talk

01:09:56

to limit. What is submit

01:10:00

it? And if they feel,

01:10:02



they've really been heard during

01:10:03

the hearing, which I think

01:10:04

is the key goal from

01:10:06

the tribunal's perspective, they may

01:10:08

not feel, they need to

01:10:09

hammer on all the same

01:10:11

points against all. Those are

01:10:13

some thoughts on post, you're

01:10:15

in because I'm just curious.

01:10:15

If anybody here in the

01:10:17

audience love poster in grief

01:10:20

But I thought, if I

01:10:24

may add, very quickly. I

01:10:30



agree that the tribunal has

01:10:32

the discretion to subpoena Witnesses

01:10:35

within the control. The part,

01:10:36

you said, depending on the

01:10:37

case on the specific exercise

01:10:41

that are appropriate, but we

01:10:43

also, I have to press

01:10:48

this my point by saying

01:10:50

again. There's no one size

01:10:52

of his call, but the

01:10:53

general manager, I'm a fan

01:10:55

of Auto closing arguments, you

01:10:59

not to repeat everything that

01:11:01



we present her, but to

01:11:03

summarize, I find it very

01:11:06

useful for a summary of

01:11:10

what happened at the hearing

01:11:12

and how what happened at

01:11:14

the hearing show their case.

01:11:16

I'll because I think this

01:11:17

is a great value of

01:11:19

Great Value to Pulsating Brees

01:11:23

wide variety of views among

01:11:29

arbitrators of what they should

01:11:31

be on the end of

01:11:33

the spectrum. Center said, Trevino

01:11:35



asked questions whether orally or

01:11:37

in writing in the parts

01:11:38

are not simply to address

01:11:40

of questions with a basement.

01:11:41

At the other end of

01:11:43

that Spectrum, are some Filipino

01:11:46

soup. Before. The park is,

01:11:48

putting a post getting brief

01:11:50

summary of their whole case.

01:11:52

For he's afraid, Again, no

01:11:56

one-size-fits-all and it depends on

01:11:59

the specifics of the case.

01:12:00

I'm not going to take

01:12:02



a general position on that.

01:12:03

All I want to say

01:12:05

is it to me is

01:12:06

key. Plus the parties agreed

01:12:08

on what they think is

01:12:10

useful for showing how they

01:12:12

feel about you including page

01:12:14

limits A few more topics

01:12:18

before I change the number

01:12:19

545. So, once the hearing

01:12:26

is John outfits, turn, Grace's,

01:12:28

they coming in has come

01:12:29

in. That, of course, is

01:12:30



not in the process for

01:12:31

the tribunal and stayed this

01:12:33

phase of the proceedings deliberations.

01:12:35

The hopeful reaching of the

01:12:36

consensus in the progression of

01:12:38

wood, can be some of

01:12:40

the most time intensive for

01:12:41

the tribunal other than the

01:12:42

Herring can I ask you

01:12:45

if there are as many

01:12:47

as president and I would

01:13:04

love to hear from everyone

01:13:05

at the table on this

01:13:06



actually because I think it's

01:13:07

an ongoing discussion and it

01:13:09

is a specific but I

01:13:10

think everyone sort of has

01:13:11

their own style. I'm sorry

01:13:13

to do this but I

01:13:14

do what I just want

01:13:15

to say something about the

01:13:16

first hearing brief issue a

01:13:17

release that one issue. Particularly

01:13:26

when they're voluminous and comprehensive

01:13:30

as an arbitrator, I love

01:13:32

that because it's very easy

01:13:33



then to work from that.

01:13:34

But one of the problems

01:13:35

is that it gives the

01:13:39

arbitrator the excuse, not to

01:13:40

think about the case or

01:13:41

however long. It's going to

01:13:43

take that that submission to

01:13:45

be made. And I find

01:13:46

that a little bit difficult.

01:13:47

It's also difficult than, you

01:13:49

know, a huge submission is

01:13:50

coming in when you're at

01:13:51

when everyone sitting together at

01:13:53



the last day of the

01:13:53

hearing and you say in

01:13:55

everyone practices with with this

01:13:56

is my preliminary view. This

01:13:57

is my limit. We have

01:13:58

to wait to get the

01:13:59

poster and commissions. And you

01:14:00

think will we've just sat

01:14:02

through a week of hearings

01:14:03

or two weeks of hearing?

