

Construction Law

Cozen O'Connor not only knows construction law—we know the construction industry. We understand the economics, culture, language, and technology that underlie modern building projects.

With more than 40 attorneys practicing in 10 offices throughout the United States, Cozen O'Connor's Construction Group has the depth and geographical reach to handle our clients' most complex problems in the United States and abroad. The Construction Group includes attorneys who are ranked nationally by leading peer-reviewed publications, including *Chambers USA*, *U.S. News/Best Lawyers*, and *The Legal 500*. In 2020 the group was also recognized as Law360 Construction Group of the Year.

Our attorneys have been in the field and on work sites for more than 40 years, so our legal advice is grounded in that direct, practical experience. We anticipate problems, recommend creative solutions and structure practical agreements. We listen to clients' specific needs because a "win" can mean different things in challenging construction and legal environments. Whatever the goal, we efficiently analyze the substance of construction-related claims, help our clients respond in a decisive fashion, and communicate effectively with all parties, from ironworkers and masons to engineers and experts.

Our lawyers are experienced in mediation and other alternative dispute resolution techniques. But when a fair resolution is not possible, Cozen O'Connor's construction litigators are prepared to go to trial. We have successfully tried cases in state, federal, and international venues, earning a national reputation for skill and tenacity in the courtroom. In fact, the Construction Group is chaired by one of the few construction litigators ever invited to be a Fellow of the American College of Trial Lawyers.

And when construction matters intersect with other disciplines, the Construction Group draws on the resources of a full-service, international law firm. Our construction clients benefit from experienced and integrated corporate, environmental, labor and white-collar practices, among others. In addition, the firm's nationally recognized insurance team regularly advises construction industry leaders on alternative insurance coverage programs, liability and risk review, coverage issues, and claims.

List of Services

The Construction Group's lawyers provide the full spectrum of services necessary to serve owners, contractors, construction managers, architects, engineers, subcontractors, and suppliers, including:

Project Development

- Counseling on project delivery system
- Preparation of bid documents
- Formation of owner- or contractor-controlled insurance programs
- Formation of captive insurance programs
- Contract drafting and negotiation

Project Counseling and Dispute Avoidance

- Claim evaluation and preparation
- Contract, change order, and claim review
- Project monitoring and assistance with early claim resolution
- Client education programs

Litigation/Alternative Dispute Resolution (ADR)



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Related Practice Areas

- Commercial Litigation
- Italy Practice
- Product Liability
- Surety
- White Collar Defense & Investigations

Industry Sectors

- Real Estate & Construction

- Breach of contract or contract interpretation
- Defective specifications or design
- Construction defects and failures
- Payment disputes
- Bid, payment, performance, and other surety bond claims
- Mechanic's liens
- Delay, disruption, acceleration, inefficiency, and interference claims
- Defaults and terminations
- OSHA and Americans With Disabilities Act (ADA) compliance

Experience

Resolved a long-standing and hard fought construction defect case on behalf of the boards of three condominiums, securing an agreement from the developer-defendants to perform approximately \$12 million of bonded remedial work, plus a cash settlement to cover the clients' expenses. This case was particularly challenging because the buildings in question sustained flooding during Hurricane Sandy, giving the defendants an argument that the defects at issue were caused by the storm.

Won summary judgment on behalf of a construction manager as defendant in a breach of contract action centering on allegations that window leaks and improperly installed insulation compelled the plaintiff to give \$1.4 million in rent credits to a tenant and to reconstruct a wall of the 89,000 sq. ft. building at issue. The client repaired the minor leaks, and discovery revealed that the lease did not require that rent credits be given and that the client was not given an opportunity to inspect the allegedly faulty insulation before the wall was reconstructed. Discovery further revealed that the tenant had been in arrears from the inception of its lease, leading us to argue that the plaintiff issued the credits in an effort to recoup the arrearage from the client. In granting summary judgment in the client's favor, the court found that that the lease did not require the rent credits to be given, and thus they were a nonrecoverable voluntary payment; that the insulation claim was made outside of the warranty period of the construction contract; and that the plaintiff spoliated the insulation evidence, thus precluding the claim for replacing the insulation.

