Bradley

Bradley Arant Boult Cummings LLP

CONSTRUCTION AND PROCUREMENT LAW NEWSLETTER

IN THIS ISSUE

"PRIORITIZING THE WARFIGHTER" EXECUTIVE ORDER: WHAT DEFENSE CONTRACTORS NEED TO KNOW

Paul Ney & Jonathan "Jack" Harrington

On January 7, 2026, the Trump administration issued Executive Order 14372 entitled "Prioritizing the Warfighter in Defense Contracting." The order marks a decisive shift in federal defense procurement policy: Production performance and readiness now take precedence over shareholder returns for major contractors. It introduces prohibitions on stock buybacks and dividends during periods of underperformance, accelerates oversight through a rapid review-and-remediation framework, and foreshadows mandatory clauses in future contracts that will tie executive compensation to delivery and capacity metrics. For the defense industrial base, the practical effect is a new compliance regime where capital allocation and governance are directly conditioned on results: on-time, on-budget delivery, and demonstrable investments in capacity.

The Policy Reset: Performance Over Payouts

The order is explicit about perceived misaligned incentives — contractors pursuing "newer, more lucrative contracts, stock buy-backs, and excessive dividends" while underperforming on existing work and underinvesting in production and innovation. To "maintain peace through strength," the federal policy is to revitalize the defense industrial base by curbing capital distributions that come at the expense of accelerated procurement and increased production capacity. Effective immediately, contractors that fail to remedy identified deficiencies may not pay dividends or repurchase stock until they can produce a "superior product, on time and on budget."

SAFETY MOMENT FOR THE CONSTRUCTION INDUSTRY

Katherine E. Griffin

In 2026, OSHA has been rolling out a series of initiatives that make clear the agency is not simply waiting around for accidents, complaints, or self-reported injuries before it shows up at a worksite. Specifically, OSHA's Site-Specific Targeting ("SST") program uses injury and illness data – much of this data is pulled directly from employer-submitted Form 300A and 300 logs – to select establishments with elevated injury rates for comprehensive, unannounced inspections. Layered on top of this approach, OSHA is focusing on and expanding its national, regional, and local Emphasis Programs that target specific industries and hazards, including heat exposure, warehousing, and fall protection. For example, during the week of May 4, 2026, OSHA conducted the annual National Safety Stand-Down program, which encouraged employees to pause throughout the week and engage employees in safety activities. Likewise, OSHA has launched efforts like the Safety Champions Program and the broader OSHA CARES initiative. Employers are encouraged to take advantage of these free consultation programs and educational resources.

The combination of data-driven targeting, expanded emphasis programs, and continued high penalty exposure means that a "wait and see" approach to safety compliance carries real legal risk.

Who Is Covered — and How They'll Be Identified

Within 30 days — and continuingly thereafter — the secretary of defense is directed to identify defense contractors for critical weapons, supplies, and equipment that are underperforming, insufficiently investing in capacity, not prioritizing U.S. government contracts, or operating at insufficient production speeds as determined by the secretary. The order references "large" or "major" contractors but does not define these terms, leaving scope and thresholds to subsequent regulatory guidance; similarly, the focus on "critical" items may initially exclude certain services. A pivotal criterion is whether the contractor engaged in buybacks or other corporate distributions during the period of underperformance.

Upon identification, the contractor receives notice and has just 15 days to submit a board-approved remediation plan for government review — an extraordinarily compressed timetable that will demand pre-baked playbooks. Contractors previously reviewed for similar issues may not require a second review at the secretary's discretion.

Enforcement Toolbox — and New Contractual Mandates

If a remediation plan is deemed insufficient, the secretary may use a range of tools "to the maximum extent permitted by law," including voluntary agreements, Defense Production Act authorities, Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) enforcement mechanisms, and programmatic considerations that account for a contractor's financial condition and the viability of relevant programs. The order also signals consequences beyond the four corners of a contract: The government may withhold advocacy in Foreign Military Sales and Direct Commercial Sales, and it asks the SEC chair to consider limiting the availability of the Rule 10b-18 safe harbor for identified contractors.

