

7 Tech Trends That Will Shape 'Liquidated Damages,' Potentially Reducing The Number Of Commercial Construction Disputes

Will advanced technology and management techniques prevent root issues of contention, with the potential to reduce or eliminate many disputes?

MARLTON, NJ, UNITED STATES, July 21, 2026 /EINPresswire.com/ -- The issue of “liquidated

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Although disputes will never go away, new technology holds the promise of reducing many causes of “liquidated damages” potentially increasing the timeliness & profitability of commercial construction.”

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damages” is addressed in virtually every commercial construction contract. At its core, defining liquidated damages at the outset of the project, attempts to prevent disputes by anticipating challenges, predetermining costs, creating a framework for resolution and incentivizing timely completion. One key criterion relating to valuing liquidated damages is that the sum calculated is to compensate for a loss and not be a punishment.

As straightforward as that may sound, grounds for disagreement are ultimately based on whether the predetermined value of the liquidated damages is ultimately considered to be unreasonable, punitive or coercive. If so, it can be disputed.

“Resolving liquidated damages is one of the main causes of disputes in commercial construction because so many factors can change over the course of the project,” said James Gallagher, P.E., F.ASCE and CEO of Resolution Management Consultants, a thought leader in construction dispute resolution. Gallagher notes that disagreements over reasonableness, timeliness, responsibility and other factors relating to predetermined liquidated damages, can lead to disputes and litigation that can delay closing out a project for years.

Gallagher observes that in recent years, as a result of advanced technology and management techniques, the root issues of contention may be on the verge of disappearing, with the potential to reduce or eliminate disputes and litigation, as well. Gallagher has identified 7 evolutionary trends including:

1) New technologies that enhance collaborative communication and management during the project. Collaborative technologies such as BIM or Building Information Modeling have been around for decades, however in recent years they have significantly increased their depth, dimension and speed, enabling real time monitoring and communication by a wider range of functions and participants. More issues can now be identified and fixed earlier in project timelines, significantly reducing delays.

2) Utilizing artificial intelligence to more effectively anticipate, report and adjust cause and effect.

Bringing AI into project management can recalibrate activities in real time, including change orders and their ultimate effect on the completed project. With AI, a single participant's actions today can be projected relative to completion to determine timeliness, accuracy and quality. Should the activity fall short it can be flagged, earlier in the process, triggering immediate fixes, thereby reducing delays and damages.

3) New technologies improve relationships and coordination with sub-contractors and other 3rd party vendors.

Until recently, relationships with sub-contractors and third-party vendors have often been somewhat disconnected from the total project. New technology, bringing 3rd party work into real time scheduling and management, can more effectively coordinate sub-contractors' timing and activities and project them relative to the finished project.

4) Drones and other technologies make inspections faster and more efficient.

Drones and other monitoring and inspection technologies can more effectively and less expensively inspect and detect construction issues earlier in projects such that management can enact solutions well before they expand into significant errors or delays.

5) Block chain technology makes changes and change order management more accurate and efficient.

Building more trust into the project, by all parties, will not only make construction more efficient, but it will be more reliable in limiting disputes.



James F. Gallagher, P.E. F.ASCE, Resolution Management Consultants

6) Supply chains are becoming more efficient.

Although tariffs may raise some prices in the long-term, they also have the potential to reduce shipping costs and timing delays. As more construction materials are sourced in North America, the supply chain will become more efficient.

7) Technology is becoming more affordable and easier to implement.

Although disputes and litigation are becoming increasingly unaffordable, technology designed to identify and prevent disputable issues earlier in the process, is becoming more affordable and approachable.

8) New technologies can more definitively confirm and communicate completion (or not), and therefore speed payment.

Arguably one of biggest causes of disputes is the gray area regarding how much work has been completed and when it was completed and ready for payment. BIM with AI can provide quicker confirmation of timely completion or non-completion, and either suggest payment authorization or identify shortcomings and those responsible.

Said Gallagher, "Although disputes will never go away, new technology holds the promise of dramatically reducing the number of delays and disputes. Reducing or eliminating the causes of liquidated damages will go a long way towards increasing the timeliness and profitability of commercial construction."

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. 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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