



Bart W. Reed

Partner

Seattle, WA

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Industries Serviced

Real Estate

Service Areas

Real Estate, Development & Construction

Construction and Design

Commercial Litigation

Condominium & Common Interest Community Development Law

Bar Admissions

Washington

Georgia

U.S. District Courts for the Western and Eastern Districts of Washington

U.S. District Court for the Northern District of Georgia

Education

Mercer University Walter F. George School of Law, J.D., 2000

University of Georgia, B.A., 1996, with honors; Presidential Scholar

Oxford University, Jesus College, 1994, with honors

ABOUT BART

Bart W. Reed is a partner in the firm's Seattle office, where he practices with the Real Estate and Construction group. With extensive experience in complex commercial and construction law, multistate litigation and ADR, Bart focuses his practice on construction and design issues and disputes, representing public agencies, private owners/developers, contractors, design professionals and sureties in diverse matters on both public and private projects. His experience covers a wide range of issues affecting design and construction clients, including contract drafting/negotiation, non-payment and surety claims, construction liens and payment bond claims, design disputes, construction defects, and scheduling issues in the defense and prosecution of delay/impact claims.

EXPERIENCE

Design and Construction Contract Drafting

- Assisted owners, developers, design professionals, contractors, subcontractors and suppliers in the review, formation and negotiation of contract documents, with specific emphasis on risk mitigation and allocation, for various private projects, including condominiums, apartments, low-income housing developments, and commercial and industrial facilities.
- Assisted owners, developers, and contractors in the development and negotiation of turnkey Engineering Procurement and Construction (EPC) contracts for renewable energy projects across the country.

Private Construction Litigation

- Legal counsel for multinational Washington-based technology company, with diverse involvement in the formation and negotiation of transaction

documents for real estate development and construction needs and the resolution of claims and disputes arising from data centers and other projects across the country.

- Favorably resolved multiple claims of defect, delay and impact, along with contractor termination issues, arising from large-scale apartment complex renovation project in Seattle, Washington.
- Successfully defended large regional civil engineering firm and favorably resolved multimillion-dollar design defect dispute regarding civil and infiltration design issues on industrial facility in Everett, Washington.
- Assisted general contractor in defense of multiple condominium defect claims and facilitated settlement and resolution of multimillion-dollar construction and design-related disputes between homeowners associations and project developers.
- Aided owner of industrial facility in achieving favorable settlement of additional compensation claims for delay and extra and changed work asserted by mechanical contractor, emanating from emergency work performed on owner's canola-processing plant in Minnesota.
- Successfully defended major national engineering firm as primary outside counsel in protracted multiparty case in Tennessee involving \$24 million dispute arising from sinkhole activity on construction site of Fortune 500 pharmaceutical corporation's distribution center. Case involved complex civil, structural and geotechnical engineering issues. Prevailed on motion to compel production of important post-construction and pre-litigation remediation geotechnical report from owner and, after hard-fought discovery and motion practice, achieved extremely favorable settlement (less than 4% of total hard-cost claim).
- Successfully defended real estate developer in Georgia in multimillion-dollar construction defect and professional negligence case where plaintiffs alleged injuries arising from significant water infiltration and mold infestation.
- Prosecuted and defended multiple large-dollar claims on behalf of large Chicago-based general contractor relative to major infrastructure projects in the Southeast, including summary judgment award disposing of multimillion-dollar claims from trade subcontractor on Alabama project based on successful state licensing and registration defense.
- Represented national architectural firm in case regarding multiple design and payment disputes and other contractual matters emanating from school projects in Atlanta, Georgia and achieved favorable disposition and monetary settlement of case during discovery phase of litigation.
- Facilitated resolution of numerous wage and hour claims arising from multiple projects for a large Washington general contractor.

Public Construction Litigation and Procurement Law

- Currently serving as Special Assistant Attorney General (SAAG) as counsel for the Washington State Department of Transportation prosecuting and defending claims in excess of \$600 million emanating from the Alaskan Way Viaduct Replacement Project in Seattle.
- Named Special Deputy Prosecuting Attorney for King County, Washington

and negotiated favorable settlement of various design, payment and public retainage claims between County and general contractor on Brightwater Conveyance Project.

