

***EXPERT TESTIMONY AND OTHER EXPERT WORK - DISPOSITION AND ATTORNEY REPRESENTATION DETAILS***

- ***Manko Window Systems, Inc. v. All Star Glass, LLC and Granite Re, Inc.***  
 Circuit Court, Denver, Colorado. Case No. 2020CV33578.  
 Formally retained on behalf of window supplier Manko by plaintiff's attorney, Spencer Sears of the Fox Rothschild Law Firm. Provided expert testimony on the surety industry standards applicable to the handling of a payment bond claim by a supplier to a subcontractor on a private, luxury apartment complex project. **Bond Form:** Common Law Subcontract Payment Bond. **Deposition Testimony:** Yes (5-20-2022) **Mediation Attendance:** No. **Written Report:** Yes (Draft and Final) **Trial Testimony:** Yes (7-21-2022). **Disposition:** Jury Award for Plaintiff Manko; Bad Faith Portion Settled Prior to Jury Verdict. **Attorney for Adverse Party:** Dennis J. Bartlett, Michael Y. Ley, Burns, Figa & Will, P.C., 6400 S. Fiddlers Green Circle, Suite 1000, Greenwood Village, Colorado 80111.
- ***Liberty Surplus Insurance Company v. Seabold Construction Company***  
 Circuit Court of the State of Oregon, County of Washington, Case No. C134712CV Dates: February 2, 2015 to April 23, 2015  
 Formally retained on behalf of insurer Liberty Surplus Insurance Company by plaintiff's attorneys David Schoeggel and Matthew Kirkpatrick of Lane Powell PC, in a declaratory relief action. Provided opinions on overlapping CGL and performance bond coverages with respect to construction of an assisted living facility in Portland, OR. **Forms:** Assortment of Bond Forms and Insurance **Policies Disposition:** Presume Settled Without Trial
- ***Stellar J. Construction v. Unison Solutions, Inc. and Argonaut Insurance Company***  
 USDC Western District of Washington, Case No. 3:12-cv-05982 RBL  
 Dates: December 12, 2012 to April 9, 2015.  
 Formally retained on behalf of the general contractor/dual obligee by plaintiff's attorneys, Schwabe, Williams & Wyatt, in a multi-party action involving an energy project. Stellar J received the contract via assignment from Klickitat County PUD. Other dual obligee was Applied Filter Technologies. Gave a full day of deposition testimony. Prepared a written report in contemplation of mediation (cited in motions), and attendance at the mediation. The issue was whether the bond should be analyzed as a Performance Bond, despite the title "Supply Bond", plus reliance upon the similarities to the case of *Colorado Structures v. Insurance Company of the West* and resulting first-party bad faith exposure of the surety company. Also prepared a report regarding rare procedure for recovery from indemnitors' CGL policies to make a global settlement a possibility. **Trial Testimony: No** **Deposition Testimony:** Yes **Mediation Attendance:** Yes **Written Report:** Yes  
**Bond Form:** Common Law Supply Bond Worded as a Performance **Bond Disposition:** Settled Without Trial **Attorney for Adverse Party:** Roger Sauer, then Todd W. Blischke, Williams Kastner & Gibbs, 601 Union Street, Suite 4100, Seattle, WA 98101
- ***Excel Masonry, Inc. v. K & B Quality Masonry, Inc., and Insurance Company of the West*** Superior Court of Alabama, Birmingham, AL. Dates: 2014  
 Fact witness for Insurance Company of the West. Informally "adopted" by the court as a quasi-expert witness. Gave a hybrid of both fact and expert trial testimony, but was not "qualified" as an expert by the judge. The issue was the distinction between common law and statutory bonds and the resulting legal effect upon the Alabama Prompt Payment Statute. Educated the judge from the witness stand in response to his direct questions. Judge Robert Vance. My trial testimony benefited both the GC and its surety, ICW. The surety company's attorney was Thomas L. Selden of Starnes, Davis, Florie LLP, Birmingham, Alabama. **Trial Testimony:** Yes **Deposition Testimony:** No **Mediation Attendance:** No **Written Report:** No **Bond Form:** Subcontract Common Law Form **Disposition:** Jury Award for Defendants K & B and ICW **Attorney for Adverse Party:** Don't recall
- ***New England Consortium of Auto Collision Repair Businesses, Sept. 2019 (Against Insurers)***  
 Retained to send letter to U.S. Senators in support of maintenance of the 1963 Decree against insurers for discriminatory practices in the auto repair industry. Not in litigation at the time.

