

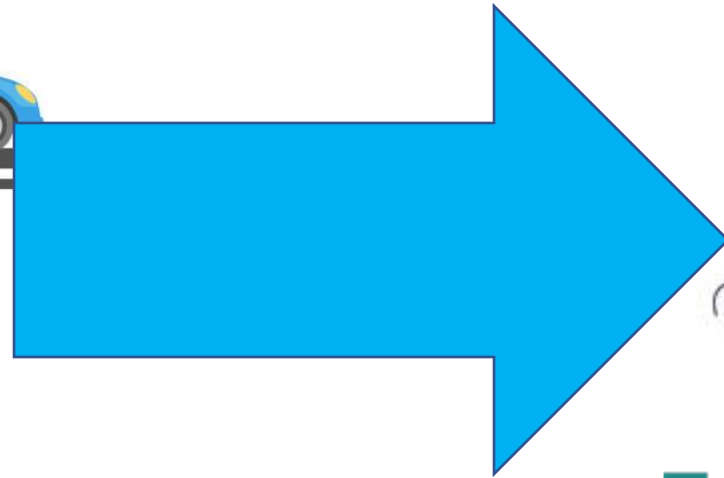
# Dispute Resolution in the Digital Economy

Catherine A. Rogers



31 March 2021

A person who needs a ride→



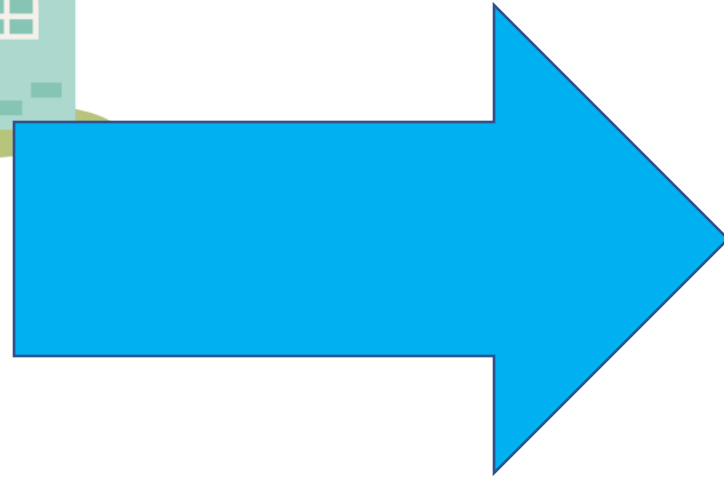