Secured a significant victory in the Commonwealth Court of Pennsylvania on behalf of Allan Myers, LP, a non-union construction company that filed a bid protest with the Pennsylvania Department of Transportation (PennDOT) challenging a provision in a project solicitation requiring that all contractors execute a Project Labor Agreement (PLA) with local unions, hire labor through local unions, and be bound by the unions' collective bargaining agreements. PennDOT dismissed the bid protest, and we successfully appealed that decision, with the Commonwealth Court unanimously holding that the PLA violated Pennsylvania's competitive bidding laws and setting a new standard for the use of PLAs. This is the first case in which a Pennsylvania court has not upheld a PLA.

Negotiated the resolution of respective delay claims of the owner-developer and construction manager arising out of the construction of a high rise, luxury condominium tower in New York City.

Negotiated the resolution of respective delay claims of an owner-developer and construction manager arising out of the construction of a mixed-use tower in Indianapolis.

Drafted and negotiated a \$33 million design-build agreement in connection with the design and construction of a five-star hotel in New Orleans.

Drafted and negotiated a \$40 million guaranteed maximum price agreement in connection with the construction of a hotel in Philadelphia.

Drafted and negotiated, on behalf of the design-builder, all contract documents with the owner,

architect, general contractor, and subconsultants in connection with the design and construction of a new health sciences building, valued at more than \$10 million, at a university in Pennsylvania.

Drafted and negotiated an \$80 million guaranteed maximum price agreement in connection with the construction of a mixed-use high rise in Raleigh, N.C.

Drafted and negotiated construction and design services contracts for projects located throughout the United States on behalf of international direct-to-consumer retailer headquartered in Pennsylvania.

Prosecution of private developer's claims in excess of \$100 million arising out of rebuilding of the World Trade Center towers in New York City following the 9/11 attacks and stemming from public entity's delays in turning over the project site. Arbitration resulted in an award in excess of \$140 million.

Defense of concrete contractor in connection with the tragic collapse of the Tropicana parking garage in Atlantic City, N.J., both in OSHA proceedings and in extensive multi-party litigation in state court. Following mediation, all matters were settled.

Prosecution of claims and defense of \$50 million counterclaim on behalf of a major Chicago general contractor and six subcontractors arising out of the condominium conversion and upgrade of the historic Palmolive Building in downtown Chicago. Arbitration resulted in the dismissal of the developer counterclaim, a near full award, and the award of costs and attorneys' fees to the general contractor.

Prosecution of natural gas transmission pipeline contractor's claims for contract balances and wrongful termination damages arising out of pipeline project in Pennsylvania, which, following a four-week jury trial, resulted in dismissal of owner's \$21 million counterclaim, an award to contractor of the full amount of its claims in excess of \$23 million, plus statutory interest and penalties at a rate of 24 percent per annum, and attorneys' fees.

Defense of national developer and homebuilder in connection with multiple construction defect claims in excess of \$320 million in the aggregate relating to water infiltration and other building envelope issues.

Drafted and negotiated construction management agreement for new \$300 million hospital in New Jersey.

Drafted and negotiated design/build agreement for new \$160 million regional distribution center in Pennsylvania and provided project counseling and defense of subcontractor claims.

Defense of design professional/construction manager against \$50 million professional liability claim arising out of design and construction of an elevated light rail line in Philadelphia, Pa.

Prosecution of design professional's claims in the amount of \$32 million for extra work, delays, and disruptions arising out of design and construction of \$10 billion tunneling project in New York City.

Drafted various agreements and counseled pharmaceutical client concerning its \$1 billion biopharmaceutical facility in Ireland.

Prosecution of private owner's claims exceeding \$4 million and defense against EPC contractor's claims in excess of \$8 million arising out of the design and construction of natural gas pipeline in Mexico.

Presenting and defending claims on behalf of prime design/builder in a dispute arising out of the design and construction of the U.S. Government Mission in Taipei, Taiwan, between an American

design builder and a Taiwanese partnership, accused of abandoning the work and delaying the job. Following a bifurcated international arbitration, all issues of liability were resolved in favor of the design/builder and the matter was settled.
