



FABYANSKE  
WESTRA  
HART &  
THOMSON

Email: [mbecker@fwhtlaw.com](mailto:mbecker@fwhtlaw.com)  
Direct: 612.359.7620  
Fax: 612.359.7602

---

## Mark R. Becker

*Shareholder*



---

### Practice Focus

Mark is a leading construction lawyer recognized for his skillful advocacy and professionalism in resolving his clients' most challenging construction related disputes or negotiating their most significant construction contracts. Mark's experience and practice focus in innovative early mediation methods of dispute resolution sets him apart from other lawyers with a traditional litigation-centric focus. Through his effective early mediation advocacy, Mark has successfully resolved many high-stakes, multi-party, and complex construction disputes for his clients before the onset of the most significant litigation expense. Mark employs early case evaluation, quantitative analysis, and strategic planning methods to guide clients through their disputes. Mark has significant experience in public procurement and public contracts. Mark brought the first Qui Tam whistleblower claim under the Minnesota False Claims Act, achieving an important settlement that benefited over 240 Minnesota public entities

## Practice Areas

---

- Construction

- Commercial Litigation

## Representative Cases

---

Early Mediation of Complex Disputes: Successfully guided clients through early mediation of multi-million dollar construction disputes. Typical early mediation matters include:

- construction overrun and delay disputes involving competing claims of owners, contractors and subcontractors;
- construction defect disputes involving claims against contractors, subcontractors, design professionals, and insurers; and
- default and termination claims involving disputes between performance bond sureties, guarantors, contractors, and claimants oftentimes across numerous projects.

Contract Drafting and Negotiation: Drafted and negotiated construction contracts, design services contracts, design/build contracts, construction management contracts, subcontracts, change orders, and settlement agreements for many construction projects.

Delay, Disruption and Acceleration: Prosecuted and defended numerous claims for delay, disruption and acceleration arising out of projects to construct stadiums, sky scrapers, industrial plants, power plants, condominiums, universities, schools and bridges.

Insurance Coverage: Represented policy-holders in insurance coverage litigation involving commercial general liability and professional liability issues, with a focus on securing clients' defense and indemnity coverage for construction defect claims.

Public Procurement: Advised clients on project delivery methods and procurement methods, including best value, design build, and public private partnerships. Litigated bid protests.

Construction Defects: Prosecuted and defended numerous construction defect claims involving failures due to expansive soils, concrete fracture, concrete creep and shrinkage, pipe corrosion, high pressure pipe stress fractures, glazing failures, curtain wall leaks, masonry cracking, foundation settlements and condensation.

Payment Claims: Prosecuted and defended mechanics lien claims, payment bond claims, trust fund claims, and other forms of payment claims for contractors, subcontractors, suppliers, fabricators, owners and developers.

False Claims: Litigated claims alleging violation of the Minnesota False Claims Act.

Construction Accounting Issues: Prosecuted and defended claims involving construction accounting issues such as questions of the allowability of claimed costs on cost-plus type contracts, breach of fiduciary claims, fraud, lien waiver issues and other construction accounting issues.

Project Counseling and Dispute Mitigation: Frequently counsels construction industry clients during the course of ongoing projects to help manage risks, reach early settlements, and to aid in mitigating disputes.

## Professional Organizations and Achievements

**Fellow, American College of Construction Lawyers**

**Who's Who Legal as a Future Leader in Construction Law (2020-2022)**

**Chambers USA rated in Construction, Minnesota**

**Fellow, Construction Lawyers Society of America**

**Selected for inclusion in "Best Lawyers in America" for Construction Law**

**Minnesota Super Lawyer in Construction (2019 – 2022)**

**Member, American Bar Association, Forum on the Construction Industry**

**Minnesota Bar Association, Construction Law Section**

- Chair (2017)
- Vice Chair (2016)
- Treasurer (2015)
- Secretary (2014)
- Section Council (2012-2017)

**Associated General Contractors of Minnesota, Best Value and Legislative Committees, Co-Chair of P3 Committee**

**Minnesota Construction Association**

- Vice President (2015)
- Director (2013-2016)

**Minnesota Super Lawyers "Rising Star" (2011, 2012, 2014)**

**Honored as one of five finalists in the nationwide Ross Student Writing Contest, co-sponsored by the ABA Journal Board of Editors and the Section of Legal Education and Admissions to the Bar.**

## Publications and Speeches

---

Speaker, "Construction Disputes and Litigation: Start to Finish," NBI (March 10, 2022)

Speaker, "AIA Contract Document Workshop," HalfMoon (March 1, 2022)

Speaker, "MnDOT Standard Specifications Update," 65th Annual Minnesota Asphalt Paving Association Construction & Quality Workshop (February 15, 2022)

Speaker, "Crafting Arbitration Awards", Minnesota Continuing Legal Education's 24th Annual ADR Institute, (Oct. 29, 2021)

Speaker, "Vaccine Mandates: Do Contractors Get Relief for Cost and Time Impact?" Minnesota AGC (October 22, 2021)

