We Are NOT Going to Have Any Claims on This Project: Judicial Reasoning, CPM Scheduling, and the Practice of Claims Avoidance in Construction Management

A Discussion of Contract Administration, Schedule Review, and Dispute Prevention

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Introduction

Construction claims are rarely the product of a single dramatic failure. They are far more often the accumulated result of dozens of small, avoidable missteps in contract administration: a schedule submittal accepted or rejected for the wrong reasons, a request for information left unanswered, a change order priced without reference to the CPM logic network, or a directive given verbally that should have been reduced to writing. Fredric L. Plotnick's 2027 presentation, "We Are NOT Going to Have Any Claims on This Project," organizes these missteps into a coherent program for the design professional, construction manager, or scheduler who wants to prevent disputes rather than simply survive them. The presentation's central argument is that claims avoidance is not primarily a legal skill exercised after the fact, but a disciplined, day-to-day practice of schedule review, documentation, and good-faith contract administration exercised throughout the life of the project.

This paper develops that argument at greater length, organizing the presentation's themes into six areas: (1) the judicial mindset that construction professionals must anticipate when they review and act on contract documents; (2) the doctrinal foundation, principally the Spearin doctrine, that governs how responsibility is assigned between owner and contractor; (3) the Critical Path Method (CPM) schedule as the operational bridge between the words of the contract and the actions taken in the field; (4) the proper scope and limits of an engineer's right to review, accept, or reject a contractor's schedule submittal; (5) the distinction between updating a schedule and revising it, and the parallel distinction between requests for information, proposed change orders, and executed change orders; and (6) the ethical obligation to be truthful in schedule representations even under pressure from a client or supervisor to do otherwise. Throughout, the paper draws on James J. O'Brien and Fredric L. Plotnick's CPM in Construction Management for the planning, scheduling and project-controls perspective, and on Joseph T. Bockrath and Fredric L. Plotnick's Contracts and the Legal Environment for Engineers & Architects for the doctrinal and case-law perspective, since the presentation itself synthesizes exactly these two bodies of knowledge.

1. Thinking Like a Judge

The presentation opens with an unusual instruction for an audience of schedulers and engineers: learn to think like a judge before a dispute ever reaches a courtroom. This is not a rhetorical flourish. Construction contracts are enforced within the framework of English common law, and courts approach a disputed contract provision with a set of interpretive habits that are largely predictable once they are understood. Contracts are enforced, in the traditional formulation, not for the benefit of the owner who drafted nor contractor who bid the contract, but because doing so benefits all the inhabitants of the realm — that is, because a predictable and enforceable system of private ordering is itself a public good. From that premise flows a second, equally important expectation: both parties to a construction contract owe each other a duty of good faith, and a court will look with suspicion on language, or on conduct under otherwise fair language, that appears designed to let one party benefit at the expense of the other's ability to perform. Contract language found to violate this expectation of good faith is not necessarily voided outright; more often courts will correct it through interpretation, excise the offending clause, or in the more extreme case treat its use as evidence of bad faith with consequences for the party that drafted or relied upon it.

A closely related principle is that contracts do not change truths. A specification or a schedule format may impose arbitrary procedural rules, but it cannot redefine physical or mathematical reality, and a court will not enforce an interpretation of a contract that requires it to do so. The presentation illustrates this with the historical example of Galileo's confrontation with the Ptolemaic system: an authority's insistence on a convenient but false model does not make the model true, and a contract clause that depends on an artificial or self-serving premise is vulnerable to exactly the same objection. For the scheduler, the lesson is a practical one — a CPM network is a model of reality, and its output is only as trustworthy as the honesty of its input. If a specification or a client directive would require the scheduler to represent something as true that is not, the professional obligation is to resist that directive rather than to comply with it, because a court reviewing the resulting record afterward will apply the same test of good faith that the presentation asks the professional to apply in advance.

2. The Spearin Doctrine and the Assignment of Responsibility

Much of construction dispute resolution turns on a single recurring question: who bears responsibility when the actual conditions or actual performance of a project diverge from what the contract documents assumed? The presentation identifies the governing rule as the Spearin doctrine, drawn from United States v. Spearin, 248 U.S. 132 (1918), and its state-law

antecedent, MacKnight Flintic Stone Co. v. Mayor of New York, 160 N.Y. 72, 54 N.E. 661 (1899). Bockrath and Plotnick treat Spearin as one of the foundational cases in construction law because it establishes that when an owner furnishes design specifications, the owner impliedly warrants that those specifications are adequate for their intended purpose; a contractor who builds in reasonable conformance with defective specifications is not liable for the resulting failure, even though the contractor technically "caused" the defect by following the plans as written.

