

KordaMentha



# Construction

Providing clarity amidst chaos.

[kordamentha.com](http://kordamentha.com)



## We bring a different mindset to managing claims, disputes and investigations arising from major construction projects.

Chaos is costly in large-scale, complex projects. When claims and disputes arise or investigations are required, clients rely on our expertise to provide clarity around the relevant facts and issues. It could be quantifying the nature and timing of costs incurred during the construction process, clarifying the detail underlying a large number of claims in the context of a dispute or assessing whether fraud or corruption has been involved.

In these situations, we bring a different mindset to the issues, with unique perspectives to address the complex commercial and financial issues our

clients face. Combining our extensive forensic expertise in accounting, eDiscovery, data analytics and investigations, our multi-disciplinary teams are expert in working closely with all those involved in claims, disputes or investigations, including lawyers, engineers, quantity surveyors and project managers.

When the stakes are high and the facts are unclear, we bring a fresh, objective approach to provide clarity and help deliver successful outcomes.

# What makes us different?

Our robust forensic analysis of the facts, not hampered by incomplete data, brings a fresh, unique approach to each engagement and helps all those involved uncover patterns and relationships which help to understand the key issues.

## Our experience sets us apart

With extensive experience in major project claims, disputes and investigations, we help clients understand the facts that are supported by the evidence. We provide the clarity our clients need when the evidence is critical to the outcome and fact-based decisions need to be made, but those facts are hidden in the accounting records, operational data, documents, metadata, external data or verbal recollections of key project personnel. Financiers, owners, contactors, subcontractors, lawyers and consultants rely on us for guidance on some of the country's and region's largest and most complex major project related claims, disputes and investigations.

From mines to power stations, tunnels to prisons, every major project has its distinctive characteristics, but in our experience the common themes are strong, especially when it comes to claims, disputes and investigations. Making sure that the facts are robustly gathered and are able to be presented and analysed by everyone involved brings clarity and focus. All too often, the scale, format and numerous sources of data mean it is difficult for stakeholders to properly understand what actually happened.

## Understanding the data

Major construction projects generate vast amounts of documents and disparate data, such as general ledgers, timesheet records, site access logs, mobilisation data, travel records, payroll data and even weather data. The volume and complexity present significant barriers to a party's understanding of the underlying facts. Whilst some of this data may reside in a cloud-based, shared document/information system, such as Aconex, there can nonetheless be issues in a party extracting and managing that data for a claim, dispute or investigation. Also, major projects normally last for many years, so data often resides on a number of different financial, or other, systems.

Using cutting edge technology and rigorous forensic processes, we uncover, analyse and clarify the facts by blending and visualising data sets, driving commercially focussed decision making. This involves combining:

- eDiscovery platforms to process and review large amounts of documents in a searchable format
- data analytics capabilities to identify and extract relevant insights from large volumes of electronic data, and
- visualisation tools which simplify complex relationships.

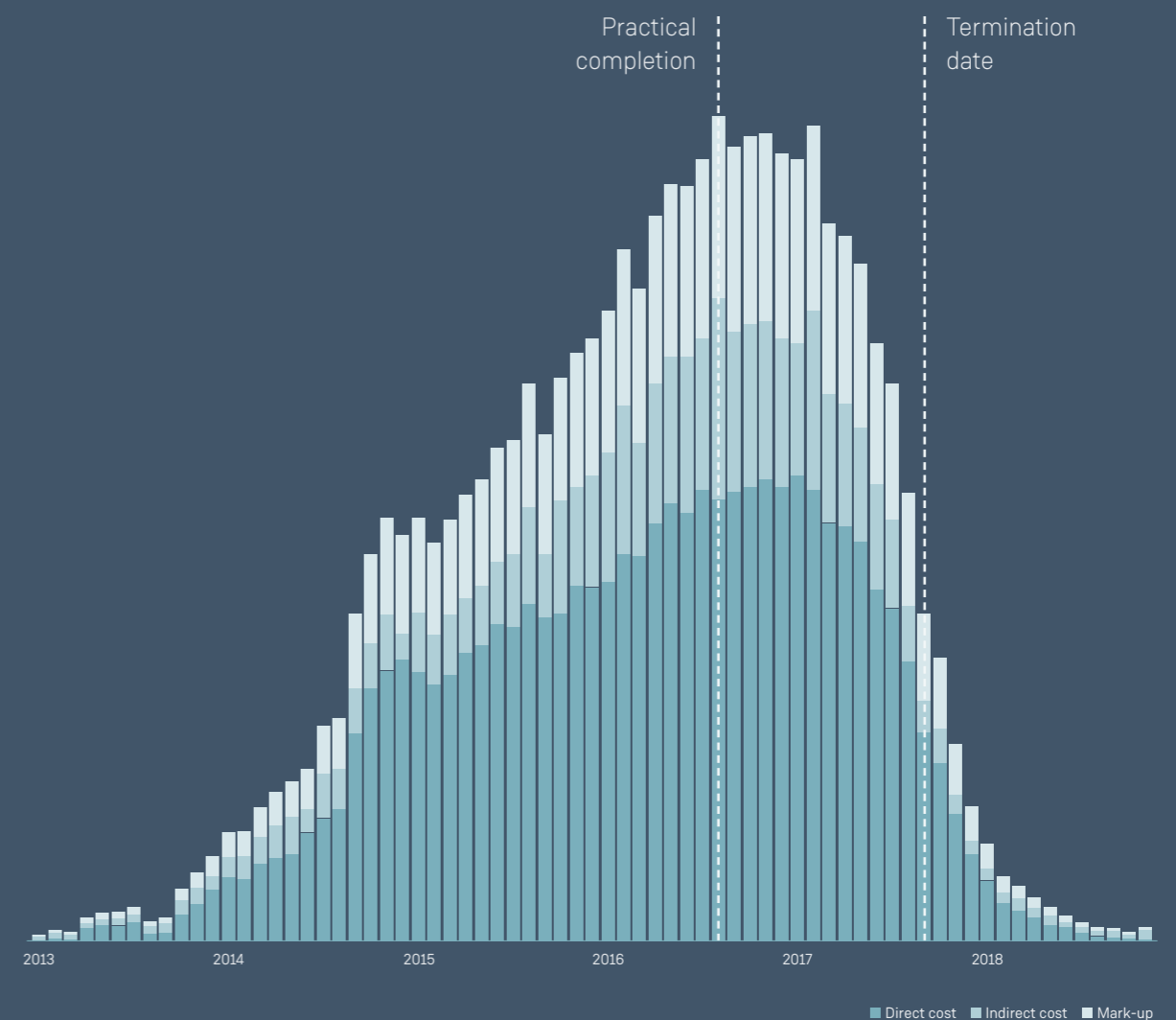
Our combined forensic expertise allows us to provide clients with the information they need to help resolve claims, disputes and investigations on favourable terms. Often our work is so compelling, it results in out-of-court/arbitration settlements and a positive way forward.

