

TDF, LLC

A Construction Consulting Services Company

459 Herndon Parkway, Suite 19, Herndon, VA 20170; (o) (703) 673-1190

- CPM Scheduling
- Project Controls
- Construction Claims
- Dispute Resolution

Founded in 2001 by Thomas D. Fertitta, TDF, LLC has built one of the finest reputations in the construction industry by continually producing positive results for project stakeholders. TDF, LLC's broad experience with owners, owner agents, architects, engineers, contractors and subcontractors provides a unique view of project issues during all phases of the construction process. Our insightful strategies assist our clients in identifying and avoiding potential project risks, complying with severe contract requirements, exploring efficient construction sequences, and preparing persuasive analyses.

TDF is committed to building value-based long-term relationships with our clients through dedicated service, unmatched integrity, and strategic problem solving. As our clients search for answers to overcome difficult project challenges, our aim is to offer our clients a trusted source to uncover potential risks and facilitate sensible solutions.

[Scheduling and Project Controls](#)

Our experience with creating, interpreting, and following scheduling specifications allows us to handle any CPM Scheduling assignment. Considering our vast work in the preparation of claims, we are able to anticipate potential problems early and prescribe actions to mitigate such problems before they adversely affect progress. We ensure accurate periodic updates by visiting the jobsite, confirming changes in logic with the project decision-makers and suggesting alternative means to avoid pitfalls.

[Construction Claims and Dispute Resolution](#)

In the areas of claims and disputes, we apply our methodology to quickly identify all aspects of the dispute. Our findings are based on facts derived directly from all elements of the project record and in-depth interviews with project personnel. Whether the construction dispute requires negotiation, mediation, arbitration or court hearings, our unique experience with owners and contractors provides us with keen foresight to know what to look for in the opposition's files, what questions to ask and how to interpret the responses. Our meticulous approach to evaluating, organizing and analyzing documents yields an analysis consistent with what actually occurred during the project and accurately reflects the true impact of events.

[Our Personnel](#)

Our personnel are seasoned construction professionals whose experience includes making project level decisions regarding means and methods, scheduling, estimating and administration. We have also prepared a variety of industry related publications.

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Representative Industry Experience

Heavy Civil	<ul style="list-style-type: none">• Rail and Rail Stations• Sitework and Underground Piping• Airports• Highway Interchanges
Industrial	<ul style="list-style-type: none">• Water Treatment Plants• Power / Co-generation Plants• Ethanol/Alcohol Producing Facilities• Nuclear Facilities
Commercial	<ul style="list-style-type: none">• Offices• Office / Retail• Condominiums / Apartments• Casinos
Federal / Municipal	<ul style="list-style-type: none">• Courthouses• Prisons• Schools• Embassies• Military Installations
Mechanical	<ul style="list-style-type: none">• Underground Steam Distribution• Underground Water Distribution and Sewer Collection• Scrubber Refurbishment• Insulation• Piping

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Preparation of CPM Schedules:

- Participate on the owner's Project Controls Team for a \$1.5B rail extension project providing monthly insight and reporting regarding project status (i.e. commodities, costs, and resources), impact of fragnets, and project administration.
- Prepare a series of Baseline CPM schedules and schedule updates for General Contractor for multiple high-rise luxury condominiums, mixed-use projects in New York, New York.
- Prepare Cost-loaded Baseline Schedule and monthly updates for a General Contractor on an over \$200million multi-phased U.S. Federal Courthouse under the GSA scheduling specification.

