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Contractor sues Glenstone museum for \$24 million 'disorganized' expansion planning

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Hitt Contracting Inc. has sued the foundation behind the Glenstone Museum in Potomac for \$24 million in damages it attributes to a "torrent of changes" and repeated disruptions caused by the foundation in executing its plan to become one of the largest private museums in the world.

The Falls Church-based contractor sued Glenstone Foundation Inc. Aug. 30 in the U.S. District Court in Greenbelt, blaming the foundation's "disorganized" approach for the millions of dollars in time and cost overruns it took to complete the \$200 million expansion. The foundation delayed making crucial decisions, requested more than 2,400 changes and refused to acknowledge the financial implications of its actions, according to the complaint.

Hitt claims those issues forced it and its subcontractors to self-fund the project for months at a time, contrary to the provisions of the contract, and that the foundation now refuses to acknowledge the expansion's substantial completion, which Hitt said it reached this past June when the foundation began to move into the new museum building.

The museum announced in March that it plans to open the expansion, which includes 240,000 square feet of new space, in October.

Scott Morrison, an attorney with Katten Muchin Rosenman LLP who is representing the foundation, said Hitt's lawsuit is meritless and that the foundation plans to file a counterclaim that will set the record straight.

"Hitt was retained to build one of the most iconic private arm museums in the world," Morrison said. "They promised that they would have their best management and field personnel to build this project. Instead, they delivered the project 10 months late and millions of dollars over budget."

Hitt spokeswoman Ashley Campbell declined to comment specifically on Morrison's response but said that, despite challenges, Hitt "did ultimately fulfill our contractual work. Right now, this is really just about seeking equitable and fair resolution that we can fairly pay our subcontractors."

Glenstone's plans to expand the museum complex date to 2011, and it awarded a \$200 million construction management contract to Hitt in 2014. From March 2014 to April 2016, Hitt claims, the foundation's representatives averaged two project changes a day, racking up a hundred or more pending changes at any given time, "but refused to acknowledge the time and extended cost impacts associated with many of those changes," according to the lawsuit.

Hitt said it issued at least 20 substantive "Notice of Potential Impact" letters to call attention to the impact of those changes, which required Hitt to add additional workers. In mid-2016 the foundation agreed to modify the contract to recognize nearly \$20 million in cost increases, but the pace and volume of those changes only continued to increase, Hitt said in its complaint.

While the contractor does not go into great detail about those myriad changes, it cites one example in April 2017 for fire alarm device cover plates at an additional cost of \$65,293. The foundation has yet to approve that cost a year later, the complaint states.

In all, Hitt claims, the foundation's actions resulted in more than 900 days worth of delays and more than \$24 million in cost overruns that Hitt self-funded, on top of an additional \$14.2 million in exposure to subcontractor claims.



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Hitt Contracting has sued the foundation behind the Glenstone Museum in Potomac for \$24 million in damages due to delays caused by changes to the \$200 million expansion.

The Glenstone Museum is a contemporary art museum established more than a decade ago by Mitch and Emily Rales. Mitch Rales is chairman of Danaher Corp.'s executive committee and one of Greater Washington's 11 billionaires.

Hitt is Greater Washington's third largest general contractor by metro-area revenue, according to WBJ research.

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