

# Construction

## Overview

Our construction group provides legal services on all aspects of construction, including pre-bid considerations; contract drafting and letting; construction administration; liens; bonds; insurance; and dispute resolution, including mediation, arbitration, settlement, and trial. We have experience in projects such as office buildings, condominiums, water treatment plants, power plants, airports, schools, highways, subdivisions, solid waste disposal plants, residential or apartment developments, process plants, arenas, stadiums, convention centers, hotels, and other special-use facilities. Lawyers within the group focus on areas such as delay claim analysis, construction defects, differing site conditions, and design professional liability. Every day, we work closely with design professionals, forensic and accounting experts, engineers, and our clients to achieve the best possible outcomes in all phases of the construction process.

We seek to help our clients avoid disputes, but when claims arise, we focus on achieving the most effective, efficient resolutions. At every stage of the litigation or dispute resolution process, we prosecute or defend claims vigorously. Our group has extensive mediation and arbitration experience, as well as experience managing and litigating major construction cases in the judicial setting at both the trial and appellate levels.

### Representative Clients

- Public and private developers and owners
- General contractors, subcontractors, and suppliers
- Homebuilders
- Design professionals
- Condominium associations
- Sureties
- Insurers and insureds (in the defense of construction risk claims)

### Industry Leadership

Our attorneys regularly lecture and write on topical construction law issues. They are leaders and active members in many construction-related professional associations, including:

- American Bar Association's Forum on Construction Law
- American College of Construction Lawyers
- American Bar Association's Fidelity and Surety Law Committee of the Tort Trial and Insurance Practice Section
- Surety Claims Institute
- Associated Builders and Contractors
- Associated General Contractors
- Construction Financial Management Association
- Local bar association construction law committees
- Several of our attorneys are members of the American College of Real Estate Lawyers

## Recognition

- Carlton Fields is ranked No. 18 nationally in *Construction Executive's* "Top 50 Construction Law Firms" list.
- Carlton Fields' construction practice earned a national first-tier ranking in the *U.S. News and World Report* and *Best Lawyers*® Best Law Firms 2023 guide, and is consistently ranked in *Chambers USA*.
- Nine construction practice group attorneys are board certified in construction law by the Florida Bar.

## Experience

### Airports

- **Hartsfield-Jackson Atlanta International Airport.** Provided legal contract administration through project closeout as project counsel to the general contractor for construction of airport.
- **Atlanta Delta Air Cargo Terminal.** Provided legal contract administration through project closeout as well as pre-contract review and modifications.
- **Metropolitan Washington Airports Authority (MWAA).** Presently procurement counsel to MWAA for Dulles International Airport, Reagan National Airport, and Dulles Toll Road.

- **Raleigh-Durham International Airport.** Represented subcontractor in connection with claims for extra work and defective workmanship on construction of new American Airlines terminal.
- **Richmond International Airport.** Provided legal contract administration through project closeout.
- **San Salvador Airport.** Prepared request for equitable adjustment for contractor on the runway extension for the San Salvador Airport construction project in the Bahamas.

## Environmental

- **Asbestos Removal.** Represented bank in Florida and various private developers in preparation of contract and bid documents for asbestos abatement and removal and disposal requirements in demolition/renovation projects
- **Decontamination.** Served as mediator for resolution of dispute on Oak Ridge federal cleanup.
- **Heavy Metal.** Counseled client in contracting for excavation and disposal of contaminated soil taken from project site. Negotiated contract for removal with special emphasis on indemnity provisions.
- **Insurance Policy Coverage Dispute, Pollution Exclusion.** Represented property owner in suit against insurance companies for a “duty to defend” and coverage requirements. An accidental puncture and leakage of an underground storage tank during construction of an office building involved subcontractor’s insurance policies with owner named as “additional insured.”
- **Mold.** Counseled and defended hotel operators and homebuilders on the wave of personal injury and property damage claims arising from EFIS.
- **PCB and Dioxins.** Represented remediation contractor in mediation with owner resulting from a fire in an industrial plant.
- **Sick Buildings.** Advised hospital owner on legal exposure and liabilities regarding mold in hospital and pursued contractors and insurers.
- **Subsurface Asbestos.** Provided legal advice to and represented owner in arbitration involving excavation encountering naturally occurring subsurface asbestos and resulting work stoppage, remediation, and various liability issues.