Within 60 days, the secretary must begin incorporating mandatory provisions into all future contracts (including renewals) to prohibit buybacks and corporate distributions during underperformance; require executive incentive compensation to be tied to operational metrics such as on-time delivery and production; and authorize caps on executive base salaries for underperforming contractors, subject to inflation adjustments and further scrutiny of incentive design.

Implications for the Defense Industrial Base

The order materially elevates the government's influence over contractor corporate governance, tying capital allocation and compensation to operational outcomes. Expect heightened scrutiny of scheduling, throughput, and capacity expansion, with the "underperformance" designation acting as a trigger for immediate restrictions on distributions and potential reputational risk in both domestic and foreign sales channels. Because criteria such as "insufficient production speed" and "not sufficiently prioritizing U.S. government contracts" are subjective and not yet metricized, contractors face uncertainty that argues for proactive self-assessment and documentation.

The supply chain will feel these pressures. Primes are likely to flow down schedule and capacity demands, tighten subcontracts, and more aggressively enforce terms — particularly on "critical" programs where bottlenecks can convert rapidly into enterprise-level constraints. Subcontractors and vendors should anticipate stricter progress reporting, expanded audit and inspection rights, and enhanced remedies tied to production milestones.

A few practical steps for employer that are worth prioritizing:

- **Audit your injury and illness data before OSHA does.** Errors or patterns in your 300 logs and ITA submissions can trigger inspections.

- **Document proactive hazard prevention efforts.** Written programs, training records, and abatement documentation are what separate a routine citation from a willful or repeat finding.

- **Watch for the emphasis programs relevant to your industry.** Heat, warehousing, and fall protection are current priorities.

- **Take advantage of OSHA's resources and outreach.** On-Site Consultation and similar programs offer a genuine opportunity to fix problems before they become citations.

In sum, OSHA is investing in the tools to find problems before an employee complains or gets hurt. Employers who build proactive, well-documented safety programs now will be far better positioned than those who wait for a knock on the door.

Meanwhile, capital markets dynamics may shift for publicly traded primes and major subs. Although coverage boundaries are not fully clear, the order's focus on distribution practices implies the most significant immediate sensitivity for issuers engaged in buybacks or dividends without demonstrable performance and capacity alignment. Boards and audit committees should expect increased engagement with program management to ensure that capital allocation decisions can withstand scrutiny against the order's performance-first policy.

Practical Steps to Prepare

Defense contractors should consider the following practical steps:

- First, conduct a rapid, program-by-program assessment of schedule, quality, and cost performance on critical weapons, supplies, and equipment, benchmarking against internal thresholds that could reasonably map to "underperformance" and "insufficient production speed."

- Second, stress-test capacity plans and capital expenditures, documenting how investments expand throughput and de-risk delivery — positioning the company to show that distributions do not come at the expense of production.

- Third, pre-draft a board-ready remediation playbook that meets the 15-day deadline, including root-cause analysis, supplier recovery actions, staffing and tooling plans, and objective milestones.

- Fourth, align executive incentive structures with on-time delivery and output metrics now, anticipating new clause requirements and reducing governance friction when deviations and clauses arrive.

- Finally, prepare for contract and international sales spillovers by reviewing FMS/DCS pipelines for exposure if advocacy is withheld and mapping alternative paths to market where feasible.

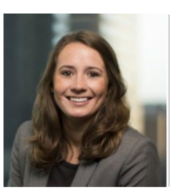
Bottom Line

This order reframes the unwritten compact between the government and its major defense partners: Performance, capacity, and readiness are the paramount objectives, and corporate distributions and incentives must be aligned accordingly. With swift identification timelines, subjective criteria, and new contractual mandates pending, the contractors that move early to quantify performance, document capacity investments, and hardwire incentives to delivery will be best positioned to navigate the new regime.

