HICAPS Highlights
Providing a centralized approach to project management
Summer 2026

# Expert Witness Services in Construction Disputes

*by Dave Smith, CCM, REFP*

Construction disputes have become increasingly sophisticated as large infrastructure developments, commercial buildings, industrial facilities, and government projects often involve numerous stakeholders, intricate contractual arrangements, and substantial financial risk. When projects encounter delays, cost overruns, or insured losses, determining responsibility requires more than legal interpretation. It demands independent technical expertise.

This is where an experienced expert witness plays a critical role.

At HICAPS, we provide independent expert witness services grounded in forensic project controls, scheduling, cost management, and construction claims analysis. Our role is not to advocate for one party, but to assist clients, courts, arbitral tribunals, insurers, and legal teams by delivering objective, evidence-based opinions that withstand technical and legal scrutiny.

### *The Role of an Expert Witness*

Unlike a claims consultant or party-appointed advisor, an expert witness owes a primary duty to the tribunal or court. Every opinion must be impartial, technically sound, and supported by verifiable evidence.

Effective expert testimony requires far more than industry experience. It demands the ability to analyze extensive project documentation, apply recognized methodologies, explain complex technical issues in accessible language, and remain objective under cross-examination.

At HICAPS, our experts combine decades of practical project delivery experience with advanced expertise in planning, scheduling, commercial management, and forensic investigation. This enables us to translate complex project data into clear, defensible conclusions that assist decision-makers in resolving disputes efficiently and fairly.

Here are the most common types of disputes:

### *Delay Claims*

Delay claims are among the most contested issues in construction. While projects frequently finish behind schedule, establishing the cause of delay is rarely straightforward.

A delayed completion date may result from numerous overlapping factors, including design changes and scope growth, late client decisions or approvals, unforeseen ground conditions, supply chain disruptions, extreme weather, labor shortages, contractor performance issues, and interface or coordination failures.

The key question is not simply whether a delay occurred, but whether it affected the project's critical path and which party bears contractual responsibility.

We undertake forensic delay analysis using recognized industry methodologies and contemporary project records to establish the sequence of delay events, critical path impacts, concurrent delays, excusable and compensable delays, Extension of Time (EOT) entitlement, acceleration measures, schedule recovery efforts, and responsibility allocation.

Our conclusions are supported by baseline schedules, program updates, progress records, site diaries, correspondence, meeting minutes, and contractual documentation, ensuring that opinions are based on evidence rather than hindsight.

### *Cost Claims*

Construction disputes often involve significant financial claims arising from variations, disruption, prolongation, and reduced productivity. While entitlement may be established contractually, accurately measuring the resulting financial impact requires detailed forensic analysis. Poorly substantiated cost claims frequently fail because they rely on assumptions instead of documented evidence.

We provide independent assessment of variation costs, prolongation costs, disruption and loss of productivity, extended preliminaries, head office overhead recovery, acceleration costs, additional labor expenses, material cost escalation, and contractual entitlement.

Our methodology combines commercial analysis with project controls to determine whether claimed costs are reasonable, demonstrable, and directly attributable to the events in dispute. The objective is to provide clear financial opinions that can be understood by judges, arbitrators, insurers, and legal professionals

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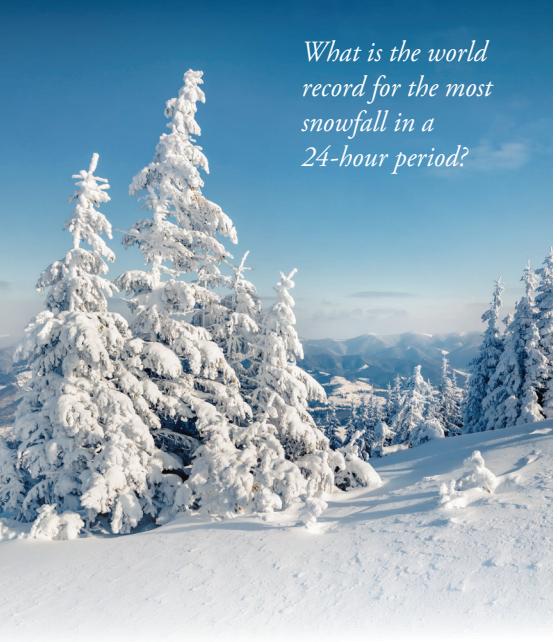


# Cool Trivia

1) What author penned the season-themed poems *A Winter Eden* and *Dust of Snow*?
   a. Robert Frost
   b. William P. Snowdon
   c. Lilian Winters
   d. Ice T

2) What is the world record for the most snowfall in a 24-hour period?
   a. 30 inches in Prince George, B.C.
   b. 56 inches in Waterville, Maine
   c. 76 inches in Silver Lake, Colorado
   d. 110 inches in Rimouski, Quebec

