

## Keith L. Richardson

### Partner

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### Services

Construction & Infrastructure  
Construction Litigation  
Government & Regulatory  
Government Contracting & Public  
Procurement  
Litigation

### Industries

Construction & Infrastructure

Keith Richardson focuses his practice almost exclusively on construction and government contracting law. Mr. Richardson regularly counsels clients concerning risk management on projects and the preparation of design and construction contracts. He also regularly counsels clients concerning the procurement, negotiation, and administration of their contracts. In addition to his transaction practice, Mr. Richardson mediates, arbitrates, and litigates a wide variety of construction disputes for owners, contractors, and subcontractors on public and private projects.

Mr. Richardson began his career as a structural engineer with John Portman & Associates, where he designed the structural components of high-rise office towers, hotels and commercial marts, and performed contract administration for the structural portion of the projects. He was a registered Professional Engineer in Georgia.

Mr. Richardson was recognized by *The Best Lawyers in America*® in 2023 and the six years immediately preceding for Construction Law. He was recommended in 2020, 2021 and 2022 by *Legal 500 US* for Construction. Mr. Richardson has been recognized repeatedly for Construction in *The International Who's Who of Business Lawyers*. He is AV® rated by Martindale-Hubbell.\*

## Experience

### Transactional and Project Counsel Experience

Major Airline Capital Improvement Programs: Represent a major airline concerning its multi-billion dollar construction and renovation of its Northeast and Western hubs. We drafted a suite of coordinated contracts using the various construction delivery methods, drafted design contracts, and drafted program managers agreements for the projects. We also have assisted in the drafting of program procedures and related form



documents for contract administration. During the projects, we provided counseling concerning the management and resolution of claims.

**Airport Capital Improvement Program:** Represented the Atlanta Hartsfield-Jackson International Airport as project counsel on its \$6 billion airport expansion program. As project counsel, we were involved in every phase of the program, including planning, selection of delivery systems, procurement of designers, contractors and suppliers, contract drafting and negotiation, contract administration, day-to-day advice on claim avoidance and mitigation, change orders drafting and negotiation, claims analysis and negotiation, and litigation. The program awarded hundreds of contracts for the four major elements of the program, including: (1) 5th Runway: Our team drafted and negotiated the design-build contract for the design and construction of the bridge in the 5th runway at Hartsfield-Jackson Atlanta International Airport (the only active runway spanning over an interstate highway). The project had a budget of approximately \$160 million. (2) Consolidated Car Rental Facility and Light Rail: We drafted the contract and represented the City in its procurement of a Construction Manager at Risk for the \$250 million CONRAC facility. We also drafted the contract and represented the City in its procurement of the \$200 million light rail train connecting the rental car facility with the terminal. The project was procured as a design-build-operate-maintain project. (3) International Terminal: We represented the City in all aspects of the procurement, design, and construction of a \$1.6 billion, 14-gate international terminal and its associated roadway and parking facilities. We advised the City on procuring a Construction Manager at Risk for the project using a phased approach to address the payment and performance bonding issues and drafted and negotiated the Construction Manager at Risk contract. We also assisted the City in terminating its original design team, procuring a new designer, overcoming a bid protest, and negotiating the contract with the new designer. (4) Renovation of Existing Concourses and Guideway Transit System: We represented the City in all aspects of the procurement, design, and construction of numerous contracts to renovate the five existing concourses at the airport while the concourses remained in operation. This included drafting a new contract with its vendor for the Automated Guideway Transit System which is a vehicular passenger transit system designed to move people from the Terminal to the Concourses. The train was provided using a design-build/EPC approach.

**Semiconductor Manufacturing Facility:** Represented a semiconductor manufacturer in procurement, drafting and negotiation of various contracts using the EPC, plus commissioning delivery method, design contracts, and supplier and installation agreements for its \$1 billion facility in the Northeast United States. During the construction of the project, we have acted as project counsel advising the client concerning risk management, proper project documentation, and dispute resolution.

**Petrochemical Tank Farm:** Represent a national pipeline owner in the drafting and negotiation of a \$50 million contract using the EPC delivery method for a tank farm and mixing facility in Louisiana.

**Solar Projects:** Represented several solar providers concerning the drafting, procurement, and negotiation of

EPC contracts for solar farms in several states.

