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2025

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**Dispute Boards and Beyond:
*Effective Dispute Resolution
Strategies for the Ongoing Project
(What Can We Learn from
International Projects and AI?)***

Session 26

Thursday, December 11, 2025

10:15 am – 11:30 am

I. Introduction -- Panelists

- **Denis Serkin** (Moderator) Partner – *Peckar & Abramson, P.C.*
- **Bridget McCormack**, President/CEO – *American Arbitration Assoc.*
- **Jerry Brodsky**, Founder – *Jerry Brodsky Legal*
- **Logan Hollobaugh**, Senior Counsel – *Bechtel Energy*

Disclaimer: This presentation is intended for educational purposes only, and does not replace independent professional judgment. The information presented here represents the personal opinions of the presenters and should not be interpreted as the views of their employers.

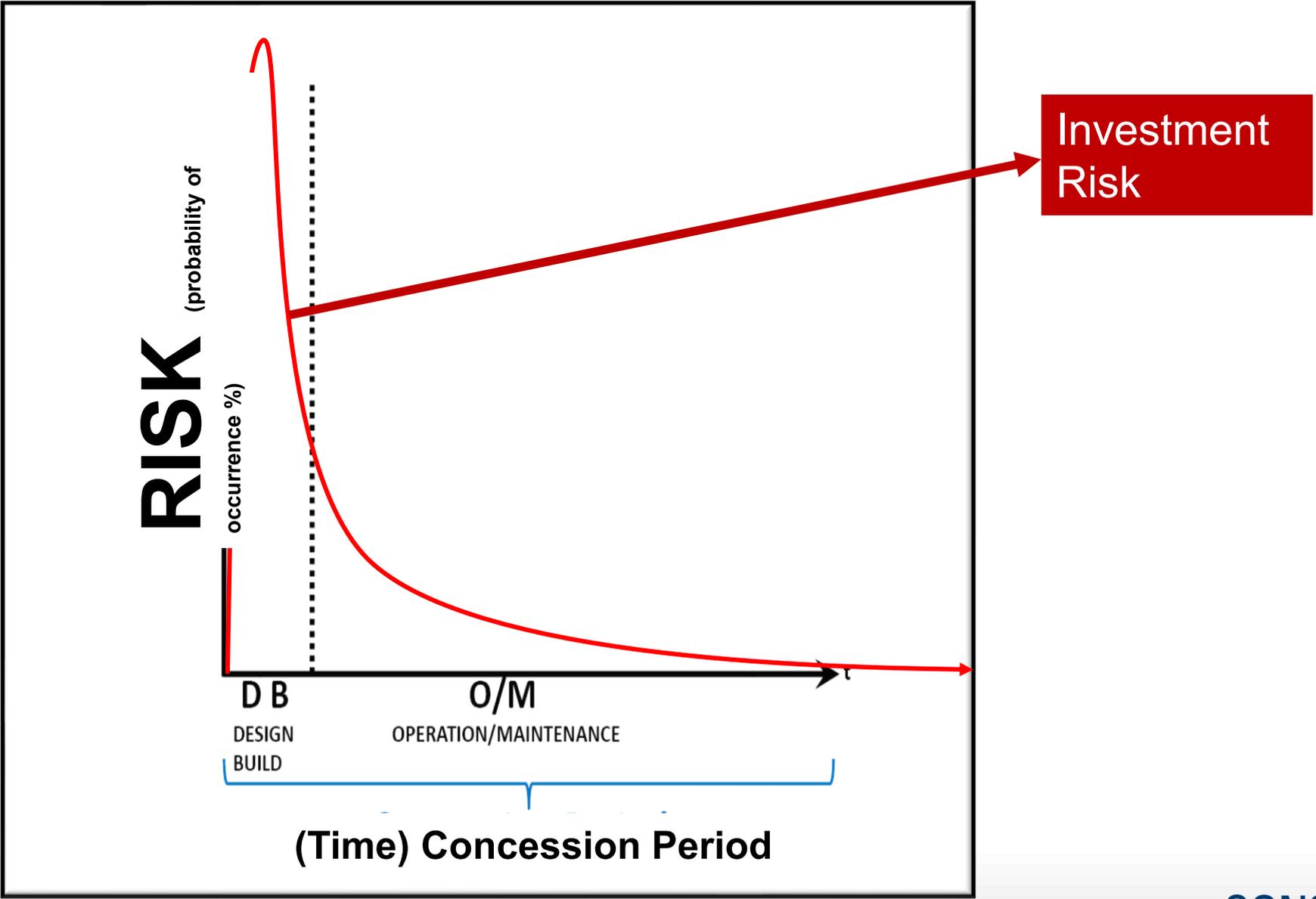
What is Interim Dispute Resolution (IDR)?

