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PRESENTS





**NO KICKING, BITING,
OR GOUGING
HOW WE RESOLVE
DISPUTES AND CLAIMS**



WHEN THE CHANGE-ORDER PROCESS FAILS ---

HOW ARE DISPUTES
RESOLVED **QUICKLY**,
FAIRLY, AND IN A **COST-
EFFECTIVE** MANNER?



RESOLUTION

**SHOULD THE DISPUTE BE
SETTLED DURING THE
PROJECT OR AFTER THE
PROJECT IS COMPLETED?**

RESOLUTION



SHOULD WE
WAIT UNTIL
THE PROJECT IS
FINISHED?



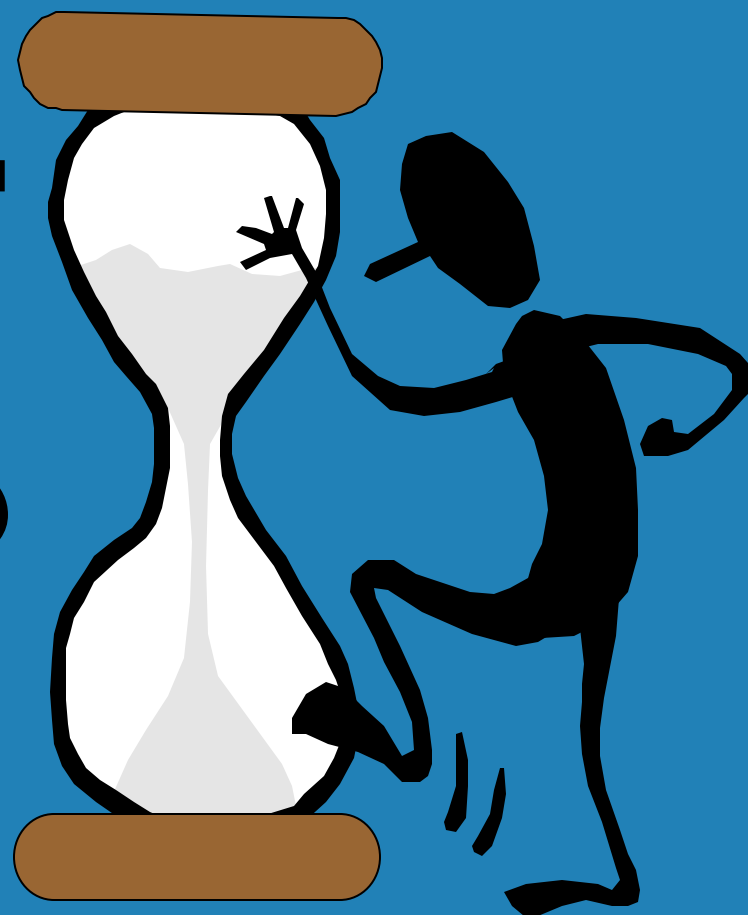
RESOLUTION

IT TAKES TIME AND EFFORT

- TO DOCUMENT COSTS**
- TO HAVE MEETINGS**
- TO FOCUS EFFORTS ON NEGOTIATIONS INSTEAD OF PROJECT**

RESOLUTION

DON'T
WAIT?





RESOLUTION

**THE LONGER THE DISPUTE
LASTS, THE BIGGER IT GETS**

- INCREASED PROCESS COSTS**
- UNDERMINED JOB RELATIONSHIPS**
- NEGATIVE CASH FLOW IMPACTS**
- EXPENSIVE AND TIME CONSUMING
POST-COMPLETION ADR**



RULES OF ENGAGEMENT

**→ ESTABLISH THEM WHEN
THE PROJECT BEGINS**

OR

**→ AGREE UPON WHAT
WILL BE DONE IF THINGS
GET TOUGH**



SOME CHOICES

- ① ELEVATION/ESCALATION PROCESS**
- ② INDEPENDENT PROJECT NEUTRAL**
- ③ DISPUTE REVIEW BOARD**
- ④ INTERVENTION PARTNERING**



ELEVATION/ESCALATION PROCESS



ELEVATION/ESCALATION PROCESS

WHAT IS IT?