Resiliency Facilities: Represented the manager of a leading airport in the drafting and negotiation of its contracts related to the design and construction of resiliency facilities to insure no loss of power as well as the maintenance and operation of the facilities for a 20-year period.

Chemical Process Facilities: Represented a leading chemical products manufacturer with the drafting and negotiation of design-build agreements for the expansion and construction of its facilities in Georgia and Virginia.

Superfund Cleanup: Represented a settling defendant concerning the drafting, procurement, and negotiation of its design-build agreement for the cleanup of a Superfund site as well as the related contracts required for the significant project.

CSO Tunneling Project: Represented a major metropolitan Northeastern utility concerning the final phase of its CSO tunnel project with a budget of almost \$500 million. We drafted its design-build contract for the project, including the unique underground contract provisions such as geotechnical baselines, DSC provisions, escrow bid documents and DRBs, and advised on the contractual allocation of risk.

Cement Facility: Represent a Turkish cement manufacturer concerning the construction of its grinding and packaging facility in Texas. We drafted the construction contract for the project as well as contracts for the purchase of the owner supplied major equipment. We also assisted the owner in the procurement and negotiation of the contracts for the construction manager. During the project we assisted the owner with properly documenting the project as well as the resolution of disputes on the project.

Tunneling Project: Represented the Hartford (CT) Metropolitan District Commission (MDC) Clean Water Project concerning its tunnel project. We were retained by the public owner to advise it on underground portions of this \$2 billion project, which includes two major hard rock tunnels. We provided assistance with drafting the contracts for the tunnels, including unique underground contract provisions such as geotechnical baselines, DSC provisions, escrow bid documents and DRBs, and advised on the contractual allocation of risk.

Pipeline: Represented a pipeline contractor concerning several projects in Ohio, Pennsylvania, and North Carolina. We drafted and negotiated several \$100+ million contracts with major pipeline owners and counseled the contractor during construction.

Mixed-Use Developments: Represented the developer of several mixed-used developments in Georgia and Ohio. We drafted and negotiated the design and construction manager at risk contracts and counseled the developer during the design and construction of the projects. There have not been any significant disputed claims or

litigation on the projects.

**Pharmaceutical Facility:** Represented the developer of a build-to-suit project for a pharmaceutical company. The project used the design-build delivery method. We negotiated the development agreement and drafted and negotiated the design-build agreement.

**Flooring Manufacturing Facility:** Represented the owner in its construction of a manufacturing facility that produced flooring materials. The owner expanded the manufacturing space of its pre-existing facility. We drafted the contract, assisted with the procurement, and negotiated changes with the low-bid contractor. The facility was built without significant claims or disputes.

**Automotive Parts Manufacturing Facilities:** Represented several owners in the construction of automotive parts manufacturing facilities in several states. The projects were constructed using the design-build, construction manager at risk, and design-bid-build delivery methods. We drafted and negotiated the contracts on behalf of the owners. The facilities were built without significant claims or disputes.

#### Dispute Resolution Experience

**Litigation Related to the Design of \$1 Billion International Terminal:** Represented the City of Atlanta in litigation with its former designer over claims concerning the new international terminal at Hartsfield-Jackson Atlanta International Airport. Because the new international terminal, as designed, could not be built within the construction cost limitations imposed on the project, the designer's contract was terminated for default. Claims in the litigation totaled more than \$150 million. The litigation was resolved in mediation with the City of Atlanta obtaining a significant recovery.

**Nuclear Power Plant Litigation:** Represented an EPC contractor in litigation in federal court who was responsible for the design and construction of two new nuclear power plant units in Georgia, the first new nuclear power plants to be constructed in the U.S. in 30 years. The claims, which were in excess of \$1.6 billion, were ultimately settled to the satisfaction of the client.

**Solar Power Plant Arbitration:** Represented the owner of a \$1 billion dollar concentrated solar power plant project in an ICC arbitration against an EPC contractor related to claims in excess of \$150 million arising from alleged design defects and performance guarantees. The dispute was ultimately resolved on the eve of hearings to the client's satisfaction.

**Dispute Related to Decommissioning of a Nuclear Plant:** Represented the owner of a nuclear power plant concerning its \$1.35 billion decommissioning project, including successfully resolving claims between the owner and decommissioning general contractor of over \$215 million related to the required scope of work.

