

Matthew J. DeVries

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Matt DeVries, a native of Albuquerque, New Mexico, is a partner with Smith Cashion & Orr PLC, and concentrates his practice on construction law, employment law and complex commercial litigation. He is also the author of the construction law blog, www.bestpracticesconstructionlaw.com. Prior to joining Smith Cashion & Orr in 2006, he practiced construction law at Wickwire Gavin PC in Washington, D.C. where he began his private practice career.

Matt earned his Bachelor of Arts degree from The American University and he obtained his Juris Doctor degree from the University of Richmond School of Law. While at law school, Matt served as Executive Editor of *Law Review*, was inducted into the Order of the Barristers, and received the International Academy of Trial Lawyers Award for Outstanding Advocacy. Following law school, he clerked for two years with the Chief Judge of the Court of Appeals of Virginia.

Matt practices in the areas of construction law and complex commercial litigation with a considerable emphasis on construction litigation, construction contracts, green building and mechanic's lien enforcement. His industry experience includes power plants; waste water treatment facilities; offshore oil drilling pipelines; educational, medical and commercial buildings; and multi-use residential. His commercial litigation experience includes representation of local business owners and individuals in corporate, employment and other business litigation matters.

Matt has written numerous articles on construction-related issues, including property damages caused by subcontractors, waiver of subrogation clauses, fraud claims in construction disputes, delay damages claims, contracting with the Federal government and the legislative and legal framework for green construction. In addition, Matt has given presentations on numerous construction law issues, including green building litigation, environmental laws impacting the construction industry, project delivery systems, documents and project management, alternative dispute resolution and sovereign immunity of Tribal entities.

Matt is admitted to practice in Tennessee, Virginia, and the District of Columbia. He is married to Courtney, a lovely lady from Tulsa, Oklahoma, and they have five young children.

(Additional Details Follow)

PROFESSIONAL MEMBERSHIPS & CIVIC ACTIVITIES

- Virginia Bar (1998); District of Columbia Bar (2002); Tennessee Bar (2006)
- Court Memberships: U.S. District Court (E.D. & W.D. Virginia, District of Columbia, M.D. & W.D. Tennessee); U.S. Court of Appeals (Fourth Circuit, Sixth Circuit, Federal Circuit, D.C. Circuit); United States Supreme Court
- American Bar Association, Forum on the Construction Industry
Member (2000-Present)
Member, Division 10—Legislation & Environment (2006-Present)
Steering Committee, Division 10—Legislation & Environment (2007-Present)
Membership Chair, Division 10—Legislation & Environment (2009-Present)
Event Coordinator, “Helping Your Clients Turn Brownfields Green: Cleanup Use and Redevelopment of Contaminated Property,” ABA Forum on the Construction Industry & ABA Center for Continuing Legal Education (September 18, 2007)
- Scribes Society of Writers on Legal Subjects,
Member (2003-Present)
- National Exchange Club, Nashville Chapter,
Member (2008-Present)
Assistant Secretary and Board of Director Member (2009-Present)
- Oakton Community for Youth Safety,
Steering Committee Member & Legal Counsel (2003-2006)
- Fairfax County School Board, Adult Community Education Advisory Committee,
Member (2005-2006)

APPELLATE EXPERIENCE †*designates counsel of record*

Federal Courts:

Parkway Associates LLC v. Harleysville Mut. Ins. Co., 241 Fed.Appx. 226 (6th Cir. 2007) (affirming summary judgment in favor of insurer in property damage dispute)

Perry v. Hensel Phelps Constr. Co., 2002 U.S. App. LEXIS 9689 (No. 01-1353) (Fed. Cir. 2002) (proof of excusable delay in government contract case)†

Ryan Inc. v. Toll Bros., Inc., 2002 U.S. App. LEXIS 16181 (No. 02-1147) (4th Cir. 2002) (scope of arbitration agreement)†

Choctaw Generation L.P. v. American Home Assurance Co., 271 F.3d 403 (2d Cir. 2001) (scope of arbitration agreement)†

United States v. Illsley, 1999 U.S. App. LEXIS 19238 (No. 98-4373) (4th Cir. 1999) (Fourth Amendment violation in criminal case)

Parker v. Director, OWCP, 75 F.3d 929 (4th Cir. 1996), cert. denied, 519 U.S. 812 (1996) (jurisdiction under Longshore Act)

Sidwell v. Express Container Serv., Inc., 71 F.3d 1134 (4th Cir. 1995) (jurisdiction under Longshore Act)

Weyher/Livsey Constructors, Inc. v. Prevetire, 27 F.3d 985 (4th Cir. 1994) (jurisdiction under Longshore Act)

Pittman Mechanical Contractors, Inc. v. Director, OWCP, 35 F.2d 122 (4th Cir. 1994) (jurisdiction under Longshore Act)

State Courts:

Acuity v. McGhee Eng'g, Inc., No. M2007-02821-COA-R3-CV (Tenn. Ct. App. 2008) (surety's rights of equitable subrogation)†

Oggles v. Smith, Case No. M2007-87-COA-R9-CV (Tenn. App. 2007) (affirming summary judgment in favor of engineer)†

Weichert Company v. Armand Della Monica, Case 06-0655 (Va. 2006) (denying appeal in real estate purchase dispute)†

Hawkeye Funding L.P. v. Duke/Fluor Daniel, 763 N.Y.S.2d 574 (N.Y. App. Div. 2003) (arbitrability of construction dispute)†

Carter v. Commonwealth, 1999 Va. App. LEXIS 409 (No. 0076-98-4) (Va. App. 1999) (capital murder case)

Gray v. Commonwealth of Virginia, 503 S.E.2d 252 (Va. App. 1998) (inconsistent verdicts in criminal case)

Moore v. Virginia International Terminals, Inc., 486 S.E.2d 528 (Va. 1997) (credit for benefits in worker's compensation case)

Owens Brockway v. Easter, 456 S.E.2d 159 (Va. App. 1995) (violation of safety rule in worker's compensation case)

Weeks Marine, Inc. v. Gillikin, 439 S.E.2d 89 (Va. 1994) (unseaworthiness of vessel in admiralty case)

SPEAKING PRESENTATIONS

Presenter, “Introduction to Commercial and Construction Law,” Middle Tennessee State University Department of Engineering (Oct. 2009).

