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ROBERT D. KELLY, JR.

DELAY & DAMAGES EXPERT AND PROFESSIONAL ESTIMATOR

- Mr. Kelly has 29 years of construction project experience in the United States of America.
- He is a Certified Forensic Claims Consultant.
- He is a subject matter schedule delay and damages expert. He has given expert opinions at mediations and other alternative dispute resolution forums, and has testified before Tribunals and Courts. His specialty is giving testimony in US Federal Courts for technically complex disputes and delay analyses.
- His hands-on project management and project controls experience covers a variety of projects ranging in values upward of US\$1.3 billion. His dispute resolution experience covers a range of project values upwards of US\$8 billion.
- He is a professional project estimator and a registered Chief Estimator for the US Federal Emergency Management Agency (FEMA) to calculate the costs for federal construction projects in the United States of America.

REGISTRATIONS AND CERTIFICATIONS

- Project Management Professional (PMP) (2004)
- Planning and Scheduling Professional (PSP) (2009)
- Certified Forensic Claims Consultant (CFCC) (2010)

PUBLICATIONS

- Author, Facility Manual, State of Arkansas, Dept. of Education, Division of Public Schools Academic Facilities and Transportation.

EDUCATION

- College of William & Mary, English, Virginia, USA
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DEPOSITION & TESTIMONY EXPERIENCE

Testimonial Experience

- Gaylor Group v The Ohio State University, 2009
- Meccon, Inc. v The University of Akron, 2012
- N.L. Construction v. Ohio Department of Transportation, 2012
- IPS v The University of Toledo, 2015
- Accurate Electric Corporation v The Ohio State University, 2016
- Commissioner of Highways v Dignity Funeral Services, Inc., 2017
- Mid-American Construction v University of Akron, Inc., 2018
- J.W. Didado Electric, LLC v University of Akron, Inc., 2018

Hearings, Mediations, and Other ADR

- The State of Ohio v. Robert P. Madison, et al., 1997
- Settle-Muter Electric v. OH Department of Youth Services, et al, 2001
- Reed Excavating v. VA Department of Transportation, 2002
- Golden Eagle Construction v. VA Department of Transportation, 2004
- Ardalan Construction Company v University of Cincinnati, 2006
- Archer-Western Contractors v VA Department of Transportation, 2007
- Valley Electric Company v. Youngstown City School District, 2008
- Archer-Western Contractors v VA Department of Transportation, 2008
- Gaylor Group v. The Ohio State University, 2009
- Blaze Building Corporation v. Cleveland State University, 2010
- North Bay Construction v. The Ohio State University, 2010
- J.W. Didado Electric, Inc. v. Ravenna School District, 2011
- Converse Electric and Miami Trace Local Schools, 2011
- Meccon, Inc. v. The University of Akron, 2011
- Converse Electric, Inc. v. Miami Trace Local Schools, 2012
- Leander Construction Company and Central Illinois College, 2012
- Lake Erie Electric and Lakota Local Schools, 2012
- Lake Erie Electric and Ottawa Glandorf Schools, 2012
- N.L. Constr. Corp. v. Ohio Dept. of Adm. Servs., 2012



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- Enertech Electric and Wadsworth Local School District, 2013
- Kinsale Corporation and Southern Local School District, 2013
- Triton Services and Cincinnati Public Schools, 2013
- Standard Plumbing & Heating, Adena Corporation, Spring Electric and Crestline Exempted Village School District, 2013
- MEB General Contractors, Inc. and Stafford County, VA, 2015
- Alan Myers VA, Inc. v. County of Chesterfield Virginia, 2016
- Heard Construction, Inc. v Atlantic Contracting & Material Co., Inc., 2017

EXPERT EXPERIENCE – INDUSTRIAL PROJECTS

Electronics Facility

USA – On behalf of the State of Ohio in mediation against the contractor providing the State a computer center in Columbus, prepared a forensic analysis of impacts to the Work and presented in mediation, and provided project management support to complete the Work.

