

CONSTRUCTION SCHEDULE DELAYS

By

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Preface to the 2026 Edition

Schedule delay, disruption, and acceleration bridge many divides in construction disputes, affecting proof of liability and damages and requiring both legal and technical acumen to apply correctly and consistently. As a result, the field represents one of the more complicated subsets of construction law that uniquely blends legal and technical skills. This book endeavors to examine the major issues that arise in this field and distill a qualitative and quantitative analysis of relevant legal authorities into a single volume resource.

For the 2026 edition, new delay, disruption, and damage cases were added reflecting legal decisions added in the last year, along with additional cases referencing constructive acceleration, waiver of the completion date, ASCE 67, and exclusion of a delay expert for failing to meet FRE 702/*Daubert*.

For the schedule delay analysis method section, we reviewed and included 11 new case references to specific methods from the United States, United Kingdom, Australia, and Canada. These citations include the following methods:

- adjusted time impact analysis
- windows
- prospective time impact analysis
- as-built critical path
- impacted as-planned
- as-planned versus as-built

For disruption, we added three new citations to specific methods from Australia and Canada, including the following methods:

- measured mile
- modified total cost
- visual observation/judgment

The addition of the new delay and disruption cases brings the analysis totals to 337 delay analysis method case references and 354 disruption method case references, for a total of 691 cases covered in the book material referencing specific methods for proving delay or disruption. All of the charts, analysis, and statistics have been updated to reflect the added cases.

We hope you enjoy the 2026 additions.

W. Stephen Dale

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Robert M. D'Onofrio
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About the Authors



W. Stephen Dale serves as Chief General Counsel of WSP in the United States. Prior to this current role, Mr. Dale led WSP business operations in the southeast and was assistant general counsel for litigation. Mr. Dale was formerly a partner with a construction and public contract boutique located in Tysons Corner, Virginia. While in private practice, Mr. Dale represented contractors and design professionals before federal, state, and re-

gional tribunals on large, complex infrastructure projects including and participated in the negotiation of terms and conditions for public/private partnerships and other agreements for major infrastructure projects. He has been a frequent speaker at industry conferences and is a member of several industry organizations including the American College of Construction Lawyers and the American Society of Civil Engineers, having served on the Board of Governors for the Construction Institute and the Committee on Professional Practice. Mr. Dale holds a Bachelor of Arts from the University of North Carolina and a Juris Doctorate from the University of North Carolina Law School.



Robert M. D'Onofrio, PE, CEng is President of Capital Project Management, Inc. Mr. D'Onofrio has evaluated over \$10 billion in claims on construction projects, including working on-site during construction of the World Trade Center in New York City, where his responsibilities included review of schedule delay and disruption claims on behalf of the owner. He has testified in court, boards, domestic arbitration, and international

arbitration. Mr. D'Onofrio is a past-President of the Construction Institute (CI), a Fellow of the Institution of Civil Engineers, a Fellow of the American Society of Civil Engineers (ASCE), past-Chancellor of the Fellows of the Project Management College of Scheduling, and a member of the Moles. He is Chair of the American National Standards Institute (ANSI)/ASCE/CI Standard Committee for Schedule Delay Analysis ASCE 67-17, Vice-Chair of the ANSI/ASCE/CI Standard Committee for Identifying, Quantifying, and Proving Loss of Productivity ASCE 71-21, and an Editorial Board Member on ASCE's Journal of Legal Affairs and Dispute Resolution in Engineering and Construction. Mr. D'Onofrio is a licensed Professional Engineer in four U.S. states and a professionally registered Chartered Engineer in the United Kingdom. He holds a Bachelor of Science in Civil Engineering from Cornell University and a Master of Engineering in Civil Engineering from Cornell University.

Dedication

To our wives—Mica Robertson and Kimberly D’Onofrio—for
your patience, tolerance, and support.