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FOR IMMEDIATE RELEASE:

**CONSTRUCTION MANAGEMENT THOUGHT LEADER:  
10 TRENDS IMPACTING COMMERCIAL  
CONSTRUCTION LITIGATION IN 2022**

(Philadelphia, PA) It's time for Resolution Management Consultants, Inc.'s annual prediction of trends that will impact construction in 2022. "Dusting off the crystal ball, 2022 seems to be on track to continue to gain momentum for a comeback by the industry," says construction management thought leader Jeffrey Kozek, Principal at Resolution Management Consultants, Inc. "This means greater opportunities as well as greater risks. However, as history reveals, with more activity plus the continued lingering effects of the pandemic, more construction-related litigation will also be on the rise in 2022," observes Kozek.

Given all that has transpired over the past almost two years, the crystal ball has been supplemented by the Ouija Board and the always reliable 8 Ball to come up with the expectation that the following will have the greatest impact on construction projects, from a risk analysis and construction claims perspective, in 2022:

**1) An impact to the labor force.**

The issue of Federal, state and local health and safety laws, rules and guidelines may exacerbate the current worker shortage and impact worker productivity in some instances, that will make claims of labor inefficiency even tougher to navigate.

**2) The skilled labor shortage may lead to newer or more creative arguments around the reason for delayed projects as more contract timelines are missed.**

All parties need to consider how or whether their existing contract language addresses the current problems introduced by the pandemic (if at all) and take into account the new realities facing the industry's labor market. Also, lawyers are burning the midnight oil working on new contract language to protect their clients in excluding costs associated with delays due to pandemic-type effects.

**3) Instability in the supply chain will continue into 2022.**

Unpredictability in construction materials supply and distribution will cause disruption in procurement and installation of materials that will create or complicate disputes. On the other hand, new thinking by some will be used in developing pro-active measures for the future.

**4) Inflation will continue to affect prices and produce contract disputes.**

The rising cost of materials should simmer down somewhat in 2022 but still create escalation claims for projects delayed into 2022 and beyond. (Check your contract language to see if this is addressed.) Ignore politicians and the stock market; they each have their agendas. Prices go up and down. This too shall pass.

**5) Continuing delays in scheduling court hearings**

Although things are getting back to normal with the court system (i.e., slow instead of stopped), there is still a backlog of cases, resulting from the courts being shut down during the pandemic. With still some restrictions in certain jurisdictions, that will continue to prolong the resolution of pending cases.

**6) The construction industry's next new trend will solve one problem and create another.**

Remember "Partnering"? A good concept in theory but hard to put to work in practice given that you are dealing with people. It can work at times but is no panacea. The same can be said for alternative Project Delivery Systems. The key is figuring out whether a newly-touted approach is suited for your particular situation.

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**7) More exculpatory language in your contract.**

Contracts and negotiations will get longer and more complex resulting from having more provisions than ever to protect against rising costs, employee shortages, disease, slowdowns, supply chain disruptions, etc.

**8) Covid will continue but at a lesser pace until it becomes manageable before the end of 2022.**

As the great philosopher, Pogo, once said: "We have met the enemy and he is us." Remember the prior comment about people involved in projects? Don't worry about the world's problems. You, alone, cannot solve them. Just concentrate on your sphere of influence.

**9) Will rising inflation curtail future projects in the short-term?**

If I could predict this I'd be hobnobbing with Jeff Bezos, Bill Gates and Warren Buffett. I'm not an economist and not sure whether economists even know what they are talking about. Is spending more inflationary or good for the economy? Way too many variables to make an accurate prediction. Take two cups of bleach and call me in the morning. It may not answer this question, but it will definitely take your mind off the economy.

**10) “Those who cannot remember the past are condemned to repeat it” . . . George Santayana (1905).**

The same issues and problems that existed in the construction industry pre-pandemic will still be around in 2022 with some new problems mixed in. The new infrastructure bill should inject added life to the construction industry. Concomitant with more work will be more problems on some projects. The question is will people resort to their old habits?

“When it comes to anticipating the degree of litigation activity in 2022, the year is best approached with ‘cautious aggressiveness’ due to the potential influence of powerful, unanticipated, outside influences that have the ability to disrupt contract expectations,” observes Kozek.

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**About Resolution Management Consultants, Inc.**

Resolution Management Consultants, Inc. (RMC) is a nationally recognized consulting firm headquartered in Marlton, NJ. There are two sides to the business: the construction planning and management aspect – helping clients build more successful projects – and the litigation aspect – should matters go to court, providing analysis and testimony as expert witnesses. Founded in 1993 by veterans in the construction, contracting and engineering professions, RMC has assisted numerous private owners, public agencies and contractors in either achieving project goals or resolving cost and time disputes between the contracting parties.

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