

FOULSTON

ATTORNEYS AT LAW



CONSTRUCTION

OVERVIEW

Foulston Siefkin's construction practice group provides a complete range of legal services to design professionals, contractors, subcontractors, suppliers, construction managers and owners for commercial, industrial and residential projects. Attorneys in the practice group assist construction industry clients with highway, power plant, waste water and water treatment plant, office building, hospital, hotel, manufacturing facility and residential construction projects, from their conception through final completion and any dispute resolution. One of our attorneys is a graduate architect and brings unique expertise and understanding to the problems facing the construction industry. With assistance from other Foulston Siefkin attorneys, our goal is to meet our construction industry clients' every legal need.

AREAS OF REPRESENTATION

Contract Drafting and Negotiation

We counsel with contractors (both prime and sub), design professionals, and owners in the development of project-appropriate contracts for projects of all scales.

Professional Errors & Omissions Matters

We regularly defend architects and engineers from both insured and uninsured malpractice claims involving personal injury, property damage, and economic loss.

Construction Change Negotiations

We counsel with contractors and owners in evaluating the cost and schedule impact of differing site conditions, cardinal changes, project delays, and owner-directed changes.

Construction Defect Litigation

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At Foulston Siefkin trial work – whether in litigation or arbitration – is a hallmark of our practice. Our construction group not only prepares but also frequently tries construction defect cases. Recent experiences include disputes over failed roofing and other building enclosure systems, direct buried system insulation; heating, ventilating, and air conditioning systems; wastewater treatment equipment; electrical generating equipment; and digital controls.

Government Contracts

We represent contractors and subcontractors in government contract claims before Kansas Department of Transportation, the U.S. Court of Federal Claims, and the U.S. Boards of Contract Appeals.

Construction Insurance Matters

Our insurance expertise includes the interpretation of and, where necessary, litigation over, commercial general liability (CGL) coverages and exclusions for contractors.

Professional Licensing and Discipline

We represent Kansas architects, engineers, and surveyors in investigations conducted by and disciplinary proceedings before the Kansas State Board of Technical Professions.

RELATED LINKS

- [McGraw Hill Companies construction home page](#)
- [Engineering News Record, a McGraw Hill Company](#)
- [American Institute of Architects contract documents](#)
- [The Associated General Contractors of America](#)
- [The Associated General Contractors of Kansas](#)
- [The Wichita Area Builders Association](#)

EXPERIENCE

- Successfully defended a design defect and construction administration claim against the architect for a medical office building in *Newman Memorial Hospital v. Walton Construction Co., et al*, 37 Kan. App. 2d 46, 149 P.3d 525, (2007) rev.denied
- Defense counsel for the project design team in the successful trial court defense against a \$6.5 million economic loss claim (arising from RFI's) made by the general, mechanical, and electrical contractors on the Kansas State University Farrell Library renovation and expansion project.
- Counsel for the prime contractor and its surety in the successful defense of an \$11 million construction defect claim filed by the owner State of Kansas.
- Plaintiff's counsel in the successful 1998 federal court trial in *Hatch & Kirk Power Services Corp. v. City of Girard*, involving the expansion of a municipal electrical generating plant.
- Co-counsel to the owner in a \$15 million cost and schedule dispute over the construction of the Cardinal Health corporate headquarters in Dublin, OH.

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- Special counsel to the utility owners for evaluation of construction at the Wolf Creek Nuclear Generating Station.
- Converted a government termination for default to a termination for convenience, then established the basis for a bad faith termination claim, in *Industrial Coatings, Inc. v. United States*.
- Developed the design and construction contracts for Exploration Place, Wichita, KS

PUBLICATIONS

ISSUE ALERTS

2014

Why did the Lesser Prairie-Chicken cross the road?

2014 Kansas Legislature Redefines the Practices of Architecture, Engineering, and Landscape Architecture

2010

2010 Legislature Changes Prompt Payment and Alternative Delivery Statutes

2008

New Construction, Dealership, Franchise, & Transportation Contracts in Kansas Can No Longer Contain Commonly-Used Liability Indemnity Provisions

2007

2007 Legislature Sets New Rules for Payments on Public Projects

ARTICLES

2009

Chapter on Like Kind Exchanges

-KBA Handbook, Kansas Real Estate Practice and Procedures

New Contracts in Kansas Can No Longer Contain Commonly Used Liability Indemnity Provisions

-LJN'S Franchising Business & Law Alert

PRESENTATIONS

2011

Trends in Owner and Subcontractor Contracts (Construction Leadership Council)

2009

Contracts and Risk Management for Engineers (ACEC)

2008

Contracts and Risk Management for Engineers (ACEC)

2007

Contracts and Risk Management for Engineers (ACEC)

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