



Eric L. Nelson

Partner

ERIC L. NELSON is a partner with Smith, Currie & Hancock LLP and practices in the area of construction law and government contracts, representing owners, engineers, general contractors, EPC and design-build contractors, construction managers, and specialty contractors and equipment suppliers.

Eric's practice primarily involves dispute resolution of construction-related claims. He has tried cases in federal and state courts throughout the county and

before the various federal government boards of contract appeals. He has also arbitrated and mediated multiple claims, nationally and internationally.

In addition to dispute resolution, Eric works with clients in negotiating and preparing construction contracts and assists clients with project administration and performance problems. He frequently advises clients on U.S. federal construction issues, such as the False Claims Act, small business programs, cost and pricing, compliance, Miller Act, requests for equitable adjustments, and claims.

Eric is named in *Chambers USA Guide to America's Leading Business Lawyer*, for construction law (2007-2011); *The Legal 500*, for construction litigation (2010 & 2011); *Best Lawyers in America*, for construction litigation (2010 & 2011).

He received his law degree from Washington & Lee University Law School and his undergraduate degree from California Polytechnic University at San Luis Obispo.

Articles & Publications

- Spittler and Nelson, "Where is Project Delivery Headed?" AACE International, 2011.
- Kelleher, Nelson, and Miller, "The Resurrection of Rice? The Evolution (and De-Evolution) Of The Ability Of Contractors To Recover Delay Damages On Federal Government Construction Contracts," Public Contract Law Journal, American Bar Association, Winter 2010.
- Klanac and Nelson, "Trends in Construction Lost Productivity Claims," Journal of Professional Issues in Engineering Education & Practice, American Society of Civil Engineers, July 2004.
- Douglas, McCarthy, and Nelson, "Delay Claims Against the Surety," ABA Journal for the Forum on the Construction Industry, July 1997.

elnelson@smithcurrie.com

2700 Marquis One Tower
245 Peachtree Center Avenue NE
Atlanta, GA 30303

TEL: (404) 582-8061

FAX: (404) 688-0671

Areas of Practice

- Construction Law
- Government Contracts

Education

- California Polytechnic State University (B.A., 1989)
- Washington and Lee University School of Law (J.D., 1992)

Bar and Court Admissions

- Georgia, 1992
- U.S. District Court Northern District of Georgia, 1992
- U.S. Court of Appeals 11th Circuit, 1992
- U.S. Court of Federal Claims, 1992
- U.S. Court of Appeals Federal Circuit, 1992
- U.S. District Court Northern District of Florida, 2008

Memberships

- American Bar Association, Public Contract Section, 1999 - 2001, Vice Chair - Construction Division (Subcontracting Sub-Committee)
- American Bar Association, Public Contract Section, 2001 - 2006, Co-Chair - Construction Division (Bonding and Insurance Sub-Committee)
- ABA Construction Industry Forum, Member
- State Bar of Georgia, Member
- Atlanta Bar Association, Member

Representative Matters

Eric has served as counsel in a several matters involving a diverse cross section of design and construction projects. These projects have involved claims from \$1MM to over \$100MM. Here are a few of the matters:

Medium Section Steel Mill and Caster in Georgia: Represented owner of steel mill in successfully defending against contractors' claims and in recovering against contractors in litigation and arbitration. Claims were made for several million dollars and involved disputes among owner, designer/engineer and multi-prime contractors. Disputes included claims for delay, impact and extra work.

Reverse Osmosis Water Treatment Facility in California: Represented engineer, procure and construct (EPC) contractor in preparing and recovering on \$3MM+ delay, impact and change order claim.

Liquid Natural Gas Facility in Venezuela: Represented EPC contractor in claim against foreign public owner on a lump sum turnkey offshore liquid natural gas process facility. Representation included negotiations with owner for \$25MM affirmative delay, extra work and inefficiency claims and defending against owner's \$50MM delay counterclaim. Claims were decided in clients favor in International Chamber of Commerce arbitration.

Telecommunications Bandwidth Upgrade Projects in Several Mid-West States: Represented EPC contractor on major bandwidth cable upgrade projects that ran through several states in the Mid-West, United States. The claim was for \$100MM+ and involved delay, impact and extra work.

Combined Cycle Power Plants in Texas and Massachusetts: Represented turnkey sub-contractor/supplier for major piece of equipment for two, combined cycle power plants. Total claims exceeded \$40MM for contract balance, delay and scope changes.

