



## Peter E. Strniste

### PARTNER

Boston

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### RELATED SERVICES

- Construction
- Commercial Litigation
- Construction Receivable Recovery
- Business Transactions
- Surety
- Construction Professionals

### OFFICES

- Boston
- Hartford
- New York

### OVERVIEW

Peter Strniste dedicates his practice to construction and surety law, business litigation, and the negotiation of all types of construction contracts. He is a member of the firm's Construction group, and he counsels clients on issues surrounding all aspects of construction projects. He routinely represents clients in the Courts of New York, Massachusetts and Connecticut.

#### Dispute Resolution

Peter has represented clients in both state and federal courts in a wide variety of litigation matters. He has served as a neutral arbitrator for the American Arbitration Association and has also appeared before various arbitration tribunals on behalf of clients. Peter frequently represents owners, developers, construction managers, general contractors, and trade contractors. He counsels them regarding claims

for breach of contract and warranty, defective and deficient plans and specifications, construction defects, insurance disputes, project delays, impacts and inefficiency claims, and wrongful terminations. He has represented owners, contractors, subcontractors, and some of the largest sureties in the country in actions involving bond defaults and defense of bad faith claims on both public and private projects.

Peter has a history of obtaining favorable results for his clients and is successful in resolving most cases without litigation or short of trial. Recently, he obtained a zero dollar settlement for a contractor client who faced a condominium association's multi-million dollar claim for defective work. He also obtained a favorable settlement for a contractor seeking compensation for delays and inefficiencies extending over a several year period of time on a large scale public construction project in New York. Peter also obtained a very favorable jury verdict for a contractor client following a five week jury trial involving competing claims which included defending against owner claims for defective and incomplete work, and also involved design deficiencies and obligations under the Spearin Doctrine.

Peter has also handled business torts and equitable causes of action and has obtained for clients such remedies as injunctions, orders to quiet title, and judgments of foreclosure of mechanics' liens and other security instruments. In addition to state and federal trial courts, he has represented clients before the Connecticut Supreme Court and the United States Second and Eleventh Circuit Courts of Appeals.

### **Contract Procurement and Project Delivery**

Peter routinely drafts and negotiates construction contracts for all types of project delivery methods including cost plus with a GMP, design build and lump sum. He is experienced at negotiating large construction, design and trade contracts in both the New York metro area and Boston, Massachusetts, where there are especially stringent city and state requirements for construction projects. Recently, he negotiated a construction management agreement and trade contracts for a \$150 million warehouse and distribution center in New York, securing favorable cost saving and compensation provisions for his client. Peter routinely negotiates and is familiar with all the industry contracts published by the American Institute of Architects, Associated General Contractors, and Engineers Joint Contract Documents Committee, and other organizations.

Peter frequently writes and presents on construction matters. He has been listed in The Best Lawyers in America® in the area of Construction Law since 2017, and has been selected to the Connecticut Super Lawyers list since 2014. In 2015, he was selected as a finalist for the Associated General Contractors of Connecticut, Industry Recognition Award – Service Provider of the Year.

## **REPRESENTATIVE EXPERIENCE**

### **Contract Procurement and Project Delivery**

- Represented State Agency in the negotiation of construction and development aspects of a \$150 Million Dollar Public Private Partnership agreement to redevelop pier to handle heavy-lift cargo and docking apparatuses to be used as a staging area to transport offshore wind components for the construction and operation of an offshore wind facility.
- Represented numerous construction managers and large trade contractors in the negotiations of American Institute of Architects (AIA) and other construction contracts for ground up and renovations projects valued between \$1 million and \$150 million.
- Representation of a construction manager in the negotiation of \$150 million cost-plus construction contract with guaranteed maximum price in connection with the multiphase construction of a warehouse and distribution center in New York. Successfully negotiated favorable provisions to client governing compensation for potential delays, right to change orders increasing the GMP, and the potential for millions of dollars of incentive payments.
- Representation of a construction manager in negotiation of workout agreement with a private developer, its lender, and over 15 subcontractors stemming from developer's failure to pay over \$5 million in contract proceeds and arranging for the successful remobilization contractors and subcontractors to the project with reaffirmation agreements from all subcontractors and vendors.
- Representation of contractor in the negotiation of agreement for the performance of upgrades for the U.S. Army Corps of Engineers' construction of a \$134 million Aegis Ashore Missile Defense Complex in Deveselu, Romania.
- Representation of Maplewood Senior Living in connection with new construction of a three-story, 98-unit, 92,000-square-foot senior living community on a 27-acre parcel of land in Southport, Connecticut.

## **Dispute Resolution**

- Represented Construction Manager in three-week bench trial before New Jersey Superior Court, Bergen County, of claims filed against the Owner of the American Dream Mall enforcing mechanic's lien against its leasehold interest in the mall and obtaining seven figure judgment and defeating claims that lien was grossly overstated and filed in bad faith. *Rectenwald Brothers Construction Co. v. Ameream, LLC*
- Successfully negotiated favorable settlement of claims on behalf of owner against construction manager for millions of dollars of property damage to adjoining properties in New York City during construction of high rise structure following the discovery phase of litigation in New York State Court.