Speaker, "Implications of the Champlain Tower South Collapse to the Condominiums You Live In," Mill City Commons (55+ Membership Organization), (September 2, 2021)

Speaker, "Construction Contracts 2021: Solving Supply Chain Issues, Cost Overruns, and Other Urgent Problems), NBI (July 29, 2021)

Speaker, "Limitation of Liability Clauses – Traps for the Unwary," NBI (July 26, 2021)

Speaker, "Construction Statute of Limitations – New Things You Should Know," Construction Section, Minnesota State Bar Association, (May 4, 2021)

Speaker, "Construction Contracts 2021," NBI (May 13, 2021)

Speaker, "Construction Law: 7 Things you Need to Know," NBI (December 17, 2020)

Speaker, "Liens, Payment Bonds, and Retainage – a Refresher Course on Getting Paid at Project Completion," Minnesota Asphalt Paving Association (December 10, 2020)

Speaker, "Your Complete Guide to Construction Contracts," NBI (November 4, 2020)

Speaker, "Coverage Part B and Beyond: Advanced CGL Insurance Coverage Tools Construction Lawyers Need to Know," Construction Law Society of America (September 30, 2020)

Speaker, "Indemnification Clause Strategies," NBI (September 14, 2020)

Speaker, "Handling Ethical Issues in Professional Engineering Practice," HalfMoon (August 17, 2020)

Speaker, "Iowa Engineering Law and Ethics," Halfmoon (June 23, 2020)

Speaker, "The Basics of U.S. Construction Bonding," Honeywell International Training (June 17, 2020)

Speaker, "COVID-19 – Legal Information for AGC/MN Members," AGC (March 18, 2020)

Speaker, "10 Ways to Defend Against Liquidated Damages," Minnesota Asphalt Paving Association, (February 18, 2020)

Speaker, "AIA Contract Document Workshop Seminar," Half Moon Education (January 16, 2020)

Speaker, "Addressing Payment Terms and Key Construction Law Cases (Webcast)," NBI (January 22, 2020)

Speaker, "Strategically Using Indemnification Provisions in Contracts (Webcast)," NBI (August 20, 2019)

Speaker, "Construction Early Dispute Resolution Fundamentals," Lorman (June 28, 2019)

Speaker, "Riding the Wave: Early Dispute Resolution Fundamentals (Webcast)," MN CLE (May 15, 2019)

Speaker, "Considerations in Drafting and Negotiating Indemnification Provisions," NBI (April 27, 2019)

Speaker, "Indemnification Provisions in Construction Contracts (Webcast)," NBI (April 17, 2019)

Speaker, "Advanced Construction Law (Webcast)," NBI ( March 4, 2019)

Speaker, "Foundations of Negotiation," Minnesota AGC, (February 1, 2019)

Speaker, "Limitations of Liability Clauses – Traps for the Unwary," NBI (January 22, 2019)

Speaker, "Construction Early Dispute Resolution Fundamentals", Lorman (Dec. 11, 2018)

Speaker, "Are Coverage Part B and Supplementary Payments Relevant to Construction Claims?" Minnesota State Bar Association, Construction Section (Nov. 9, 2018)

Speaker, "When is the Insured Entitled to Choose Independent Counsel?" Minnesota State Bar Association, Construction Section (Nov. 9, 2018)

Speaker, "Strategically Using Indemnification Provisions in Contracts", National Business Institute (Nov. 9, 2018)

Co-Author, "How You Can Use Guided Choice to Satisfy Clients Using Both Arbitration and Mediators", ABA Section of Dispute Resolution, Just Resolutions E-News (May, 2018)

Speaker, "Indemnification Clause Strategies", National Business Institute (May 14, 2018)

Speaker, "Engineering Law and Ethics", HalfMoon Education (May 11, 2018)

Speaker, Crucial Issues Affecting Condo Development, 2018 Condo & Townhome Development Summit (Feb. 9, 2018)

Speaker, "Maximum Outcomes & Minimum Hassles: Using Mediation Early and Effectively to Resolve the Complex Construction Dispute," Minnesota State Bar Association, Construction Section (January 11, 2018)

Speaker, "Ethics: A Panel Discussion," Minnesota Construction Summit (January 10, 2018)

Speaker, "Construction Contract Changes: Overcoming Difficulties", National Business Institute (December 6, 2017)

Speaker, "Multihousing Madness: Navigating the Web of Obligations in Minnesota's Condo Law", Minnesota Construction Association (Oct. 25, 2017)

Speaker, "Key AIA Contracts Provisions and How to Negotiate Them", ABC Minnesota/North Dakota (April 6, 2017)

Speaker, "Minnesota Common Interest Ownership Act", Minnesota Real Estate Journal Condominium & Townhome Development Summit, (February 23, 2017)

Speaker, Indemnification Provisions in Construction Contracts, National Business Institute (December 8, 2016)

Speaker, "Public Private Partnership (P3) in the Minnesota Construction Marketplace – Fad, Folly or the Future?", Real Estate & Construction Contractors Summit (September 23, 2016)

Speaker, "Project Delivery Methods", AGC of MN Leadership Blueprint Series (March 10, 2016)

