



Lessons from Adjudications

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Background and Adjudication in NEC Projects

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Introduction

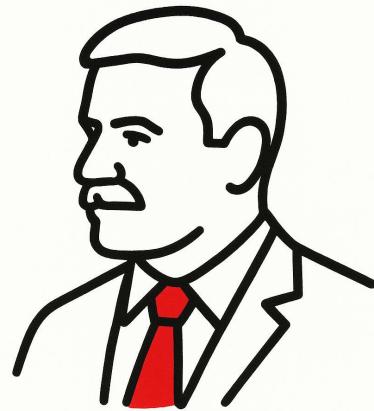
40+ years in Civil Engineering

Director of DSR Commercial Services Ltd

Intended to present “real” adjudications... until ICE Adjudication Procedure 2010 – Part D Rule 18

So today: outcomes and lessons — no names, no projects, no adjudicators

Protecting the innocent, the guilty... and my PI



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Why This Talk Matters

Adjudication use in NEC projects remains constant

Each case reveals patterns, e.g. design, scope, time-bar, experts

Most are NEC3 ECC projects

Aim: share insight, not war stories

Key theme → Adjudication outcomes are unpredictable but valuable learning tools



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Case Study 1: Overloading Adjudications and Time Constraints

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Adjudication 1: Too much, Too Late



Adjudication Time Constraints

Adjudicator ran out of time to value the change, impacting the resolution process.



Change Evaluation Discrepancy

Project Manager assessed less work and no delay, differing from contractor's claim leading to unexpected results.



Management Lessons

Avoid overloading adjudications with multiple issues and consider splitting referrals to allow adequate time.

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Case Study 2: Revisiting Decisions and the Limits of Certainty

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Adjudication 2: VAR for Adjudications



Reassessment Using VAR Logic

The adjudicator re-examined the first decision by applying video assistant referee logic to ensure accuracy.



Outcome of Second Adjudication

No compensation, time extension, or money awarded; only the claimant's negative adjustment was removed.



Risk in Adjudication

Even strong cases carry risk, with about 60% chance of success, highlighting adjudication as an informed judgment.

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Case Study 3: Ambiguity in Scope and Measurement

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Adjudication 3: Measured Works or Demolition?

IMPORTANCE OF CLEAR BOUNDARIES

Ambiguity in BoQ

Ambiguous measurement terms caused differing interpretations on excavation boundaries and demolition responsibilities.

Adjudicator Decision Outcome

The adjudicator ruled in favour of the subcontractor due to lack of site investigation and measurement rules.

Lessons for Future Contracts

Contracts should clearly define boundaries on drawings for interface between measured works versus and lump sum payments items.



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Case Study 4: Compensation Events and Time-Bar Issues

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Adjudication 4: CE or Time-Bar?

Notification Dispute Context

The dispute concerns whether a notification qualifies as a Compensation Event or is time-barred

Experts' Role in Resolution

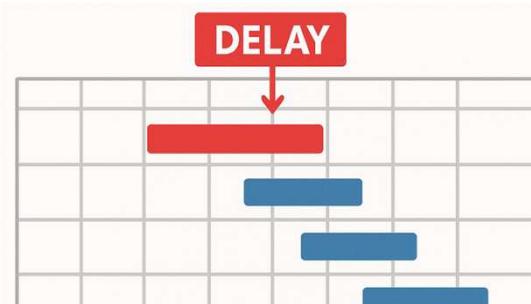
Joint expert statements helped narrow the issues, guiding the adjudicator's decision process effectively.

Adjudication Decision Summary

The Compensation Event was valid under 60.1 (1) & (12), the Project Manager should have issued instructions, and Contractor was not time-barred.

Key Learnings

Project managers must fulfil NEC duties → Early, clear CE notifications are vital → Joint expert reports focus decision-making.



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Case Study 5: The Role of Experts and Compromise in Adjudication

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Adjudication 5: Battle of Experts

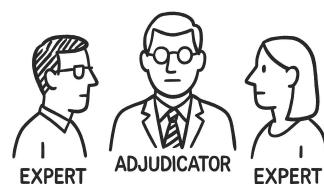
Expert Involvement

Six experts across technical, time, and quantum fields contributed extensive submissions to the adjudication process.

LESSONS ON EVIDENCE, LEGAL STRATEGY, AND COMPROMISE

Adjudicator's Approach

The adjudicator met with experts separately and carefully evaluated extensive referral and rebuttal submissions before deciding.



Decision and Outcome

The decision was split midway between both parties, highlighting the complexity and need for balanced judgement.

Key Lessons Learned

Clear evidence builds credibility; avoid over-lawyering and expect compromise as outcomes are rarely all-or-nothing.

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PRACTICAL CHALLENGES

Correspondence Chaos



Mixed emails, PDFs, and missing recipients create challenges; Contract Management Systems help organize communication.

Activity Schedule Challenges



Tender data often differs from final contracts, making traceability from bid to submission essential.

Importance of Data Management



Effective data management and audit trails are key factors that can influence adjudication outcomes.

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Case Law Touchpoints

Cited Across These Adjudications

Harding & Plaice [2015] — scope of second adjudication

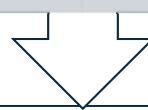
Equitix v Bester [2018] — flawed decisions can be reconsidered

Amalgamated Investment v John Walker & Sons

Cammell Laird v Manganese Bronze & Brass Co

Tsakiroglou v Nobleee Thorl (1962)

New Zealand Shipping Co v Societe des Ateliers (1919) - WWI requisition = contract frustration



Learning:

Case law context matters, but facts win cases

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Key Takeaways

Five Lessons from Five Adjudications

- 1** Keep referrals focused and proportionate
- 2** Expect uncertainty — adjudication is not arbitration
- 3** Maintain robust records and evidence trails
- 4** Ensure PMs act decisively under NEC
- 5** Learn from each dispute — commercial leadership through hindsight

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Thank you for listening



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