

CONSTRUCTION LITIGATION

When problems arise with a construction project, Husch Blackwell maps a construction litigation strategy that aligns with our client's business objectives. Construction disputes are often complex, involving multiple parties, and our team works to ensure that matters are resolved as efficiently and effectively as possible.

We represent national real estate development companies, contractors and subcontractors, municipalities, architects, and engineering firms in delay, negligence, and breach of contract claims; bid protests; compliance investigations; and other disputes. Our construction litigation law attorneys have extensive experience and success with arbitrations and mediations and have handled lawsuits in state and federal trial and appellate courts nationwide.

Representative Experience

Arbitrated construction dispute for nonpayment by general contractor on federal project. Respondent denied all liability and asserted a counterclaim seeking delay damages, interest, and attorneys' fees. Arbitrator rejected opponent's claims entirely and awarded 100 percent of the damages sought, interest requested, and all of client's attorneys' fees, costs, and all related arbitration expenses (including expert costs). Circuit court rejected opponent's request to vacate award, confirmed award in its entirety, and added interest.



Husch Blackwell has helped us grow by providing excellent services in every area from entitlements, financing, acquisitions, contract drafting and dispute resolution. Their Construction & Design group has a depth of industry knowledge that gives us the confidence we need to pursue any opportunity in any state.

— Dan Fitzgerald,
CEO, Horizon
Construction Group

Contact Information

Eric J. Meier
414.978.5413
eric.meier@
huschblackwell.com

Hal J. Perloff
202.378.2354
hal.perloff@
huschblackwell.com

David B. Raymond
816.983.8156
david.raymond@
huschblackwell.com

Total award to the client was more than triple the settlement demand before arbitration.

Lead counsel in month-long arbitration and two related and contemporaneous state court matters on behalf of national construction company relating to dispute over new hotel project involving 30 subcontractors, the project owner, the landlord (municipality), construction lender, and others. Project owner was ordered to pay nearly \$700,000 and client's attorneys' fees.

Lead counsel defending construction defects claim, including allegations of deceptive practices and liability for the presence of toxic mold. Following two years of litigation, plaintiffs sought multiple six-figure judgments and claimed to have expended \$100,000 in attorneys' fees. Jury awarded plaintiffs nearly \$3,100 in damages, and court awarded plaintiffs \$1,200 in attorneys' fees.

Prosecuted on behalf of major metropolitan school district claims involving defective construction of numerous mobile classrooms that had caused fires to randomly occur in the buildings with favorable results. Recovered amount in excess of actual damages.

Spearheaded the collection and recovery of millions of dollars owed to national distributor of construction materials through contract, lien and bond claims in more than 20 states.

Concluded multiyear representation of construction management firm sued for defective construction of 21 movie theaters from California to Florida during the 1990s.

Plaintiff claimed some \$60 million in damages and matter was settled for less than 25 percent of what previous counsel had advised the client would be required to pay.

Obtained summary judgment on behalf of engineering, procurement, and construction (EPC) contractor client facing \$35 million subcontractor injury suit.

Successfully recovered several design defect claims on behalf of medical clinic under \$4M+ contract with design firm for hospital and cancer center in Wisconsin, increasing initial offered settlement by nearly 400 percent.

Represented roofing client in breach of contract and lien foreclosure when property owner acted as own general contractor and failed to pay for +\$200,000 of completed and contracted work, alleging defects with our client's work and violations of Wisconsin's Deceptive Trade Practices Act (DTPA). Court trial found no DTPA wrongdoing and awarded our client 100% of damages with 12% interest and attorney fees.

Successfully defended a general contractor in federal court, defeating a \$3.1 million delay claim resulting in a fractional \$3,100 award.

Obtained \$800,000 award representing general contractor wrongfully terminated by owner after performing cost-plus construction project.

Negotiated \$475,000 settlement representing municipal owner that incurred extra costs due to defective design.

Won jury verdict in favor of surety to collect project funds

after owner claimed contractor default.

Obtained jury verdict in favor of municipal owner defending against contractor's claims of concealed-conditions costs.

Successfully resolved multimillion-dollar complex construction defect case.

Represented architect in design services dispute involving project on campus of large public state university.

Worked as part of team defending architect on one of the largest construction cases in Wisconsin relating to the roof for Milwaukee Brewers' stadium, Miller Park.

Successfully represented an architectural firm in an arbitration where the owner alleged professional negligence and breach of contract, claiming more than \$3 million in property damage.

Successfully represented a civil engineering firm in an arbitration where the owner sought reimbursement for more than a million dollars in change orders issued to the general contractor.

Obtained summary judgment for a landscape architectural firm who was sued for its design of a recreational area after a bicyclist was injured on the path and eventually passed away as a result of the accident.

Negotiated numerous contractual agreements for owners, contractors, and design professionals in the construction industry.

Represented construction company for collection action against business owner and insurance company for fire

restoration work based on signed contract. Jury awarded client all collections sought, plus \$30,000 of punitive damages. Judge then awarded client \$100,000 attorney fees. Jury awarded nothing on business owner's \$500,000 plus counterclaim for construction deficiencies and delays in completion.

Represented construction contractor in protests involving contracts for (i) construction of Army Reserve Center in New York; (ii) renovation of Army barracks in New Jersey; and (iii) relocation of maintenance facility at national park in New Jersey.

Prepared and litigated a claim on behalf of the general contractor for the renovation of the Harry S. Truman "Old State" Building against the General Services Administration (GSA). The claim arose from the GSA's deletion of certain unit-priced restoration work. On cross-motions for summary judgment, the Civilian Board of Contract Appeals found that the GSA breached the contract and abused its termination for convenience rights, entitling the contractor to anticipatory lost profits.