- Prevailed in obtaining an award for full recovery of damages for developer client in Contract Disputes Act claim against U.S. Postal Service arising from multiple ground leases relating to properties in Tukwila, Washington.
- Represented and defended engineering services firm from claims asserted between public owner and general contractor on a water/wastewater treatment facility in King County, Washington.
- Defended national engineering firm and achieved favorable settlement of claims asserted by local Washington municipality concerning project administration and management services rendered on a roadway improvement project.
- Defended and prosecuted claims on behalf of multinational Canadian-based general contractor in connection with local county/state prison project. Successful mediation presentation resulted in favorable defense against county owner's assertion of liquidated damages and claims for withheld retainage and back-charges associated with alleged defects in facility's various commercial flooring systems. Obtained large monetary settlement amount from owner through third-party actions against multiple flooring subcontractors.
- Successfully handled multiple breach of contract, delay, labor inefficiency, impact, change order and payment claims for Division 17 finish-trade contractors (specializing in electronic security systems and related components) in connection with various state and county prison, courthouse and other public institution projects throughout the country, including California, Georgia, Kentucky, Maryland and Texas.
- Assisted multiple general contractor and subcontractor clients in their respective protests of competitive bids, as well as RFPs and RFQs, on projects throughout the nation achieving re-solicitations and eventual award of work on behalf of civil site-work and underground utility contractor on the Atlanta Beltline Project.
- Prepared, submitted and prosecuted claims and cases before various Boards of Contract Appeal and prevailed on direct and indirect cost claims, including impact, delay, labor inefficiency and change order claims, for large national electrical trade contractor.

Surety Law

- Prevailed on numerous Miller Act and "Little Miller Act" claims throughout the country, along with defense and prosecution of performance and bad-faith claims against and on behalf of large construction sureties issuing payment and performance bonds for state and federal projects.
- Defended and prosecuted payment and performance bond claims for and on behalf of major national surety relating to project completion and post-termination issues of contractor/principal arising from construction projects throughout the nation.

Appellate Practice

- *ESI Cos v. Ray Bell Constr. Co.*, No. 2008-CA-001756-MR, 2009 WL 4060478 (Ky. Ct. App. Nov. 25, 2009) – Overturned ruling of the Tennessee Court of Appeals after argument before the Kentucky Court of Appeals, after transfer of case to Kentucky, and prevailed on collateral estoppel issues emanating from large delay claim of Memphis, Tennessee-based security electronics contractor on prison project.
- *Dalton Paving & Constr., Inc. v. S. Green Constr. of Ga., Inc.*, 643 S.E.2d 754 (Ga. Ct. App. 2007) – Received favorable dispositive ruling for commercial developer and builder, affirming and reversing decision of trial court, on cases before the Georgia Court of Appeals involving appeal of arbitration award by subcontractor in dispute with general contractor and other related entities.
- *Hipes & Norton, P.C. v. Pye Auto. Sales of Chattanooga, Inc.*, 562 S.E.2d 729 (Ga. Ct. App. 2002) – Prevailed on appeal by overturning a trial court’s order denying an award of attorneys’ fees for a law firm client.

HONORS & ACTIVITIES

Professional Honors and Activities

- Recognized as a *Rising Star* (Construction Litigation), *Washington Super Lawyers*[®]
- Member of practice group nationally ranked Tier 1 for Construction Law, 2010-2019 | Construction Litigation, 2015-2019, by *U.S. News – Best Lawyers*[®] “[Best Law Firms](#)”
- U.S. Green Building Council/Green Building Certification Institute
 - Recognized and distinguished as a Leadership in Energy and Environmental Design Accredited Professional (LEED AP)
- American Bar Association, Construction Law Forum
- Washington State Bar Association Construction Law Section Council Member

Civic Activities

- Contributing Volunteer for numerous Habitat for Humanity projects
- Pro-Bono Volunteer for the Bainbridge Island Museum of Art
- Actively involved in Bainbridge Island Little League
- Member and Supporter, Washington Trails Association and The Mountaineers Club
- Blakely Elementary School Ed. Spec. Committee Member, Bainbridge Island School District
- Bainbridge Schools Foundation

