

## Construction Law

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Best & Flanagan's seasoned construction litigation team adopts a novel approach to the resolution of construction claims: we listen to our clients, take a hard look at the facts and then act both boldly and nimbly to drive a resolution. Our team represents a wide range of parties in the construction industry: owners, developers, general contractors, subcontractors, suppliers, risk managers and captive groups. We work on public, private, hybrid, commercial industrial and multi-family residential projects for both public and private and hybrid projects.

We proactively manage our clients' issues through contract negotiations. We preserve and prosecute their rights to payment, address performance issues and resolve construction defect claims through direct negotiations, mediation, arbitration and litigation. While our clients and their work are varied, our goal is the same: deliver the best service.

We never follow a template when representing our construction clients. Instead, we approach each client and issue with the mindset of what is the best resolution and how can we best achieve that resolution. Our team draws from decades of experience that allows us to efficiently evaluate a situation, have a candid discussion with our clients about the strengths and weaknesses of their positions and develop an effective strategy to drive the matter to resolution. We are strong advocates and adept at achieving resolutions through direct negotiations; however, our team is comprised of litigators and we remained poised to try every case to judge or jury.

### Experience

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- > Contract Negotiation
- > Contract Disputes
- > Bid Protests
- > DOT Claims
- > Construction Defect Claims
- > Mechanic's Liens
- > Payment and Performance Bond Claims
- > Payment Disputes
- > OSHA Citations and Violations
- > Personal Injury and Property Damage Defense
- > Insurance coverage

### Client Stories

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A local construction attorney referred a general contractor that was facing termination for default on a project, a claim against its performance bond, back charges and claims for defective work. They had not been paid in quite some time. Our team stepped in and facilitated the agreement necessary to put the project back on track and procure payment for the client. We also retained world-class engineers to evaluate the project and determine the root causes of the alleged defective work. We used the expert reports to both defeat the claims of defective work and the claim against the performance bond, as well as to affirmatively pursue our client's claims for payment. After intense negotiations, we were able to secure payment for our client, obtain a release of claims and avoid a protracted and

costly arbitration. The intangible benefit of putting the matter behind them without a lengthy and highly contested arbitration meant almost as much to the client as the monetary result.

A highway heavy contractor turned to our team upon being notified of its award of a multi-million dollar contract. We immediately stepped in to review the proposed contract, negotiate out unfavorable and onerous provisions and obtain clarification on vague, ambiguous or conflicting provisions, which the Owner readily supplied to avoid misunderstandings on the project. We also educated our client about key contract provisions, especially those pertaining to notice, that require strict adherence or the right to payment or an extension of time is waived. Our actions were simple and we perform them for clients on projects of every size and magnitude. For this client, our involvement helped them to better understand their rights and obligations under the contract, avoid problems from the onset, and deliver a much better project.

After discovery of water infiltration on multiple stories and multiple surfaces of its multi-million dollar residential and commercial complex, the owner turned to our team for counsel. We inspected the site and witnessed the water infiltration first hand. We retained quality experts to identify the cause of the water infiltration, the damages caused by the water and the scope of repairs. When the parties responsible for the construction failed to address the situation to our client's satisfaction, we did not hesitate to commence litigation. While the discovery process was intense, it was effective and many of the subcontractors were agreeable to settlement promptly thereafter. Our team built a war chest to proceed to trial against the remaining contractors; however, we never lost sight of the opportunity to resolve the case. Due to our hard work and commitment to our client, their recovery was substantial and they were able to settle their claim on their terms. Our involvement did not end there. We stayed with the client through the completion of the repairs, showing our commitment to the client from start to finish.

## Related Practices

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Construction Litigation, Arbitration & Mediation

Litigation

Municipal Law & Land Development

## Firm News/Articles

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- › David Krco To Speak at 2023 Construction Summit
- › Fifteen Best & Flanagan Attorneys Recognized as 2022 Super Lawyers and Rising Stars
- › Best & Flanagan Attorneys Recognized as 2021 Super Lawyers and Rising Stars
- › Ten Best & Flanagan Attorneys Included in The Best Lawyers in America® 2021 Edition
- › Twenty Best & Flanagan Attorneys Recognized as 2020 Super Lawyers and Rising Stars
- › MPCA's flexibility regarding environmental compliance during the COVID-19 pandemic
- › Best Lawyers in America 2019 List Includes Seven Best & Flanagan Attorneys
- › Ten Best & Flanagan Attorneys Named 2019 Minnesota Super Lawyers
- › Five Best & Flanagan Attorneys Named to 2019 Rising Stars List
- › Six Best & Flanagan Attorneys Named to 2018 Rising Stars List
- › Nine Best & Flanagan Attorneys Named 2018 Minnesota Super Lawyers
- › Karolina Hoerl and Kyle Hardwick Join Best & Flanagan
- › Ten Best & Flanagan Attorneys Named 2016 Minnesota Super Lawyers
- › Five Best & Flanagan Attorneys Named to 2016 Rising Stars List

## Related Professionals

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- › Justin Short, Attorney
- › Timothy Sullivan, Attorney
- › Kyle Hardwick, Attorney

- › Helen Sullivan-Looney, Attorney
- › Elizabeth Cox, Attorney
- › David Krco, Attorney
- › John Sullivan, Attorney
- › Michael Stephani, Attorney