- (a) ***Spencer Albert v. Nationstar Mortgage LLC and Harwood Service Company***  
 District Court, Seattle, WA; USC Appeals, 9th Circuit  
 Formally retained by attorney Jason Alexander of the Emerald City Law Firm for homeowner / insured against the mortgage lender and lender-placed insurer. Washington state law. Filed Rate Doctrine and Other Issues. Provided a written report and gave deposition testimony May 2018. **Disposition:** Order Certifying Questions to the Washington Supreme Court  
**Attorneys for Adverse Parties:** Justin D. Balser and Taylor T. Haywood, Akerman LLP, Denver, Colorado; Bryan T. Brown, Akerman LLP, Dallas, Texas
  
- (b) ***Sue Hong v. Bank of America***  
 Formally retained by attorney Harish Bharti, WA for class of homeowners/insureds against a mortgage lender and a lender-placed insurer. Washington law. No report, mediation attendance, deposition or trial testimony. **Disposition:** Dismissed based upon filed-rate doctrine. **Attorneys for Adverse Parties:** Laura Coughlin, Daniel Francis Shickich, Seattle, WA Laura A. Stoll, Los Angeles, CA.
  
- (c) ***Commonwealth of Northern Mariana Islands v. F & D of Maryland.***  
 Pending in Commonwealth of Northern Mariana Islands  
 Formally retained in 2020 by law firm/Robbert T. Torres, Saipan, MP, for owner/obligee Commonwealth Ports Authority (CPA) against surety. Territorial law. **Status:** COVID-hold. **Bond Form:** Modified Federal Form 25. **Disposition:** Headed to Mediation; Status Uncertain **Attorneys for Adverse Parties:** David Veis, F & D; Mark B. Hanson, GPPC, Inc.
  
- (d) ***Wright Construction Services, Inc. v. Liberty Mutual Insurance Company***  
 Circuit Court, St. Louis, Missouri.  
 Formally retained on behalf of general contractor/principal/indemnitors, by plaintiff's attorneys, Frankel, Rubin, Klein, Siegel, Payne & Pudlowski, against Liberty Mutual Insurance Company.  
**Trial Testimony:** Pending (August 2023) **Deposition Testimony:** Yes (x 2) **Mediation Attendance:** No  
**Written Report:** Yes (for depositions x 2) **Bond Form:** AIA312-2010 **Disposition:** Trial Pending 2023 **Attorneys for Adverse Parties:** Carol Z. Smith, Leslie A. Boe, David M. Buffo, Dysart, Taylor, Cotter, McMonigle & Montemore, P.C., Kansas City, MO, David T. Hamilton, John H. Kioper, Hamilton Weber, LLC, St. Charles, MO, for Liberty Mutual Insurance Company; Theodore G. Pashos, Pashos Law, LLC, St. Charles, MO, for St. Charles Insurance Agency
  
- (e) ***Water Services Group, LLC, et al. v. Bolt Const. & Excav., LLC and Ohio Casualty Insurance Company***  
 In the Circuit Court of Cherokee County, Alabama  
 Formally retained on behalf of subcontractor by Suzanne Mills of plaintiff's attorneys, Dorrah & Mills, P.C., Tuscaloosa, AL, against surety, Ohio Casualty Insurance Company.  
**Trial Testimony** (Pending, scheduled for Sept. 2023); **Deposition Testimony** (Sch. for 2-22-2023); **Mediation Attendance** (NO); **Written Report:** (No). **Bond Form:** No special identification - public project, Cherokee County, Obligee **Disposition:** Discovery Stage **Attorneys for Adverse Parties:**

## 5. Expert Testimony and Related Work - Disposition and Attorney Representation Details