

THE 2024 GUIDE TO MANAGING DELAY AND IMPACT CLAIMS IN CONSTRUCTION

Practical
workshop
now
available

“Excellent. Very interesting course with experienced and knowledgeable faculty who presented relevant, real life, real time, live issues and examples.”

Carolyn Currie, Sr Counsel, Commercial Resolutions, Infrastructure Ontario

Project delays happen. You need to be current on how to properly manage the risks and claims.

Focusing on recent developments and trends driving costly and complex claims, hear from legal and technical experts and decision-makers and get the latest legal risk management tools and strategies you need to effectively manage – or defend – claims for 2024.

- Bringing or defending a delay claim in 2024 – summary of key changes, including upstream/downstream claims and what owners need to prove
- “You want it when?” – tactics for dealing with an unrealistic schedule from various parties’ perspectives
- How to work effectively with experts, in light of the courts’ changing views on expert reports, to ensure your experts help – not hurt – your case
- Decision-makers’ “do’s and don’ts” for when your matter is being adjudicated

NEW! Reinforce your knowledge and practice by applying key concepts during the live (optional) **Workshop: Working Through Key and Emerging Delay Claims Challenges for 2024.**

Register today at:

osgoodepd.ca/construction-delays

PROGRAM CHAIRS

Jason Annibale
Partner, McMillan LLP

Meera Wagman
Managing Director, Secretariat

PROGRAM ADVISOR

Geza Banfai
Counsel, McMillan LLP

REGISTRATION OPTIONS

Program: April 9, 2024
Online (Blended)
9:00 a.m. – 5:00 p.m. ET

Workshop (optional): April 10, 2024
Online, Live (not recorded)
1:00 p.m. – 5:00 p.m. ET

May 9, 2024
Online Replay
9:00 a.m. – 5:00 p.m. ET

Can't make the date?
Registration includes 120-day unlimited, online access to the recorded program.

The 2024 Guide to Managing Delay and Impact Claims in Construction

Protect your project – and your reputation – from the costly and complex harm that can often arise from improperly managed delay and impact risks and claims.

Developed for experienced industry professionals and legal advisors, this OsgoodePD program gives you the vital legal updates and tools you need to improve your strategic and responsive risk management efforts.

Using real-world examples, you will learn about important developments driving costly and complex claims and emerge with practical knowledge and capabilities for dealing with them on your next project.

You Will Learn

- What's new and what's important about the delay and impact risk and claims landscape for 2024
- Main causes of delays – includes contractor- and owner-caused delay, key factors driving new claims and how to deal with key challenges to help mitigate risk and cost
- How and why the issue of proper notice has become a focal point during an adjudication – overview of the principal elements of notice requirements and recent developments
- The latest legal and technical elements you need to prove – or defend – a claim, including how to prioritize evidence to tell your 'delay story' most effectively to the decision-makers
- Tips for quantifying realistic damages and loss for 2024, along with a summary of the advantages/disadvantages of using the different delay analysis methods in different scenarios
- Best practices for recruiting and working with external experts – legal, technical and decision-makers, and how and why your experts might help or hurt your case
- What a decision-maker looks for when your matter is being adjudicated

PLUS! Included with your registration (program or workshop), you will get access to three online modules covering delay claims foundations including the legal context, working with experts, and the different delay analysis methods.

Who Should Attend

- Construction lawyers, in-house counsel and legal advisors
- Project managers
- Contract manager and administrators
- Owners and developers
- Builders and construction professionals
- Procurement professionals
- Engineers, Certified Engineering Technicians/Technologists (CET) or Consulting Engineers (CE)
- Government, municipal and regulatory professionals
- Consultants

Program Agenda

April 9, 2024

9:00 a.m.

Chairs' Welcome and Industry Overview

9:30 a.m.

Managing Delay Claims and Defences: What's New, What's Important for 2024

Maged Abdelsayed, Partner, HKA Global

You will get the latest practical and technical knowledge, insights and expert tips to better manage or defend common types of delay claims, with distinctions for owners, contractors and subcontractors.

- What's new and what's happening for 2024
- How and why managing delays and claims has become more 'defensive' and intricate in the face of ongoing global impacting events
- Proactive risk management strategies for contractors and subcontractors to prepare their cases/claims, including how they are similar and how they are distinct and how to avoid common missteps
- Technical aspects
 - What owners need to prove – the expectations for 2024
 - What contractors and subcontractors need to prove in a climate of market uncertainty
- 'Telling your delay and impact story' – including recording essential details, identifying and overcoming weaknesses in methodology, organizing documents, and communicating effectively

10:45 a.m.

Break

11:00 a.m.

"You Want it *When?*" Discussion on How to Deal with an Unrealistic Schedule from Various Parties' Perspectives

Seema Lal, Singleton Reynolds LLP

Janet Oh, Chief Legal Officer, WSP

This multidisciplinary panel will share their insights, tips and best practices on how to overcome key challenges involving an unrealistic schedule, including:

- "You want it *when?*" Setting the schedule – how a schedule is ideally determined
- "Getting real" with the unrealistic schedule – lessons learned and troubleshooting tips

- Ensuring proper planning despite an owner's rush to build or mitigating any fall-out
- Notice for 2024 - why do we need it and what's the expectation? How and why the issue of notice is a focal point for owners and the courts alike, and how to give notice in a manner that complies with the contract but doesn't impair the relationship
- What to do about upstream/downstream claims (i.e. double-dipping)
- "The contractor is delaying me. What do I do?"

12:30 p.m.

Lunch

1:30 p.m.