## Our 360-degree approach

We bring together a multi-disciplinary team, combining forensic accountants, data analysts, digital experts and forensic investigators in a seamless fashion.

We often work alongside other construction specialists, such as scheduling experts or quantity surveyors, and can help them organise and analyse the facts. With this unique set of skills, we can understand highly complex situations and provide the full picture of any major project.

While traditional approaches often only focus on the immediate issues at hand, such as contracts, variation claims and delay claims, we consider a broad range of external and internal factors, such as weather, travel records, GPS information and awards that can impact claims, disputes and investigations arising from major projects. This data is then blended into an interactive format, including data visualisation, that is easily understood by all parties, allowing our clients to make better-informed decisions.



# Case studies

## \$500 million construction dispute

### Outcomes and benefits delivered

The contractor's own data demonstrated that its claims were significantly overstated and not supported by the very documents provided related to those claims.

Key findings to emerge from our work included:

- Payroll data had been altered by the contractor, apparently in an attempt to hide relevant information.
- Wholesale overclaiming, including a large number of workers who had been claimed for more than 24 hours per day.
- Over 40% of the claims made by the contractor were not supported by the contractor's own data.

The parties ultimately settled the matter on confidential terms.

### Background

KordaMentha was engaged to assist in a long-running dispute regarding a large-scale construction project facing significant cost blowouts.

Our client was the principal in a contract to construct a multi-billion-dollar project in the resources sector. The contractor claimed for cost variations and delays worth over \$500 million, leading to a series of hard-fought claims and cross-claims between principal and contractor.

Our client was suspicious of the reasons underlying the cost over-runs. However, the sheer volume of the information before them prevented verification of those suspicions.

The question asked of us was simple – were the contractor's claims supported by the contractor's own data? The solution was complex.

### Our approach

Our strategy was to first understand the nature of the contractor's claims and what information was needed to determine if the claims were accurate.

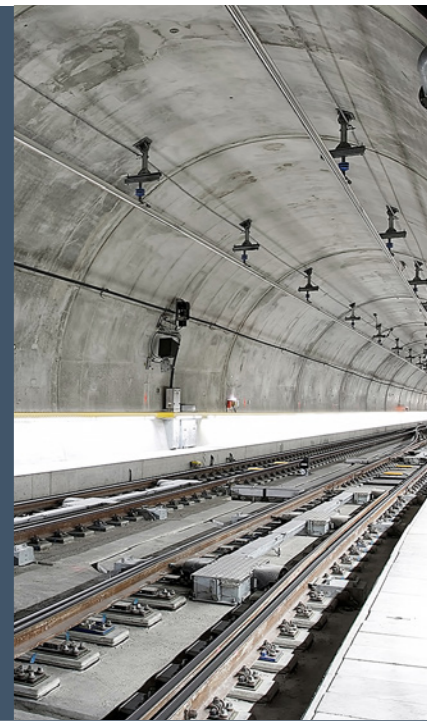
- We collected and converted relevant information sources, including over 20,000 hard copy timesheets, into a common electronic format for comparison.
- We matched, cleansed and ingested three different versions of electronic payroll data, with over one million rows of data, into an SQL data base where it could be compared against timesheet data and other independent sources.
- We created real-time interactive visual dashboards, allowing the client to view the project at a macro level and also drill down to the micro level to investigate areas of the project that did not make sense.



