

PROJECT PROFILE	II PRUDENTIAL PLAZA
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28 AUGUST 2001

CLIENT Turner Construction Company

LOCATION Chicago, IL, USA

DESCRIPTION William A. Wheatley and Christopher J. Mather, with another consulting firm, were asked by counsel for Turner Construction to assist in the evaluation and defence of a \$60 million claim by Prudential against Turner involving \$14 million in alleged remedial work and \$23 million in delay damages, plus consequential damages. The team also assisted in prosecuting Turner’s counterclaim of \$20M for the \$8.6M balance due on the construction contract, plus damages.



*II Prudential Plaza, Chicago*

The II Prudential Plaza building is a 64-story office and retail project in downtown Chicago with an approximate construction cost of \$125 million. Construction started in April 1978, with completion scheduled at the end of 1989. Due to various delays, the project was not finished until June 1990, after the commercial real estate market had collapsed.

Prudential’s alleged damages included lost rents from prospective clients and alleged remedial costs. Turner claimed that the Owner/Developer improperly denied time extensions for owner-caused delay at the start of the project, for *force majeure* events and owner-generated change orders, effectively shifting to Turner the losses from a poorly timed project.

Mr. Wheatley, Mr. Mather and the rest of the consulting team assisted Turner and its counsel in assessing the project delays and in refuting analysis by the Owner’s delay expert. The team’s evaluation of the early report of the Owner’s scheduling consultant demonstrated that the report actually showed that most of the delays were the responsibility of the Owner or its architect. At trial, a *block of time* model was used to demonstrate delay proven by the team’s schedule analysis. For every delay experienced, a

coloured block was inserted into a model of the building that represented the 34-month original construction time. The model was extended for every block inserted to illustrate the additional time to which Turner was entitled.

Mr. Wheatley provided design review and analysis, as well as the technical analysis for the defense against numerous remedial costs claimed by the Owner. Mr. Mather provided financial analysis. The principal remedial damages concerned alleged defective work in the installation of the roofing



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and its interface with the curtain wall system, along with the resulting water damage. Prudential alleged that Turner was responsible for \$14 million in costs to remove and replace the roof due to faulty construction, and to modify the curtain wall. After completing the investigation, Wheatley concluded that defective design was the major reason for the failure of the systems.

Mr. Wheatley designed and supervised the preparation of a computer animation by Engineering Animation, Inc., that demonstrated the differences between the original roof design designed by the Architect and required by the contract and the remedial roof later installed by the Owner. The animation clearly depicted: (1) that the design of the original roof and curtain wall system was flawed because of the architect’s design and not Turner’s installation; (2) that it could not be repaired to make it leak-free; and (3) that the remedial design was a completely different type of roof and flashing system, constituting a betterment.

Wheatley and Mather assessed the counterclaim costs, remedial costs and damages, and prepared exhibits that were used by the court in determining the damages. Wheatley provided expert testimony at trial for Turner. Using the computer animation, Wheatley demonstrated to the jury that the leaks in the roofs and curtain walls were caused by faulty design and that the remediation performed by the Owner constituted betterment. Wheatley testified in detail regarding the technical issues involving the roof and curtain wall systems, and as to damages.

The jury found for Turner in the amount of \$8.3 million on its claim for the balance due on the contract, but awarded no damages to Prudential on any of its claims, including delay, lost profits and remedial costs.

CLIENT REFERENCES

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