



Mark C. Bissinger

Of Counsel
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Mark has had a focus on the construction industry for many years in his practice. Mark has represented owners (public and private), contractors, specialty contractors, and professionals in a wide variety of disputes in several different states. The projects have included commercial buildings, bridges, roadways, manufacturing plants, industrial power plants, electrical stations and projects on nuclear sites. Mark has pursued and defended all types of claims including delay, acceleration, change orders and resulting impacts, MCAA factors, and basic claims for breach of contract. The claims have ranged in amounts from \$200,000 to \$25 million +.

During Mark's 40 year career at Dinsmore, he has also had the opportunity to provide counsel in a wide variety of practice areas. Mark has served as lead counsel on sale and merger transactions with values of several hundred thousand dollars up to transactions of over \$100 million. By representing tower companies, Mark has gained valuable experience in the commercial real estate and regulatory areas. During his career, Mark has served as outside "general counsel" for numerous clients which has provided him with extensive experience in day to day employment issues and disputes, including non-compete and non-solicitation litigation, and commercial financing (including workout) transactions.

Mark has tried to judgment cases in arbitration as well in State and Federal Courts, including jury and bench trials. Most trials have included construction projects but the most recent bench trial involved the defense of a multi-million dollar claim based on an "earn-out" provision contained in an Asset Purchase Agreement. Mark and his partner obtained a full defense verdict.

While always an aggressive advocate for clients, Mark has also worked to exhaust settlement efforts to avoid costly litigation and trials by working with opposing counsel or through mediation to bring disputes to a negotiated resolution. Mark has served as counsel to parties in single and multi-party mediations that have occurred in numerous jurisdictions including Ohio, New Jersey, Missouri, Wisconsin, Washington D.C., Kentucky, and Alabama.

In furtherance of Mark's interest in cost effective and timely resolution of disputes, Mark completed a 40 hour mediation training course at the Libscomb University Institute for Conflict Management in Nashville. Mark is available to serve as a mediator and use his considerable expertise, experience, and training to assist parties to develop negotiated solutions to disputes.

Services

- Litigation
- Construction Industry
- ADR Center

Education

- University of Cincinnati College of Law (J.D., 1983)
 - Order of the Coif
- Purdue University (B.S., 1979)
 - B.S. Civil Engineering
- Lipscomb University--Institute for Conflict Management (Certificate, 2022)
 - Rule 31 Civil Mediation Training

Bar Admissions

- Ohio, 1983
- Kentucky, 1993

Court Admissions

- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Northern District of Ohio
- U.S. District Court for the Western District of Tennessee
- U.S. District Court for the Eastern District of Kentucky

Affiliations/Memberships

- Ohio State Bar Association
- Cincinnati Bar Association
- Kentucky State Bar Association
- Cincinnati Reds Hall of Fame, board member (2015-present), past President (2020-2022)
- Firm Construction Industry Practice Group, past chair
- Cincinnati Bar Association Construction Law Committee, past chair
- Appointed to Supreme Court of Ohio Board of Bar Examiners, past member
- Center for Chemical Addictions Treatment, trustee, past president
- Appointed to Anderson Township Board of Park Commissioners, past president
- Boys Hope/Girls Hope of Cincinnati, past board member and co-chair

- Riverhills Homeowners Association, past trustee

Distinctions

- Order of the Coif
- Peer Review Rated AV in *Martindale-Hubbell*
- *Best Lawyers*® (1995 - present)
 - Commercial Litigation; Construction Law; Litigation – Construction
 - "Lawyer of the Year" in Cincinnati for Litigation - Construction (2014)
- Cincinnati-Hamilton County Community Action Agency's Bridge Builders Award (2000)
- Ohio *Super Lawyers*®
- Top Lawyers in Kentucky (2014)
- *Benchmark Litigation* Star in Ohio (2016)
- Cincinnati Bar Association Academy of Leadership for Lawyers, Class of 1999

Experience

Obtained a \$1 Million-Plus Settlement for Our Client

We obtained a settlement in excess of \$1 million for our client in a large, complex action against a public owner for concurrent delay, interference, changed conditions, unenforceable liquidated damages and breach of contract in relation to the construction of a waste water treatment facility. The case involved significant understanding of the project's technical components, exchange of documents, multiple experts and culminated in a day-long mediation.

Membership purchase agreement of media holding company subsidiary

We served as transaction counsel in advising the seller in the sale of the membership interests in iNet Interactive, LLC to Penton Media. iNet is an information services company and Dinsmore leveraged our experience in representing technology and information services companies to advise the seller at every phase of the transaction, including the selection and negotiation of an investment banker, managing the auction process, structuring the transaction, negotiating the transaction documents, advising on tax related matters, due diligence preparation, and closing the transaction, all to the satisfaction of our client.

Counseled a SaaS company through a complex merger

We served as deal counsel in advising our client, a software-as-a-service provider that serves the construction industry, through a complex reverse triangular merger involving an industry competitor and a private equity firm. Genstar Capital, a private equity firm that focuses on investing in software and technology companies, purchased our client iSqFt and another SaaS company that serves the construction industry, BidClerk. The transaction enabled Genstar to create an integrated company to fully serve the software, data and technological needs of the commercial construction industry. We worked on behalf of our client to navigate through every step, through initial

due diligence to negotiating terms with Genstar and BidClerk and closing the transaction, The transactions will enable our client to significantly strengthen their platform of services and meet the evolving needs of their customer base.

Bohl v. Hauke

Dinsmore & Shohl defended American Building Components in a Highland County, Ohio case involving allegations American Building Components breached its limited written warranty, was negligent, and breached an alleged obligation of good faith and fair dealing when it supplied a roof to a general contractor, who constructed a commercial dairy barn for the plaintiff. The case was dismissed based upon the Court's enforcement of a forum selection clause contained in the limited written warranty. In essence, the Court refused to let the plaintiff selectively enforce the provisions of the limited written warranty. The Court's ruling was upheld by Ohio's Fourth Appellate District, and the opinion is published as: *Bohl v. Hauke* (4th App. Dist. 2009) 180 Ohio App.3d 526.

Breach of Contract Claims

Represented a commercial/residential roofing contractor who asserted claims of breach of contract relating to monies due from general contractor for work on a large condominium project. Also defended client against claim of faulty workmanship. Case was settled on terms favorable to our client.

Prime Contractor v. Owner and Project Engineer

Obtained multi-million dollar settlement for Prime Contractor in large, complex action against Owner and Project Engineer for delay, interference, breach of contract, and related claims. The case involved significant electronic and paper discovery, extensive deposition practice, extensive motion practice, multiple experts, complex case management methods, and varied methods of alternative dispute resolution.

Thomas and Marker Construction v. Big Box Retailer

Plaintiff claimed complex construction contract was misleading and did not fairly advise Plaintiff of site existing conditions which increased Plaintiff's costs to build the project.

Publications

March 31, 2020

Construction Impacted by Coronavirus? Know Your Lien Rights