



Neal J. Sweeney

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Services

Litigation; Construction Litigation; Green Economy; Construction & Infrastructure

Industries

Construction & Infrastructure; Water & Wastewater

Neal Sweeney has practiced for almost 25 years exclusively in the area of construction law and public contracts, with further concentration in large public works projects. Some of his major cases involved Tren Urbano — San Juan, Puerto Rico's commuter rail system, a high-rise hospital in Los Angeles impacted by the Northridge Earthquake, one of the largest earth and rock filled dams in the United States, various projects at a Trident Nuclear Submarine base, and the Miami Performing Arts Center.

Mr. Sweeney has extensive experience in various forms of construction alternative dispute resolution (ADR) techniques, including dispute review boards, mediation and structured negotiation. He has handled claims, litigation and arbitration involving many federal agencies, including the Veterans Administration, GSA, Bureau of Prisons, U.S. Army Corps of Engineers, and other public and private owners.

Mr. Sweeney is listed as #1 in the 2011, 2012 and 2013 editions of *Chambers USA: America's Leading Lawyers for Business* for Construction Law and he was also listed in the 2009 edition. Mr. Sweeney was recognized in *The Best Lawyers in America*[®] for Construction Law in 2014 and the seven years immediately preceding. He earned recognition in *The International Who's Who of Business Lawyers* for 2009, 2011 and 2013 and in *The International Who's Who of Construction Lawyers* for 2010. Mr. Sweeney was named a Georgia "Super Lawyer" in Government Contracts in 2009 and in Construction Litigation in 2013 and the four years immediately preceding by *SuperLawyers* magazine. In 2011 and 2012, he was recommended by *Legal 500 US* in the area of Real Estate and Construction Law. Mr. Sweeney is AV[®] rated by Martindale-Hubbell.*

* CV, BV, and AV are registered certification marks of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell certification procedure's standards and policies.

Experience Highlights

Construction litigation for city sewerage district

Represented the construction company engaged in a multibillion dollar Deep Tunnel and Pollution Abatement Program to repair and expand the Milwaukee metropolitan area sewers, wastewater conveyance and treatment system. We represented the client in connection with contractor claims arising out of the construction of several deep shafts and the main conveyance and storage tunnel for the system some 300 feet below the City of Milwaukee. Known as the North Shore Tunnel, that tunnel was approximately six miles long and 32 feet in diameter. It was mined with a tunnel boring machine. Our representation included handling litigation in Wisconsin state court involving contractor claims for delay, inefficiency, defective design and differing site conditions arising out of slurry wall construction and ground freezing for temporary support of deep shafts. Those claims eventually were settled in mediation. The construction costs for the North Shore Tunnel eventually ran over the contract lump sum price. We led a team of industry professionals in an investigation of these cost overruns. As a result of that investigation, we determined that the program manager and design engineer bore a significant degree of responsibility for the cost overruns, due to inadequacies and deficiencies in the preparation of the plans and specifications. We then prosecuted a claim on behalf of our client in federal court against the tunnel's program manager and design engineer for damages related to inadequate preparation of the plans and specifications. That claim also was settled after mediation, with a substantial payment to our client.

Performing arts center project

Represents the construction manager in the resolution of multimillion dollars in claims related to alleged defective design on this \$300 million, performing arts center project.

Counsel for a large design/build/operate/maintain contractor

Represents a *Fortune* 100 design/build/operate/maintain contractor for a heavy rail mass transit system in the Caribbean. We serve as on-going counsel on this unique, eight-year construction project. Case is pending.

Construction litigation for transportation company

Represent the public owner on the largest construction project undertaken in the United States. We have been working with the owner's team, including local counsel, since 2005 defending major contractor claims involving differing site conditions, impacts and inefficiencies associated with excavation work and other alleged delays and changes. In the same manner as FIDIC-format construction documents provide, all project disputes are presented to a disputes review board (DRB). Our extensive DRB experience preparing, evaluating, presenting and defending claims has been particularly beneficial to the public owner.

EPC contract negotiations for industrial and energy company

Represented one of the largest industrial and energy companies in the world in extensive contract negotiations of an EPC contract for a clean energy project in the Southwest United States valued at \$2.5 billion and a companion \$1.1 billion, 15-year O&M contract. The project involves cutting edge clean-coal technology. Although a project finance deal, the project is also partially funded through Federal grant funds. As a result, the contract negotiations also involved accommodating extensive U.S. Department of Energy requirements and contract clauses.