- **Definition:** structure for resolution of disputes during the ongoing project.
- **Goal of IDR:** offer tools for addressing conflicts contemporaneously, ensuring that projects continue smoothly while avoiding long-term escalation.
- This session explores the evolution of IDR, compares domestic and international practices, and highlights the transformative potential of emerging technologies such as artificial intelligence (AI).

Why Interim Dispute Resolution Matters

- Construction projects are inherently complex, involving multiple stakeholders, significant capital, and high technical demands.
 - Disputes are almost inevitable, often arising from contractual ambiguities, shifting project timelines, scope changes, or unforeseen conditions.
 - Traditionally, disputes have been addressed through litigation or arbitration after project completion.
- Construction disputes are costly and disruptive
- Need for real-time, contemporaneous solutions

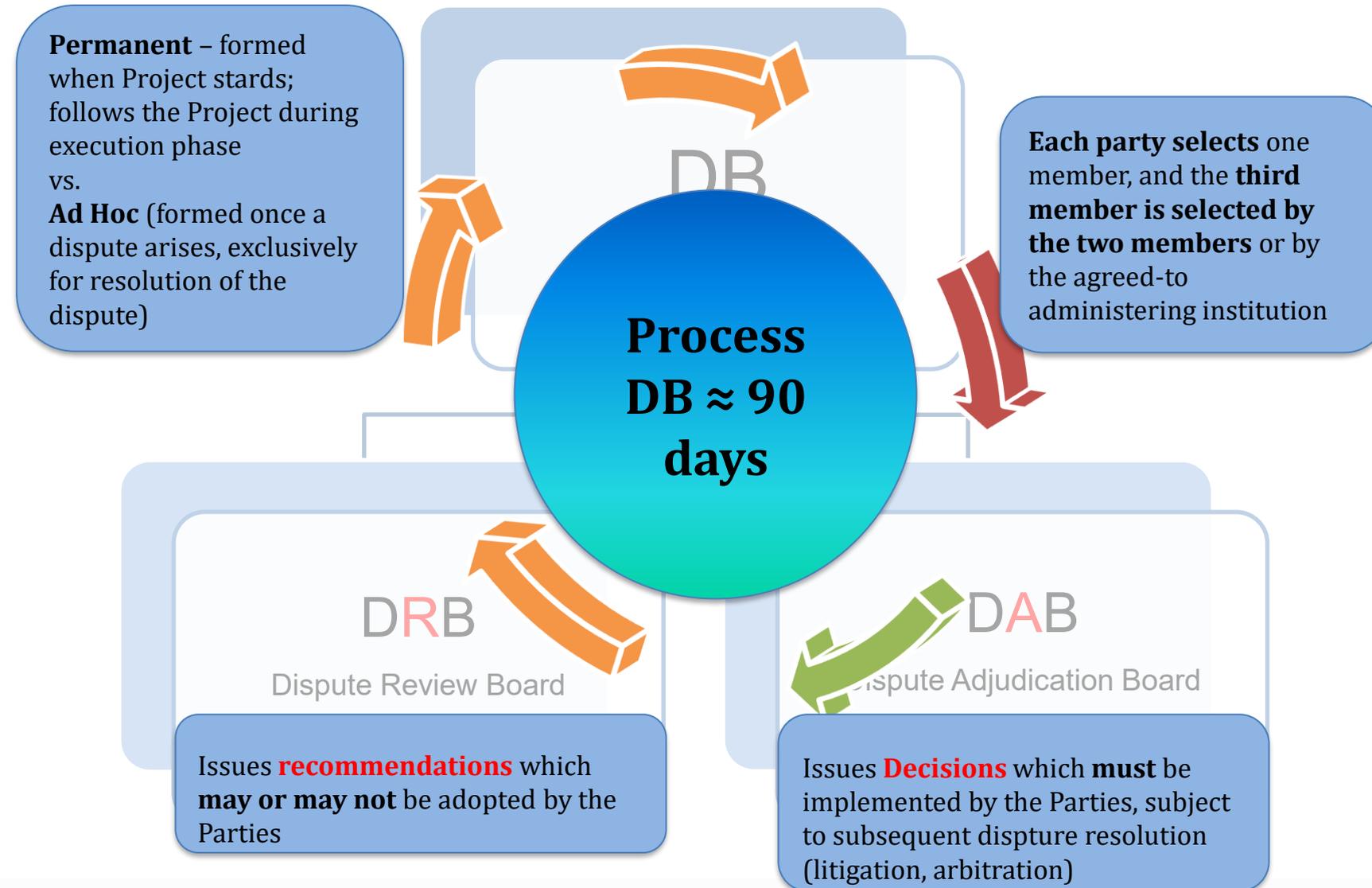
Dispute Boards in Infrastructure – Investment Risk



