



**Dean B. Thomson** | Shareholder  
dthomson@fwhtlaw.com

## Practice Areas

- Construction
- Commercial Litigation
- Property and Liability Insurance Claims
- Surety Claims and Workouts
- Public Bidding and Procurement
- Architectural and Engineering Liability
- Mediation and Alternative Dispute Resolution
- Labor Law
- Real Estate Litigation
- Insurance Coverage
- Arbitration

## Education

J.D., cum laude,  
University of  
Minnesota Law  
School, 1982

B.A., Carleton  
College, 1978

## Contact

+ 612.359.7624 **T**  
+ 612.359.7602 **F**

LaSalle Plaza  
800 LaSalle Avenue  
Suite 1900  
Minneapolis, MN 55402  
(ph.) 612 359 7600

## Professional Activities and Honors

Fellow, American College of Construction Lawyers:

- Board of Governors (2008-2010)

Member, Minnesota Bar Association:

- Construction Law Section (Chairperson 1993, Member of Governing Council 1991-1996, Chairperson of Legislative Subcommittee 1995-2010)

Member, American Bar Association:

- Forum on the Construction Industry (Steering Committee Member, Dispute Resolution and Avoidance Division)

Member, American Arbitration Association:

- National Construction Dispute Resolution Committee member, Regional Advisory Panel for Construction Arbitration, Instructor for AAA Arbitrator Training, member of National Panel of Mediators, and member of Construction Arbitration Master Panel

Member, Minnesota AGC:

- Board Of Directors (1999-2001, 2008-2010)
- Legislative and Contract Forms Committees

Member, National AGC Project Delivery and Contract Forms Committee

Member, Construction Specification Institute, CDT

"AV" (highest) rating by Martindale-Hubbell Legal Directory

Band 1 (highest) rating in Construction by Chambers USA

Selected by Minnesota Journal of Law and Politics as:

- One of the Top 10 "Super Lawyers" in Minnesota (2006);
- One of the Top 100 "Super Lawyers" in Minnesota (2003-2010);
- A "Super Lawyer" in Minnesota Construction Law (1997-2010);
- One of the Top 40 Appellate Lawyers in Minnesota; and
- One of the Top 40 ADR Lawyers in Minnesota

Qualified ADR neutral in Minnesota Courts and by AAA

## Representative Cases

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Contract Negotiations: Negotiated over \$3 billion of design and construction contracts and helped draft the MnAGC standard subcontracts.

Procurement: Largest successful bid protest in Minnesota history. *Raytheon, Ames, Kraemer v. MnDOT*.

Insurance: Obtained over \$15 million in coverage for diminution in value and cost of repair claim arising out of water intrusion. *Westfield Insurance Company v. Weis Builders, Inc.*

Delay, Disruption and Acceleration: Obtained \$1.5 million judgment for contractor on delay, disruption and acceleration claim on condominium project. *Stahl Construction v. Fern Hill Development* Defeated delay, disruption and cancellation claim based on failure of proof and intentionally overstated lien. *Framing Systems, Inc. v. Weis Builders, Inc.*

Differing Site Conditions: Four \$1 million+ settlements with MnDOT and counties over differing site conditions and breach of implied warranty claims.

Damages: Breach of contract judgment recovering lost benefit of bargain and lost profit damages in excess of \$4 million. *M.W. Johnson Construction Company v. Progress Land Development*

## Publications

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- *A Modest Proposal: Conflicting Judicial Decisions Mandate Coverage*, 3 JACCL 1 (2009, Winter) (Winner of Burton Award for Legal Writing)
- The 2007 A201 Deskbook (ABA 2008)
- A Critique of Best Value Contracting in Minnesota, 34 William Mitchell Law Review 25 (2007)
- State-by-State Guide to Construction Contracts and Claims: Minnesota (Aspen 2006)
- A Disconnect of Supply and Demand: A Survey of Construction Mediation Practices, 21 The Construction Lawyer, No. 4, 17 (2001)
- Minnesota Law for Design Professionals (Lorman Education Services 2000-2001)
- Fifty State Bond and Lien Law: Minnesota (2nd Ed. Aspen 1999)
- Best Value in State Construction Contracting, 19 The Construction Lawyer, No. 2, 31 (1999)
- The 1997 AIA Document A201, A Guideline to New Provisions, 97-12 Construction Briefings (Fed. Pub. 1997)
- Dysfunctional ADR: Tips to Avoid the Pain, 16 The Construction Lawyer, No. 4, 26 (1996)
- The Forum's Survey of the Current and Proposed AIA A201 Dispute Resolution

Provisions, 16 *The Construction Lawyer*, No. 3, 3 (1996)

- *Arbitration Theory and Practice: A Survey of AAA Construction Arbitrators*, 23 *Hofstra Law Review* 137 (1994)
- *Construction Claims in Minnesota* (Lorman Educational Services 1989-2001)
- *Construction Bonds, Liens and Insurance Under Minnesota Law* (The Oxford Group 1990)

## **Selected Papers and Presentations**

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*Don't Be Colorblind to Green Risks*, MSBA Construction Law Symposium (2009)

*Legal Issues Regarding BIM*, MnAGC Annual Convention (2007)

*Effective Construction Dispute Avoidance and Resolution in Minnesota*, National Business Institute (2004)

*A Lawyer's Viewpoint on Masonry Design and Construction Problems*, University of Minnesota IT Continuing Education (2004, 2009)

*Comparing the Legal Implications of Various Project Delivery Systems*, MnAGC Annual Convention (2004)

