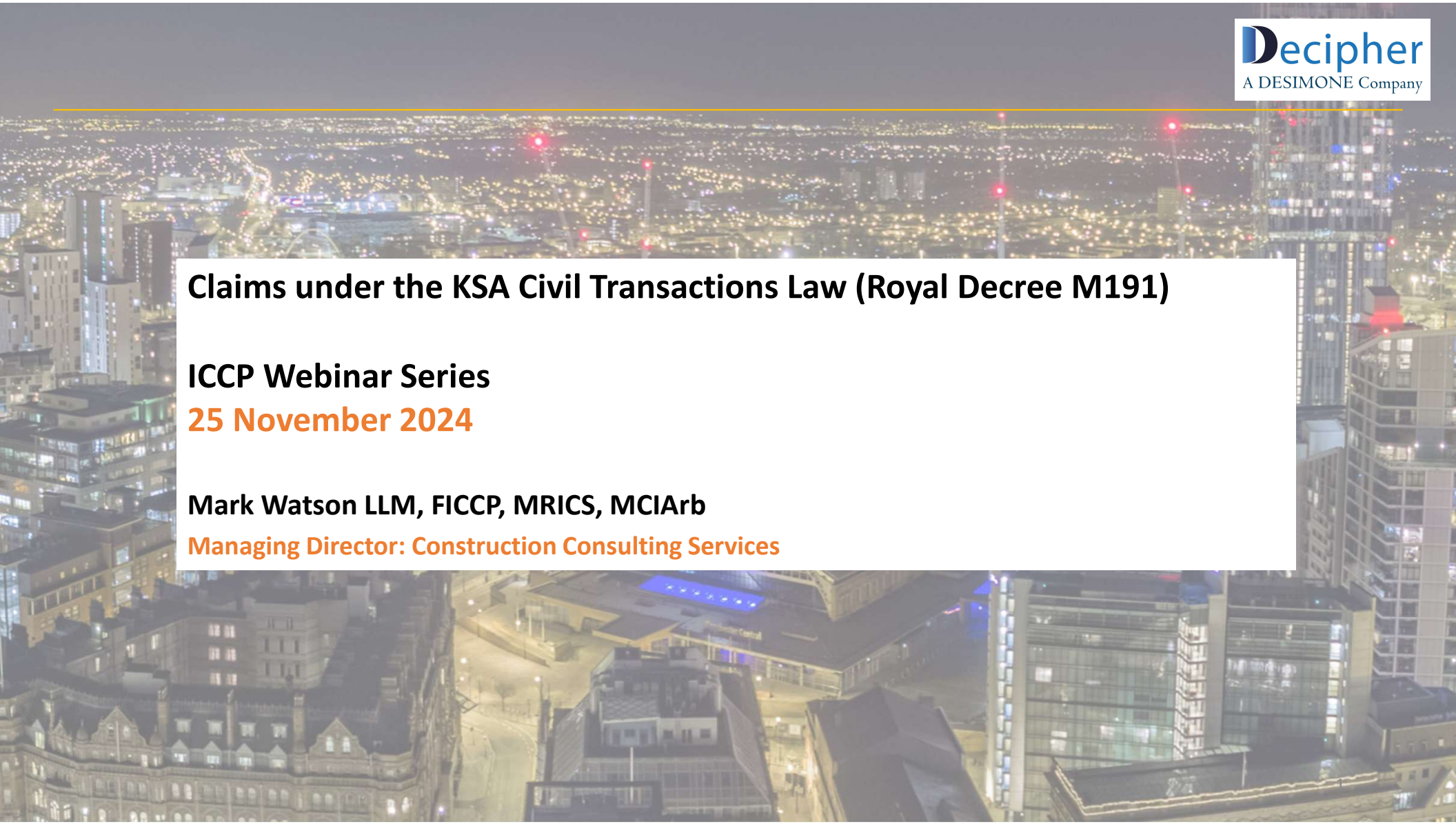

Claims under the KSA Civil Transactions Law (Royal Decree M191)

ICCP Webinar Series

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2. Contracts in Islam
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1. Construction Claims

Demonstrate a causal link between:

1. Event
2. Contractual entitlement
3. Cause and effect
4. Damages suffered
5. Remedy sought

2. Contracts in Islam

Contracts in Islam are underwritten by 3 salient injunctions which prohibit:

1. Interest
2. Uncertainty
3. Speculation

Purpose:

1. Eliminate exploitation in transactions
2. Prevent unjustified enrichment

3. Islamic Custom in Commercial Transactions

Saudi Commercial Courts Law issued 17/04/2020 provides:

1. Concilliation
2. Mediation

Emphasis is on Dispute Avoidance

4. Civil Transaction Law

Article 95

1. *A contract shall be implemented as per its provisions and in a manner consistent with good faith practices.*
2. *A contract shall be binding on a contracting party not only in terms of its provisions, but also in relation to other requirements as prescribed by legal provisions, custom, and the nature of the contract.*

4. Civil Transaction Law

Article 128

If an aggrieved party, by his own fault, contributes to or aggravates the harm, his right to compensation shall be wholly or partially forfeited, in proportion to his contribution to the harm.