→ A person who has a car



Side•car

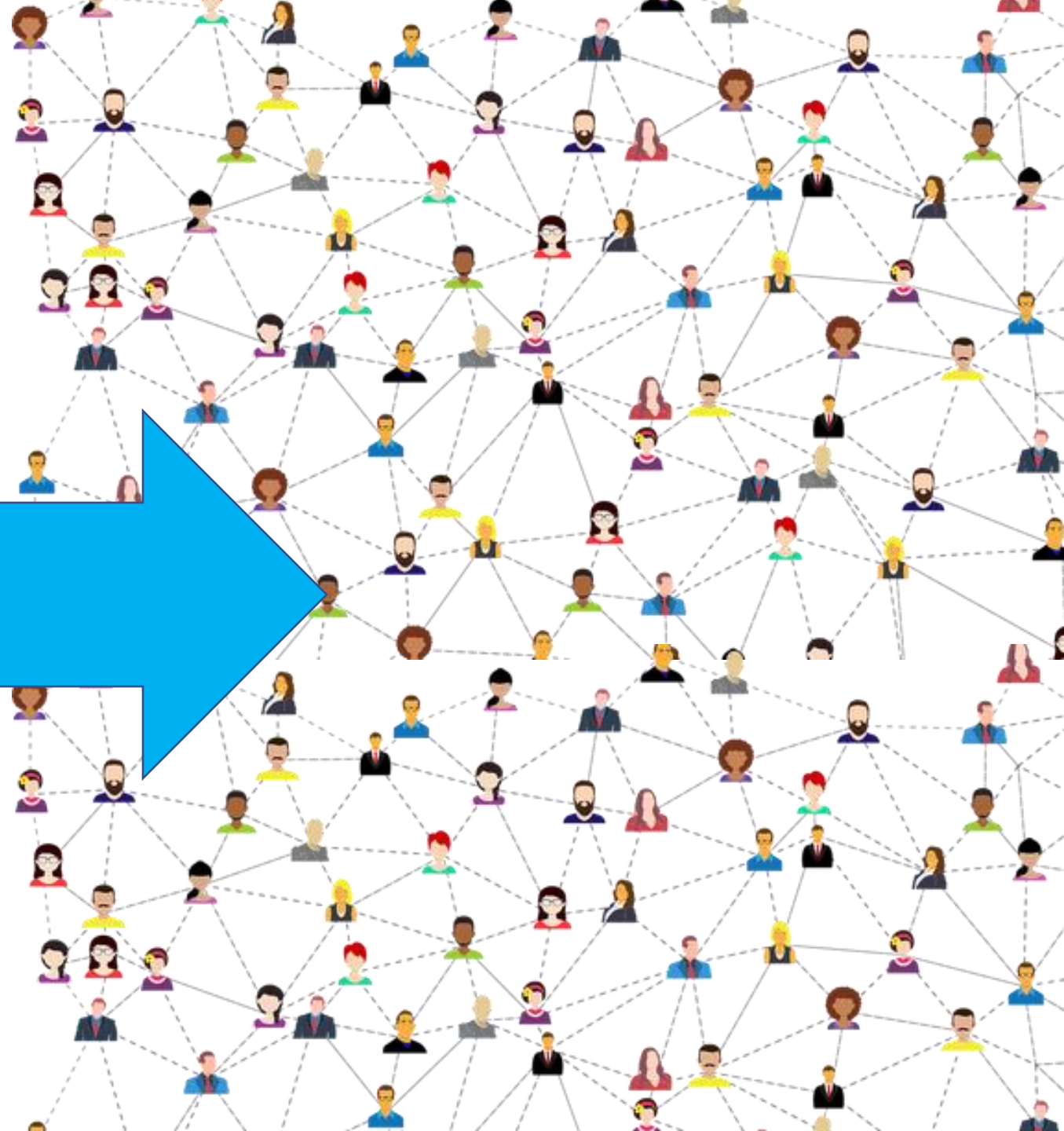
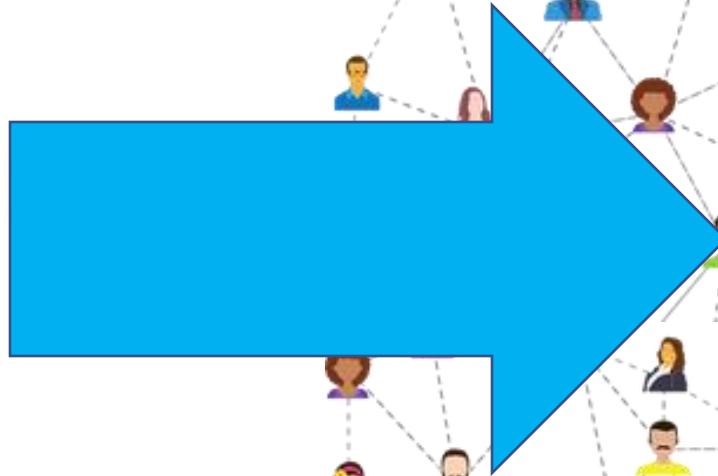
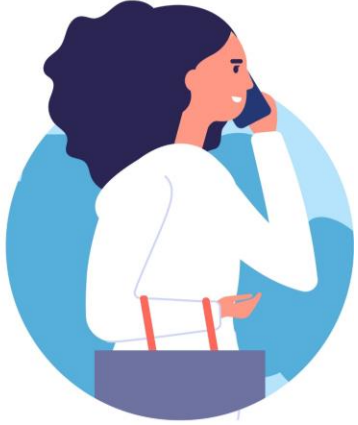


