



CONTRACTS | COMMERCIAL SUPPORT | DISPUTES | TRAINING

ADJUDICATION SURVEY 2015

INTRODUCTION

The inaugural MDA Adjudication Survey aims to provide some (albeit limited) statistical information regarding the state of adjudication in South Africa.

The survey consists of information collected by MDA in respect of adjudications where MDA were retained to represent one of the disputing parties.

The survey does not attempt to provide a representation of statistics of all adjudications in Southern Africa but simply provides statistics taken from these 49 adjudications and provides some interesting insight.

The information collected relates to adjudications where a decision was issued between



2015

MDA HANDLED

49

ADJUDICATIONS
DURING THIS PERIOD

OVERVIEW

1. PARTIES TO DISPUTE



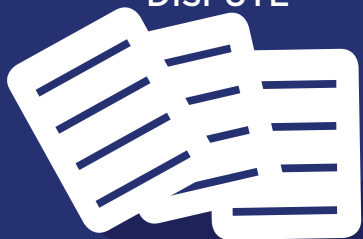
2. NATURE OF DISPUTE



3. QUALIFICATIONS OF THE ADJUDICATORS



4. CONTRACTS CREATING DISPUTE



5. MONETARY VALUE OF DISPUTE



6. MONETARY VALUE OF DECISION



1. PARTIES TO THE DISPUTE

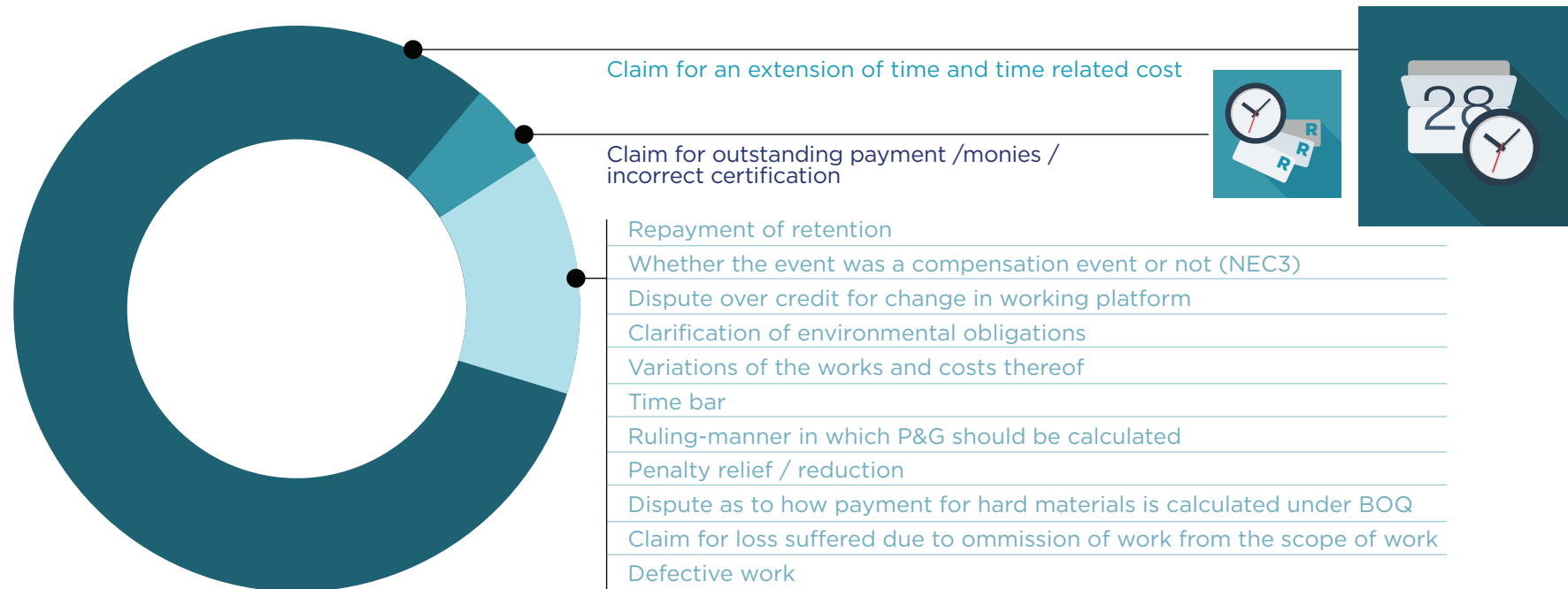
Whose fighting?