DEVELOPER LIABLE TO CONTRACTOR FOR MISREPRESENTATIONS REGARDING PROJECT FUNDING

John Mark Goodman & W. Hunter Webb

The Eighth Circuit Court of Appeals has affirmed a jury verdict finding that a developer and its founder defrauded a contractor by misrepresenting the availability of construction funding. See Selective Ins. Co. of Am. v. Heritage Const. Cos. et al, Case No. 24-2333, 2026 WL 263591 (D. Minn. Feb. 2, 2026). The case involves construction of a new osteopathic medical school in Minnesota to be funded by the developer's issuance of bonds. The developer told the contractor that all funding necessary for the project, i.e. $7M, would be available immediately upon closing of the bonds. In reality, only about $1.2M was immediately available with the remainder contingent on the medical school obtaining



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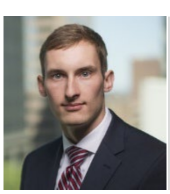

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BRADLEY LAWYER ACTIVITIES AND NEWS

2026 Edition of Chambers USA ranks 176 Bradley attorneys and 61 Practice Areas; 9 Practice Areas and 16 Attorneys Ranked Nationally.

Bradley is pleased to announce that Chambers and Partners has ranked nationally Bradley's Construction and Government Contracts practice areas.

Sixteen Bradley attorneys received *national rankings*, including **Aron Beezley** in Government Contracts and Government Contracts: Bid Protests.

Bradley's Construction Group is ranked among the top firms in Alabama, Washington, D.C., Florida, Georgia, Mississippi, North Carolina, Tennessee, and Texas

The following 19 attorneys have been ranked in their respective states: **Jim Archibald, David Owen, David Pugh, Chris Selman, Carly Miller, Doug Patin, Bob Symon, Lee Ann Brown, Ben Dachepalli, Tim Ford, Ron Espinal, Debbie Cazan, John Spangler, Ralph Germany, Ryan Beaver, Bryan Thomas, Kyle Doiron, Ian Faria, and Jon Paul Hoelscher.**

Chambers and Partners, an independent professional legal research company, determines its rankings of leading U.S. firms, legal departments and attorneys through in-depth research and interviews with law firms, clients and third parties. Chambers assess attorneys on attributes valued most by clients including capabilities, achievements, and sector presence.

accreditation. Shortly after construction began, the developer ran out of money, its accreditation application was denied, and it defaulted on its payment obligations to the contractor. The contractor sued the developer and its founder for breach of contract and fraud. Prior to trial the defendants admitted liability for breach of contract damages totaling approximately $6M. The case proceeded to a jury trial on the fraud claims.

The jury returned a verdict for the contractor finding that the developer and its founder committed fraud by negligently misrepresenting the availability of construction funding. On appeal, the defendants argued that the representations regarding funding were merely predictions about a future act or event and as such could not constitute fraud. Under Minnesota law, and the law of most states, fraud requires proof of a false representation of a *past or existing* material fact that is susceptible of knowledge. The Eighth Circuit held that the while the false representations were tied to a future event, they related to the present existence of committed financing that did not depend on future discretionary acts. As such the developer's statements regarding committed funding were actionable as fraud. The court also rejected the developer's defense that it honestly believed its representations to be true. According to the court an honest belief may defeat claims for intentional fraud, it is no defense to negligent misrepresentation claims, which are evaluated using an objective standard rather than a subjective one.

DOJ ANNOUNCES RECORD-BREAKING $6.8 BILLION FCA RECOVERIES IN FY 2025

Aron C. Beezley & Nathaniel J. Greeson

The Department of Justice (DOJ) announced in January that settlements and judgments under the False Claims Act (FCA) exceeded $6.8 billion in the fiscal year ending September 30, 2025 — the highest single-year total in the statute's history. The announcement underscores the continued centrality of the FCA in the federal government's fraud-enforcement arsenal.

Since Congress substantially strengthened the FCA in 1986, total recoveries now exceed $85 billion, a figure that reflects both sustained enforcement priorities and the growing role of whistleblowers in uncovering alleged fraud against the government.

A Surge in Whistleblower Activity and Investigations

Fiscal year 2025 also set new records for enforcement activity. Whistleblowers filed 1,297 *qui tam* lawsuits, surpassing the prior record of 980 filings set just last year. At the same time, the government opened 401 new FCA investigations, including matters aligned with stated administration policy objectives.

Healthcare Fraud Dominates Recoveries

As in prior years, healthcare fraud accounted for the majority of recoveries. Of the more than $6.8 billion recovered in FY 2025, over $5.7 billion arose from matters involving the healthcare industry, including losses to Medicare, Medicaid, and TRICARE.