- **Waste Water Treatment Plants.** Legal counsel for owners and contractors on construction of wastewater treatment facilities:
  - Alexandria, Virginia
  - Blue Plains, Washington, D.C.
  - Broward County, Florida
  - Miami-Dade, Florida
  - Patapsco, Maryland
  - Sacramento, California
  - Snapfinger, Georgia

## Federal

- **Central Intelligence Agency.** Represented the building contractor on claims against the Agency on various projects.
- **Embassy Construction.** Represented contractors for construction of embassies and chanceries of Russia, Kuwait, New Zealand, France, and Italy. Represented the government of Greece in embassy construction. Presently, representing U.S. contractor constructing U.S. Embassy in Mongolia and Indonesia.
- **Federal Reserve Board.** Represented bid protestor on mechanical system construction for chairman and Federal Reserve Board members.
- **Ronald Reagan Building, Federal Triangle Project.** Represented the concrete and stone contractor on contract payment issues. Served as mediator for owner/curtain wall subcontractor dispute.
- **Smithsonian Institute.** Represented the contractor on all construction aspects of the Smithsonian “attic.”
- **U.S Capitol.** Represented the contractor for construction of the U.S. Capitol Visitor Center. Defended \$7 million subcontractor claim in a ten-day arbitration (award rendered in 2011).

## Hospitals

- Drafted contract and general conditions for major reconstruction and additions in Miami, Florida.
- Project construction counsel to owner for \$60 million renovation and new construction in Roanoke, Virginia. Follow-up work on design-build “replication” of successful operating wing.

- Counsel to owner involved in contract formation, troubleshooting, and closeout in Christiansburg, Virginia.
- Counsel to owner on new construction and renovations in Washington, D.C. Drafting of standard construction and architectural contracts for multiple projects.
- Counsel to owner for new health care facility in Palm Beach County, Florida.
- Advised owner on contract administration legal issues, project closeout issues, and issues involving defective services and construction in Rockville, Maryland. Represented owner in successful arbitration proceedings.
- For general contractor, involved with pre-construction review, contract administration, legal issues, and closeout in Miami, Florida.
- Project construction counsel for \$70 million replacement facility in Fredericksburg, Virginia.
- Defended claim by subcontractor against general contractor in Augusta, Georgia.

## Hotels and Resorts

- **Beaches Resort and Spa, Providenciales, Turks and Caicos.** Counsel to the general contractor in recovery of more than \$5.5 million in legal fees in arbitration with owner (Zurich Insurance, Toronto, Canada).
- **Barbados Courtyard by Marriott, St. Michael, Barbados, West Indies.** Represent Costa Rican owner of hotel defending contractor claims before dispute adjudication board.
- **Barbados Hilton, St. Michael, Barbados, West Indies.** Represented owner of new 380-room hotel in arbitration with contractor under UNCITRAL Arbitration Rules and the law of Barbados.
- **Colonnade Hotel, Baltimore, Maryland.** Represented the contractor in successful arbitration with owner.
- **Dubliner Hotel, Washington, D.C.** Counsel to contractor on contract negotiation and performance issues.
- **Gaylord National Resort and Convention Center.** Represented developer of National Harbor in Washington, D.C.
- **Grand Bay Hotel Coconut Grove, Miami, Florida.** Counsel to contractor on drafting and performance issues.
- **Grand Hotel, Washington, D.C.** Counsel to contractor on negotiations, performance, and closeout on construction.

