

# Risk Management Planning: Top 5 Risk Avoidance Strategies for Contractors

Moderator



**Andrew D. Mendelson, FAIA**  
Executive Vice President,  
Chief Risk Management  
and CX Officer  
Berkley Alliance Managers  
Chicago, IL



**Caryn Fuller**  
Partner  
HKA Global  
Houston, TX



**Timothy R. Brashear, P.E., ret.**  
Officer-Vice President,  
Construction Services  
Rimkus

# North American Construction Summit

## January 18, 2024

---

# Risk Management Planning: Top 5 Risk Avoidance Strategies for Contractors



# Panelists



Andrew D. Mendelson, FAIA  
Executive Vice President,  
Chief Risk Management Officer



Timothy R. Brashear, P.E. ret.  
Officer/Vice President  
Construction Services



Caryn Fuller,  
Partner



# Berkley Construction Professional

At Berkley Construction Professional, we transform uncertainty into opportunity so our clients can confidently build a better tomorrow. Our experienced underwriters deliver innovative, creative professional and pollution liability solutions for contractors and project owners. We respond quickly with customized coverages that fulfill the needs of our brokers and their clients. We offer practical risk management guidance and high-quality, results-oriented claims handling provided by our dedicated in-house claims professionals. Our mission is to relentlessly protect our clients' work, reputation and dreams.



Berkley Construction Professional is a division of Berkley Alliance Managers, a member company of W.R. Berkley Corporation, whose insurance company subsidiaries are rated A+ (Superior) by A.M. Best Company. [berkleycp.com](http://berkleycp.com)

# Rimkus

Rimkus is a worldwide provider of engineering and technical consulting to corporations, insurance companies, law firms, and government agencies. Rimkus experts specialize in forensic consulting, dispute resolution and construction management services, solutions for the built environment, and human factors support for the consumer, industrial, and healthcare industries. For almost 40 years, the company's professional engineers, architects, scientists, and technical specialists have been recognized for their commitment to service excellence by local, national, and international business communities. Rimkus operates more than 110 offices worldwide. For more information, visit <http://www.rimkus.com>.



# HKA

HKA is the world's leading consultancy of choice for multi-disciplinary expert and specialist services in risk mitigation and dispute resolution within the capital projects and infrastructure sector.

We also have extensive experience advising clients on the economic impact of commercial and investment treaty disputes and in forensic accounting matters, across all industry sectors.

In addition, HKA supports companies that conduct business with the US Federal Government, providing them with consulting services on complex government contracting matters.



# CRUX Insight: HKA's integrated research program

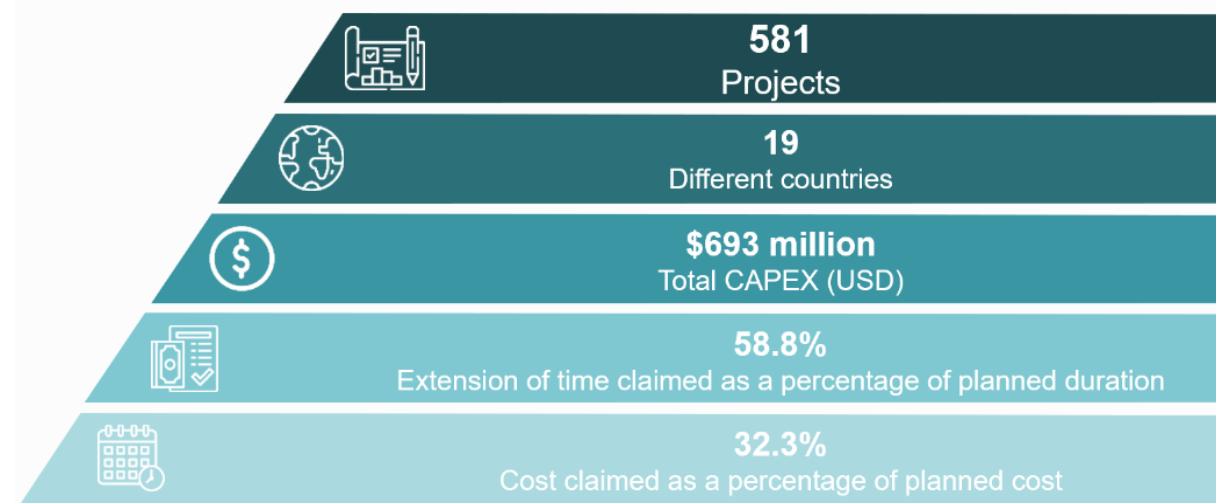
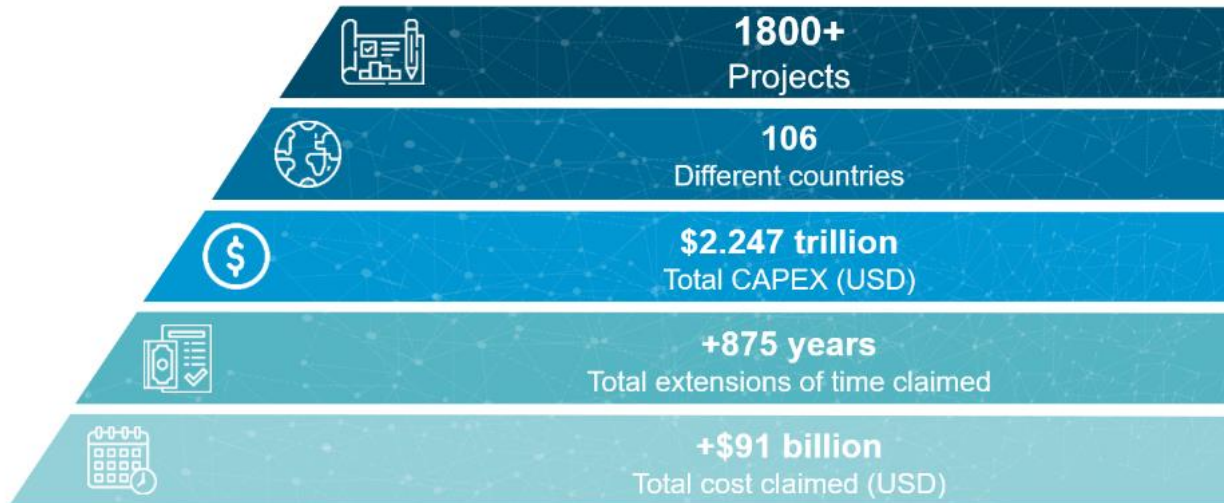
**CRUX Insight examines causes of claims and disputes on major capital projects around the world.**

