



CONSTRUCTION  
**SUPER**CONFERENCE  
**2021**

[www.constructionsuperconference.com](http://www.constructionsuperconference.com)

# Failure to Properly Consider Damages Could be Catastrophic to Your Claim

---

## Presenters:

*Alex R. Baghdassarian, Esq.*

- *Peckar & Abramson, P.C., Los Angeles, CA*

*Giovanni M. Ruscitti, Esq.*

- *Berg Hill Greenleaf Ruscitti, LLP, Denver, CO*

*Marian K. Selvaggio, Esq.*

- *Rudolph and Sletten, Inc., Carlos, CA*

*Moderator: Michael R. Powell, Vice President Construction Division*

- *American Arbitration Association, Los Angeles, CA*

# Overview

---

An arbitrator's decision is based on the testimony, evidence and arguments submitted by the parties to the dispute. What happens when litigants focus so much on entitlement issues that they forget to present adequate evidence of their damages or fail to show causation between the entitlement issues and the claimed damages?

In this session you will hear litigants and in-house counsel discuss procedural techniques to successfully present the quantum of the damages they are seeking or challenging through pleadings, testimony and exhibits, and other information the arbitrators will need to assess damages.

1

---

Read the contract early and often!

2

---

Be Sure to Particularize  
Damages

3

---

# Common Failures in the Preliminary Hearing

# 4

---

Failure to Focus on Damages –  
Too Much Liability & Time  
Constraints

# 5

---

Failing to Use (or properly use)  
Demonstrative Evidence



# 6

---

## Failing to Consider Alternative Damages

7

---

# Failing to Furnish Backup Calculations

# 8

---

Failure to Give Adequate  
Consideration to Damages  
When Insurance Issues and  
Contract Clauses Are at Play

# 9

---

## Failure to Consider the Need for “Reasonable Certainty”

# 10

---

## Failure to Properly Consider When an Expert is Needed

11

---

# Failing to Consider Interest

---

# Questions?





**How was our session?**

**Please complete the session  
evaluation in the CSC  
mobile app**