



INTRODUCTION TO ARBITRATION

Disputes in Construction arena

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DISPUTES IN CONSTRUCTION

NAVIGATING CONFLICT & PRESERVING VALUE

A strategic analysis of operational friction, systemic schedule failures, and the ADR pathways deployed to safeguard capital projects.



PART 1: THE PROJECT

Understanding the Reality of Site Friction, Complexity, and Risk

THE REALITY OF CONSTRUCTION

High Stakes Environment

Modern capital projects feature immense capital investments, highly convoluted designs, and intricate, layered supply chains.

*** Disagreements are a structural norm.**

Multiple Stakeholders

With owners, developers, designers, general contractors, and subcontractors each managing distinct risks, contractual friction is structurally inevitable.

DEFINING THE BREAKING POINT

Stage 2

DISPUTE HARDENING

From Routine Claims to Formal Stalemates

Friction escalates rapidly. When a routine claim or on-site disagreement is rejected and cannot be resolved at the project site level, it hardens into a formal "**Dispute.**"

This critical transition triggers legal timelines and requires formal resolution mechanisms.

EXECUTIVE PROJECT OBJECTIVES

Deconstruct

Identify the core operational catalysts behind design, schedule, and valuation conflicts.

Evaluate

Quantify the cascading financial and relational damage of letting claims sit unresolved.

Resolve

Analyze and master the dispute resolution bridges embedded in international contracts.

PART 2: COMMON SITE DISPUTES

Deconstructing the Structural, Chronological, and Financial
Catalysts

DESIGN & SCOPE: BLUEPRINT ERRORS



Defective Blueprints

Errors, omissions, and drafting ambiguities in engineering and architectural drawings. These create dimensional clashes across disciplines on-site.

The Change Order Cycle

Every design discrepancy demands immediate redesigns, triggering delayed requests for information (RFIs) and inevitable variation claims.

DESIGN & SCOPE: SCOPE CREEP

📏 Creeping Requirements

The gradual, uncontrolled expansion of project boundaries without adjustments in funding, timelines, or resources.

✂️ Unauthorized Variations

Conflicts over whether requested modifications constitute "original contract work" or a true "variation/change order" deserving additional pay.

TIME & SCHEDULE: DELAY OWNERSHIP

Dual Sided Delays

Pinpointing whether project schedule slippage is client-caused (slow site handovers) or contractor-caused (poor resource allocation).

Force Majeure Events

External delays such as unseasonal storms, natural disasters, or sudden regulatory blockages that are legally excusable but uncompensable.

EXTENSION OF TIME CALCULATIONS

EOT

EXTENSION OF TIME

Prolongation Costs and Liquidated Damages

Disagreements arise regarding critical path analysis. A delay must directly hit the critical path to qualify the contractor for extra time and prolongation overheads.

Failure to secure an EOT exposes contractors to massive liquidated damages (LDs) for late project completion.

FINANCIAL ISSUES: LATE PAYMENTS



Liquidity Bottlenecks

Clients intentionally withholding interim progress certificates or payments to leverage negotiations or mitigate their own cash constraints.

Downstream Impact

Delayed payments to the general contractor cascade downward, starving subcontractors of essential cash flow and stopping work.

FINANCIAL ISSUES: VALUATIONS

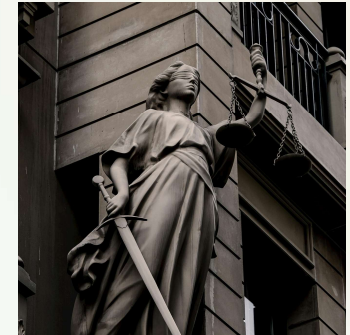


Quantity Discrepancies

Disagreements regarding the measurement and monetary valuation of completed works, particularly substructure items hidden underground.

Price Escalation

Arguments over who absorbs the severe inflation of material and energy prices during a long-term, multi-year contract.



UNFORESEEN SITE CONDITIONS

80%

GEOTECHNICAL RISK

Subterranean Surprises and Risk Allocation

Uncovering unexpected underground conditions (such as running water, solid granite, or toxic deposits) demands massive redesigns, specialized equipment, and unexpected cash.