DOJ identified three areas in which it continued to expand enforcement success: (1) Managed Care, (2) Prescription Drugs, and (3) Medically Unnecessary Care.

The Government Contracts Team was named ***Law360* Practice Group of the Year** for 2025. This award recognizes the practice groups that worked on the biggest deals or achieved the biggest wins in the most important cases over the past year in a variety of key practice areas. This is the fourth time in the last five years that Bradley's Government Contracts Team has received this recognition.

Slates Veazey was selected to *Law360*'s 2026 Editorial Advisory Board, which provides feedback on *Law360's* coverage, offers expert insight on how best to shape future coverage, and supplies reporters with a pool of potential sources.

Partner **Jim Archibald** has been elected treasurer of the American College of Construction Lawyers' (ACCL) Executive Committee. The new committee members were installed at the ACCL's Annual Meeting held February 19-22, 2026.

The ACCL is a national organization of lawyers who have demonstrated exceptional skill, experience, and high standards of professional and ethical conduct and who are dedicated to excellence in the practice of construction law. Upon completing his one-year term as treasurer, Mr. Archibald will continue to serve on the Executive Committee, progressing through the roles of secretary, president-elect, and eventually serving as president in 2029. He has been a Fellow of the ACCL since 2016 and just completed a three-year term on the ACCL Board of Governors.

Chris Selman was selected as a Fellow of the Constriction Lawyers Society of America (CLSA).

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While the reported figures reflect only federal losses, DOJ noted that many of these matters also resulted in substantial recoveries for state Medicaid programs.

Procurement, Cybersecurity, Pandemic, and Trade Fraud Remain Priorities

DOJ also continued to pursue FCA matters involving government procurement and grants, particularly where the alleged fraud affected the military or implicated national security concerns. DOJ reaffirmed its focus on knowing violations of cybersecurity requirements, as well as recovering hundreds of millions of dollars lost to fraud in pandemic-related programs.

In addition, DOJ highlighted increased enforcement targeting tariff and customs duty evasion, including the launch of a cross-agency Trade Fraud Task Force. These cases focus on alleged schemes involving misclassification of goods, false country-of-origin claims, or other efforts to evade lawful duties — conduct DOJ views as undermining domestic industries, consumer confidence, and national security.

Cooperation and Self-Disclosure Continue to Pay Dividends

Consistent with recent enforcement guidance, DOJ reiterated its commitment to incentivizing self-disclosure, cooperation, and remediation. Several settlements in FY 2025 reflected tangible cooperation credit, including reduced penalties or damage multipliers for entities that promptly disclosed misconduct, assisted in calculating government losses, shared internal investigative findings, or implemented meaningful compliance enhancements.

For contractors and healthcare providers, this continues to reinforce a critical point: Proactive compliance, early self-assessment, and strategic engagement with the government can materially affect outcomes in FCA investigations.

***Qui Tam* Actions Drive Enforcement**

Qui tam actions — lawsuits brought by private individuals known as "relators" or whistleblowers — remain the backbone of FCA enforcement. In FY 2025, DOJ reported more than $5.3 billion in settlements and judgments arising from *qui tam* cases, including both newly filed and earlier actions.

When such cases succeed, whistleblowers typically receive 15% to 30% of the recovery, a powerful incentive that continues to drive record-level filings.

Looking Ahead

The record-breaking recoveries announced by DOJ signal that the department intends to continue deploying the FCA aggressively — particularly in healthcare, procurement, cybersecurity, and trade — while rewarding cooperation and self-disclosure.

For entities doing business with the federal government, the message is clear: FCA risk is not theoretical, enforcement trends are accelerating, and compliance failures — especially those flagged by insiders — carry unprecedented financial and operational consequences.

11TH CIRCUIT CONFIRMS ICC TRIBUNAL'S POWER TO PIERCE THE CORPORATE VEIL

Jennifer Morrison Ersin & Preston Garner Vance

In *Pott v. World Capital Properties*, the 11th Circuit held that an international arbitral tribunal operating under the New York Convention may pierce the corporate veil to assert jurisdiction over a non-signatory to an arbitration agreement.

