



## Scott D. Cahalan

Partner | Atlanta

scahalan@sgrlaw.com

Tel: 404-815-3711

Fax: 404-685-7011

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### Areas of Practice

Construction Dispute Resolution | Sustainability Practice | Health Care | Construction Project Counseling | Construction Contract Drafting | Government Procurement | Manufacturing | International Arbitration & Dispute Resolution | Litigation/Trial Practice | Manufacturing | Korea Practice

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Scott D. Cahalan is a Partner in the Construction Law and Litigation Practice at Smith, Gambrell & Russell LLP.

Mr. Cahalan has substantial experience representing owners, developers, contractors, and others in the construction industry. His practice primarily consists of drafting and negotiating construction contracts, providing advice during development, design, and construction, and representing clients in dispute resolution proceedings.

Mr. Cahalan has been lead counsel on a large number of litigation, arbitration, and mediation matters involving claims for breach of contract and torts, including differing site conditions claims, delay, acceleration, and inefficiency claims, design, and construction defect claims, as well as payment, lien, and bond claims.

Mr. Cahalan has also drafted and negotiated thousands of contracts using both specially drafted contract forms and standard industry forms. Mr. Cahalan has drafted general contracts, master agreements, subcontracts, design contracts, service contracts, design-build contracts, EPC and EPCM contracts, construction and program management contracts, joint-venture, teaming and partnering agreements, equipment installation contracts, purchase orders, operation and maintenance contracts, IPD contracts, and bonds for public and private jobs. His contracts have been used on office, commercial, hospitality, residential, and mixed-use buildings, light and heavy manufacturing and warehouse facilities, arenas, stadiums and practice facilities, hospitals and medical office buildings, school and university buildings, and utility, nuclear, solar, and water reclamation projects.

Mr. Cahalan routinely represents in-bound international clients in transactional and litigation matters, involving construction projects and manufacturing, industrial, and nuclear power plants. He has represented clients from Austria, Bavaria, Belgium,

Canada, France, Germany, Ireland, Japan, Korea, Spain, and the United Kingdom on projects ranging from the manufacture of automobiles, food, metals, natural gas, plastics, pipe, tires, wood, and power.

Mr. Cahalan was the primary drafter of the Associated Owners and Developers' *AOD 2002 – Standard Form of Agreement Between Owner and Contractor Where the Price Is Fixed or Lump Sum*, and the Associated Owners and Developers' *AOD 2003 – Standard Form of Agreement Between Owner and Contractor for Work on a Cost Plus Fee Basis with a Guaranteed Maximum Price*.

Since 2010, Mr. Cahalan has been an instructor at the Georgia Institute of Technology where he has taught Design and Construction Law, Real Estate Development Law, and Construction Development Law to graduate and undergraduate students. Mr. Cahalan also taught Trial Techniques to law students at Emory University between 2009 and 2011.

Before law school, Mr. Cahalan was an engineer at Green Construction, Inc., an ENR® top 50 general contractor that specialized in large civil and industrial construction projects throughout North and South America. He has experience in estimating, scheduling, cost accounting, and project management.

Mr. Cahalan received his B.S. degree in Construction Engineering from Iowa State University in 1984. In 1994, he received his J.D. degree, *cum laude*, from the University of Georgia. While in law school, Mr. Cahalan served as a summer law clerk to The Honorable Julie E. Carnes, Judge for the United States District Court for the Northern District of Georgia, Atlanta Division (retired, Judge for the United States Court of Appeals for the Eleventh Circuit).

## Admissions

Georgia

U.S. District Court Northern District of Georgia

U.S. District Court of Appeals, Eleventh Circuit

## Recognitions

The Best Lawyers in America©, Construction Law; Litigation – Construction (2021-2025)

Chambers USA: Leading Business Lawyers, Construction, Georgia (2007-2013, 2019-2024)

Lorman 2017 Platinum Distinguished Faculty

Georgia Super Lawyers, Construction Litigation (2009-2010)

## Memberships

American Bar Association – Construction Forum

American Institute of Architects

Georgia Utility Contractor's Association

## Publications

Mr. Cahalan has also given more than 70 webinars and seminars covering topics that include prime contracts, subcontracts, EPC and EPCM contracts, preference statutes, implied contract obligations, delay claims, differing site condition claims, force majeure clauses, pay if paid clauses, construction management agency, termination and default, Miller Act claims, green building, construction insurance, and mechanics lien and bond law. A complete list of Mr. Cahalan's speaking engagements is available upon request, some of which include:

- Presenter, "Legal Issues and Best Practices Related to EPC and EPCM Project Administration" Lorman Education Services, Sep 2024
- Presenter, "Value Based Pricing," City of Seattle, July 2024
- Presenter, "Contract Provisions Subcontractors Need to Know About," Lorman Education Services, June 2024
- Presenter, "Implied Contract Obligations in Construction Contracts," WPL/Construction Claims Advisor, May 2024
- Presenter, "Pay if Paid and Pay when Paid Clauses: Who Bears the Risk of Non-Payment?" WPL/Construction Claims Advisor, Feb. 2024
- Presenter, "Payment Provisions in Construction Contracts: Mitigating Risk of Non-Payment in a Volatile Market," Strafford Webinars, Nov. 2023
- Presenter, "Avoiding the Risk of Subcontractor Default," Lorman Education Services, May 2023
- Presenter, "Miller Act Claims: Compliance with the Bond, Prosecution, and Defense Strategies for General Contractors and Subs," Strafford Webinars, May 2023
- Presenter, "What You Don't Know Can Hurt You; Implied Contract Obligations in Construction Contracts," Construction Claims Advisor, May 2023.
- Presenter, "Pay-if-Paid and Pay-when-Paid Construction Contract Clauses: Avoiding Non-Payment, Jurisdictional, and other Issues," Strafford Webinars, January 2023.
- Presenter, "EPC vs. EPCM in Construction Projects: Limiting Costs, Assessing Risks," Strafford Webinars, October 2022
- Presenter, "The Writing and Rewriting of Subcontracts for Construction Work," Lorman Education Services, May 2022
- Presenter, "Recent Developments regarding Force Majeure," Lorman Education Services, March 2022

Mr. Cahalan has written more than 50 published articles including articles covering acceleration, building information modeling, changes, construction contracts, constructive changes, delays, differing site conditions, e-verify, implied duty of good faith and fair dealing, lien law, material breach, procurement laws, retainage, sovereign immunity, the Spearin Doctrine, termination, and warranties. A complete list of Mr. Cahalan's publications is available upon request, some of which include:

- *"Beyond the Wall: A Contractor's Right of Recovery for Acts of Government Depends on Public Private and Contractual Concerns"* Trust the Leaders 2, Vol. 5 (2021).
- *"March is Just Around the Corner: Move the Clocks Forward and Change Your Lien Forms,"* Trust the Leaders, Issue 23 (Spring 2009).
- *"Building Information Modeling: What's Ahead for Contractors,"* Trust the Leaders, Issue 21 (Spring 2008).
- *"Lien Law: Use It or Lose It,"* Trust The Leaders, Issue 11 (Spring 2005).
- *"Move Over AIA – There's a New Standard Form Construction Contract for Owners and Developers,"* Trust the Leaders, Issue 2 (Winter 2002).
- *"An Owner's Guide to Time Related Claims,"* Construction Business Review, Volume 9, Number 1 (2001).
- *"Owner's Perspective – Allocating Contract Administration Duties and Responsibilities Between Construction Managers and Architects,"* Construction Business Review, Volume 8, Number 3 (2000).