



Scott D. MacDonald

Special Counsel

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“I approach client-interactions much like a contractor approaches a project—identify the desired end goal, determine more nuanced goals specific to each party involved, craft a plan to achieve the client’s goals, then bring my unique skill set to bear in carrying out that plan. I am motivated by the well-being and happiness of clients and strive to be an integral part of their diverse business needs.”

Scott MacDonald focuses on public and private construction contracting and all areas of construction litigation. He represents owners, general contractors, subcontractors, and construction suppliers throughout the Pacific Northwest on any project, whether it be heavy civil infrastructure work, road and utility projects, apartments, condominiums, affordable housing efforts, schools, hotels, or residential work. Scott is well-versed in structuring and negotiating contracts for traditional project delivery methods, as well as alternative delivery methods such as GC/CM and design-build projects. When in the best interests of clients, he is a stalwart force in formal dispute resolution, but also carries a solution-focused suite of skills to ensure disputes reach the desired outcome.

Scott has extensive experience on both state and federal public works projects at all stages of the work, including bidding, procurement risk analysis, contract drafting, on-project requests for equitable adjustment, CPARS ratings, and formal actions under the Contract Disputes Act. That experience extends to prime contractors and subcontractors, including 8(a), DBE, and non-DBE, on a diverse array of agency projects, including NAVFAC, USACE, and NOAA projects, within and outside the continental United States.

Professional Activities

- Association of Women and Minority Businesses, Member
- Associated General Contractors of America, Washington Chapter, Member

Education

J.D., Seattle University School of Law, *magna cum laude*, 2016

- Research and Technical Editor, *Seattle University Law Review*
- CALI Excellence for the Future Award, Constitutional Law I
- CALI Excellence for the Future Award, Federal Courts
- CALI Excellence for the Future Award, Aviation Law
- CALI Excellence for the Future Award, Homeless Rights Advocacy Practicum II

B.A., Westmont College, political science, 2012

Bar Admissions

Washington, 2016

Court Admissions

U.S. District Court, Western District of Washington

Representative Experience

Construction Contracting

- **Midstream transition of general contractors on a major data center construction project.** Prepared a negotiated separation agreement to remove a national general contractor midstream during construction of a very large data center complex in Oregon, and to transition the remaining work to the follow-on contractor, along with the assignment of all existing subcontractors. The transition was fully successful, with no disputed termination or delay claims.

Insurance Recovery

- **Major builder's risk insurance recovery for new Oregon data center.** Successful litigation and mediated resolution of a project owner's \$8 million claim against its builder's risk insurance carriers following two explosions and fires during the construction of a 250,000 sq. ft. data center in Washington County, Oregon. The builder's risk insurers' untimely and unreasonable claims adjustment resulted in zero payment to the project owner prior to Miller Nash's involvement. Litigation involved extensive discovery of electronically stored information and depositions, in addition to summary judgment briefing and other motions. With the assistance of a mediator, the vast majority of the owner's losses were recovered.

Prior to Joining Miller Nash

- Represented public works contractor from contract award to final completion on a mixed vertical and heavy civil project in downtown Seattle achieving full negotiated settlement of \$20M+ claims without formal dispute resolution.
- Represented public works contractor from contract award to final completion on heavy civil utility relocation project spanning multiple downtown Seattle boroughs achieving full negotiated settlement of \$19M+ claims without formal dispute resolution.
- Obtained complete recovery of general contractor's lien on mixed-commercial/residential project in Everett following Owner's default and placement into involuntary receivership.
- Obtained permanent restraining order against resident neighboring client's construction project for racial and homophobic harassment of client's labor force.
- Obtained summary judgment for heavy civil contractor on military project dismissing \$900k+ subcontractor claim for reformation of a subcontract in Western District of Washington.
- Represented contractor in \$87M sale of contractor-held real property to commercial developer that included simultaneous negotiation of contractor's construction agreement to construct the buyer/developer's apartment complexes on the property.
- Achieved 100% recovery of steel-supplier's \$400k+ claims on summary judgment against subcontractor.

Presentations

- "The Dos and Don'ts of Public Contracting in 2023—Procurement Processes," Miller Nash, Construction Webinar Series (Feb. 2023)

Recognition & Honors

- Selected for inclusion in *Best Lawyers: Ones to Watch*[®] (Seattle, WA)
 - Construction Law, 2023-present
- Selected for inclusion as a Washington Super Lawyer—Rising Star, 2018-present