



Kate Krause, Esq., FCI Arb

Krause Dispute Resolution

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Kate Krause brings a fresh approach to dispute avoidance and resolution. She has worn many hats in her 35-year career in the construction industry, including: outside counsel to a multinational general and civil contracting company; arbitrator, mediator, and litigator of complex construction disputes; and construction claims consultant. Kate has been involved in project bidding, contract management, risk management, scheduling and cost analysis, and the resolution of claims relating to defective design and construction, differing site conditions, delay and acceleration, liquidated damages, lost productivity, cost overruns, changes, termination, surety bonds, and insurance. Kate's varied experience allows her to view construction disputes from different perspectives, resulting in creative solutions that preserve the working relationships among the parties. She has extensive experience in highway and bridge construction, making her an excellent addition to any FDOT dispute review board.

Profession:

Arbitrator, Mediator, Early Neutral Evaluator, Dispute Review Board Member: Complex Construction, Commercial and International Disputes.

Current Employment:

ADR Practitioner and Principal, Krause Dispute Resolution, Port Charlotte, Tampa, and Miami, Florida, and Denver, Colorado.

Work History:

- Krause Dispute Resolution, Principal, Arbitrator/Mediator, 2017 to Present.
- Independent Arbitrator/Mediator, 1997-2016.
- Sage Consulting, Denver, CO, Construction Claims Consultant, 2003-2005, 2008-2013.
- Sherman & Howard, Denver, CO, Contract Litigation Attorney, 2006-2008.
- Sole Practitioner and Construction Claims Consultant, 1999-2002.
- PCL Construction, Inc., Denver, CO, Outside General Counsel, 1995-1998.
- Rothgerber, Johnson & Lyons (currently Lewis, Roca, Rothgerber, Christie), Denver, CO, Partner, 1988-1994.
- O'Connor & Krause, Vail, CO, Managing Partner, 1984-1987.
- Alschuler, Grossman & Pines, Los Angeles, CA, Associate, 1979-1981.

Construction ADR and Litigation Experience:

More than thirty-five years of experience in arbitration, litigation, contract negotiation, and claims consulting relating to multi-million-dollar government and private commercial, industrial, and residential construction projects in the U.S. and internationally. Twenty years in private litigation and commercial practice in major law firms; three years as outside general counsel for a multinational general contractor; and eight years as a construction claims consultant. Projects include: a concert hall and conference center in Reykjavik, Iceland; a salt-to-bleach plant in Pennsylvania; reservoir sediment removal; cofferdam construction for a power plant in Mexico; repairs and

upgrades to a refinery in Utah; construction of multiple ranges and an assault course at a military base in Colorado; construction of the Hoover Dam Visitors' Center; construction of a parallel span of the Chesapeake Bay Bridge; P3 roadway construction projects; negotiation of the contract for construction of the Denver International Airport terminal and concourses; treatment plants; power plants; bridge and highway construction; hotels; residential developments; and luxury homes. Expertise in:

Government Contracts: Contract Disputes Act, Miller Act claims, bid protests, Federal Acquisition Regulations.

Scheduling Claims: delay, acceleration, impact, disruption, including detailed review of critical path method schedules, Gantt charts, resource scheduling, lost profits, extended and home office overhead, Eichleay claims, general conditions, lost productivity.

Defective Design and Construction: inaccurate P&IDs, structural, defect claims relating to HVAC, electrical, mechanical, roofing, moisture intrusion, building envelope, concrete, paving, landscaping, irrigation.

Payment Disputes: prompt payment acts, pay-if-paid and pay-when-paid clauses, backcharges, pass-through claims, liquidated damages, termination for cause, termination for convenience.

Changes Disputes: excessive owner changes, waiver of written notice requirements.

Cost Overrun Claims: involving analysis of project budgets, pay applications, and cost reports.

Differing Site Conditions Claims: reasonable site inspection, misrepresentation of site conditions, unanticipated site conditions, timely notice of differing site conditions.

Surety Bond Claims: bid bonds, payment bonds, performance bonds, material changes in project scope, replacement contractors.

Construction Insurance Claims: general liability, builder's risk / contractor's all risks, professional liability, mechanics lien claims, subrogation, coverage exclusions, duty to defend and indemnify.

Commercial ADR and Litigation Experience:

Extensive experience in arbitration, litigation, and contract negotiation of a wide range of complex commercial matters, including: negotiation of and litigation relating to asset-based lending transactions in San Diego; breach of contract and breach of fiduciary duty claims among partners in a real estate development group; internal corporate investigations of potential officer fraud in Los Angeles, California; claims of officer and director liability against bank officers during the Colorado Savings and Loan crisis; negotiation of airport construction contracts; breach of stone supply delivery contracts; adversary proceedings in federal bankruptcy court to lift the automatic stay to permit assertion of claims against an international stone supplier; negotiation of contracts involving protection of copyright and trademark rights for professional actors and musicians; claims of a group of tenants against the landlord of a commercial building in Los Angeles. Expertise in:

Real Estate: commercial leases, purchase agreements, landlord/tenant disputes, property valuations, easements, partnerships, joint ventures, bad faith, breach of fiduciary duty, breach of warranty, breach of contract, intentional interference, homeowners' association disputes, asset purchase agreements, negligence.

