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GENERAL CONTRACTOR RECOVERS HOME OFFICE OVERHEAD COSTS AGAINST SUBCONTRACTORS AND SURETY FOR DELAYS IN PUBLIC WORKS PROJECT

In *JMR Construction Corp. v. Environmental Assessment and Remediation Management, Inc.*, a general contractor hired plumbing and electrical subcontractors who each agreed to obtain performance bonds for the construction of a dental clinic for the U.S. Army Corps of Engineers. A dispute arose during the construction of this public works project. The GC claimed that the subcontractors caused over 180 delay days in their schedule. The GC then sued the subcontractors and their surety for \$315,631 to recover the delay damages, including the loss of the GC's home office overhead. The case went to trial and JMR relied on the Eichleay formula to calculate their home office overhead damages. The Eichleay formula is a formula used to calculate critical path delay damages and is the only formula used for these types of claims. JMR was awarded \$315,631 at trial. The subcontractors appealed, challenging the use of the Eichleay formula to calculate delay damages. The appellate court upheld the verdict stating that although parties have relied on the Eichleay formula at trial and arbitration in the past, this was the first case to uphold it as a "valid method to

demonstrate the loss of home office overhead". In the future, parties in California now suffering delay damages will be able to rely on the Eichleay formula at trial.



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