



## Dispute Resolution

On a construction project of any complexity, disputes are often the rule – not the exception. Avoidance or a quick resolution of disputes is often crucial to the economic success of the project. In this regard, one point must be stressed at the outset: The key to quick resolution of disputes is the use of systems designed to collect, preserve and organize information, including documents, throughout the project. Project documentation helps all parties avoid disputes and facilitates thorough presentation of claims, and effective alternative dispute resolution measures and litigation. Resolution of construction disputes including claim preparation, alternative dispute resolution procedures, arbitration and litigation is discussed in Chapter 21 of *Common Sense Construction Law*.

The issue in construction disputes that generally receives the most attention and focus is liability. Does a differing site condition exist? Who caused the delay and is it compensable? However, the issue of damages or costs flowing from the events that give rise to liability is no less than important. Too often, the issue of calculating costs and proving damages is given a back seat with little precision or scrutiny applied until late in the dispute resolution process. That approach can result in an entirely misguided claim effort, missed opportunities for settlement and loss at trial or arbitration. An early and realistic analysis of damages can help determine whether a claim really exists and the best means of preparing and positioning the claim and the affirmative recovery sought. The lawyers of Smith Currie have the experience to prepare and document the case for liability and the damages caused by project events. Chapter 16 of *Common Sense Construction Law* discusses proving costs and damages.

### Areas of Concentration

- Claims Preparation
- Arbitration
- Defending Claims
- Litigation
- Mediation
- Negotiation