Articles + Publications | October 2023

A Review of 2023's Construction Highlights and What to Expect Next

With more than half of 2023 already in the rearview mirror, Troutman Pepper's award-winning Construction Practice Group recaps some of the major developments from the last year, and looks to what lies ahead.

Major Developments in 2023:

- The commercial real estate market trends downward
- Sustainability-carbon recapture, tax credit incentives continue
- Infrastructure Investment and Jobs Act remains in focus
- Construction industry labor shortages continue

International Construction Arbitration

International arbitration is among the most common forms of dispute resolution for international construction projects, as contractors and owners prefer to settle their multimillion- and multibillion-dollar disputes outside of local courts in foreign jurisdictions. Check out a few hot topics in the industry, covered by our firm's experts, including our International Arbitration Handbook, which offers practical guidance on some of the most salient features of international arbitration.

- International Arbitration Experts Discuss the Impact of Artificial Intelligence on International Arbitration
- GAR Know How Construction Arbitration: USA (August 2023)
- Eleventh Circuit Joins Others on Applicability of Domestic FAA Grounds to Vacate Nondomestic Arbitration Awards
- Construction Arbitration

Energy and Public-Private Partnerships

Top priorities in the energy industry include the safety and reliability of the energy infrastructure and compliance with state directives to pursue clean energy options. As a consequence, we are seeing a proliferation of energy construction and public-private partnership projects, both nationally and internationally. Our nationally ranked construction group, energy section, and capital projects and infrastructure attorneys, have enabled us to form a team focused on energy, utility, and infrastructure construction projects.

- Federal Infrastructure Bill Paves the Way Toward More Transportation Infrastructure Public-Private Partnerships
- The Infrastructure Investment and Jobs Act: A Pivotal Moment for Water Public-Private Partnerships in the United States
- U.S. Government Plans to Leverage P3s to Make Federal Buildings More Energy Efficient

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- New Mexico Takes a Big Step Toward Authorizing P3s

***ConstructLaw* Blog Highlights:**

Published by our Construction Practice Group, *ConstructLaw*® discusses recent cases and current issues in construction law. Our 2023 articles include:

- PA Appellate Court Issues Strong Reminder: CASPA's Fee-Shifting Mechanism Applies to Subcontractors, Contractors, and Owners Who Prevail in Payment Disputes
- Choose With Care: Tennessee Federal Court's Prompt Payment Conclusions Turn on Choice of Law Clause
- NY Appellate Court Enforces Pay-If-Paid Provision Against Party With No Lien Rights
- Virginia Bans Pay-If-Paid Clauses to Protect Construction Subcontractors
- No Free Warranty: Connecticut Court Adopts Correction or Repair Test
- Louisiana Court Enforces AIA Wavier of Subrogation to Preclude Carrier's Recovery
- Ohio Court Reforms Construction Contract to Correct "Manifest Absurdity" in Termination for Convenience Term

Looking Ahead

We continue to keep a close eye on the significant trends impacting the construction industry.

Some key areas we are watching include:

Trend #1: Ongoing inflation and supply chain issues – cause delays, budget uncertainties, etc. Ongoing inflation and supply chain disruptions continue to create challenges in the construction industry. The rising costs of materials, driven by inflation, are causing budget uncertainties, and making it difficult for companies to accurately estimate project costs. This can lead to financial strain and potential disputes between contractors, clients, and suppliers.

Trend #2: Sustainability and Green Buildings – environmentally sustainable buildings using ecologically sustainable design processes to meet government and regulatory requirements. For example, the mandate, known as Local Law 97, requires large buildings in New York City to cut their emissions starting in 2024 or face fines. Stricter caps will go into effect in 2030.

Upcoming Programming

- 12th Annual Atlanta International Arbitration Society Conference | October 2-4, 2023, Atlanta, GA | Speakers: Albert Bates and Zach Torres-Fowler
- ABA Forum on Construction Law – 2023 Construction Law Foundations | November 2-3, 2023, Philadelphia, PA | Speakers: Jason Spang
- The Art of International Arbitration: Practical Advice in International Arbitration | November 2, 2023, Philadelphia, PA | Speakers: Zach Torres-Fowler, Jeremy Heep, Joe Imperiale, Matt Adler, Cal Stein, Maia Harris, Tom Kinney, Victoria Alvarez, and Kiran Mehta

For decades, our multifaceted construction team has been quickly and effectively handling large, complex problems in a wide range of transactional, project management, and litigation matters. We are proud to

counsel clients on some of the largest, most sophisticated construction projects in the world, and we are not aware of any firm that tries (and wins) more complex disputes than we do, in federal and state courts nationwide, and arbitration forums both domestic and international. You can learn more about our practice at troutman.com.

Named Construction Practice Group of the Year, for the Second Consecutive Year

— *Law360*

No. 3 Construction Law Firm in the United States

—*Construction Executive*

Nationally Band-Ranked in Construction

—*Chambers USA 2023*

13 Construction Attorneys Band-Ranked

—*Chambers USA 2023*

Ranked Nationally in Real Estate: Construction (including construction litigation)

—*The Legal 500 United States 2023*

National Tier 1 Ranking in Construction Law

—U.S. News – Best Lawyers® “Best Law Firms” (2023)

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