3) In *North to Alaska* (1960), Sam leaves cold Nome, Alaska and sets out for Seattle so he can bring back what to his friend George?
   a. a promising new medical treatment
   b. George's fiancé
   c. George's three grandchildren
   d. a snow cone maker

4) What color snow fell over an area of 1,500-square-kilometers in Siberia on February 2, 2007?
   a. Orange
   b. Black
   c. Pink
   d. Gold

5) At Gemsstock ski resort, a portion of Gurschen glacier was covered in foil to protect it from melting. In what European country is the resort located?
   a. Austria
   b. Switzerland
   c. Italy
   d. Germany

Answers: 1.) a 2.) c 3.) b 4.) a 5.) b

# 6 Colors You've Never Heard Of

1. **Falu** - Falun is a small city in Sweden renowned for its copper mining industry. Since at least the mid-16th century, many of the wooden homes, barns, outhouses, and other buildings in and around Falun have been traditionally painted a deep rust-red color known as falu. It is manufactured from the iron-rich waste materials left over from the mines.
2. **Gingerline** - Not just another word for anything ginger-colored, gingerline is often said to be a reddish-violet or reddish-brown color. However, by other accounts it describes a rich orange-yellow. According to one description, it refers very precisely to the color of ripe kumquats.
3. **Incarnadine** - Incarnadine is an etymological cousin of the adjective "incarnate," meaning "having bodily form." In this sense it literally means flesh-colored, but Shakespeare used it to mean blood-red in Macbeth, and nowadays it's usually used to refer to a rich crimson or dark-red color.
4. **Labrador** - Not, as you might think, the color of a Labrador dog, labrador is actually a shade of blue that takes its name from the mineral labradorite, a blueish form of feldspar.
5. **Sinoper** - Popular among Renaissance artists, sinoper or sinople was an artist's pigment containing particles of hematite, an iron-rich mineral that gave it a rich rust-red color. Its name comes from the town of Sinop on the Black Sea coast of Turkey, from where it was first imported into Europe in the late Middle Ages.
6. **Zaffre** - Zaffre is the name of an ancient blue pigment originally produced by burning ores of cobalt in a furnace. Its name was borrowed into English from the Italian zaffera in the 17th century, and is ultimately descended from the Latin word for "sapphire."

*"Money can buy you a fine dog, but only love can make him wag his tail."*

—Kinky Friedman

# How To Manage Different Types Of Personalities

To be effective as a manager, you have to be able to guide and motivate a diverse group of individuals. Here's a look at a few personality-types you might encounter amongst your workforce and tips for getting the most from them:

- **In charge.** These employees like to make decisions and run things. You should accommodate their strengths while staying on top of your overall goals. Let employees in this category take center stage on tasks that are appropriate to their skills and experience. Feed their desire to feel important while monitoring their progress.
- **Behind-the-scenes.** These workers tend to be quiet and cautious. They may have good ideas but won't push to make them heard. Build their confidence by asking their opinions, praising their ideas when appropriate, and reinforcing positive aspects of their personality, like their desire to avoid conflict.
- **Rebellious.** These employees want to challenge the status quo. They can be difficult, but if they have the best interests of your organization at heart, they'll be worth the trouble. Don't get into arguments with them. Reinforce the positive aspects of their personality without engaging the negative. Behaviors that don't get reinforced will usually fade with time.

# A Missing Cow

A big city lawyer was called in on a case between a farmer and a large railroad company. The farmer's prize cow had gone missing from his field through which the railroad passed. He filed suit against the railroad company for the value of the cow.

The railroad's attorney went to the farmer and tried to settle out of court. The lawyer was very persuasive, and the farmer finally agreed to take half of what he was asking to settle the case.

After the farmer signed the release and took the check, the young lawyer felt a little bad. He said to the farmer, "You know, I hate to tell you this, but I couldn't have won the case. The engineer was asleep and the fireman was in the caboose when the train went through your farm that morning. I didn't have one witness to put on the stand."

The old farmer nodded. "Well, I'll tell you, young fellow, I was a little worried about winning that case myself, because that darned cow came home this morning."

**SPEED BUMP** **Dave Coverly**

# How To Keep Your Energy High Throughout Your Workday

Maintaining your energy all day can be challenge. Don't ignore physical or mental fatigue, but don't surrender to it, either. Try these tactics for recharging:

- **Move around.** Take a walk, even if it's just a quick stroll around your office. Getting your blood flowing speeds delivery of oxygen and nutrients to your body.
- **Take a deep breath.** Sit up straight to open your chest cavity and get more oxygen into your lungs. Here's an exercise: Breathe out through your mouth completely. Then inhale through your nose for four seconds. Hold it in for seven seconds, and then exhale for a count of eight seconds. Do this four times to refresh yourself.

