

## **RECENT WEIL & DRAGE VICTORIES**

### **DISMISSALS FROM HUNDREDS OF MILLIONS OF DOLLARS IN CLAIMS FOR CLIENTS IN PUBLIC AND PRIVATE WORKS PROJECTS OBTAINED**

Partner Jenifer Brannen, who leads legal teams at Weil & Drage handling some of the largest construction claims in the country, successfully secured a dismissal in exchange for a waiver of costs of a global A/E firm involved in hundreds of millions of dollars in alleged defect and delay claims surrounding the world's largest tunnel boring machine and the multi-billion dollar transportation project at the center of the massive litigation in Seattle, Washington.

In addition to the above successful result, earlier this year, Ms. Brannen successfully represented a global engineering firm sued via an indemnity cross-complaint by the developer of a 130 mixed use high-rise project in Northern California, where the Homeowners' Association claimed over \$20 million in construction defects. Ms. Brannen secured a dismissal in exchange for a waiver of costs after successful and strategic discovery and law and motion forced developer to concede that the claims against the engineering firm lacked merit.

*Ms. Jenifer Brannen is a partner at Weil & Drage with nearly 20 years of construction litigation experience, having joined the firm over 10 years ago. She can be reached at [jbrannen@weildrage.com](mailto:jbrannen@weildrage.com).*

### **SUCCESSFUL SETTLEMENT FOR GLOBAL ARCHITECT FIRM ACHIEVED ON CATASTROPHIC PERSONAL INJURY AND CONSTRUCTION DEFECT CLAIM**

Partner Brian Roteliuk represented a global architect firm in the defense of catastrophic personal injury and construction defect claims on a significant hospitality project in California. Mr. Roteliuk was able to conduct strategic discovery and law and motion which ultimately enabled him to secure resolution on behalf of the client for an amount less than 1% of the total global settlement.

*Mr. Brian Roteliuk is a partner at Weil & Drage and has been with the firm for over 12 years. He can be reached at [broteliuk@weildrage.com](mailto:broteliuk@weildrage.com).*

### **\$1.2M JUDGMENT AWARDED ARCHITECT ON LAS VEGAS STRIP PROJECT**

Partner Jeremy R. Kilber recently secured a \$1.2 million judgment on behalf of his architectural firm client against an owner/developer entity who refused to pay the architect firm for professional services provided for a proposed high-profile hotel/casino project on the Las Vegas Strip. Architect provided significant design phase services for the project, a project that was ultimately not developed for reasons outside of the design team's control.

Despite Architect performing per the standard of care in the industry and per the contract, the owner/developer entity refused to pay Architect. After consideration of all risks and benefits of pursuing a fee claim, the client directed Weil & Drage to file suit. Through strategic discovery and law and motion, Mr. Kilber successfully prevailed on a Motion for Summary Judgment, avoiding a costly trial. Specifically, Mr. Kilber established that the Architect's client was the first party to materially breach the contract, resulting in \$870,000 in actual damages, \$260,000 in contractual interest, and \$62,000 in lost profit.

Mr. Kilber then successfully pierced the corporate veil, exposing the individual members of the owner/developer entity to joint and several liability for the fees owed the Architect.

*Mr. Jeremy Kilber has been a lawyer with Weil & Drage for over 11 years in the Nevada office, and counts many well-known architect and engineer firms as his clients for risk management, claims, and litigation on a wide range of multi-million and multi-billion-dollar projects in Nevada. He can be reached at [jkilber@weildrage.com](mailto:jkilber@weildrage.com).*