## Providing clarity in damages claim

KordaMentha was engaged by a Design and Construct contractor to provide expert witness services in a contract dispute relating to a state government major transport infrastructure project. Allegations of misleading and deceptive conduct on the part of the relevant state government department during pre-contract negotiations resulted in a claim for damages estimated at over \$1 billion.

Our role was to provide an independent calculation and verification of costs incurred and damages suffered by the contractor. Our analysis added rigour to the contractor's claim and helped them understand the relative strengths and weaknesses of their position, ultimately assisting the matter reach settlement prior to trial.



## Contract dispute in billion-dollar project

KordaMentha was engaged by a contractor in a contract dispute relating to a multi-billion-dollar Australian oil and gas project. We assisted the client by quantifying the impact of delays and disruptions to support legal claims against the principal. We worked collaboratively with in-house legal, engineering and finance teams, as well as external legal counsel and external experts to:

- Iteratively identify, process and analyse disparate data sources containing financial and non-financial data associated with the project at both the contractor and subcontractor level.
- Visually represent that data via interactive data analytic dashboards, including against project budgets and forecasts.
- Help test case theories against real data during the preparation of claims documents.



## Rates dispute leads to arbitration

Following completion of a major project in the natural resources sector, the contract principal disputed the assumptions upon which the contract rates were developed and commenced arbitration to recover the alleged overcharge.

KordaMentha was engaged to analyse vast amounts of historical cost and employee information to ascertain the reasonableness of the contract rates assumptions and, to the extent those assumptions differed, to quantify and compare the effect on total project costs.

Our work entailed the analysis and review of thousands of rates applied across hundreds of worker classifications and the application of the adjusted rates across millions of man-hours on the project. Ultimately, this resulted in an expert opinion of the total project costs under varying rate assumptions.



# How we can help you



## Cost verification and analysis

The amount actually incurred by a contractor or subcontractor can often be relevant to a claim, dispute or investigation, not just when a contract is reimbursable. It is not always accepted by all parties.

We use our forensic accounting, data analysis and related expertise to ensure a robust verification and analysis of which costs were actually incurred and when. We focus on risk areas, such as head office allocations, related party transactions, period end adjustments, foreign exchange differences and various 'uplifts' included in 'costs'.

We use all relevant financial records, including general ledgers, transactional ledgers, invoices and related information, to build, where necessary, a 'single source of truth' on costs actually incurred. We use interactive data visualisations to help those involved understand the pattern and nature of costs incurred. Whilst quantity surveyors typically look 'from bricks to dollars', we look 'from dollars to bricks' - looking at costs from both these perspectives can often bring out issues that a single perspective will not.



## Claims analysis

Claims are not always presented in an easy-to-analyse format - sometimes deliberately so. Often significant amounts of data are provided with claims, including (at times) hand-written time sheets or electronic schedules. It is not uncommon for a party to feel they are being buried in claims.

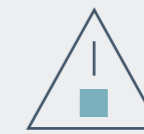
Collating these claims into an easily accessible form that allows detailed analysis of costs and time across all claims being made allows a better understanding of the total resources which are being claimed, which can sometimes be more than the total available resources at a particular location on a given day. It also allows for a review of consistency of rates used across claims.

Our forensic accounting, data analysis and investigative skills allow us to pull together the relevant information and analyse it both 'top-down' and 'bottom-up', to assess the extent to which the detail is consistent with the project or contract as a whole.



## Rate analysis

Major projects often include agreed rates for particular tasks or materials. What those rates cover (or were thought to cover) can often surface as an issue in construction claims and disputes. Our forensic accounting, data analysis and investigative skills allow us to rigorously analyse rates, compared with actual and budgeted revenues and costs, to assess the extent to which they may include one or more uplifts to cover overhead allocations and/or a profit margin. Our detailed knowledge of financial systems and accounting allows us to provide clarity on the often confused and confusing question of what the rates actually cover (or do not cover). Our data analytic technologies and expertise facilitate the recalculation of costs across entire projects in response to disputed rate assumptions.



## Fraud and misappropriation investigations

From bid-rigging to falsified change orders, the construction sector brings unique fraud and corruption risks. The scale of money involved and the multitude of contractors and subcontractors working on a project brings an additional level of complexity to any investigation.

Our forensic investigators have significant experience in allegations of fraud, corruption and other types of serious misconduct and malfeasance. In addition, our forensic technology and data specialists can identify and obtain key electronic information for use in investigations and court proceedings.

“The strategy with doing this project from the beginning was to give us a tool which enabled us to resolve this matter as soon as could be possible on favourable terms, and it delivered. It was like bringing on Michael Jordan halfway through a community basketball game – the effect of it, in terms of the commercial negotiations between the parties, was enormous.”

Partner, Law Firm

# Contact us

With eight offices across Australia, Jakarta and Singapore and strategic affiliations in the United Kingdom, Europe and America, our clients benefit from our global reach.

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For more information visit  
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