The Boldt Company v. Black & Veatch Construction, Inc. (7th Cir. 2026): A Case Commentary on Construction Schedules, Default Termination and Cost-to-Complete Damages

By Thomas Guerriero

Case Commentary | Independent Analysis | Published Wednesday 25 November 2026

Independent commentary by a non-attorney for educational purposes; not legal advice and not filed with any court.

Case: *The Boldt Co. v. Black & Veatch Construction, Inc.*, Nos. 25-2003 & 25-2070, slip op. (7th Cir. July 8, 2026) (Kirsch, J., for a panel of Scudder, Kirsch and Taibleson, JJ.), on appeal from the Northern District of Illinois, No. 19-cv-08383.

Background

Black & Veatch was the general contractor for a 60-turbine windfarm in Good Hope, Illinois, and subcontracted turbine assembly to The Boldt Company. Slip op. at 2. The subcontract incorporated a construction schedule that Boldt had developed and stated that performance according to that schedule was "a material provision." *Id.*

The project fell behind almost at once. The first turbine was due by mid-August 2019, but plans and cranes were not ready, the ground was wet, crane platforms supplied by Black & Veatch were unsuitable and the turbine supplier, GE, delivered late. *Id.* at 3. The subcontract allowed Boldt to give notice of delays caused by Black & Veatch or GE and, if it did, relieved it of responsibility for related breach. *Id.* Boldt sent near-daily memos and several formal letters. Black & Veatch issued three notices of default, began taking work away from Boldt (which the parties called "descoping"), rejected Boldt's acceleration proposals and terminated the subcontract for cause, about two months after Boldt's work began. *Id.* at 3–4.

On cross-motions for summary judgment, the district court ruled for Black & Veatch: Boldt's claims about construction works were barred, Boldt had not given adequate notice of delays and the for-cause termination was proper. *Id.* at 4. The case went to a jury on damages alone. Black & Veatch claimed nearly $39 million to complete work that Boldt had agreed to perform for $15.4 million. *Id.* at 5. The jury was told that if Black & Veatch failed to provide a proper basis for computing its damages, only nominal damages of $1.00 could be recovered. It awarded $1. *Id.*

Holding

The Seventh Circuit affirmed the jury verdict and the denial of the post-trial motions, affirmed summary judgment on two of Boldt's three breach claims, reversed summary judgment on Boldt's wrongful

termination claim and remanded. *Id.* at 2, 15, 25, 27. It also held that if Black & Veatch ultimately establishes liability on remand, the first jury's damages verdict on cost of completion stands. *Id.* at 27.

Reasoning

Black & Veatch's appeal: a fair damages trial

Black & Veatch argued that the trial was unfair because evidence bearing on liability was admitted in a damages-only trial. The court disagreed. Evidence about Boldt's reputation went to witness credibility; evidence that Black & Veatch was behind schedule after taking over went to the reasonableness of its claimed costs; and the descoping evidence suggested Boldt became liable later and for a smaller portion of the work. *Id.* at 7. The court of appeals agreed with the district court's general approach of admitting evidence of Black & Veatch's post-termination conduct, relevant to mitigation and damages, while excluding pre-termination conduct that was largely irrelevant to damages. *Id.* at 7–8. The jury was instructed that liability had been decided, and the court presumed it followed those instructions. *Id.* at 8.

The court also found no reversible error in the expert testimony, which elaborated on disclosed opinions about cost coding. *Id.* at 9–11. On the nominal damages instruction, Black & Veatch had waived its objection by telling the court, "Not with your proposed instruction, no." *Id.* at 11. In any event, the instruction correctly stated Illinois law, under which the adequacy of the basis for calculating damages is a question for the finder of fact. *Id.* at 12.

The verdict was not against the manifest weight of the evidence. The trial exposed cost-coding errors involving $17.7 million, Boldt's expert raised doubts about the reasonableness of the claimed costs, the jury lacked insight into how Black & Veatch's damages expert reviewed costs, and there was evidence that the work may not have been completed in the most cost-efficient manner. *Id.* at 13–14. On that record, the jury could find that Black & Veatch had not provided a proper basis for computing its damages. *Id.* at 14.

Boldt's cross-appeal: three claims, three outcomes

The court separated Boldt's complaint into three distinct claims: failure to pay for completed work, failure to perform obligations such as providing adequate construction works, and wrongful termination. *Id.* at 16. Boldt lost the first two on appeal because it did not argue that summary judgment on them was wrong. *Id.* at 16–18. The court noted that summary judgment on the unpaid-costs claim "may have been inappropriate," since Black & Veatch never explained why it was entitled to it, but Boldt had waived the point. *Id.* at 17.

