

## Introduction to Construction Litigation Handbook 2025

This work provides an overview of all aspects of construction litigation as explained by courts across the country. It will aid the practitioner in drafting, interpreting, and enforcing public and private agreements. Taken into consideration are disputes relating to the obligations of all parties involved in executing, financing, and insuring a project. The reader will learn how to steer a dispute through the litigation process.

This edition now includes cases discussing these emerging issues:

- **[New] Payment due date**  
Unicorp, L.L.C. v. BRaDD, L.L.C., 397 So. 3d 453 (La. Ct. App. 3d Cir. 2024), writ denied, 401 So. 3d 660 (La. 2025). Chapter 6
- **[New] Exceptions to license law**  
Bennett v. Cashin, 370 Ga. App. 335, 897 S.E.2d 483 (2024). Chapter 17
- **[New] Ensuing/resulting loss**  
Gardens Condominium v. Farmers Insurance Exchange, 2 Wash. 3d 832, 544 P.3d 499 (2024). Chapter 19
- **[New] Limitation provisions in insurance contracts**  
Rosenberg-Wohl v. State Farm Fire & Casualty Co., 16 Cal. 5th 520, 323 Cal. Rptr. 3d 95, 551 P.3d 1097 (Cal. 2024). Chapter 19
- **[New] Liability of developer**  
Elpers Bros. Construction & Supply, Inc. v. Smith, 230 N.E.3d 920 (Ind. Ct. App. 2024), transfer denied, 238 N.E.3d 1288 (Ind. 2024). Chapter 21

This edition also incorporates recent case law addressing the following points of law, among others:

- **Uncertainty**  
Summit Construction v. Koontz, 2024 WY 68, 550 P.3d 106 (Wyo. 2024). Chapter 1
- **Oral contract**  
Summit Construction v. Koontz, 2024 WY 68, 550 P.3d 106 (Wyo. 2024). Chapter 1
- **Intention of the parties**  
Lithko Contracting, LLC v. XL Insurance America, Inc., 487 Md. 385, 318 A.3d 1221 (2024). Chapter 3
- **Plain meaning of words employed**

- Town of Colonie v. Global Contracting & Painting, Inc., 237 A.D.3d 1280, 230 N.Y.S.3d 796 (3d Dep’t 2025). Chapter 3
- **Parol evidence admissible**  
Lithko Contracting, LLC v. XL Insurance America, Inc., 487 Md. 385, 318 A.3d 1221 (2024). Chapter 3
  - **Unconscionability**  
Ramirez v. Charter Communications, Inc., 16 Cal. 5th 478, 322 Cal. Rptr. 3d 825, 551 P.3d 520 (Cal. 2024); Ramirez v. Charter Communications, Inc., 108 Cal. App. 5th 1297, 330 Cal. Rptr. 3d 211 (2d Dist. 2025). Chapter 3
  - **Lack of license**  
Bennett v. Cashin, 370 Ga. App. 335, 897 S.E.2d 483 (2024), Clarke v. Dye-Master Group, Inc., 372 Ga. App. 376, 903 S.E.2d 828 (2024), cert. denied, (Dec. 10, 2024), Electrical Contracting Solutions Corp. v. Trump Village Section 4, Inc., 226 A.D.3d 746, 209 N.Y.S.3d 123 (2d Dep’t 2024), KSP Construction, LLC v. LV Property Two, LLC, 224 A.D.3d 58, 204 N.Y.S.3d 54 (1st Dep’t 2024). Chapter 5
  - **Written modification**  
Unicorp, L. L. C. v. BRaDD, L. L. C., 397 So. 3d 453 (La. Ct. App. 3d Cir. 2024), writ denied, 401 So. 3d 660 (La. 2025). Chapter 5
  - **Misrepresentation as breach**  
Harrell v. DeLuca, 97 F.4th 180 (4th Cir. 2024). Chapter 8
  - **Proving damages**  
Byers v. Superior Court, 101 Cal. App. 5th 1003, 320 Cal. Rptr. 3d 748 (1st Dist. 2024), review denied, (Aug. 14, 2024). Chapter 11
  - **Attorney fees**  
Byers v. Superior Court, 101 Cal. App. 5th 1003, 320 Cal. Rptr. 3d 748 (1st Dist. 2024), review denied, (Aug. 14, 2024), Kayode v. Midas Construction, LLC, 312 A.3d 1229 (D.C. 2024). Chapter 11
  - **Unjust enrichment**  
Dooley v. Gary the Carpenter Construction, Inc., 388 So. 3d 881 (Fla. 3d DCA 2023), Summit Construction v. Koontz, 2024 WY 68, 550 P.3d 106 (Wyo. 2024). Chapter 12
  - **Duty of care**  
Lynch v. Peter & Associates etc., 104 Cal. App. 5th 1181, 325 Cal. Rptr. 3d 265 (4th Dist. 2024), review denied, (Nov. 26, 2024). Chapter 13
  - **Contribution**  
Truck Ins. Exchange v. Kaiser Cement & Gypsum Corp., 16 Cal. 5th 67, 321 Cal. Rptr. 3d 761, 549 P.3d 781 (Cal. 2024). Chapters 13 and 16
  - **Economic loss**  
BMI Properties, LLC v. Daewoong, LLC, 224 N.E.3d 1000 (Ind. Ct. App. 2023), transfer denied, 233 N.E.3d 397 (Ind. 2024). Chapter 13

