

# OUR PRACTICE

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## Construction

**Baker Donelson's construction team advises on all phases of construction projects, from design and planning, to contract negotiation, preparation, bidding and review, construction, E&O defense, insurance coverage and claims, surety/bond issues, and dispute avoidance and resolution. We have advised on a wide range of construction projects throughout the United States and in various international venues.**

Our clients include virtually every type of participant in the construction and development process: owners, developers, contractors, subcontractors, suppliers, equipment lessors, design professionals, sureties, insurers, and consulting and management firms.

We understand the intricacies of the construction industry. Our team includes attorneys who are engineers as well as others who have backgrounds designing and drafting HVAC, plumbing, mechanical and electrical systems. We have some of the only attorneys in our geographic region who have earned Leadership in Energy and Environmental Design (LEED) AP status. Our team also includes lawyers who are Fellows in the prestigious American College of Construction Lawyers. Over the years, our team has developed particular experience in health care, hospitality, government contracts, higher education, manufacturing, infrastructure, power generation and disaster relief projects.

### Construction Contracts and Project Representation

A well-drafted contract is often the best defense against litigation. Our team has more than 100 years of combined experience handling construction projects from idea inception through project completion. We advise on a full range of issues, including licensing and insurance requirements, indemnity provisions, liquidated damages, performance and schedule guarantees, and issues surrounding LEED projects. We negotiate critical contract provisions relating to unforeseen conditions, defective or non-conforming work, time extensions, progress and final payments, warranty and lien claims, additional compensation and project closeout.

### Dispute Resolution

We represent our clients in disputes at all tiers of the state and federal court systems throughout the country, as well as before state and federal administrative agencies and contract appeals boards. We have handled a wide variety of claims, including:

- Bid protests
- Delay and disruption
- Incomplete or defective design
- Warranty of specification suitability
- Inadequate and uncoordinated project management
- Slope and shoring failures and other soils-related problems
- Denial of site access
- Defective materials and equipment
- Improper inspection
- Failures of concrete and other structural elements
- Safety violations

- Environmental hazards
- Mechanic's liens, materialman's liens and bond claims

We also have deep experience advising on professional liability claims against architects and engineers. We have the specialized knowledge required to evaluate and litigate such claims as well as a sensitivity to the fact that the professional reputation of the architect or engineer is on the line.

In certain cases, the costs of litigation outweigh the value of the claim, and clients rely on our in-depth experience in mediation and arbitration. We also assist in dispute resolution as mediators and arbitrators.



## Case Studies

- [Zero Liability and Attorneys' Fees Awarded to Engineering and Design Firm - Construction Litigation](#)



## Representative Matters

- Obtained a favorable ruling for one of the largest privately owned construction companies in the United States in an arbitration proceeding involving complex contract and payment issues.
- Obtained a multi-million-dollar settlement for an owner against a general contractor for defective roofing work at a prominent religious facility.
- Represented the renovation contractor in a multi-million dollar dispute arising out of costs incurred and delays suffered in the clean-up of a Formerly Utilized Sites Remedial Action Program (FUSRAP) site in Baltimore, Maryland.
- Appointed by a Federal Court to serve as Liaison Counsel to contractor defendants in multi-district litigation comprising more than 80,000 claimants who allege injury due to exposure to formaldehyde while living in travel trailers and other emergency housing provided by FEMA following Hurricanes Katrina and Rita. Obtained a defense verdict in a two-week "bellwether" federal jury trial, further resulting in the dismissal of the Firm's client from a second bellwether prior to trial. Defended two contractor defendants in the multi-district litigation.
- Obtained summary judgment in excess of \$1 million for a general contractor's unpaid retainage relating to work at a wastewater treatment plant.
- Represented a multi-billion-dollar international construction company in connection with a federal class action and multiple state lawsuits concerning mass tort claims allegedly totaling hundreds of millions of dollars.
- Represented an international building products manufacturer in the defense of thousands of class action claims associated with its allegedly defective Chinese-manufactured drywall. The multi-district litigation was assigned to the Eastern District of Louisiana, and involved complex issues regarding construction, product liability, and international law. After conducting several bellwether trials, a settlement was reached.
- Won a full defense judgment in a multimillion-dollar trial in federal court involving personal injury arising from the construction, installation, and maintenance of a hotel's facilities.
- Provided construction counsel in connection with \$80 million in delay and overhead claims associated with the allegedly defective design of a nuclear materials storage facility.
- Represented a joint venture entity that constructed a \$900 million automobile manufacturing facility in the Southeast. Assisted in all phases of project including contract negotiations with owner, subcontractors, vendors, suppliers, and local, state and federal agencies.
- Retained by a worldwide energy services company and its power generation subsidiary to perform a risk and condition assessment of a suspended \$241 million project involving the design and supply of boiler islands for a coal-fired thermal power plant located in Tanjung Jati B, Indonesia. Analyzed relevant contracts and documents to provide comprehensive advice to clients' management and counseled in decisions regarding the possible resumption of the project.

- Represented a large steel producer in the closure of an existing mill and relocation of equipment, facilities and personnel to another site within Southeast. Assisted in all phases of project, including contract negotiations with subcontractors, suppliers, vendors and local, state and federal regulatory agencies.
- Lead construction counsel for internationally-known snack food company in connection with the design and construction of its principal manufacturing facility.
- Represented the owner in the procurement of property and construction of public/private golf course in Southeast.
- Represented designer/builder of aquarium facility in Taiwan.
- Represented the owners and developers in procurement of suitable sites and construction of light, medium and heavy commercial, retail, medical, industrial, recreational and luxury resort projects throughout the United States.