

Construction



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Represented a regional transit authority in connection with delay claims brought by general contractors and their sureties in connection with rail rehabilitation and rapid transit station construction projects. In both cases, we were able to prove that many alleged delays were either not on the critical path or constituted non-compensable delays which were concurrent with delays caused by others. Both cases were settled during or prior to jury trials at levels far below the amounts demanded at the time litigation was instituted. The rail construction matter was resolved at a level approximating the anticipated cost of defense, together with monies held by the public owner in retainage. The settlement of the transit station construction matter was achieved at a level equal to the offer made by the public owner prior to our Firm's involvement in the litigation.

Represented the owner of a new potassium carbonate plant, the output of which did not meet specifications for a variety of reasons, including the designer's lack of field verification of technical capabilities of the processing system. The dispute was favorably resolved following heavily contested discovery and motions practice, but well in advance of the expense of trial preparation.

Represented the electrical prime contractor in connection with a very substantial loss of labor productivity claim made during the construction of a high rise governmental courthouse structure. Following initial discovery proceedings and the exchange of analyses prepared by several expert consultants, the claim was favorably resolved through mediation before a federal Court of Claims judge.

Represented the architects, structural and geotechnical engineers who allegedly improperly designed a major retaining wall system. Our investigation revealed that the failure was localized in nature and not the result of global instability. Following two day-long mediation sessions, all claims among the public owner, design team, contractor and public construction manager were amicably resolved.

Represented geotechnical engineers in connection with alleged design errors and omissions concerning deep pile foundation systems supporting multi-family apartment and restaurant structures. Claims made in millions of dollars were reasonably resolved either through mediation or direct settlement negotiations before the expense of trial preparation was incurred.

Represented the installer of 12' diameter fiberglass water recirculation pipe which failed at a nuclear power plant. The installer's contribution toward the settlement of multimillion dollar claims was less than the anticipated cost of defense.



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Represented a large architectural firm in connection with a claim brought by a public owner alleging a failure to timely submit grant application papers resulting in the loss of significant federal funding. We were able to work through this omission with the office of a United States Senator and secured an amendment to the federal budget within hours of Congressional passage of that annual budget.

Represented a museum owner and the entire design team in response to a subcontractor's claim for \$1.3 million on a \$30 million project. We worked in unison with the general contractor throughout an eight-month mediation process, following the informal production of thousands of documents regarding the construction, but without incurring the significant expense of having an expert consultant review the delay and acceleration claim. We successfully settled the case for \$500,000. On the last day of mediation, the owner, design team and general contractor together drew a line in the sand with a collective offer of \$500,000. The subcontractor refused to go below \$600,000. In the weeks that ensued, the subcontractor eventually agreed to the \$500,000 settlement number.

Represented the owner of a newly constructed \$400,000 home which suffered many construction defects with resulting moisture intrusion and mold growth. Medical bills incurred by the family of five owing to their mold exposure exceeded \$200,000. The cost of remediation likely exceeded the initial cost of the home. We successfully settled the case for over \$1 million, with significant dollars coming mostly from the general contractor in addition to an insurance payment.

Represented the supplier of electric switch gear providing power to a new 30-story building in Cincinnati. The switch gear allegedly failed, causing fires throughout the building, the discharge of water through the building's sprinkler system on many floors, and the loss of use of the building for many weeks. The claims against our client ran into the millions. We successfully defended the equipment designer and manufacturer, identifying through expert examination and testimony that the installation of the electric "bus runs" by a co-subcontractor was contrary to installation instructions and the root cause of the fires. We resolved the case for a *de minimis* payment.

Represented a general contractor in relation to an addition placed on a hospital in central Ohio. During the construction of this addition, a three-story wall consisting of drywall had to be left exposed (except for a plastic covering) owing to construction sequence issues. Water intrusion and mold were identified throughout the face of this improvement, presenting the risk of contamination to the hospital itself and potential closure. In the face of this risk, we secured a hygienist and remediation contractor to



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fix the problem completely and promptly for a cost under \$50,000, thereby avoiding all claims.

Represented the design engineer of a pollution abatement system on a glass manufacturing facility in central Kentucky. The client's system did not work for a variety of reasons, causing the plant to violate EPA emission regulations. The plant owner sued the design engineer for approximately \$2 million for damages incurred as a result of the allegedly deficient design. We defended the case by arguing that the glass manufacturing process upon which the client relied in designing the air handling equipment had changed significantly and that these unexpected alterations were the cause of the owner's problems. We settled the case for less than 20 percent of the amount claimed.



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