EXPERT EXPERIENCE – POWER PROJECTS

Fossil

USA – On behalf of Ohio State University in litigation against an electrical contractor working on the McCracken Power Plant Expansion project, prepared a response to the contractors claim for time and labor impacts, and presented an expert opinion in mediation. [*North Bay Construction v. The Ohio State University, 2010*]

EXPERT EXPERIENCE – INFRASTRUCTURE PROJECTS

Ports & Docks

USA – On behalf of the marine subcontractor responsible for structural repairs to a U. S. Navy dock in Charleston, South Carolina, appointed to prepare nine Requests for Equitable Adjustment (REA) totaling US\$2.4 million.



Roads

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Richmond District, appointed as Schedule Expert to prepare a review of the contractor’s baseline schedule for the US\$2.8 million roadway realignment project in Chesterfield County, Virginia.

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Hampton Roads District, assisted in the administration of constructability reviews for 119 projects to secure on-time completion.

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Hampton Roads District, appointed as Schedule Expert for the 55 mile, US\$1.2 billion Route 460 design-build highway project connecting Suffolk to Petersburg, Virginia. Responsible for leading procurement documentation efforts including Sharepoint design and access support, scheduling and preliminary costing efforts. Currently responsible for managing the project controls team on the ground that provides all schedule and costs validation efforts on the project including baseline, updates and pay applications. Cosponsored the Project Risk Workshop and co-authored the risk response plans for the top risks on the project. Created the change management process, prepared a contractual analysis protocol for rebuttals of claims and requested change orders, and currently engaged to validate costs associated with owner directed changes.

USA – On behalf of the contractor on the US\$100 million highway project being the Springfield Interchange Improvement Project located in Springfield, Virginia (Phases II/III), retained as the Damages Expert to prepare a loss of productivity claim.

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Northern Virginia District, in litigation. Appointed as Schedule Delay Expert to examine a delay claim brought by a contractor on a US\$100 million highway project Springfield Interchange Improvement project located in Springfield, Virginia (Phases VI/VIII). The contractor alleged constructive acceleration due to VDOT. The contractor’s claims totaled over US\$17 million including relief of US\$7 million of liquidated damages to interim milestones because project completion was on time. Presented expert opinions before Dispute Review Board. [*Archer-Western Contractors v. Virginia Department of Transportation, 2008*]



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USA – On behalf of the Virginia Department of Transportation (“VDOT”), Hampton Roads District, appointed as Schedule Delay Expert for a US\$13 million roadway and bridge expansion project to evaluate a contractor’s US\$7.2 million delay and damages claim.

USA – On behalf of the sub-subcontractor in litigation against the subcontractor, appointed as Schedule Delay Expert for the new US\$45 million Nimmo Parkway project in Virginia Beach, Virginia. Prepared schedule delay and damages expert report. [*Long Contractors v. Parkway Grading, Inc., 2016*]

USA – On behalf of the paving contractor for the Route 360 road project in Giles County, Virginia, in litigation against the Virginia Department of Transportation (“VDOT”) appointed as Schedule Delay Expert to prepare an expert report opining on contractor’s US\$1.45 million claim for delay and increased costs of performance. Presented at administrative hearing. [*Reed Excavation v. Virginia Department of Transportation, 2002*]

USA – On behalf of the paving contractor for the Route 188 road and bridge expansion project in Chesterfield, Virginia, prepared a claim for delay and disruption arising due to multiple delays in grade preparation.

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Northern Virginia District, in litigation. Appointed as Schedule Delay Expert to examine a delay claim brought by a contractor on the Route 643 road expansion project (Lee Chapel Road Expansion) located in Springfield, Virginia. The contractor alleged delay and constructive acceleration due to VDOT. Presented expert opinions before an administrative hearing. [*Golden Eagle Construction v. Virginia Department of Transportation, 2004*]

USA – On behalf of the contractor for the I-595 Corridor Roadway Improvement Program in Ft. Lauderdale, Florida. Appointed as Schedule Expert to prepare a baseline schedule for this US\$1.4 billion project.