- STRUCTURED
NEGOTIATION PROCESS**
- MAY OR MAY NOT BE
IN CONTRACT**

ELEVATION/ESCALATION PROCESS

WHAT IS IT?

- BASED UPON AN ELEVATION MATRIX
- DISPUTES ARE PRESENTED THROUGH A SUCCESSION OF DECISION-MAKING LEVELS

ELEVATION/ESCALATION PROCESS

WHAT ARE ITS PURPOSES?

- PROMOTE DECISION MAKING AT THE LOWEST RESPONSIBLE LEVEL OF AUTHORITY
- PROMPTLY RESOLVE DISPUTES

ELEVATION/ESCALATION PROCESS

HOW DOES IT WORK?

	OWNER	GC	DESIGNER	SUB	% TIME
EXEC	Larry	Moe	Curly	Shemp	10
PM	Rick	Ilsa	Sam	Louie	50
OFFICE	Lucy	Ricky	Fred	Ethel	25
FIELD	Groucho	Chico	Harpo	Zeppo	15

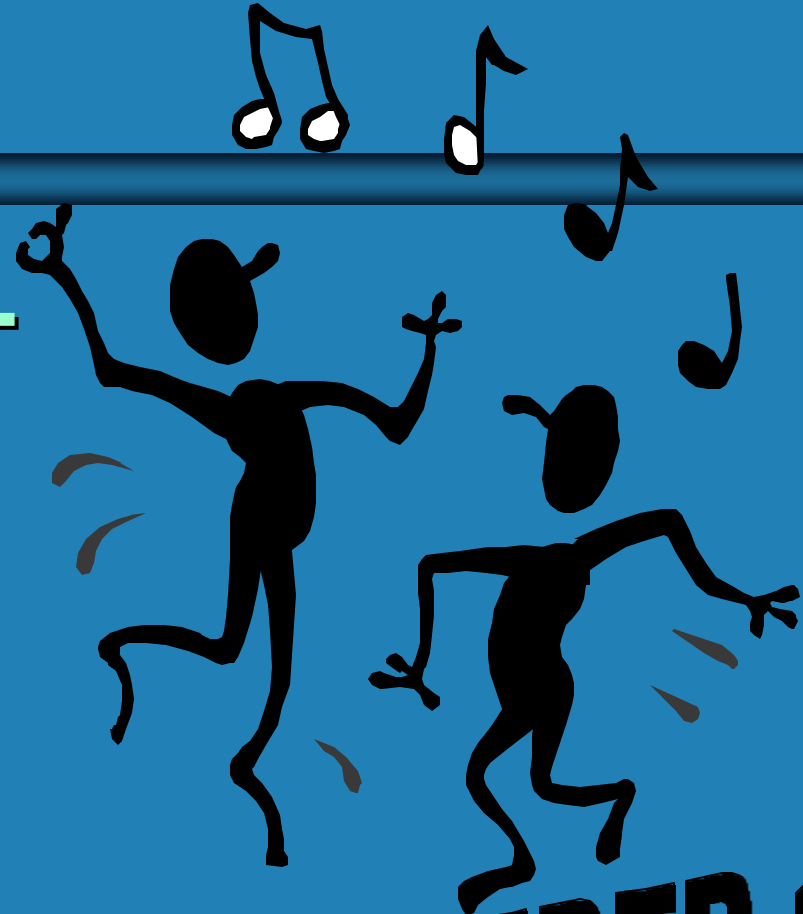
ELEVATION/ESCALATION PROCESS

HOW DOES IT
WORK?

