

CONSTRUCTION DISPUTES

Our goal is to assist clients in successfully completing their construction projects, or their specific project roles, in a timely and profitable manner. While the foundation for achieving this goal lies in counseling the client in the contract negotiation or bidding process, disputes on the jobsite or after project closeout can frequently arise, despite the most careful planning. Such disputes may involve defective design or construction, failure to pay, lien claims (both public and private), delay claims, and payment and performance bond claims.

Our construction team has the experience, knowledge and resources to litigate or arbitrate even the most complex construction disputes. In many cases, our attorneys are able to counsel and assist clients in resolving disputes through direct negotiation or mediation, thereby avoiding the significant costs and delays associated with litigation or arbitration. In the event a dispute cannot be resolved in this manner, our construction team has a strong track record of successfully litigating construction disputes in state and federal courts, and in arbitrating such disputes, on behalf of owner-developers, construction managers, general contractors, trade contractors, suppliers, design professionals and sureties.

REPRESENTATIVE MATTERS

A Newark private school refused to pay our client, a construction manager, claiming that there was an agreement between the parties. Despite the absence of a signed contract, we were able to negotiate a substantial settlement for our client.

The general contractor on a Newark building project refused to pay hundreds of thousands of dollars to the mechanical subcontractor, citing the fact that the change orders were not signed by either the owner or the general contractor, and claiming that the HVAC system was defective. On behalf of the mechanical subcontractor, we demanded arbitration of our client's claims before the American Arbitration Association (AAA). The arbitrator ruled that the HVAC system was not defective and required the general contractor to pay all of the HVAC change orders.

A general contractor refused to pay a N.J. subcontractor \$500,000 for asphalt supplied on a N.Y. shopping mall project, claiming that it had not been paid by the owner. On behalf of the asphalt subcontractor, we filed a N.Y. mechanic's lien against the shopping mall, a suit in N.Y. to foreclose this lien and a separate suit in N.J. against the general contractor for breach of contract. We then intervened in the pending AAA arbitration between the owner and the general contractor. As a result of these efforts, and well before the arbitration concluded, the owner agreed to a settlement involving the payment of our client's invoice in exchange for an assignment to the owner of our client's claims against the general contractor.

CONSTRUCTION DISPUTES (Continued)

After it had sold all of the lots within a residential subdivision, a N.J. developer refused to pay the project's paving subcontractor. The developer, a limited liability company, had allegedly previously transferred all of its assets to related companies and individuals. On behalf of the paving subcontractor, our construction team discovered that the town was still holding a significant cash deposit from the developer. In an innovative use of the N.J. Municipal Mechanic's Lien Law, we filed suit against the town, resulting in the town's payment to our client of the full amount of the cash deposit. After the developer defaulted in our lawsuit against it, we obtained a judgment and subpoenaed a large array of financial documents from the developer and related companies and individuals to search for any fraudulent asset transfers. The case settled for the full amount of the claim at the subsequent deposition of the principal of the developer.

We represented our client, a Fortune 500 company, in connection with an action involving a breach of contract by a trade contractor on a major construction project. The trade contractor abandoned the project midway, claiming that it could not complete the work for the contract sum. We assisted our client in terminating the original contract, in its negotiations with the replacement contractors and in dealing with the numerous subcontractors who had filed construction liens on the project. We then filed a complaint against the trade contractor seeking damages for the added costs to hire a replacement contractor, costs to repair the defective construction, and costs of delay. We also sought to pierce the corporate veil against an affiliated entity, which was a large general contractor. The trade contractor filed an answer and counterclaim alleging that our client breached the contract by making changes during the construction phase. After defeating a motion to dismiss the claim against the trade contractor's affiliate, which involved piercing the corporate veil, our client reached a favorable settlement with the trade contractor and its affiliate.

Our construction team successfully represented the owner of an ice skating rink in a construction defect dispute involving multiple contractors. After lengthy and complex arbitration proceedings, our client obtained a substantial award that was subsequently confirmed by the Superior Court of New Jersey. Although one of the contractors initially appealed from the confirmation order, the contractor ultimately withdrew the appeal and paid our client the full amount of the award with interest.