Types of Effective IDR

- **Dispute Review/Adjudication Boards (DRBs/DABs):** Standing panels of experts appointed at the start of the project to provide informal advice and binding/non-binding recommendations.
- **Adjudication:** A formal but expedited process used extensively in the UK, Canada, and Singapore, where decisions are binding on an interim basis.
- **Early Neutral Evaluation (ENE):** Involves a neutral third-party assessing the strengths and weaknesses of each side's case early in the dispute.
- **Cost Sharing Contract Terms:** Risk-sharing mechanisms embedded in contracts to reduce conflict over unexpected events.
- **Suspension Rights:** Clear contractual rights that provide leverage without halting the project unnecessarily.

Dispute Boards – Variations



IDR Frameworks

- Dispute Resolution Board Foundation
- American Arbitration Association – ICDR- DARB Rules
- FIDIC Contracts (1999 vs. 2017)
 - MDB Requirements
- ICC – DAB, DRB or CDB



Domestic Adoption of IDR

- **Federal projects:** U.S. federal agencies have shown a willingness to use DBs, particularly on large, complex infrastructure projects where the cost of disputes would be astronomical. However, there are limitations.
- **State-level:** Vary widely, with some states experimenting with dispute boards or adjudication clauses, while others rely heavily on litigation or arbitration. The largest users of DBs remain state highway and tunnel projects.

Dispute Boards In Public Projects – I 595 - Florida

Risk Avoidance and Dispute Resolution Model for Avoiding Work Stoppages Due to Disputes

