

## Construction Law & Litigation

Becker has one of the largest, dedicated teams of Florida Board Certified Construction attorneys with a well-earned national reputation.

Our firm has an equally unparalleled

**New Jersey Construction Practice**

### Practice Group Chair



**Steven B. Lesser**  
Shareholder

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#### Related Areas of Practice

- [Bid Protest](#)
- [Chapter 558 Specialized Claims Team](#)
- [Construction Defects Litigation](#)
- [Construction Licensing](#)
- [Construction Lien Law](#)
- [Delay Claims](#)
- [Design & Construction Contracts](#)
- [Design Professional Liability](#)
- [Surety Bonds](#)

With one of the largest, dedicated teams of Board Certified Construction attorneys, Becker's Construction Law Practice Group is well-known nationally for its knowledge of the construction industry and experience effectively protecting the interests of its clients. Practice Group Chair Steven Lesser is Past Chair of the American Bar Association's Forum on Construction Law, the largest organization of constructional lawyers with over 6,000 construction professionals around the world. He also previously served as Chair of the Florida Bar Construction Law Certification Committee that prepares and administers an examination, evaluates peer review to determine those construction lawyers to be Board Certified by the Florida Bar.

The firm has handled numerous and varied construction-related cases, many of which have involved complex delay issues with a multitude of defendants, and scores of construction defects. Our construction attorneys represent clients in both transactions and disputes ranging from single- and multi-family dwellings to large commercial buildings, planned unit developments, multi-use retail, industrial and governmental projects.

The 2021 edition of Construction Executive's "Top 50 Law Firms" recognizes Becker in the top 25 of construction law firms nationally. [Chambers USA](#) has also recognized the firm's Construction group every year it has published its global law firm ranking guide. A ranking in "Band 1" by Chambers indicates the very top of the field according to clients and peers. Excerpts from Chambers include:

- "Highly regarded team renowned for its condominium association work and expertise in representing owners, developers, and contractors. Impressive involvement in public-private partnership matters, and experience in construction defect claims. It also provides a full suite of other construction services such as licensing, insurance, government procurement contracts and surety work. Sources say: "They have a deep construction practice and handle major projects. In every dealing I've had with them, I've come out thinking that they are top tier." "Highly professional with the personnel and resources to handle any matter."
- "The team has an undisputed reputation for residential construction matters and is increasingly involved in commercial cases... regularly representing owners, developers, sureties and contractors, the group is particularly knowledgeable on condominium projects."
- "The firm represented Carnival Corporation in defense of significant damage claims exceeding \$3 million. The firm also represents Swire Properties in the design and construction of Brickell City Centre in Miami which is the largest mixed-use project in Florida. AECOM and Zurich Surety are among the group's other key clients."

#### Areas of Specialized Knowledge

Becker prides itself on careful, upfront analysis of complicated delay claims in order to identify a client's potential recovery or damage exposure. Becker's Construction Law Practice Group has vast experience in the representation of property owners, developers, homeowners, contractors and subcontractors, design professionals, materials manufacturers in connection with construction of high-rise and other residential developments, condominium conversions of older rental property, commercial property, mixed-use projects and governmental buildings focused in these areas:

- Design and construction defects and deficiencies relating to residential and commercial construction, including exterior envelope deficiencies resulting in water intrusion, fire and structural life safety issues
- Pre-suit dispute resolution including those involving Chapter 558, Florida Statutes
- Construction Delays
- Liens
- Hurricane Recovery & Rebuilding
- Insurance Coverage Disputes - negotiations and resolution of insurance claims relating to rebuilding
- Mold and Mildew claims
- Construction Contracts and related documents including loan documentation

## Significant Cases

The firm has been a leader in Construction law as evidenced by serving as counsel of record in many of the leading appellate cases involving construction law including, but not limited to, the following:

*Moransais v. Heathman*, 749 So.2d 973 (Fla. Supreme Court): This Florida Supreme Court overturned its previously held the view of the Economic Loss Doctrine providing that any aggrieved party may recover damages from a design professional based on negligence, without the economic loss rule acting as a bar to such claims. This historic case reversed a trend in the courts that prohibited those not in privity with homeowners, including condominium associations, from suing design professionals for damages resulting from their negligent conduct.

*Edward J. Seibert, A.I.A., Architect & Planner, P.A. v. Bayport Beach & Tennis Club Association, Inc.*, 573 So.2d 889, 892 (Fla. 2d DCA): The Court held that design professionals that acquire approval before construction are considered to have complied with the applicable standard of care. However, this approval may be successfully challenged if it can be demonstrated that the approval was "clearly erroneous." This case's significance is that design professionals are held liable for damages when their building plans contain details that fail to comply with the applicable building code.

*Grossman Holdings Ltd. v. Hourihan*, 414 So.2d 1037: When construction or design defects in real property cannot be corrected, or when the cost of remedying such defects would be greater than the value of the property, the measure of damages is the "diminution of the value of the property." This case is important because it provided a measure of damages that a homeowner could recover for defective construction.

*Munder v. Circle One Condominium, Inc.*, 596 So.2d 144 (Fla. 4th DCA): In this critical case, the Court found no basis for piercing the corporate veil where the developer made a conscious business decision not to renew a fire insurance policy on the condominium clubhouse as opposed to neglecting to pay the premium. This case confirmed the duty of a condominium developer to ensure that appropriate insurance coverage would be acquired for condominium associations.

*Drexel Properties, Inc. v. Bay Colony Club Condominium, Inc.*, 406 So.2d 515 (Fla. 4th DCA), disapproved in part 620 So.2d 1245: The Court affirmed an award of damages based on a breach of implied warranty. This case firmly established the rights of condominium unit owners for breach of common law implied warranties by developer/builders in Florida and is one of the most widely cited cases in condominium construction law.

*Stone's Throw Condominium Association, Inc. v. Sand Cove Apartments, Inc.*, 749 So.2d 520 (Fla. 2d DCA): Condominium association has cause of action to recover economic damages from design professional based on cause of action for negligence. This case is significant because it was the first appellate decision to be issued after the Florida Supreme Court issued its decision in *Moransais v. Heathman* dealing with the application of the Economic Loss Doctrine.

*Vantage View Inc. v. Bali East Development Corp.*, 421 So.2d 728 (Fla. 4th DCA): In this case, the Association successfully stated a cause of action against developer parent corporation for the acts of its subsidiary where subsidiary was found to be without any separate interests of its own, functioning solely to achieve the parent corporation's purposes and to mislead creditors and avoid liability. This case affirmed that the pleadings successfully established a viable cause of action against condominium developers for breach of implied warranties.

The firm has represented The School Board of Broward County (SBBC) since 1994. We are retained to resolve numerous delay and defect claims, redraft construction-related contracts, prevent future claims and, when necessary, file suits against the District's vendors. The firm's experience representing SBBC includes cases ranging from disputes for time and money to correction of warranty work by general contractors from whom retainage was being withheld. The firm successfully defended the SBBC on numerous claims for millions of dollars. In addition, the firm has been responsible for completely overhauling and redrafting its construction contracts to avoid some of the problems the District had been litigating with architects, engineers, and contractors.