

## Wipe the Slate Clean!

How can contractors bypass the claims process and resolve disputes with owners and designers in a way that quickly resolves any misunderstandings and gets the money flowing immediately?

The construction market is volatile and thin margin jobs have little margin for error. One big hiccup – a dispute or claim – can put contractors and subs behind the eight-ball. While juggling incomplete or conflicting design documents; walking the tight-rope of the triple constraints of schedule, budget and quality, contractors sometimes “bite it” when a dispute arises and the owner withholds payment for a proposed change order or extra work.

A revolutionary process is being used on some projects on the West Coast, called Wipe the Slate Clean™. The process uses a smart approach of resolving any dispute within the change order spec itself, never allowing disagreements to get to the claims spec. As a result, it keeps the two sides in control of the issue, flushes out 80% of the information in 20% of the time, and, on the more complex issues, brings in neutral professionals (technical and legal) to help evaluate both sides’ arguments and cut to the chase. Oh, and by the way, both sides split the costs.

We typically disagree about two things: interpretation and data. The other side doesn’t trust your interpretation of the design documents or the contract. Or they – or you – don’t trust the other guy’s numbers. Statements are made, tempers flare and you reach a point where you either strap on lawyers or walk away and take it in the shorts.

There is a better way. The ReAlignment Group, Ltd. ([www.projectrealign.com](http://www.projectrealign.com)) has resolved dozens of multi-million dollar disputes within 60 to 90 days and for a small fraction of the “battle costs” (lawyers, claims consultants, fees, interest, distraction of project management, etc.) by calling a Time Out, getting the two sides together and agreeing to let the project itself hire an expert to review the documents, talk to the participants, evaluate the positions and make an informed, professional recommendation quickly.

The resolution includes both direct costs – labor, materials and equipment – AND indirect costs of delay, disruption, inefficiencies, general conditions...the whole gamut of losses. Because it is a comprehensive process using the best experts available, “the solution” works for both sides. Public agencies can use the expert reports to explain and justify quick action by executives, boards and councils. Enormous cost savings are realized by reducing “battle costs” and maintaining good working relationships during the project, so one gnarly dispute does not domino into a train wreck.

And if the project “train” has started to get off-track, the schedule is slipping, the scope and costs are creeping, the parties are bickering and disaster looms, then The ReAlignment Group has a broader process called Project ReAlignment™ which not only Wipes the Slate Clean of the past disputes, but reorganizes the parties across contract lines into Executive Team, Project Management Team and Field Team and develops a strategy to put the project back on track, correct the communications and relationship problems, fix the broken systems (submittals, scheduling, RFIs, change orders, payments, etc.) and reestablish trust among the parties. Over 40 successes in recent years have proven the value of Project ReAlignment™ (an 18-minute DVD of users talking about the process is available).

A major regional water agency recently used Project ReAlignment™ on a pressure control and hydroelectric facility located at a key juncture of an aqueduct and a future pipeline connection to a major reservoir.

At a critical point during construction, it was clear that the team could benefit from enhanced communication given the many issues that required swift resolution. The public agency recognized this early in construction and contracted with The ReAlignment Group, Ltd. to conduct several sessions with the team members to instill “project first” thinking. This technique for enhanced communication helped the project team to resolve difficult issues and as a result, were successful in completing critical path activities during a planned shutdown. ReAlignment was so successful in helping the team to resolve several issues, that the agency subsequently conducted similar sessions on two other priority projects and plans to implement it on future work.

Project owners (public and private) and contractors equally benefit from ReAlignment and its Wipe the Slate Clean™ processes. Fairness and openness are built in. Participating executives and project team members are trained to work together cooperatively in a real-world problem solving (not touchy-feely) meetings.

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