The majority of the disputes handled by MDA involved disputes between contractors and employers, with only two disputes being between subcontractor and contractor. A possible explanation for this is that subcontractors and contractors tend to resolve disputes without reference to formal dispute resolution mechanisms.

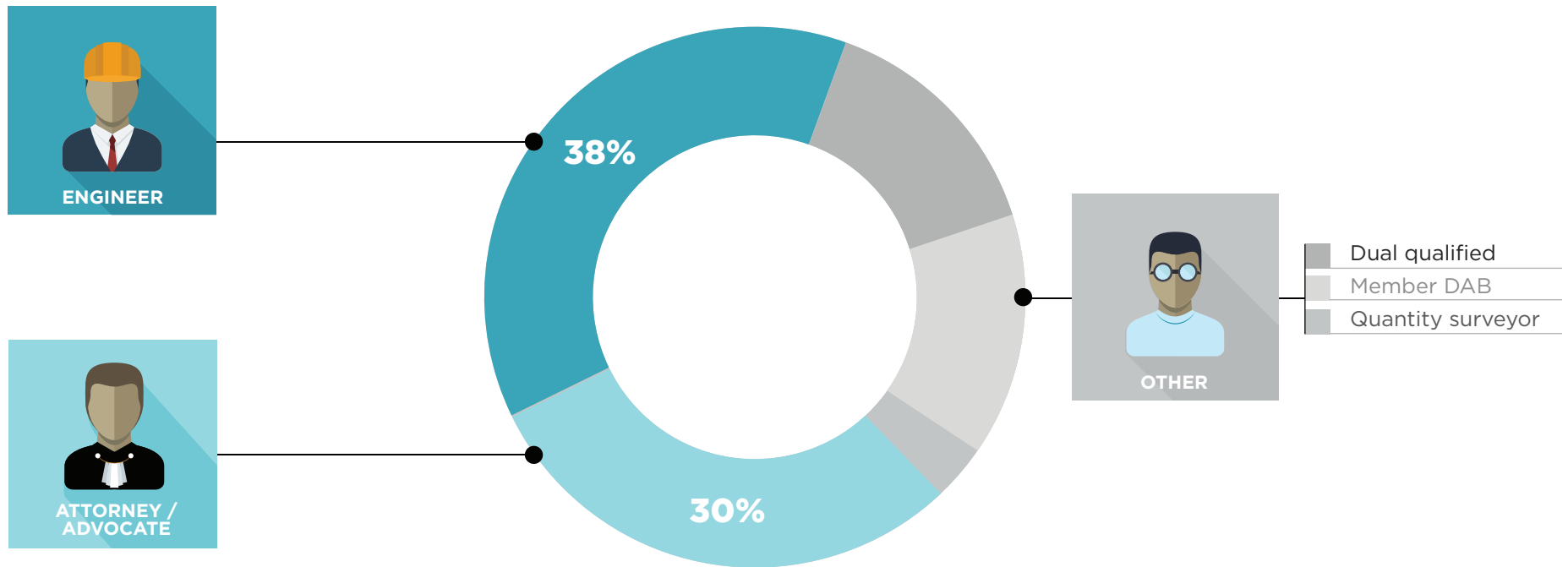
2. NATURE OF DISPUTE

What are parties to construction contracts fighting about?