5. Cause and Effect under Civil Transaction Law

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Demonstrate a causal link between:

1. Event
2. Contractual entitlement
3. Cause and effect
4. Damages suffered
5. Culpability (establish liability)
6. Remedy sought (apportion between responsible party)

5. Contract Ambiguity – Delay Analysis

1. Primary ambiguity often found in KSA Construction Contracts is their reliance on the Time Impact Analysis method for identifying delays.
2. Absolute Treatment of Concurrent Delay.

Time Impact Analysis – Step 1

Progress the Works through to the day prior to the delay event arises

Time Impact Analysis – Step 2

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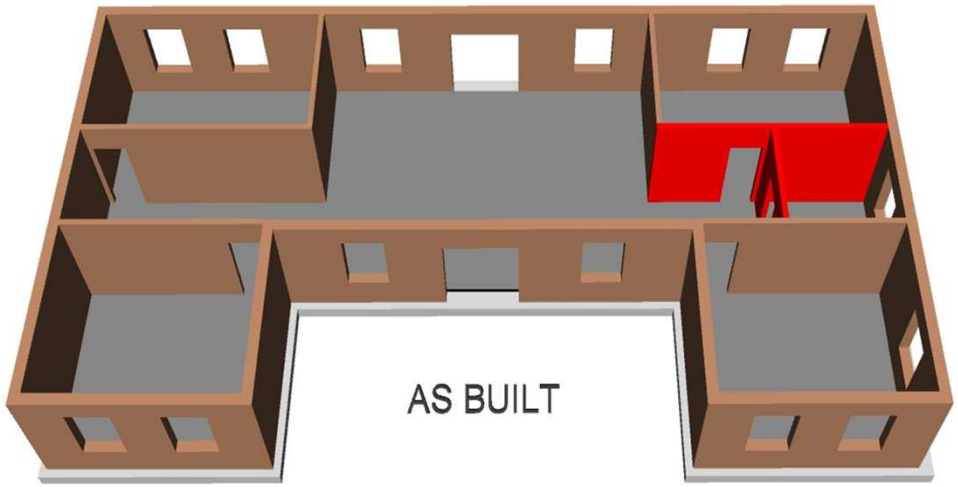
Insert an activity representing the delay event



Time Impact Analysis – Step 3

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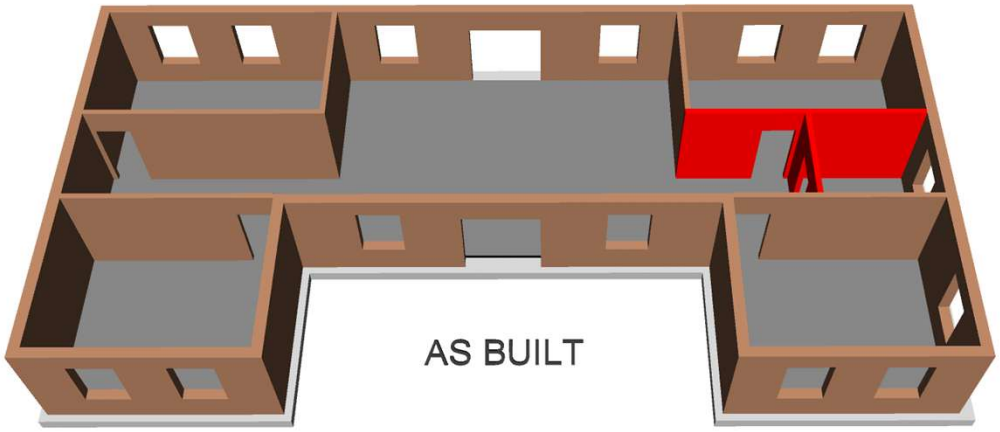

Conclusion

- Copy and Paste of Contractual Clauses commonly used in Western Construction Contracts may not be enforceable.
- Robust Contract Administration focus
- Be Prepared to Negotiate – prepare claims as you would prepare a referral to adjudication.
- Trigger the dispute resolution clauses early to avoid delays in closing out claims.

Thank You

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