Single Cycle Power Plant in Louisiana: Representing owner in litigation in both federal and state courts and on claims against contractors and equipment providers. The project involved multiple disputes, exceeding \$10MM in total value, concerning a power project using multi-prime project delivery.

Hazardous Waste Clean-up Project in Georgia: Represented publicly traded owner in federal court litigation on extra work and delay claims against contractor on hazardous waste remediation project.

Federal Government Laboratory in Georgia: Represented general contractor on claims and contract administration issues in the construction of \$150MM laboratory. Claims involved cost and schedule overruns in excess of \$15MM due to changes in the work, delay and lost productivity.

Highrise Condominium and Resort Construction in Florida: Recently received a multi-million dollar arbitration award for the general contractor relating to scope changes, delay, inefficiency, and wrongful termination in a two-phase arbitration against the project owner. Defeated the owner's \$100MM+ counterclaim for delay and completion costs, in its entirety. The award also included overturning the termination for default and recovery of all of the contractor's attorneys' fees. This case also included several federal court actions in favor of the contractor involving confirmation of the arbitration awards and arbitrability of certain disputes.

Health Care and Retirement Complex in Georgia: Represented owner in arbitration against general contractor on \$20MM+ in claims involving the construction of a multi-facility health care project, resulting in favorable award for owner. Claims involved delay, changes to the works, labor efficiencies, and costs to complete.

Rail and Transportation Project in Florida: Represented design-build joint venture contractor on rail and transportation upgrade project. \$20MM+ in claims related to delay, disruption, extra work and changes, and false claims allegations. Claims were ultimately settled with a significant recovery to the contractor.

Road Construction in Georgia: Represented road contractor in the trial on claims related to the unauthorized use of trade secrets. Verdict was entered for the contractor and decision was upheld on appeal.

Other Matters: Represented owners and contractors in contract negotiations and claims relating to various forms of project delivery. Projects include power, process, and infrastructure works, and high-rise structures, both domestically and internationally (e.g. Qatar, China, Spain, Honduras, and Egypt), and have involved various contract forms, including FIDIC, DBIA, AIA, and ConsensusDocs.

Classes & Seminars Taught

- Federal Integrity Symposium for U.S. Government Contractors, United States General Services Administration, Cleveland, Ohio, (2011)(panelist)
- Federal Construction Contracts and Federal Business Ethics and Compliance, Associated General Contractors, National Convention, Las Vegas (2011)(speaker)
- "Where is Project Delivery Headed?" AACE International National Convention, Anaheim (2011)(speaker and presented paper)
- "The Delivery Dilemma," Vendome Construction Superconference, San Francisco, Ca. (December 2009)(moderator)
- "The Resurrection of Rice?" American Bar Association Section of Public Contract Law (November 2009) (panelist and presented paper)
- "Integrated Project Delivery," Vendome Construction Superconference, San Francisco, Ca. (December 2008)(panelist)
- "Legal Trends in Construction Law," Associated Builders and Contractors Annual Meeting, Las Vegas (May 2007 and 2008)(speaker)
- "Change Control and Programme Management," Vendome International

- Construction Superconference, London, U.K. (May 2007) (moderator)
- “EPC and Design-Build Construction,” Federal Publications Seminars, LLC, Las Vegas, Washington D.C., and Miami (2004, 2005, and 2006) (speaker)
 - “The Practical Consequences of Shifting Risks to the Contractor” Andrews International Construction Superconference, London, U.K. (May 2006) (moderator)
 - “Loss of Productivity Claims” Commercial Construction Law Conference, Boston (July 2006) (speaker)
 - “What does Lump Sum Turnkey Really Mean to the Owner and Contractor,” Andrews International Construction Superconference, London, U.K. (May 2005) (moderator and presented paper)
 - “Stranger in a Strange Land, International Construction Contracting in the 21st Century,” American Bar Association Section of Public Contract Law, Atlanta (August 2004) (program coordinator)
 - “Proving and Defending Against Construction Damages Claims, A New Look,” American Bar Association Section of Public Contract Law, San Francisco (August 2003) (panelist and presented paper)
 - “The Use of ADR in Public Construction Contracts,” American Bar Association Section of Public Contract Law, Annapolis, (March 2001) (panelist and presented paper)