01:14:04

You know, we should go.

01:14:05

There has to be something

01:14:06

there. And I just want

01:14:09



to give a plug for

01:14:10

the to bring bring together.

01:14:12

Some of the questions for

01:14:14

the zoom, closing oral closings.

01:14:17

Just a short period after

01:14:19

the hearing after having received

01:14:21

questions from the parties, my

01:14:23

very favorite way to do

01:14:24

it. Is the tribunal time

01:14:26

to after the hearing sit

01:14:27

down and they have a

01:14:29

goal. Is this is not

01:14:30

simply, how are you feeling?

01:14:31



But they need for pup,

01:14:32  
proposed questions for the parties

01:14:34  
and I think that gets

01:14:35  
you thinking in a more

01:14:36  
serious way. And then it

01:14:39  
goes to the party. The

01:14:40  
party is understand what they

01:14:41  
need to cover, and they're

01:14:42  
closing. And I also, it

01:14:44  
gives you unlike a blistering

01:14:47  
priest. You still have the

01:14:48  
opportunity to engage the council.

01:14:49  
If the question you asked

01:14:51



is not being answered fully,

01:14:52

or if you still have

01:14:54

some clarification, required, can I

01:14:57

put it in that scenario?

01:15:00

Has the that model being

01:15:03

agreed in advance the hearing

01:15:05

at the pre-hearing conference or

01:15:06

ultimately agreed to in the

01:15:08

last day of the year,

01:15:09

has proposed it and had

01:15:12

it and then I have

01:15:17

had experiences where it was

01:15:19

agreed to at the close

01:15:20



of the hearing. And I

01:15:21

think at the clothes at

01:15:22

the hearing, is a time

01:15:23

where everyone has been together.

01:15:25

We all know, you know,

01:15:26

a lot of times people

01:15:27

are more susceptible to suggestion,

01:15:30

particularly when they don't involve

01:15:31

drafting another three hundred page

01:15:33

submission. Exactly. So because I

01:15:37

know a lot of people

01:15:37

want to get it done

01:15:38

and over with, but I

01:15:39



think that that can, that

01:15:41

can be useful on the

01:15:43

deliberations. I really do want

01:15:44

to hear from others, but

01:15:45

I am a huge fan,

01:15:47

just in general, and in

01:15:48

life of decision trees, I

01:15:50

I think they're so helpful.

01:15:53

I, I like to see

01:15:54

submissions that are sort of

01:15:55

designs, like decision trees. It's

01:15:57

really helpful. And so, when

01:16:00

to meet what's obviously, at

01:16:04



the end of the hearing,

01:16:05

they'll be a discussion. As

01:16:06

in temperature taking up the

01:16:07

tribunal's order of General to

01:16:09

give the chairs were General

01:16:10

Vision of where to go.

01:16:11

But what I think is

01:16:15

very useful is to actually

01:16:17

draft all the preliminary parts

01:16:19

of the award before the

01:16:20

main deliberations. So the introductions

01:16:22

the party's position and the

01:16:25

And then include instead of

01:16:27



the analysis, a decision, tree

01:16:29

or decision table where you

01:16:32

can where you can use

01:16:35

that as your guide as

01:16:36

a sort of agenda for

01:16:37

deliberation. And that way it's

01:16:40

I think everyone's really important

01:16:44

and it helps the Corbett,

01:16:45

Raiders engage those preliminary Parts

01:16:47

as well. And make comments

01:16:49

on those who can deal

01:16:50

with those comments and the

01:16:52

the decision tree all at

01:16:54



once. But, you know, there

01:16:56

are many ways to do

01:16:57

this. I'm sure others have

01:16:58

a fuse. Ocean point that

01:17:14

it, interacts, with the whole

01:17:15

poster in Greece process. And

01:17:18

in this goes to, the

01:17:19

ultimate issue of efficiency is

01:17:22

how long will it take?