The dispute arose from an alleged breach of a stock option agreement between Alfredo Pott and World Capital Properties (WCP). Gonzalo Lopez-Jordan had close ties to WCP but was not a signatory to the agreement, which contained an ICC arbitration clause. Pott initiated ICC arbitration against WCP and Lopez-Jordan. Lopez-Jordan objected to the tribunal's jurisdiction early and often, but he signed the ICC Terms of Reference (ToR), which expressly included the jurisdictional issue among the questions for the tribunal to decide.

The tribunal held that it had jurisdiction over Lopez-Jordan under a veil-piercing theory and entered an award against him. Pott obtained enforcement of the award in federal district court. Lopez-Jordan appealed, arguing he never consented in writing to arbitration. The 11th Circuit affirmed enforcement of the award on two grounds.

The Circuit Court's Reasoning

First, the court held that the absence of a written arbitration agreement does not necessarily deprive the tribunal of jurisdiction citing the Supreme Court's holding in *GE Energy Power Conversion France SAS, Corp. v. Outokumpu Stainless USA, LLC* that an arbitration agreement subject to the New York Convention may be enforced against a non-signatory under state-law principles such as "assumption, piercing the corporate veil, alter ego, incorporation by reference… etc."

Second, the court held that by signing the ToR, Lopez-Jordan consented to the tribunal's resolution of his jurisdictional objection. And once the tribunal denied that objection, he was bound by the tribunal's ruling on the merits.

Key Takeaway

GE Energy allowed courts to bind non-signatories to international arbitration agreements. *Pott* goes further by allowing international arbitral tribunals themselves to make that determination. As a result, closely related third parties, including owners and parent companies, may not be able to rely solely on the absence of a written arbitration agreement to avoid arbitral jurisdiction.

Additionally, a non-signatory drawn into an arbitration should promptly seek judicial review of its jurisdictional objection if it wants the merits of that objection to be decided in court. As Lopez-Jordan learned in *Pott*, *a party who does not contest an arbitrator's right to determine jurisdiction over that party may waive the right to later appeal the arbitrator's exercise of such jurisdiction*.

WHAT FOREIGN COMPANIES NEED TO KNOW WHEN ENTERING THE U.S. GOVERNMENT CONTRACTS MARKET

Aron C. Beezley & Nathaniel J. Greeson

The U.S. government contracts market is the largest and most sophisticated public procurement system in the world, with annual spending exceeding hundreds of billions of dollars across defense, civilian agencies, infrastructure, IT, healthcare, and professional services. For foreign companies, the market offers substantial opportunity — but it also presents unique legal, regulatory, and practical challenges that differ significantly from commercial contracting or public procurement regimes in other countries.

This article provides an overview of the key issues foreign companies should understand before pursuing contracts with the U.S. government.

Eligibility: Can Foreign Companies Contract with the U.S. Government?

As a general matter, foreign-owned companies are not categorically barred from contracting with the U.S. government. Many federal agencies routinely award contracts to companies with foreign parents or operations. However, eligibility depends on several factors, including:

- Country of origin of the company and its products or services
- Nature of the procurement (defense vs. civilian; supply vs. services)
- National security considerations
- Statutory and regulatory restrictions, including domestic preference laws and trade agreements

In practice, foreign companies often enter the market through:

- A U.S. subsidiary organized under U.S. law
- A joint venture or teaming arrangement with a U.S. contractor
- Acting as a subcontractor to a prime contractor

Each structure carries different compliance obligations and risk profiles.

Domestic Preference Laws and Trade Agreements

1. Buy American and Trade Agreements Act

U.S. procurement is governed by multiple domestic preference regimes — most notably:

- The Buy American Act (BAA), which favors U.S.-made end products and construction materials
- The Trade Agreements Act (TAA), which permits procurement of products from designated countries under qualifying trade agreements

Foreign companies must carefully analyze:

- Whether a procurement is subject to the BAA or the TAA
- Whether their country qualifies as a TAA-designated country
- How the government defines the country of origin for their products
- Their products supply chain

Noncompliance can result in bid rejection, contract termination, negative past performance reviews, suspension/debarment, or even False Claims Act exposure.

2. Executive Orders and Policy Shifts

Domestic preference rules are politically sensitive and subject to change through executive action. Foreign companies must stay alert to evolving interpretations, waiver policies, and enforcement priorities.

