

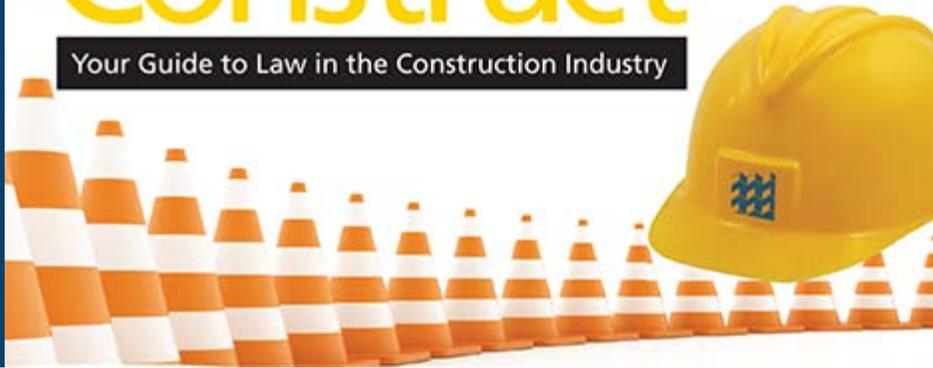


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THE Construct

Your Guide to Law in the Construction Industry



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Election 2016: Where the Candidates Stand on Issues Affecting the Construction Industry

Here we are. The rollercoaster 2016 election ends tomorrow. Millions of Americans have voted already. Polls show a close race heading into Election Day. As the last Americans go to the voting booth, we take a look back at what the candidates have said about the issues most affecting the construction industry.

We have created a chart summarizing publicly available information on the major parties candidates' positions on the following issues:

- infrastructure spending
- climate change and the environment
- small business
- minimum wage
- international trade and
- taxes

Click [here](#) to access the chart and read the entire article.

Off the Blacklist - Breaking News for Federal Contractors

To Arbitrate Or Not to Arbitrate - Or Do We Even Get to That Question?

By Stephanie U. (Roberts) Eaton

Chances are that if you work in the construction industry, you have had at least one construction dispute. The longer you work in the construction industry, the greater chance you have of encountering a dispute that does not go away with phone calls, meetings or a handshake deal. Some disputes lead to legal action. The kind of legal action that follows depends on the contracts-including warranties-created for or during the construction process itself.

Click [here](#) to read the entire article.

Who Will Inspect the Inspectors? Implications of *Winkler v. State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors*

By J. Spencer Cook

On September 20, 2016, certain construction trades entered into a Wild West era of deregulated inspection services. Inspections of already installed plumbing, heating and air conditioning, and fire sprinkler systems appear no longer to be subject to North Carolina regulatory oversight.

Click [here](#) to read the entire article.

Leaning In - Pennsylvania Refining the Mechanics Lien

A frequent topic of discussion among federal contractors, subcontractors and their attorneys has been what many have viewed as an overreach of executive powers by the Obama Administration. Now, a federal judge has agreed by blocking implementation of certain requirements under an executive order requiring federal contractors to report all labor and employment law complaints.

In 2014, President Obama issued Executive Order 13673, more commonly called the Fair Pay and Safe Workplaces Executive Order. The executive order, which was to take effect on October 25, required federal contractors and subcontractors to report all adverse labor law determinations, including merely alleged violations, of 14 labor and employment laws when bidding on projects. The order mandated this disclosure even if the complaint was still pending before the National Labor Relations Board. The government contract officer was then empowered to reject contract bidders based on the disclosed violations. Many in the federal contracting industry saw the order as a way for the federal government to blacklist otherwise qualified contractors.

Judge Marcia A. Crone of the Eastern District of Texas agreed and granted a preliminary injunction based on the premise that contractors have to report "mere allegations" despite their not having been finally adjudicated after a hearing. Judge Crone opined that the Order violated the First and Fifth Amendments of the U.S. Constitution and also said that the new rules "appear to conflict directly with every one of the labor laws they purport to invoke by permitting disqualification based solely upon 'administrative merits determinations' that are nothing more than allegations of fault asserted by agency employees and do not constitute final agency findings of any violation at all."

What does this mean for federal contractors and their bidding status? The preliminary injunction is not a permanent one. Judge Crone will revisit the regulations in a final hearing or trial of the matter, and the Obama Administration may also appeal the preliminary ruling. Judge Crone's order in the *Associated Builders and Contractors of Southeast Texas v. Rung* case is available [here](#). Stay tuned for more information.

Law

By [Julian E. Neiser](#)

Pennsylvania has continued to refine its mechanics lien law in recent years, and next year will bring the most sweeping changes ever for owners and contractors that work on larger projects.

Click [here](#) to read the entire article.

Labor and Employment Hot Topics Impacting the Construction Industry

By [Carrie M. Harris](#)

A number of employment-related developments are likely to impact the construction industry. Let's review and briefly summarize some of these developments that could have major outcomes.

Click [here](#) to read the entire article.

They Did What? Fire Sprinkler Industry Stunned by North Carolina Legislature's Mistake

By [J. Spencer Cook](#)

North Carolina's legislature mistakenly removed the authority for the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors to issue certain crucial industry licenses. What does this mean for the industry?

Click [here](#) to read the entire article.

Featured Team Member



[Julian E. Neiser](#), Counsel

Julian E. Neiser is a construction lawyer with extensive experience in commercial litigation and alternative dispute resolution involving businesses of all sizes. He represents contractors and owners in contract negotiations, disputes, mechanics' lien claims, mediations, and arbitrations. In addition, he has significant experience defending residential construction claims under the Pennsylvania Home Improvement Consumer Protection Act. Mr. Neiser previously was a general counsel for a leading international construction claims consulting firm that specialized in delay claims on large EPC projects. He is a Council Member and Treasurer of the Allegheny County Bar Association's Construction Section and a member of the Rules Committee. In addition to his practice, Mr. Neiser is an Adjunct Professor at the Duquesne University School of Law in the Trial



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