- Recently obtained a very favorable arbitration award for a client following six days of hearings where he represented a trade contractor seeking compensation for extra work on a public construction project in the State of Connecticut. The trade contractor's scope of work included the removal of asbestos containing materials from a State Office Building as part of a substantial renovation project. Although the State originally characterized certain asbestos containing materials as construction debris that characterization later changed entitling the general contractor to payment of several million dollars in extra work. The general contractor rejected a similar change order request from the trade contractor concealing the State's approval of its change order. Following extensive briefing after hearings, the Arbitrator entered an Award in the client's favor on all counts rejecting the general contractor's counterclaims for damages arising from defective and incomplete work and project delays. In addition to awarding the client full compensation for the extra work the Arbitrator also awarded attorneys' fee, costs, statutory interest and assessed punitive damages against the general contractor for \$500,000.
- Representation of a construction manager in the defense of multimillion-dollar construction defect claims relating to the installation of a complex refrigeration system within a large grocery store, obtaining nuisance value settlement for client before trial and following discovery and disclosure of expert witnesses. This was a multiparty litigation before the complex litigation docket involving the owner, manufacturer, construction manager, designer, subcontractor, and various vendors.
- Representation of construction manager in the defense of multimillion-dollar construction defect claims relating to the construction of a parapet wall and roofing deck where the owner claimed water infiltration was the result of client's deviation from plans and specifications and faulty means and methods. Obtained a nuisance value settlement following extensive discovery and disclosure of expert witnesses and motion practice. This was a multiparty litigation before the U.S. District Court for the District of New Jersey, which was subsequently returned to New Jersey Superior Court where it settled following three days of mediation. Parties to the litigation included the owner, designers, and subcontractors
- Representation of construction manager in defense of multimillion-dollar construction defect action filed by a condominium association asserting nearly 100 building code defects that were claimed to be the result of defective construction. Obtained a zero dollar settlement for client, which included reimbursement for legal fees and costs after impleading the responsible subcontractors and the project designer and following extensive discovery and settlement negotiations.
- Representation of mechanical trade contractor in the prosecution of claims for additional materials (added fittings) and extra work against construction manager and project's mechanical engineer and architect in the United States District Court for the District of Massachusetts (Boston) based upon defective design and bid documents. Obtained favorable settlement for client following mediation.

- Dual representation of mechanical contractor and its sheet metal subcontractor in the prosecution of \$1.9 million claim seeking compensation for delays, inefficiencies, additional field and shop labor, and sheet metal poundage against Construction Manager and Project Designers where project completion time was extended by six months as a result of scheduling and coordination issues and deficient design documents. Case settled, following two day mediation, in favor of clients after limited discovery in litigation.
- Represented general contractor in the successful appeal of a motion for summary judgment against client in the New York Supreme Court. Case centered around a personal injury action where client's insurer denied coverage. Client's insurance broker was impleaded for negligently failing to procure proper insurance for client and initially obtained summary judgment which overturned.
- Representation of large steel trade contractor in action assertion of affirmative claims for delays and inefficiencies against structural engineer. Obtained favorable settlement for client after surviving motion to strike all claims based upon economic loss doctrine and depositions of defendants' engineers.
- Representation of a mechanical contractor in the prosecution of multimillion-dollar delay and inefficiency claims against a New Jersey school district and its designers, defeating "No Damages for Delay" provision asserted by way of summary judgment and obtaining favorable settlement for client following three days of mediation.
- Represented construction manager in claims against defunct retail owner's landlord for value of improvements made to the real property. Obtained a favorable settlement to client following the filing of mechanic's lien and settlement negotiations.
- Represented construction manager in action against retail owner's trustee in the United States Bankruptcy Court for the Eastern District of Virginia seeking the return of client's earned retainage as "trust funds" and not property of the bankruptcy estate. Obtained a favorable settlement to client following the initiation of an adversary proceeding and minimal discovery and motion practice.
- Representation of construction manager client and defeated owner bankruptcy trustees preference claims seeking the return of progress payments and retainage, obtaining voluntary dismissal of adversary proceeding in favor of client.
- Representation of a construction surety and obtained a summary judgment ruling against the bond principal and indemnitors, defeating claims of bad faith and obtaining judgment for all of client's losses, costs, and expenses pursuant to the General Agreement of Indemnity. Action was pending in the Connecticut Complex Litigation Docket.
- Presentation of an oral argument to the Connecticut Supreme Court on behalf of a town and construction contract surety and successfully obtained affirmation of lower court's decision finding that the town had absolute discretion under Connecticut's subdivision statutes to forego calling subdivision bond posted by developer.

