



Mark W. Mercante

Shareholder

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Mark Mercante is co-chair of Baker Donelson's Construction Group.

Mr. Mercante has experience representing owners, developers, contractors, subcontractors and design professionals in all aspects of construction, including construction contract negotiation and drafting, pre-claim counseling during the construction process and disputes before courts and arbitration panels. Dispute resolution experience includes representation on claims of breach of contract, change orders, defective work, delay, disruption, inefficiency, differing site conditions, unfair trade practices and other construction-related claims.

Mr. Mercante handles matters involving state law lien claims and federal law Miller Act claims. Transactional matters include negotiation and drafting of construction and design contracts for manufacturing and industrial facilities, office and commercial complexes, shopping centers and other retail developments, high rise residential developments, educational facilities and a variety of other commercial projects.



Representative Matters

Arbitration and Litigation

- Represented industrial contractor in prosecuting multi-million dollar delay and cumulative impact claim arising from industrial construction project and defending against owner's delay and lost profit claims exceeding \$30 million.
- Represented university/owner in arbitration hearings arising from the installation of a new chilled water facility, in which claims exceeded \$31 million.
- Represented Public Works Act bidder in successfully challenging responsiveness of multi-million dollar bid.
- Represented owner in connection with a \$37 million lawsuit arising from a major expansion of production facilities at a chemical manufacturing plant.
- Represented pipeline general contractor regarding changed site conditions and force majeure claims associated with two separate pipeline construction projects.
- Represented engineering company related to delay, disruption and defective design claims on forest products project.
- Represented EPC Contractor against multiple multi-million dollar subcontractor claims associated with \$1 billion-plus Inner Harbor Navigation Canal Hurricane Protection Project.
- Represented general contractor on a waste water treatment plant project against delay and extra work change order claims by subcontractor.
- Represented university on a \$25 million dispute with general contractor and design professionals related to alleged defective designs, delays, schedule compression, productivity losses, and cost overruns associated with stadium expansion project.
- Represented chemical manufacturer in an arbitration proceeding regarding a dispute in excess of \$25 million arising out of the design, procurement and construction of the manufacturer's production facility.
- Represented industrial piping fabricator on lost profit damage claims in excess of \$50 million by owner.

- Represented EPC contractor in dispute with industrial project owner related to the project owners' withholdings associated with alleged late, deficient and unproductive work.
- Represented directional driller regarding withheld subcontract funds, including the perfection of liens.
- Represented pipeline general contractor on change-related claims in multiple states, including Louisiana, Texas and Mississippi.
- Represented general contractor on claims by owner alleging building envelope leaks and operating deficiencies in the building's chiller system.
- Represented primary subcontractor against building envelope water intrusion claims associated with the construction of a seven-story building.
- Represented numerous contractors and engineers regarding licensing requirements and alleged violations.

Transactional

- Negotiated and prepared numerous construction and architectural agreements associated with medical, commercial, retail and mixed use projects.
- Negotiated and prepared numerous construction and architectural agreements associated with institutional and non-profit projects.
- Negotiated and prepared contracts for execution of various disaster recovery projects throughout the southeastern United States.
- Negotiated and prepared design and construction agreements between university and architect and general contractor for construction of new Division 1 football stadium.
- Negotiated and prepared multiple design-build agreements for construction of energy-related projects and improvements.
- Negotiated and prepared EPC agreements associated with industrial projects.
- Represented an agriculture supply chain company in the negotiation of design and construction contracts for the development of a new \$400 million soybean processing facility.
- Negotiated the termination of an architect on behalf of a gaming corporation after a \$60 million casino construction project stalled. Assisted the corporation in negotiating new contracts to resume the construction.