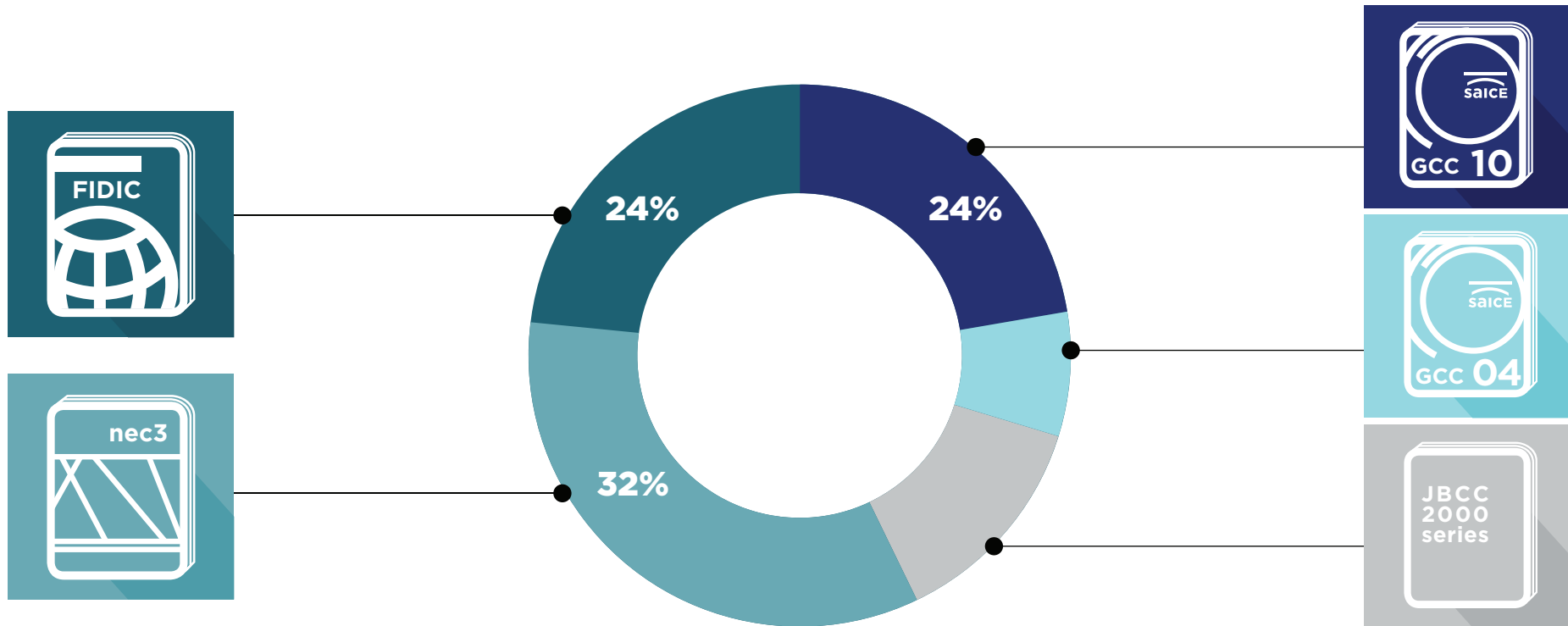
The most common disputes referred to adjudication during the 2015 year were those in respect of a claim for extension of time and time related costs. This was followed by payment claims. Given the imminent enactment of the CIDB Prompt Payment Regulations and the current market conditions, we expect an increase in the number of adjudications regarding payment.