A person who needs a room →



→ A person who has a home

A person who needs  
arbitrator info→



→A person who has  
arbitrator info

# The Arbitrator Intelligence Platform





DASHBOARD

Overview of Disputes

Tribunals & Responders

- Cantuarias' Role
- Tribunal Secretaries
- AIQ Responders

Arbitral Procedures

- Rulings
- Settlement Efforts
- Procedure Assessments

Jurisdictional Challenges

Document Production

Conduct of Hearings

- Duration of Hearings
- Case Management
- Arbitrator Questions

The Award

- Reasoning
- Timing
- Damages
- Costs, Fees & Interest

Assessments

Fernando Cantuarias Salaverry

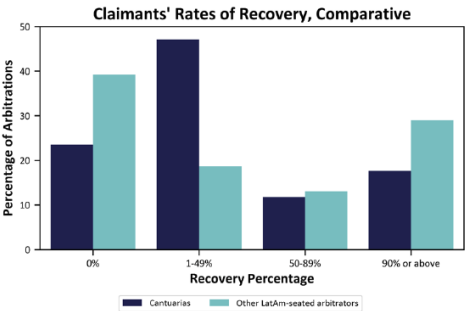
Nationality:	Peruvian	Firm/Organization:	Universidad de Pacífico, Faculty of Law
Domicile:	Peru	Position:	Senior Professor and Dean of the Faculty of Law, Universidad de Pacífico
Education:	LL.M., Yale Law School	Additional Profiles:	cantuarias_f@up.edu.pe
Languages:	Spanish & English		



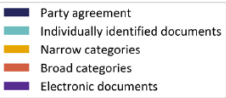
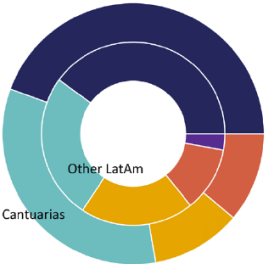
DASHBOARD

Claimant's Recovery

- 24% of Claimants recovered 0 damages
- For claimants who recovered, the average recovery was 40% of the amount sought



Standards for Document Production

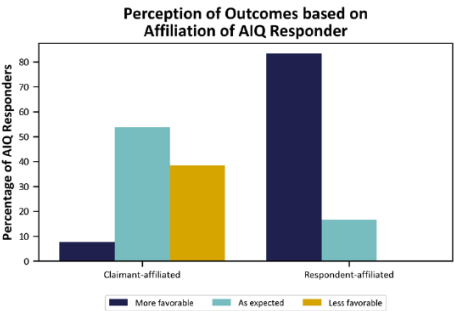


Standards for Document Production

- When granted, 44% of document production ordered was narrow categories
- All document requests were granted, either partially (50%) or in full (50%)

Assessments of Outcomes

- 83% of Respondent-affiliated AIQ Responders found the award "more favorable than expected"
- 53% of Claimant-affiliated responders found the award "as expected"





Dashboard

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Challenges

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Timing  
Damages  
Costs, Fees & Interest