Contract conflicts center on the "Prudent Contractor" standard: was this condition reasonably discoverable before bidding?

QUALITY & WORKMANSHIP DEFECTS

! Material Substitutions

Contractors deploying substandard, cheaper materials to offset tight bids, directly violating project technical specifications.

Q Patent vs. Latent

Conflicts over repairing defects. Patent defects are clear during walk-throughs; latent structural or water-leak issues surface years later.

THE CONFLICT DIAGNOSTICS MATRIX

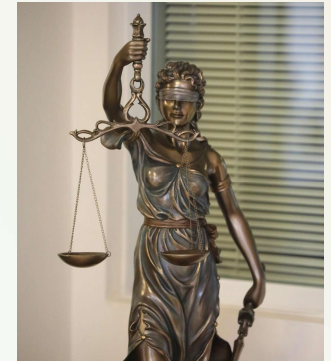


CATEGORY	ON-SITE SYMPTOM (THE "WHAT")	CONTRACTUAL ROOT CAUSE (THE "WHY")
Design & Scope	Clash detections, pending drawings, scope drift	Rushed design stages & poor oversight
Time & Schedule	Missed milestones, delayed sub-handovers	Deficient scheduling or weather anomalies
Financial	Withheld progress certificates, pricing arguments	Liquidity preservation strategies
Site Conditions	Unexpected subterranean granite, utilities	Inadequate preliminary geotechnical testing

PART 3: THE IMPACT OF STALEMATE

Analyzing the Financial Hemorrhage and Relational Decay of
Unresolved Disputes

THE PRICE OF PROJECT STAGNATION



100%

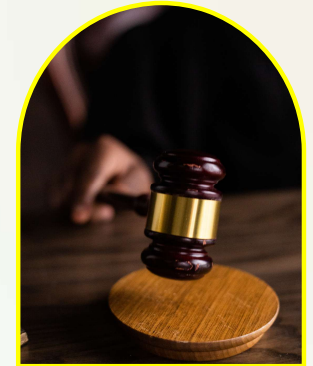
ASSET PARALYSIS

Work Stoppage and compounding Schedule slip

An unresolved dispute over a single technical variation can quickly freeze entire segments of a project. Subcontractors demobilize, equipment rental costs accumulate, and overall schedule delays compound.

The longer a stalemate sits, the harder and more expensive it is to re-mobilize the workforce.

THE EROSION OF ON-SITE TRUST



Adversarial Stance

Collaborative engineering collapses. Project teams withdraw into protective shells, prioritizing finger-pointing over creative site problem-solving.

Defensive Paper Trails

Engineers spend more hours writing self-serving liability letters than supervising safety and workmanship quality, dragging down site productivity.

THE HIGH COST OF PUBLIC COURTS



The Litigation Trap

Traditional courtroom litigation is slow, publicly exposed, and exceptionally expensive, destroying any hope of project profitability for both parties.

Non-Expert Judges

Generalist judges often struggle with complex geotechnical or schedule critical-path arguments, leading to unpredictable and damaging rulings.

PART 4: THE ADR ARCHITECTURE

How Alternative Dispute Resolution (ADR) Bypasses Courtroom
Stagnation

THE STRATEGIC MERITS OF ADR

Industry Experts

Arguments are analyzed and decided by seasoned civil engineers and construction attorneys, not generalist judges.

Accelerated Speed

Private procedures bypass backlogged court calendars, resolving issues quickly to protect project timelines.

Strict Privacy

Entirely confidential proceedings protect brand reputation, borrowing capability, and future joint ventures.

NEGOTIATION & MEDIATION OPTIONS



1. Executive Negotiation

Direct, structured discussions between corporate executives. They seek a business-driven compromise before legal teams intervene.

2. Structured Mediation

A skilled, independent mediator guides communication to help both parties craft their own mutually acceptable, non-binding resolution.

ADJUDICATION & DISPUTE BOARDS



Dispute Review Boards

DRBs deploy experts directly on-site to defuse technical issues early. This keeps minor disputes from turning into project-stopping fights.