Prepared and litigated a claim involving a deductive modification on a U.S. Army Corps of Engineers contract for the construction of military family housing at Fort Wainwright, Alaska. The matter settled at full claim value inclusive of statutory interest following the submission of motion for summary judgment at the Armed Services Board of Contract Appeals.

Represented an electrical subcontractor in a Miller Act

lawsuit against Prime Construction Management and its surety arising out of a Department of Homeland Security renovation project in downtown Chicago. Developed and presented a complex labor inefficiency claim and defeated efforts to stay the federal court proceedings. Negotiated a favorable pass-through agreement.

Defended a major national architectural/engineering firm in a design negligence lawsuit in a U.S. District Court of Maryland involving the failure of a ceramic tile flooring system for the Southwest Airlines Terminal expansion project at Baltimore-Washington International Airport. The matter favorably resolved following mediation.

Represented a design-builder in a GAO bid protest and a latent subsurface conditions claim on a privatization project for military family housing at Elmendorf Air Force Base in Alaska under the Military Housing Privatization Initiative. The GAO protest was favorably settled with the client receiving the award of the project, and the latent subsurface condition claim was resolved with the client recovering 90 percent of the claimed amount.

Represented a contractor before the General Services Board of Contract Appeals and in mediation on a build-to-lease project for the National Oceanic and Atmospheric Administration's headquarters campus on extra work claims relating to cyclical maintenance and improvement requirements. The matter was favorably resolved following mediation.

Represented design-builder in a GAO bid protest regarding

the award of an \$800 million multiple award contract for the Department of the Army's Total Engineering and Integration Services IV Program.

Construction counsel for a Chicago-based company, handling all construction related claims during its bankruptcy.

Obtained dismissal of mold-related toxic tort claims brought against mechanical subcontractor in Virginia state court arising from renovation of public school building.

Represented surety in fraud, mechanics lien, and False Claims Act (FCA) claims against general contractors related to default termination on Department of Housing and Urban Development (HUD)-financed project.

Successfully resolved trade secret misappropriation, computer fraud, duty of loyalty, and related federal and state employment claims in federal court for national construction company against former employees who started a rival business.

Represented national general contractor in state and federal government contracts compliance matters related to large National Guard construction project.

Represented general contractor in Fourth Circuit and Eastern District of Virginia federal court in trademark infringement and related employment and business torts claims against contractor's former top employee.

Defended regional construction subcontractor in Davis-Bacon Act administrative litigation initiated by U.S.

Department of Labor.

Won dismissal of Davis-Bacon Act and other related federal contracting and employment claims on behalf of two national construction companies and regional subcontractor in Fourth Circuit and Maryland federal court on grounds that such statutes do not create private cause of action for employees.

Defended federal construction company from Fair Labor Standards Act (FLSA)/wage and hour claims for allegedly unpaid overtime.

Defended security company in state court from subrogation-related contract and tort claims related to apartment fire at apartment complex under construction.

Won construction bid protest against WMATA (Washington Metropolitan Area Transit Authority).

Represented architect Hellmuth, Obata & Kassabaum in claim for \$3.89 million by construction manager's contract with owner. Trial judgment was reversed outright by Missouri Court of Appeals. First Missouri case to articulate doctrine applicable to claims against design professionals by contractors.

Persuaded seven subcontractors and their bonding companies to pay majority of funds needed to settle \$9.45 million lawsuit over hospital construction. Our general contractor client was held responsible for only small fraction of settlement.

Represented home construction company in defending

disqualification of plaintiff's law firm on appeal in First Court of Appeals at Houston.

Represented home builder in commercial dispute involving noncompliance with condition precedent and obtained affirmance of take-nothing judgment.

Represented protester in GAO protest matter arising from award of \$200 million Air Force contract for design, construction, and site operations services at Andrews Air Force Base.

Counseled international construction and engineering firm in litigation arising from cost overruns and delays affecting manufacture of stainless steel gloveboxes for Department of Energy Mixed-Oxide Fuel Fabrication Facility in South Carolina.

Represented international construction contractor and real estate developer in civil False Claims Act investigation and defense of qui tam litigation alleging violations of Buy American Act on military contracts.

Represented global engineering and construction management firm in federal court litigation of claims arising from multimillion-dollar contract for construction at Baltimore-Washington International Airport.

Counseled general contractor on development and resolution of delay and disruption claims arising under contract for renovation of original terminal facilities at Ronald Reagan National Airport.

Represented one of the country's largest private

homebuilders after a concrete subcontractor filed Chapter 11 bankruptcy after falling behind on paying its suppliers. The suppliers filed liens on more than 100 houses, which meant that each property lien had to be investigated and considered separately.

Represented general contractor in multiparty arbitration defending claims related to alleged defects in design and construction of five-story, 200,000-square-foot hospital.

Represented engineering firm in defending property damage claims related to design and construction of municipal waste water system.

Represented a water technology provider in a case where a construction rental company failed to pay its bill. The construction rental company went on the offensive attempting to bring down the amount it owed, but the Husch Blackwell team removed the case to federal court, where it was dismissed

Secured a favorable settlement on behalf of a general contractor in a construction defect lawsuit against a subcontractor involved in the construction of a golf course clubhouse at a luxury development in Montana.

Represented a general contractor at trial in Denver in a lawsuit against a subcontractor who failed to complete its scope of work and a surety who refused to take action pursuant to payment and performance bonds provided.

Successfully obtained a settlement on behalf of the developer of a new residential housing development in

which several houses were damaged as the result of extensive flooding caused by the engineering firm's negligent design of the storm sewer construction plans for the development.

Negotiated a settlement on behalf of a subcontractor that included entry of judgment against a builder and general contractor who failed to pay for labor, materials, and services provided.