

# TDF, LLC

A Construction Consulting Services Company

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459 Herndon Parkway, Suite 19, Herndon, VA 20170; (o) (703) 673-1190 // (f) (703) 673-1189

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

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Some of our recent successes include:

- Testify as a schedule expert for a contractor on a \$170 million ethanol producing plant. The contractor was terminated for convenience amid schedule delays caused by design changes and prolonged equipment procurement, which were owner responsibilities.
- Prepare a schedule analysis for a contractor on a \$150 million condominium project. The contractor encountered contaminated soil and rock throughout the excavation process leading to foundation concrete delays. TDF used a 3-D model to evaluate the relationship between the contaminated material, Support of Excavation, and concrete activities.
- Prepare a delay analysis for a general contractor on a \$90 million condominium project. TDF used a windows method schedule analysis to determine owner, contractor, design, and concurrent delays through the entire construction period.
- Prepare a cost-loaded and resource-loaded CPM baseline schedule and monthly schedule updates for a general contractor on a over \$200million multi-phased U.S. Federal Courthouse under the GSA scheduling specification. TDF's services also include "Monte Carlo" simulations to evaluate construction sequences and "what-if" scenarios.
- Testify as a schedule expert in mediation for a transit authority on a \$217 million design-build rail extension project. TDF used the windows method in the detailed schedule analysis that considered impacts such as weather, access and utility issues, productivity, design changes and contractor delays.
- Testify as a schedule expert in state court for a sitework contractor on a \$10 million home improvement warehouse retail outlet. The general contractor terminated the sitework contractor, yet the contractor failed to consider the owner's re-design of underground stormwater piping and its own failure to coordinate the work.
- Prepare an evaluation of the integrity and feasibility of a baseline schedule for an EPC contractor at a nuclear medical isotope facility.
- Prepare a CPM completion schedule, monthly updates, and a preliminary delay analysis for a general contractor on a \$36 million condominium project. Delays were caused by differing site conditions and numerous design changes. Our involvement in the on-site joint scheduling meetings assisted the contractor in avoiding litigation.
- Assist a mechanical contractor prepare a productivity study at an underground water distribution and sewer collection system. The contractor faced differing site conditions related to unexpected quantities of rock and excessive utilities during construction. TDF used a measured mile approach to quantify damages and delays.
- Testify as a schedule expert in mediation for a transit authority on a \$90 million train station. The contractor failed to submit timely monthly updates ultimately leading to lack of progress on critical activities and disruption across a project that included 8 inter-related milestones.

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## Representative Client List

<u>Owners</u>	
▪ Amtrak	▪ Petrobras
▪ Bank of America, NA	▪ Perth & Smiths Falls District Hospital
▪ Federal Bureau of Prisons	▪ Toronto Transit Commission
▪ Grain Processing Corporation	▪ Town Of Hempstead
▪ Intracorp Properties	▪ Washington Metropolitan Area Transit Authority
▪ Metropolitan Washington Airports Authority	▪ Town Of Hempstead

<u>Contractors</u>	
▪ Agra Industries, Inc.	▪ Lunseth Plumbing & Heating, Inc.
▪ AICI-Special Projects	▪ Realco Group
▪ Blakeslee Arpai Chapman, Inc.	▪ Robert W. Granger & Sons, Inc.
▪ Bovis Lend Lease, Inc.	▪ Sigal Construction Corporation
▪ C.M. Parker & Co., Inc.	▪ Sterling Boiler & Mechanical, Inc.
▪ Cauldwell Wingate Company, LLC	▪ Turner Construction Company
▪ Harris Contracting Company	▪ Washington Group International
▪ Honeywell International Inc.	▪ Joseph R. Wunderlich, Inc.

<u>Sureties</u>	
▪ Carolina Casualty Insurance Company	▪ New Hampshire Insurance Company

<u>Architects / Engineers</u>	
▪ Architect of the Capitol	▪ Ayers Saint Gross
▪ Atomic Energy of Canada Limited	▪ DMJM

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## Representative List of Law Firms

▪ Akerman Senterfitt	▪ Ingram Yuzek Gainen Carroll & Bertolotti, LLP
▪ Akin Gump Strauss Hauer & Feld	▪ Lee & McShane
▪ Barnes & Thornburg	▪ Leonard A. Sacks & Associates
▪ Breakell Law Firm	▪ Leonard, Street & Deinard
▪ Dechert	▪ Osler, Hoskin & Harcourt
▪ Department of Justice	▪ Peckar & Abramson
▪ Duane Morris	▪ Sills, Cummins, Epstein & Gross
▪ Emmet, Cobb, Waits & Kessenich	▪ Smith, Pachter & McWhorter
▪ Fabyanski, Westra & Hart	▪ Watt, Tieder, Hoffar, & Fitzgerald
▪ Glaholt, LLP	▪ Winston & Strawn
▪ Holland & Knight	▪ Williams Mullen

## Representative Projects

- U.S. Embassy, Valletta, Malta
- U.S. Embassy, Dushanbe, Tajikistan
- Perth & Smiths Falls District Hospital, Smiths Falls, Ontario, Canada
- 65m gallon per year ethanol producing plant, Hopewell, Va.
- Dulles Corridor Metrorail Project, Northern Virginia
- Bronx Criminal Court Complex, New York, New York
- Thurgood Marshall U.S. Federal Courthouse Renovation–Options 1 & 2, New York, NY
- 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

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## **Representative Projects (cont'd)**

- 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
- 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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## 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.

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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

July 3, 2002, Decided

July 3, 2002, Entered

2002 N.Y. App. Div. LEXIS 7116

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.