USA – On behalf of the Ohio Department of Transportation (“ODOT”), appointed as Cost Expert to value replacement cost of damaged pedestrian bridge spanning Interstate 90 in Cuyahoga County.

USA – On behalf of the Ohio Department of Transportation (“ODOT”), appointed as Cost Expert to review costs associated with claims submitted by contractor for replacement cost of two bridges in Harrison County. [*Cross Roads Construction v. The Ohio Department of Transportation, 2018; Ohio Court of Claims*]



Sea Wall

USA – On behalf of the United States National Park Service, retained as Schedule Expert to review a contractor's recovery schedule and providing project controls oversight for the duration of a seawall restoration project at Ellis Island in New York.

Sewer Tunnel

USA – On behalf of the Northeast Ohio Regional Sewer District in litigation, appointed as Schedule and Damages Expert to review costs associated with claims submitted by contractor for delay and increased costs of performance on a sewer tunnel project (Mill Creek Tunnel Extension). [*KMM&K Joint Venture v. Northeast Ohio Regional Sewer District, 2010*]

Waste Water Treatment Facility

USA – On behalf of the contractor, Mr. Kelly is currently the Claims Consultant on the US\$38 million refurbishment project for the S5A Pump Station in Loxahatchee, Florida. Mr. Kelly prepares the monthly updates and provides maintenance on a cost loaded Primavera P6 schedule including identifying project performance risk and providing mitigation strategies.

USA – On behalf of the contractor for the U.S. Department of the Army's US\$71 million renovation and expansion of project of a Hampton Roads Sanitary District wastewater treatment facility in Norfolk, Virginia, appointed as Schedule Expert to prepare an analysis of labor disruption to support a claim.

USA – On behalf of the contractor of a US\$25 million waste water treatment facility in Stafford County, Virginia, appointed as Schedule Delay Expert to prepare an independent schedule delay and damages expert report. The contractor was claiming \$US9.4 million in damages.

USA – On behalf of the contractor for the construction of a waste water treatment facility in Richmond, Virginia, appointed Schedule Delay Expert to prepare a schedule delay and disruption change order, and provide schedule support services.



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Water Line

USA – On behalf of a subcontractor relocating a 36 inch water main in Norfolk, Virginia as part of the Mid-Town Tunnel project, retained as Schedule Expert to prepare an analysis of progress to demonstrate subcontractor was entitled to incentive payments in lieu of liquidated damages.

EXPERT EXPERIENCE – COMMERCIAL, FEDERAL, & INSTITUTIONAL BUILDING PROJECTS

Airport

USA – On behalf of a subcontractor in litigation against the prime contractor. Dispute was over delay and increased costs of performance for a runway renovation project at Joint Base Andrews (U.S. Air Force) in Maryland. Appointed as Schedule Delay Expert to prepare delay analysis and expert report. Case filed in U.S. District Court, District of Maryland. Matter deferred to mediation and settled. [*Heard Construction v. Atlantic Contracting & Material Co. Inc., 2017*]

Condemnations for Virginia Department of Transportation Projects

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Hampton Roads District, appointed as Damages Expert to prepare a replacement cost estimate for a condemned building in Virginia Beach. Services provided under counsel instructions for litigation between VDOT and the property owner. [*Commissioner of Highways (Virginia) v. 5121 Greenwich Road LLC, 2017; Circuit Court Virginia Beach*]

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Hampton Roads District, appointed as Damages Expert to prepare a replacement cost estimate for a condemned church and school facility on Kempsville Road in Virginia Beach. Services provided under counsel instructions for litigation between VDOT and the property owner. [*Commissioner of Highways (Virginia) v. Trustees of First Baptist Church of Norfolk, 2017; Circuit Court Virginia Beach*]

