

# Construction Law Update

---

JUNE 2022

Gordon & Rees' Construction Group is pleased to publish the latest issue of our Construction Law Update, a quarterly take on trends of interest to design professionals, contractors, and developers throughout the country.

Second Quarter 2022

1. [Connecticut Appellate Court Confirms That Paid If Paid Clauses Remain Enforceable](#)
2. [Contractors' Right to Sue in Washington Requires Registration](#)
3. [The Importance of Engaging Design Professional Experts Early, with a Focus on Massachusetts Law](#)
4. [Gordon & Rees Construction Attorneys Making Headlines](#)
5. [Gordon & Rees Construction Law Blog](#)
6. [About Gordon & Rees' Construction Group](#)



By **Peter E. Strniste** and **Cassandra L. Sanchez**

In Electrical Contractors, Inc. v. 50 Morgan Hospitality Group, 212 Conn. App. 724 (2022), the Appellate Court affirmed the trial court’s finding that payment from the property owner to the general contractor was a condition precedent to the general contractor’s obligation to pay the subcontractor. Here, the plaintiff, an electrical subcontractor on a commercial construction project, sued the defendant, the general contractor, for nonpayment of over \$350,000. The subcontract between the plaintiff and defendant provided that “[the plaintiff] expressly agrees that payment by [the owner] to [the general contractor] is a condition precedent to [the general contractor’s] obligation to make partial or final payments to [the plaintiff] as provided in this paragraph . . . .”

To read a full, expanded version of this article, [click here](#).

[Back to Top](#)



By **John V. Leary**

**Summary:**

In Washington, contractors must be properly registered in order to pursue a legal action against a customer for breach of contract. *Dobson v. Archibald*, a February 2022 decision by the Washington Court of Appeals, reinforced how the governing statute – RCW 18.27.080 – does not simply create an affirmative defense but establishes a mandatory pleading prerequisite.<sup>1</sup>

To read a full, expanded version of this article, [click here](#).

[Back to Top](#)



By **Jay S. Gregory** *(with special thanks to attorney Brett D. Walker)*

In any Massachusetts case alleging negligence against a design professional, an expert witness on the topic of liability is a critical, early consideration. Given the expense of expert witnesses, counsel representing design professionals are wise to evaluate (1) the need for an expert, (2) the timing of the engagement of an expert, and (3) the scope of the expert's services.

To read a full, expanded version of this article, [click here](#).

[Back to Top](#)

On February 18, 2022, Reno Partner **Brian Walters**, with significant assistance from Las Vegas Senior Paralegal Cristina Pagaduan, obtained judgment for the firm's general contractor client after a seven-day bench trial on its affirmative claims for breach of contract and enforcement of mechanic's lien release bonds against a private residential developer defendant and its surety. Walters also obtained a judgment in the client's favor on the developer's breach of contract, delay, and construction defect claims. [Read more](#)

Construction Group Partner **Peter Strniste** obtained a complete defense verdict following a three week jury trial for a concrete supplier where a building owner asserted claims for more than \$2 million for Violations of the Connecticut Products Liability Act; 2) Breach of Implied Warranty; and 3) Violations of the Connecticut Unfair Trade Practices Act. The plaintiffs alleged that cracking and delamination of a 66,000 square foot concrete slab on grade was caused because the defendant provided concrete with air entrainment and knew or should have known that air entrained concrete should not be installed within a heated warehouse facility. [Read more](#)

---

Gordon Rees Scully Mansukhani has been ranked as the No. 4 construction law firm in the nation by *Construction Executive* in the magazine's 2022 ranking of *The Top 50 Construction Law Firms™*. [Read more](#)

San Francisco Partner **Lisa Cappelluti** presented at the 2022 West Coast Casualty Construction Defect Seminar May 12-13 in Anaheim, California. She co-presented a panel entitled, "Construction Trends of the Future and Their Impact on Construction Claims Risk Management and Coverage" on Thursday, May 12. [Read more](#)

New York Partner **Virginia Trunkes** has taken office as Co-President of Judges And Lawyers Breast Cancer Alert ("JALBCA") as of its 30th Anniversary Celebration and Awards Presentation Dinner on Monday, May 9. [Read more](#)

Birmingham Partner **Stacy Moon** authored "Getting Paid and Getting Credit for Paying," published by DRI's *For the Defense* in the March 2022 edition. [Read more](#)

On May 24, 2022, San Francisco Partner **Lisa Cappelluti**, Holly Davies of Campos EPC, and Julia Moriarty of Engeo presented a client webinar entitled, "Design/Construction Collaboration and Inclusion." A link to the presentation can be found [here](#).

On April 12, 2022, Louisville Partner **Angela Richie** and Of Counsel **Denise Motta** and Hartford Partner **Rich Green** presented a client webinar entitled,

"Manufacturing Security: Cost Effective Cybersecurity for the Steel Industry." A link to the presentation can be found [here](#).

[Back to Top](#)

The Gordon & Rees Construction Law Blog continues to post new content addressing topical issues affecting the construction industry throughout the country. From analysis of new court decisions, discussions of timely legislation, and commentary on real-world, project-specific issues, Gordon & Rees' Construction Law Blog provides insight on the issues that affect the construction industry now.

We invite you to visit the blog at [www.grconstructionlawblog.com](http://www.grconstructionlawblog.com) and see for yourself what we are up to. If you like what you see, do not hesitate to subscribe under the "Stay Connected" tab on the right side of the blog. There you can choose how you would like to be informed of new content (Twitter, LinkedIn, email, etc.). If you have any questions about the blog or would like to discuss further any of its content, please do not hesitate to contact us.

[Back to Top](#)

Gordon & Rees' Construction Group consists of more than 180 lawyers in offices nationwide. In 2019, the firm opened its 68th office, creating the world's first 50-state law firm. The full list of Gordon & Rees' offices and local contacts can be found [here](#).

Gordon & Rees' construction attorneys focus their practice on the comprehensive range of legal service required by all participants in the

construction industry – architects, engineers, design professionals, design joint ventures, owners, developers, property managers, general contractors, subcontractors, material suppliers, product manufacturers, lenders, investors, state agencies, municipalities, and other affiliated consultants and service providers.

We serve clients who design, develop, or build all types of structures, including commercial buildings, single and multifamily residential projects, industrial facilities, universities, hospitals, museums, observatories, amusement parks, hotels, shopping centers, high-rise urban complexes, jails, airports, bridges, dams, and power plants. We also have been involved in projects for tunnels, freeways, light rail, railway stations, marinas, telecom systems, and earth-retention systems. Our experience includes private, public, and P3 construction projects.

If you have questions about this issue of the Construction Law Update or our nationwide construction practice, [\*\*click here\*\*](#) to visit our practice group page or contact partner **Daniel Evans**.

Daniel E. Evans  
Gordon Rees Scully Mansukhani  
555 Seventeenth St.  
Suite 3400  
Denver, CO 80202  
(303) 200-6863  
deevans@grsm.com

[Back to Top](#)