



ARCHITECT & ENGINEER LAW

360°

ABOUT OUR PRACTICE

During our 40 years of representing design professionals, **Morris Polich & Purdy** has been a true “trail-blazer” in protecting their legal rights. Our broad representation of design professionals includes architects and engineers of all disciplines, as well as land surveyors, landscape architects and interior designers. MPP’s team includes an architect who is a Fellow of the American Institute of Architects, as well as a registered professional engineer. We have been the driving force behind several appellate opinions that protect the rights of architects and engineers, including the landmark opinion in *Weseloh Family Limited Partnership v. K.L. Wessel Construction* that limits design professionals’ legal duties. We represent design professional firms of all sizes, including some of the largest engineering and architecture firms in both the region and the nation.

We litigate and counsel on matters involving design defects in residential, commercial, and industrial buildings, as well as public and private contract disputes and worker injuries. We also advise our clients in the drafting and negotiation of professional service contracts. We believe, as do the courts, that the construction contract is the foundation of loss prevention for the design professional.

A hallmark of MPP’s Architect & Engineer Law practice is our unique ability to counsel in effective risk management practices, from both an overall business perspective as well as with respect to specific projects in which they may be involved. Our team includes transactional attorneys that provide advice on business-related issues and strategies. MPP also regularly conducts loss prevention and training seminars for industry organizations and individual firms.

A CROSS SECTION OF OUR EXPERIENCE

- We represented an architect who had been sued by his client for the return of all fees paid to the architect, plus other damages, based on the claim that the home designed by the architect could not be constructed within the client's budget. At the conclusion of a 16-day trial, the jury returned a defense verdict. We then successfully moved for an award of attorneys' fees.
- We represented an architect on a public school project who was alleged to have liability for additional construction costs resulting from the contractor's improper installation of a subgrade electrical conduit. Based on evidence obtained from the project subcontractors and other project participants, we were able to obtain a complete dismissal of the architect
- An eighteen-month-old child fell into a water fountain and died in an apartment complex designed by our client, an architect. The court granted our motion to dismiss on the grounds that liability rested with the contractor for the fountain, and that the architect's supervisory responsibilities did not create a duty to prevent the condition that caused the accident.
- A geotechnical engineer was sued by a contractor for additional costs and delay charges incurred by the contractor due to subsurface conditions not disclosed in the geotechnical report. Our demurrer to the complaint was sustained without leave to amend on the grounds that the engineer owed a duty only to its client, the owner, and not to the contractor.
- We represented a consultant in a suit by New York - New York Hotel in Las Vegas requesting over \$3,000,000 as the cost of complying with requirements of the Americans With Disabilities Act. The jury agreed that our client had properly discharged its specific scope of work, and returned a defense verdict.
- We represented a civil engineer ("Engineer") who designed the temporary shoring system to support construction of a concrete roof on a 60-foot sewage digester tank. The roof collapsed during the pouring of concrete, causing serious injuries to many workers who fell into the tank. Engineer was 1 of 4 defendants in consolidated lawsuits filed by 14 different plaintiffs. Engineer had insurance limits of only \$25,000 which were reduced by our defense costs. Plaintiffs refused to settle because they wanted us to defend Engineer's design at trial, where three different experts presented highly critical evidence against Engineer, including mock-ups of actual shoring equipment and computer graphic simulations. Nevertheless, our effective cross-examination of the experts, as well as the

A CROSS SECTION OF OUR EXPERIENCE (CONTINUED)

testimony of our own expert, resulted in a dismissal of Engineer. One defendant who was critical of Engineer was ultimately found jointly and severally liable for more than \$30,000,000 in damages to plaintiffs. Given Engineer's difficult financial circumstances, and with the informed consent of Engineer, we cooperated creatively with aligned parties, maintained an extraordinarily low profile during discovery, and employed an extremely cost-conscious approach to the entire litigation. As a result, our total defense costs through dismissal at trial were approximately \$33,000.

- Our client, a structural engineer, was sued by a homeowner for alleged negligence in failing to discover substantial structural damage to the house as a result of the 1994 Northridge earthquake. We obtained a dismissal on the grounds that legislation recently enacted in California to extend the statute of limitation applicable to Northridge earthquake claims should be limited to claims against insurers.
- We represented an engineer who provided the structural design for improvements to a commercial building. During construction, previously unknown structural weaknesses in the building were discovered and additional work was required, at significant cost to the owner. At the conclusion of the arbitration of the owner's claim against the engineer and

architect, responsibility for the additional costs was apportioned between the owner and architect - our client, the structural engineer, was completely exonerated.

- Our client, a mechanical engineer, designed the equipment layout, piping and other mechanical elements for a highly automated pizza dough manufacturing facility. The major pieces of the highly specialized equipment were designed and fabricated in Italy and had to be integrated with domestic equipment and made code compliant. When permitting and other problems resulting from the installation threatened to significantly reduce production, and both the installer and the Italian supplier refused to become involved, we stepped in on behalf of the engineer and, in meetings with the owner and governing agencies, were able to avoid litigation and work out a solution to the complete satisfaction of both the client and the owner.
- Our client, a mechanical engineer, designed the HVAC system for an office building. Our client's design called for the air conditioning unit to be installed on the building. At the recommendation of the general contractor ("GC"), the owner decided to have a pre-fabricated air conditioning unit ("AC Unit") manufactured according to specifications provided by our client. As a result of

continuous problems with the AC Unit, the owner sued the GC, which in turn sued the manufacturer of the AC Unit. The manufacturer then cross-complained against our client for indemnity. We filed a motion for summary judgment ("MSJ") on the grounds that our client did not owe a legal duty of care to the manufacturer, and because the claimed damages were purely economic and therefore could not be recovered in a tort based action against our client. Before the hearing of our MSJ, our client was dismissed for a waiver of costs.

- Our client, an architecture firm, designed a Class A commercial high rise building in Los Angeles. On completion of construction, the owner sued the architect and contractor for over \$35,000,000 in lost rent and additional costs, claiming that various contractual breaches had significantly delayed the completion of construction. After a 7-month trial, the owner recovered only 10% of its claimed damages, and principal responsibility for those damages was found to rest with the contractor.

- Significant erosion and subsidence occurred as a result of the Grant Park Reservoir Project in the City of San Buenaventura. The claim against our client, the engineering firm that designed the reservoir, was that it failed to design adequate protection to prevent failure of the reservoir drainage system. We showed that the system as designed was proper, and that the erosion and subsidence were caused by the failure of the contractor to install the filter fabrics called for by the design.



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