

Kristen Sherwin

Shareholder

Practices: Construction; Planned Community, Mixed-Use & Condominium

Industries: Airlines; Real Estate

Kristen Sherwin is a Shareholder in Winstead's Construction Practice Group. She provides advice and counsel to owner and developer clients with respect to construction, design, and professional services contracts, contract administration, lien and bond claims, and project close-out. She also represents plaintiffs and defendants in a variety of complex construction disputes.

Kristen is Board Certified in Construction Law by the Texas Board of Legal Specialization.

Representative Experience

Construction Transactions

Prepares various construction industry contracts for owners, developers and captive general contractors and provides advice regarding contract administration, contract interpretation, project specific issues, and lien, bond, and insurance claims. Representative matters include:

- Draft suite of documents for public hospital system for use with construction masterplan and provide advice regarding public procurement of various design and construction contracts
- Prepare and negotiate Construction Manager at Risk contract for mixed-use mid-rise luxury hotel and residential condominium
- Advise developers and equity partners in complex real estate joint venture arrangements with respect to design and construction contracts
- Advise developers of special use districts with respect to quasi-public design and construction contracts
- Prepare and negotiate Design-Build agreement for public finance corporation with respect to hotel and convention center project
- Prepare and negotiate architect agreement and construction contract for mixed-use high rise condominium
- Counsel developer with respect to potential construction defect claims, both pre- and post-turnover of condominium association including application of Texas Condominium Act Represent real estate developer with respect to Texas multi-family portfolio including drafting construction contracts and construction, counseling on construction delays and contractor termination, and advising in pre-litigation and litigation strategies
- Advise owners and developers on COVID-19 construction related issues as a result of governmental and executive orders and resulting supply chain and material price escalation issues
- Draft and negotiate construction agreements for repair of hurricane damaged condominiums
- Advise and prepare construction and design contracts for numerous multi-family and mid-rise condominiums located in Dallas, Texas



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Education

Baylor Law School

- J.D., 2004
- *cum laude*
- Senior Notes & Comments Editor, *Baylor Law Review*
- Harvey M. Richey Moot Court Society, Order of the Barrister

Indiana University

- B.A., Telecommunications, 1995

- Preparation of construction and design contracts for airplane hangars, general use buildings, and cargo facilities at numerous major airports
- Advise pediatric healthcare system with respect to construction contracts, subcontracts, and liens
- Draft professional services agreements and repair related construction agreements for numerous condominium owners associations in Dallas and Houston, Texas
- Prepare suite of construction and design agreements for multiple multi-family developers
- Counsel hospital system in resolution of loss event and coordination of necessary remedial work

Construction Litigation

Represents owners, developers, and condominium owners associations, in complex litigation and arbitration involving construction defects, contractor defaults, terminations, delays, scheduling, liens, and payment issues. Representative cases include:

- Represent owner of a large apartment complex in pursuing damages for multi-million dollar repairs related to construction defects and water infiltration
- Represent owner of golf resort in pursuing damages for construction defects
- Represent Owner of luxury garden apartment complex in terminating defaulted contractor and subsequent litigation for recovery of cost of completion damages and defense of claims for wrongful termination
- Represent oil and gas company pursuing claims for defects in construction of subsea well tie-back in adversary proceeding in bankruptcy court
- Represent developer of fast food restaurant in arbitration defending contractor's claim of wrongful termination and pursuing cost of completion damages from contractor
- Multiple cases representing developers in defending claims asserted by condominium associations alleging construction defects and pursuing such defect claims against general contractors
- Multiple cases representing of condominium owners associations pursuing construction defect claims against developer
- Defend store owner from subcontractor and supplier lien claims and pursue general contractor for damages related to non-payment of subcontractors and supplier
- Represent condominium developer pursuing insurance company for payment under OCIP policy for construction defects
- Represent shopping center owner pursuing claims against general contractor for termination and completion cost damages and defending claims by general contractor of non-payment

Commercial Litigation

Previously represented individuals and companies in commercial and business disputes across a wide array of industries in suits involving a variety of contract and tort claims. Representative cases include:

- Represent banks, servicers, and lenders in litigation issues arising during workouts and foreclosures, including pursuit of extraordinary remedies such as injunctive relief and receivership
- Defense of broker-dealers in FINRA arbitrations
- Defense of corporate entities in California Superior Court in litigation involving alleged breaches of ground lease provisions, tortious interference, conversion and fiduciary duty breaches
- Representation of title insurance company in class action litigation in Federal Court and on Appeal to the United States Court of Appeals for the Fifth Circuit
- Representation of health plan administrator in arbitration

Professional & Community Service

- ABA Forum on Construction Law Governing Committee, 3-year Governing Committee term began September 1, 2022

- ABA Forum on Construction Law, Chair of Division 12 (Owners & Project Finance), September 2019 – August 2022
- ABA Forum on Construction Law, Chair Diversity Fellows Committee, November 2021-present
- ABA Forum on Construction Law, Co-Chair 2019 Fall Meeting Building a Better Construction Industry through Inclusion, Diversity, and Professionalism in Philadelphia, PA, October 2019
- ABA Forum on Construction Law, Division 12 (Owners & Project Finance), Steering Committee, 2015-2019
- ABA Forum on Construction Law, Diversity Committee 2015-present, Membership Committee, 2017-present
- Dallas Bar Association Construction Law Section (Chair, 2023; Vice-Chair 2022; Secretary, 2021; Treasurer, 2020; Information Officer, 2019; Council Member, 2017-2018)
- Texas Board of Legal Specialization Construction Law Exam Commission, 2020-present
- Mommies in Need (Board of Directors, 2019 – March 2022; Chair of Governance Committee, 2020-2021; Secretary, 2021)
- 2007 DAYL Leadership Class, Member
- Dallas-Ft. Worth Chapter of Indiana University Alumni Association, Board of Directors, 2017-present
- Dallas Association of Young Lawyers, 2007 Leadership Class
- Big Brothers Big Sister, Big Sister, 2007-2011

Awards & Recognition

- *The Best Lawyers in America*, (BL Rankings, LLC), 2021-2024
- *Chambers USA Guide to America*, Chambers & Partners Publishing, 2023
- Texas Rising Star, Thomson Reuters, 2011-2014
- ABA Forum on Construction Law, Diversity Fellow, 2015

Admissions

- Texas, 2004
- U.S. District Court Northern, Southern, Eastern and Western Districts of Texas
- U.S. Court of Appeals, Fifth Circuit