



# Lessons from Adjudications

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## Background and Adjudication in NEC Projects

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## Introduction

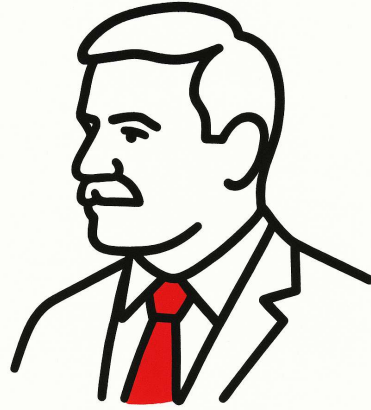
40+ years in Civil Engineering

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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3

3

## 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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4

# 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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6

## Case Study 2: Revisiting Decisions and the Limits of Certainty

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### Adjudication 2: VAR for Adjudications



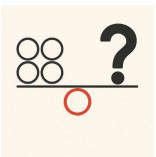
#### Reassessment Using VAR Logic

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.

10

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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

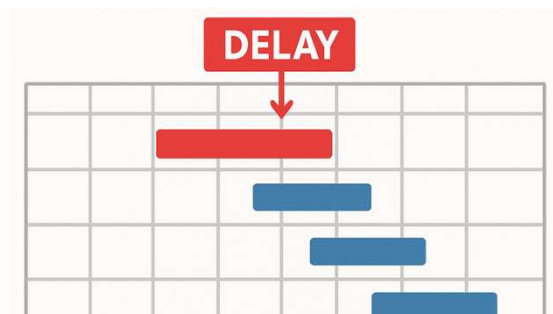
Joint expert statements helped narrow the issues, guiding the adjudicator's decision process effectively.

### 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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12

# 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.

### Adjudicator's Approach

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

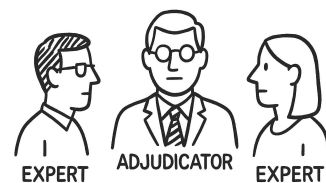
### Decision and Outcome

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.

### LESSONS ON EVIDENCE, LEGAL STRATEGY, AND COMPROMISE



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14

## 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.

15

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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 Noble Thorl (1962)	New Zealand Shipping Co v Societe des Ateliers (1919) - WWI requisition = contract frustration
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### Learning:

Case law context matters, but facts win cases

16

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## Key Takeaways

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### 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

17

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## Thank you for listening

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18

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