The presentation restates this as a principle of responsibility linked to authority: a party that retains the authority to dictate how work will be performed also retains the responsibility for the consequences of that dictate. This has direct and frequently underappreciated implications for schedule administration. An owner or engineer who insists on a particular sequence, crew size, or activity duration in the contractor's CPM network — rather than accepting the contractor's own means-and-methods judgment — has, in effect, exercised the kind of authority that Spearin treats as carrying responsibility with it. The presentation captures this with the folk aphorism "if you did not want a fly in your soup, why did you order it?" Practically, this means that owners and their representatives should be cautious about directing the specific content of a contractor's schedule beyond what the specification legitimately requires, because doing so can convert what would otherwise be the contractor's risk into the owner's.

This same doctrine underlies the presentation's discussion of "no damage for delay" clauses and liquidated damages. Courts will enforce a no-damages-for-delay clause according to its terms in many jurisdictions, but the presentation, consistent with Bockrath and Plotnick's broader treatment of exculpatory clauses, notes that such enforcement is subject to well-recognized judicial exceptions — for active interference, for disruption of unreasonable duration, or for disruption not contemplated by the parties. A drafter who wants the broadest possible protection must be correspondingly explicit, naming the causes of delay the clause is meant to cover; a contractor with any bargaining power, conversely, should seek to narrow the clause to the specific causes actually contemplated. Liquidated damages provisions raise a parallel good-faith requirement: because a liquidated damages clause substitutes a stipulated sum for actual proof of damages, courts will scrutinize whether the sum bore a reasonable relationship, at the time the contract was signed, to the damages the owner could anticipate. The presentation frames this determination as fundamentally an engineering calculation rather than a purely legal one — liquidated damages should be built up from values that are themselves subject to independent, adverse review, such as a financing study submitted to a funding agency, rather than set as an arbitrary deterrent.

3. The CPM as the Bridge Between Words and Actions

The presentation's recurring visual metaphor — "Words v. Actions" — captures its central thesis about scheduling: the CPM network is not a reporting device layered on top of the contract, but the mechanism through which the contract's words are translated into, and reconciled with, the contractor's actual actions in the field. O'Brien and Plotnick develop this same point at length in CPM in Construction Management, describing the CPM network as the contractor's plan of execution reduced to a logically and mathematically coherent model, one that clarifies and, in a meaningful sense, modifies the contract language and working relationship between the parties by making explicit commitments — sequence, duration, resource loading — that a narrative specification could only describe in general terms.

Because the network performs this bridging function, the presentation asks the scheduler to think carefully about what stakeholders actually want from the person building and maintaining it. The question is posed provocatively: is the scheduler expected to be a lookout, watching the horizon for real problems; a fortune teller, expected to predict outcomes with false certainty; or a "cooker of books," expected to manufacture a schedule that tells management what it wants to hear rather than what is true? The presentation's answer is unambiguous. The professional scheduler's obligation runs to the integrity of the model itself — to honor the engineering, honor the contract in full rather than selectively, and maintain personal and professional credibility even when doing so is inconvenient for the project manager or the owner in the short term. This is framed not as an abstract ethical preference but as the only position that is actually defensible if the schedule is later placed in evidence.

4. Reviewing, Accepting, and Rejecting the CPM Submittal

A substantial portion of the presentation addresses the engineer's or owner's representative's authority over the contractor's schedule submittal — authority that is real but bounded. The specification typically gives the reviewer both the right and the obligation to review, and to approve or reject, the contractor's initial CPM submittal and its subsequent updates. But the presentation is emphatic that this right must be exercised within defined limits, and that an acceptance which purports to bind the contractor beyond what the specification actually requires, or a rejection issued for reasons outside the specification's scope, exposes the reviewer to liability rather than protecting the project.

On acceptance, the presentation distinguishes between what an acceptance legitimately covers and what it must expressly reserve. A proper acceptance addresses matters of format — for example, whether maximum activity durations and permitted logic-restraint types conform to

the specification — together with owner-controlled activities and the logic connections between multiple prime contractors, since these are the areas in which the owner has a direct interest in coordination. At the same time, an acceptance should expressly reserve the owner's and engineer's rights regarding the contractor's means and methods, the right to demand reasonable additional resources in response to either a change order or a recovery schedule, and the right to reject start-no-earlier-than or similar constraints that would improperly consume the owner's or engineer's float in responding to submittals, RFIs, or changed conditions.