ASSESSMENT

ASSESSMENT **PART 1** PART 2

Figure 14B

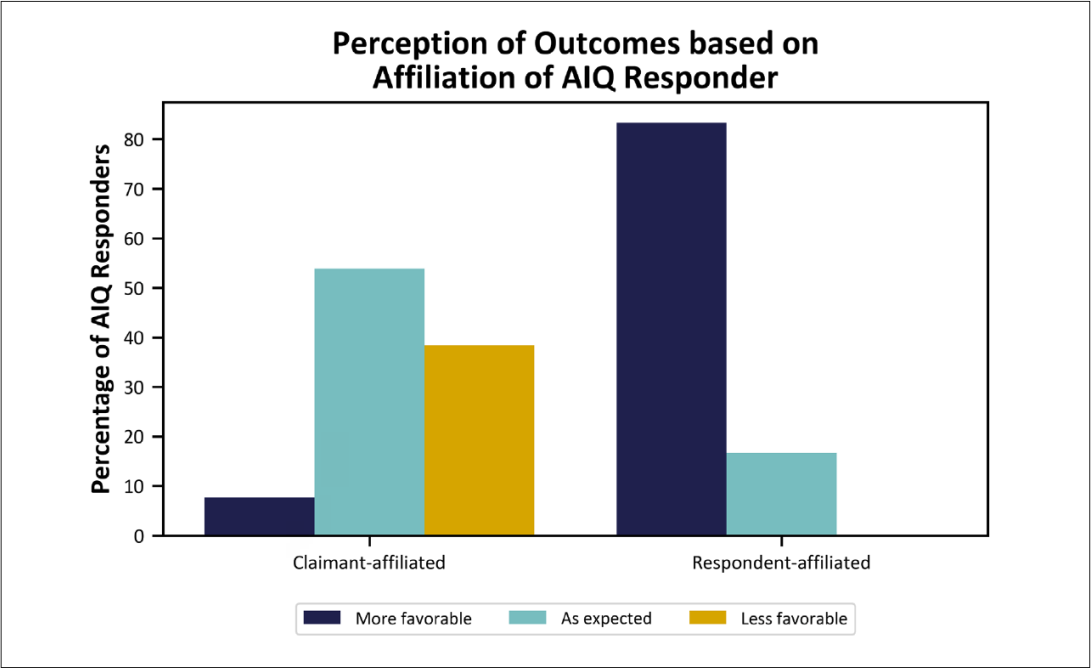


Figure 14B illustrates how AIQ Responders assessed outcomes in **Cantuarias Arbitrations** in light of their or their clients' expectations, grouped by whether Cantuarias sat as chair or as a co-arbitrator.





