



ADVANCED CONSTRUCTION ISSUES:

# CONSTRUCTION PROJECT DELAY & IMPACT CLAIMS

**INCLUDES KEY UPDATES  
ON CURRENT IMPACTS**

## Date & Time Webcast

June 25, 2020  
8:30 a.m. – 4:30 p.m. EDT

## Online Replay

September 10, 2020

*Includes 120-day access*

## Program Chairs & Advisor

**Jason Annibale**  
McMillan LLP

**Andrea Lee**  
Glaholt LLP

**Geza Banfai**  
McMillan LLP

More than ever, you need to know how to manage costly 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](http://osgoodepd.ca/cns-project)



# ADVANCED CONSTRUCTION ISSUES: Construction Project Delay & Impact Claims

## 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

- Strategies for addressing pandemic impacts on construction
- 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.

Chairs' Welcome and Introduction

8:45 a.m.

Overview: The Legal Context

Jason Annibale, McMillan LLP

Andrea Lee, Glaholt LLP

This session will introduce the legal context surrounding delay and impact claims. You will be provided with the knowledge and tools you need to understand the legal framework, including:

- 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 and why
- Notice requirements (includes checklist) – 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 to manage and resolve contractual disputes and claims early

10:15 a.m.

Break

10:30 a.m.

Overview: The Different Methods for Calculating Delay & Impact Losses

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

- Why are there differing methods of analysis? Why the differences matter?
- 5 delay analysis techniques
- 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?
- When to retain a specialist to calculate loss
- Industry standards, applicable guidelines – status and where things are going

**11:30 a.m.**  
**Lunch Break**

**12:15 p.m.**

**Claims & Defences: Owner, Contractor & Subcontractor Perspectives**

**Ali Fard, LLM, MBA, MSc, BSc Eng, MRICS, FCIarb**, Partner, HKA Global (Canada) Inc.

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

- Overview
  - how owners mostly defend these claims, not initiate them
  - how contractors and subcontractors are similar and distinct
- Technical
  - What owners need to prove
  - What contractors and subcontractors need to prove
  - Tips on what courts are looking for, weaknesses in methodology, includes checklist
- Expert tips and considerations, includes valuable “lessons learned”

**1:45 p.m.**

**Overview: Case Law & The Courts**

**Glenn Ackerley**, WeirFoulds LLP

Expert faculty will provide a succinct summary of the state of the law in this highly complex and technical area, and will guide you through the leading case law and the latest treatment by the courts when dealing with delay and impact claims matters, including:

- The state of the law with respect to delay and impact claims
- Top 5 cases dealing with the most pressing delay + impact claims issues

- How the courts are dealing with delay + impact claims, including how decision-makers view expert evidence, and consultant’s testimony and recommendations
- Guided discussion on issues impacting practice management and professionalism considerations, including the duty to recommend, when to engage an expert, and in what circumstances
- Session will include an interactive discussion and Q+A period

**3:15 p.m.**  
**Break**

**3:30 p.m.**

**Interactive Industry Panel Discussion: Best Practices & Methods to Avoid and Mitigate Delay Claims**

**Moderators:**

**Jason Annibale**, McMillan LLP

**Andrea Lee**, Glaholt LLP

**Panel:**

**Melissa Di Marco, PhD, MSc**, Vice-President, Project Advisory & Disputes, Accuracy

**Doris Marshall, CEC**, Practice Leader, Construction Claims & Course of Construction, Envista Forensics

**Stanley Naftolin, QC, CS**, Goldman Sloan Nash & Haber LLP

**Meera Wagman**, Managing Director, Secretariat International

This 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 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 100+ years of combined construction experience. Receive practical guidance/advice and solutions-focused guidance on key topics affecting your projects:

- The importance of the schedule, including regular schedule updates and proper forecasting
  - Responsibility of the lawyer to ensure schedule updates
- Keys to early recognition of delay – anticipate problems before they occur
  - Understanding your duty to inform client – what is the delay threshold?

- Monitoring and adjusting the critical path – are you really delayed?
- How to use the consultant most effectively
  - Scope of practice; when you need to retain an external consultant
- The importance of documentation – what is an effective paper trail and how to maintain it?
  - Responsibility of lawyer for proper documentation
- Solutions and fact pattern analysis, includes real world examples and “lessons learned”
- Bring the day together and pick-up/elaborate on some loose ends.
  - What are next steps for delay analysis? Add in questions for next steps in panel.
- How to deal proactively with problems in real-time.
  - Consultants – what good are you anyway?
  - How judges/arbitrators view consultants and expert evidence
- Industry standards and approach – do we need more concrete guidelines or standards for experts delivering delay opinions?

**4:30 p.m.**

**Program Concludes**



## Program Chairs

Jason Annibale  
McMillan LLP

Andrea Lee  
Glaholt LLP

## Program Advisor

Geza Banfai  
McMillan LLP

## Faculty Includes

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

Doris Marshall, CEC  
Practice Leader, Construction  
Claims & Course of Construction,  
Envista Forensics

Glenn Ackerley  
WeirFoulds LLP

Stanley Naftolin, QC, CS  
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Vice-President,  
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Meera Wagman  
Managing Director,  
Secretariat International

Ali Fard, LL.M, MBA, MSc,  
BSc Eng, MRICS, FCI Arb  
Partner, HKA Global  
(Canada) Inc.

## Registration Details

**Fee per Delegate (includes 120-day access)**

**\$595 plus HST**

**Newly Licensed (2017 – 2020): \$297.50 plus HST**

Fees include attendance, program materials and 120-day program access. Group discounts are available. Visit [www.osgoodepd.ca/group-discounts](http://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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*“Excellent – experienced panel of presenters. Facilities were excellent.”*

Brian Soltanzadeh, Vice President, Pegah Construction Ltd.

*“Instructors were very knowledgeable and there was a lot of information.”*

Rob Andrews, Senior Project Manager Civil Division, Triple Crown Enterprises

*“Very good material and delivery. Relevant to our business.”*

Kelvin Jamieson, Owner, FHR Inc.



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