Overcoming Key Challenges when Working with Delay Experts for 2024

Ali Al-Ahmad, Senior Managing Director, Head of Canada Construction, Projects & Assets, FTI Consulting

Melissa DiMarco, Partner, Accuracy

- Overview of key issues and challenges for 2024
- Managing conflicts of interest
- How can the expert best add value to the client?
- Considerations in choosing the methodology for calculating the claim
- Managing the lawyer who retains you
- Managing the court/arbitration panel
- Ethical issues
- Loss of productivity
- Disruption claims
- Concurrent delay

3:00 p.m.

Break

3:15 p.m.

The Decision-Makers' Speak: Adjudicating the Delay Claim for 2024

Associate Justice Todd Robinson, Ontario Superior Court of Justice

Edward (Ted) Dreyer, Madorin, Snyder LLP, and Certified Adjudicator, Ontario Dispute Adjudication for Construction Contracts

Chris O'Connor KC, Principal, O'Connor Alternative Dispute Resolution

You will hear from decision-makers who preside over delay and impact claims, including a Judge, Mediator, Arbitrator and Adjudicator. This exceptional panel will discuss practical elements and their top tips to enhance your efforts in each type of proceeding, including:

- The evidence the adjudicator looks for (hint: it's not the expert!)
- Industry studies about productivity loss – do they have any use at *all*?
- Strategies for effectively using facts, body language and technology
- "The best expert I ever saw..." – including how the expert can help or hurt your case, and how to get an expert report admitted or tossed
- Do's and don'ts and pet peeves to stay on the "good side" of the decision-maker

4:45 p.m.

Wrap-up and Open Discussion

Workshop (Optional)

Workshop will be live only, and not recorded.

April 10, 2024, 1:00 p.m. – 5:00 p.m.

Working Through Key and Emerging Delay Claims Challenges for 2024 – Facilitated Workshop

(The facilitated workshop will include two 15 minute breaks.)

Niamh Ní Chróinín, Senior Director, Ankura

Program Chairs and Advisor

Put into practice what you learned in the program, or in your own practice, and take advantage of the rare opportunity to get facilitated experience and personalized support in working through some key and emerging challenges arising in a delay claim fact scenario for 2024. Activities and practical discussion may include:

- Overview of how to complete your own analysis and draft your own claim, using a unique fact scenario
- Review of key definitions and mechanisms, and insights for developing a proactive mindset when approaching a delay claim
- Strategies for developing/maintaining effective documentation and dealing with common pitfalls
- Walk-through of a schedule with overlapping red lines, understanding what this means and the impacts to the critical path
- Techniques for developing simple graphs and why they are so persuasive (even if no formal schedule analysis)
- Comprehending the key challenges/sticking points of schedule analysis and tips for overcoming them, including for cross-checking site diaries

- Grasping the various costs associated with schedule
- Problem-solving strategies for bridging gaps where limited or poor information is available

Online Modules

Included with your registration (program or workshop), these on demand modules cover core concepts for those who are newer to the area or those who may benefit from a succinct refresher. **We recommend viewing all three online modules before attending the program or workshop.**

Module One – The Legal Context and Key Principles Surrounding Delay Claims (52 mins, on demand, recorded in 2021)

Jason Annibale

Andrea Lee

Get a practical overview of the legal context and key principles that you need to know when dealing with delay claims to enhance your working knowledge.

Module Two – Working with Experts in Delay Claims: What You Need to Know (48 mins, on demand, recorded in 2021)

Glenn Ackerley

Gain a practical understanding of how to work effectively with experts in delay claims, including the state of the law and the industry, common pitfalls to watch out for.

Module Three – Overview of Six Methods for Calculating Delay and Impact Losses (~60 mins, available on demand by March 25, 2024)

Meera Wagman

Get a practical overview of the six most common delay analysis methods: time impact, collapsed as-built, time slice windows, as-planned versus as-built windows, longest path, impacted as planned.

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Partner, HKA Global

Andrea Lee
Glaholt Bowles LLP

Glenn Ackerley
WeirFoulds LLP

Niamh Ní Chróinín
Senior Director, Ankura

Ali Al-Ahmad
Senior Managing Director,
Head of Canada Construction,
Projects & Assets, FTI Consulting

Chris O'Connor KC
Principal, O'Connor Alternative
Dispute Resolution

Melissa DiMarco
Partner, Accuracy

Janet Oh
Chief Legal Officer, WSP

Edward (Ted) Dreyer
Madorin, Snyder LLP, and Certified
Adjudicator, Ontario Dispute
Adjudication for Construction
Contracts

“Lots of good information [and] insights. All speakers were appropriate for and well informed on the topics of the program. I was very pleased with the [online] program – convenient and did not require any additional travel or accommodations.”

John Vanos, Manager of Project Management, Physical Resources, University of Guelph

“Very good. I now have a clear understanding of the different types of delay and impact analysis. Learned the importance of schedule updates.”

John Thompson, Project Manager, City of Vaughan

Registration Details

Fee per Delegate

Program Only: \$795 + TAX

Program + Workshop: \$1,095 + TAX

Workshop Only: \$395 + TAX

Newly Licensed*: 50% off the regular or bundled rates

*This fee applies to newly licensed regulated professionals within the past 2 years

Fees include online attendance, technical support, electronic program materials and 120-day unlimited online access to program archive. Group discounts and financial assistance are available. For details visit www.osgoodepd.ca/professional-development/fees-policies/.

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.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



Eligible CPD Hours – LSO (ON)

Online Modules: 1h 30m CPD (1h 30m Substantive).

Program: 6h 45m CPD (5h 45m Substantive; 1h Professionalism).

Workshop: 4h CPD (4h Substantive).



OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca.



This program has been accredited by the CCA for 1 credit toward Gold Seal Certificate education requirement.

This program is approved for LAWPRO Risk Management Credit.

Register today at:

osgoodepd.ca/construction-delays



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