On rejection, the presentation is equally precise about where a reviewer's authority can "bite back." Rejecting a format that technically satisfies the specification — for example, demanding code fields or graphic conventions the specification never required — exposes the owner to a change-order claim for the cost of reformatting and for any loss of efficiency caused by proceeding without an approved network. Rejecting a duration that the specification defines as the contractor's own best estimate is similarly risky unless the reviewer can demonstrate genuine inconsistency among the contractor's stated durations, resources, and costs; the reviewer may legitimately demand internal consistency, but may not simply substitute its own duration judgment for the contractor's. Rejecting or demanding a particular logic connection carries its own risk: a reviewer may reasonably require a written explanation for a questionable physical restraint, and may reserve rights concerning a contractor's attempted leveling or smoothing of resources, but should be wary of ordering the exclusion of logic the reviewer does not fully understand. And rejecting calculated output — for instance, ordering that an activity simply be "made critical" without challenging the logic or durations that produced its float — is flagged in the presentation as especially dangerous, since directing a calculated result rather than the inputs that produce it edges into “practicing engineering outside one’s expertise,” exposing a professional engineer’s license to disciplinary as well as contractual consequences.

The presentation's discussion of what constitutes a "proper format" reinforces the same theme. A proper CPM submittal must meet the requirements of the contract specification, and because that specification is typically drafted by the owner or its design professional, any genuine ambiguity in its requirements will be construed against the drafter under the ordinary contra proferentem rule that Bockrath and Plotnick discuss as a general principle of contract interpretation. The reviewer's first task, in the presentation's phrase, is to determine whether the submittal is actually a CPM network or merely a bar chart produced by CPM software — checking the input (activities, logic, durations, and the miscellaneous constraints and calendars) for genuine function, and only then examining the output for form. The presentation

recommends beginning this review with the software's own diagnostic report, whether from Primavera P3, P6, Deltek Acumen, Schedule Analyzer, DCMA/GAO metrics, Pertmaster/RDCPM®, or a custom diagnostic, as the fastest way to surface open ends, out-of-sequence progress, and similar structural defects before undertaking a substantive logic review.

5. Logic Discipline and Non-Traditional Restraints

The presentation devotes particular attention to a technical point that O'Brien and Plotnick treat as central to sound CPM practice: the difference between hard, physical logic and soft, resource-driven logic, and the danger of "place-marker" restraints that carry no real logical content at all. Each activity, with the exception of designated first and last activities, should have at least one physical-restraint predecessor and at least one physical-restraint successor, and should carry no more than one resource restraint per resource. The presentation goes further than the simple open-end check that most scheduling software performs automatically, warning that the use of non-traditional precedence restraints — Start-to-Start and Finish-to-Finish links in particular — can create "hidden" open ends that a standard diagnostic report will not flag. An activity followed only by a Start-to-Start restraint is, logically, never required to finish, not even for punch-list purposes; an activity preceded only by a Finish-to-Finish restraint could, by the same logic, start before notice to proceed is even issued. Neither result is acceptable, and the presentation's proposed discipline — that every activity other than the first must be preceded by a something-to-Start restraint, and every activity other than the last must be succeeded by a Finish-to-something restraint — is offered as a rule specification writers should consider requiring explicitly, since the ordinary diagnostic report will not catch a violation of it.

6. Updating the Schedule Versus Revising the Network

One of the presentation's more consequential distinctions, and one that receives sustained treatment in CPM in Construction Management, is between updating a schedule and revising the underlying network. An update records progress and performance for the period just completed: actual start and actual finish dates, and for work started but not yet complete, remaining duration (in work not calendar days or time units,) percent complete, and percent-complete for cost purposes. A revision, by contrast, reflects improved knowledge about the future of the project and may add, modify, or delete activities, logic restraints, or constraints, or change the duration of any activity that has not yet started. Conflating the two, the presentation warns, is like comparing apples to oranges: an update should be checked for the accuracy of its input, while a revision must be evaluated on a different set of questions entirely

— what is the change to the contractor's bid plan of execution, where on the site (and on the logic diagram) does it occur, when does it occur, why is it claimed to be a change, and who is responsible for both its performance and its payment.