Speaker, "Construction Industry Perspectives on P3 in Minnesota," MSBA Construction Section (February 10, 2016)

Speaker, "Construction Law Topics You Need to Know!" Goldleaf Surety (January 19, 2016)

Speaker, "Construction Contract Change Orders," National Business Institute (October 21, 2015)

Speaker, "Construction Law Update: Front-Burner Issues", MNCPA Construction Conference (September 29, 2015)

Speaker, "Changes, Delays and Defects: Handling Contentious Construction Disputes," National Business Institute (May 11, 2015)

Speaker, "Get Paid When You've Been Delayed," ABC Minnesota/North Dakota (February 24, 2015)

Speaker, "Design-Build Contracting Under the New AIA Design-Build Contracts," Minnesota State Bar Association, Construction Section (February 13, 2015)

Speaker, "Responsible Contractor Act," Associated General Contractors of Minnesota (February 10, 2015)

Speaker, "Responsible Contractor Act: Reality or Rumor?", Associated General Contractors of Minnesota (January 27, 2015)

Speaker, "Project Delivery Methods, What You Need to Know," Associated General Contractors of Minnesota (January 12, 2015)

Speaker, "Risk Transfer in the Construction Industry – Perspectives on Indemnity, Contribution, Defense and Insurance," National Business Institute (November 18, 2014)

Speaker, "Design-Build or Design Bust: Design Builder's Responsibilities and Opportunities Under the New AIA Design Build Contracts (and a Few Other Things)", Minnesota Construction Association (September 18, 2014)

Speaker, "AIA Contracts: Know What you are Getting Into," Bloomington, Minnesota (September 12, 2014)

Speaker, "Construction Management/Design-Build in Minnesota," Bloomington, Minnesota (June 10, 2014)

Speaker, "Limitations on Limitations of Liability," Minnesota Construction Association (December 18, 2013)

Speaker, "Get Paid When You've Been Delayed," Associated Builders and Contractors, Inc. MN/ND (October 23, 2013)

Speaker, "AIA Contracts: Overview of AIA Contracts; Owner/Contractor Agreements; Proving and Pricing Delay Claims," Bloomington, Minnesota (September 13, 2013)

Speaker, "DBE Programs and Requirements for Publicly Funded Projects: What You Need to Know to Get and Keep Jobs," Minnesota Construction Association (August 21, 2013)

Speaker, "Prosecuting and Defending Construction Related Delays, Acceleration and Disruption Claims," Society of American Military Engineers, Minneapolis-St. Paul Post (April 24, 2013)

Speaker, "Healthcare Facility Construction Defect Litigation, Lessons Learned," Twin Cities Health Care Engineers Association (October 17, 2012)

Speaker, "What Have We Learned From the I-35W Tragedy," American Bar Association Construction Forum (February 3, 2012)

Speaker, "Recent Developments in Minnesota Best Value Procurement," Minnesota Construction Association (August 17, 2011)

Speaker, "Prompt Pay for the Residential Construction Industry in Minnesota," Builders Association of Minnesota (December 9, 2009)

"Actively Manage Your Delay Claims," Construction Bulletin (February 16, 2009)

Co-author, "A Critique of Best Value Contracting in Minnesota," 34 William Mitchell Law Review 25 (2007)

Speaker, "Do's and Don'ts of Construction Contracts," Minnesota Construction Expo (November 1, 2007)

Speaker, "Tricks, Traps and Ploys Used in Construction Scheduling," St. Paul, Minnesota (October 31, 2007)

"Knowledge Is Power: Freedom of Information Act Requests can Help Contractors get Valuable Information," Insulation Outlook, October 2007, at 30, 32

Speaker, "Engineering and Construction Law," North Dakota ACEC (April 11, 2007)

Speaker, "Construction Delay Claims," Itasca, Illinois (July 13, 2006)

Speaker, "Comprehensive Construction Law," Oak Brook, Illinois (May 4, 2006)

Speaker, "Construction Delay Claims," Itasca, Illinois (January 26, 2006)

Co-author, "Responsible Use of Computer Technology by Engineers," American Society of Civil Engineers Journal of Professional Issues in Engineering Education and Practice (April 2004)

"Basic Copyright for Engineers," Structure, December 2001/January 2002, at 40-41, reprinted in, Midwest Engineer (November/December 2003, at 10)

Co-author, "Judicial Scrutiny of Expert Testimony by Engineers," Construction Lawyer (July 2000, at 37)

"Streamlining the Federal Trademark Dilution Act to Apply to Truly Famous Marks," 85 Iowa Law Review 1387 (May 2000)

## Education

- J.D., University of Iowa College of Law, high distinction, 2000
- Merit Fellow
- Recipient, Faculty Scholar Award
- Member, Iowa Law Review
- B.S., Northwestern University, McCormick School of Engineering (Civil Engineering), *cum laude*, Tau Beta Pi, 1997

## Admissions

---

- State of Minnesota
- State of Illinois
- United States District Court, Minnesota
- United States District Court, Northern District of Illinois
- Eighth Circuit Court of Appeals