



Jerome V. Bales



Admitted to Bar in

Kansas 1974

Missouri 1987

U.S. Supreme Court

U.S. Court of Appeals for the Eighth and Tenth Circuits

U.S. District Court for the District of Kansas and

U.S. District Court for the Western District of Missouri

QUICK CONTACT

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EDUCATION

- University of Missouri – Kansas City, J.D., with distinction, 1974
- Rockhurst College, B.S., 1971

EXPERIENCE

Mr. Bales has over 43 years of experience handling commercial litigation and construction claims, litigation, risk management, and contract drafting/negotiation. Mr. Bales also has extensive experience with personal injury, wrongful death, product liability, premises liability, insurance coverage, arson and fraud. He frequently serves as a mediator or arbitrator in commercial, construction, insurance, and other disputes. He has tried more than one hundred cases (jury trial, bench trial, and arbitration) and participated in hundreds of mediations and settlement conferences. In the construction industry, Mr. Bales has represented design professionals, owners, contractors, sureties, and suppliers and has handled virtually every type of claim arising from a commercial project, i.e., defects in all design disciplines, delay and impact, job site safety, wrongful termination, liquidated damages, cardinal change, differing site conditions, and other contract disputes.

HONORS

- Selected among The Best Lawyers in America®, 2008-2016
- Selected as one of Missouri/Kansas Super Lawyers (Construction), 2006-2016
- Construction Arbitrator Master Panel of AAA (top 100 in the country)
- AAA Master Mediation Panel
- National Academy of Distinguished Neutrals
- Martindale-Hubbell® “AV” Rating

PUBLICATIONS

- Co-Author, State-By-State Guide to Design and Construction Contracts and Claims, Second Edition, Aspen Publishers, 2013 (Kansas Law Chapter);
- Co-Author, 2014, 2015 and 2016 Cumulative Supplements (Kansas Law Chapter), State-By-State Guide to Design and Construction Contracts and Claims, Second Edition, Aspen Publishers, 2013;
- Co-Author, 2009, 2010, 2011 and 2012 Cumulative Supplements (Kansas Law Chapter), State-By-State Guide to Construction Contracts and Claims, Aspen Publishers (2008);
- Co-Author, ConsensusDOCS 240: What You Don't Know Can Hurt You, 30 The Construction Lawyer 21, 2010
- Co-editor, Design Professional and Construction Manager Law, ABA Construction Forum, 2007
- Jerome V. Bales, Shamus O'Meara, and Mark Azman, The “Betterment” or Added Benefit Defense, 26 The Construction Lawyer 14, 2006
- Author, Construction Litigation's Tangled Web: A Case Study: Dillard v. Shaugnessy, The Critical Path,

Defense Research Institute Construction Law Committee, 1997

- Contributing author, The Chapter Newsletter, Construction Specifications Institute, Kansas City Chapter

PRESENTATIONS

- Arbitration Issues from the Neutral's Perspective, Kansas City Metropolitan Bar Association, October 2011
- Hey, Who's in Charge Here? The ConsensusDOCS Owner-Architect Agreement, American Bar Association, September 2008;
- 2007 AIA Contract Documents, Lorman Education Services, January 2008
- Do Mechanical/Electrical Engineers Need to Worry About Risk Management? (Sustainability, BIM, Commissioning, and Electronic Discovery), ACEC Annual Meeting, May 2007
- Design-Build Construction Law, Turner Construction Co., February 2007
- Fundamentals in Construction Law, American Bar Association, November 2006
- Betterment or Added Value – The Defense with an Identity Crisis, 45th Annual Meeting of Invited Attorneys, Victor O. Schinnerer & Company, Inc., Savannah, Georgia (2006)
- The Betterment or Added First Benefit Defense, ABA Construction Forum Meeting, New Orleans, Louisiana (2005)
- Mold-What's the Big Deal? Joint Meeting, American Institute of Architects, Association of General Contractors, and Kansas Consulting Engineers (2003)
- A Road Map to the Standard of Care, 41st Annual Meeting of Invited Attorneys, Victor O. Schinnerer & Company, Inc., Asheville, North Carolina (2002)
- What Do You Do When Conditions of the Job Change, National Business Institute Seminar (2000)
- Conflict Management and Dispute Resolution Procedures, Construction Specifications Institute, Kansas City Chapter (2000)
- Liability of Design Professionals, The Missouri Bar Annual Meeting (1995)

ACTIVITIES AND MEMBERSHIPS

- American Bar Association, Construction Industry Forum (former member of Division Steering Committee)
- The Missouri Bar, Construction Law Committee
- Kansas Bar Association, Construction Law Committee
- Johnson County, Kansas, Bar Association (former Director and Treasurer)
- Johnson County Bar Foundation (former Trustee)
- Kansas City Metropolitan Bar Association, Construction Law Committee (former Chair)

ARBITRATION/MEDIATION EXPERIENCE AS A NEUTRAL

- AAA Master Mediation Panel (selected by rating committee of advocates and in-house counsel)

representing clients in complex, high-stakes disputes)

