

# THE AMERICAN JOURNAL OF CONSTRUCTION ARBITRATION & ADR

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## EDITORS' FOREWORD

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With the publication of this second volume and third issue of the *American Journal of Construction Arbitration and ADR*, we pause to reflect on the past year and the future of this journal. In our first volume, we provided the reader with a broad panoply of topics and scope, ranging from surveys on various elements of arbitration and ADR to discussions on Dispute Boards from some of the most well-known arbitrators, neutrals and litigators in the construction field.

That approach continues with this and future editions. We have sought to curate articles covering the full breadth of construction arbitration and ADR. We plan to continue that effort.

In this, our third edition, we have the pleasure to present the reader with articles that should both educate and foment discussion. These include:

A survey on discovery subpoenas issued to third parties in arbitration across all fifty states (and the District of Columbia) is provided by Peter Jacobus, Katie King and Jarrad Smith of Kilpatrick Townsend & Stockton's highly regarded e-Discovery Team. While arbitration has played a significant role in construction for decades, more recently the scope and added importance of eDiscovery and third-party discovery have increased in both visibility and importance in ADR and arbitration. This article provides the reader with a wonderful discussion on the background of third-party subpoenas in arbitration under the auspices of both the Unified Arbitration Act of 1955 and the Revised Uniform Arbitration Act of 2000, as well as providing some context under the Federal Arbitration Act.

Brian Perlberg, known to many as the lead in developing and administrating the update process on ConsensusDocs, and a passionate advocate for that suite of documents, provides his perspective on ConsensusDocs and their role in arbitration and ADR. Not only does Brian bring his unique perspective, but his article provides some excellent background on the development of ConsensusDocs as well as how they are different than some of the other "standard form" construction agreements available in the marketplace today.

Angus McFadden, Greg Smith and Darren Rowles provide a well-developed analysis of the issues and problems that arise relating to

International Construction Contracting. Not only do Angus, Greg and Darren provide their perspective, but also some “hard data” to support and provide insight into various aspects of this “hot area”.

That piece is then followed-up by Joseph Moore, Lauren Pon and Marc Coats, “closing the loop” and providing a good overview of some of the many considerations that parties and their legal counsel in the use of arbitration in international construction disputes. These two articles dovetail well together and provide a useful foundation for the U.S.-based practitioner who may be new to international arbitration.

We appreciate your interest in the Journal and ask that you pass along word of this still young publication to your friends, colleagues and professional acquaintances. As always, please provide us with any feedback and suggestions for future articles.

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