

MDCSystems®

Providing Expert Solutions for Construction Worldwide

Utilization of the Expert in Construction Litigation

International Construction Law
Steamboat Springs, CO

presented by

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President

www.MDCSystems.com

Introduction

- Definitions
- Retention
- Qualifications
 - Individual
 - Firm
- Methodology
- Resolution Forum

Expert

One who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience.

One who by reason of education or special experience has knowledge respecting a subject matter about which persons having no particular training are incapable of forming an accurate opinion or making a correct deduction.

Expert Witness

One who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience.

A witness who has been qualified as an expert and who thereby will be allowed to assist the jury in understanding complicated and technical subjects not within the understanding of the average lay person...

Expert Retention

- Letter
- Contract
- Protection of Work Product and Opinion

Effective Use of Experts

- Executive Settlement Negotiations
- Mediation
- Arbitration
- Litigation

Expert Qualifications

- Individual
 - Academic
 - Experience
 - Licensing
 - Judgment
- Firm
 - Depth – technical
 - Depth – support
 - Litigation Support Capabilities
 - Document management
 - Evidence Management
- Experience

Daubert / Kumho and Expert Opinion

- Qualifications
- Scientific Methodologies
 - Accepted Use
 - Subject to Peer Review
 - Reproducible Results
- Application of methodologies requires professional judgment

Fact Finding & Analysis

- Reduce document and data chaos
- Data reduction to recognize patterns
- Recognition of root cause from symptoms
- Developing facts, drawing conclusions based upon the facts, experience, professional judgment and the application of scientific methodologies.

Expert Analysis

- In order to be effective experts must know the facts of the case and have evaluated both
 - GOOD FACTS
 - and
 - BAD FACTS

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Approach

Forensic Engineering

Forensic Project Management

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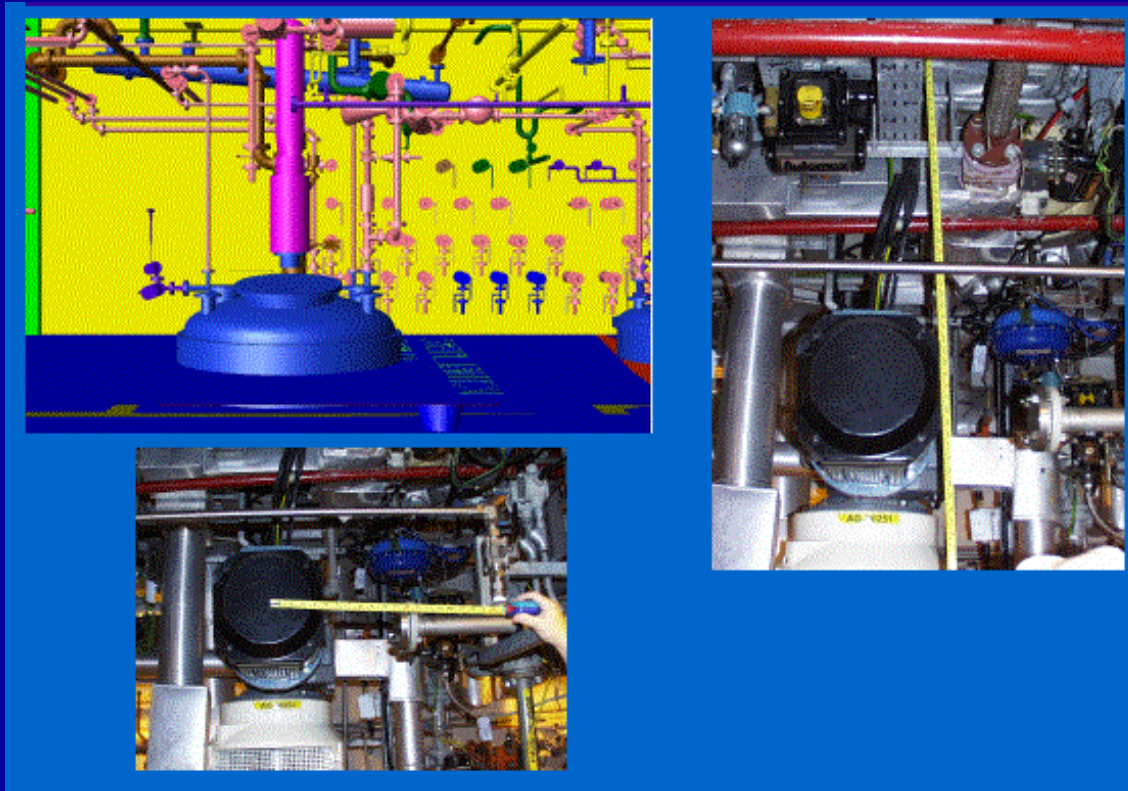
Forensic Engineering