USA – On behalf of the Virginia Department of Transportation (“VDOT”), Hampton Roads District, appointed as Damages Expert to prepare a replacement cost estimate for a condemned funeral facility on Greenwich Road in Virginia Beach. Services provided under counsel instructions for litigation between VDOT and the property owner. [*Commissioner of Highways (Virginia) v. Dignity Funeral Services, 2017; Circuit Court Virginia Beach*]



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USA – On behalf of the Virginia Department of Transportation (“VDOT”), Hampton Roads District, appointed as Damages Expert to prepare a replacement cost estimate for a condemned car business facility on East Princess Anne Road in Virginia Beach. Services provided under counsel instructions for litigation between VDOT and the property owner. [*Commissioner of Highways (Virginia) v. Shawn M. Fiorito, 2017; Circuit Court Virginia Beach*]

Correctional Facility

USA – On behalf of the State of Ohio Department of Youth Services in litigation for the Marion Youth Detention Center project located in Marion, Ohio, appointed as Schedule Delay Expert to prepare a defense to a loss of productivity claim submitted by an electrical contractor and present at mediation. [*Settle-Muter Electric v. Ohio Department of Youth Services, 2001*]

Educational

USA – On behalf of an electrical subcontractor in litigation for the South High Rise Dormitory renovation project located at Ohio State University in Columbus, Ohio, appointed as the Schedule Delay Expert to prepare a delay/disruption analysis for the subcontractor’s US\$0.8 million labor productivity claim submitted before the Ohio Court of Claims. [*Accurate Electric Construction, Inc. v. The Ohio State University, 2016; Ohio Court of Claims*]

USA – On behalf of Ohio Schools Facilities Commission in Columbus, Ohio, appointed as the Schedule Delay Expert to review claims delay, compression, lost productivity, overtime impact, defective design drawings and indirect cost damages brought by an electrical contractor on a school construction project (Hagerty Hall Addition and Renovation). Contractor alleged that the school project was over crowded with multiple subcontractors. [*Gaylor Group v. The Ohio State University, 2008*]

USA – On behalf of Bowling Green State University in Bowling Green, Ohio, appointed as Mediator. Dispute brought by designer of new Bureau of Criminal Investigation facility on the campus seeking additional fees for the US\$10.5 million project.

USA – On behalf of the contractor for the University of Maryland Medical School Phase III project in Maryland, retained as the Schedule Expert to prepare a Time Impact Analysis claim.



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USA – On behalf of the Jackson City School System in Jackson, Ohio, retained to provide construction management services / owner’s agent on a US\$55 million project. The project consisted of two new elementary schools and one new high school. Services included resolution of outstanding disputes and claims with prime contractors and development of master schedules.

USA – On behalf of the University of Cincinnati in Ohio, retained as Schedule Expert to prepare a delay/disruption analysis against a claim submitted by a structural concrete contractor on a building project (Swift Hall Renovation & Student Life Center). Presented expert opinion in mediation. [*Ardalan Construction Company v. University of Cincinnati, 2006*]

USA – On behalf of the State of Arkansas, Department of Education Division of Public Schools Academic Facilities and Transportation, retained as Cost Expert to prepare a costing model of the annual cost escalation for use in policy decisions determining the distribution of statewide funding for maintaining and updating state/local educational facilities. Prepare inventory of all educational facilities including conditional reports and cost estimates for space conversion, renovations, and expansion.

USA – On behalf of the University of Toledo in Ohio, retained as Cost & Risk Expert to prepare a risk assessment of the contractor status on the Ottawa House Dormitory project. The owner had to decide either exercising a termination for convenience or implementing a work-around and recovery effort. Services included negotiating with prime contractors on cost impacts.