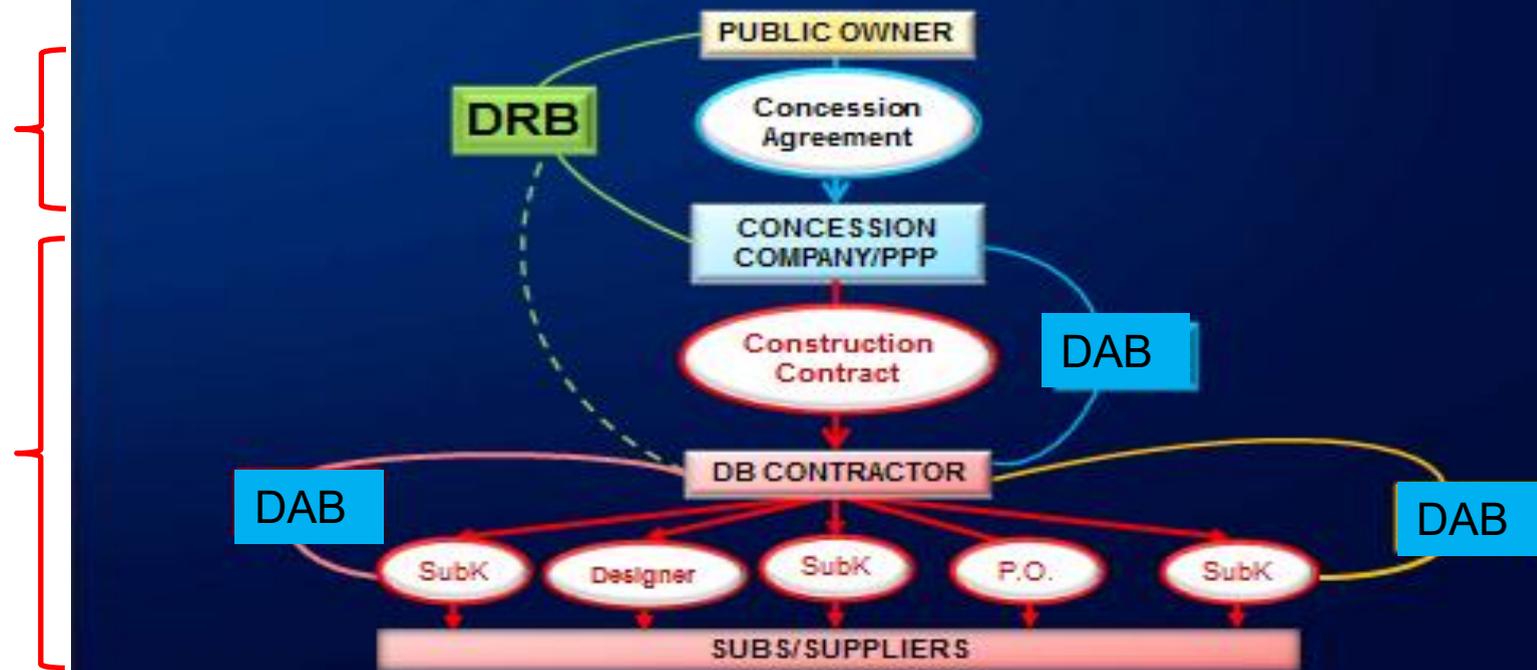
I 595

KEY LEGAL ISSUES DURING DB PHASE

- Risk of Working Through Payment Disputes

Non-Binding

Binding



International Lessons

- **FIDIC and NEC Contracts:** Widely used in Europe, Asia, and Africa, these forms mandate DRBs as standard clauses.
- **Adjudication in the UK, Canada, and Singapore:** Established legal frameworks that make adjudication fast, cost-effective, and enforceable.
- **Global Adoption of DRBs:** Success stories from Latin America, Africa, and Asia highlight the efficiency of DRBs in reducing litigation.
- **Comparative Lessons:** Countries with strong IDR frameworks deliver projects more predictably, with fewer disputes escalating to arbitration.

Kings College London Study – 2024 Dispute Boards International Survey

- **Scope and Methodology**
 - Survey covers 4,019 dispute boards across six years (2018–2023), with input from 213 respondents: individuals, entities, institutions, and funders.
 - Data is global, spanning all continents and sectors (construction, infrastructure, energy, IT, etc.).
- **Dispute Board Usage Trends**
 - Dispute boards are widely used, especially in large and complex projects.
 - Standing dispute boards (ongoing involvement) are preferred over ad hoc boards (appointed for specific disputes).
 - Most dispute boards are constituted via standard forms of contract (e.g., FIDIC, AIA, ConsensusDOCS).

Kings College London Study – cont.

■ Effectiveness and Outcomes

- Dispute boards are seen as effective in avoiding or resolving disputes before escalation to arbitration or litigation.
- Dispute avoidance measures (regular meetings, proactive issue identification) are increasingly adopted and successful.
- Compliance rates with both binding decisions and non-binding recommendations are high (“most of the time” for both).

■ Process Duration and Efficiency

- Typical dispute board process lasts 76–90 days.

■ User Perceptions

- Most individuals and funders find dispute boards “very” or “extremely” useful for avoiding disputes.

■ Challenges

- Main barriers: cost, unfamiliarity, non-binding decisions, and enforceability concerns.

Benefits of IDR

- **Faster resolution**
- **Reduced costs**
 - By avoiding expensive and time-consuming litigation, both owners and contractors can save on legal fees and project management resources. One analysis found that DRBs typically cost a small fraction of a project's total budget (0.05% to 0.3%) but offer substantial savings compared to court proceedings, which can consume up to 10% of a project's budget in legal costs.
- **Reduced Litigation**
 - Studies consistently show that DRBs are highly effective at preventing formal legal action. For instance, the Dispute Review Board Foundation reports that 98% of disputes referred to a DRB are settled without proceeding to arbitration or litigation.
- **Improved collaboration**
- **Increased lender confidence**

Challenges of IDR

- Securing Owner/Lender Buy-in
- Perceived Cost Issues
- Resistance to change
- Standardization gaps



Technology & IDR

- The next frontier for IDR lies in **technology integration**:
 - **AI in Dispute Resolution**: Tools for contract analysis, predictive analytics, and claim forecasting.
 - **New Procedural Models**: Online dispute resolution (ODR) platforms offering faster, accessible processes.
 - **Wider Access**: Technology can make IDR more affordable and accessible for mid-size projects.

