Contract Barred Recovery of Lost Productivity Damages Suffered by Contractor

Because there are often multiple causes of delays and a variety of types of delay damages on construction projects, it is critical that the parties consider and properly allocate the risk of such delays and the potential resulting costs in the contract documents, advises **Robinson+Cole**.

Elizabeth Wright explains that the Massachusetts case of *Cumberland Farms, Inc. v. Tenacity Constr., Inc.* offers insight into the importance of the contract in allocating the risk of delay damages.

"In this case, the court noted that the contract not only provided that the contractor is only entitled to an extension of time for delay damages but it also expressly provided that the contractor would only be entitled to time and material costs for Winter condition work," she writes.

Read the article.

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