



# Scott P. Pence

SHAREHOLDER

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## Overview

Scott Pence is a construction and real estate attorney whose practice focuses primarily on representing developers, owners, architects, contractors, and subcontractors in the preparation, negotiation, modification, and administration of all types of contracts and forms related to construction and development transactions. Scott's practice also includes reviewing and advising clients with respect to insurance and risk management issues. Scott has been involved in many large, complex projects both in the state of Florida and across the country, including major stadiums, arenas, ballparks, airports, energy facilities, pipelines, hospitals, education facilities, hotels, casinos, and first responder training facilities. The types of contracts and forms with which he has extensive experience include development agreements; construction contracts; design agreements; consulting services agreements; design-build agreements; engineering, procurement, and construction (EPC) contracts; purchase and sale agreements; construction management, both at-risk and not-at-risk agreements; integrated project development agreements; requests for proposals; instructions to bidders; invitations to bid; and all of the various ancillary contract administration and project management forms such as change orders, waivers and releases of lien, payment affidavits, payment applications, claims of lien, and performance and payment bonds.

Scott is very active in The Florida Bar and is board certified in Construction Law. He is currently a co-vice chair of the Construction Law Committee and the Insurance and Surety Committee of the Real Property, Probate and Trust Law Section of The Florida Bar. He serves as the legislative chair of the CLC's subcommittee and is the editor in chief of *Insurance Matters!* a newsletter distributed by the Insurance and Surety Committee.

Scott speaks and presents frequently on various matters related to construction contracting and insurance/risk management issues. Topics include: insurance and risk management; specific standardized forms such as the various AIA, ConsensusDocs, and EJCDC forms; types of delivery systems such as design-bid-

build, design-build, and construction management; and significant risk-shifting contract provisions such as indemnification obligations, insurance requirements, liquidated damages, consequential damages, delays (no-damage for delay and force majeure provisions), warranties, hazardous materials, changed/concealed conditions, termination, and ownership of documents.

## Experience

Some of the projects Scott has been involved with include:

- **Energy Facilities**

- Pipeline development and expansion projects in the state of Florida.
- Photovoltaic system installation and service agreements, purchase and sale agreements with respect to various power substations and transmission lines.
- EPC contracts for power plants.

- **Stadiums, Ballparks and Arenas**

- Arizona Cardinals
- Florida Marlins
- New York Giants
- New York Jets
- New York Mets
- Tampa Ice Palace Arena
- Washington Nationals

- **Schools**

- Orange County Public Schools' Capital Expansion Program
- Texas Independent School Districts, various schools
- University of California, various campuses
- University of Florida
- University of New Mexico
- University of South Florida
- University of Texas, various campuses
- Yale University

- **Airports/Transportation Facilities**

- Hartsfield-Jackson Atlanta International Airport
- Federal Express Hangars
- Panama City-Bay County Airport Authority

- **First Responder Training Facility**

- First-of-its-kind training facility at approximately \$35 million. Training facility used for first responders of natural disasters and terrorist acts.

- **Destination resort hotel complexes and casinos.**

## All Insights

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- 06.19.2019 Hillsborough County Voters Pass Transportation Surtax – And Now It's June...
- 
- 01.24.2019 Risk Management and the Development / Construction Industry
- 
- 11.08.2018 Hillsborough County Voters Pass Transportation Surtax - What Happens Next?
- 
- 01.23.2018 Practical Steps for Contractors and Subcontractors to Take Before, During and After a Government Shutdown
- 
- 04.15.2014 Construction Subcontracting: A Comprehensive Practical and Legal Guide
- 
- 08.01.2013 Not All Additional Insured Endorsements Are Created Equal: Brief History of ISO's Additional Insured Endorsements and 2013 Changes
- 
- 09.01.2012 Construction Contracts Are Greener Thanks to the AIA SP Series
- 
- 04.01.2012 What You Need to Know About Certificates of Insurance
- 
- 11.07.2011 Changes to ACORD's Certificate Forms
- 
- 02.04.2008 Revisions to the 2007 AIA Contract Documents

## All News

- 06.07.2017 Carlton Fields Attorneys Scott P. Pence and William P. Sklar Awarded Top Honors from The Florida Bar

## Recognition

- AV Rated by Martindale-Hubbell
- Listed in *Florida Super Lawyers* "Rising Stars" (2013-2015)
- Board Certified by The Florida Bar in Construction Law

## Professional & Community Involvement

- American Bar Association
  - Real Property, Trust, and Estate Law Section
    - Chair, Property, Casualty, and Other Non-Title Insurance Committee of

## the Commercial Real Estate Transactions Group

- Forum on Construction Law
- The Florida Bar
  - Real Property, Probate and Trust Law Section
    - Executive Council
    - Chair, Construction Law Committee
  - Insurance and Surety Committee (ISC)
    - Chair
    - Creator and Former Editor in Chief of *Insurance Matters!* (a quarterly insurance newsletter of the ISC)
- Hillsborough County Bar Association
  - Real Property, Probate, and Trust Law Section
  - Construction Law Section
- Leadership Tampa (2015)

