

“Delay Claims in Construction Contracts”**Speaker: Adrien Pickard, Barclay Damon****December 3, 2024**

Delays in construction can quickly add time and money to a project. Do you know the four types of major construction delay and who’s responsible for them? My name is Adrien Pickard, and this is a *Must Know Minute*®.

The first type of delay is called inexcusable delay. This is delay caused by something within the contractor’s control. Take, for example, failure to staff the project or failure to timely procure materials needed for the work. In these instances, the owner may be entitled to some relief. Many contracts include a liquidated damages clause.

The second form of delay is called excusable delay. This is delay that arises because of some unforeseen event outside of the contractor’s control and without the contractor’s negligence. Under these circumstances, the contractor may be entitled to extension of schedule, but no money. Force majeure is a good example.

The third type of delay is compensable delay. This is delay caused by either a change in scope or because of some interference by the owner that has delayed contract performance. Under these circumstances, the contractor might be entitled to both money and time.

The last type of delay is called concurrent delay. This arises as a result of multiple causes. Perhaps both the owner and the contractor are responsible for some form of delay. To the extent that delay can be allocated between them, one or both of the parties may be entitled to some relief, although typically it’s limited to time only. You should note that many contracts expand or limit the rights of the parties in the event of delay.

Knowing the precise terms of your agreement is critical to understanding your rights. To learn more, please contact us.

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