

CONSTRUCTION BLOG

Baseball Arbitration In Construction Can Be Good In A Pinch

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Laying the Ground Rules

In traditional baseball arbitration, one side claims they should be paid one amount, while the other side insists that amount should be different. Both try to prove their case before an arbitrator who will ultimately choose one of the two numbers — nothing higher, lower or in between. Outside of the baseball context, this process may have other names, such as pendulum arbitration.

There's another version known as night, or midnight, baseball arbitration, which features the same process but neither party shows the arbitrator their proposals until after a decision has been made. The winner is the side with a proposal closer to the arbitrator's number.

The construction industry doesn't often call on baseball arbitration — there are lawyers who have never seen it used to resolve a construction dispute and those who have seen it once or twice over several decades. Some though, say they've recently seen it come off the bench more frequently.

"I'm seeing it more, we've participated a lot in it lately," said Quinn Murphy of Sandberg Phoenix. "I just think people are learning about the procedure and willing to try it, and once they've tried it, often times they're open to using it again."

[Read the full article here.](#)