01:17:23

How long does it take

01:17:25

the war taking, we know

01:17:26

that is one of the

01:17:28

areas and I had to

01:17:29



came up definitely the else.

01:17:30

Yeah yeah and I think

01:17:37

it to have a contrary

01:17:40

position clearly and if you've

01:17:48

already gone through two rounds,

01:17:50

three things and hearing and

01:17:52

hopefully you have standing mirrors

01:17:54

your president and you've done,

01:17:55

you know, that intensive mid

01:17:57

conference 22 actually that Yeah,

01:18:01

I was focusing on issues

01:18:02

to make that hearing most

01:18:04

affected. Then you really need

01:18:06



that third round of three

01:18:08

things and hear it. And,

01:18:10

you know, I'd be in

01:18:11

the situation. One was a

01:18:13

commercial arbitration in which I

01:18:15

think is very concerned about

01:18:17

that. One of the parties

01:18:18

having they're saying they were

01:18:20

very loquacious. They never took

01:18:22

the, you know, they would

01:18:23

have an hour schedule for

01:18:25

3 in a one of

01:18:27

those the council's and are

01:18:29



we had opposed to hearing

01:18:30

many hearing supposed to last

01:18:32

two or three hours, you

01:18:34

know? Just final closing, remarks

01:18:36

note wrap it up in

01:18:38

10 hours long and you

01:18:41

know, that was basically recapping

01:18:44

the whole final hear it.

01:18:46

And it frankly was that

01:18:48

being said, the arbitrator and

01:18:51

I wanted to give everyone

01:18:53

their chance to be heard

01:18:54

and and that was obviously

01:18:59



really inefficient. So you have

01:19:02

this is the balance and

01:19:03

we talkin about Efficiency, do

01:19:05

we need really need, and

01:19:06

I just raised the question.

01:19:07

Three rounds of three things

01:19:09

and submission or should to

01:19:11

be enough. And a couple

01:19:16

of quick pawn shop on

01:19:17

deliberation. Karaoke style in his

01:19:27

MO is so on the

01:19:29

Run end of the spectrum,

01:19:30

the presiding arbitrator wants to

01:19:32



hear the views of Kirk

01:19:34  
arbitrator and then because you

01:19:37  
says, I'll take that home

01:19:39  
and digestive and doesn't state

01:19:42  
that few ever tasted an

01:19:43  
early stage. Allowing the to

01:19:45  
arbitrate us to Century mental

01:19:47  
health issues, which sometimes is

01:19:50  
very helpful and courteous to

01:19:53  
to the Kazakh. Sometimes, when

01:19:55  
I'm sitting at the party

01:19:56  
punch. I'm itching to save,

01:19:58  
okay? Why don't you tell

01:19:59



us your yard so that

01:20:01

we can move forward on

01:20:03

the other end of the

01:20:04

spectrum is after the time,

01:20:09

circulates to the This is

01:20:13

my cue. And in most

01:20:16

cases, this is the cost

01:20:18

to have the traitors if

01:20:19

they disagree, the presiding over

01:20:21

the case. But I prefer

01:20:26

to do what I'm presiding

01:20:27

officer immediately after the hearing

01:20:33

to the extent possible. But

01:20:35



I'm going home, repairing a

01:20:38

paper with its nice. The

01:20:40

TV shows to be side

01:20:41

and whether or not I

01:20:44

would offer some preliminary. Use

01:20:46

depends on the specifics of

01:20:48

the case. May be the

01:20:49

cutest will be lifted from

01:20:50

survivors, have to submit and

01:20:58

tell him. I do believe

01:21:01

that I need to be

01:21:03

decided I would also do

01:21:05

and I can lend to

01:21:07



mention that. It is very

01:21:09

helpful to have the positions

01:21:10

of the partition, the procedure

01:21:12

of History before the deliberation.