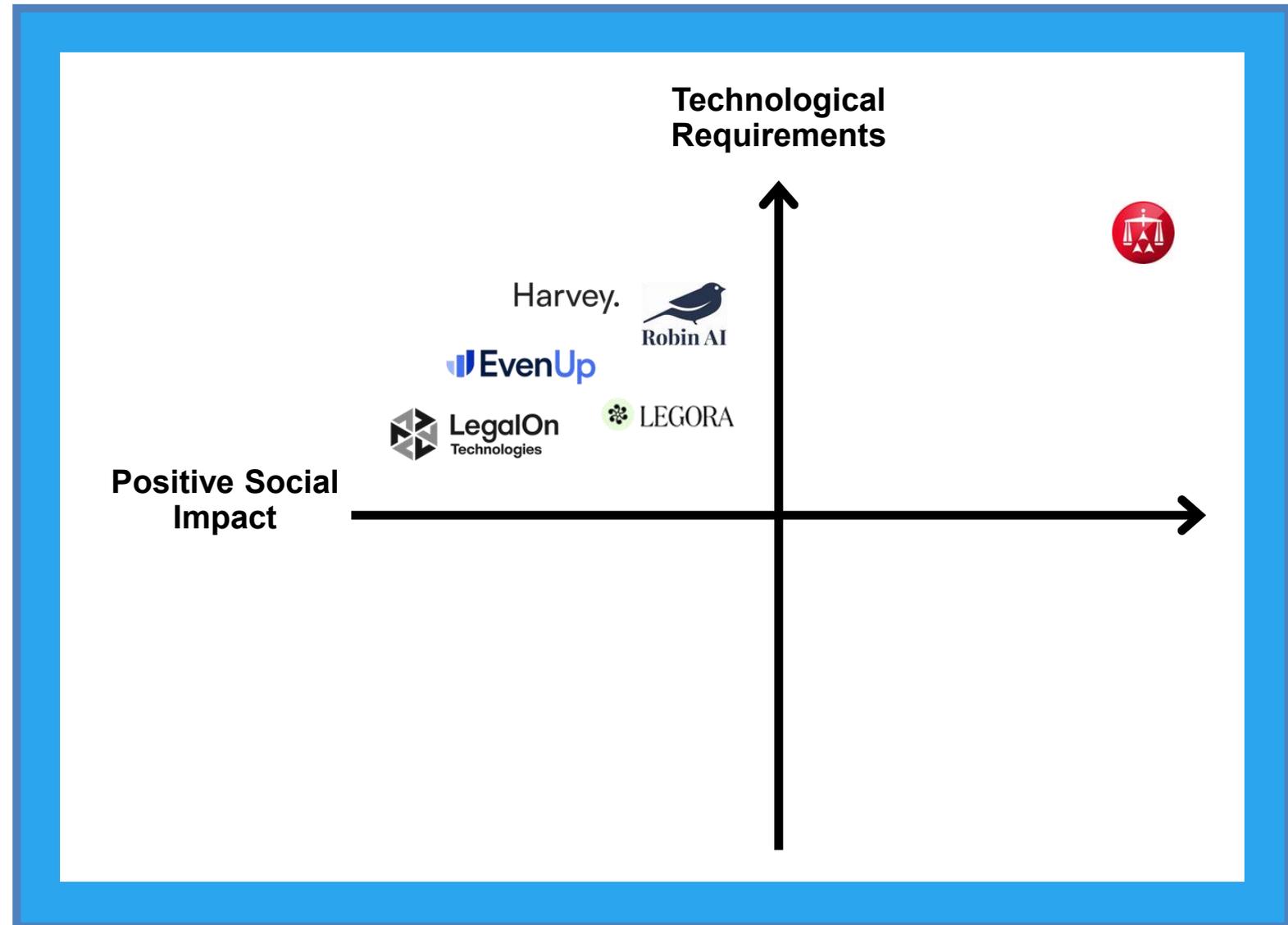
Smarter Projects, Smarter Disputes

AI-powered tools are transforming project planning and execution through predictive analytics, automated design, and real-time site monitoring using drones and computer vision—leading to improved safety, reduced costs, and faster timelines