USA – On behalf of Cleveland State University in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by a contractor on a project (Parker-Hannefin Administration Building addition and renovation). Presented expert opinion in mediation. [*Blaze Building Corporation v. Cleveland State University, 2010*]

USA – On behalf of the Ravenna School District in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by a contractor on a new middle school project. Presented expert opinion in mediation. [*Converse Electric, Inc., v. Miami-Trace Local Schools, 2012*]



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USA – On behalf of the Miami-Trace Local School District in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by a contractor on a new high school project. Presented expert opinion in mediation. [*J. W. Didado Electric, Inc., v. Ravenna School District, 2011*]

USA – On behalf of East Central College in Illinois in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by a contractor on a new sports complex project (Cougarplex). Presented expert opinion in negotiations.

USA – On behalf of the Ottawa and Glandorf School District in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by an electrical contractor on a new elementary/middle school project. Presented expert opinion in mediation.

USA – On behalf of the Lakota Local School District in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by an electrical contractor on a new elementary/middle/high school project. Presented expert opinion in mediation.

USA – On behalf of the Wadsworth Local School District in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by an electrical contractor on a new elementary/middle/high school project. Presented expert opinion in mediation.

USA – On behalf of the Southern Local School District in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by a general contractor on a high school expansion project. Presented expert opinion in mediation.

USA – On behalf of the Crestline Exempted Village School District in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against multiple time and cost claims submitted by mechanical and electrical contractors on a new elementary/middle/high school project. Presented expert opinion in mediation.

USA – On behalf of the University of Akron in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against multiple time and cost claims submitted by contractors on a school renovation project for its College of Education. Presented expert opinion at trial. [*Mid American Construction LLC v. The University of Akron, 2018; Ohio Court of Claims*]



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USA – On behalf of the University of Akron in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against time and cost claim submitted by electrical contractor on a school renovation project for its College of Education. Presented expert opinion at trial. [*Didado Electric LLC v. The University of Akron, 2018; Ohio Court of Claims*]

USA – On behalf of the University of Akron in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against wrongful termination claim submitted by contractor on a school stadium project. Presented expert opinion at trial. [*Meccon Inc., v. The University of Akron, 2011*]

USA – On behalf of the Cincinnati Public Schools in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against time and cost claims submitted by numerous contractors on a school project (Rothenberg Academy). Presented expert opinion at mediation.

Federal Projects

USA – On behalf of a subcontractor in litigation against the prime contractor. Project was an HVAC upgrade on a US\$28 million industrial facility project located at the U.S. Department of Navy Portsmouth Naval Yard in Portsmouth, Virginia. Appointed as the Schedule Delay Expert to prepare an independent schedule delay analysis and expert report for a claim. [*ESI v. Hanover Insurance Company, 2015; United States District Court of the Eastern District of Virginia*]

USA – On behalf of a contractor for a US\$28 million, industrial facility project located at the U.S. Department of Navy Portsmouth Naval Yard in Portsmouth, Virginia, appointed as the Schedule Delay Expert to prepare an independent schedule delay analysis and expert report for a claim.

USA – On behalf of the concrete subcontractor for a project located at the U.S. Department of Defense Marine Corps Air Station located in Cherry Point, North Carolina, appointed as the Schedule Delay Expert to prepare an independent schedule delay analysis and expert report. On the US\$2.1 million project, there was a \$0.5 million claim arising from impacts to the renovation of a jet engine test bed facility.



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USA – On behalf of the contractor for the U.S. Government Services Administration’s renovation of the International Broadcast Bureau’s network control center located in Washington D.C., appointed as the Schedule Delay Expert to prepare an independent schedule delay analysis.