01:21:15

I would say it's very

01:21:18

helpful to have them before

01:21:19

the hearing and that they

01:21:21

have to hear from Dave

01:21:23

Browns and the earrings in

01:21:27

after you have that supplement

01:21:35

supplement and then one final

01:21:37

Point. What I do when

01:21:39

I'm parking point is, I

01:21:41



go back home and prepare

01:21:42

for myself a memo to

01:21:45

the file. If you will

01:21:46

remind use images, gospel to

01:21:49

Sherry, helps me realize what

01:21:51

happened because then moms Mako

01:21:53

by and I will forget,

01:21:54

I may or may not

01:21:56

circulating, sometimes you don't want

01:21:59

to have something like that

01:22:04

so that you have the

01:22:05

memory of your views images.

01:22:09

I see you listen to

01:22:11



know you are traitors with

01:22:22

his people that you've seen

01:22:23

is after the witness statements,

01:22:28

have a meeting and before

01:22:29

the experts go, because then

01:22:32

you have some views on

01:22:33

issues that maybe can easily

01:22:35

be agreed upon to be

01:22:37

irrelevant or easily to the

01:22:39

side. So that that's one

01:22:41

thing that I've tried, but

01:22:43

it depends, it depends is

01:22:45

a game, depends too much.

01:22:48



Sometimes, I'm on who you're

01:22:50

sitting. If I could just

01:22:53

build on that because it's

01:22:54

not an entirely dissimilar weight

01:22:57

of it as the president,

01:22:59

I think, unless you're going

01:23:00

to take the more autocratic

01:23:03

approach that stanimir identified. But

01:23:06

but for me the benefit

01:23:08

of The tribunal has three

01:23:10

years that you have three,

01:23:11

and you should get those

01:23:13

you. So, so sitting down

01:23:15



immediately to understand that leaves

01:23:17

pulmonary reactions is actually, is

01:23:19

the president that only helpful

01:23:21

but really quite important. But

01:23:23

I, I think you could

01:23:25

also look for what I

01:23:27

call the low-hanging fruit that

01:23:29

is and then that's similar

01:23:30

to what it said. The

01:23:31

issues that probably could be

01:23:33

easily dealt with. So your

01:23:35

dad are away your list

01:23:36

and you're getting a sense

01:23:38



of what it, what are

01:23:39

the things that are the

01:23:40

trickiest the hardest? Maybe you

01:23:42

have the lease agreement or

01:23:43

maybe you need to go

01:23:44

back but thanks so if

01:23:46

you can do a little

01:23:47

bit of a sorting exercise

01:23:48

pretty quickly and and and

01:23:51

and a reconnaissance exercise I

01:23:54

think that can be a

01:23:55

very useful approach to making

01:23:56

subsequent deliberations more effective. You're

01:24:02



not last couple of minutes

01:24:03

once we have deliberated and

01:24:06

agree. Hopefully we have to

01:24:08

produce. You have to reduce

01:24:10

the this award and I

01:24:11

need size that can be

01:24:12

Lexie and so ask add

01:24:14

water to you wave. A

01:24:25

magic wand to make a

01:24:26

change to what has become

01:24:27

I guess the photo to

01:24:29

the pool exit out of

01:24:31

attrition award and what would

01:24:32



you do to change that

01:24:33

and make it large Route?

01:24:39

59 says a brief summary

01:24:42

of the proceedings on a

01:24:44

brief summary of the submissions

01:24:45

of the parties as a

01:24:47

content to be a word.

01:24:49

The word brief me on

01:24:51

sides short and the word

01:24:53

summary in a brief statement.

01:24:55

So that what is the

01:24:57

breed of a bunch of

01:24:59

sticks? So that's the first

01:25:01



thing that we should consider.

01:25:02

The second thing is that

01:25:04

the traditional structural the award

01:25:06

is Sterling Vision, that is

01:25:08

very difficult to grasp by

01:25:10

the artist because he's the

01:25:11

position of the claimant, the

01:25:13

position of the respondent and

01:25:15

then the tribunal of third-party,

01:25:17

they're out of the blue

01:25:18

saying about change. In a

01:25:26

having the award State, the

01:25:28

issues to be determined. And

01:25:31



then in the siding issue,

01:25:33

I issued stating the position

01:25:35

of the party's position and

01:25:37

decision. In other words, what

01:25:40

are the positions of the

01:25:42

parties that are relevant to

01:25:43

the analysis for the relevant

01:25:44

facts? What is the law?