- **Grand Hyatt, Washington, D.C.** Counsel to contractor on contract negotiations, contract performance, claims, and closeout.
- **Holiday Inn/Crowne Plaza.** Counsel to owner (Home Plaza, Paris, France) on contract negotiations, construction, and contract dispute/closeout issues.
- **Host Hotels.** Drafted standard form documents for nationwide use on construction-related activities.
- **La Source Hotel and Spa, St. George's, Grenada, West Indies.** Provided expert witness testimony on AIA standard form documents for hotel owner in claim against contractor's bonding company.
- **Ritz Carlton Golf Resort, Naples, Florida.** Represented owner in resolution of owner and contractor claim and closeout of the project.
- **Royal Palm Crowne Plaza.** Represented owner on closeout and claims associated with 300-plus-room historic hotel renovation on South Beach in Miami, Florida.
- **Sandals Hotel, Nassau, Bahamas.** Represented contractor in successful arbitration award against owner.
- **Sheraton Hotel, Santiago, Chile.** Advised curtain wall subcontractor on renovation project in Lima.
- **Sheraton Orlando World Resort.** Represented owner on construction defects and resulting damage claims versus general contractor.
- **The Doyle Collection.** Represented the client in connection with renovation of three Washington, D.C., hotel properties.
- **Watergate Hotel.** Represented the developer in the reconstruction of the Watergate Hotel in Washington, D.C.

## International

- **Afghanistan.** Represented U.S. contractor in arbitration with Indian subcontractor on USAID 114-kilometer road in eastern province of Afghanistan.
- **Bahamas.** Successful claims resolution for three Nassau-based general contractors.
- **Turks & Caicos Islands.** Arbitrated case for the general contractor of Sandals Resort Hotel to successful \$5 million arbitration award and through enforcement action in Turks & Caicos Islands. Case was heard before Privy Council in London and landmark decision rendered in favor of the firm's client.
- **Barbados.** Mediated settlement of \$20 million dispute at eve of arbitration for government of Barbados on a 380-room hotel project.

- **Chile.** Represented curtain wall contractor on rehab of hotel in Santiago.
- **Grenada.** Expert trial witness on AIA standard form construction documents.
- **Indonesia.** Representing U.S. contractor on construction of embassy in Jakarta.
- **Iraq.** Represented two electrical contractors in claims against U.S. government (transmission lines and substations). Successful summary judgment decision at ASBCA.
- **Mongolia.** Represent general contractor in upgrades to U.S. Embassy project.
- **Puerto Rico.** Selected as arbitrator for dispute regarding cellular tower installation.
- **Advice to British Contractor on Joint Ventures Agreement.** Advised contractors in Eastern Europe and Middle East regarding use of foreign agents by U.S. companies operating abroad, implications under Foreign Corrupt Practices Act, and limitations on U.S. government foreign assistance in instances of expropriation or violation of international law.
- **Embassy Construction.** Represented contractors for negotiations, contract administration, and resolution of Embassy and Chancery construction in Washington, D.C., involving the following countries:
  - France
  - Italy
  - Kuwait
  - New Zealand
  - USSR (Russia)
  - Represented the government of Greece (Greek Public Real Estate Corporation) for construction of the Chancery in Washington, D.C.

## Power and Utility

- **Glatfelter Cogeneration Project.** Provided advice to subcontractor during construction of a cogeneration project involving paper-manufacturing process for private owner. Assisted in claim preparation and instituted litigation in dispute with design-build contractor.
- **Iraq Reconstruction.** Represented contractor on successful claims resolution with the U.S. government on construction of power transmission towers and lines in Haditha, Baiji, and al-Qaim.
- **Omega II Joint Venture.** Represented engineer in lawsuit with owner on West Virginia hydroelectric project.

- **Portland National Gas Transmission System.** Contract drafting of project development agreement for planning, designing, constructing, owning, and operating interstate natural gas pipeline system.
- **Stanton Energy Center.** Provided ongoing counsel to the Orlando Utilities Commission in the successful negotiated resolution of approximately \$30 million in construction claims at the Stanton Energy Center. The contract was a multiple prime with construction management and fast-track design.
- **Fiber Optic.** Represented general contractor for Washington, D.C.; Virginia; and greater Baltimore in arbitration with trench and bore subcontractor.
- **Water.** Represented pipeline contractor in successful jury trial in the U.S. District Court for the Eastern District of Virginia (Alexandria).

## Prisons

- **Atlanta Jail.** Project counsel for the general contractor on all aspects of jail construction, including contract review, performance problems, claims, design problems with smoke evacuation, and project closeout.
- **Baltimore County Department of Corrections.** Represented electrical prime contractor on major delay and impact claims involving modular construction on a multi-prime project.
- **California Department of Corrections and Rehabilitation.** Represented security and fire alarm systems contractor on multimillion-dollar delay, disruption, and defective design claims against the state.
- **D.C. Jail.** Represented security and fire alarm systems contractor on \$300,000 delay, disruption, and defective design claims against the District of Columbia. Claim was settled by negotiation.
- **Federal Bureau of Prisons.** Settled through ADR (mediation) \$20 million claim with the Bureau for prison in North Carolina.

