



Cecilia O'Neill

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Q&A

What were you, professionally, before you started working as an arbitrator?

I was an associate lawyer at Rodrigo, Elías & Medrano Abogados (Lima, Peru):
<https://www.estudiorodrigo.com/>

My arbitration career developed while I worked as a full-time professor at Universidad del Pacifico, where I was Head of the Academic Department, then Associate Dean, and finally Dean of the Law School.
<https://www.up.edu.pe/>

What other professional roles do you still have?

Associate professor at the Department of Commercial Law at Universidad Carlos III de Madrid (Spain). Council member of the ICC Institute of World Business Law (Paris). Court Member of the American Chamber of Commerce (AMCHAM Peru). Associate professor at Universidad Carlos III de Madrid (<https://www.uc3m.es/Inicio>).

Do you have or tend to work with a back office?

Yes, I do. I have a team working remotely from Lima, Peru. It consists of a legal assistant and a trainee.

Do you like to use a tribunal secretary?

Yes, I do.

How much does your approach vary, case to case?

In terms of dedication, I maintain a high standard for all my cases. I practice a deep analysis of controversies regardless of their difficulty. However, since understanding the facts and technical issues is essential, the time allocated and the methodology to approach the case might vary among each one.

What is your approach to proposing settlement mid case?

I usually do not play an active role, but I would offer support to the parties if they request time for negotiation.

What is your approach to identifying potentially dispositive issues early?

I am in favour of that practice. In my opinion, identifying potentially dispositive issues is crucial for a good management of the cases.

What is your approach to indicating the strengths or weaknesses of cases early?

I am in favour of that practice. It helps to guide the discussion with the arbitrators and provides an opportunity to request the parties to develop stronger arguments. It is important for the parties to be aware of their legal scenario the earliest possible, in order to exercise their rights in due course.

How often do you use the IBA rules of evidence? Will you do it against one side's wishes?

Very often. I will do it unless exists a good legal reason to avoid the IBA rules.

Do you encourage the use of skeleton arguments?

I have not done it, but I would be open to their use if this was proposed.

Do you encourage the use of discovery?

No, I do not. However, I would be willing to allow the use of discovery as far as the parties agree. If they do not reach an agreement, I would open a discovery phase if the tribunal is persuaded on its relevance. Moreover, in case of doubt, I am in favour of its use.

As a co-arbitrator – will you ever consult with the party who appointed you on the identity of the chair?

Yes, I would do it. After consulting the party if there is any possible conflict of interest, the communication ends.

As co-arbitrator – are you in favour of the parties interviewing candidates for chair that you have identified before any final appointment?

No, I am not.

As a chair, how open are you to allowing parties input into procedural order N° 1? Would you ever allow counsel, say, to draft a first proposal?

I usually try to reach an agreement with parties regarding procedural rules. It is a very common practice to share a draft with the parties and request their suggestions. I have not allowed counsels to draft a first proposal and I doubt I would do it.

What is your preference on the presentation of evidence?

I prefer that parties submit all their evidence with their memorials. Exceptionally, with proper justification and consulting the other party, evidence might be presented afterwards. I guarantee the parties' right to present their case, seeking a balance with the rules agreed upon by them.

What is your approach to counsel misconduct? Do you prefer to deal with it there and then or to wait until the end of the case?

In my experience, it is better to deal with counsel misconduct promptly in order to prevent incidents that might hinder the process.

What is your usual approach to costs?

I respect the arbitration agreement regarding the allocation of costs. In its absence, I follow the rule that the losing party assumes the reasonable costs ("costs follow the event").

What is a 'normal' turnaround time for you to deliver an award (assuming no exceptional circumstances)?

Approximately one or two months after the final hearing.

Would you describe your procedural style as closer to common or civil law?

Closer to civil law; however, common law has positively influenced the typical civil style, so I try to apply the best international arbitration practices.

What is your policy on cancellations?

I do not charge the parties with arbitration fees not received due to cancellation. Costs already incurred, as plane tickets, must be assumed by the parties according to the circumstances.

Have you ever been challenged? Is it reported?

I have been challenged in very few cases (3 out of more than 150). In two of them the requests have been dismissed. In the third one I resigned without accepting the reasons for the challenge.

How booked up do you tend to be?

My agenda is busy but I am not overbooked. I organize my time to manage the procedures efficiently and to dedicate effort to my academic projects as well.

Are there any types of appointment or case that you prefer not to accept (e.g. construction disputes, investor appointments in investor-state disputes)?

I do not like cases connected to arms sales agreements.

Do you have any areas of specialist knowledge (legal or industry-related)?

Civil law, contracts, commercial law, infrastructure projects, energy and corporate law.

Data

Gender:	Female
Nationality:	Peru
Bar admissions:	Lima
Civil law:	Yes
Common law:	No
Languages:	English, Spanish, Italian
Total no of arbitration appointments:	157+
No of arbitral appointments in past 3 years:	41+
No of those as chair	17+
Where did you sit?	Mexico, France, Spain, Peru
Under which applicable laws:	Mexico, Spain, Peru



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Fernando Cantuarias	Rafael Artieda Aramburú	Francisco Avedaño Arana
Eric Franco	Ives Daniel Becerra Naccha	Arturo Aza Riva
Leysser Luggi León Hilario	Eduardo Buendía De Los Santos	Luis Bedoya Escurra
Mayte Remy Castagnola	Rosa Bueno de Lercari	Guillermo Bracamonte
Eduardo Silva Romero	Jorge Alberto Burbank Guija	Alexander Campos Medina
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	Gaston Fernandez	Francisco De Paula Ruiz Crespo
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