The application of the principles and practice of engineering to the elucidations of questions before courts of law. Practice by legally qualified licensed professional engineers who are experts in their fields by education and who have experience in the courts and an understanding of jurisprudence. A forensic engineering engagement and may require investigations, studies, evaluations, advice to counsels, reports, advisory opinions, depositions and or testimony to assist in the resolution of disputes relating to life or property in cases before courts, or other lawful tribunals.

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Design Errors & Omissions



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Key Factors in Design Errors & Omissions

- Codes and Standards
- Relevant and in-depth technical expertise
- Discovery of supporting engineering documents(calculations)
- Detailed evaluation of plans and specifications

Forensic Project Management®

The application of the principles and practice of project and construction management to questions of fact and as the basis of opinions . Practice by legally qualified registered architects and professional engineers who are experts in their fields by education and who have experience in the courts and an understanding of jurisprudence.

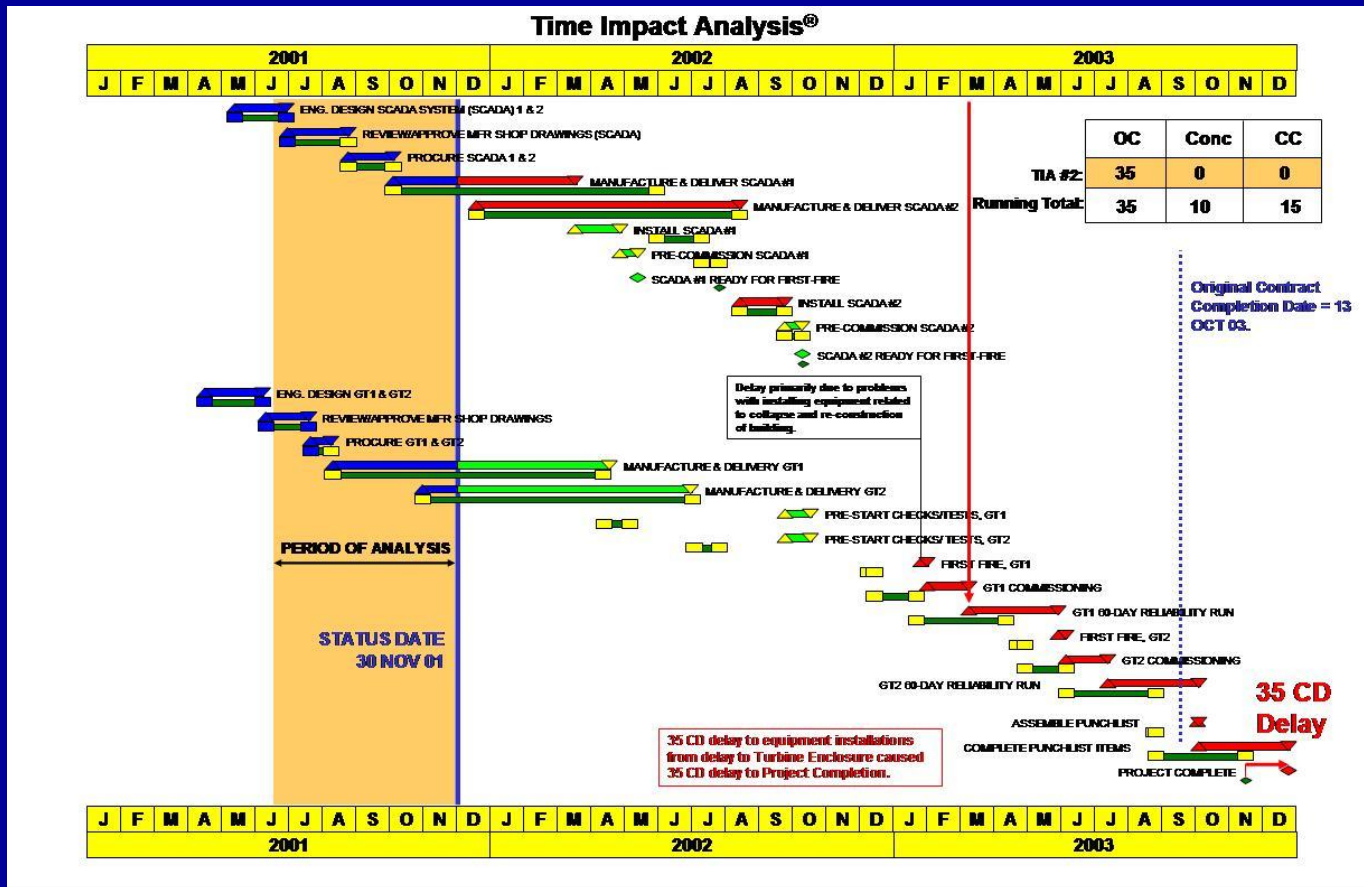
Key Factors

- Contract Management
- Scope Management
- Schedule and Resource Management
- Cost Management

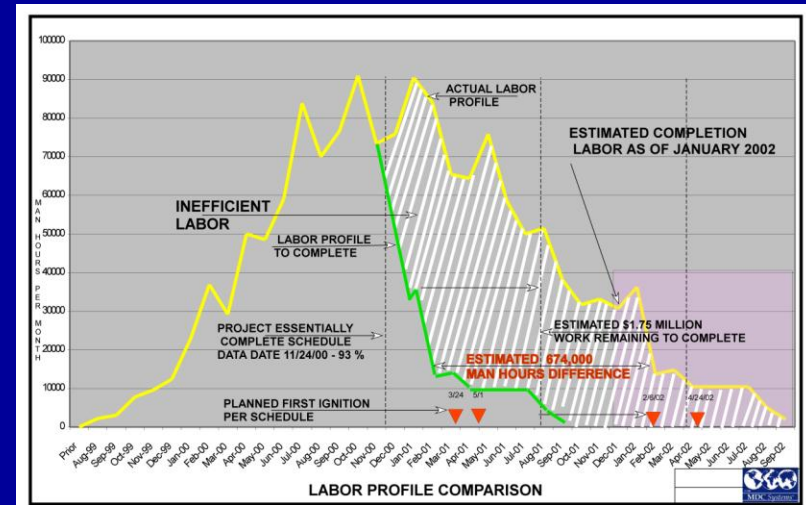
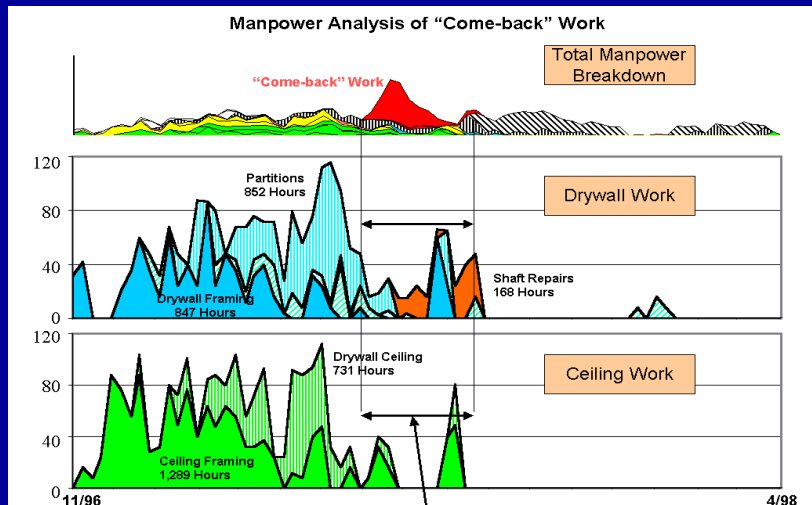
Schedule(Programme) Delay Analysis

- Time Impact Analysis(TIA)®
- Contemporaneous Project Data
- As-Planned v. As-Built Data
- Evidence of Causation
- Stepped approach that carefully allocates responsibility for delay in an even-handed manner.

Delay Analysis



Productivity & Labor-Related Losses



Key Requirements for Effective Analysis

- Contemporaneous Project Data
- Relevant methodologies
- Evidence of Causation
- Using the right data.
- Verifying assumptions.

Venue Considerations for Experts

- United States
- United Kingdom
- Saudi Arabia
- Singapore

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