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## Kurt L. Dettman, Esq.

Mr. Dettman draws upon his legal and public management experience to facilitate dispute resolution, focusing on open communication and consensus building among contractors, owners, attorneys and consultants. With over 25 years of legal experience, including more than 13 years of senior management experience on the Central Artery/Tunnel Project in Boston, Mr. Dettman has a keen understanding of and sensitivity to the resolution of disputes in a variety of settings and circumstances. Mr. Dettman's current consulting practice focuses on the use of all forms of dispute resolution in the construction industry, including dispute resolution systems design, Partnering, settlement negotiation, mediation, arbitration and Dispute Review Boards.

Mr. Dettman was the law clerk to Justice William G. Callow of the Wisconsin Supreme Court from 1983 to 1984. Thereafter, Mr. Dettman was a commercial litigator at two leading Boston, Massachusetts law firms from 1984 to 1992, providing legal advice in the areas of complex commercial and business disputes, lender liability litigation and associated workouts, insurance coverage disputes, construction disputes and litigation, products liability litigation, trademark and copyright, and appellate tax board appeals.

### **Central Artery/Tunnel Project (Boston, MA)**

Mr. Dettman was involved with this \$14.729 Billion project since 1992, advancing from Senior Counsel, to Chief Counsel, to Associate Project Director for Claims Resolution. As the project's lead attorney, he managed all legal matters on the project, including construction claims, design claims, Owner Controlled Insurance Program, alternative dispute resolution, cost recovery, procurement, contract negotiation and administration, inter-governmental relations and agreements, conflicts of interest, ethics, regulatory oversight, labor, employment, building issues, DBE regulations, environmental and right of way litigation, civil and criminal investigations, and legislation.

Becoming Associate Project Director for Claims Resolution in May of 2003, Mr. Dettman managed a 110-person staff and numerous outside consultants. He was responsible for preparing and implementing a plan to resolve over 5,000 open issues/claims with a claimed value of over \$600 million. He oversaw the teams that



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settled out on a global basis several major contracts with claims totaling over \$460 million using a combination of negotiation and mediation. In addition, he substantially reduced the claims backlog on other contracts through a proactive negotiation program.

Mr. Dettman has dealt with claims involving entitlement issues, design issues, constructability issues, delay/impact/inefficiency issues, constructive acceleration issues, and pricing/compensability issues. Examples of specific contract claims on which Mr. Dettman lead or oversaw the negotiations include the following:

- C19D1 Contract (Charles River Bridge)—Kiewit brought a \$25 million claim alleging insufficient and deficient design, delayed access, differing site conditions, delay and impact. The claim was successfully settled through negotiation.
- CO1A3 Contract (South Boston Mainline Tunnel and Access Ramps)—Kiewit/Atkinson/ Cashman, Joint Venture, brought a \$66 million claim alleging delayed access, interference by other contractors, delay/disruption, and open change order claims. The claim was successfully settled through mediation.
- CO9A4 Contract (South Bay Interchange)—Slattery/Interbeton/White/Perini, Joint Venture brought a \$110 million claim alleging insufficient and defective design, lack of access, delay/disruption, and open change order claims. The claim was successfully settled through mediation.
- C22A2 Contract (Integrated Project Controls System)—Honeywell brought a \$167 million claim alleging insufficient disclosure in the bidding process, defective design, delayed access, delay and disruption, and open change order claims. The claim was successfully settled through mediation.
- CO1A6 Contract (South Boston Mainline Tunnel and Access Ramps)—DeMatteo/Interbeton/ Flatiron, Joint Venture, brought a \$60 million claim alleging delayed access, delay/disruption and open change order claims. The claim was successfully settled through mediation.

### **Dispute Review Board Experience**

Mr. Dettman was instrumental in the creation and implementation of a construction dispute resolution program on the CA/T Project, including the use of Partnering and Dispute Review Boards (of which there were 47 over the 15+ years of active construction on \$7B in contracts). He wrote the DRB specification and operating guidelines used on the CA/T Project, advised on the procurement of DRB members and chairpersons, and oversaw the presentation of all claims to the DRB on behalf of the Owner. Mr. Dettman also was responsible for recommending to the CA/T Project Director whether to accept or reject all DRB findings and recommendations as part of the Project Director's Decisions.



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Mr. Dettman has received the following DRB related training:

- Dispute Resolution Board Foundation Member, Chairperson and International Practice training
- Caltrans Dispute Resolution Board Member and Dispute Resolution Advisor training

Mr. Dettman has conducted or will be conducting the following DRB training:

- Training for the Ohio Department of Transportation and the Ohio Contractors Association on the ODOT Dispute Resolution Process (which includes Step 3 DRBs)
- Training for Construction Dispute Resolution Services LLC on Dispute Review Board practice
- Training for the Idaho Transportation Department on Dispute Review Board practice
- Training for the Dispute Resolution Board Foundation on DRB Administration and Practice (DRBF Conference October 2008)
- Training for the Chartered Institute of Arbitrators on Dispute Review Board practice
- Training for the Ohio Department of Transportation on behalf of the Dispute Resolution Board Foundation
- Training for the MTA Capital Corporation (New York) on DRB practice (scheduled for April 2009)

Mr. Dettman is currently performs the following DRB services:

- Chairperson, Main St. Bridge Project, Columbus, Ohio (\$45M+)
- Chairperson, Fulton Road Bridge Project, Cleveland, Ohio (\$45M+)
- Member, I-75 Phase I(A) Highway Project, Dayton, Ohio (\$121M)
- Mr. Dettman also drafted for the Ohio Department of Transportation a DRB Chairperson Manual