FIRST
ELEVATION
TEAM ---



WE'RE NUMBER 1



ELEVATION/ESCALATION PROCESS

- SETS RESOLUTION TIME FOR DISPUTE
- NOTIFIES NEXT ELEVATION TEAM OF DISPUTE AND RESOLUTION TIME
- MEETS AND ACTS AS A TEAM
- EITHER PARTIALLY OR FULLY RESOLVES DISPUTE WITHIN TIME FRAME OR IT ELEVATES TO THE NEXT TEAM

ELEVATION/ESCALATION PROCESS

RULES FOR EXECUTIVES

- MAKE A COMMITMENT TO PARTICIPATE
- MAKE SURE UNRESOLVED ISSUES ARE GOING INTO THE ELEVATION MATRIX

ELEVATION/ESCALATION PROCESS

RULES FOR EXECUTIVES

- ENSURE CLEAR AUTHORITY FOR EACH TEAM MEMBER AT EACH LEVEL
- DON'T INTERFERE UNLESS DISPUTE RESOLUTION VIOLATES LAW OR CONTRACT --
NO COUNTERMANDS



INDEPENDENT

PROJECT

NEUTRAL

INDEPENDENT PROJECT NEUTRAL

WHAT IS IT?

- USE OF CONSTRUCTION EXPERT TO PROVIDE INFORMED, INDEPENDENT OPINION FOR A DISPUTE
- NOT TYPICALLY IN CONTRACT -- IMPLEMENTED BY AGREEMENT OF PARTIES

INDEPENDENT PROJECT NEUTRAL

WHAT ARE ITS PURPOSES?

- TO PROVIDE AN INDEPENDENT OPINION
- TO PROVIDE SPECIAL EXPERTISE
- TO PROVIDE A SUPPORTING RECORD



INDEPENDENT PROJECT NEUTRAL

HOW DOES IT WORK?

- ALL AFFECTED PARTIES
PICK THE NEUTRAL**
- PARTIES AND NEUTRAL SIGN A
CONFIDENTIALITY AGREEMENT**
- PARTIES SHARE PROPORTIONALLY
IN NEUTRAL'S FEES**



INDEPENDENT PROJECT NEUTRAL

HOW DOES IT WORK?

- PARTIES DEFINE ISSUES
FOR NEUTRAL TO ADDRESS**
- PARTIES TELL NEUTRAL WHEN
THEY WANT FINDINGS/REPORT**



**DISPUTE
REVIEW
BOARD**



DISPUTE REVIEW BOARD

WHAT IS IT?

- A THREE-MEMBER PANEL OF CONSTRUCTION EXPERTS SELECTED BY THE OWNER AND THE GENERAL CONTRACTOR**
- IN BOTH CONTRACT AND PROJECT SPECIFICATIONS**

