

MANAGING THE TROUBLED CONSTRUCTION PROJECT: DEALING WITH DELAY AND IMPACT CLAIMS

Can you confidently manage and mitigate delay claims?

Delay and impact claims can threaten the viability of your project, as well as cause serious financial and reputational damage for you and your company. Learn the latest best practices and risk management strategies to protect yourself, including:

- Document, document, document – what is an effective paper trail, and how should it be maintained?
- The importance of the schedule, including regular schedule updates
- Troublesome contractual delay provisions to watch out for
- How to use the consultant most effectively
- Tips for managing thorny issues, such as causation and impact, float and concurrent delay

Register today at:

osgoodepd.ca/construction-claims

Program Chair

Geza R. Banfai, McMillan LLP

Program Details

DATE AND TIME

April 28, 2017

9:00 a.m. – 5:00 p.m.

Online Replay: May 26, 2017

LOCATION

Osgoode Professional Development

1 Dundas St. West, 26th Floor
Toronto, ON



Managing the Troubled Construction Project: Dealing with Delay and Impact Claims

Project delays and their attendant impacts are amongst the most insidious threats to your business. They lurk on any and every job you do, and unmanaged, they can have serious legal, financial and reputational consequences.

Learn the critical information you need to improve your risk management strategy on every contract. In this unique *Osgoode Professional Development* program, an expert faculty of practicing lawyers and senior consultants, with years of combined experience in the construction industry, will provide you with practical and effective legal and strategic risk management tools that you can immediately implement on your next project. You will develop a thorough understanding of delay and impact claims, and will come away from the program better equipped to avoid claims, and confidently manage the next troublesome claim you encounter.

You Will Learn About:

- Monitoring and adjusting the critical path - are you *really* delayed?
- The types of damages that are recoverable
- The different methods for calculating delay & impact losses, and their advantages/disadvantages
- Time impact and windows analysis
- How to comply with notice requirements – and why it's important
- The dangers of scheduling software- what to watch out for

Who Should Attend?

- Owners and developers
- Builders and construction professionals
- Architects
- Engineers
- Construction lawyers

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Agenda

8:30 a.m.

Registration and Continental Breakfast

9:00 a.m.

Overview: The Legal Context

Yonni Fushman, Vice President & Deputy General Counsel, Aecon Group Inc.

- Understanding the main causes of delay, including:
 - Contractor-caused delay
 - Owner-caused delay
- Legal theories supporting entitlement
- Standard contract terms that address delay
- Troublesome contractual delay provisions to watch out for
- Compliance with notice requirements - how to do it, and why it's important
- What types of damages are recoverable?

10:15 a.m.

Refreshment Break

10:30 a.m.

How to Identify and Manage Complex Issues

Chris Larkin, Senior Managing Director, Construction Solutions, FTI Consulting

This session will take an in-depth look at the more complex aspects of delay and impact claims. You will be provided with the knowledge and tools you need to understand and manage the thorny issues, including:

- Demonstrating causation and impact
- Smoke and mirrors – the dangers of scheduling software
- Relevance of float
- Concurrent delay – myth or reality?
- Mitigation
- Prescriptive scheduling

12:00 p.m.

Networking Luncheon

1:00 p.m.

Understanding the Different Methods for Calculating Delay & Impact Losses

J. Gerard Boyle, Revay and Associates Limited

- Why are there differing methods of analysis? Why the differences matter
- Advantages and disadvantages to commonly used alternatives, including:
 - Time Impact Analysis
 - Collapsed As-Built
 - As-Built Critical Path
 - Impacted As-Built
 - As-Planned vs. As-Built – Total Time – where is the line?

2:15 p.m.

Refreshment Break

2:30 p.m.

Deep Dive into Time Impact and Windows Analysis

Rick Moffat, Berkeley Research Group, LLC

- Understanding the methodology most favoured by courts and arbitrators

- Why Time Impact/Windows analysis is particularly useful
- When can a Time Impact/Windows analysis be used – and when is it inappropriate?
- How a Windows analysis is prepared – a step-by-step exposition illustrating the methodology, including:
 - How Windows are selected and used in assessing delay
 - How the method deals with shifts in the critical path
 - How the method deals with concurrent delay

3:30 p.m.

Panel Discussion: Best Practices for Avoiding and Mitigating Delay Claims

Moderator:

Geza R. Banfai, McMillan LLP

Panelists:

Yonni Fushman, Vice President & Deputy General Counsel, Aecon Group Inc.

Chris Larkin, Senior Managing Director, Construction Solutions, FTI Consulting

J. Gerard Boyle, Revay and Associates Limited

Rick Moffat, Berkeley Research Group, LLC

This interactive panel discussion will further develop the topics discussed during the day, with a focus on providing best practices to avoid delay issues and mitigate them when they occur. You will have the opportunity to get your most pressing questions answered as you benefit from the years of combined construction industry experience of the panelists. Receive guidance on the following topics affecting your projects:

- The importance of the schedule, including regular schedule updates
- Keys to early recognition of delay - anticipating problems before they occur
- Monitoring and adjusting the critical path - are you *really* delayed?
- How to use the consultant most effectively
- The importance of documentation – what is an effective paper trail, and how should it be maintained?

5:00 p.m.

Program Concludes



Chair

Geza R. Banfai
McMillan LLP

Faculty Includes

J. Gerard Boyle
Revay and Associates Limited

Yonni Fushman
Vice President & Deputy General Counsel
Aecon Group Inc.

Chris Larkin
Senior Managing Director
Construction Solutions, FTI Consulting

Rick Moffat
Berkeley Research Group, LLC

Registration Details

Fee per Delegate

\$595 plus HST

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about financial assistance.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.



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This program has been accredited by the CCA for 1 credit towards Gold Seal Certification's education requirement.



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