



ADVANCED CONSTRUCTION ISSUES: CONSTRUCTION PROJECT DELAY & IMPACT CLAIMS

Can you confidently manage and mitigate delay claims?

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

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

Register today at:

osgoodepd.ca/cns-project

Program Chair

Geza Banfai
Counsel, McMillan LLP

Date and Time

April 12, 2019
8:45 a.m. – 5:00 p.m. EDT
In Person or Webcast

Online Replay: May 10, 2019

Location

Osgoode Professional
Development
1 Dundas St. West, 26th Floor
Toronto, ON



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ADVANCED CONSTRUCTION ISSUES: Construction Project Delay & Impact Claims

Project delays + impacts = sinister threats to your business + livelihood.

They lurk on every job you do and, *if unmanaged*, they risk your financial ruin.

Learn critical skills, information and best practices to improve your risk management strategy on every project. In this unique and intensive program, join our expert faculty of leading industry specialists to gain practical and effective legal and strategic risk management tools that you can immediately use on your next project. You will develop a thorough understanding of delay and impact claims and emerge from the program better equipped to avoid claims and to confidently manage the next troublesome claim you encounter.

Topics Include

- Main causes of delays – includes contractor- and owner-caused delay
- Monitoring and adjusting the critical path – are you *really* delayed?
- Notice requirements – how to comply and why it's important
- Damages – which types are recoverable?
- Calculating delay and impact losses – different methods and advantages/disadvantages
- Claims and defences – key issues and top tips from the perspectives of owners and of contractors/subcontractors
- Best practices and methods to avoid and mitigate delay claims on your next project

Who Should Attend?

- Owners and developers
- Builders and construction professionals
- Project managers
- Contract managers
- Architects
- Engineers
- Construction and in-house lawyers
- Procurement professionals
- Consultants

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Agenda

8:30 a.m.

Registration and Refreshments

8:45 a.m.

Chair's Welcome and Introduction

9:00 a.m.

Overview: The Legal Context

Yonni Fushman, EVP & Chief Legal Officer, Aecon Group Inc.

Before delving into the complexities of delay claims, it is essential to grasp the overall framework of key legal and business considerations surrounding delay and impact claims, including:

- Understanding the main causes of delay:
 - Contractor-caused delay
 - Owner-caused delay
- Legal theories supporting entitlement
- Standard contract terms that address delay
- Troublesome contractual delay provisions to watch out for
- Notice requirements – how to comply and why it's important
- Damages – what types of damages are recoverable?
- Claims – what are the elements of a persuasive claim?
- Tips and best practices for managing and resolving disputes and claims early

10:30 a.m.

Refreshment Break

10:45 a.m.

Overview: The Different Methods for Calculating Delay & Impact Losses

Maged Abdelsayed, PEng, MEng, Partner, Capital Projects, Deloitte Canada

This session will examine the different delay analysis techniques for calculating delay and impact losses and provide you with real-world examples, including:

- Why are there differing methods of analysis? Why do the differences matter?
- 5 delay analysis techniques
- Advantages and disadvantages of commonly used alternatives, including:
 - Time Impact Analysis
 - Collapsed As-Built
 - As-Built Critical Path
 - Impacted As-Built
 - As-Planned Schedule vs. As-Built – Total Time – where is the line?
- When to retain a specialist to calculate loss

12:15 p.m.

Networking Luncheon

1:00 p.m.

Claims and Defences: Contractor & Subcontractor Perspective

Ali Fard, LLM, MBA, MSc, BSc Eng, MRICS, FCIArb, Managing Director – Canada, Driver Trett Canada Ltd.

This session will provide you with essential knowledge, insights and expert tips involving the common types of claims and defences for contractors and subcontractors, including:

- Overview - how contractor and subcontractor claims and disputes are similar and distinct
- Technical
 - What contractors and subcontractors need to prove
 - Expert tips on what the courts are looking for
 - Weaknesses in methodology and things to watch out for, includes checklist
- Expert tips and practical considerations, includes valuable “lessons learned”

2:15 p.m.

Claims and Defences: Owner Perspective

Niamh Ni Chroinin, BEng, MSc (Law), CEng, MICE, MRICS, Senior Managing Consultant, Berkeley Research Group, LLC

This session will provide you with essential knowledge, insights and expert tips involving the common types of claims and defences for owners, including:

- Overview – owners mostly defend these claims, not initiate them
- Technical
 - What owners need to prove
 - Expert tips on what the courts are looking for
 - Weaknesses in methodology and things to watch out for, includes checklist
- Expert tips and practical considerations, includes valuable “lessons learned”

3:30 p.m.

Refreshment Break

3:45 p.m.

Interactive Panel Discussion: Best Practices & Methods for Avoiding and Mitigating Delay Claims

Moderators:

Geza Banfai, McMillan LLP

Niamh Ni Chroinin, BEng, MSc (Law), CEng, MICE, MRICS, Senior Managing Consultant, Berkeley Research Group, LLC

Panel:

Maged Abdelsayed, PEng, MEng, Partner, Capital Projects, Deloitte Canada

Ali Fard, LLM, MBA, MSc, BSc Eng, MRICS, FCIArb, Managing Director – Canada, Driver Trett Canada Ltd.

Yonni Fushman, EVP & Chief Legal Officer, Aecon Group Inc.

Rick Moffat, Managing Partner, Berkeley Research Group, LLC

This not-to-be-missed interactive panel discussion will further develop and synthesize the topics covered throughout the day with a focus on providing best practices and methods to avoid delay issues and mitigate them when they occur. Delve into real-world situations and the program’s own case study to gain a comprehensive and solutions-focused recap to this intensive day of programming.

You will have the opportunity to get your most pressing questions answered and benefit from the combined 100+ years of construction experience. Receive practical and solutions-focused 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?
- Solutions and fact pattern analysis, includes real-world examples and “lessons learned”
- Special Topic + Open Discussion: Equality, Diversity and Inclusion (EDI) – recognizing power dynamics, the “business case” for diversity and inclusion, challenges and strategies in addressing barriers

5:00 p.m.

Program Concludes



Chair

Geza Banfai
McMillan LLP

Faculty Includes

Maged Abdelsayed, PEng, MEng
Partner, Capital Projects, Deloitte Canada

Ali Fard, LLM, MBA, MSc, BSc Eng, MRICS, FCIArb
Managing Director – Canada, Driver Trett Canada Ltd.

Yonni Fushman
EVP & Chief Legal Officer, Aecon Group Inc.

Rick Moffat
Managing Director, Berkeley Research Group, LLC

Niamh Ni Chroinin, BEng, MSc (Law), CEng, MICE, MRICS
Senior Managing Consultant, Berkeley Research Group, LLC

“Overall] very good. I now have a clear understanding of the different types of delay and impact analysis. Learned the importance of schedule updates. Great location [and] accessible by transit.”

John Thompson, Project Manager, City of Vaughan

“The speakers were very knowledgeable; and good discussion with the group. The facilities were great and conveniently located.”

Edward Earle, Practice Lead, City of Toronto

Registration Details

Fee per Delegate

\$595 plus HST

Fees include attendance, program materials, refreshments, 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 is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



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LSO (ON): 7h 15m CPD (6h 15m Substantive; 45m Professionalism; 15m EDI).



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