The presentation identifies several recurring technical traps in update review. Actual start and actual finish dates should relate strictly to the schedule logic, not to cost — off-site fabrication is not part of the scheduled activity, and neither is touch-up or repair work that the successor activity does not require before it can begin. Special problems arise whenever percent-complete for schedule purposes diverges from percent-complete for cost purposes, since the two are not automatically re-linked once a cost percentage is separately entered, and the presentation recommends displaying both columns side by side in the bar-chart view specifically so reviewers will notice a divergence. Updating activities out of sequence, and updating networks that use lead/lag restraints, raise their own well-documented calculation quirks — for example, in legacy Primavera P3, reporting an actual start reduces a lag automatically without verifying that the predecessor activity's progress justifies it, while reporting a zero remaining duration does not reduce the lag without an actual finish date also being entered. None of this is merely academic: a reviewer who does not understand these mechanics can be misled by a schedule that appears, mathematically, to show progress it has not actually made.

The presentation extends this discipline to the three-week look-ahead schedule, which it treats as the operational complement to the monthly network update. Where a monthly update looks backward, the short-interval look-ahead must look forward on a rolling weekly basis, asking what must be done this week, what may be done this week, what is actually being done this week, and whether manpower, equipment, materials, and support are genuinely in place. For the two following weeks, the same look-ahead process should be turned toward planning manpower and materials, checking drawings against field conditions, and generating requests for information before they become schedule-critical rather than after.

7. RFIs, Proposed Change Orders, and Executed Change Orders

The presentation treats requests for information, proposed change orders, and executed change orders as three distinct instruments, each with its own discipline, and warns that blurring the distinctions among them is a common source of claims. Every RFI should be referenced to the specific drawing number, specification section, and CPM activity it affects, and notice of any schedule impact should be given as soon as the impact is identified. An RFI should be added to the CPM, as a revision, only when it produces an actual impact — that is,

when work has actually stopped pending the response — or when there is a genuine danger of impact if the response is not received before the next scheduled update; adding every RFI to the network regardless of impact would simply bury the genuinely critical ones.

Proposed change orders are treated with particular care, because the presentation regards the period between a PCO's issuance and the signing of a change order as the single riskiest interval in construction administration. Every PCO should generate a threshold question — should the contractor continue incurring cost to prepare and perform the base plan while the PCO is evaluated, or stop those preparations and accept the resulting delay or disruption if the PCO is ultimately not adopted? The presentation insists this question be answered affirmatively, in writing, before work begins, rather than left for a court to resolve after the fact; its analogy is a taxi passenger who wants the driver to pull over and stop the meter while deciding on a different restaurant — a request a reasonable driver will refuse, just as a contractor has no obligation to work at its own risk while a PCO remains unresolved. The controlling rule, reinforced by both Nether Providence Township School Authority v. Thomas M. Durkin & Sons, Inc., 505 Pa. 42, 476 A.2d 904 (1984), and Dick Corp. v. State Public School Building Authority, 27 Pa. Commw. 498, 365 A.2d 663 (1976)[1], is that where a contract requires written authorization before a contractor may recover for additional work, the contractor is not obligated to perform that work absent the required written authorization, and a contractor who refuses to proceed without it is entitled to recover any damages caused by the owner's delay in providing that authorization. The presentation renders this as a simple governing rule for the field: never, never stop current work for, nor start work on a proposed change order until the change order itself is signed.

Once a PCO estimate is prepared, the presentation asks that it be added to the same CPM the parties are already using, and that it separately itemize the request for a time extension and its associated cost, the cost of preparation work that will be wasted if the PCO is not adopted, the cost of disruption to other, unrelated activities, a reservation for additional disruption cost if multiple PCOs are pending concurrently, the cost of preparing the estimate itself (with an appropriate adjustment factor if multiple revised estimates are required), and the cost of modifying the CPM to reflect the change. The presentation frames an honest PCO estimate, following Bockrath and Plotnick's discussion of the standard of care owed in good faith, as one that distinguishes contingency from risk, respects the fact that a contract's overhead-and-profit markup limitation typically applies only to time-and-materials work rather than to negotiated lump-sum change orders, and separately identifies field overhead from field direct costs. A quote, by contrast, properly includes price, risk, and reasonable advantage, and the

presentation cautions the estimator against "bidding against himself" by underpricing a change simply because a subsequent request for a revised number is expected.