Why the termination ruling was reversed

The wrongful termination claim was different. The district court had read the subcontract as setting a default rule: Boldt was responsible for delays unless it gave adequate notice that Black & Veatch or GE caused them. *Id.* at 18. The court of appeals considered that a fair reading but not the only reasonable one. "This subcontract is not a model of clear drafting." *Id.* at 21. Making the schedule a material requirement did not necessarily make Boldt responsible for every delay, and the notice provisions did not say Boldt was automatically to blame without effective notice. Because the contract was ambiguous on this point, a jury must decide what the parties intended. *Id.* at 21–22.

There was also a genuine dispute over notice. The court focused on two letters. On August 15, Boldt cited the notice provision, attached photographs and video of soil conditions and said it was incurring additional costs and schedule delays. On September 5, responding to a default notice, it attributed the delays to soil conditions and reduced GE deliveries and attached charts comparing planned and actual deliveries and their effect on

milestones. *Id.* at 22–23. A reasonable jury could find these letters adequate. The subcontract required Boldt to describe the details of a delay and its effects, not to label a letter as a delay notice or avoid sending it in reply to another letter. *Id.* at 23–24.

The court rejected two further grounds. The exculpatory clauses barred claims about the availability or condition of Black & Veatch's construction works, but did not prevent Boldt from arguing that it was wrongly terminated for delays others caused; reading them otherwise would produce commercially unreasonable results. *Id.* at 24. And the subcontract did not require Boldt both to give notice and to secure a schedule extension; adequate notice entitled it to a schedule revision. *Id.* That Boldt fell behind on some critical tasks did not by itself defeat its claim. *Id.*

One damages trial is enough

If Black & Veatch prevails on liability on remand, must damages be retried? The court said no. Under *Gasoline Products Co. v. Champlin Refining Co.*, an issue may be tried separately if it is "so distinct and separable" from the others that a separate trial may be had without injustice. *Id.* at 25–26. Liability and damages here overlapped in evidence but not in the findings required. The first jury assumed a proper termination and decided only the reasonable cost of completing Boldt's scope minus the subcontract price; a second jury would decide liability, focused on pre-termination conduct. *Id.* at 26–27. The court left open whether Black & Veatch could pursue other damages beyond cost of completion. *Id.* at 27.

Significance

Schedule clauses do not settle fault by themselves. Declaring schedule performance "a material provision" did not, on the court's reading, establish that the subcontractor bears every delay absent notice. On that reading, allocating every delay to the subcontractor would have required clearer words.

Notice is judged by substance. The court looked at what Boldt's letters said, not what they were called. Letters giving the cause, details and effects of a delay could satisfy the contract even when sent in response to a default notice.

Proof of completion costs is demanding. A contractor seeking cost-to-complete damages must give the jury a reliable basis for computing them. Coding errors and unexplained review methods can reduce a claim of nearly $39 million to $1.

Split trials can bind the parties. Because the damages verdict stands if liability is later established, a party that loses a damages trial cannot count on a second chance merely because liability is reopened.

Practical Takeaways

The following are general observations drawn from the decision for project owners, contractors and subcontractors, not legal advice about any contract or dispute.

- **Say who bears unexplained delay.** If parties intend a subcontractor to be responsible for delays unless it proves otherwise, the contract should state that rule directly.
- **Make notices complete.** Delay notices that identify the cause, cite the contract, attach evidence and describe schedule effects are more likely to meet notice requirements.
- **Keep cost records clean.** Cost coding that separates the defaulting party's scope, descoped work and other costs is central to proving completion damages.

- **Preserve objections clearly.** A party that tells the court it has no objection to an instruction may lose the ability to challenge it on appeal.
- **Argue every ruling you want reversed.** Boldt lost two claims on appeal because it did not explain why summary judgment on them was wrong.

These observations draw on pages 1–27 of the slip opinion and are offered to support informed discussion with qualified counsel.

Open Questions

On remand, a jury must decide whether the parties intended Boldt to bear delays absent effective notice and whether Boldt's notices were adequate. *Id.* at 25. The court did not decide whether res judicata bars Boldt's separate suit for payment for work completed before termination, noting only that it might. *Id.* at 15. Nor did it decide whether Black & Veatch may seek damages other than cost of completion. *Id.* at 27.

For parties to construction contracts, the most practical lesson of *Boldt* is that clear allocation of delay risk, complete notices and disciplined cost records decide disputes that broad schedule clauses leave open.

References

- *The Boldt Co. v. Black & Veatch Construction, Inc.*, Nos. 25-2003 & 25-2070, slip op. (7th Cir. July 8, 2026), United States Court of Appeals for the Seventh Circuit: https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Path=Y2026%2FD07-08%2FC%3A25-2003%3AJ%3AKirsch%3Aaut%3AT%3AfnOp%3AN%3A3570048%3AS%3A0&Submit=Display