*Arbitration and the Law - Recent Cases*, AAA National Forum on Conflict Resolution (2003)

*12 Steps to a Successful Design-Build Project*, MSBA Real Estate Institute (2003)

*The Risks of "Best Value" Design-Build Procurement in the Public Sector*, ABA Forum on the Construction Industry Fall Convention (2003)

*Representing the Plaintiff or Defendant in a Mold Claim*, MSBA Real Estate Institute (2002)

*Statutory Authority for Design-Build*, Lorman Education Services (2002, 2003, 2006)

*A Legal and Practical Guide to Contractor Default Insurance and Directed Suretyship*, published in the *Law of Suretyship* (2nd Ed. ABA 2000), The Surety Association of America and the Fidelity & Surety Law Committee of the Tort and Insurance Practice Section of the American Bar Association (2000)

*Big Projects, Big Bucks, Big Risks: Examining Heavy Construction*, ABA Forum on the Construction Industry Annual Convention (1999)

*Representing Owners and Developers in Negotiating Design and Construction Contract Documents*, MSBA 16th Annual Real Estate Institute (1998)

*Arbitration: Preparing for the 21st Century*, *Section of Dispute Resolution*, American Bar Association and New York City Bar Association (1998)

*1998 Construction Institute: The New AIA Document B141*, Minnesota Institute of Legal Education (1998)

*The 1997 Edition of AIA Document A201*, MnAGC Annual Convention (1998)

*1997 Construction Institute: New Developments in Subcontracting*, Minnesota Institute of Legal Education (1997)

*The New Minnesota AGC Standard Subcontract*, MnAGC and National AGC Midyear Meetings (1996)

*Dysfunctional ADR: Tips to Avoid the Pain*, ABA Forum on the Construction Industry Annual Convention (1996)

*Minnesota Construction Law: What Do You Do When ...?*, National Business Institute (1996)

*The Subcontractors' Bill of Rights: An Analysis of the ASA's Proposed Legislation*, MnAGC Annual Convention (1996)

*Minnesota's New Payment and Performance Bond Statute*, Minnesota Institute of Legal Education (1995)

*Project Labor Agreements*, Minnesota Institute of Legal Education (1995)

*1995 Construction Institute: Arbitration*, Minnesota Institute of Legal Education (1995)

*Weather and Other Uncontrollable Delays*, MnAGC Annual Convention (1994)

*Recent Developments in Mechanic's Liens, Payment Bonds, and Equitable Liens*, MSBA Construction Law Symposium (1993)

*Extraordinary Collection Procedures and Bankruptcy Practice in Minnesota*, National Business Institute, Inc. (1992)

*Keeping Payment Despite A Preference Claim*, Association Contractor Magazine (1991)

*Consolidation in Arbitration*, Minnesota Institute of Legal Education (1990)

*Rights and Remedies of Contractors, Subcontractors, and Suppliers on Financially-Distressed Projects*, Minnesota Continuing Legal Education (1989)

*Delays, Disruption and Acceleration, Legal Aspects of Highway Contracting Seminar*, Minnesota Department of Transportation (1984-1989)

*How to Deal With an Insolvent Contractor*, 2 The Contractor Magazine, (1989)

*Construction Scheduling: Choosing and Using Scheduling Techniques*, MnAGC Quarterly

Meeting (1985)

## **Legislative Activities**

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Assisted in initiating, drafting and lobbying for the passage of the following legislation:

Minnesota's Public Contractor's Payment and Performance Bond Act; Minn. Stat. §574.26-.32 (1994): changing the requirements for providing and making claims against payment and performance bonds on public projects

Mechanic's liens; Minn. Stat. § 514.13 (1995): preserving unjust enrichment claims and deleting bill of particulars requirement

Surety law; Minn. Stat. §§ 574.31, subd. 1 and 2 (1995): allowing negotiated deadline for payment bond claims and preserving common law and equitable rights of sureties

Prompt payment; Minn. Stat. § 471.425, subd. 4(a) (1995): extending prompt payment obligations of state to municipalities

Building and construction contracts; Minn. Stat. § 337.10, subd. 1, 2, 3, 4 and 5 (1997): establishing venue for Minnesota projects; prohibiting lien waivers without consideration and enumerating prompt payment and progress payment obligations

Procurement reform; Minn. Stat. §16C.01 et seq. (1998): integrating competitive bidding for building and construction contracts into the Minnesota Department of Administration's new "best value" procurement system

Minnesota's Public Contractor's Payment and Performance Bond Act; Minn. Stat. § 574.31 (2001): clarifying notice requirements on payment bond claims

Design-Build Procurement; Minn. Stat. §§ 161.3410-3428 (2001): allowing and establishing design-build procurement of Minnesota Department of Transportation projects

No Damage for Delay; Minn. Stat. § 15.411 (2002): prohibiting the use of "no damage for delay" clauses on public projects

Design-Build Procurement; Minn. Stat. §§ 16C (2006): allowing and establishing design build and construction manager at risk procurement on certain Minnesota Department of Administration, University of Minnesota and Minnesota State Colleges and Universities

Mechanic's Liens; Minn. Stat. § 514.10 (2006): using bonds in lieu of work to remove liens from property

Homeowner Warranty; Minn. Stat. § 327A (2010): notice and opportunity to repair and early neutral evaluation as a condition to litigation

## **Admissions**

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State of Minnesota

State of Wisconsin

United States District Court, Minnesota

United States District Court, E. and W. Dist. Wisconsin

United States Court of Federal Claims

Court of Appeals, Federal Circuit

Court of Appeals, Eighth Circuit