Once a change order is finally executed, the presentation requires that it be made part of the CPM without exception. If the change is agreed, it represents a genuine change in the work to be provided; if it remains disputed, it is at minimum a change to the contractor's original bid plan of execution, and understanding its impact on the project matters regardless of which party ultimately bears the cost. Because either party may later find itself defending a claim related to the change, the presentation recommends that both sides track costs as though the work were being performed on a time-and-materials basis from the outset, since that discipline of contemporaneous cost tracking — itself a cost to both owner and contractor — tends to promote earlier resolution of the underlying dispute rather than a protracted one. The presentation's citation to Natkin & Co. v. George A. Fuller Co., 347 F. Supp. 17 (W.D. Mo. 1972)[2], illustrates the consequence of failing to follow this discipline: the court there found that although the contract documents required a CPM schedule to be followed throughout the project, the defendants had effectively abandoned it at the owner's insistence in order to meet the owner's own internal occupancy commitments, and the court held the owner responsible for having, in substance, assumed control of the schedule for its own purposes.

8. Telling the Truth Even When Ordered to Lie

Perhaps the presentation's most pointed ethical instruction concerns the temptation to manipulate a schedule for appearance rather than accuracy — to "increase CPM durations to use up all the contract time allotted," to delete an inconvenient note, or to direct a contractor to perform without an extension of time regardless of whether one is actually warranted. The presentation's position is unequivocal: the specification obligates the engineer to require honest estimates of activity durations and honest representations of the logical restraints between them. If the calculated completion date is later than desired, the proper response is for the contractor to add resources or work additional hours to genuinely shorten the duration, not to arbitrarily shorten the stated duration without changing the underlying plan. If the calculated completion is earlier than desired, demanding that the contractor reduce its workforce, compress to a four-day week, or otherwise manufacture float that does not reflect an honest plan is treated in the presentation as functionally equivalent to demanding that the contractor lie. Project float, the presentation states plainly, belongs to the contractor, and courts will not enforce a contract provision — however clearly drafted — that would require this kind of absurd or dishonest result.

This section connects back to the presentation's opening instruction to think like a judge. A schedule manipulated to satisfy a client's or supervisor's short-term preference, rather than to reflect an honest plan of execution, is exactly the kind of document a court will treat with suspicion once litigation begins, because it will read on its face as evidence of bad faith rather than of genuine project control. The presentation's broader point, echoed throughout Bockrath and Plotnick's treatment of the standard of care owed by design professionals, is that professional credibility is itself an asset that must be actively protected; a scheduler who allows the network to be used as an instrument of appearance rather than of honest planning has compromised the very credibility that would otherwise protect both the professional and the project when a dispute eventually arises.

The presentation's warning is not merely theoretical, and the litigation record bears it out, even if the clearest illustrations tend to surface at the trial and board level rather than in published appellate opinions, since forensic schedule disputes are heavily fact-bound and rarely turn on a question of law an appellate court would review. In Utley-James, Inc. v. United States, 14 Cl. Ct. 804 (1988), affirming a decision of the General Services Administration Board of Contract Appeals, the government had prepared and maintained its own computerized CPM schedule for a federal office building, separate from the contractor's own network, and used that schedule as the basis for directing the contractor to accelerate its work. The Board found, and the Claims Court agreed, that the government's own schedule was essentially unreliable and had never accurately tracked the job. Because the contractor had never been required to rely on that schedule and had in fact built and followed a more accurate network of its own, the court would not let the government's inaccurate schedule serve, by itself, as grounds for a damages claim against the government — but the court was equally clear that if the government had relied on its own defective schedule to inflict a specific, provable injury on the contractor, such as an unwarranted order to accelerate, that reliance could support recovery. The case stands as a real-world instance of exactly the danger the presentation warns against: a schedule kept for one party's institutional convenience, allowed to drift out of accuracy, and then used as though it were a trustworthy record to direct the other party's performance. A related principle appears in Fortec Constructors v. United States, 8 Cl. Ct. 490, 505 (1985), where the Claims Court held that a CPM schedule can serve as a reliable basis for evaluating delay only if it is kept current and made to reflect delays as they actually occur; a schedule allowed to fall out of date, whatever the reason, forfeits the evidentiary weight a party will need from it later. Read together, these decisions confirm the presentation's central ethical claim: an inaccurate or manipulated schedule is not a neutral or harmless document. It is evidence, and when a dispute eventually reaches a tribunal, that evidence will be read for exactly what it is.