Preparation of Schedule Analysis/Dispute Resolution:

- Prepare a schedule analysis and evaluation of a termination for default on behalf of a contractor at a \$45m government project in the Middle East. Our analysis examined the government's identified causes of termination related to the contractor's schedule and compared those causes to the project record including the contractor's progress and excusable delays.
- Prepare schedule analysis for an owner at a \$270 million BioMass 70MW power plant located in Berlin, NH. TDF's services included review of monthly schedules and the analysis of the contractor's claim for delay, acceleration, and loss of productivity.
- Prepare Time Impact Analyses/Schedule Analyses for a general contractor during the construction of the second phase of a mechanical, electrical, plumbing and sprinkler upgrade at an over \$235 million renovation at 38 story U.S. Federal Courthouse, New York, New York.
- Prepare Time Impact Analyses/Schedule Analyses related to owner-caused delay issues and reconcile owner delays with concurrent delay periods at several U.S. Embassy Compounds and military installations at a variety of locations around the world.
- Prepare a schedule analysis and productivity study for the installation of insulation at a 70MW Biomass plant located in Gainesville, FL. TDF developed a 3D Model to illustrate the details of primary system components, the installation sequence, and installation progress.

Risk Assessment / Specifications:

- Prepare a Risk Assessment related to schedule practices and procedures used by the Design-Builder for the owner of a \$3.2B canal project.
- Prepare an evaluation of the integrity and feasibility of a baseline schedule for an EPC contractor at a nuclear medical isotope facility.

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Representative Client List

Owners

▪ Amtrak	▪ Metropolitan Washington Airports Authority
▪ Bank of America, NA	▪ Panama Canal Authority
▪ Berlin Station / Burgess BioPower	▪ Petrobras
▪ Federal Bureau of Prisons	▪ Perth & Smiths Falls District Hospital
▪ Federal Highway Administration	▪ Toronto Transit Commission
▪ Grain Processing Corporation	▪ Town Of Hempstead
▪ Intracorp Properties	▪ Washington Metropolitan Area Transit Authority
▪ Maryland Transit Authority	▪ Realco Group

Contractors

▪ AECOM (WashingtonGroup/Raytheon)	▪ ECC CENTCOM Constructors, LLC
▪ Agra Industries, Inc.	▪ Fagen, Inc.
▪ AICI-Special Projects	▪ Honeywell International, Inc.
▪ Bondfield Construction	▪ Lend Lease
▪ Bravo Builders, LLC	▪ Parsons Corporation
▪ CCE Services International, LLC	▪ Robert W. Granger & Sons, Inc.
▪ Contrack/Watts International, Inc	▪ Sigal Construction Corporation
▪ C.M. Parker & Co., Inc.	▪ Sterling Boiler & Mechanical, Inc.
▪ Cauldwell Wingate Company, LLC	▪ Turner Construction Company
▪ Daniel J. Keating Company	▪ Joseph R. Wunderlich, Inc.

Sureties

▪ Carolina Casualty Insurance Company	▪ New Hampshire Insurance Company
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Architects / Engineers

▪ Architect of the Capitol	▪ Ayers Saint Gross
▪ Atomic Energy of Canada Limited	▪ DMJM

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Representative List of Law Firms

▪ Akerman	▪ Jacoby Donner, P.C.
▪ Akin Gump Strauss Hauer & Feld	▪ Lee & McShane
▪ Barnes & Thornburg	▪ Leonard A. Sacks & Associates
▪ Breakell Law Firm	▪ Stinson Leonard Street
▪ Carney Badley Spellman	▪ Osler, Hoskin & Harcourt
▪ Dechert	▪ Peckar & Abramson
▪ Department of Justice	▪ Seyfarth Shaw
▪ Duane Morris	▪ Sills, Cummins, Epstein & Gross
▪ Fabyanski, Westra & Hart	▪ Smith, Pachter & McWhorter
▪ Fox Rothschild, LLP	▪ Watt, Tieder, Hoffar, & Fitzgerald
▪ Glaholt, LLP	▪ Winston & Strawn
▪ Holland & Knight	▪ Williams Mullen
▪ Ingram Yuzek Gainen Carroll & Bertolotti, LLP	▪