INSIGHTS, PRESENTATIONS & PUBLICATIONS

- [“Here's What You Need to Know About Filing Construction Liens Against Condo Projects”](#) (coauthor), *Seattle Daily Journal of Commerce*, March 14, 2019
- [“The Construction Lien in Washington: A Legal Analysis for the Construction Industry”](#) (coauthor), Stoel Rives LLP, 2015 Edition (Updated 2019)
- “Approach Construction Claims Like a Pro,” Seminar for the Office of the Attorney General, July 25, 2018
- [“Can a Contingent Payment Provision Affect a Construction Lien Claim in Washington?”](#) Stoel Rives Ahead of Schedule blog, April 24, 2018
- [“Advance Contractual Lien Releases in Washington – An Enforceable Shield or Unintended Liability?”](#) *Daily Journal of Commerce*, Jan. 18, 2018
- [“Microsoft Planning Large Campus Renovation and Expansion Project in Redmond,”](#) Stoel Rives Ahead of Schedule blog, Dec. 13, 2017
- [“Washington Supreme Court Affirms Brightwater Decision Regarding Application of Olympic Steamship to Sureties,”](#) Stoel Rives Ahead of Schedule blog, July 26, 2017
- “‘Lien on Me’: Washington Construction Lien Statutes Applied to Four Scenarios,” WSBA Construction Section Annual Seminar - Washington Statutes Affecting Construction, Seattle, Washington, June 9, 2017
- [“‘Blurred Lines’: Important Caveats to Consider with Integrated Project Delivery \(IPD\),”](#) *Daily Journal of Commerce*, Jan. 20, 2017
- [“Calling All Owners and Contractors! Pay Attention to Disclosure Statement Requirement to Protect Against or Preserve Lien Claims in Washington,”](#) Stoel Rives Ahead of Schedule blog, Jan. 4, 2017
- “Solar Energy System Design, Engineering, Construction, and Installation Agreements” (coauthor), Chapter 4, *The Law of Solar Energy: A Guide to Business and Legal Issues*, Stoel Rives LLP, Fifth Edition, 2017
- [“‘Slip Sliding Away’: Recent Washington Court of Appeals Decision Further Erodes Economic Loss Rule and Expands Independent Duty Doctrine Against Design Professionals,”](#) Stoel Rives Ahead of Schedule blog, Aug. 29, 2016
- [“KIRO 7 Interviews Joe McCarthy on Pitfalls of Washington Condo Act – Developers Beware!”](#) Stoel Rives Ahead of Schedule blog, June 21, 2016
- [“Recent Survey Lands Integrated Project Delivery \(IPD\), But Are There Risks with IPD?”](#) Stoel Rives Ahead of Schedule blog, April 15, 2016
- [“Court of Appeals Affirms Brightwater Judgment, Reviews Law Regarding Differing Site Conditions and Surety Obligations,”](#) Stoel Rives Ahead of Schedule blog, Jan. 20, 2016
- [“Key Aspects of Joint Check Agreements,”](#) *Daily Journal of Commerce*, Jan. 15, 2016
- “Integrated Project Delivery (IPD): Key Considerations and Possible Pitfalls,” Northwest Construction Consumer Council (NWCCC) Annual

Conference, Everett, Washington, Oct. 21, 2015

- [“New Amendment to Washington’s Contractor Registration Act,”](#) Stoel Rives Ahead of Schedule blog, July 21, 2015
- [“Contract Conflict Bears a Cautionary Tale,”](#) *Daily Journal of Commerce*, June 19, 2015. Also published by *Idaho Business Review*, July 10, 2015
- “Washington Construction Liens: Key Considerations for Owners,” Washington State Bar Association Annual Spring Real Estate Update, Seattle, Washington, April 16, 2015
- “Tips and Traps in Construction Risk Management: Key Contract Considerations for Owners,” Northwest Construction Consumer Council (NWCCC), Seattle, Washington, Sep. 24, 2014
- “Don’t ‘Lien’ on Me: Managing Lien Risks for Owners and Lenders to Get the Deal Closed,” Stoel Rives LLP and First American Title Insurance Company, Seattle, Washington, July 15, 2014
- [“There Is a Darker Shade of Green,”](#) *Daily Journal of Commerce*, June 18, 2014
- “The Construction Lien in Washington: Key Considerations for Owners,” Stoel Rives LLP, Seattle, Washington, June 4, 2014
- “Pay Attention to Your Contract Terms and Scope – Recent Washington Supreme Court Decision Reshapes Independent Duty Doctrine,” Stoel Rives Ahead of Schedule blog, Dec. 16, 2013
- [“LEED Certification Challenges: The Future of LEED-igation?”](#) *Daily Journal of Commerce*, Oct. 16, 2013. Also published by *Idaho Business Review*, Nov. 4, 2013
- “Should Design Professionals in Washington File a Pre-Claim Notice to Protect Lien Rights? Yes!” Stoel Rives Ahead of Schedule Blog, July 2013
- [“Is Your Contractual Arbitration Clause ‘Unconscionable’ and Thus Unenforceable?”](#) Stoel Rives Ahead of Schedule blog, May 2013
- [“LEED-igation: Fact or Fiction?”](#) *Daily Journal of Commerce*, Feb. 2013
- [“Why You Should Pay Attention to Indemnity Clauses in Construction Contracts,”](#) *Daily Journal of Commerce*, June 2012
- “State Construction Projects in Georgia Go Green,” *Frameworks*, a Construction Suppliers Association Publication, Aug. 2011
- “LEED-igation 101: Understanding and Mitigating the Legal Risks Unique to Green Construction Projects,” *Professional Roofing*, June 2010
- “Getting Paid: Tricks and Traps for the Unwary When Utilizing Georgia Lien Law” and “Georgia Lien Law: Using the Sword and Shield Effectively,” Lorman Seminars, Atlanta and Savannah, Georgia, 2009–2011
- “It’s Not Easy Being GREEN: Issues and Risks to Consider When Participating on LEED or Other Green Construction Projects,” Lunch and Learn — in house presentations at Hendrick Phillips Salzman & Flatt, PC, Atlanta, Georgia, Sept./Oct. 2010
- “Brave New World of Public Contracting: Going Where the Money Is (or May Be)—and How to Find It!!” Associated Builders & Contractors of Georgia, Inc., Atlanta, Georgia, 2009
- “Something Old/Something New: Tracking Substantive Changes in the 2007 AIA Contract Documents and Other Standard Form Agreements,” Construction Law Expo, Georgia World Congress Center, Atlanta, Georgia,

May 2008