



AMERICAN  
ARBITRATION  
ASSOCIATION®

INTERNATIONAL CENTRE  
FOR DISPUTE RESOLUTION®

The 2023 AAA® Construction Conference

# Effective dispute avoidance & resolution

throughout the project lifecycle

June 8, 2023

Hilton Santa Monica Hotel & Suites, Santa Monica, CA



The American Arbitration Association (AAA) would like to thank the sponsors of the 2023 AAA Construction Conference: *Effective Dispute Avoidance and Resolution Throughout the Project Lifecycle* for their generous support.

LEADERSHIP AND NETWORKING RECEPTION SPONSOR



LEADERSHIP AND LUNCH SPONSOR



LEADERSHIP



FRIENDS



## Cooperating Organizations

AIA Contract Documents

American Bar Association Forum on Construction Law

American College of Construction Lawyers

American Society of Civil Engineers

ConsensusDocs

Construction Financial Management Association

Construction Management Association of America

Engineers Joint Contract Documents Committee

National Association of Surety Bond Producers

National Society of Professional Engineers





AMERICAN  
ARBITRATION  
ASSOCIATION®

INTERNATIONAL CENTRE  
FOR DISPUTE RESOLUTION®

**June 8, 2023**  
**3:00-4:00 PM**

# **Incorporating International Arbitration Techniques into Domestic Arbitration Proceedings**

## **Faculty:**

**Daniel E. González**, Hogan Lovells US LLP; Miami, FL

**Nathan O'Malley**, Musick Peeler; Los Angeles, CA

**Paul A. Varela**, Varela, Lee, Metz & Guarino, LLP; Tysons Corner, VA

**Wendy K. Venoit**, Cozen O'Connor; Boston, MA

## **Session Moderator:**

**Steven K. Andersen**, Vice President, International Centre for Dispute Resolution

---

## DETAILED PLEADINGS V. NOTICE PLEADINGS

- Article E-2 of the ICDR's Expedited Procedures calls for the filing party to present detailed submissions on facts, claims, counterclaims, setoffs, and defenses.



---

## DOCUMENT EXCHANGE VS. DISCOVERY TECHNIQUES

- Limited Discovery
- Proportionality
- Redfern Schedules
- Discovery Motions
- Fact Witnesses



---

## EARLY DISPOSITION VS. DISPOSITIVE MOTIONS

- Article 23 of the ICDR Rules requires the tribunal to approve the filing of a summary judgment or early disposition type claim.
- Efficiency



---

## FACT WITNESS TESTIMONY

- Witness Statements vs. Direct Examination
- Witness Statements in Place of Direct Examination
- Witness Statements in Lieu of Fact Depositions
- Cross-Examination of Fact Witnesses
- Hot-Tubbing of Fact Witnesses on Certain Issues (e.g. change orders)





---

## EXPERT WITNESS TESTIMONY

- Expert reports
- Expert reports in lieu of expert depositions
- Expert presentations at the start of their testimony
- Cross-examination of experts
- Hot-tubbing of experts
- Expert reports v. hot-tubbing



---

## HEARING MANAGEMENT

- Optimization of hearings
- Use of the “chess clock”
- Virtual hearings
- Interpreters
- Use of Scott Schedules



---

## AWARDS

- Form of Award
- Interim, Partial Final, Orders and Awards
- Presumption of a reasoned award
- Timing: The ICDR's award deadline is 60 days from the closing of the hearing for regular cases and 30 days from the closing of the hearing for expedited cases.



---

## MEDIATION

- Integrating concurrent mediation into arbitration
- Managing differences in culture, process, and acceptability
- Viability of success



# Questions?





AMERICAN  
ARBITRATION  
ASSOCIATION®

INTERNATIONAL CENTRE  
FOR DISPUTE RESOLUTION®