Dashboard

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THE AWARD

Reasoning

Timing

Damages

Costs, Fees & Interest

Assessments

## THE AWARD

Figure 12A

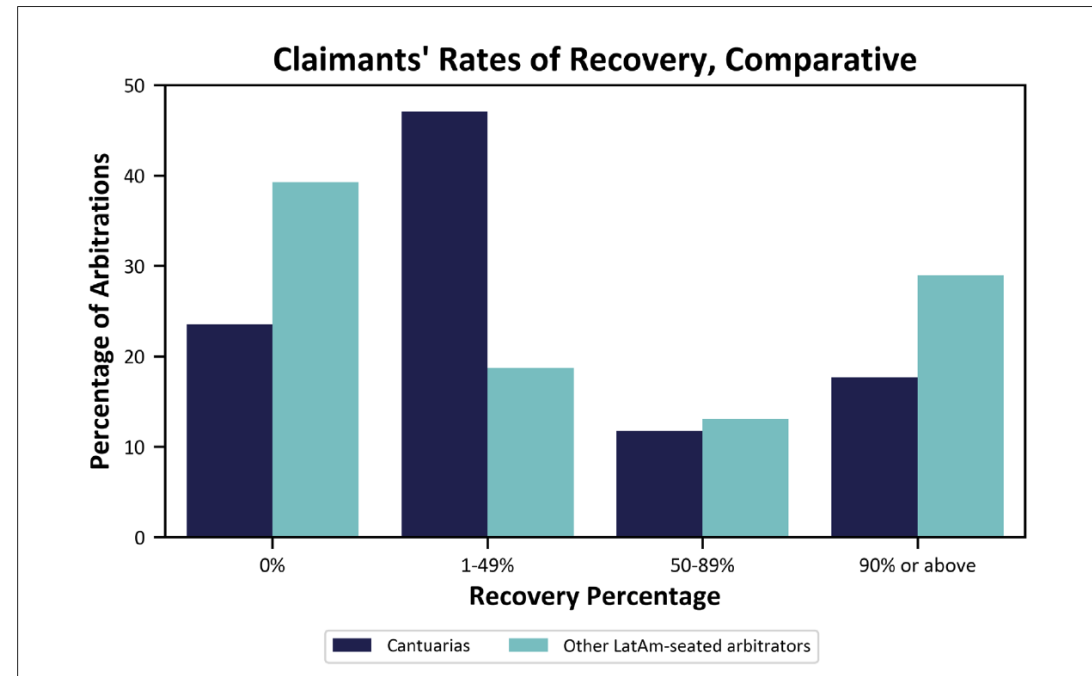


Figure 12A compares Claimants' rate of recovery based on the amount requested, either initially or after final submissions, awarded by Cantuarias to the rate of recovery awarded by other Latin America-seated arbitrators on which Arbitrator Intelligence has data.





## Juan Fernández-Armesto

**Nationality:** Spain  
**Domicile:** Madrid, Spain  
**Education:** ICADE, Madrid  
Universidad Autonoma de Madrid

**Firm/Organization:** Armesto y Asociados  
**Position:** Professional arbitrator  
**Languages:** Spanish-German, English, Portuguese and French (working knowledge)

ADDITIONAL PROFILES

### DASHBOARD

Overview of Disputes

Tribunals & Tribunal Secretaries

Armesto's Role  
Tribunal Secretaries

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Document Production

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Duration of Hearings  
Arbitrator Questions

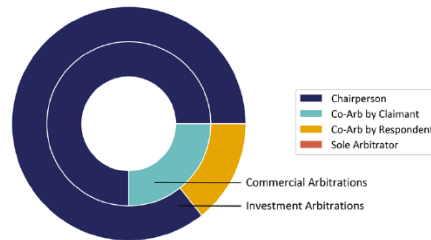
The Award

Alleged Treaty Violations  
Sources of Authority  
Treaty Interpretation  
Prior Decisions  
Expert Witnesses  
Dissenting Opinions  
Timing  
Relief Granted  
Costs, Fees & Interest

### DASHBOARD

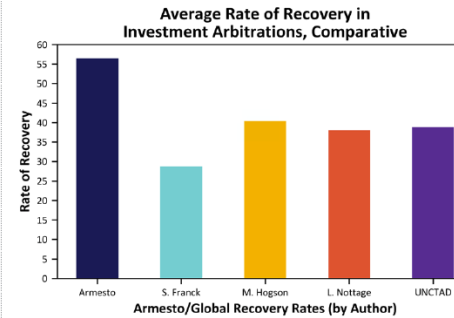
- ▶ Armesto is most often appointed as a Chairperson (83% of cases)
- ▶ As co-arbitrator, Armesto mostly appointed by Respondents in investment arbitrations and by Claimants in commercial arbitrations

Armesto's Roles on Tribunals



### Timing

Duration of deliberations in investment arbitral proceedings is 421 days, which is shorter than the global average.

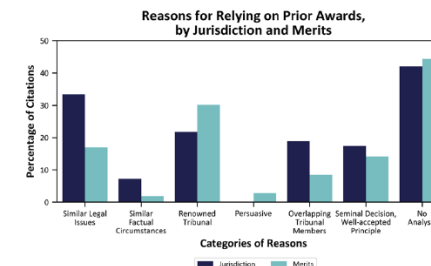


### Recovery on Investment Claims

- ▶ 50% of direct expropriation and 76% of indirect expropriation claims granted in full
- ▶ Average rates of recovery higher than global averages
- ▶ Costs and fees most frequently awarded to prevailing party or based on relative merits

### Sources of Authority & Methodologies

- ▶ Other international treaties or instruments and scholarly treatises are primary source relied on in investment awards, on jurisdiction and merits
- ▶ Ordinary meaning and precedent analysis are primary interpretive methodologies
- ▶ Schreuer is most frequently cited scholar