Statutory Adjudication

A rapid, expert-led evaluation system designed to deliver interim binding decisions quickly. It protects progress payments so work doesn't stop.

BINDING COMMERCIAL ARBITRATION



Formal Binding Awards

A private trial where an arbitrator or panel hears formal evidence and issues a binding decision. There is virtually no right of appeal.

Global Enforceability

Decisions are easily enforced across 170+ countries under the New York Convention, making it more powerful than international court judgments.

PART 5: THE FIDIC ROADMAP

A Practical Look at Multi-Tiered Dispute Clauses in International
Standard Contracts

FIDIC DISPUTE RESOLUTION PATHS

Step 2: DAAB

Refer to an independent, pre-appointed expert panel for an interim binding decision within 84 days.

Step 1: Amicable

Senior executives must attempt to settle the issue in good faith within 21 days of notice.

Step 3: Arbitration

Unresolved issues go to final, binding private arbitration (e.g., SIAC, ICC, MAC) to permanently settle the matter.

THE GOLDEN RULE OF EXECUTION

"Notwithstanding the existence of a dispute or the commencement of ADR proceedings, the Contractor shall proceed with the Works with all due diligence in accordance with the Contract."

*** Obligation to Continue Work: The project cannot be held hostage.**

PART 6: PROACTIVE MITIGATION

Defusing Claims and Conflict Before they Harden into Disputes

DISPUTE PREVENTION CHECKLIST

1. Clear Contracts

Avoid ambiguous, vague phrasing. Ensure risk is allocated realistically from day one, rather than dumping all liability on the contractor.

2. Rock-Solid Logs

Keep precise site diaries, emails, and photos. (If it's not written down and contemporary, legally it never happened).

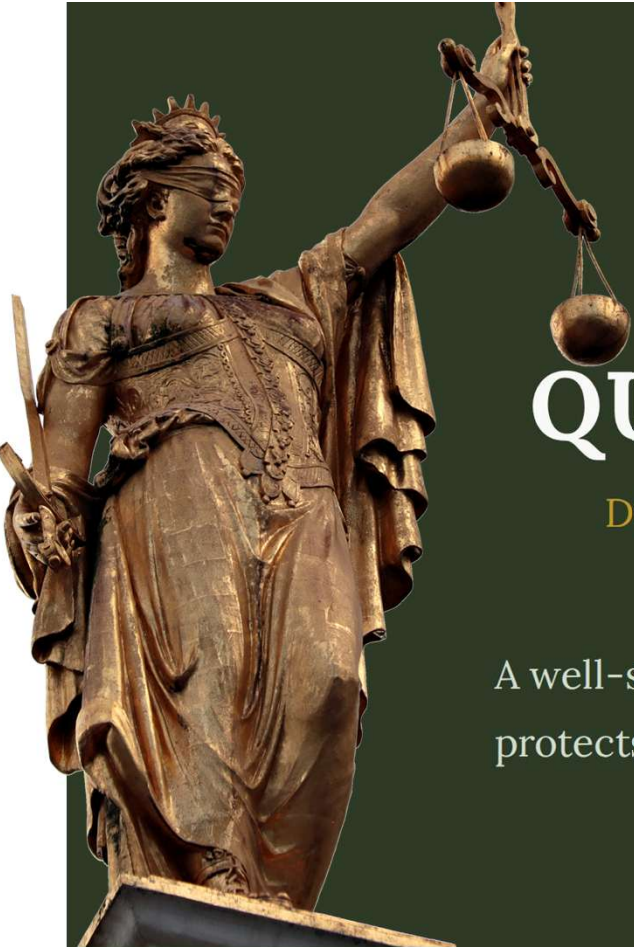
3. Early Warning

Establish mandatory warning systems. Address small on-site misunderstandings immediately before they escalate.



*Introduction
to
Arbitration*





QUESTIONS & ANSWERS

DELIVERING THE PROJECT, NOT THE ARGUMENT

A well-structured contract combined with specialized ADR pathways protects both budgets and business partnerships. Thank you for your time and participation.