



Randall F. Hafer

PARTNER

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Services

Construction Dispute Resolution, Advice and Counseling; Construction & Infrastructure

Industries

Construction & Infrastructure; Government & Municipalities; Transportation; Tunnels & Underground;
Power & Energy; Water & Wastewater

Randy Hafer is the leader of the Construction & Infrastructure Projects Team. The team was named 2015 national Construction Team of the Year by *Chambers*, 2012 Team of the Year by *U.S. News – Best Lawyers*, and is consistently ranked Tier 1 nationally by *Chambers*, *Best Lawyers* and *Legal 500* as well. Throughout his entire career Mr. Hafer has focused his practice exclusively on issues related to the construction industry. He has been involved in matters all over the United States and internationally on a wide variety of construction projects, including tunnels, mass transit systems, bridges and highways, wastewater treatment plants, airports, power plants, mining facilities, hospitals, office buildings, sports arenas, resort condominiums, universities and schools, manufacturing and processing facilities, and military facilities.

DRB Related Experience

Mr. Hafer has worked extensively on major public infrastructure projects for the past 27 years, including heavy civil and underground, starting with the Milwaukee Deep Tunnel and Pollution Abatement Project in the late 1980's. He has represented EPC contractors, but most of his experience has been representing public owners from contract drafting through project completion. As a result of that experience, he has a thorough understanding of public construction contracting practices, the issues that can cause claims and disputes, and the issues that most concern the contractor and the owner on a major infrastructure job. He knows how to get disputes resolved and keep a job moving.

Mr. Hafer is a member of the DRB Foundation and has completed DRBF training courses in "DRB Administration and Practice Workshop" and "DRB Advanced/Chairing Workshop." He also has an enormous amount of real-world DRB process and hearing experience, including representing MassDOT on the Big Dig in hearings before four separate DRB's over a nine year period; and representing the Massachusetts Water Resources Authority in DRB hearings on claims on the Boston effluent outfall tunnel and the inter-island tunnel. In terms of days of DRB meetings and hearings, these experiences total in the hundreds.

In addition, when the International Institute for Conflict Prevention and Resolution (CPR) decided to prepare a definitive user's guide to DRB's, they asked Mr. Hafer to be the principal author. That publication is available on the CPR website under the construction industry materials. Mr. Hafer has also published several articles in industry periodicals on DRB's, he has participated on panels on improving DRB's sponsored by the Underground Construction Association, and he assisted the DRB Foundation in reviewing and commenting on drafts of the model DRB contract specifications. Finally, he has advised public owners on DRB contract provisions and procedures for several major tunnel projects, and has prepared the related contract provisions. As a result of these experiences, he is very familiar with the philosophy, purpose and operation of DRB's.

Construction Project and Disputes Resolution Experience

Over the years, much of Mr. Hafer's practice has focused on the representation of public owners on major infrastructure projects, including the following:

The Boston Central Artery/Tunnel Project (the "Big Dig") for Massachusetts Department of Transportation;

The Hartford Connecticut Clean Water Project for the Metropolitan District Commission;

The Boston Harbor Project for Massachusetts Water Resources Authority ("MWRA");

The MetroWest Water Supply Tunnel for MWRA;

The Deep Tunnel and Pollution Abatement Program for Milwaukee Metropolitan Sewerage District;
The Logan Airport Modernization/Elevated Roadways Project for Massachusetts Port Authority;
The CSO Tunnel Project for the Narragansett Bay Commission in Rhode Island;
Water/wastewater tunnel projects for the City of Atlanta, Georgia;
The Cobb County, Georgia Water Authority Chattahoochee and South Cobb Tunnel Projects; and
The Dekalb County, Georgia Scott Candler Water Treatment Plant.

Mr. Hafer has also represented EPC contractors and OEM's on significant projects including:

Represented the design-build-operate-maintain contractor on the \$2 billion *Tren Urbano* mass transit system in San Juan, Puerto Rico — a Federal Transit Administration "demonstration" project, including mediation and a substantial ICDR arbitration;

Represented one of the world's largest rail transportation system OEM's on the Mecca Saudi Arabia metro project;

Represented one of the world's largest rail transportation OEM's in a AAA arbitration involving the long-term maintenance of 400 locomotives;

Represented a consortium of international contractors, designers and OEM's in a \$400 million ICC arbitration involving a tunnel collapse on a hydroelectric plant in Panama;

Represented a worldwide supplier of plants, equipment and services for hydropower stations and for the pulp and paper industry in disputes arising from a \$2 billion pulp mill project in South America, and involving two separate ICC arbitrations;

Represented one of the world's largest energy sector companies as Project Counsel on an off-shore oil and gas production platform in Brazil; and

Represented the U.S. and Israeli owner/developers in a complex, multiparty AAA arbitration involving construction of a luxury condominium project in Las Vegas.