Co-Presenter, “What Happens When Green Isn’t So Green,” AGC of Tennessee State Convention (Sept. 2009).

Presenter, “When Green Turns to Red: Assessing and Implementing Risk Management Strategies in Green Building,” Half Moon Seminars (April 2009).

Co-Presenter, “The Green Explosion: The Legislative Impact of Alternative Energy, Climate Change, and Sustainability on the Construction Industry,” American Bar Association, Forum on the Construction Industry, Annual Meeting (April 2009).

Co-Presenter, “Old Dog—New Tricks! Tennessee Lien Laws & Prompt Pay Act,” AGC of Middle Tennessee (March 2009).

Co-Presenter, “Will the Real Construction Documents Please Stand Up! A Comparison of the AIA and ConsensusDOCS,” AGC of Middle Tennessee (May 2008).

Presenter, “This is Your Life...Ethical Issues in Discovery and Litigation for the Construction Lawyer,” Tennessee Association of Construction Counsel Annual Meeting (April 2008).

Presenter, “Law School 101: General Construction Law Principles and Legal Trends Relating to Tribal Immunity,” The Falmouth Institute, Indian Country Construction Conference (Feb. 2008).

Presenter, “Projects Gone Wild! Best Practices for Document and Record Management,” The Falmouth Institute, Indian Country Construction Conference (Feb. 2008).

Presenter, “The Top 10-*tions* of Construction Law: From Indemnification to Termination to Resolution,” The Falmouth Institute, Indian Country Construction Conference (Feb 2008).

Presenter, “Documentation and Record Management,” Vanderbilt University, Construction Law and Contracts Class (April 2007).

Co-Presenter, “Principles of Construction Law and Project Delivery Systems,” The Falmouth Institute, Indian Country Construction Conference (Feb. 2006).

Presenter, “Business Ethics in Government Contracting: Misappropriation of Trade Secrets,” Government Contracting Breakfast Series (Nov. 2005).

“Ethical Issues in Discovery and Pre-Trial Litigation,” Law Practice Management Series (April 2005).

Presenter, “Once Upon a Time . . . Effective Appellate Brief Writing,” University of Richmond Law School (annual seminar 2000-2008); George Mason Law School (Sept. 2002).

PUBLICATIONS

Co-Editor, “2008-2009 Fifty State Update: Case Law and Legislation Affecting the Construction Industry,” ABA Forum on the Construction Industry, Division 10—Legislation and Environment (April 2009).

Co-Author, “The Green Explosion: The Legislative Impact of Alternative Energy, Climate Change, and Sustainability on the Construction Industry,” ABA Forum the Construction Industry, Annual Meeting (April 2009).

Co-Editor, “2007-2008 Fifty State Update: Case Law and Legislation Affecting the Construction Industry,” ABA Forum on the Construction Industry, Division 10—Legislation and Environment (April 2008).

Author, “Case Update: Role of Materials/Supplies Determine Applicability of Prevailing Wage Law,” *Construction Claims Online* (www.constructionclaims.com), December 3, 2007.

Co-Editor, “2006-2007 Fifty State Update: Case Law and Legislation Affecting the Construction Industry,” ABA Forum on the Construction Industry, Division 10—Legislation and Environment (April 2007).

Author, “Case Update: Owner Held Personally Liable for Wrongful Payment After Receiving a Lien Notice,” *Construction Claims Online* (www.constructionclaims.com), August 14, 2006.

Author, “Case Update: Punchlist Does not Establish Existence or Extent of Alleged Damages,” *Construction Claims Online* (www.constructionclaims.com), August 7, 2006.

Author, “Case Update: Anti-Competitive Claim Rejected in Public Contract Dispute,” *Construction Claims Online* (www.constructionclaims.com), May 8, 2006.

Author, “Case Update: Insurer Denies Coverage in Suite that Alleges Defective Work,” *Construction Claims Online* (www.constructionclaims.com), April 3, 2006.

Author, “Case Update: Contractor Needs Permission to Change Subcontractor on Government Project,” *Construction Claims Online* (www.constructionclaims.com), January 23, 2006.

Author, “Can a Subcontractor Admit Fault for Property Damage and Escape Liability Through a Waiver of Subrogation Clause? Yes!” *Legal Foundations*, Spring 2005.

Author, “Case Update: Subcontractor Cleared to File Separate Fraud Suit Against General Contractor for Withholding Delay Damage Payments,” *Construction Claims Online* (www.constructionclaims.com), March 14, 2005.

“Quick Tips for Employers: Layoffs and Terminations,” *Legal Foundations*, Winter 2002.

“The Basics of Worker’s Compensation,” *Legal Foundations*, Winter 2002.

“D.C. Circuit: Gender Bias Task Force,” 32 U. RICH. L. REV. 765 (1998).

“The Past, Present and Future of Trade Finance Policy,” INT’L BUS. SEC. NEWSL. (Virginia State Bar Association), Spring 1997.

“The Lesser of Two Evils: The Risks Involved in Contracting with the Government as a Result of *Hercules Inc. v. United States*,” 6 FED. CIRCUIT B.J. 107 (1996).