- Defended corporation electing to buy out minority shareholders and obtained a 20 percent minority shareholder discount while defeating all claims of shareholder oppression and waste. Decision was obtained following a bench trial of several days which included presentation of expert testimony.
- Represented owner in various claims against construction manager and architect and obtained award in favor of owner following 13 days of arbitration before a three-arbitrator panel.
- Represented general contractor in pursuit of contract balance and retainage in court action against owner and defended against construction defect claims raised by owner allegedly valued at over \$2.5 million. Obtained a favorable verdict for client following a five-week jury trial in Connecticut Superior Court.
- Obtained a complete defense verdict following a three week jury trial for a concrete supplier where a building owner asserted claims for more than \$2m 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.

## PUBLICATIONS

- Author, Coronavirus: Who Will Bear the Risk & Cost for Construction Delays?, *Construction Business Owner Magazine*, 3/10/2020
- Author, Project Insurance: Builders' Risk?, *Schimenti Construction Company Newsletter*, Summer 2017
- Author, What is Builders' Risk and Who and What Does it Protect on a Construction Project?, *Construction Executive Risk Management e-newsletter*, 7/12/2017
- Author, Recipe for Successfully Navigating Project Financing Difficulties, *CONNstruction*, Winter 2016
- Author, Construction brings excitement, risk to Hartford," *Hartford Business Journal*, 10/19/2015
- Author, Owners and Contractors Are Wise to Be Covered, *Caldwell & Walsh Building Construction, Inc.*, February 2015
- Author, Allocating the Risks Associated with Project Delays, *Schimenti Construction Company, LLC newsletter*, Winter 2014

## PRESENTATIONS

- Speaker, *Deciphering and Navigating the Terms and Conditions of Industry and Modified Form Performance Bonds*, National Association of Surety Bond Professionals, 5/10/2023

- This seminar was well-attended by 130 surety bond professionals where Attorney Strniste reviewed the terms and conditions of both industry standard form and modified for performance bonds. He explained the risks sureties undertake by issuing performance bonds and that contractors undertake, through indemnity agreements with sureties and the underlying construction contracts. The seminar provided the surety professionals with the tools required to understand the impact and risks associated with various performance bond clauses and modified clauses. More information can be found [here](#).
- Speaker, *The Ten Riskiest (and Most Negotiated) Construction Contract Terms*, National Association of Surety Bond Producers, 3/18/2020
- Speaker, *The Ten Most Negotiated Construction Contract Terms*, 2019 Commercial Construction & Renovation Summit in Biloxi, Mississippi, 1/16/2019
- Speaker, *Adventures of the Surety in the New Frontier — The Extension by State Law of the Prime's Liability to Third Tier Subcontractors and Beyond*, NASBP Road Show: Bonding with Bob program, 7/19/2018
- Speaker, *Strategies for Managing and Avoiding the Inherent Risks Associated with Construction Projects*, National Fire Sprinklers Association's Boston Chapter Meeting, 9/14/2016
- Co-Presenter with Todd R. Regan, , *Deciphering and Navigating the Terms and Conditions of Industry and Modified Bond Forms*, National Association of Surety Bond Producers' Regional Meeting, 09/28/2015
- Speaker, *Strategies for Avoiding and Minimizing Subcontractor Defaults*, Retail Contractor Association's Annual Meeting in Las Vegas, Nevada, 3/14/2015
- Speaker, *Protecting the Surety and Bond Principal from Overreaching Bond Forms*, Connecticut Surety Association's Spring 2014 Meeting, 5/22/2014

## CREDENTIALS

### Admissions

- New York
- Commonwealth of Massachusetts
- Connecticut
- U.S. Court of Appeals, First Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, District of Connecticut
- U.S. District Court, District of Massachusetts
- U.S. District Court, Southern, Eastern, and Northern Districts of New York

### Memberships

- American Arbitration Association, Roster of Neutrals, Expedited Commercial and Construction Cases

- American Bar Association, Forum on the Construction Industry
- State Bar Connecticut, Construction Law Section
- Connecticut Surety Association, Current Member of Board of Directors, Past President, Past Vice President and Treasurer
- Defense Research Institute, Surety and Fidelity Law Section
- Construction Lawyers Society of America, Past Fellow

### **Education**

- J.D., University of Pittsburgh School of Law
  - Moot Court
  - twice received Owens Fellowship Award
- B.S., Old Dominion University

### **Honors**

- Owens Fellowship Award, University of Pittsburgh School of Law, two-time winner
- Selected as a Rising Star to the Connecticut *Super Lawyers* list from 2010 to 2013.
- Selected to the Connecticut *Super Lawyers* list from 2014 to 2019.
- Selected by his peers for inclusion in *The Best Lawyers in America*® in the area of Construction Law (2017-2021).
- Finalist, Associated General Contractors of Connecticut, Industry Recognition Award – Service Provider of the Year (2015)