## Transportation

- **Afghanistan.** Represented U.S. contractor in arbitration with Indian subcontractor on USAID 114-kilometer road in eastern province of Afghanistan.
- **Dulles Toll Road, Virginia.** Procurement counsel to Metropolitan Washington Airports Authority (MWAA).
- **Hartsfield-Jackson Atlanta International Airport.** Project counsel for the HOH joint venture, contractor for construction of terminal buildings, runways, concourses, and rapid transit tunnels. Involved in litigation and arbitration of several million dollars of claims.



- **Everglades National Park/Shark Valley Road Project.** Counsel to contractor for roadway project in Everglades National Park for appeal to the U.S. Department of Transportation Board of Contract Appeals on changed conditions and defective specifications claim and default termination. Case involved interpretation and application of provisions of Florida DOT “Standard Specifications for Road and Bridge Construction” and “Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects.”
- **Georgia DOT.** Claims advice to landscape contractor involving beautification of state highway system.
- **Maryland DOT.** Claims advice to contractor for expansion of state highway in Largo, Maryland; construction of major interstate highway expansion claim presentation and settlement.
- **Virginia DOT.** Represented owner in condemnation proceedings.
- **Atlanta MARTA.** Represented general contractor in change orders and claims on MARTA station construction (Lindbergh and North Avenue stations).
- **Miami-Dade Metro Transit.** Represented general contractor for the construction of bridges, lines, and stations between the Miami Airport and Coconut Grove on the Miami rapid transit system on five claims, including issues of delay, disruption, and acceleration. Initiated lawsuit in the U.S. district court on behalf of contractor. All claims were successfully settled. Stations included Vizcaya and Coconut Grove station. Lines included the Miami River crossing.
- **Pittsburgh, Pennsylvania Rapid Transit System.** Represented one of the joint venture general contractors for litigation in U.S. district court affirming an arbitration award. Negotiated with U.S. Department of Transportation concerning guarantee obligations and claims handling.
- **Washington Metropolitan Area Transit Authority.** Represented several contractors and subcontractors for construction of underground stations and tunnels for the Washington, D.C., subway system in the District of Columbia, Virginia, and Maryland. Negotiated and litigated cases between contractors and the transit authority before the Engineering Board of Contract Appeals.
- **San Salvador Airport.** Prepared request for equitable adjustment for contractor on the runway extension for the San Salvador Airport construction project.

## Insights

03.11.2024

Digital Collusion or Warp-Speed Competition Evaluating the Agreement Element in the Algorithmic Pricing Antitrust Cases

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09.19.2023

Building Resiliency Into the Construction Industry

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06.24.2022

Creative Reuse: The Opportunities and Challenges of Converting Office Space to Residential

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05.26.2022

New Legislation From Florida Special Session on Property Insurance Reform

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10.07.2021

What Contractors Need to Know About Vaccination Mandates and New “Safer Federal Workforce” Guidance

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10.01.2021

Joint Check Arrangements: What General Contractors Should Be Cautious of Before Executing

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09.16.2021

Construction Contractor Compliance Update: Government Audits, Vax Mandates, and More

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08.18.2021

Into the Future: Modern Partnerships in Health Care Construction Delivery

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07.30.2021

Full-Blown OFCCP Construction Contractor Compliance Evaluations May Soon Be on the Horizon – Are You Ready?

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04.21.2021

Public Construction Contracting: Perspectives of the Contractor

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03.22.2021

Florida Construction Law and Practice, Tenth Edition

*The Florida Bar*

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02.09.2021

Government Contracting Phase One: Transitioning From Commercial to Government Work

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01.06.2021

Case Law Update: Setoffs and the “Prevailing Party” Determination

*Ditchmen, National Utility Contractors Association of Florida*

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01.01.2021

Rights and Liabilities of General Contractors

*The Florida Bar*

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01.01.2021

Rights and Liabilities of Architects and Engineers

*The Florida Bar*

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01.01.2021

Rights and Liabilities of the Owner

*The Florida Bar*

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01.01.2021

Opening Statements

*American Bar Association*

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09.22.2020

Understanding the Purpose, Limitations, and Benefits of a Liquidated Damages Clause

*Construction Executive*

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06.24.2020

Is the CARES Act Caring Enough?

