



Jack Rosati, Jr.

Partner



Jack Rosati is a partner in Bricker & Eckler's Construction Law group. With more than 30 years of experience as a construction attorney, Jack has served as counsel for numerous projects, including several of the largest hospital systems in Ohio. His involvement in health care-related projects has included multi-year system transformations with individual values up to \$1 billion. He has also frequently served as construction counsel for smaller public and private hospitals.

Additionally, Jack represents a wide variety of public and private owners in Ohio in negotiations with construction design professionals, contractors and sureties. He has served as construction counsel on design-build and construction manager at risk projects ranging in value from \$3 million to \$320 million. He has also served as a mediator on construction cases and has the experience and ability to evaluate the merits of parties' claims and facilitate settlements.

Jack's practice emphasizes counseling related to bid disputes, construction defects, insurance coverage issues, project delivery systems, construction contracts and specifications. Examples of other matters include, serving as construction counsel on municipal courthouse projects; litigating claims for public libraries against contractors and bonding companies for defective work and project delays; negotiating and litigating construction claims for school districts; pursuing claims for public owners on their water and wastewater treatment plant projects; and representing county commissioners on county jail projects. He has also conducted internal audits of construction practices for various public and private clients and advised on process improvement and cost saving best practices.

Jack has numerous reported cases. For example, he represented a consortium of public owners as amici before the Supreme Court of Ohio in the case of Dugan & Meyers Constr. Co. v. Dept. of Admin. Serv. (2007), 113 Ohio St.3d 226, arguing that public owners in Ohio should not be liable for additional construction costs when contractors fail to follow contractual procedures for obtaining additional time and money, and in the case of Boone Coleman Construction, Inc. v. The Village of Piketon, 45 Ohio St. 3d 450, regarding enforcement of liquidated damages. He also defended a public school district in a bid dispute in the reported case of Monarch Constr. Co. v. Ohio Sch. Facilities Commission (2002), 150 Ohio App.3d 134, successfully arguing that public school districts have broad discretion in the bidding process to determine the responsibility of a bidder.

Bar Admissions & Activities

- Member, Columbus Bar Association; Ohio State Bar Association; American Bar Association

Education

- The Ohio State University Moritz College of Law (J.D., 1989); Order of the Coif; Articles Editor, *Ohio State Law Journal*

CONTACT INFORMATION

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INDUSTRIES & PRACTICES

Health Care Industry
Public Sector
Litigation
Construction
Education (Pre-K to 12)

Bricker & Eckler, particularly Jack Rosati, has been extremely supportive and responsive to our needs. They are willing to explain issues in layman's terms and are willing to talk things through when needed. When we do have an issue, we are heard and they will adjust as necessary.

Bricker client as quoted in Best Law Firms, 2019



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- The Ohio State University College of Pharmacy (B.S., 1981)

Awards & Recognition

- Listed, *Best Lawyers in America* (Construction Law; Litigation - Construction), 2005–2023
- Recognized, *ChambersUSA*, Construction with a Band 1 ranking, 2012–2022; Band 2 ranking, 2008–2011
- Listed, *Ohio Super Lawyers* (Construction Litigation: Business), 2004, 2006–2021
- Listed, *The International Who's Who of Construction Lawyers*, 2008, 2018
- Columbus Lawyer of the Year, *Best Lawyers in America* (Litigation – Construction), 2015
- Member, Million Dollar Advocates Forum
- Listed, *Legal 500*

Presentations & Published Works

- Presenter, "Risk Management in Construction," Ohio Hospital Association webinar, January 2017
- Speaker, "Broken Promises, Bad Buildings," Bricker Construction Best Ideas Series
- Speaker, "Bidding for Public Construction Contracts: Getting Good Contractors"
- Speaker, County Construction & Finance Seminar
- Speaker, Top Gun Construction Claims Seminar
- Speaker, Buckeye Association of School Administrators School Facilities Conference

Professional & Community Activities

- Member, Bricker & Eckler's Southeast Ohio team

Experience

Construction procurement training

Present internal client training to key organization representatives, project managers and in-house counsel relating to construction bidding and procurement laws and best practices.

Long-term care certificate of occupancy issue

On behalf of a large long-term care client, kept a multi-phased renovation project involving long-term care and assisted living beds on schedule, solving a complex certificate of occupancy issue for an older nursing home facility.



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Phased renovation and expansion healthcare projects

Assisted private and public health care systems in negotiating and preparing design professional and construction manager at risk agreements for phased renovation and expansion projects with budgets ranging from \$1 million to \$15 million.