Mr. Dettman has published the following articles on DRB practice on the DRBF Forum:

- “What Role Should Lawyers Play in the DRB Process?”
- “‘End of the Contract Claims’: Tips for Handling Complex Claims Before the DRB”



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- “The Use Of ‘Adjudication DRBs’ Where Parties Are Subject To Adjudication Or Arbitration Processes”
- “The Role of DRBs in Dispute Prevention”

### **Other Experience**

- Advised Princeton University regarding system to resolve a claims backlog on the \$50 million Lewis Library Project.
- Acted as liaison between outside counsel and expert team on a City of Boston lawsuit involving settlement of a multi-million dollar claim arising out of the installation of a City high school fire protection system.
- Assisted the Massachusetts Executive Office of Transportation and the Massachusetts Highway Department on a redesign of its construction claims process; resolved Takeover Agreements and claims with various bonding companies; and advised on the resolution of multi-million dollar claims, including a \$100+ million claim on a \$385 million design-build highway upgrade project and a \$30+ million claim on a bridge project.
- Acting as a facilitator/mediator engaged by the owner, designer and contractor on a multi-million dollar sewer tunnel project.
- Various mediations and arbitrations involving court matters and construction claims.

### **ADR Training and Qualifications**

Mr. Dettman has received required training under Massachusetts General Laws c. 231, § 23C (40-hour training by Mediation Works, Inc. and Harvard Law School Program on Negotiation Mediation Workshop for Lawyers). Mr. Dettman has received training for and has been accepted on the following panels:

- Construction Arbitrator panel of the American Arbitration Association
- Fellow of the Chartered Institute of Arbitrators (UK)
- Mediator panel of the Massachusetts Office of Dispute Resolution (also provisionally approved as Facilitator and Trainer)
- DRB Panel of the Institute for Conflict Management
- Arbitrator panel of the American Dispute Resolution Center, Inc.
- Arbitrator/Mediator/DRB panels of Construction Dispute Resolution Services LLC
- Arbitrator panel of the Financial Regulatory Authority (formerly the National Association of Securities Dealers)
- Arbitrator panel of the National Arbitration Forum
- Court mediator panel of Mediation Works, Incorporated



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- Court mediator panel of the Boston Municipal Court

### **Organization Memberships**

- Dispute Resolution Board Foundation (Co-regional Representative for New England)
- American Bar Association, Section of Dispute Resolution (Co-chair of the Arbitration Committee) and Forum on the Construction Industry
- Association for Conflict Resolution (Co-Chair of the Commercial Section; Member of Leadership Council of the Commercial Section; Co-chair of Real Estate and Construction Committee)
- Transportation Research Board (Member of Committee on Contract Law)
- Massachusetts Uniform Mediation Act Working Group (Process, Legislative and Public Sector Committees)

### **Professional Activities**

Mr. Dettman has spoken at many conferences and groups about the use of alternative dispute resolution in the construction industry, including:

- American Bar Association Section of Public Contract Law Annual Federal Procurement Institute: “Alternative Dispute Resolution at the Central Artery/Tunnel Project”
- Construction Management Association of America Annual Conference: “Contrasting ADR Methods”
- Transportation Research Board Annual Legal Workshop and Annual Conference: “The Partnering and Dispute Resolution Process on the Central Artery/Tunnel Project” and “Using Dispute Review Boards To Prevent And Resolve Disputes”
- San Francisco and London Superconferences: “The Partnering and Dispute Resolution Process on the Central Artery/Tunnel Project”
- American Road and Transit Builders Annual Conference: “Alternative Dispute Resolution”
- Connecticut Bar Association and the Connecticut Society of Civil Engineers: “The Tool Box For Effective Dispute Resolution: ‘Lessons Learned’ From Boston’s Big Dig Project”
- Federal ADR Working Group: “The Partnering and Dispute Resolution Process on the Central Artery/Tunnel Project”
- Ohio Transportation and Engineering Conference: “The Ohio Department of Transportation’s Innovative Use of Alternative Dispute Resolution Techniques”



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- Construction Specifications Institute (NH Chapter): “The Toolbox For Effective Dispute Prevention And Resolution On Construction Projects”
- National Contract Management Association (Boston Chapter): “Managing Claims on Mega-Projects: Lessons Learned From The ‘Big Dig’ Project”
- Caltrans Contract Law Workshop: “The ‘ADR Tool Box’ for Effective Dispute Avoidance and Resolution”
- Association For Conflict Resolution Advanced Commercial Mediation Institute: “Mega-Project Mediation: Lessons From Boston’s Big Dig Project”
- Association For Conflict Resolution Annual Conference: “Taking Consumer Disputes to the Next Level”; “Innovative and Unique Consumer Dispute Resolution Processes”; and “New and Emerging ADR Processes”
- American Bar Association Section of Dispute Resolution Annual Conference: “The Arbitrator Disclosure Conundrum: Establishing Practical Guidelines For Meeting Disclosure Requirements Under The RUAA And Similar Standards”
- Association For Conflict Resolution Teleseminar: “Report From the Mediation Trenches: Tips From Boston’s “Big Dig” Project Mediation Program”
- Engineering Society of Detroit ADR Conference: “ADR Lessons From The Trenches: Real-Time Dispute Resolution On The “Big Dig”
- Transportation Research Board Legal Conference (Moderator): “Protecting the Public Owner in Public Private Partnerships”
- Dispute Resolution Board Foundation Annual Conference: “Dispute Avoidance and Prevention, Not Just Resolution”