Representative Projects

- Multiple Luxury High-Rise Apartments/Condominiums, New York, NY
- Multiple Secure Government Facilities, Middle East
- New Finch West Subway Station – Spadina Line, Toronto, Ontario, Canada
- Gainesville Renewable Energy Center, LLC, 70MW Biomass Plant, Gainesville, FL
- U.S. Embassy, Taipei, Taiwan
- U.S. Embassy, Jeddah, Saudi Arabia
- Third Boiler Expansion, 70MW Biomass Plant, Honolulu, Hawaii
- Army Navy Country Club New Clubhouse, Arlington, VA
- Arlington County Maintenance Facility, Arlington, VA
- Castle Frank Subway Station –Second Exit, Toronto, Ontario, Canada
- Thurgood Marshall U.S. Federal Courthouse Renovation–Options 1 & 2, New York, NY
- Burgess BioPower 70MW Biomass Plant, Berlin, New Hampshire
- Dulles Corridor Metrorail Project, Phases 1 & 2, Northern Virginia
- Croton Water Treatment Plant, Bronx, NY
- South Boston 65MW Biomass Plant, South Boston, Virginia
- Flat Branch Force Main, Chantilly, VA

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Representative Projects (cont'd)

- Panama Canal, Panama
- U.S. Embassy, Valletta, Malta
- U.S. Embassy, Dushanbe, Tajikistan
- U.S. Government Secure Facility, Afghanistan
- Perth & Smiths Falls District Hospital, Smiths Falls, Ontario, Canada
- 65m gallon per year ethanol producing plant, Hopewell, Va.
- Bronx Criminal Court Complex, New York, New York
- 2148 Broadway Condominium Project, New York, New York
- Ingleside at King Farm, Rockville, Maryland
- Silver Spring Gateway, Silver Spring, Maryland
- Arrowbrook Centre Park, Herndon, Va
- Capitol Visitor Center, U.S. Capitol Building, Washington, D.C.
- Regeneration of Don Mount Court, Toronto, Ontario, Canada
- Alcoa Warrick Power Plant – Scrubber Installation, Evansville, Indiana
- Library and Theater Project, Arlington County, Virginia
- Yale School of Medicine Congress Avenue Building, New Haven, Connecticut
- Schedule Specification Review, Washington Metropolitan Area Transit Authority, Washington, D.C.
- Georgetown University Davis Performing Arts Center, Washington, D.C.
- Lowe's Home Improvement Warehouse at Latham Circle Mall, Albany, New York
- Water Distribution and Sewer Collection System, Duluth, Minnesota
- MDS Nordion Medical Isotopes Reactor Project, Chalk River, Ontario
- Acton's Landing Condominium Project, Annapolis, Maryland
- Underground Steam Distribution System, University of North Dakota, Grand Forks, North Dakota
- The Windrows at Princeton Condominium Project, Princeton, New Jersey
- Washington Metro Blue Line Extension to Largo, Maryland
- Don Mills Train Station – Sheppard Subway System, Toronto, Canada
- Cloverly Towne Center, Cloverly, Maryland

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Representative Projects (cont'd)

- Indiana Harbor Non-Recovery Coke Facility, East Chicago, Indiana
- Ernest N. Morial Convention Center – Phase III, New Orleans, Louisiana
- Hollywood Casino, Shreveport, Louisiana
- Corn Wet Milling Facility, Washington, Indiana
- P-19 and P-31 Conversion of Oil Processing Platform and Tanker, Brazil
- Maryland Center of Performing Arts, College Park, Maryland
- Metropolitan Detention Center-400 Bed Interim Facility, Brooklyn, New York
- Utility Building East Expansion, Dulles International Airport, Virginia
- Albany School of Humanities, Albany, New York
- Hempstead Resource Recovery Plant, Hempstead, New York
- Amtrak Northend Electrification Program, Northeast Corridor
- Canal Road Water Treatment Plant Expansion, Elizabethtown, New Jersey
- Barracks Complex, Fort Stewart, Georgia

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459 Herndon Parkway, Suite 19, Herndon, VA 20170; (o) (703) 673-1190

Results

BAST HATFIELD, INC., Plaintiff

v.