Task order construction manager at risk agreement

Prepared the requests for qualifications, requests for proposals and specialized contract documents for task order construction manager at risk arrangements for public and private entities including hospital systems and library systems.

Library renovation and new construction projects

Prepared procurement and bidding documents and negotiated contracts for architects, construction managers at risk, and general contractors for renovation and new construction projects for libraries, including projects involving multiple branches. Construction values ranged from less than \$100,000 to \$20 million.

County jail renovation and new construction projects

Assisted with the selection of project delivery models and prepared request for qualifications, request for proposals, design professional agreements and construction contract documents for a variety of new build and renovation projects for county jails. Project delivery models included construction manager at risk, design-build and general contractor. Project values ranged from \$3 to \$50 million.

\$1.3 billion health system construction projects

Advise and assist Indiana's largest private, not-for-profit health system with three projects that are among the largest construction projects the system has ever undertaken, with total costs expected to exceed \$1.3 billion over several years. The first project involves construction of a new campus location in the downtown area. The second project involves a new facility on a university campus. The third project involves renovating 150,000 square feet of the vacated children's hospital to create a maternity hospital. Bricker's role is to provide the legal services specific to the construction of health care facilities, while Indiana co-counsel is expected to provide more general construction advice.

Hospital design-build project

Assisted with drafting and negotiating design-build contract for a private hospital. Project value exceeded \$320 million.



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Health center design and construction

Worked with a public hospital's office of general counsel and its department of construction management with regard to all aspects of design and construction of a 58,000-square-foot off-campus health center using the construction manager in an agency role delivery model with multiple prime contracts.

Hospital medical campus renovation construction manager at risk project

Assisted a private health care system in negotiating and preparing design professional and construction manager at risk agreements for the renovation of a recently-acquired medical campus. The project value exceeded \$61 million.

Hospital system transformation construction manager at risk projects

Assisted a public health care system with its procurement processes and agreements for design professionals, owner's representative and construction manager at risk for a \$1 billion multiple-project transformation.

Hospital contract templates

Prepared template architect/engineer, construction manager, contractor and other consultant agreements for both public and private hospitals to be used for different project delivery methods and with projects of varying sizes and scope.

Hospital bid evaluation

Advised a public hospital regarding the evaluation of bids.

Hospital architect agreement negotiation

Counselled public hospital client through the negotiation of an architect agreement.

Municipal design-build projects

Prepared request for qualifications, request for proposals and contract documents for municipal administration building design-build projects.

Dentist's office construction contract

Prepared construction contract for new dentist's office project.



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Fire department renovation contracts

Prepared and negotiated criteria architect and design-build contracts, as well as architect and general contractor procurement/bidding documents for the design and construction of new township fire department facilities.

Private developer contracts

Prepared architect, contractor and design-builder agreements for private developer.

County and city template contracts

Create template architect agreements, engineer agreements, bidding documents and owner-contractor agreements for public entities including cities and counties.

Design-build renovation project

Prepared request for qualifications, request for proposals and contract documents for a K-12 school district's design-build project.

Public library diversity and inclusion guidelines

Prepared diversity and inclusion guidelines and incorporated them into the procurement process for a large public library system.

County procurement manual

Created a manual comparing and contrasting available construction delivery models and providing guidance on statutory bidding and procurement requirements for counties.

Wastewater treatment entities

Provided outside legal consulting services and prepared wastewater bid packages and contract documents for Ohio's three largest wastewater treatment providers.

County courthouse design-build project

Advised a county regarding project delivery methods and prepared a request for qualifications, request for proposals and contract documents for the courthouse's design-build renovation project.



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\$2.5 million city public services facility project

Advised a city regarding project delivery methods newly available to Ohio public entities for its new public services facility project. Created a streamlined procurement process for a design-build project, pursuant to the city's Amended Charter and Codified Ordinances, and prepared the request for proposals and contract documents for the project.

Amici curiae in liquidated damages case

Represented the amici curiae in support of a village position that the enforceability of liquidated damages must be analyzed prospectively rather than based on the amount of total liquidated damages that ultimately accrued after significant delays and, additionally, that liquidated damages are equally appropriate for both new construction and improvements to existing infrastructure.

Water infiltration issues

Retained by a city to help identify the cause of the water infiltration issues over the natatorium area of its recreation center. Destructive testing was scheduled, and based upon the forensic report prepared by a consultant, it was determined that sections of the roof needed to be replaced. We prepared contract documents and assisted the city with the bid process for a contractor to perform the remedial work and are working with the city to schedule mediation with the design professional and original contractors.