- **Drink sufficient fluids.** Water, like air, delivers oxygen throughout your body. If you're dehydrated, you'll feel tired. Drink plenty of water or a low-calorie sports drink.
- **Eat a healthy snack.** Give yourself a pick-me-up with a healthy snack, but avoid salty or sweet snacks, as they cause dehydration and make your blood sugar crash.

# What Makes Old Faithful So Faithful?

Yellowstone Park's Old Faithful geyser erupts every 90 minutes, sending water and steam high into the air to the delight of spectators. According to the *Science Magazine* website, geophysicists have identified the origin of all that water.

Listening to natural vibrations (instead of relying on seismic waves produced by explosives that would damage the park's environment), the scientists discovered a region of porous rock 200 meters across and 50 meters deep slightly to the west of the geyser. The underground tank contains hundreds of millions of liters of water heated by magma, so there's no chance of Old Faithful running dry any time soon.

# Get To The Root Of Your Problem

When you can't solve a seemingly impossible problem, try reframing the issue with these suggestions from Tina Seeling, author of *Inside Out: Get Ideas Out of Your Head and Into the World* (HarperOne):

- **Revise your question.** Turn the problem around by re-examining your goal. Instead of "What new product will make lots of money?" ask, "What do our customers buy and what do they avoid?" or "How can we offer more of what already works?"
- **Look for bad ideas.** You can unleash your creativity by flipping the process. Try to identify what doesn't work, what's failed in the past, or what would completely capsize any solution. You may be able to adapt a seemingly impractical solution or eliminate a factor that's holding you back.
- **Question your assumptions.** Many of us fall into the trap of assuming that the answer we're seeking will look like solutions that have always worked. Take a close look at the problem, your organization, or your industry and identify practices that have never been questioned. Ask, "Why are we doing it this way?" You'll often find a new approach by going against the conventional wisdom.

# Expert Witness… *continued from page 1*

who may not possess technical construction expertise.

### *Insurance Damage Claims*

Construction insurance claims frequently arise following fire, flooding, storms, structural failures, equipment damage, or other significant project events. Insurers and policyholders require an independent assessment that addresses both the technical cause of the damage and its impact on project delivery.

We support insurers, developers, contractors, and legal advisors by evaluating the cause and extent of physical damage, repair and reinstatement requirements, delay resulting from insured events, program recovery strategies, additional construction costs, business interruption affecting project delivery, and supporting documentation for claim resolution.

Our forensic approach enables stakeholders to distinguish between insured events, pre-existing conditions, contractor performance issues, and unrelated project risks, helping to resolve claims more efficiently and with greater confidence.

### *Why Project Controls Expertise Matters*

Every construction project generates vast quantities of data: programs, cost reports, progress updates, procurement records, correspondence, variation registers, meeting minutes, and site reports. The challenge is not the availability of information. It is identifying the evidence that truly explains what occurred.

Project controls provide the framework for reconstructing project performance objectively. By integrating schedule analysis, cost verification, risk management, and contract administration, we develop a comprehensive understanding of how individual events affected overall project outcomes. This evidence-based methodology ensures that expert opinions are transparent, repeatable, and capable of withstanding technical examination.

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CLN CONSTRUCTION LEADERSHIP NETWORK

### *Supporting Lawyers, Insurers, and Project Stakeholders*

Construction disputes rarely involve technical issues in isolation. Legal, contractual, commercial, and engineering considerations are closely interconnected. We regularly work alongside construction lawyers, insurance loss adjusters, government agencies, developers, contractors, consultants, owners, arbitrators, and dispute boards. Our services extend beyond expert reports to include technical investigations, rebuttal reports, expert conferencing, mediation support, arbitration proceedings, litigation support, and expert testimony.

By presenting technical issues clearly and objectively, we help legal teams develop stronger cases while assisting tribunals in understanding complex construction matters.

### *Building Confidence Through Independent Analysis*

The credibility of an expert witness is built on independence, technical competence, and rigorous methodology. Decisions involving significant financial exposure demand evidence that is objective, well-reasoned, and firmly supported by project records.

Our commitment for nearly 40 years has been to deliver impartial expert analysis that clarifies complex issues rather than complicating them. Whether the matter concerns delay, disruption, cost escalation, or insurance-related losses, our focus remains the same: to provide reliable technical evidence that supports informed and equitable dispute resolution.

As construction projects continue to grow in scale and complexity, the value of independent project controls expertise has never been greater. By combining forensic analysis with practical industry experience, HICAPS helps clients navigate disputes with clarity, confidence, and credibility.

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