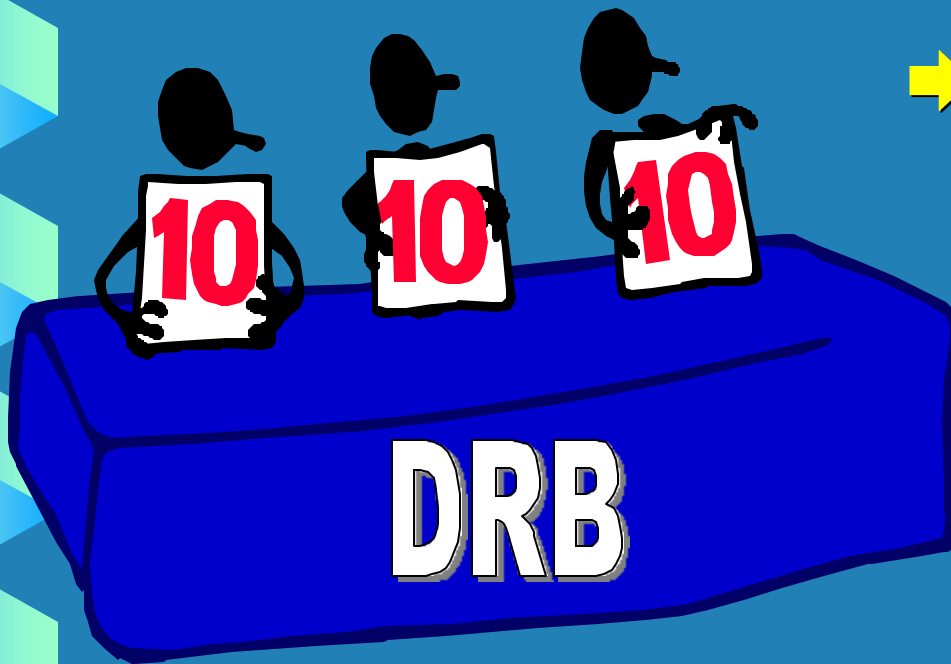
DISPUTE REVIEW BOARD

WHAT ARE ITS PURPOSES?

- TO PROVIDE INFORMED, OBJECTIVE OPINION OF STRENGTHS AND WEAKNESSES OF THE PARTIES**
- TO PROVIDE NON-BINDING DECISIONS ON UNRESOLVED DISPUTES**
- TO PREVENT LITIGATION**

DISPUTE REVIEW BOARD

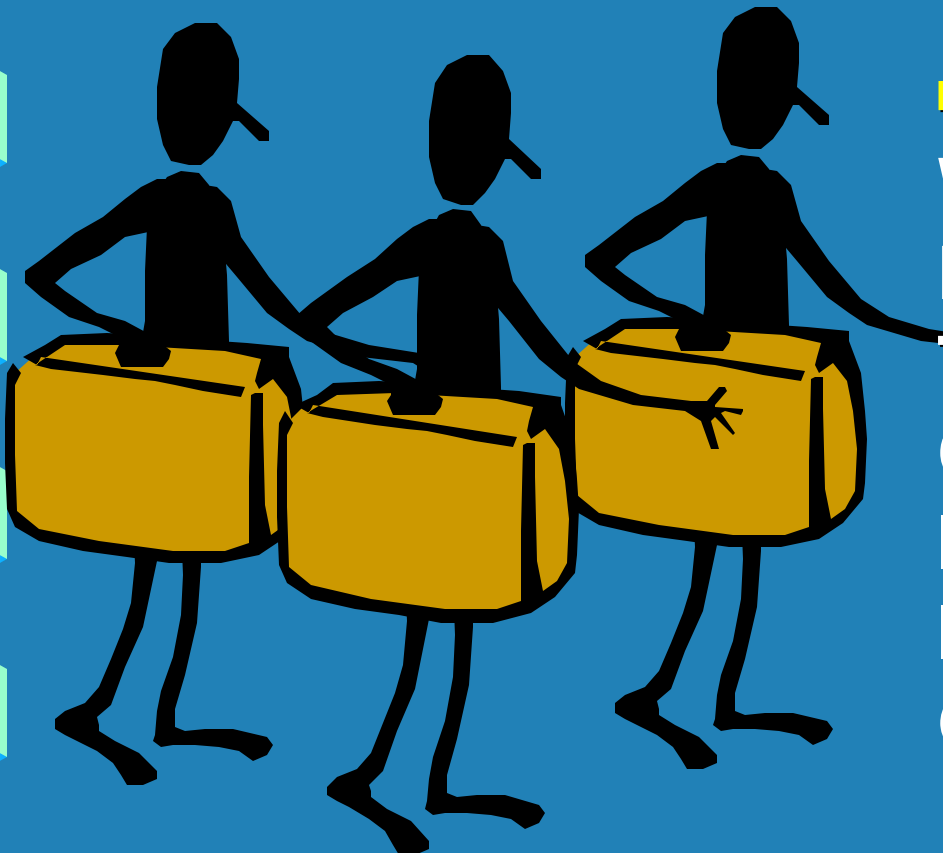
HOW DOES IT WORK?