It provides an unparalleled insight to region and market sectors throughout the world using data collected from HKA's global dispute resolution operations.

The Sixth Annual CRUX Insight Report highlights areas leading to damaging overruns in costs and delivery of construction and engineering projects HKA were involved in up to August 2023, as well as advice on how to mitigate these issues.

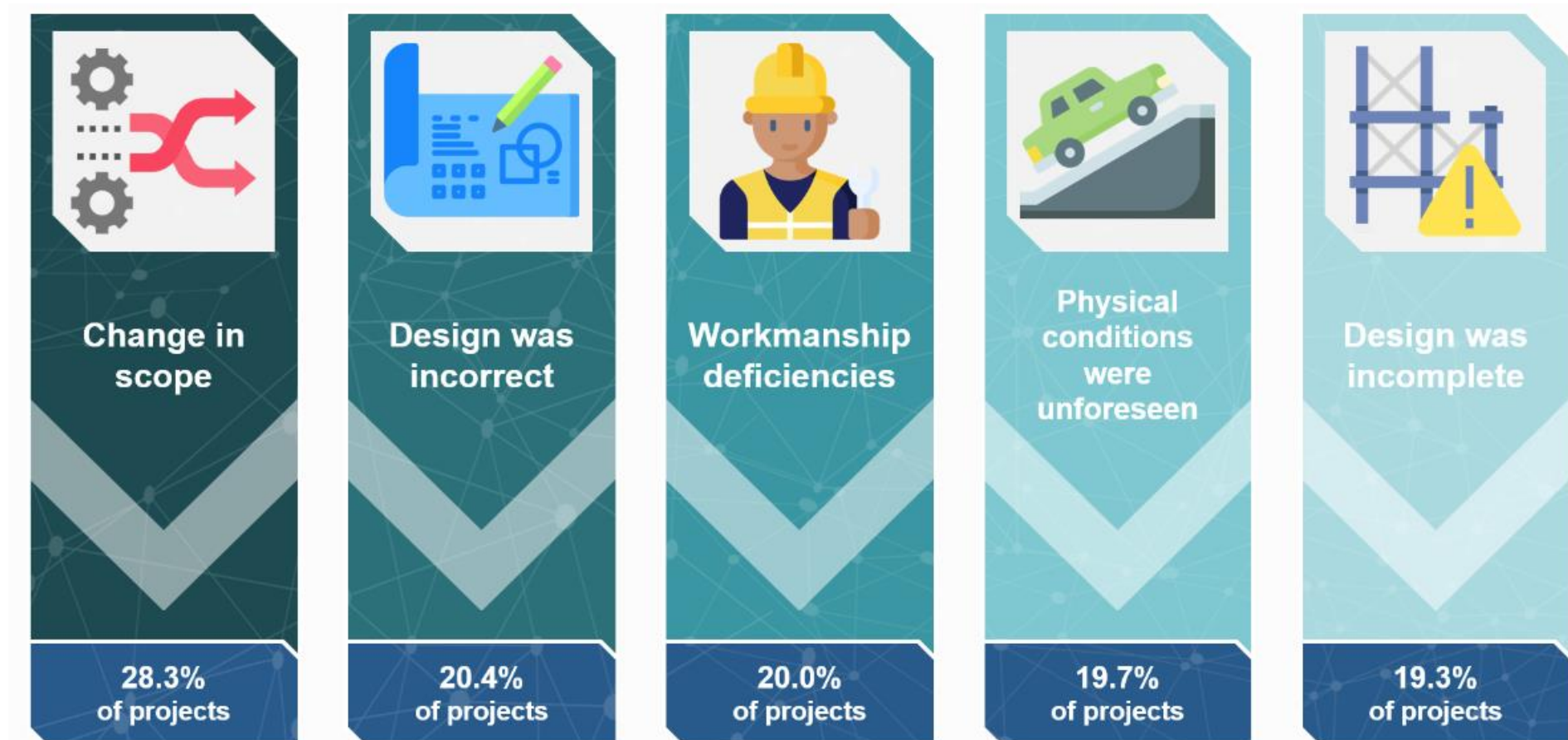
The report looks across different sectors, regions and contract types, enabling HKA to provide insight across the whole construction and engineering industry.

