

II CONGRESO INTERNACIONAL DE DERECHO DE LA CONSTRUCCIÓN

16 Y 17 DE OCTUBRE

SESIÓN 2: EL ROL DE LOS **ABOGADOS** EN LA **PREVENCIÓN DE CONFLICTOS** EN PROYECTOS DE **CONSTRUCCIÓN** CON PARTICULAR ÉNFASIS EN **DISPUTE BOARDS**

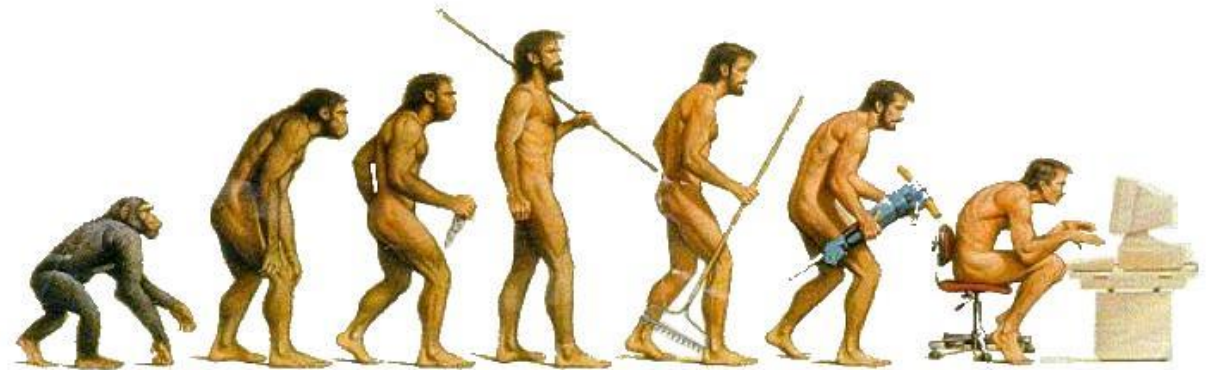


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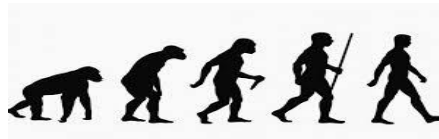
30 años

EVOLUCIÓN DEL
ROL DEL
ABOGADO EN
PROYECTOS DE
CONSTRUCCIÓN

Evolution



(OR is it?)



Altos costos y menores márgenes en la Industria, están llevando a muchos a pensar en disminuir los costos no esenciales, como los costos jurídicos.



Abogados: creadores de problemas y símbolo de que la confianza está quebrada.



La industria de la Construcción es pionera en la búsqueda de ADR por los graves efectos que las disputas generan en los proyectos de construcción.



Los abogados, para poder ser un real aporte: re mirar nuestra profesión y orientarla a evitar conflictos, en vez de profundizarlos.



Hoy el aprendizaje de los ADR es crítico, porque los proyectos de construcción no pueden esperar al arbitraje o al juicio para resolver los problemas que van surgiendo durante el desarrollo de las obras y que afectan su calidad, plazo y costos.



Nuevas habilidades y nuevos talentos, como los de la empatía, resiliencia, escucha activa, autoliderazgo, etc. es esencial.



Distintas etapas y facetas del rol de abogado en proyectos de Construcción, como un miembro del equipo que entiende el negocio y la importancia de las relaciones de largo plazo.

THE IN – HOUSE LAWYER

CARLOS BASCUÑAN
BHP

Topic 1: Predictability and competitiveness as Key Value Drivers for an Owner. How do you assure predictability? Risk distribution and balance; prevention.

Topic 2: Key role of the in-house lawyer in assuring this predictability. Importance of the early engagement and interface with other functions (Project Management; Legal; Project Services; Engineering).

Topic 3: Value of in-house lawyers during the execution of the project (claim prevention and dispute resolution).

Topic 4: The use of DRBs in Projects in technical matters in BHP experience.

THE CONTRACTUAL LAWYER

AUGUSTO BARROS DE FIGUEREIDO - HKA

Topic 1: Preparing the contract to the bid.

The legal department, the Procurement Team and the Construction lawyer working close to understand the needs of the project / tailored contracts or international standards as FIDIC?

Topic 2: Dispute Resolution Clauses

Which method best suits to the project? DB+Arb/DB+Courts? Which type of DB: DAB/DRB/CDB? Is there space to mediation when we have an active DB ? (Ethic Codes).

Topic 3: Rules and Procedures for the DB.

When using DBs, which rules and procedures to use? ICC/FIDIC/Others? Develop specific rules (case of Petrobras)? Administered DBs as a new possibility.

Topic 4: kick off of the contract: from procurement to contract management.

Advising the internal client on the nomination of DB members / contract managers role for the good execution of the contracts / contract management combined with dispute resolution.

LAWYER REPRESENTING THE PARTIES AT A DISPUTE BOARD.

ANN RUSSO - DRBF



Topic 1: Best practice tips for preparing the referral, position papers, and rebuttal statements: what to include, how to organize, support documentation, importance of telling the story clearly and concisely.



Topic 2: Best practice tips for preparing the team who will present at the hearing: coaching the team with a practice run, how to deliver the position in an orderly way, preparation for questions the board is likely to ask



Topic 3: Common mistakes to avoid: delays, inaccurate or irrelevant information, failure to address facts in the opponent's statements, lack of preparation, importance of including those with first-hand knowledge

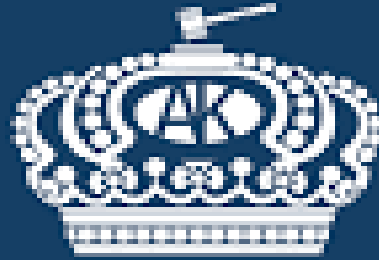
LAWYER AS A DISPUTE BOARD MEMBER

**ROBERTO HERNÁNDEZ
COMAD**

- **Topic 1.- The professional dilemma: ¿Lawyers vs Engineers?.-** who invented this “fight”? Let’s focus again. / Construction Lawyers vs other kind of Lawyers - getting into focus. / ¿Lawyers or Engineers in Dispute Boards?- Convenience or quota.
- **Topic 2.- Construction Lawyers as dispute Board members.-** Why are they convenient in the view of their training and education.
- **Topic 3.- The dispute subject as a way to choose who is better trained:** Contract, Governing Law, General principles, legal and document Interpretation, and even sensitive matters, and how is a lawyer better trained to face this.
- **Topic 4.- The experience of a lawyer as a sole dispute board, and as a member of a board with engineers:** which one is more effective. Code of Ethics.



PREGUNTAS Y COMENTARIOS



**KEEP CALM
TODAY IS
INTERNATIONAL
BE KIND TO
LAWYERS DAY**



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30 años