→ **FORMAL** - WHEN PANEL MEETS TO HEAR DISPUTE AND RENDER ITS NON-BINDING WRITTEN OPINION

DISPUTE REVIEW BOARD

HOW DOES IT WORK?



→ **“WALKING”** -
WHEN PANEL
MEMBERS WALK
THE PROJECT AND
CAN PROVIDE
INFORMED, MORE
INFORMAL ADVICE
ON THE ISSUES

DISPUTE REVIEW BOARD

HOW DOES IT WORK?



WHEN ACTING
INFORMALLY, MEMBERS
ARE AN INVALUABLE
SOURCE OF KNOWLEDGE
AND EXPERIENCE FOR
PROJECT MANAGERS



DISPUTE REVIEW BOARD

HOW DOES IT WORK?

- SET UP AT BEGINNING OF PROJECT**
- MEMBERS FAMILIARIZE THEMSELVES WITH PROJECT DOCUMENTS AND WALK THE PROJECT**
- MEMBERS MEET ON A REGULAR BASIS TO MAINTAIN CONTACT WITH THE PROJECT**

DISPUTE REVIEW BOARD

HOW DOES IT WORK?

- WHEN REQUESTED, BOARD SETS A HEARING AT OR NEAR THE PROJECT SITE TO HEAR BOTH SIDES OF A DISPUTE**
- PARTIES MAY AGREE THAT LAWYERS WILL NOT PARTICIPATE IN HEARING**

DISPUTE REVIEW BOARD

HOW DOES IT WORK?

- AFTER HEARING THE EVIDENCE, BOARD ISSUES A WRITTEN, NON-BINDING OPINION**
- IF DISPUTE IS NOT RESOLVED, BOARD'S OPINION IS ADMISSIBLE EVIDENCE IN ANY SUBSEQUENT ARBITRATION OR LITIGATION**



INTERVENTION

PARTNERING



INTERVENTION PARTNERING

WHAT IS IT?

**A MULTI-FACETED PROCESS
DESIGNED TO RE-DIRECT A
TROUBLED PROJECT TO A
SUCCESSFUL CONCLUSION**



INTERVENTION PARTNERING

WHAT IS IT?

**A “TURN-AROUND” PROCESS
THAT COMBINES AN INTENSIVE
VERSION OF PARTNERING WITH
DISPUTE AVOIDANCE AND DISPUTE
RESOLUTION SYSTEMS**



INTERVENTION PARTNERING

WHEN SHOULD IT BE USED?

**WHEN DISPUTES ARE
SYMPTOMATIC OF MORE
FUNDAMENTAL PROBLEMS**

INTERVENTION PARTNERING

ASK:

- ARE THERE MULTIPLE PROBLEMS ON THE PROJECT?
- ARE THE PROBLEMS BEING PROMPTLY RESOLVED?
- ARE THE RELATIONSHIPS ON THE JOBSITE BECOMING ADVERSARIAL?

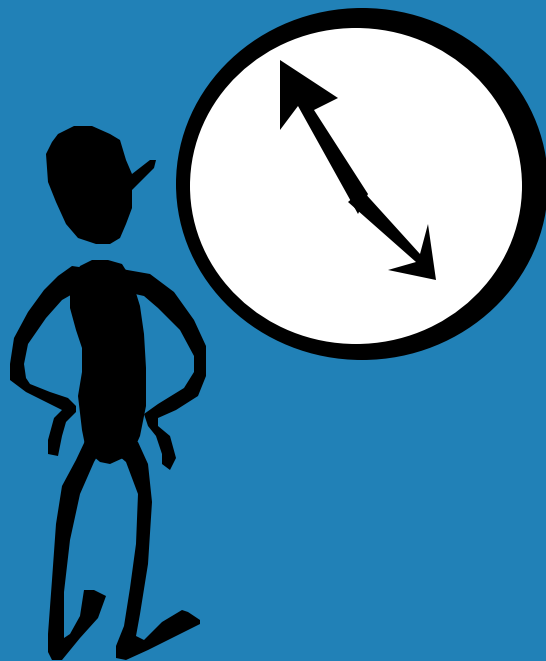
INTERVENTION PARTNERING

ASK:

- ARE CLAIMS NOTICES APPEARING?
- ARE ORGANIZATIONS BEING IMPACTED BY TIME AND MONEY?
- IS LITIGATION OR ARBITRATION LOOMING ON THE HORIZON?