# Headline Figures – Global v Americas





# Americas - top causes of claims and disputes (by percentage of projects with these issues)



# Construction Projects

## Construction Projects Are Inherently Risky

### Every project is unique:

- ▷ Prototypes
- ▷ Varying site conditions
- ▷ Local codes and ordinances
- ▷ Unpredictable nature of design and construction

## Projects Continue to Evolve in Complexity

- ▷ Increasing owner expectations
- ▷ Elevating standards for severe weather events
- ▷ Acceleration of project schedules
- ▷ Insufficient budgets

# Risk Allocation



Primary beneficiaries = owner and users

Design firms get paid a fee for services

Contractors and CMs earn profit as a component of construction cost

Owner must accept the majority of risk on a project

Contractor and design team are part of the owner's risk management team



Berkley  
Construction Professional

| a Berkley Company

# A Contractor's Risk/Reward Balance

**RISK:** Obligation to construct the project in accordance with plans and specs at an agreed-upon price in accordance with contractual requirements

**CONDITION:** Strong leadership and business management practices with a commitment to quality construction

**REWARD:** A reasonable, even significant, profit in balance with the risks



Berkley  
Construction Professional

| a Berkley Company

# Risk Management Plan for Contractors

1. Understanding Construction Risk (including PL) and the Contractor's Duties and Responsibilities
2. Risk Analysis of the Client/Project/Team (Go/No-Go Process)
3. Contract Review and Negotiation
4. Contract Education for the Construction Team
5. Communication, Decision-Making, and Documentation
6. Business Management (including project delivery and quality)
7. Staff Training and Development



# Risk Management Plan for Contractors

| Category                     | Item # | Type                                      | Dates   |        | Responsible Party | Risk/Opportunity Description | Value (If Known) | Risk Mitigation Action Plan | Ratings (see Legend) |             |       |
|------------------------------|--------|---|---------|--------|-------------------|------------------------------|------------------|-----------------------------|----------------------|-------------|-------|
|                              |        | Risk/Opportunity                          | Created | Closed |                   |                              |                  |                             | Severity             | Probability | Total |
| A. Owner/Outside Influences  |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        | Political, experience, and sophistication | A.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        | Internal RM, Eng/Design, Procurement      | A.2     |        |                   |                              |                  |                             |                      |             |       |
|                              |        | Financing schedule and Interest           | A.3     |        |                   |                              |                  |                             |                      |             |       |
|                              |        | Geography                                 | A.4     |        |                   |                              |                  |                             |                      |             |       |
|                              |        | Permits, environmental                    | A.5     |        |                   |                              |                  |                             |                      |             |       |
| B. Contractual               |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | B.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | B.2     |        |                   |                              |                  |                             |                      |             |       |
| C. Schedule                  |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | C.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | C.2     |        |                   |                              |                  |                             |                      |             |       |
| D. Budget                    |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | D.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | D.2     |        |                   |                              |                  |                             |                      |             |       |
| E. Scope/Complexity          |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | E.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | E.2     |        |                   |                              |                  |                             |                      |             |       |
| F. Sole Sourcing/Proprietary |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | F.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | F.2     |        |                   |                              |                  |                             |                      |             |       |
| G. Means & Methods           |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | G.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | G.2     |        |                   |                              |                  |                             |                      |             |       |
| H. Commissioning/Warranty    |        |   |         |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | H.1     |        |                   |                              |                  |                             |                      |             |       |
|                              |        |   | H.2     |        |                   |                              |                  |                             |                      |             |       |

