



# Avoiding, Recognising, Preparing & Resolving Claims Arising Out Of Construction Contracts

## *An Architect's View Point*

by

**Dato' Kevin Woo**

### 1.0 INTRODUCTION – DISPUTES & CLAIMS

- 1.1 CLAIMS can become disputes and disputes can become claims.
- 1.2 The word 'claim' is defined in the Oxford Dictionary as “a demand for something as due, an assertion of a right to something; a right of claiming, right or title to something and right to demand on person”.

The word 'dispute' is defined in the Oxford Dictionary as “controversy debate, heated contention, quarrel or difference of opinion, assertion by one party and rebuttal of the same by the others”.

- 1.3 The word 'dispute' has been given a wide coverage in the judgement of **Perbadanan Kemajuan Negeri Perak v Asean Security Paper Mill Sdn. Bhd.** where it was held to mean 'a controversy' having positive and negative aspects postulating the assertion of a claim and its denial by the other.

There are 2 landmark English cases on the definitions of 'dispute'.

An earlier case of **Halki Shipping Corporation v Sopex Oils (1998)WLR 726 (4)** is a well known decision of the Court of Appeal which gives the word 'dispute' a very wide meaning to encompass all questions affecting civil rights. A latter case of **Watkin Jones & Sons v Lidl, UK Gmb H(2002) (CILL) 1834**, it was held that there is no necessary for a denial of a claim and a 'dispute' is deemed to have arisen where there is no formal rejection of or refusal to answer a claim, the passive failure to admit will suffice to constitute a dispute.