Construction & Surety

A Team Built for Every Project Phase

Successful representation in construction matters hinges on a comprehensive grasp of the legal intricacies of construction law and a nuanced understanding of the construction process itself. Our team has both, combining their real-world knowledge with decades of legal experience.

We represent the full spectrum of construction stakeholders—owners, contractors, subcontractors, architects and engineers, lenders, and more—and handle everything from complex contract negotiations and project financing to dispute resolution through mediation, litigation, and arbitration. We also regularly assist with contract administration to minimize potential issues throughout the lifecycle of a project and address delay, lien, and surety issues that regularly impact our clients.

And if litigation is necessary, as it often is in construction law matters, our team routinely handles complex, highly technical construction law disputes for clients in courtrooms across the United States, with a proven track record of success in projects spanning a wide range of sectors, such as airports, health care facilities, energy plants, and sports facilities, among others.

Proven Success: Delivering Exceptional Results

What really sets Barclay Damon apart is our team's trial-ready approach from the outset, which helps drive exceptional results even if a trial ends up not being needed. Examples of those results include:

• Successful representation of a major general contractor in achieving a favorable resolution in a fiercely contested and highly publicized case involving the Silver Spring Transit Center project in Montgomery County, Maryland. After four weeks of a jury trial involving highly technical issues regarding concrete construction, schedule analysis, and damages, the county dropped its multimillion-dollar claims and agreed to pay our client a very substantial payment million on the client's multi-million dollar affirmative claims.

• Regular representation of government owners in major infrastructure projects, including projects involving sewage treatment plants, highway and transportation work, and bridge construction.

• Representation of a merchant power company on a $533 million power plant construction project in Upstate New York in a series of complex arbitration proceedings. The hearing was divided into four phases, each focused on one of the construction areas in dispute, and involved extensive testimony as to power plant combustion turbine engineering, construction scheduling, construction craft labor productivity and ergonomics, meteorology/climatology, chemistry, power industry economics, and construction cost accounting. Our client successfully defeated 95 percent of the contractor claims, and arbitrators awarded the client $26,950,000 in liquidated damages.

• Representation of a phenolic foam roof-insulation manufacturer in defending RICO and products liability claims to reach a $1 billion nationwide class settlement.

• Successful representation of the owner of a historic hotel in achieving settlement of disputes related to construction at the hotel. We defended against 25 mechanics' lien claims brought by the general contractor and subcontractors, which totaled $18 million, and 12 lien enforcement actions.

• Representation of a national university in obtaining an arbitration award of $2 million for a design-defect claim for a failed natatorium roof and curtain wall connection system.

• Defense of the State of New Jersey in a lawsuit brought against the state by a major international contractor on a large Superfund site remediation project. The engineering firm that designed the project

was also made a defendant and cross-defendant. Partial summary judgments were rendered, forcing the contractor to settle.

• Representation of a hospital in defeating multiple claims for delay and extra work on a $90 million new facility.

• Representation of a specialty building-component manufacturer in a $250 million claim arising out of multiple alleged defects in a Manhattan high-rise building.

• Successful representation and a favorable settlement in mediation for an industrial construction contractor in a dispute involving the design and installation of baggage handling system and equipment at Washington Dulles International Airport.

• Representation of a public national real estate investment trust in a multiparty, complex lawsuit involving the construction of a mixed-use 19-story masonry building at a $300 million multi-use development project and claims of defective design and construction totaling more than $16 million. After extensive discovery, we obtained a favorable settlement in complex mediation.

• Representation of the general contractor on a $100 million San Diego naval hospital project in connection with a three-month complex jury trial brought by two subcontractors against the structural steel supplier, our client, and various sureties in federal court. We obtained a summary judgment dismissal of a multimillion dollar claim against our client, and then after a three-month jury trial and a successful defense of an appeal, our client was vindicated.

• Representation of a general contractor to the US Navy in a default termination case involving the Trident Submarine training facility in Georgia, where our client was terminated by default by the Navy after completing 85 percent of the project. After several successful trials before the Armed Services Board of Contract Appeals, the Navy withdrew its default termination and paid our client $11 million in a complete settlement.

• Representation of a principal owner of a closely held corporation in the building aggregates industry in several lawsuits following the sale of the corporation and alleging claims by our client against the other former owner for breach of fiduciary duty and claims by the other former owner against our client for fraud and self-dealing. The jury returned a verdict for our client for more than $2 million in actual damages plus punitive damages and denied all claims against our client.

• Representation of a curtain wall and window manufacturer in defending against a multiparty claim of defective design and manufacturing of a Manhattan high-rise building in excess of $40 million.

• Representation of a client in a $97 million dispute with a contractor for wanton and reckless breach of contract related to the cancellation of a 960-megawatt coal-fired power plant in the Midwest. After litigation in federal district court and an appeal, the parties then engaged in mediation that resolved the litigation.

• Representation of a subcontractor in the construction of a combined-cycle plant in Albany, New York, in a multimillion-dollar suit in US District Court in Denver, Colorado, resulting in a favorable settlement.

• Representation of an architect in a dispute involving steel plant construction issues.

• Representation and counsel for an owner for a sports stadium construction project.

• Representation of a municipality in defeating a bid challenge by a disappointed bidder and in making new law.

• Representation of an owner of a new retail store in defeating a contractor's claims for extra work in excavating a 200-foot rock face. Prevailed on counterclaims for twice as much as the original claims based on a geotechnical battle of the experts.

• Representation of many architectural and engineering designers in defeating claims of professional negligence across a wide range of projects and circumstances.

• Representation of an architect against a municipality that breached in bad faith a mediation settlement. Recovered the full amount of the settlement plus interest, attorney's fees, expert's fees, and arbitration costs.

• Representation of a disappointed bidder in obtaining $2 million against another bidder on an airport runway project where “sham” employees were utilized to evade subcontractor listing requirements and that tortiously interfered with business expectancies.

• Representation of a specialty trade contractor against a general contractor in collecting a $2 million award for extra and delayed work on a health care project.

• Representation of a specialty trade contractor against a construction manager in collecting a $2 million award for unforeseen conditions and engineering deficiencies on a large “fast track” site contract.

• Representation of a general contractor against an owner in obtaining a $1 million award for extra and delayed work.

• Representation of an owner regarding regulatory compliance issues relative to the construction of a capital improvement project.

• Representation of an engineering designer in defeating claims of professional negligence in connection with project signage.

• Representation of a window manufacturer in the successful defense of a product liability claim for personal injury in connection with product installation.

• Representation of a W/MBE inspection subcontractor in defense of claims arising from the adjudicated fraud of a pile driving contractor on a New York State bridge project.

• Representation of an international structural engineering company in negotiating numerous consulting agreements and subcontracts.

Barclay Damon: Let Our Know-How Secure Your Win

For winning results, our team offers real-world experience, deep industry knowledge, and a proven track record of success. Whether you're an owner, contractor, designer, or lender, trust Barclay Damon to be your partner and to deliver wins for your business.

Representative Experience

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- Obtained summary judgment dismissal of a complaint against a commercial real estate developer and local industrial development agency that sought to foreclose a mechanics' lien for over $250,000.