AI is reshaping dispute resolution by enabling early risk detection through data analysis, improving claims management, and facilitating tech-assisted arbitration processes

**AI is the
Perfect
Match
For Dispute
Resolution**

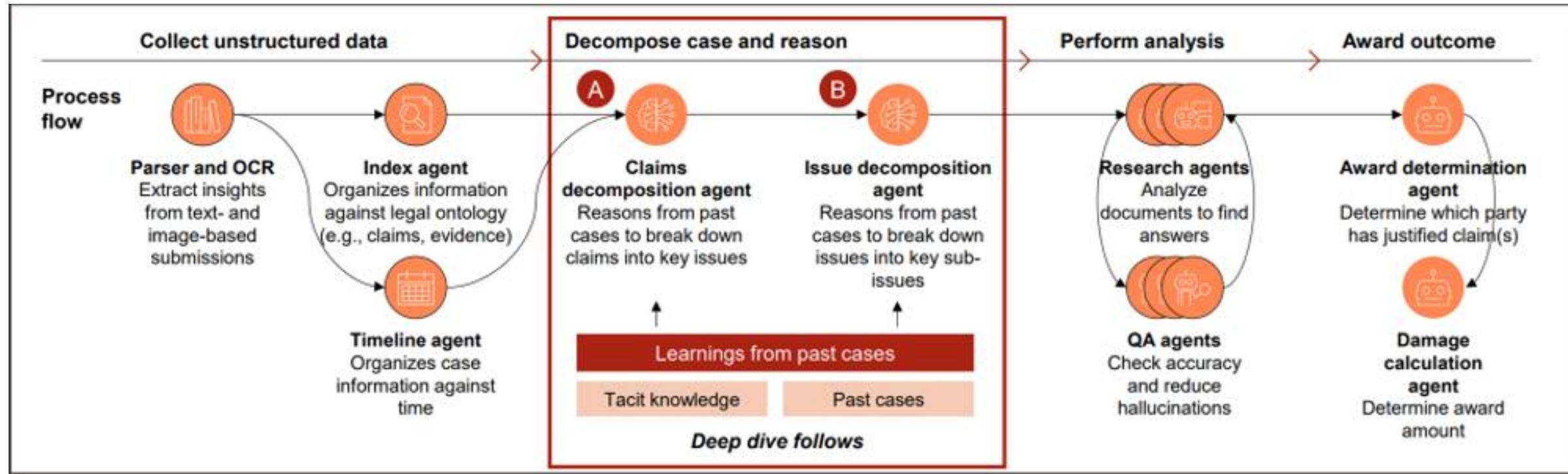


AI-Enabled Point Solutions

- ClauseBuilder.AI
- AAAi Panelist Search (Internal & External)
- Chatbots: HR Chatbot Assistant, Case Filing Assistant, AAA Rules
- WebFile & eCenter AI Assistant, Document Summary and Q&A
- Automated Scheduling Order (Lessons Learned)



How the AI Arbitrator Thinks — Agentic AI in Action



Performance and accuracy benchmarked against human-awarded cases; consistently falls within human parity range

1. Parses claims & evidence from party submissions
2. Synthesizes facts & analyzes claims
3. Identifies issues in dispute
4. References proprietary “handbooks” for reasoning guidance (paths to examine the evidence)
5. Evaluates evidence
6. Makes claims determinations and determines award amounts

Starting Smart — Two party, Documents-only Construction cases

- Two-party, documents-only construction disputes chosen as a controlled, lower complexity pilot.
- A large, consistent portion of AAA's caseload — ideal for training and validation.
- Cases center on clearly documented contracts, payments, and scope-of-work issues.
- Allows for validation of AI reasoning, audit trails, and oversight in a controlled environment before scaling.
- Establishes a foundation to expand to broader case types as trust and accuracy mature.



The Future of IDR

- Looking forward, IDR is poised for a digital transformation:
 - Smart contracts
 - Cloud-based dispute boards
 - Predictive AI and analytics
 - Real time alerts to various stake holders – including DAAB.
 - From firefighting to prevention





Key Predictions

Contracts evolve to include IDR

Platforms become standard tools

AI shapes proactive dispute avoidance



Questions?

Thank You & Questions