

## Construction Litigation

### **PRACTICE CONTACTS**

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Our Construction Litigation Team has a long and rich history of representing a variety of construction professionals, including owners, developers, builders, and contractors, in the entire gamut of construction-related claims and issues. We have extensive experience in economically and efficiently resolving (through litigation, arbitration, mediation or negotiation, as appropriate) all types of construction and other real estate related disputes, ranging from simple disputes involving an alleged construction defect in a single home to complex owner/contractor/subcontractor disputes involving large commercial projects. Our team offers the following services:

- Defense of construction defect and negligent workmanship claims
- Defense of environmental claims, including mold claims (for additional information regarding the defense of environmental and mold claims, please see Environment Claims)
- Litigation and arbitration of breach of contract claims, breach of warranty claims and breach of lease claims
- Litigation and arbitration of claims for additional time and/or compensation, termination claims, delay damage claims and various owner/contractor/subcontractor disputes
- Resolution of bidding issue disputes
- Identification of potentially applicable insurance coverage for construction defect and/or environmental claims, and assistance in convincing insurers to defend and/or indemnify against such claims
- Litigation of insurance coverage disputes involving construction defect and/or environmental claims
- Utilization of technology such as extranet sites to provide efficient, confidential litigation management of complex or multiple claims
- Drafting and counseling advice to clients, including advice on prevention/minimization of environmental claims, drafting of subcontract agreements, purchase agreements, and construction contracts, advice on public and private bidding issues, and assistance in preparing bid packages

### ***Representative Transactions***

- Currently defend Fischer Homes, one of Greater Cincinnati largest home builders, in multiple construction defect and mold claims and handle related insurance coverage matters
- Representation of Kiewit Construction in dispute with subcontractor over damage to fiber optic lines and related insurance coverage issues
- Representation of The Benner Company in dispute with owner and subcontractors/suppliers regarding performance specifications of waste fuel boiler

## Construction Litigation (Continued)

- Representation of AK Steel Corporation in dispute over termination for cause of excavation/deep foundation subcontractor on \$1.6 billion Rockport Works Steel Finishing Plant
- Representation of Universal Contracting Corporation and subcontractors in two week arbitration involving claims for unpaid work and labor and delay damages caused by owner's failure to timely replace architect of record, process applications for payment and ensure that construction was completed in phases
- Representation of Belcan Corporation in claims for unpaid work in place and processed change orders involving P & G Tissue and Towel Plant in Cape Girardeau, Missouri, also involving back charges for delay damages and negligent workmanship
- Defended engineering company in federal lawsuit in Kentucky involving claims of engineering malpractice, fraud and constructive fraud for work performed for DC company at a ferroalloys plant in Salgotarjan, Hungary
- Representation of general contractor in jury trial alleging claims for negligent representations by owner's representative about status of project funding; based on the representations, the contractor terminated a work stoppage, returned to the project site with several of its contractors and subsequently was not paid for significant work performed and materials in place at the site
- Representation of general contractor against subcontractor for damages sustained as a result of payment on fraudulent subcontractor affidavits; also litigating claims for negligent workmanship and breach of contract
- Representation of owner against general contractor and engineering consultant regarding damages suffered due to placement of organic fill material on property, in breach of the contract and generally accepted industry standards
- Representation of Jeffrey R. Anderson Real Estate, Inc. in multi-million dollar construction litigation involving claims against surety company under performance and payment bonds due to errors and omissions caused by general contractor and prime subcontractor on shopping center project. Litigation also involves bad faith claims against the surety
- Defense of Stephen Gross & Sons, Inc. in litigation filed by public library on public works project. The library has asserted claims for breach of contract and negligence against the general contractor relating to alleged defects associated with the EIFS and windows on the project
- Currently represent Tanners Creek Properties, LLC, developer/general contractor, in a dispute with the City of Lawrenceburg, Indiana relating to the development of a 120-acre parcel and construction of commercial, retail, and residential buildings

### NEWS

- Keating Muething & Klekamp Construction Contract Case Was Recently Published by Court of Appeals
- Supreme Court of Ohio Agrees to Hear Case Questioning Whether Ohio Township Has Right to Impose Impact Fee on New Developments
- Ten Lawyers from KMK Named *Cincy Leading Lawyers* by *Cincy Magazine*