USA – On behalf of the contractor in litigation against a subcontractor for a US\$4.6 million U.S. Department of Defense project at the Pentagon located in Arlington, Virginia; appointed as Schedule Delay Expert to prepare an independent schedule delay analysis of the impacts arising due to work on a mission critical power control system. [*M. C. Dean Inc., and United States of America v. Arch Insurance Company and Ironbridge Construction, Inc. 2015*]

USA – On behalf of a contractor in litigation over a project located at the U.S. Department of Army Fort Hood in Killeen, Texas, appointed as the Schedule Delay Expert to prepare an independent schedule delay analysis and expert report for a \$10 million claim brought by a subcontractor. [*J. Crew Management Inc. v. Atlantic Marine Construction Company*]

USA – On behalf of a contractor on a renovation project for the U.S. Department of Defense, Facilities Services Directorate, appointed as the Schedule Delay Expert to prepare nine schedule delay analyses.

USA – On behalf of the U.S. Department of Homeland Security, Federal Emergency Management Agency (“FEMA”), retained as Cost Expert to estimate the costs of 165+ projects. Assignment has been ongoing since 2017. Projects consist of roads, buildings, equipment, and various ancillary categories and range in project values from a few thousand dollars to US\$10 million. Projects are located in the States of Arkansas, California, Illinois, Iowa, Louisiana, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, and Texas.

Medical

USA – On behalf of the University of Toledo located in Toledo, Ohio, in litigation, appointed as Schedule and Damages Expert to review and analyze a US\$0.4 million claim submitted by an electrical contractor. Responsibilities included evaluation of the contractor’s claim and preparation of an independent expert report and giving of testimony at trial.



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USA – On behalf of the designer of a hospital clinic for the Veterans Administration, prepared a quantity take-off and estimate for the US\$8.6 million project.

USA – On behalf of the contractor in litigation over the renovation and expansion of a Veterans Administration hospital in North Carolina, retained as Schedule Delay Expert to prepare a delay analysis and expert report. The contractor alleged delays and increased costs of performance arose on this US\$7.4 million project due to lack of access, late and incomplete changes to the work by the owner, unforeseen conditions, and owner interference.

Municipal

USA – On behalf of the State of Ohio Facilities Construction Commission, Mr. Kelly provided construction claim evaluations under a two-year services agreement.

USA – On behalf of Noble County in Ohio in litigation, retained as Schedule and Damages Expert to prepare a defense against a time and cost claim submitted by a contractor on a project (Noble County Maintenance Facility). Presented expert opinion at trial. [*N.L. Construction Corporation v. Ohio Department of Administrative Services, 2012*]

USA – On behalf of the Ohio Facilities Construction Commission, retained as Schedule and Damages Expert to prepare to act as neutral for dispute resolution and partnering efforts for statewide school projects.

USA – On behalf of Bowling Green State University in Bowling Green, Ohio, appointed as Neutral to support mediator during hearing. Designer of new Bureau of Criminal Investigation facility on the campus requested additional fees for the US\$10.5 million project.

USA – On behalf of the State of Ohio, retained as Owner's Agent / Schedule and Cost Expert to oversee contractor scheduling and performance, and provide change management on a US\$16 million renovation project. Project consists of a multi-level underground parking garage at the Ohio State House in Columbus.

USA – On behalf of a site development subcontractor in litigation against the general contractor of the new Courthouse Complex project in Norfolk, Virginia; retained as Schedule Delay Expert to prepare delay analysis and expert report and defense against counterclaim. [*Reliance Concrete Contractors v. Archer Western Heery JV, 2019*]



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USA – On behalf of the contractor in litigation against a subcontractor, retained as Damages Expert. The dispute arose due to a structural failure at the Lottsburg AHQ Chemical Storage Facility in Lottsburg, Virginia. [*The Truss Shop dba Tri-State Components v. Everest Construction Management Group, Inc., and Developers Surety and Indemnity Group, 2018; Circuit Court for County of Northumberland*]

Retirement Facility

USA – On behalf of the contractor in litigation on project to build a US\$20 million retirement facility in Ashburn, Virginia; retained as Schedule Delay Expert to prepare a claim against the bonding company of a defaulted mechanical subcontractor. [*Scott Long Construction LLC v. Liberty Mutual Insurance Company, 2018*]