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04.20.2020

Owner COVID-19 Construction Project Considerations

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04.09.2020

OMB Approves Construction Contractor “Compliance Check” Scheduling Letters – With All Signs Pointing to Increase in Construction Contract Audit Activity

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03.28.2020

CARES Act Provides Payment Protection and Potential Loan Forgiveness to Small Businesses

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03.21.2020

Understanding the Key Employer Requirements of the Federal Families First Coronavirus Response Act

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03.18.2020

Force Majeure and COVID-19 in the Construction Industry

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03.02.2020

Are You Protected Against the Risk of Construction Delays and Increased Construction Costs Due to COVID-19?

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02.14.2020

Construction Contractors Take Note: OFCCP’s Industry-Focused Technical Assistance Guide (TAG) May Prove Helpful in Preparing for Anticipated “Compliance Check” Reviews

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08.30.2019

The Hurricane is Coming in Five Days - Are We Ready for This?

*American Bar Association Forum on Construction Law*

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07.31.2019

Florida Regulation of PFAS at Airports and Governmental Installations Ramps Up

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07.16.2019

Florida Appellate Court Rules That Arbitration Agreement in Special Warranty Deed Can Bind Subsequent Purchasers

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04.30.2019

Pending Approval By Governor, Companies That Rent Industrial "Special Mobile Equipment" Will No Longer Be Subject to Strict Vicarious Liability for the Actions of Their Renters

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04.04.2019

The Developing Climate: How Climate Change Affects the Development Industry

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04.01.2019

Caps Off to You: DOL Proposes Raising Salary Cap

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03.02.2019

Chapter 558 and Commencement of an Action: Gindel v. Centex

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03.02.2019

Florida Supreme Court Reaffirms that Frye is the Standard

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02.08.2019

They Really Mean It This Time... Three Things to Know About Trump's Second "Buy American" Executive Order

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01.30.2019

Qualified Opportunity Zones vs. 1031

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01.30.2019

Seizing the Opportunity with Qualified Opportunity Zones

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01.24.2019

Risk Management and the Development / Construction Industry

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11.19.2018

Three Takeaways from the DOL's New Labor Condition Application Form

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11.13.2018

Supreme Court of Florida Upholds the Frye Standard

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09.19.2018

Fourth DCA Rules Chapter 558 Notice of Defect Can Constitute Commencement of Action Giving Plaintiffs More Time to File Suit

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05.11.2018

Third Circuit Rejects 'Shingle Lottery' Theory of Common Defect in Putative Homeowner Class

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04.03.2018

Florida Supreme Court Answers Certified Question in Altman V. Crum

*Lawyer Magazine*

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12.20.2017

Altman Contractors v. Crum & Forster: Florida Supreme Court Answers the 11th Circuit's Certified Question in the Affirmative

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11.30.2016

Eleventh Circuit Certifies Question to FSC in Altman V. Crum

*Lawyer Magazine*

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08.01.2016

Arbitration of \$553.84 Claims Under Home Warranties

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07.14.2016

Proposed Rule Changes to Florida's Affordable Housing Allocation and Funding Process

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03.22.2016

2016 Carlton Fields Class Action Survey Reveals Important Trends in Class Action Management

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02.01.2016

First District Court of Appeal Interprets Florida's Construction Lien Law

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10.30.2015

"Contractor?" I do not think that employers' liability exclusion means what you think it means

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05.01.2014

Unanticipated Exposures on License and Permit Bonds May Give Sureties Cause for Concern

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02.01.2014

P3s in Florida: Innovation in Public Projects

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04.18.2013

Green Building Resource List

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03.18.2013

Condominium Development in a Brave, New World: Three Issues to Consider

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02.13.2013

Drafting a Takeover Agreement

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02.01.2013

To Relate Back, Or not to Relate Back? That is the Question

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12.30.2012

Even if Merger isn't in Cards, Agencies Should Work Together More to Better Region

*The Tampa Tribune*

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12.28.2012

Key to Bay Area Transit is Cooperation

*Tampa Bay Times*

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12.04.2012

In Construction Disputes, Tell the Story

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09.20.2012

Is Noticing A Crack Really "Notice"?

