

# Construction Thought Leader: 8 Tips To Solidify Your Position In Change Order Disputes That Have Little To Do With Law

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PHILADELPHIA, PA, UNITED STATES, October 24, 2022 /EINPresswire.com/ -- It is estimated that

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*James Gallagher - Principal at Resolution Management Consultants, Inc.*

nearly 90 percent of all construction disputes between owners and contractors result from change orders. Much has been written about the legal aspects of contracts, change orders and the need to stipulate and adhere to the change order process. Although lawyers properly focus on the contract and the fact that change orders legally change that contract, in practice, courts have shown that change orders can sometimes transcend the contract itself where decisions result from change orders either being expressly agreed upon or implied. Fairness to both owner and contractor is often a guide by which many disputes are resolved, whether in litigation, mediation or negotiation.

James Gallagher, Principal at Resolution Management

Consultants, Inc., believes that proving a "fairness" standard demands a depth of technical and process experience that brings specialized experts into the equation resolving construction change order disputes. Gallagher says, "Although ultimately change order disputes are legal issues relating to contracts, insight on design, technique, management, pricing, supply and other issues, provided by experts in those areas, can assist lawyers in facilitating the resolution process leading to an outcome that is fair to all."

Gallagher recommends 8 tips designed to help lawyers and their clients strengthen their position in change order disputes:

1) Drive the conversation to the technical. Go beyond the "He said. She said." or which party kept the best records. Establish a technical argument, defining the foundational scope of the project, in order to strengthen one's legal position.

2) Establish technical shortcomings in the initial agreement. What omissions, errors or ambiguities in the initial scope of work or management contributed to the need for change orders?

3) Establish how the change order in question changed the scope of the project, and the technical rationale for doing so or for not doing so.

4) Change orders can be disruptive to a project's scope, timing and budget. Technically demonstrate the value or reduction in value from the change.

5) Expand focus beyond the parties in the change order. How does the change affect others in the process – sub-contractors, permitting, materials vendors, etc. – relative to scope, timing and budget.

6) Look at the dispute “backwards” – in other words, if the change did not happen, what would the added cost or savings be to the outcome?

7) Examine best practices. How have others solved the issue that the change order was developed to fix and what was their resolution effecting scope, timing and budget?

8) Quantify force majeure and other outside effects such as job site conditions, safety concerns, governmental laws or edicts, changes in material availability or pricing on the project as it relates to change order implementation and responsibility.

Said Gallagher, “Although ultimately, change order disputes are a legal issue. Technical expertise can enhance both the legal and the fairness arguments facilitating resolution.”

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About Resolution Management Consultants, Inc.

Resolution Management Consultants, Inc. (RMC) is a nationally recognized consulting firm headquartered in Marlton, NJ. There are two sides to the business: the construction planning and management aspect – helping clients build more successful projects – and the litigation aspect – should matters go to court, providing analysis and testimony as expert witnesses.



James Gallagher - Principal, Resolution Management Consultants, Inc.

Founded in 1993 by veterans in the construction, contracting and engineering professions, RMC has assisted numerous private owners, public agencies and contractors in either achieving project goals or resolving cost and time disputes between the contracting parties.

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