Professional Honors & Activities

- Listed in *The Best Lawyers in America*® for Construction Law since 2007; Litigation - Construction since 2011
- Selected to Louisiana Super Lawyers, Construction Litigation (2012 – 2025)
- Listed in *Chambers USA* as a leading Construction lawyer in Louisiana since 2012
- Selected to 2023 *CityBusiness* Leadership in Law
- Recognized as a "Top Lawyer" in Construction Law by *New Orleans Magazine* (2010 – 2025)
- Member – American Bar Association, Litigation Section and Forum on the Construction Industry
- Chairman – ABA Forum on Construction Law Division 3 - Design (2016 – 2018)
- Member – Steering Committee of Forum on the Construction Industry Division 3 – Design (2007 – 2016)
- Program Chair – American Bar Association Forum on the Construction Industry Annual Meeting "Don't Tell Me What I Should Have Done – What Do I Do Now," Palm Springs, California (April 2008)
- Liaison – American Bar Association Young Lawyers Division liaison to the ABA Forum on the Construction Industry (2005 – 2007)
- Chairman – ABA Forum on The Construction Industry's Young Lawyers Committee (2006 – 2007)
- Program Coordinator – American Bar Association CLE "Fundamentals of Construction Law," New Orleans (2006)
- Vice President – Dispute Resolution Committee of the American Bar Association Young Lawyer's Division (2004 – 2005)

- Member – Louisiana State Bar Association, Corporate and Business Law Section and Fidelity, Surety & Construction Law Section
- Member – New Orleans Bar Association
- Member – Federal Bar Association
- Member – Covington Bar Association
- Fellow – American Bar Foundation
- Associate Member – Associated Builders and Contractors
- Recipient – Baker Donelson's Mandeville Office Pro Bono Award (2010 and 2020)



Publications

- "Protecting Against the Impact of 2025 Tariffs on Construction Costs" (March 2025)
- Co-author – "Representing the Project Owner – A Construction Lawyer's Guide, Contract Structures," ABA Forum on Construction Law (November 2024)
- Co-editor/Author – "50-State Survey of Firm Licensure Requirements for Architectural and Engineering Firms," ABA Forum on Construction Law – Division 3 – Design (October 2024)
- Co-editor/Author – "50-State Survey of Licensed Design Professional's Stamping and Sealing Obligations" (October 2024)
- Co-chair – "Unveiling Digital Evidence," Louisiana State Bar Association CLE (August 2024)
- "Louisiana Legislature Grants Sureties the Right to Raise Contractor Defenses, Including "Pay-If-Paid"" (July 2024)
- Speaker – "There Is No Perfect Set of Plans: Who Pays?," The Blueprint 2023 Construction Industry Conference New Orleans, Louisiana (October 2023)
- Co-author – "Construction Laws and Customs: Louisiana," *Practical Law* (February 2023)
- Speaker – "Active CMAR A133 and A201 Contract Negotiation," The Blueprint 2022 Construction Industry Conference New Orleans, Louisiana (October 2022)
- Editor/Author – "Design Professional's Guide to Construction Law," ABA Forum on Construction Law (March 2021)
- Co-author – "Construction Laws and Customs: Louisiana State Q&A," *Practical Law* (2020)
- Co-author – "Defending Against Owner Claims," *Construction Disputes: Representing the Contractor*, Fourth Edition (Aspen Law and Business, 2019)
- Co-author – "Construction Laws and Customs: Louisiana State Q&A," *Practical Law* (2019)
- Chair/Author – "50-State Survey of Licensed Design Professional's Stamping and Sealing Obligations" (April 2018)
- "Join Division 3 and Make the Most of Your Forum Membership," *The Construction Lawyer*, Volume 38 Number 2 (Spring 2018)
- Co-author – "Construction Law Update: Case Law & Legislation Affecting the Construction Industry," ABA Forum on Construction Law – Division 10 – Energy and Environment (Louisiana section) (2012 – 2017)
- Co-author – "Louisiana Construction Laws and Customs Q&A," *Practical Law* (2017)
- Co-editor/Author – "50-State Survey of Firm Licensure Requirements for Architectural and Engineering Firms," ABA Forum on Construction Law – Division 3 – Design, 2015 Edition (2015)



Education

- Loyola University School of Law, J.D., 1995, cum laude
 - *Loyola Law Review*, 1993 – 1995
- Southern Methodist University, Dallas, Texas, B.B.A., 1992



Admissions

- Louisiana, 1995

- U.S. Fifth Circuit Court of Appeals, 1995
- U.S. District Courts for the Eastern, Middle and Western Districts of Louisiana, 1995