

# 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](http://osgoodepd.ca/cns-project)

## Program Chairs

**Geza R. Banfai**  
Counsel, McMillan LLP

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

## Date and Time

April 20, 2018  
9:00 a.m. – 5:00 p.m. EDT  
In Person or Webcast

Online Replay: May 25, 2018

## Location

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



# ADVANCED CONSTRUCTION ISSUES: Construction Project Delay & Impact Claims

*Project delays + impacts = sinister threats to your business and your 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 construction lawyers and industry consultants to acquire 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.

## You Will Learn About

- Main causes of delays – includes contractor and owner-caused delay
- Monitoring and adjusting the critical path – are you really delayed?
- Damages – which types are recoverable?
- Calculating delay and impact losses – different methods and advantages/disadvantages
- Time Impact and Windows Analysis – what, when, why and how?
- Notice requirements – how to comply and why it's important
- Best practices to avoid and mitigate delay and impact claims on your next project

## Who Should Attend?

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

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## Agenda

**8:30 a.m.**

**Registration and Continental Breakfast**

**9:00 a.m.**

**Introduction and Welcome from the Program Chairs**

**9:05 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?

**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 provide an in-depth look at the more technical aspects of delay and impact claims.

You will be provided with the knowledge and tools you need to understand and manage complex issues, including:

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

**12:15 p.m.**

### Networking Luncheon

**1:00 p.m.**

#### Understanding the Different Methods for Calculating Delay & Impact Losses

**Maged Abdelsayed**, 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?
- Five 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?

**2:30 p.m.**

### Refreshment Break

**2:45 p.m.**

#### Deep Dive into Time Impact and Windows Analysis

**Rick Moffat**, Managing Partner, Berkeley Research Group, LLC

This session will provide you with a detailed examination of Time Impact and Windows Analysis techniques to help you decide when to implement them and how to do so, including:

- 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 – 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

**3:45 p.m.**

#### Panel Discussion: Best Practices for Avoiding and Mitigating Delay Claims

**Moderator:**

**Geza R. Banfai**, Counsel, McMillan LLP

**Panel:**

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

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

**Maged Abdelsayed**, Partner, Capital Projects, Deloitte Canada

**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 panelists' combined 90+ 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 – real-world examples and case studies

**5:00 p.m.**

### Program Concludes

#### Our participants say it best:

“The quality of the lectures is just superb. The segments are very well prepared and thoughtful [and] covered the most important elements facing the industry.”

Michelle Xin Yi Li

“Good for me to understand the complexities of Schedule Analysis.”

Dave Smythe, KPMB Architects

## Chairs

**Geza R. Banfai**  
Counsel, McMillan LLP

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

## Faculty Includes

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

**Rick Moffat**  
Managing Director,  
Berkeley Research Group,  
LLC

**Maged Abdelsayed**  
Partner, Capital Projects,  
Deloitte Canada

### Our participants say it best:

*“All speakers were well educated in the field and communicated to the diverse audience very well.”*

Patrick Bahen, Robert B. Somerville Co. Limited

*“I would say that this seminar expanded my skill set and knowledge base and made me a better, more informed lawyer.”*

Wade Sarasin, Siskinds LLP

## 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](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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