- ***Privette doctrine***  
Bowen v. Burns & McDonnell Engineering Co., Inc., 103 Cal. App. 5th 759, 323 Cal. Rptr. 3d 147, 89 Cal. Comp. Cas. (MB) 762 (1st Dist. 2024), CBRE v. Superior Court, 102 Cal. App. 5th 639, 321 Cal. Rptr. 3d 697, 89 Cal. Comp. Cas. (MB) 528 (4th Dist. 2024), as modified on denial of reh'g, (June 28, 2024) and review denied, (Sept. 11, 2024). Chapter 13
- **Control over the work**  
Bowen v. Burns & McDonnell Engineering Co., Inc., 103 Cal. App. 5th 759, 323 Cal. Rptr. 3d 147, 89 Cal. Comp. Cas. (MB) 762 (1st Dist. 2024). Chapter 13
- **Elements of fraud claim**  
Elpers Bros. Construction & Supply, Inc. v. Smith, 230 N.E.3d 920 (Ind. Ct. App. 2024), transfer denied, 238 N.E.3d 1288 (Ind. 2024), Harrell v. DeLuca, 97 F.4th 180 (4th Cir. 2024). Chapter 15
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- **Constructive fraud**  
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- **False claims**  
Hendrix ex rel. United States v. J-M Manufacturing Company, Inc., 76 F.4th 1164 (9th Cir. 2023), United States ex rel. Lesnik v. ISM Vuzem d.o.o., 112 F.4th 816 (9th Cir. 2024), cert. denied, 145 S. Ct. 1171, 221 L. Ed. 2d 252 (2025) (Petition for Certiorari docketed December 3, 2024). Chapter 15
- **Unfair competition**  
Rosenberg-Wohl v. State Farm Fire & Casualty Co., 16 Cal. 5th 520, 323 Cal. Rptr. 3d 95, 551 P.3d 1097 (Cal. 2024). Chapter 16
- **Consumer protection statutes**  
Harrell v. DeLuca, 97 F.4th 180 (4th Cir. 2024). Chapter 16
- **Subrogation**  
Lithko Contracting, LLC v. XL Insurance America, Inc., 487 Md. 385, 318 A.3d 1221 (2024). Chapter 16
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Ponagansett 2 LLC v. Garcia, 312 A.3d 992 (R.I. 2024). Chapter 16
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- **Spoliation of evidence**  
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- **Prompt Payment Act**  
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Bennett v. Cashin, 370 Ga. App. 335, 897 S.E.2d 483 (2024), Electrical Contracting Solutions Corp. v. Trump Village Section 4, Inc., 226 A.D.3d 746, 209 N.Y.S.3d 123 (2d Dep't 2024), KSP Construction, LLC v. LV Property Two, LLC, 224 A.D.3d 58, 204 N.Y.S.3d 54 (1st Dep't 2024). Chapter 16
- **Common work area doctrine**  
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DeVillier v. Texas, 601 U.S. 285, 144 S. Ct. 938, 218 L. Ed. 2d 268 (2024). Chapter 16
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DeVillier v. Texas, 601 U.S. 285, 144 S. Ct. 938, 218 L. Ed. 2d 268 (2024), Sheetz v. County of El Dorado, California, 601 U.S. 267, 144 S. Ct. 893, 218 L. Ed. 2d 224 (2024). Chapter 16
- **Labor law**  
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Ives v. HMB Professional Engineers, Inc., 2024 WL 2487850 (Ky. Ct. App. 2024), review granted, (Dec. 12, 2024) and not to be published pursuant to operation of cr 76.28(4)(c), rcr 12.02 (discretionary review granted by Supreme Court December 12, 2024). Chapter 17
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As construction relationships become increasingly complex (as do occasions for incurring liability), construction litigation law continues to expand. We work diligently each year to make this publication the leading resource available on this topic and hope that you will find it valuable in your practice.

Should you have any questions or comments or notice anything you think is not accurate, please let me know at

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Thank you for your subscription.

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