

# Construction Litigation

## Overview

Our attorneys litigate most issues confronting the construction industry. We have significant experience handling the following types of litigation for:

### **Developers and Owners (public and private)**

- Defective construction and design claims
- Time related damage claims including delay, acceleration, and lost productivity
- Change order/equitable adjustment claims
- Buyer rescission claims
- Construction claims of lien
- Payment disputes
- Liquidated damages
- Contractor terminations and suspensions of work
- Differing site condition claims
- Environmental issues
- Contract document negotiation and preparations

### **General Contractors, Subcontractors, and Suppliers**

- Suspensions of work and termination
- Pay-when-paid clause disputes
- Warranty claims
- Contract document negotiation and preparations
- Defective construction and design claims

- Time related damage claims including delay, acceleration, and lost productivity
- Change order/equitable adjustment claims
- Construction claims of lien
- Payment disputes
- Liquidated damages claims
- Differing site condition claims
- Environmental issues

### **Homebuilders**

- Class actions
- Defective construction and design claims
- Land use disputes
- Transactions including purchase and sale agreements
- Regulatory disputes with state and local government
- Licensing issues

### **Condominium Associations**

- Defective construction and design claims
- Disputes with developers
- Land use issues
- Warranty claims

### **Sureties**

- Payment bond claims
- Performance bond claims
- Takeover and completion of bonded projects
- Indemnity claims
- Subrogation claims

- Delay claims
- Warranty claims

Additionally, we handle litigation related to mold contamination and infestation, including construction defect, products, and "sick building" cases; class actions; and contractual disputes.

We also represent insurers and their insureds in the defense of construction risk claims, and, on their behalf, have addressed issues related to:

- Contractual indemnity (general and subcontractor)
- Workers compensation immunity/statutory employer issues
- CGL insurance coverage
- Government contractor defense
- OSHA issues
- Accidents, including those related to scaffolding and trenches
- Wrongful death
- Amputation
- Brain injury
- Concrete pumping
- Pile driving (property damage)
- Personal and emotional injury related to mold claims
- Personal injury relating to defective construction of window
- Bodily injury due to violations of safety regulations
- Negligent use of heavy construction equipment (equipment totaled)
- Failure to cooperate in the spoliation of a ladder from which worker fell
- Premises liability
- Delay claims
- Insurance claims and coverage

# Featured Insights

## Experience

- Counsel for national construction contractor in connection with more than \$100 million in claims relating to central Florida convention center project.
- Counsel for subcontractor defending \$85 million claim for failure of phosphate reservoir.
- Represent international airport authority on construction and insurance issues for multibillion-dollar airport expansion.
- Counsel for homebuilder in class action relating to \$200 million in hurricane claims involving more than 8,000 homeowners.
- Counsel for homebuilder in class action, involving site-related claims by 118 homeowners seeking more than \$10 million in damages.
- Represented contractors and homebuilders in connection with Chinese drywall claims exceeding \$300 million.
- Represented contractor in connection with \$120 million in claims arising from luxury hotel construction.
- Represented contractor in connection with claims relating to a \$200 million-plus resort in Dade County, Florida.
- Defended lead designer of space shuttle launching facility at Cape Canaveral.
- Represented lead designer of \$70 million highway expansion project in central Florida .
- Defended class action alleging underground storage tanks leaked due to construction defects; Class certification denied.
- Represented government entity on a \$75 million claim arising from termination of a contractor on a waste water treatment plant; Matter involved untimely performance of defective work/delay, latent defects, bid irregularities, design defects, 255 bonds, interpretation of bid documents, plans and specifications, and errors and omissions.
- Represented government entity on a delay and construction defects claim against a paving contractor on a multimillion-dollar road construction project.



- Represented government entity on a multimillion-dollar claim against a general contractor for defective construction and delays arising from the construction of a water treatment plant.
- Represented regional airport authority on multiple matters, including advice during construction and representation in litigation.
- Represented county on multimillion-dollar claim against design professional for defective design and contract administration arising from the construction of a water treatment plant.
- Represented county school district on a delay and defective construction claim against a general contractor arising from the multimillion-dollar high school renovation.
- Represented construction company against numerous subcontractors involving numerous related cases arising out of hotel construction for major Orlando theme park.
- Represented construction company suing for wrongful termination of a subcontract on a construction project for a public university.
- Defended two separate lawsuits by a general contractor against subcontractor payment and performance bond sureties for defective construction, latent defects, and delay damages arising out of a luxury condominium.
- Defended a suit against a subcontractor's performance bond for latent water damage in a condominium project.
- Defended an architect against allegations of negligent design and project administration involving a commercial office and warehouse.
- Defended numerous payment and performance bond claims by community schools involving school construction.
- Defended general contractor's performance bond surety for mold and water damage to a county sheriff's building.
- Represented bleacher designer, manufacturer, and installer in dispute where claims exceeded \$14 million and involved a 75,000-seat super motor speedway; Action also involved suing engineer and foundation designer for design defects.
- Represented general contractor for breach of contract and delay damages, involving a claim that exceeded \$2 million.
- Represented national heavy highway contractor against an engineering firm regarding supply of inaccurate soil data.
- Represented site contractor against developer for delay damages.