National Security and Foreign Ownership Concerns

1. Foreign Ownership, Control, or Influence (FOCI)

For defense and sensitive civilian contracts, foreign ownership can trigger scrutiny **under FOCI** rules. Companies that will access classified information or perform sensitive work may need to:

- Mitigate foreign ownership through proxy agreements, voting trusts, or special security agreements
- Undergo extensive security reviews
- Limit access to certain programs or data

2. CFIUS Considerations

Foreign investment in U.S. government contractors may also implicate review by the Committee on Foreign Investment in the United States (CFIUS). Transactions that provide access to sensitive technologies, data, or infrastructure can be delayed, conditioned, or blocked. Early assessment of CFIUS risk is critical when structuring market entry.

Compliance with the Federal Acquisition Regulation (FAR)

The FAR governs nearly every aspect of U.S. government contracting. For foreign companies, the FAR can be unfamiliar and unforgiving. Key compliance areas include:

- Representations and certifications, many of which are made under penalty of law
- Cost accounting and pricing rules, especially for cost-reimbursement contracts
- Mandatory disclosure obligations for certain violations
- Ethics and compliance program requirements

Misunderstanding FAR obligations — as well as agency-specific FAR supplements — is one of the most common pitfalls for new entrants to the market.

1. False Claims Act (FCA) Risk

The FCA is one of the U.S. government's most powerful enforcement tools. Liability can arise not only from billing misconduct, but also from:

- Noncompliance with material contract requirements
- Misrepresentations in proposals or certifications
- Failure to comply with domestic sourcing or cybersecurity requirements

Cases are frequently driven by whistleblowers, as there are financial incentives for *qui tam* referral plaintiffs, and FCA damages can be trebled. Foreign companies should generally implement robust compliance systems before submitting bids — not after award.

2. Cybersecurity and Data Protection Obligations

Many U.S. government contracts impose strict cybersecurity and data-handling requirements, including:

- Compliance with government-specific security frameworks
- Restrictions on foreign access to certain data
- Flow-down obligations to subcontractors and affiliates

Failure to meet these requirements can lead to breach findings, suspension, or debarment.

3. Suspension, Debarment, and Responsibility Determinations

To receive a federal contract, a company must be deemed “responsible.” Past performance, integrity, compliance history, and internal controls all factor into this determination.

Foreign companies should be aware that:

- Responsibility determinations are discretionary and highly fact-specific
- Compliance failures — anywhere in the corporate family — can affect eligibility
- Suspension or debarment can be imposed based on conduct that occurred outside the United States

Proactive engagement and transparency are often critical when issues arise.

4. Practical Market Entry Strategies

Foreign companies seeking to enter the U.S. government market often benefit from a phased approach:

- Start as a subcontractor to gain experience with FAR compliance and develop past performance
- Partner with experienced U.S. contractors through teaming agreements
- Establish a U.S. presence to streamline contracting and compliance
- Invest early in compliance infrastructure, including training and internal controls

Success in this market is rarely immediate, but it can be durable and lucrative for companies that navigate the rules effectively.

Conclusion

The U.S. government contracts market offers significant opportunity for foreign companies — but it is not a market that rewards casual entry. Domestic preference laws, national security concerns, complex regulations, and aggressive enforcement make careful planning essential.

Foreign companies that invest early in legal strategy, compliance systems, and informed market entry structures are best positioned to compete successfully and sustainably in this highly regulated environment.

11TH CIRCUIT AFFIRMS IN DISPUTE BETWEEN JOINT VENTURE PARTNERS ON FLORIDA MEGA PROJECT

John Mark Goodman & Lee-Ann C. Brown

The 11th Circuit Court of Appeals has affirmed an $80 million ruling in favor of Skanska USA and Granite Construction against their joint-venture partner Lane Construction. The case involves a $2.3 billion highway improvement project in Florida known as the “I-4 Ultimate Project,” a public-private partnership (or “P3”) project for the Florida Department of Transportation. The court found that Lane breached its duties to its joint venture partners when it tried to pull out of the project before completion without good grounds for doing so. We previously wrote about the trial court decision that prompted this appeal to the 11th Circuit.