## Speaking Engagements

- "Legislation Modifying the Procedures for Construction Defect Claims Under Chapter 558, Florida Statutes, and New Legislation Relating To Residential Master Building Permit Programs," 35th Annual Legislative and Case Law Update Seminar, Real Property, Probate and Trust Law Section of The Florida Bar (July 31, 2015).
- "Practice Points and Pitfalls in Contract Drafting to Avoid Coverage Issues," Eighth Annual Construction Law Institute, The Florida Bar, Orlando, FL (March 13, 2015).
- "Top Ten Risk-Shifting Provisions in Construction Contracts," Construction Law Committee of the Real Property, Probate and Trust Law Section of The Florida Bar (March 9, 2015).
- "A Look Ahead to 2017 – What Types of Changes to Expect From AIA Based on the Recent Modifications to the AIA A141 Design-Build Agreement," Hillsborough County Bar Association's Construction Law Section, Tampa, FL (February 19, 2014).
- "AIA Contracts," Lorman Education Seminars, Tampa, FL (October 22, 2014).
- "AIA Contracts," Lorman Education Seminars, Sarasota, FL (October 8, 2014).
- "Insurance From the Other Guy: New ISO Forms for Additional Insured Endorsements," Seventh Annual Construction Law Institute, The Florida Bar, Orlando, FL (March 22, 2014).
- "AIA Contracts: Understanding Warranties and Guarantees in the Standard AIA Contracts," Lorman Education Seminars, Tampa, FL (September 26, 2013).
- "Case Law Update," Insurance and Surety Committee of the Real Property, Probate and Trust Law Section of The Florida Bar (July 25, 2013).
- "The Top 10 Risk Shifting Provisions Within Construction Contracts," Eli Research Inc., Construction Claims Monthly (June 12, 2013).
- "Case Law Update," Insurance and Surety Committee of the Real Property,

Probate and Trust Law Section of The Florida Bar (May 20, 2013).

- “Top Ten Risk Shifting Contract Provisions in Construction Contracts,” Construction Financial Management Association, Tampa Bay Chapter, Tampa, FL (March 28, 2013).
- “Insurance Issues for Construction Practitioners,” BPI Construction Claims Monthly, Tampa, FL (February 28, 2013).
- “Delivery Systems: Understand the Potential Risks and Benefits Associated with Different Delivery Systems,” WPL Publishing Co. Inc. (December 18, 2012).
- “Certificates of Insurance and Additional Insured Endorsement Forms,” Insurance and Surety Committee of the Real Property, Probate and Trust Law Section of The Florida Bar (March 19, 2012).
- “AIA Contracts: Understanding Warranties and Guarantees in the Standard AIA Contracts,” Lorman Education Seminars, Tampa, FL (February 21, 2012).
- “AIA Contracts,” Lorman Education Seminars, Tampa, FL (October 6, 2011).
- “Key Construction Contract Provisions: Understand the Potential Risks and Liabilities Involved in Construction Contracts,” WPL Publishing Co. Inc. (September 2011).
- “Understanding Warranties and Guarantees in the Standard American Institute of Architects (AIA) Contract,” Lorman Education Seminars (May 9, 2011).
- “Risky Business, What You Need to Know About the Standard AIA CM ‘Not-at-Risk’ Contracts If You Are an Owner or a Construction Manager,” Tampa Division of the Construction Management Association of America (Friday 25, 2011).
- “What’s in a Form? A Closer Look at the More Significant Provisions Within the AIA and ConsensusDocs Standard Construction Contract Forms,” Tampa Bay Chapter of the Construction Financial Management Association (September 23, 2010).
- “An Overview of and Comment on the Use of Standardized Construction Documents Produced by the American Institute of Architects (AIA) and ConsensusDocs,” half-day seminar for the Construction Law Committee of the Hillsborough County Bar Association (February 28, 2010).
- “Overview and Comment Regarding Use of AIA and Consensus Documents,” Construction Law Committee Seminar of the HCBA (February 18, 2010).
- “Abbreviated Forms,” and “Design-Build Forms,” Lorman Education AIA Contracts Seminar, Tampa, FL (May 13, 2009, May 13, 2008, and April 18, 2007), Kissimmee, FL (May 14, 2008), and Orlando, FL (May 3, 2007).
- “Understanding Warranties and Guarantees in the Standard American Institute of Architects (AIA) Contract,” Lorman Seminars Teleconference (May 12, 2009).
- “Practical Aspects of Green Construction,” Construction Law Committee Meeting Presentation, Winter Park, FL (November 10, 2008).

### **Pro Bono**

- Various matters for the U.S. Green Building Council, Florida Gulf Coast Chapter Inc.
- Various matters for the Tampa Bay Conservancy Inc.

### **Credentials**

#### EDUCATION

- William & Mary School of Law (J.D., 2005)
  - *William and Mary Environmental Law and Policy Review*
  - Honors in Legal Skills (excellence in research, writing, analysis, trial and appellate practice, and client relations)
- George Mason University (B.A., Mathematics, 1993)

#### COURT ADMISSIONS

- Florida State Courts

#### BAR ADMISSIONS

- Florida

#### BOARD CERTIFICATIONS

- Construction

### Background

- President and Founder, Penco Information Retrieval Inc., Springfield, VA (1992-2005)

### Areas of Focus

#### PRACTICES

- Cannabis Law
- Construction Litigation
- Construction Transactions
- Development
- Institutional Investment and Finance
- Public-Private Partnerships

#### INDUSTRIES

- Construction
- Real Estate