JOSEPH R. WUNDERLICH, INC., Defendant

STATE OF NEW YORK SUPREME COURT, COUNTY OF ALBANY

INDEX NO. 1933-04

March 2009

The Court credits the testimony of Wunderlich's expert, Thomas D. Fertitta, based upon his knowledge of construction and the critical path method of scheduling construction projects. Fertitta concluded that the primary causes of delay were late site demolition by the owner, Bast's delay in processing submittals and lack of coordination by Bast as evidenced by its failure to inform its subcontractors of the accelerated schedule. He determined that Wunderlich could not have completed its work any sooner regardless of manpower and, in any event, any delay in performance by Wunderlich did not delay completion of the project beyond the substantial and actual completion date.

Decision Affirmed.

78 A.D.3d 1270, 910 N.Y.S.2d 256 (N.Y. App. Div. 2010); App. Div LEXIS 7891

November 4, 2010, Decided

November 4, 2010, Entered

Supreme Court further found that Wunderlich was unable to complete its work more quickly as its performance was frustrated by obstacles attributable to Bast and Latham Circle and beyond Wunderlich's control... This determination was based, in part, on the testimony of Wunderlich's construction expert, who opined that Wunderlich was prevented from progressing more quickly by the delayed demolition, [*6] plan revisions required due to an initial error, and the failures of Bast to coordinate the sequencing and staging of the various subcontractors' work, maintain updated schedules, transmit timely submittals to the project engineer, and notify Wunderlich of the accelerated schedule. This expert further opined that Wunderlich would have timely completed its full scope of work under the subcontract had it not been partially terminated. We accord deference to the court's resolution of the conflict between this opinion and the contrary views of Bast's engineer (see *R.W. Granger & Sons v City School Dist. of Albany*, 296 AD2d 636, 636, 744 N.Y.S.2d 567 [2002]).

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Results

R.W.GRANGER & SONS INC., Respondent,

v.

CITY SCHOOL DISTRICT OF ALBANY, Appellant.

91195

SUPREME COURT OF NEW YORK, APPELLATE DIVISION, THIRD DEPARTMENT

2002 N.Y. App. Div. LEXIS 7116

Fertitta concluded that there was a 133-day delay on the project. He attributed 106 days to the School District, which was caused by the lack of coordination between the construction manager and the prime contractors and the lack of construction schedules – both of which caused M.E.P. work to frequently interfere with Granger’s work, untimely responses to request for proposals, and untimely responses to requests for information. Fertitta concluded that the 15-days of delay was caused solely by Granger, but that such a delay was neither substantial nor material to completion of the project.

Fertitta analyzed the work remaining as of termination and concluded that Granger could have completed its work by the September 5, 1995 deadline...

Fertitta testified that the School District’s decision to terminate Granger for delaying the project – without analyzing the underlying cause(s) for delay – was improper and, having failed to perform such an analysis, was not justified in terminating Granger for default.

Fertitta broke his analysis of the delays occurring on the project into windows of time. The analysis was based on the construction schedules that had been produced and his review of the correspondence, daily work reports, and the project meeting minutes that had been produced.

Decision Affirmed.

July 3, 2002, Decided

July 3, 2002, Entered

296 AD2d 636, 636, 744 N.Y.S.2d 567 [2002]

We affirm. The trial evidence and exhibits are far too voluminous for lengthy recitation here. However, plaintiff’s expert engineer, Thomas Fertitta, testified that based upon his "critical path" analysis, the project was delayed for a total of 133 days. Of the 133 days, Fertitta attributed all but 15 days to defendant and its agents by reason of their failure to coordinate the work of the various prime contractors and to prepare adequate construction schedules. These failures, in turn, resulted in the mechanical, electrical and plumbing work interfering with plaintiff’s work, thereby causing the complained of delay. Fertitta attributed only 15 days of the delay to plaintiff which, in his opinion, was neither substantial nor material to completion of the project. To be sure, there was contrary testimony on the part of defendant’s expert, but this merely presented a credibility determination for the trial court to resolve, and its determination in this regard is entitled to deference due to its ability to observe the tenor and demeanor of the witnesses.