9. Notice, Documentation, and Managing Unavoidable Disputes

The presentation closes its substantive discussion with a reminder that not every dispute can be avoided through planning alone, and that when a genuine disagreement does arise, the parties' obligation shifts from prevention to minimizing its mutual cost. Detailed CPM preparation, done honestly, will itself disclose points of disagreement earlier and more precisely than a narrative dispute would, allowing the parties to stipulate the matters on which they agree and confine negotiation to the narrower set of matters on which they genuinely disagree. The presentation recommends that time-and-materials tracking procedures for any disputed work be discussed and agreed at the pre-construction meeting, well before they are needed, and that any dispute anticipated to affect work within the coming three months be referred, quickly and inexpensively, to a neutral referee before the disputed work is actually performed, rather than litigated only after the work is complete and the record has grown more expensive to reconstruct.

Finally, the presentation reminds the professional that formal notice obligations — to the contractor's surety, to the engineer's errors-and-omissions carrier, to the owner's legal department, and, for a governmental owner, to the attorney general's office — exist precisely because early notice tends to reduce ultimate exposure, while delayed or omitted notice tends to increase it. Claims, the presentation observes bluntly, represent money lost forever: the cost of defending a claim can approach the cost of managing the underlying project, and that cost typically must be found from a budget that never anticipated it. The presentation's closing question — "why are we sitting in this courtroom, and whose fault is it that this matter could not have been avoided?" — is offered not as a rhetorical flourish but as the actual question a judge is likely to ask, and it is the question the presentation's entire program of up-front planning, honest scheduling, and disciplined documentation is designed to make unnecessary.

Conclusion

Taken as a whole, the presentation argues that claims avoidance is not a separate legal discipline layered on top of construction management, but an emergent property of construction management done well. The judicial habits of mind described at the outset — respect for good faith, skepticism toward self-serving or physically impossible representations, and the linkage of authority to responsibility under the Spearin doctrine — are not abstractions for courts to apply after the fact; they are standards the scheduler and the reviewing engineer can, and should, apply to themselves throughout the life of the project. The CPM network, properly built and honestly maintained, is the primary instrument through which this discipline

is exercised: it converts the contract's words and drawings into a model of actions, discloses disagreements while they are still cheap to resolve, and creates a documentary record that will either support or undermine the parties' credibility if a dispute nonetheless reaches litigation. The presentation's title is, in this sense, less a boast than a discipline — a project on which the parties genuinely think like judges, document their actions, and tell the truth even under pressure not to, is a project substantially less likely to generate a claim, and considerably better positioned to defend itself if one arises anyway.

Endnotes

► **(endnote 1) Dick Corp.:** It's part of a continuous, still-good Pennsylvania line running from *Morgan v. Johnstown* (1931) and *Burke v. Allegheny County* (1939) through *Montgomery v. Philadelphia* (1958) and *Emporium Area Joint School Authority v. Anundson* (1959) to *Dick Corp.* itself. Most importantly, the Pennsylvania Supreme Court relied on and reaffirmed *Dick Corp.* eight years later in *Nether Providence* (1984), so it carries the Commonwealth's highest court's endorsement. But nationally, it sits on the stricter end: many jurisdictions treat written-change-order clauses as waivable by course of conduct, and Pennsylvania's public-contract cases (including this one) have been comparatively reluctant to find that kind of waiver against a governmental owner. So the rule shouldn't be assumed to travel automatically into a private contract or a more waiver-friendly jurisdiction.

However, unlike *Natkin* (which was picked up by a New Jersey court within a few years), not located is any out-of-state court decision that cites *Nether Providence* directly, to either follow or limit it. This may be informative: the case appears to function mainly as a statement of Pennsylvania's own comparatively strict public-contract doctrine, not as a rule that has migrated into the broader national case law. Thus, practitioners outside Pennsylvania should treat it as persuasive at most.

► **(endnote 2) Natkin:** Its core "owner took de facto control and abandoned the CPM for its own purposes" holding held up well — a New Jersey trial court adopted essentially the same reasoning a few years later in *Dobson v. Rutgers* (1978). It was later distinguished on its facts (not disapproved) in *Utley-James v. United States* (1988), which is already discussed in our ethics section. It also continues to show up in current delay-claims literature, which is a decent sign it hasn't been limited or superseded.

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