

Arguing Cardinal Change is Different than Proving Cardinal Change

“The cardinal change doctrine has become a popular doctrine for a contractor to argue under but remains an extremely difficult doctrine to support and prove. Arguing cardinal change is one thing. Proving cardinal change is entirely different. ... this is a doctrine with its origins under federal government contract law with arguments extending outside of the federal government contract arena. For this reason, the cases referenced ... are not federal government contract law cases, but are cases where the cardinal change doctrine has been argued (even though these cases cite to federal government contract law cases),” writes David Adelstein in *Florida Construction Legal Update's blog*.

“A party argues cardinal change to demonstrate that the other party (generally, the owner) materially breached the contract based on the cardinal change. In reality, a party argues cardinal change because they have cost overruns they are looking to recover and this doctrine may give them an argument to do so. But it is important to recognize the distinction between raising it as an argument and the expectation that this (difficult doctrine to prove) will carry the day.”

Read the article.