- Represented subcontractor against delay claim alleged by major theme park and general contractor.
- Represented county on multiple construction matters arising from defective construction, design, or delay.
- Represented numerous condominium associations on claims against developers, contractors, and designers arising from defective construction.

## Insights

03.01.2020

An Ancient Problem, A New Awareness: Slavery in Construction Materials Supply Chains  
*Under Construction*

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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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03.18.2019

Trial Checklist

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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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01.30.2019

Qualified Opportunity Zones vs. 1031

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01.24.2019

Risk Management and the Development / Construction Industry

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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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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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05.01.2014

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

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06.26.2013

Index of Sustainable Development Provisions in Florida Municipal Codes

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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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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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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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08.16.2010

The Unexpected Pleasure of Pro Bono Work

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10.09.2009

Hiring Outside Counsel

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06.03.2009

New Case on Class Action Settlement

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06.01.2009

Concerns for Lenders on Florida Condominium Projects: New Triggers for Turnover and Some Considerations on Successor Developer Liabilities

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04.08.2009

Capitol Report - Affordable Housing Construction May Get a Boost from Federal Stimulus Funding

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03.01.2009

When Projects Go Bad: Bankruptcy Issues for the Construction Industry

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12.08.2008

New Statutory Requirements Triggering Condominium Association Turnover

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10.17.2008

Positioning Real Estate and Lending Practitioners to Respond to the Emergency Economic Stabilization Act of 2008

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06.02.2008

2008 Florida Legislature Post-Session Report

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03.03.2008

Practical Solutions to the Problems Resulting from the Real Life Application of Florida's Construction Lien Transfer Bond Statute

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07.18.2007

Carlton Fields Newsflash - Public-Private Partnerships Authorized

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07.13.2007

Carlton Fields Newsflash - Governor Crist Takes On Climate Change

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07.10.2007

Carlton Fields Newsflash - Green Building & Climate Change: Another LEEDing Move!

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06.11.2007

2007 Florida Legislature Post-Session Report

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03.01.2006

Construction Lien and Bond Claim Strategies

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02.16.2006

Recent Changes to the United States Bankruptcy Code – What Construction Lawyers Should Know and the Potential Impact Such Changes may have on Construction Projects

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01.01.2006

Force Majeure: Risk Allocation for Unforeseeable Events

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12.01.2005

General Contractors, General Contractors – There is Coverage Under the CGL Policy for Defective Work Performed by a Subcontractor

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10.01.2005

CGL Policy Coverage for Defective Work by a Subcontractor

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09.01.2005

Lien Documents and the Unlicensed Practice of Law

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04.25.2005

Construction Practice Pointer - Reyes v. Hollywood

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06.07.2004

Commercial General Liability Policies -- Not Just For Slip and Falls Anymore

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06.07.2004

Legislative Changes Impacting the Construction Industry: What You Need to Know

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03.22.2004

Section 725.06, Florida Statutes – A Must Know Statute

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12.30.2003

Force Majeure Clauses and the Insurability of Force Majeure Risks

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07.02.2003

Construction Industry Update - July 2003

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12.11.2002

Representing the Subcontractor: Terms that Cause Trouble

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12.11.2002

Construction Contracts - Management Systems International

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12.11.2002

Implied Duties of Owners

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12.11.2002

Recent Developments in Construction Law

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12.11.2002

Florida Construction Law: Bids, Contract Terms, Bonds, Liens and Construction Management

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10.01.2002

"Here Comes the Money:" A Subcontractor's and Materials Supplier's Guide to Perfecting Construction Lien and Bond Rights Under Florida Law

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02.01.2002

Florida's Indemnification Statute

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01.01.2002

Florida Construction Law and Practice - Insurance Chapters

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01.25.2001

An Owner's Implied Duty to Coordinate

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11.29.1999

Economic Loss Rule Does Not Bar Suit Against Professional Engineers for Negligence Even Though Damages Suffered Were Purely Economic In Nature and There Was No Privity of Contract (Practitioner's Note)

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08.31.1998

Practitioner's Note for Federal Ins. Co. v. The Southwest Florida Retirement Center, Inc.

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09.30.1994

Sick Building Syndrome and Building-Related Illness Claims: Defining the Practical and Legal Issues

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## Related Capabilities

### Practices

- Construction
- Construction Transactions
- Distressed Asset and Workout
- Environmental, Land Use & Development Approvals and Litigation
- Environmental Regulation & Litigation
- Government Law & Consulting
- Intellectual Property
- Labor & Employment

### Industries

- Construction
- Real Estate

- Mass Tort and Product Liability
- Real Property Litigation
- Tax
- Title Insurance
- Development
- Government Affairs and Lobbying
- Administrative Litigation and Appeals
- Energy and Utilities
- International Arbitration of Construction Contracts
- Appellate & Trial Support
- Real Estate
- Government Contracts
- Eminent Domain
- Workplace Safety / OSHA
- Litigation and Trials
- Class Actions