



# Construction

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## OVERVIEW

Our Construction Group has extensive experience representing and advising private and public sector clients in all aspects of construction litigation, contracting and financing.

We represent owners, developers, contractors, design professionals, insurers and sureties in complex construction cases in state and federal courts, as well as in mediation and arbitration forums in numerous jurisdictions in New England and in other states. Our Construction Law Group handles all aspects of the construction process from land acquisition and project financing to post-construction litigation and claims settlement. Our clients benefit from the firm's considerable construction-industry knowledge and [litigation experience](#).

## Areas of Concentration

- Litigation, arbitration and mediation
- Higher education and public works
- Bid protests
- Payment and performance bond disputes
- Contract disputes
- Contract drafting and negotiating
- Construction accident
- Construction defect
- Construction finance negotiation and drafting
- Cost overruns
- CPM scheduling
- Delay and changed-condition claims
- Design defect
- Indemnity

- Insurance coverage
- Mechanics' liens
- OSHA investigations and compliance

## REPRESENTATIVE MATTERS

- After being brought into a large-scale higher education project as a crisis response related to delay, workmanship and failure to deliver in time for the academic year, AP&S successfully defended the institution, engaged the performance bond provider and oversaw project closeout to assist in delivery within budget and in time for planned occupation.
- In what *Lawyer's Weekly* deemed one of the 10 most important opinions of the year, AP&S successfully represented a project owner against a mechanics' lien claim. Upon subsequent removal to United States District Court for the District of Rhode Island, we argued on behalf of our client that any state statutory provision allowing for the unilateral voidability of arbitration provisions interferes with and is contrary to the Federal Arbitration Act, thus allowing for arbitration in the forum of our client's choice.
- We successfully defended the City of Providence, R.I., in Superior Court against a \$4 million changed-conditions claim relating to a city pier construction. The decision was upheld on appeal by the Rhode Island Supreme Court.
- Favorably resolved case against temperature-control room supplier for catastrophic personal injuries and \$20 million property damage claim arising from explosion at biotech laboratory in Cambridge, Massachusetts.
- Our successful work in arbitration for the Town of Coventry resulted in a minimal award against our client—substantially less than its prior settlement offer – in a \$1 million cost-overrun and changed-conditions dispute over a sewer project.
- We successfully defended a national site contractor in a multi-party, \$15 million lawsuit involving the Lynn Classical High School in Lynn, Massachusetts.
- We are representing a generator supplier in the United States District Court for the District of Massachusetts in a multi-million dollar delay-claim arising from a federal construction project in Columbus, Ohio.
- For building products manufacturer Senergy, Inc., defendant in a \$20 million defective product lawsuit, we filed a motion to dismiss that enabled our client to settle its liability for \$350,000 – only two percent of its exposure. Other defendants paid the balance of damages.
- AP&S is representing a liability insurer in connection with the 2006 scaffolding collapse at Emerson College in Boston.

- We have represented national lenders, including HSBC and Wells Fargo Bank, in connection with construction financing for residential, office and retail projects in Boston and numerous other localities in New England.
- In a case involving faulty septic system design and installation, we were successful in obtaining a \$1 million settlement for a national residential real estate developer.
- Represented an international product manufacturer in \$5 million property damage claim involving a ruptured water line in Cambridge, Massachusetts.
- Represented surety in completion of multiple water treatment facilities in New England.
- Represented surety in completion of FAA sound proofing projects at airports in various states and subsequent collection of remaining contract funds.

## SEMINARS / PUBLICATIONS

### Seminars

- James A. Hall, Lecturer on mechanics' lien law/construction litigation for RI Bar Association and NBI.

### Publications

- James A. Hall, [Although Unlikely to be Immediately Adopted Elsewhere, A Recent Tennessee Decision Regarding an Owner's Liquidated Damage Claim Should Serve as a Wakeup Call](#), JD Supra, January 2013.
- James A. Hall, *Rhode Island Amended Mechanics' Lien Statute*, Construction Lending News, Vol. 27, Second Quarter.
- Richard R. Beretta and Geoffrey W. Millsom, Rhode Island Chapter of the ABA Performance Bond Manual.

## AWARDS

Rated Tier 1 Metropolitan "Best Law Firm" by U.S. News-Best Lawyer.