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Key Personnel

[Thomas D. Fertitta, PSP \(703\) 673-1191](#)

Mr. Fertitta founded TDF, LLC in April 2001 as a construction consulting services company. Since 1981 his construction experience has included project management, cost estimating and fieldwork coordination of shell and tenant improvements on a variety of facilities such as high-rise office buildings, warehouses, and research and development buildings. He has held leadership positions with a general contractor, a real estate developer and an international professional services firm. Mr. Fertitta has prepared a variety of construction schedules and schedule analyses for owners and contractors on private and municipal projects such as schools, office buildings, co-generation plants, industrial facilities, condominiums, wastewater treatment plants, prisons and courthouses. He has performed critical path analyses demonstrating delay, disruption, acceleration, as well as performing damage and loss of productivity calculations, as-built construction schedules, issue and entitlement identification and analysis, and document control and organization. Mr. Fertitta has provided expert witness services for negotiation, mediation, arbitration, state court, and federal court regarding scheduling matters.

[Anthony Nedinsky, PSP \(703\) 673-1196](#)

Mr. Nedinsky has experience in several advancing roles within the construction timeline including project management, cost estimating, scheduling, field coordination and leadership, negotiations, and community outreach. He has performed a variety of schedule analyses for complex government, industrial, civil, and power projects. He has significant construction background constructing a variety of complex bridges foundations, MSE retaining walls, soundwalls, support of excavation. His experience also includes earthwork and roadway construction, reinforced concrete pavement, asphalt paving, concrete curbs and barrier walls, large concrete underground structure construction including architectural concrete and finishing, tunnel excavation (up to 72" diameter), storm drainage, water line (up to 54" diameter), sanitary sewer (gravity and force main), gas line, ductbanks, overhead electrical lines, traffic control systems, and toll plaza work. Mr Nedinsky has also performed tenant fit out work including the all HVAC, electrical, plumbing fire protection and interior finishes. Mr. Nedinsky has worked in the Project Engineer role in a large segment of a \$1.5 billion design-build project to construct new general purpose lanes, toll lanes, and several bridges.

[Conny Niedhoefer \(703\) 673-1197](#)

Since 2004, Ms. Niedhoefer has performed scheduling and scheduling analysis for construction projects located around the world. Her project experience includes electrical transmission lines, fertilizer plants, power plants, retail stores, residential buildings, and pharmaceutical facilities providing cost-loaded and resource-loaded schedules for clients. She is highly skilled in all aspects of Primavera and MS Project scheduling software and has prepared critical path schedule analyses, project reporting, cost projections, earned value analyses as well productivity studies.

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[Kim Abercrombie \(703\) 673-1198](#)

Mrs. Abercrombie began her construction management career as a U.S. Naval Civil Engineer Corps Officer in 1993 where she was responsible for new construction, facility upgrades, environmental remediation and program wide operation and maintenance budgets. Her projects included single-family residential developments, hotel and athletic complexes, healthcare facilities, retail malls, and office buildings throughout the United States and Japan. She has extensive experience in managing construction projects, from planning and design through commissioning and turn over. Mrs. Abercrombie has worked in Project Controls for international construction companies and a small business 8(a) contractor developing project baseline schedules and integrated master schedules. She is proficient in P6 and is experienced in critical path, earned-value and construction delay claim analysis.

[Samar Serag, PMP \(703\) 673-1193](#)

Mrs. Serag is a Civil Engineer and a Certified Project Management Professional with over 24 years of diverse project management and project controls experience while working with leading American and International engineering and construction organizations. She has served as a project controls manager for contractors involved with U.S. Government agencies. Her experience includes monitoring and managing project schedules through all phases of construction, developed Time Impact Analyses, evaluated fragnets, prepare bid packages, review submittal packages for compliance, monthly progress reports, and correspondence.

[Kiran Chinivar](#)

Mr. Chinivar has over 10 years of experience scheduling a variety of infrastructure projects, office buildings, and high-rise condominium projects. Mr. Chinivar has experience in Primavera and MS Project scheduling software developing schedules with cost-loading and resource-loading requirements. He has prepared critical path schedule analyses, in particular, Time Impact Analyses, productivity studies, cost reporting, and typical monthly project reporting.