The case is a *must-read* glimpse behind the scenes of a mega project in trouble due to unexpected cost overruns. The introduction from the 11th Circuit is excerpted below to whet your appetite.

> Not all ventures strike gold; some strike sinkholes. Such was the case for a private group of contractors who shouldered Florida’s largest and most expensive construction project to date. The task was to expand and revamp Florida’s Interstate 4 highway (“I-4”), which runs between Tampa and Daytona Beach. Three contractors—Skanska USA Civil Southeast, Inc. (“Skanska”), Granite Construction Company (“Granite”), and

The Lane Construction Company ("Lane")—formed a joint venture ("SGL") to take on the job. SGL secured a winning bid of $2.3 billion, projecting some $255 million in profit. But hurricanes, inflation, a labor shortage, and a series of unfortunate events turned profit-seeking into loss-mitigation. SGL soon found itself more than half a billion dollars in the red.

A few years into the project, Lane pitched the idea of ditching construction altogether. Lane knew SGL had no right to abandon ship, but its lawyers claimed they had concocted a legal theory to escape without liability. Alternatively, Lane and its lawyers suggested SGL threaten to walk away as a negotiation tactic. Either option would put a stop to the bleeding, or so Lane argued. Skanska found it too risky. Lane's proposal rested on a series of tenuous legal assumptions, and if even one failed, SGL could face uncapped damages. Successful or not, the reputational damage would be untold. But to Lane, Skanska's concern was a mere façade overlaying an odious conflict of interest. Skanska's sister company was financing the construction in exchange for milestone payments and an exclusive maintenance agreement worth $75 million a year. Lane surmised that Skanska's parent company stood to lose more from jeopardizing those payments than it would gain from stemming SGL's losses.

Lane cried foul. It sued Skanska for breach of fiduciary duty and began refusing mandatory capital calls. Skanska and Granite countersued for breach of contract. After a ten-day bench trial, the District Court found that Skanska exhibited no dual loyalty and acted in the best interest of SGL. It ordered Lane to pay $80 million for refusing to fund the venture while litigation pended. We affirm.

The court then proceeded to describe in detail the wrangling between the joint venture partners over their termination rights under the contract (which included typographical errors that fueled the dispute), alleged conflicts of interest, and refusals to make capital call. The case is a cautionary tale to contractors and attorneys in complex construction disputes to carefully consider the grounds and consequences of termination before you pull the trigger.

BRADLEY LAWYER ACTIVITIES AND NEWS CONTINUED…

Fifteen Bradley attorneys have been included in the 2026 Thomson Reuters Stand-out Lawyers list, including **Aron Beezley, Eric Frechtel, Ian Faria, and Bob Symon**. This recognition is based solely on nominations from in-house counsel and reflects Ian's exceptional client service, legal expertise, and leadership in his practice.

Ryan Beaver and **Brian Rowlson** have been recognized in Business North Carolina's Legal Elite 2026. In addition, **Ryan Beaver** has also been named to the 2026 North Carolina Super Lawyers list.

Ben Dachepalli and **Tim Ford** have been recognized in the 2026 edition of *Florida Super Lawyers* along with **Ron Espinal** and **Chris Odgers** as 2026 *Florida Rising Stars.*

Debbie Cazan has been selected for the 2026 Georgia Super Lawyers list, and **Derek Andre** was also honored on the 2026 Georgia Rising Stars list.

The 2026 *Lawdragon 500 X – The Next Generation* list recognizes young attorneys who have been in practice for less than 15 years and who have made significant achievements early in their careers that have propelled them to the forefront of the legal profession. This year, two attorneys in our Houston office were named: **Sydney Warren** and **Eve Pferdehirt**.

Aron Beezley, Eric Greachtel, Michael Koplan, Doug Patin and **Bob Symon** are included in the *Washington, D.C. Super Lawyers* list for 2026. **Charlie Blanchard, Erik Coon** and **Nathaniel Greeson** are included in the *Washington, D.C. Rising Stars* list for 2026.

Aron Beezley, John Mark Goodman, and **Nathaniel Greeson** were honored as "Top Authors" by JD Supra in its 2026 Readers' Choice Awards, and the firm was recognized with a "Top Firm Award" for Construction. John Mark was named the No. 1 author for Construction.