## **ATTORNEYS PREVAIL AT ARBITRATION ON LOS ANGELES, CALIFORNIA, TRANSPORTATION PROJECT**

Partner Sheila McDonald and Attorney Charles Stec triumphed in a recent arbitration on behalf of a nationally-recognized geotechnical engineering firm. The action began as a billing dispute between the engineering firm and one of its consultants on a major Los Angeles transportation project. Following an audit of the consultant's invoices, the Engineer discovered charges in excess of the contractually-fixed Unit Prices. The Engineer demanded reimbursement of significant overpayments, on the grounds that the consultant breached its subconsultant agreement by including charges in its payment submittals that did not comport with the Unit Prices for its services. The consultant brought a counter-claim, asserting it was entitled to significant invoice amounts in excess of the Unit Prices. Mr. Stec spent months preparing for the arbitration, including discovery and evidentiary hearings calling the consultant to task for failure to comply with discovery orders, and properly questioning the consultant's standing (requiring revivor of its corporate status and reinstatement by the Franchise Tax Board). After attempts to reach reasonable resolution failed, Mr. Stec and Ms. McDonald engaged in a three-day binding AAA arbitration, prevailing on behalf of their client geotechnical engineering firm, receiving a significant award on all affirmative claims, and receiving a complete defense verdict against all counter-claims. Additionally, Mr. Stec and Ms. McDonald's client was legally deemed the prevailing party, with an award of attorney fees and costs as a result.

*Ms. Sheila McDonald is a partner at Weil & Drage with over 15 years of legal experience handling a wide range of public and private project claims. She can be reached at [smcdonald@weildrage.com](mailto:smcdonald@weildrage.com).*

*Mr. Charles Stec is a lawyer at Weil & Drage, joining the firm three years ago after a 15-year career as a licensed general contractor in California. He can be reached at [cstec@weildrage.com](mailto:cstec@weildrage.com).*

## **CLIENT SPARED EXPOSURE TO OVER \$100M IN CLAIMS BY DESIGN BUILDER THROUGH CRAFTFUL COOPERATION WITH GLOBAL DESIGN FIRM, WAS KEY WITNESS LEADING TO A REMARKABLE VERDICT FOR THE DEFENSE**

A design-builder sought over \$100 million in damages, alleging design deficiencies, delays, and cost overruns related to a major Southern California highway project. In a concerted effort to keep the Firm's client out of harm's way, law partners Jacqueline Pons-Bunney and Mark Petersen thoughtfully coordinated client's cooperation in the defense of claims against the design team. For nearly three years, Weil & Drage participated extensively in the development of the defense narrative and prepared its client to ultimately be one of the key witnesses for the design team. The verdict was devastating for the design-builder and a huge victory for the

defense. The engineering firm client was never named in the lawsuit and saved millions in defense costs, not to mention escaped potential exposure well into the multi-millions of dollars.

*Ms. Jacqueline Pons-Bunney is managing partner and shareholder with Weil & Drage and has been an attorney practicing in the field of design and construction litigation for 20 years. She has represented hundreds of architect, engineer, and real estate firms, handling risk management, transactional, and claims matters. She can be reached at [jpbunney@weildrage.com](mailto:jpbunney@weildrage.com).*

*Mr. Mark Petersen is a partner with Weil & Drage, with over 36 years of litigation experience, having represented virtually all construction trades, several design professional disciplines, and real estate developers. Mr. Petersen can be reached at [mpetersen@weildrage.com](mailto:mpetersen@weildrage.com).*

### **WEIL & DRAGE PARTNERS SECURE DISMISSAL OF HIGH DAMAGE FIRE STATION ACTION ON LAST DAY OF NEVADA'S SIX-YEAR STATUTE OF REPOSE**

Nevada Partners, John T. Wendland and Jeremy Kilber, successfully petitioned the Court to dismiss their clients in a high damage fire station action based on Nevada's six-year statute of repose on the last day before the repose period increased to ten (10) years under Assembly Bill 421. Applying a very aggressive approach, Mr. Wendland and Mr. Kilber successfully moved the hearing on the Motion to Dismiss from a date in October 2019 to a date in September 2019 by arguing that the complaint was filed under the six-year repose and that the Court's scheduling of the hearing to a date in October 2019 would constitute irreparable harm and unfair prejudice. Once the hearing was moved to September 30, 2019, Mr. Wendland and Mr. Kilber were able to convince the Court that the statute of repose terminated the action.

*Mr. John Wendland is a partner at Weil & Drage with nearly 20 years of experience representing design professionals, construction specialists, and various other businesses and organizations including real estate licensees. Mr. Wendland can be reached at [jwendland@weildrage.com](mailto:jwendland@weildrage.com).*

***Weil & Drage has handled thousands of legal matters in California, Nevada, and Arizona, with over 300 current legal matters pending. With its 11 partners leading legal teams in litigation over a wide range of legal matters, the successes here are just a sample of the excellent services provided by Weil & Drage.***