

Insights: Publications

Arbitrate or Litigate? The Four C's May Help You Choose

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Given a choice, which is the better way to resolve a construction dispute: arbitration or litigation? For many years, arbitration was the default choice of owners and contractors. During the last fifteen to twenty years, however, arbitration has begun to fall out of favor. The ConsensusDocs standard-form contracts first published during 2007 encourage informal negotiations and mediation, but have always required their users to make a choice between arbitration and litigation as the final means of dispute resolution. How are owners and contractors to choose between arbitration and litigation at the outset of a project? Four key factors to consider are cost, competency/complexity, and conclusiveness—the four C's.

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