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09.01.2012

Construction Contracts Are Greener Thanks to the AIA SP Series

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08.09.2012

Using Technology to Resolve Construction Disputes

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07.12.2012

Contractual and Federal Statutory Support for an Owner's Right to Withhold Payment for Work Performed

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06.14.2012

Ethical Business Practices in Construction Contracting

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04.01.2012

What You Need to Know About Certificates of Insurance

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03.08.2012

Florida Offers of Judgment: A New Trend To Uphold

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03.01.2012

Successfully Serving Two Masters: The Ethical Risks of Joint Representation of Bond Sureties and Principals

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02.01.2012

New Mediation Rule: More Accountability or Complications?

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12.27.2011

Indemnity Clauses in Construction Contracts

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09.16.2011

International Construction Law: Mediation and Conciliation

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01.01.2011

The Surety's Exposure for Actual and Consequential Damages for Delays

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01.01.2010

The Design/Build Process: A Guide to Licensing and Procurement Requirements in the Fifty States and Canada

---

10.01.2009

The Legislative Death of the Crescent Transaction?

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09.04.2009

Retroactive Change to Construction Licensing Requirements

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05.13.2009

AIA Contracts in Florida: Overview and Agreement Forms

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05.13.2009

“The AIA B101-2007 Agreement

---

03.01.2009

When Projects Go Bad: Bankruptcy Issues for the Construction Industry

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01.01.2009

Construction Dispute Resolution

*American Bar Association*

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11.01.2008

What is a CDD, and Why Should You Care?

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03.01.2008

AIA B101-2007, A Discussion of Significant Changes to the Owner/Architect Contract

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01.04.2008

Commercial Surety Indemnity Issues

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01.01.2008

Resolving Conflicts in Construction Law Disputes

*Aspatore*

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10.01.2005

Representation of Multiple Parties in the Construction Arena: Ethical Issues

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10.01.2003

High Court Wades into Florida's Stormwater Controversy

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01.19.2001

The Law of Miscellaneous and Commercial Surety Bonds

---

03.19.2000

The Surety's Right to Indemnity

---

10.12.1997

Takeover and Completion of Bonded Contracts by the Surety

---

08.12.1994

Indemnitors' Defenses and Counterclaims and Effect of Principal's Filing for Bankruptcy on the Surety's Right of Indemnification

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## Our Team

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## Related Capabilities

### Practices

- Development
- Construction Litigation
- Construction Transactions
- Environmental Regulation & Litigation
- Hospitality
- Litigation and Trials
- Mass Tort and Product Liability
- Real Property Litigation

### Industries

- Property & Casualty Insurance
- Real Estate

- Title Insurance
- Wage and Hour
- Labor & Employment
- Appellate & Trial Support
- Government Contracts
- Education
- International
- Creditors' Rights and Bankruptcy
- Government Law & Consulting
- Cybersecurity and Privacy
- White Collar Crime & Government Investigations
- Distressed Asset and Workout
- Public-Private Partnerships
- Private Equity and Venture Capital
- Mergers and Acquisitions
- Corporate Law and Governance
- Technology & Intellectual Property Transactions
- Intellectual Property Protection & Portfolio Management
- Intellectual Property Litigation
- Government Affairs and Lobbying
- Environmental, Land Use & Development Approvals and Litigation
- Administrative Litigation and Appeals
- International: Latin America
- International: Europe
- International: Cuba
- Real Estate Workouts and Problem Loan Resolution
- Investment and Ownership
- Lending
- Qualified Opportunity Zone Task Force
- Alternative Dispute Resolution Services

- Energy and Utilities
- International Arbitration of Construction Contracts
- Aviation
- Immigration Planning and Compliance
- Discrimination
- International Privacy Compliance
- Real Estate
- Internal Investigations
- Eminent Domain
- Workplace Safety / OSHA
- Class Actions