## Juan Fernández-Armesto

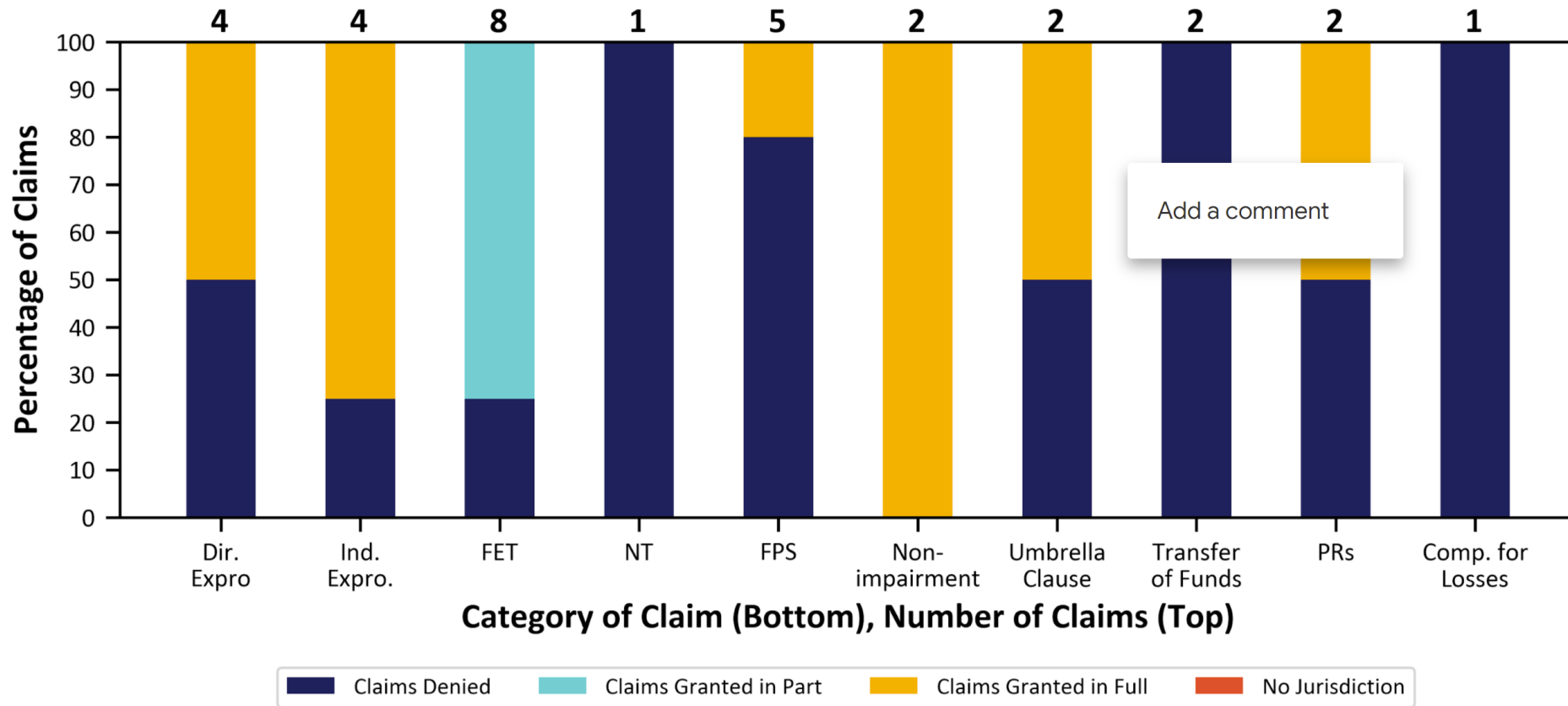
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### DASHBOARD

Overview of

## Decisions on Claims or Alleged Breaches





# Thank you

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