Mr. Hafer focuses much of his practice on the prevention of construction related disputes through effective risk allocation and management and contract drafting. Mr. Hafer often works as a member of the owner's project management team at the "front end" of projects to achieve these goals. He also leads teams providing clients with the Construction Group's Project Counsel service.

Mr. Hafer works directly with construction project participants to avoid disputes and effectively and efficiently resolve, on a "real-time" basis, those disputes that cannot be avoided. He is well-versed and experienced in negotiation, mediation, arbitration, dispute review boards and other forms of construction ADR. He is a panel member on the AAA's roster of arbitrators and mediators, he is past co-chair of the American College of Construction Lawyers (ACCL) Alternative Disputes Resolution Committee, a member of the International Institute for Conflict Prevention and Resolution (CPR) Construction Advisory Committee, and the primary author of "Dispute Review Boards and Other Standing Neutrals, Achieving "Real-Time" Resolution and Prevention of Disputes" for CPR. Mr. Hafer has also helped create and has successfully implemented customized dispute resolution processes to fit the particular needs of a project when other more traditional ADR procedures are not working.

In addition to extensive construction ADR experience, Mr. Hafer has presented construction cases to judges and juries in a number of state and federal courts across the country and to administrative boards of federal, state and local government agencies.

Claims avoidance and education are an important part of Mr. Hafer's practice. He has spoken at the Construction Super Conference, the American Bar Association Forum Committee on the Construction Industry, the American Underground Construction Association, the Design Build Institute of America, the Association of Corporate Counsel, the Atlanta International Arbitration Society, and other industry related programs.

Mr. Hafer was listed in the 2009 and 2010 editions of *Chambers USA: America's Leading Lawyers for Business* for Construction Law and he was listed as #1 in the 2015 and the four years immediately preceding editions. Mr. Hafer was recommended by *Legal 500 US* in 2009, 2011, 2012, 2014 and 2015 for Real Estate and Construction Law and he was also recognized as a "Leading Lawyer" in 2014 and 2015 by *Legal 500 US*. He was recognized in 2016 and the 13 years immediately preceding by other practicing attorneys as one of the *Best Lawyers in America*[®] in the field of Construction Law. Mr. Hafer was listed in *The International Who's Who of Business Lawyers* for 2009, 2011, 2013 and 2014 in the area of Construction and *The International Who's Who of Construction Lawyers* in 2010 and 2014. He is a Fellow of The American College of Construction Lawyers. Mr. Hafer was named a Georgia "Super Lawyer" in the area of Alternative Dispute Resolution in 2009 and in the area of Construction Litigation in 2015 and the six years immediately preceding and a Top 100 Georgia "Super Lawyer" in 2011 by *Super Lawyers* magazine. Mr. Hafer is AV[®] rated by Martindale-Hubbell.*

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Alternative Dispute Resolution Training

AAA Arbitration Fundamentals and Best Practices for New AAA Arbitrators,
2014

Dispute Resolution Board Foundation - DRB Advanced/Chairing Workshop and DRB Administration and Practice Workshop
2013

Straus Institute for Dispute Resolution, STAR - A Systematic Approach to Mediation Strategies
2011

Publications, Articles and Speaking Engagements

Public Private Partnerships – Best Practices/Lessons Learned
27th Annual Conference
American College of Construction Lawyers
February 18-21, 2016

AtIAS Conference "Setting Sail with International Arbitration," "The hearing, the IBA rules on taking of evidence, award, enforcement, finding and recovering assets and annulment."
Atlanta, GA, September 30, 2015

"Chapter 15: United States"
The Public-Private Partnership Law Review, Law Business Research
April 2015

"Dispute Prevention, Management and Resolution of Infrastructure and Construction Projects"
AtIAS Conference on Africa Related International Arbitration
Atlanta, GA, November 03, 2014

"Transnational Enforcement of International Arbitral Awards and Foreign Judgments"
Association of Corporate Counsel Annual Meeting
New Orleans, LA. October 31, 2014

DRB's – Lessons Learned
25th Annual Conference
American College of Construction Lawyers
February 20-23, 2014

2013 Construction Law Seminar - Ask the Experts
April 02, 2013

Design-Build: How Does It Work In the Risky Business of Underground Construction?
Construction Super Conference, December 09, 2012

Differing Site Conditions: Who Pays for the Unexpected?
Kilpatrick Townsend Construction Law Seminar, April 12, 2012

Southeastern Region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
Construction Law Update 2011, May 17, 2011

Top Ten Issues In Contract Review and Negotiations
Kilpatrick Townsend Construction Law Seminar, May 04, 2011

Dispute Boards: Using Them to Make Projects Successful
FIDIC Abu Dhabi Seminar, February 23, 2011

Project Counsel Initiative — Mega Project Margin Erosion Protection
Association of Corporate Counsel Annual Meeting, October 24, 2010