Banking and Finance: asset-based lending, mortgage-backed securities, UCC claims, guaranty agreements.

Intellectual Property: trademarks, copyrights, infringement claims.

Corporate Governance: officer and director liability, internal fraud investigations, employment agreements.

Securities: initial public offerings, compliance with Securities Acts.

Bankruptcy: adversary proceedings, automatic stay.

ADR Training:

- Dispute Review Board Foundation Training, Administration & Practice / Chairing, 2019.
- Chartered Institute of Arbitrators Accelerated Route to Fellowship (International Arbitration) Assessment, 2018.
- ICC 16th Miami Conference on International Arbitration, 2018.
- ABA 11th Annual Arbitration Training: A Comprehensive Training in Advanced Arbitration Skills, 2018.
- AAA Construction Conference, 2018.
- AAA Mediator Essentials: Skills for Facilitating Negotiated Agreements, 2017.
- Multiple AAA seminars from 2000 – 2018.
- AAA Construction Arbitrator II Training, 2002.
- AAA Construction Industry Arbitrator Training, 1998.
- AAA Basic Arbitrator Training, 1997.

Professional Associations:

- Dispute Resolution Board Foundation.
- American Arbitration Association, Neutral Arbitrator, Construction, Commercial, and Large Complex Case Panels.
- Fellow, Chartered Institute of Arbitrators.
- American Bar Association:
 - Dispute Resolution Section: Assistant Secretary; Model Arbitration Rules Working Group; Committees on International Dispute Resolution, Arbitration (Cybersecurity Subcommittee), Ethics, Mediation, and Women in Dispute Resolution.
 - ABA Forum on Construction Law: Divisions on International Construction, Litigation and Dispute Resolution, and Government Construction.
 - ABA International Law Section: Committees on International Arbitration, Latin America and Caribbean, and Mexico.
- International Chamber of Commerce / U.S. Council for International Business.
- International Bar Association.
- Colorado Women's Bar Association (Past Board Member).

Presentations, Publications and Teaching:

- Organizer and Speaker, *A Deep Dive into Hot-Tubbing of Expert Witnesses*, to be presented at the ABA Forum on the Construction Industry Annual Meeting, Spring 2020.
- Organizer and Speaker, *Emergency and Interim Relief in Domestic and International Arbitration*, to be presented at the Construction SuperConference, November 2019.

- Organizer and Speaker, *Emergency and Interim Relief in Domestic and International Arbitration*, presented at the ABA Dispute Resolution Section Spring Conference, April 2019.
- “Emergency Relief in Domestic and International Construction Arbitration,” *The Construction Lawyer* (ABA, Spring 2019) (co-author with Joseph Matthews).
- “How to Structure a Persuasive Prehearing Brief in Construction Arbitration,” *Under Construction* (ABA Nov. 2018).
- “Preparing Reasoned Awards in Arbitration,” *Just Resolutions* (ABA, Nov. 2018).
- “Can an Arbitrator Conduct Independent Legal Research – A Brief Overview – Part 1,” *Arbitration Committee E-Newsletter* (ABA, Aug. 2018).
- “Can an Arbitrator Conduct Independent Legal Research – A Brief Overview – Part II,” *Arbitration Committee E-Newsletter* (ABA, Nov. 2018).
- Co-author and editor of second editions and annual cumulative supplements during 2003-2005 and 2008-2013 of following treatises authored by William Schwartzkopf and published by Wolters Kluwer: *Calculating Construction Damages*; *Calculating Lost Labor Productivity in Construction Claims*; and *Practical Guide to Construction Contract Surety Claims*.
- Adjunct Professor of Law at DU Law School for several years, teaching Pre-Trial Practicum and Evidence class.

Education:

- University of California at Los Angeles (JD, 1979), Law Review Board of Editors.
- University of Colorado (BA, 1973).
- London School of Economics, Spring 1973.
- Chapman College Semester at Sea, Spring 1972.

Professional Licenses:

Admitted to the Bar: Colorado, 1984; California, 1979; U.S. Court of Appeals: Ninth (1979) and Tenth (1988) Circuits.

Available for dispute review boards and complex construction and commercial arbitration, mediation, and early neutral evaluation throughout the United States and internationally. No charge for travel expenses within the United States.