**Northeast Tunnel Project:** Represented the Massachusetts Water Resource Authority in litigation involving claims arising from the construction of the 9-mile long outfall tunnel that was part of the Boston Harbor Project. The claims exceeded \$75 million and were resolved on the eve of trial.

**Arbitration for a European EPC Contractor:** Represented a European EPC contractor in its dispute with a European cement manufacturer concerning the addition of a new pyroline in a cement plant in Texas. The disputes in excess of \$65 million involved alleged defective design, active interference, failure to coordinate multiple contractors, delays, and inefficiencies. The dispute was resolved through arbitration with the client receiving a substantial award for its claims, defeating virtually all of the owner's claims, and being awarded its attorneys' fees and costs.

**International Arbitration Related to a South American Pulp Mill:** Represented a worldwide supplier of plants, equipment, and services for the pulp and paper industry in disputes arising from a \$2 billion pulp mill project in South America involving two separate ICC arbitrations.

**International Arbitration Related to Hydroelectric Power Plant:** Represented a consortium of European contractors, designers, and OEMs in a \$400 million ICC arbitration involving a hydro-electric plant and tunnel in Panama.

**Litigation for Airport Authority:** Represented the Massachusetts Port Authority in its alternative dispute resolution process and then litigation with the general contractor for the multimillion dollar, two-level roadways project around the operating terminals. The contractor asserted a claim against the owner for inefficiencies it encountered due to re-sequencing of its work and delays to the project. The matter was resolved without a trial.

**Arbitration for Condominium Developer:** Represented a condominium developer in its dispute with a national builder. The \$200 million project was constructed during the condominium marketing boom. During the project, due to economic issues, the focus of the project was to complete it as soon as possible. Once the project was complete, the developer then pursued recovery of more than \$40 million it had paid the contractor for changes during the project and the contractor asserted another \$25 million in claims. The dispute was resolved after 50 days of arbitration hearings.

**Hartsfield-Jackson Atlanta International Airport 5th Runway:** Represented the City of Atlanta in litigation of a \$100+ million claim concerning an underrun in the fill material for the 5th runway construction project at Hartsfield-Jackson Atlanta International Airport. The claims against the City of Atlanta were resolved favorably on summary judgment, which was affirmed on appeal.

**Ozone Water Treatment Plant:** Represented a large municipality in a substantial construction claim and assisted with contract closeout on its water treatment plant that included numerous claims and allegations of design



defects. After responding to the filed litigation, the parties entered into a structured alternative dispute resolution process and settled the matter prior to engaging in costly discovery and depositions.

Northeast \$500 Million Waste Water and Tunnel Project: Represented the public owner and was part of its project team from day one. In particular, the firm developed contract documents for the deep tunnel and combined sewer overflow program to control and treat waste water flows into a major Northeast bay area. The custom contract documents were developed from the “ground up” by the firm for use in lump-sum public bidding. The contract included a Disputes Review Board process to resolve disputes. The firm's early involvement and steady advice during the project helped deliver the project without any claims going to the DRB, within budget and on schedule.

Signature Bridge Project for General Contractor: Represented the general contractor on a multimillion dollar bridge project in litigation in the U.S. District Court for the District of Maryland. The matter involved delays in defects in the forms that had a significant impact on the project's efficiency. The general contractor's claims against the supplier were controlled by and limited by the Uniform Commercial Code.

Hydroelectric Power Plant Arbitration: Represented the United States entity of an European contractor in its dispute with the project's public owner. The project involved the refurbishment of four generators over a five year period. The claims were in excess of \$20 million and related to unforeseen conditions encountered by the contractor during the project.

## **Education**

Emory University J.D. (1993) *Order of the Coif*

Georgia Institute of Technology M.S.C.E. (1985)

Georgia Institute of Technology B.C.E. (1984) Civil Engineering, *with highest honors*

## **Admissions**

Georgia (1993)

## **Court Admissions**

U.S. Court of Appeals for the Eleventh Circuit

U.S. District Court for the Northern District of Georgia (1993)

## **Insights**

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Kilpatrick Townsend Attorneys Garner 36 Rankings on the 2022 International Who's Who of Business Lawyers



October 24, 2022

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August 18, 2022

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June 14, 2022

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October 29, 2021

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August 19, 2021