Thinking the Unthinkable: A Practical Guide to Handling Termination for Default
Kilpatrick Stockton Construction Law Seminar, May 05, 2010

Southeast Region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
Construction Law Update 2010, January 01, 2010

CPR Dispute Prevention Briefing: Construction Dispute Review Boards and Other Standing Neutrals, Achieving "Real- Time" Resolution and Prevention of Disputes
International Institute for Conflict Prevention and Resolution (CPR), January 01, 2010

Effectively Managing and Resolving Disputes in a Down Market
Kilpatrick Stockton Construction Law Seminar, April 30, 2009

Saving Money and Reducing Risk In Design and Construction
National Association of Clean Water Agencies (NACWA) Annual Meeting, February 03, 2009

Southeast Region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
Construction Law Update 2009, January 01, 2009

Will the Construction Boom Continue in the Arabian Gulf Region?
Construction Super Conference, December 12, 2008

Alternative Disputes Resolution — What's the Best Method For Your Project
Kilpatrick Stockton Construction Seminar: Confronting Change, May 08, 2008

AIA vs. ConsensusDocs
Kilpatrick Stockton Construction Law Seminar: Confronting Change, May 08, 2008

Principal Causes of Construction Disputes
Inside the Minds: Negotiating Construction Law Disputes, Leading Lawyers On Evaluating Disputes, Assessing Risks, and Deciding the Best Course of Action
Aspatore Books, March 31, 2008

Effective Use of Experts: Avoiding Disqualification
American College of Construction Lawyers Annual Meeting, February 21, 2008

Southeast Region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
Construction Law Update 2008, January 01, 2008

Design and Construction Risk Allocation and Management on Major PPP Transportation Projects: The Public Owner's Perspective
Construction Super Conference, December 12, 2007

Winning in Mediation
Kilpatrick Stockton Construction and Public Contracts Seminar, May 21, 2007

The Letter of the Law: Experts Discuss Legal Issues in Tunneling
Tunnel Business Magazine, August 01, 2006

Risk Management in Underground Construction
Design Build Institute of America Water/Wastewater Conference, January 25, 2006

Public Private Partnerships
International Municipal Lawyers Association, September 09, 2005

Design Build Risk: The Basics for First-Time Owners
Tunnel Business Magazine, December 27, 2004

Design-build in Underground Construction and Geotechnical Baselines
North American Tunneling, April 17, 2004

Dealing With Differing Site Conditions: Who Really Owns the Ground?
Construction Super Conference, December 11, 2003

Speaker, Georgia Construction Law Conference
Professional Education Systems Institute, November 20, 2003

Southeast Region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
2003 Construction Law Update, July 01, 2003

Dispute Review Boards and the Avoidance of Litigation: Is There Room for Improvement?
Tunnel Business Magazine, April 01, 2003

Trouble in Paradise: Analyzing the Effectiveness of ADR
Construction Super Conference, December 07, 2000

Improving DRB's
North American Tunneling, June 06, 2000

Risk Management and Dispute Avoidance in Underground Construction - Are Owners Satisfied? A View from the Trenches
North American Tunneling, May 15, 2000

Contractual Claims Management Procedures on the Mega-Project: The Boston Harbor Model
Construction Super Conference, December 09, 1999

Believe It or Not, Delays Can Be Reduced on Jobs
The Charlotte Business Journal, April 02, 1999

Build a Stronger Contract to Avoid Legal Tangles
Triangle Business Journal, March 19, 1999

Common Sense Construction Law, A Practical Guide for the Industry Professional
John Wiley & Sons, Inc., January 01, 1997

Construction Law Update
Aspen/Wiley, January 01, 1992

Selecting a Third-Party Neutral Alternative Disputes Resolution in the Construction Industry
Wiley Law Publications, January 01, 1991

Construction Subcontracting: A Legal Guide for Industry Professionals
Wiley Law Publications, January 01, 1991

Alternative Clauses to Standard Construction Contracts
Wiley Law Publications, January 01, 1990

Construction Contracts
John Wiley & Sons, January 01, 1988

Professional & Community Activities

American College of Construction Lawyers (ACCL), Fellow and Past Co-Chair of Alternative Disputes Resolution Committee

International Institute for Conflict Prevention and Resolution (CPR) Construction Advisory Committee, Member

International Bar Association, Member

Disputes Review Board Foundation, Member

American Underground Construction Association, Member

American Arbitration Association's Roster of Arbitrators and Mediators, Panel Member

Atlanta International Arbitration Society – Member of the Board of Directors and Executive Committee

Angel Flight Pilot

University of Tennessee College of Law Dean's Circle

Education

University of Tennessee, J.D. (1983)
high honors, Order of the Coif, Phi Kappa Phi

Georgia State University, B.S. (1975)
cum laude

Bar Admissions

Georgia (1983)