Construction dispute representation for a U.S.- based construction company

Represented a Florida construction company in claims against the U.S. Army Corps of Engineers regarding The Seven Oaks Dam in Southern California. The Seven Oaks Dam was the largest civil works project under construction by the Corps at the time and was and still is the largest earthen dam ever built in North America. The client encountered differing site conditions and defective specifications during construction of the dam, and filed to recoup the extra costs it incurred. The first trial arose from the Corps' imposition of restrictions on sources of water to be used during construction of the dam. The construction company argued that the contract warranted that these water sources would be available, free of charge, for the contractor's use during construction. After a two-week trial before the Engineering Board of Contract Appeals (now part of the Armed Services Board of Contract Appeals), the board ruled in favor of our client. The firm subsequently represented the client in two more trials before the Board of Contract Appeals, which ran back-to-back for four weeks. These trials involved two claims for differing site conditions and defective specifications for the materials specified for the drain and for the downstream faces of the dam. After a month long trial, the Corps agreed to settle these claims through a highly structured mediation process. The Corps also agreed to mediate the client's largest claim which stemmed from the placement of 15 million cubic yards of material on the upstream face of the dam, and involved the interpretation of the specifications and boring logs applicable to the excavation and placement of the material, express and constructive changes to the work by the Corps, and differing site conditions at the borrow area. The mediation was successful, and the Corps ultimately agreed to resolve all of the outstanding claims on the dam. Our total recovery for the client on this project exceeded \$40 million.

Construction litigation claims for large supplier of hydroelectric equipment

Represent one of the world's largest suppliers of hydroelectric equipment and are presently defending and asserting claims involving a hydroelectric project in Minnesota.

Construction litigation for a real estate and construction-related services company

Represented a real estate and construction-related services company in a case involving a high-rise hospital in Los Angeles impacted by the Northridge Earthquake.

Construction litigation claims for supplier of hydroelectric equipment

Represent one of the world's largest suppliers of hydroelectric equipment and are presently defending and asserting claims involving a hydroelectric project near San Diego, California. The dispute involves claims exceeding \$30 million among the owner, designer, equipment supplier, and contractor.

*Experience gained by attorney prior to joining Kilpatrick Townsend

Publications, Articles and Speaking Engagements

Public-Private Partnerships in New York
NYC Seminar and Conference Center, January 16, 2014

2013 P3 Summit
May 14, 2013

Insurance Coverage and Alternative Project Delivery
4th Annual Transportation Construction Law and Regulatory Forum, October 25, 2012

2nd Annual Transportation Construction Law & Regulatory Forum
American Road & Transportation Builders Association (ARTBA), April 30, 2010

ARTBA Webinar Series: Risk Management and Dispute Resolution on Major Projects: Meeting the Challenges on P3 Design-Build and Multi-Prime Jobs
Webinar, August 27, 2009

Managing Transportation Projects to Avoid Legal Pitfalls
ARTBA Headquarters - Washington, DC, April 15, 2009

Government Contracts
2009 Construction Law Update, April 01, 2009

The American Council of Engineering Companies presents: Limiting Liability and Managing Risks Through Contract Provisions: Ceilings, Floor and Trap Doors
Webcast, February 03, 2009

Getting Paid and Protecting Your Interests in Today's Construction Market
Webcast, January 08, 2009

Government Contracts
2008 Construction Law Update, April 01, 2008

Prelitigation Advice For Change Order Claims
2005 Construction Law Update, October 05, 2005

Construction Law Update 2005
Aspen Publishers, Inc., October 04, 2005

Prelitigation Advice for Change Order Claims
2005 Construction Law Update, July 15, 2005

2004 Construction Law Update
Aspen Publishers, January 01, 2004

2002 Construction Law Update
Aspen Publishers, May 21, 2002

Design-Build Contracting with the Federal Government
2001 Construction Law Update, October 10, 2001

Construction Law Update 2001
Aspen Publishers, April 01, 2001

Owner Participation Required
2000 Wiley Construction Law Update, September 01, 2000

2000 Wiley Construction Law Update
Aspen Publishers, Inc., January 01, 2000

The General Contractor's Perspective
Design-Build Contracting Claims, September 01, 1999

Holding Subcontractors to Their Bids/Edition II
West Group, September 01, 1999

Who's in Charge Here?
Water Environment Federation, August 01, 1999

The General Contractor's Perspective
Aspen Publishers, July 15, 1999

Coordination Responsibilities on Multi-Prime Projects
Federal Publications Inc., September 01, 1998

Winning Strategies for Proving and Pricing Construction Claims
Wiley Law Publications, July 15, 1996

Winning Strategies for Proving and Pricing Claims
Wiley Construction Update, January 01, 1996

Keys to Success In Avoiding and Managing Claims
1991 Wiley Construction Law Update, January 01, 1991

Professional & Community Activities

Atlanta Bar Association, Construction Law Section, Chair (2010-2011)

American Arbitration Association, National Panel of Arbitrators, Member

American Bar Association, Forum Committee on the Construction Industry and the Public Contract Law Section, Member

Chastain Park Conservancy, Advisory Board Member

State Bar of Georgia, Member

Design-Build Institute of America, Southeast Chapter, Immediate Past President

Education

George Washington University, J.D. (1982)
cum laude

Rutgers University, B.A. (1979)
magna cum laude

Bar Admissions

New York (2010)

Georgia (1982)

Admissions

U.S. District Court for the Northern District of Georgia (1982)

U.S. District Court for the Northern District of Texas (1983)

U.S. Court of Appeals for the Eleventh Circuit (1990)

Supreme Court of Georgia (1982)

Superior Court of Georgia (1982)