- Arbitration Panels:
 - American Arbitration Association
 - Construction Arbitrator Master Panel of AAA (top 100 in the country)
 - AAA Rule R-7 Arbitrator
- Arbitration Training:
 - Annual AAA Continuing Education Courses (2005 to present)
 - American Bar Association Section of Dispute Resolutions 16th Annual Spring Conference (Managing a Successful Arbitration – Getting to Arbitration; Ethics for Arbitrators; Managing the Complex Business Case in ADR; Best Practices for the Multi-Arbitration Panel; Discovery in Arbitration; Managing a Successful Arbitration-Ethical Issues in Arbitrations; The Arbitration Hearing) (Miami 2014)
 - Arbitrating the Mega-Case, American Bar Association, Los Angeles, California (2008)
 - Chairing an Arbitration Panel: Managing Procedures, Process & Dynamics, AAA (2005)
 - Arbitration Awards: Safeguarding, Deciding & Writing Awards, AAA (2004)
 - Ethics in ADR (AAA,2003)
 - Construction Industry Arbitrator II Training, AAA, Orlando, Florida (2002)
 - Annual Arbitrator Update, AAA (2002)
 - Construction Industry Arbitrator Training, AAA, Kansas City, Missouri (1997)
- Sample Cases as Arbitrator:
 - \$80 million-dollar dispute between owner, general contractor, and pass-through claims of multiple subcontractors, involving high rise luxury condominium project (Chair of three-member panel; 98 days of hearing);
 - Served as Umpire in appraisal process involving roofing dispute between insurance carrier and insured-owner;
 - Multi-million dollar dispute between municipal utility, contractor and supplier involving performance issues with baghouse, man-safe dampers, ash conveyance system and ID fan in power plant (three-member panel);
 - Dispute between industrial producer of bio-diesel fuel and supplier of 1.5 million gallon bolted-steel tank, used for storage of UAN fertilizer solution and soybean oil (sole arbitrator);
 - Multi-million dollar dispute between developer and contractor involving construction of golf course (Chair of three-member panel);
 - Claim by pension fund of labor union against company for withdrawal liability under Employee Retirement Income Security Act of 1975 (ERISA), as amended by the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA);
 - Claim by for actual and punitive damages by purchaser of apartment complex against seller and real estate broker for misrepresentation and fraud as to financial condition of the property;
 - Claim for damages relating to UCC rejection of defective 1.5 million gallon bolted-steel tank used to

- store UAN fertilizer solution and soybean oil;
- Claim for damages relating to numerous defective interactive exhibits manufactured for and supplied to museum;
- Multi-million dollar dispute between county-owner and contractor involving delays in completion of arena and exhibition hall (Chair of three-member panel);
- Multi-million dollar claim involving errors in structural design and fabrication of roller coaster for major theme park (three-member international panel);
- \$3 million claim for damages by owner and developer of golf course, and counterclaim by contractor for specific performance of \$2.2 million mortgage (Chair of three-member panel);
- Multi-million dollar delay claim by owner against construction manager, and counterclaim for unpaid construction management and contractor fees (sole arbitrator);
- Dispute between general contractor and subcontractor on fast-track project concerning termination of subcontractor, damages for completion and correction of work, etc. (three-member panel);
- Dispute between contractor and private owner as to enforceability and validity of liquidated damages and related claims (sole arbitrator);
- Residential dispute involving failure of deck to comply with building code (sole arbitrator).
- Dispute between owner of project and general contractor involving claims on fraudulent in the inducement, delays, damage to owner's property, wrongful termination, incomplete and defective work (three-member panel; 31 days of hearing);
- Dispute between owner of project and EPC Contractor relating to natural gas liquid gathering and processing plant, and claims of delay, inefficiencies, incomplete work, wrongful termination, and numerous disputed change order requests;
- Dispute between utility and contractor relating to design, construction, and maintenance of 13 arsenic and nitrate water treatment facilities and issues of UCC warranties, statutes of limitations, etc. (three-member panel);
- Numerous cases serving as AAA Rule R-7 Arbitrator (joinder and consolidation);
- Mediation Panels:
 - American Arbitration Association Master Mediation Panel
 - United States District Court, Western District of Missouri
- Mediation Training:
 - American Bar Association Section of Dispute Resolution 16th Annual Spring Conference (After the Middle Hours – Getting to Settlement) (Miami 2014)
 - Construction Mediator Training (2 days), AAA, Chicago, Illinois (1997)
 - Various continuing education seminars on mediation
- Sample Cases as Mediator:
 - Claim by public university for numerous design and construction defects relating to residence hall project (15 parties);
 - Wrongful employment discharge and retaliation claim;

- Claim by public owner for errors and omissions represented by more than three hundred change order items;
- Multi-party dispute between municipality and various contractors regarding construction defects and unpaid contract balances (three days);
- \$9.2 million dispute (8 parties) involving claims arising from destruction of project by arsonist, including builder's risk coverage, broker liability, and negligence of contractors;
- Dispute between general and subcontractor regarding work on electrostatic precipitator in power plant, termination of the subcontractor, and multi-million dollar counterclaim by subcontractor for loss of credit and bonding capacity;
- Multi-million dollar claim by housing authority against program manager regarding job order contract program;
- Sexual harassment and hostile work environment claim (Missouri Human Rights Act);
- Violation of non-complete agreement;
- Design and construction issues relating to Corps of Engineers Project (seismic soil classification);
- Dissolution of professional service firm;
- Residential claim for \$400,000 in damages caused by defective workmanship.
- Property insurance claim against first-party insurer for hail damage to roof on commercial building;
- Claim against engineer by worker who was severely injured in trench collapse;
- Accounting malpractice claim relating to erroneous tax returns, resulting from use of stepped-up basis for assets acquired in merger;
- Claim against municipality for breach of development agreement (CID) and improper allocation of interest;
- Claim of defective design and construction of storm water drainage infrastructure for transportation and holding facility;
- Claim by umbrella carrier against primary insurer for negligence, bad faith, and breach of duty to defend (conflict of interest due to worker's compensation subrogation interest and failure to separate the files);
- Equitable subrogation claim by payment bond surety for progress payments and retainage and issue of effective date of surety's lien rights;