Legend:

- Rating 10-12 Primary Priority
- Rating 7-9 Secondary Priority
- Rating 4-6 Tertiary Priority
- Rating 1-3 Low Priority

## 5 Risk Avoidance Strategies

1. Stay Focused
2. Control Your Contracting and Project Approval Process
3. Maintain Staff Resources, Work with Firms You Know
4. Actively Manage Your Subs
5. Manage Quality and Project Delivery



# Resources

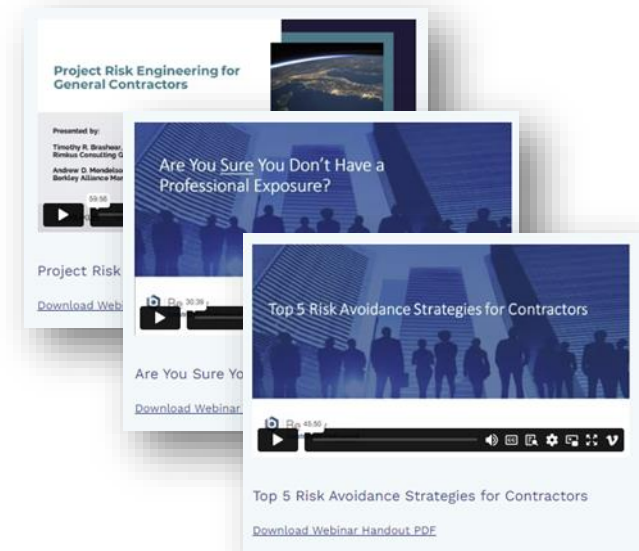
## Risk Management Plan for Construction Professionals



## The Loss Prevention "Top 10"



## Berkley Construction Professional Hosted Webinar Recordings



Available at: [BerkleyCP.com/risk-management](http://BerkleyCP.com/risk-management)

# Resources

Sixth Annual CRUX Report



CRUX Dashboard



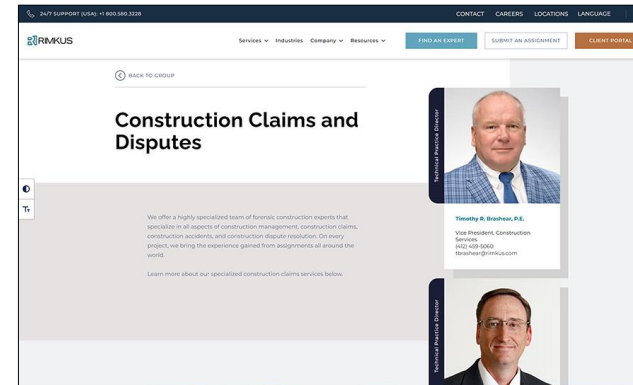
Available at: [HKA.com/crux](https://www.hka.com/crux)

# Resources

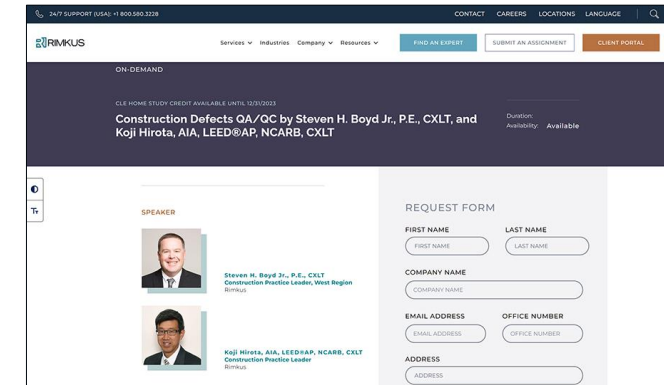
## Marketing Collateral



## Website



## Webinars



Available at: <https://rimkus.com/resource-center/>



# Legal Notice

Information provided by Berkley Construction Professional, Rimkus, HKA Global, and Perrin Conferences LLC, is for general interest and risk management purposes only and should not be construed as legal advice nor confirmation of insurance coverage. As laws regarding the use and enforceability of the information contained herein will vary depending upon jurisdiction, the user of the information should consult with an attorney experienced in the laws and regulations of the appropriate jurisdiction for the full legal implications of the information.

Any insurance products and services described in this presentation are provided through various surplus lines insurance company subsidiaries of W. R. Berkley Corporation and offered through licensed surplus lines brokers. Not all products and services may be available in all jurisdictions, and the coverage provided by any insurer is subject to the actual terms and conditions of the policies issued. Surplus lines insurance carriers do not generally participate in state guaranty funds and insureds are therefore not protected by such funds.