

What is an Arbitrator's Role

Creature of contract, consensus or common sense?

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Multiple dispute resolution tools to meet variety of situations

- Arbitration
- Mediation
- Med-Arb
- Arb-Med
- Fact finding
- “Advisory opinions”
- Novel hybrids

Union Penetration: RLA v NLRA

- Union penetration:
 - 80% airlines
 - 90% railroads
- History
- Differences in law
- Protected industries
- Acceptance

RLA overview

- Versus NLRA: purposes
- CBAs don't expire
- Direct, mediation, Interest arbitration, Emergency Boards, Congress
- Agreements reached

Air and rail: Dynamic Culture

- Intense environment, joint efforts, non-hierarchical
- Airline Carrearists
- Employees become managers
- logistical demands v scheduling constraints = conflicts
- Active dispute resolution processes

CSX/BRS: Mediation/"Advisory opinions"

- 11 mergers over 30 years
- Multiple contracts, rules, union politics
- Issues: geographic work areas, pay, seniority, travel pay and rules, lunch periods, shift and vacation bidding
- Carrier seeks uniformity; union preserve benefits
- Statutory alternative

CSX/BRS process

- NMB involvement
- Med/ Advisory opinions
- Time limit: 3 days
- 2 “interventions”
 - early, big issues
 - Late final differences

Lessons

- New hybrid
- Flexibility
- New process
- “Nudging”
- “Mediator Proposal”
- NMB’s central role

Compass/ALPA: Med-Arb

- Med-Arb Process
- Pressures: pilot shortage & 30 grievances
- Signing bonus issue
- Resolution:
 - “Dual qualification”
 - bonuses
 - pay increases
 - grievance resolutions
 - relationship

Lessons

- Market intrusion
- Contract re-negotiation v contact interpretation

PSA/ALPA: Complexity v finality

- Reserve availability
- Mgt: Flexibility, staffing
- ALPA: “life style,” premium pay
- “Gap” in contract
- Language, negotiating history, past practice
- Intentions, expectations
- Unintended consequences

Negotiate or arbitrate

- Push back to parties
- Push back to Josh
- MOU, LOA alternative
- Which better?
 - Negotiate: Better result, “own” it
 - Arbitrate: Period of peace; Benefit of the bargain; harder