INTERVENTION PARTNERING

WHEN SHOULD IT BE
INTRODUCED?

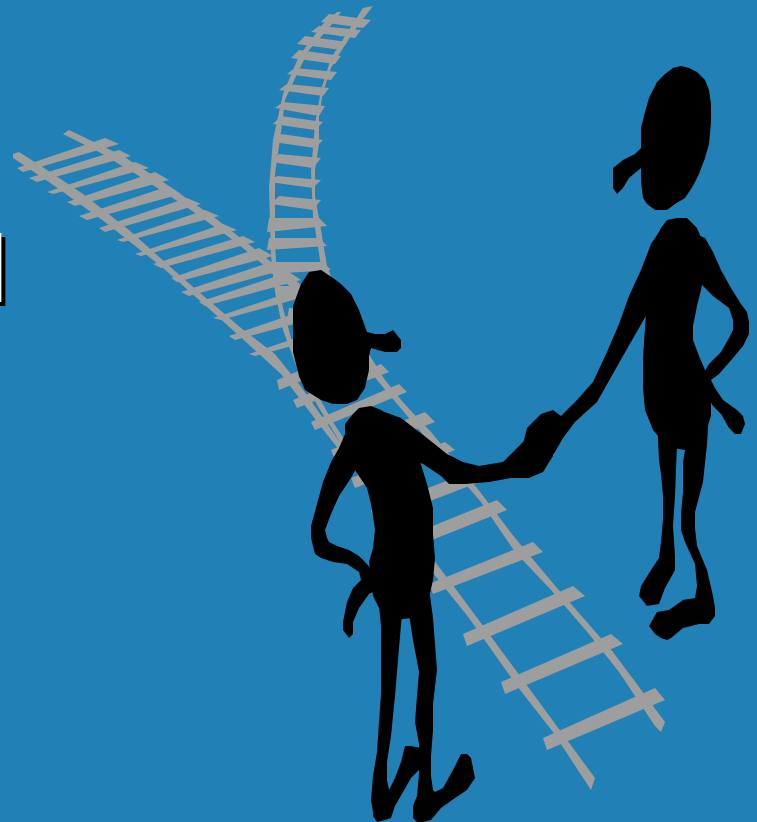


THE EARLIER,
THE BETTER,
BUT BETTER
LATE THAN
NEVER

INTERVENTION PARTNERING

HOW DOES IT WORK?

PROCEEDS ON
TWIN TRACKS





INTERVENTION PARTNERING

TRACK 1

- ON-SITE TEAM BUILDING AT THE FIELD, PROJECT MANAGER, AND EXECUTIVE LEVELS OF ALL PARTICIPATING ORGANIZATIONS**
- REDIRECTION OF EVERYONE'S EFFORTS TO PROBLEM SOLVING AND PROJECT COMPLETION**



INTERVENTION PARTNERING

TRACK 2

INSTITUTE DISPUTE AVOIDANCE AND
DISPUTE RESOLUTION SYSTEMS TO
QUICKLY RESOLVE NEW DISPUTES AS
THEY ARISE AND TO **QUICKLY,**
FAIRLY, AND **COST-EFFECTIVELY**
RESOLVE ALL OUTSTANDING CLAIMS

WHAT SHOULD BE REMEMBERED

- MAINTAIN AN ON-GOING DIALOGUE ABOUT CONDITIONS ON A PROJECT
- CONSIDER WHETHER AND WHEN TO USE DISPUTE RESOLUTION PROCESSES

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