

Construction Update Solutions

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Dear Readers,

We are excited to present to you the second issue of Robinson & Cole's *Solutions: Construction Update*. At the end of last year, seven attorneys, formerly of Thelen LLP's Construction Group, joined our firm. These professionals are a welcome complement, and their experience and talent significantly expand the firm's capabilities to serve private, institutional, and governmental clients. This quarterly update provides added benefit and service to our valued clients and friends. If you have comments or suggestions for future article topics, we welcome your feedback. To learn more about us or to contact us, please visit us at www.rc.com.

Peter E. Strniste, Jr.
Editor

Articles

Case of Interest: Connecticut High Court Says Little Miller Act Is Claimant's Exclusive Remedy and That the Statute of Limitations for Filing Suit on a Public Works Payment Bond Cannot Be Tolled

By Peter E. Strniste, Jr.

In *Paradigm Contract Management Co. v. St. Paul Fire and Marine Ins. Co.*, the Connecticut Supreme Court affirmed the trial court's decision holding that the one-year statutory limitation period for asserting a claim against a public works payment could *not* be extended by an agreement between the parties.

The City of Danbury, Connecticut, entered into an agreement with an engineering firm to close and cap a local landfill. Pursuant to Connecticut's Little Miller Act, codified at Conn. Gen. Stat. §§ 49-41a *et seq.*, the engineering firm was required to post a payment bond for the benefit of subcontractors and suppliers on the project. The firm arranged for St. Paul Fire & Marine Insurance Company (St. Paul) to post the bond and then subcontracted the work to Pool & Kent - New England, Inc. (P&K), who in turn subcontracted the work to the plaintiff, Paradigm Contract Management Co. (Paradigm). Paradigm then subcontracted all of the work to a company known as J.F. Barrett & Sons, Inc. (Barrett) but agreed to maintain a limited presence on-site to perform certain administrative tasks in exchange for a portion of the original contract amount. *Click /A> to read full article.*

Court Says "No" to Double Tax on Construction Contracts

By Jack Shaughnessy

Earlier this year Congress passed the American Recovery and Reinvestment Act of 2009 (ARRA or the Act) to address the economic crisis facing our country. Included in the ARRA are new whistleblower protections for employees of "nonfederal employers" receiving federal stimulus funds, such as federal contractors and subcontractors, and state and local governments and their contractors and subcontractors. *Click /A> to read the full article.*

Federal Contractors: FAR E-Verify Rule in Effect as of September 8, 2009

By Natalia A. Sharubina

On August 25, 2009, a federal district judge for the District of Maryland denied the U.S. Chamber of Commerce's challenge to an amendment to the Federal Appropriation Regulation (FAR) - originally mandated by an Executive Order from President Bush and recently adopted by the Obama administration. Consequently, after many months of postponement, as of **September 8, 2009**, the FAR rule is now in effect, requiring that participating federal vendors (and flow-down subcontractors) sign up for E-Verify as a means of verifying that their employees are eligible to work in the United States. *Click /A> to read full article.*

Greening Connecticut's Buildings

By Thomas P. Cody and Michele L. Maresca

On July 8, 2009, Governor Rell signed Public Act 09-192 (the Act) into law. The Act requires the State Building Inspector (the Inspector) and the Codes and Standards Committee (the Committee) to amend the State Building Code (the Code) to include green building standards for commercial and residential buildings and building elements.

The Act does not apply to state buildings, which are instead subject to the recently enacted High Performance Building Construction Standards for State-Funded Buildings (the Regulations) set forth at Section 16a-38k-1 et seq. of the Regulations of Connecticut State Agencies (RCSA). The Regulations, together with the implementation of the Act, make Connecticut one of the first states to require green building standards for public and private construction. *Click /A> to read full article.*

Firm News & Notes

At the Podium

Construction partner Martin A. Onorato and employment partner Stephen W. Aronson took to the podium at a recent educational program entitled "Employment Practices: Difficult Times Bring Difficult Issues" for the Connecticut Chapter of the American Institute of Architects (AIA). Mr. Aronson addressed the topics of evaluating cost-saving techniques such as reductions in force, misclassifying contractors and employees, responding to the swine flu and business continuity approaches, protecting trade secrets and confidential information, and establishing a positive work environment. Mr. Onorato, chair of the AIA Connecticut Professional Practice Committee, served as program moderator.

In Print

Construction cochair Dennis C. Cavanaugh recently authored the Connecticut chapter in the book *A State-by-State Guide to Construction and Design Law: Current Statutes and Practices*, Second Edition. Mr. Cavanaugh's chapter provides a comprehensive review of Connecticut design and construction law and is a valuable resource for lawyers negotiating or reviewing construction or design contracts for projects outside their jurisdiction. The guide is published by the Real Property, Trust and Estate Law Section of the American Bar Association. Construction partner Martin A. Onorato and associate Keane E. Aures assisted Mr. Cavanaugh with the drafting of this chapter.

In Attendance

Robinson & Cole attorneys Greg R. Faulkner and Garry C. Berman recently attended the Higher Education Real Estate Lawyers Conference in Las Vegas. Mr. Berman presented on the topic of Leasing Issues Arising When Landlords and Tenants Are in Financial Distress

Robinson & Cole attends AGC of Massachusetts Build New England Awards Dinner on October 19.

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*/EM> to view photo. **Of Note***

- *Dennis C. Cavanaugh, cochair of the firm's Construction Group was elected as secretary of the University of Connecticut Alumni Association for the 2009-2010 term.*
- *Construction attorney Alex E. Baez has been appointed to the Rhode Island Bar Association's Federal Court Bench/Bar Committee. Products liability and subrogation attorney Dana M. Horton*

has been reappointed to this committee as well. The committee collaborates with the court in improving facilities, practices, procedures rules, and any other matters of benefit to the bench/bar and public.

- Dennis C. Cavanaugh and Gregory R. Faulkner were included on the 2009 New England [Super Lawyers®](#) list in the area of Construction Litigation.
- Peter E. Strniste Jr. was included on the 2009 New England [Super Lawyers®](#) Rising Star list in the area of Construction Litigation.
- Peter E. Strniste Jr. was appointed to the Panel of Neutrals for both the AAA and ADRC.
- Todd R. Regan was included on the 2009 New England [Super Lawyers®](#) Rising Star list in the area of Construction/Surety Law.
- Carla Moynihan was included on the 2009 New England [Super Lawyers®](#) list in the area of Real Estate Law. She was also included on the 2009 Massachusetts [Super Lawyers®](#) list for Land Use/Zoning.
- The Construction Group is pleased to welcome Elizabeth K. Cunha to the firm. Elizabeth is a graduate of the University Of Connecticut School of Law and joins the group as an associate.

For more information, please contact Dennis C. Cavanaugh (dcavanaugh@rc.com) at (860) 275-8211 or Christopher J. Hug (chug@rc.com) at (860) 275-8294.

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