01:25:45

And what decision did everything

01:25:50

in, on an item-by-item Basics?

01:25:52

Supposed to the description of

01:25:54

everything, the blame instead and

01:25:56

everything D. And another words

01:25:58



is to incorporate the the

01:26:00

the tribunal's reasoning within the

01:26:03

parties. Are you on. That

01:26:06

works very good. We leave

01:26:07

an experiment in an extra

01:26:09

suitcase to, to find a

01:26:11

way to to draft the

01:26:12

war ended. I need a

01:26:14

beautiful. We have two parties

01:26:15

to draft the position of

01:26:18

the parties for the war.

01:26:20

And we gave them Specific

01:26:22

Instructions, on limited words, the

01:26:27



topics, they need to discuss

01:26:28

the way they should approach.

01:26:30

And we, of course, we

01:26:35

indicated to the parties that

01:26:37

we could, or could not

01:26:38

use, but I believe it

01:26:39

was not mandatory for us

01:26:41

if they produce something that

01:26:43

was totally useless and that's

01:26:45

it, we will drive from

01:26:47

scratch. And we ended up

01:26:50

a argument with the March

01:26:56

Warden. If we have drafted

01:26:58



that in the, in the

01:26:59

traditional way, I think we've

01:27:03

been anyone has a burning

01:27:06

comment on a wood drafting

01:27:07

of heavy to stretch it

01:27:09

by a minute or two

01:27:09

would you show? So. So

01:27:14

well there's a difference between

01:27:17

primary and exclusive with respect

01:27:21

to drafttek. I think I

01:27:22

like yeah but it's in

01:27:26

my experience you have to

01:27:28

assess who your Co-operators are

01:27:29



with the issues of the

01:27:30

case are. Ideally you backed

01:27:33

up, how was the ability

01:27:35

to contribute with issue. That's,

01:27:38

that's the best circumstances that

01:27:41

I had an ICC case.

01:27:43

Where French law governing we

01:27:47

had one French officer and

01:27:48

he did everything that was

01:27:50

related to Fred and and

01:27:52

we all looked at it

01:27:53

and and the president I

01:27:56

was but I was away

01:27:57



some of the contractual issues

01:28:00  
and I did some of

01:28:01  
the defense and it was

01:28:03  
all kind of highest and

01:28:04  
best use and it worked

01:28:06  
extremely well. You don't always

01:28:08  
have that kind of situation

01:28:10  
where everybody can contribute that

01:28:12  
that way. But I think

01:28:14  
you get a better if

01:28:16  
everybody contributes. So that's my

01:28:17  
girl to figure out how

01:28:18  
best to do that as

01:28:22



well. Sometimes you go backwards.

01:28:26

That's why you have to

01:28:28

use your judgment as to

01:28:30

what is going to work

01:28:31

based on the issues, but

01:28:34

they could be faster if

01:28:35

it works. I'm your comments

01:28:46

would be intimate for to

01:28:47

see how we can sequoia

01:28:49

trees and pushing a vacations

01:28:52

to more costly. At least.

01:28:53

It is costly and more

01:28:54

time efficient outcome. Indeed, a

01:29:11



lot to build on a

01:29:12

very good job that we

01:29:16

can use for it for

01:29:17

more concrete products and recommendations.

01:29:19

So for the next step

01:29:22

in this process and we

01:29:25

hope that everyone can join

01:29:26

us or the reception, which

01:29:28

is on the second floor,

01:29:30

in the World Bank cafeteria

01:29:33

here and jammed, it starts

01:29:36

now. So I'll see you

01:29:38

up there. Indeed, a lot

01:29:11



to build on a very

01:29:13

good job that we can

01:29:16

use for it for more

01:29:17

concrete products and recommendations. So

01:29:19

for the next step in

01:29:23

this process and we hope

01:29:25

that everyone can join us

01:29:27

or the reception, which is

01:29:29

on the second floor, in

01:29:30

the World Bank cafeteria here

01:29:33

and jammed, it starts now.

01:29:36

So I'll see you up

01:29:38

there.