3. QUALIFICATIONS OF THE ADJUDICATORS?



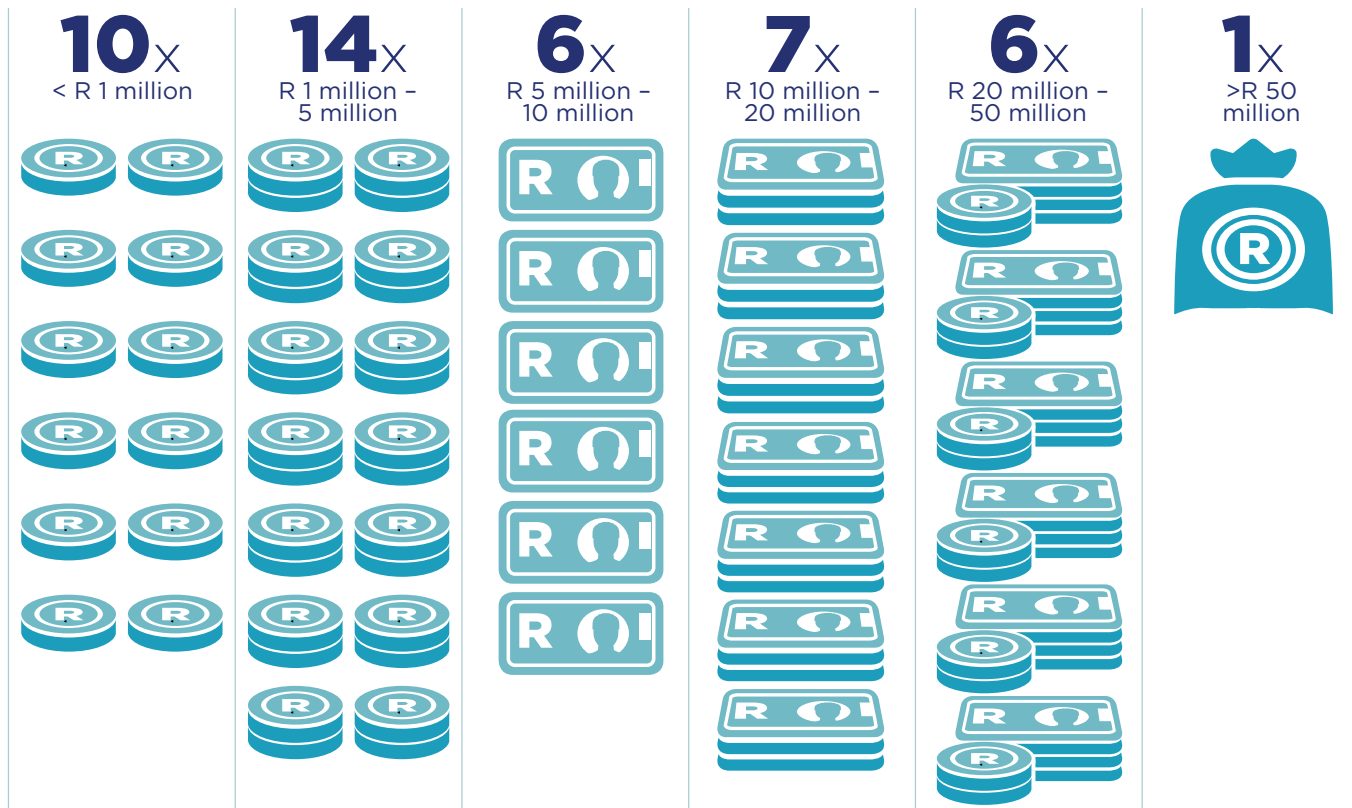
Engineers and lawyers make up the majority of the adjudicators with engineers constituting 38% and lawyers making up 30%.

4. WHAT CONTRACTS ARE CREATING THE DISPUTE?



This was a really interesting result with the NEC3 making up 32% of the disputes and FIDIC / GCC2010 making up 24% each. The greater number of NEC3 adjudications is largely due to the broader definition of dispute given under this standard form.

5. WHAT IS THE MONETARY VALUE OF THE DISPUTES?



The large majority of the disputes referred to adjudication dealt with monetary values (time related and additional costs) of up to R10 million.

6. THE MONETARY VALUE OF THE DECISION

