



Turn On The Juice

Last year we reported in our Annual Report a number of cases that Stein, Ray & Harris LLP was working on involving the power industry. That trend accelerated both in scale and geography over the past year. The following are just a few highlights of currently pending cases, or ones that were recently resolved.

- *Central America.* Stein, Ray & Harris LLP is now involved in three separate projects involving turbocharged diesel engine powered generation facilities in different Central American nations. Many different issues are involved including differing site conditions, delay, scope claims, output requirements and financing relationships. In each of these cases SRH represents ownership, and, although the stakes vary in each matter, the aggregate at stake is in excess of \$50 million dollars. SRH partner, Steve Stein, is chiefly involved in these cases and ably assisted by Michael Kelly.



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Contractor Lands \$60 Million at Airport

When the electrician at Northwest Airlines Midfield Terminal defaulted with only weeks left until the promised date for substantial completion and with tens of millions of dollars of work yet to be performed, the general contractor met the challenge with superior management skill and an intensive effort which led to project completion with only minor delay. But there was a wrinkle – the costs of doing so were approximately \$60 million dollars. The contractor turned to Stein, Ray & Harris LLP who was soon engaged in litigation or negotiation on several fronts simultaneously with the owner, the electrical contractor's surety, the electrical contractor and other subcontractors allegedly affected by the electrical subcontractor's default. In 2001, an interim settlement reached on the courthouse steps allowed for provisional funding to complete the project, but soon even that tentative treaty broke down and the litigation heated up. Stein, Ray & Harris LLP partner, Steve Stein, teaming with partners Carl Popovsky and John Walker, determined that the best strategy was to obtain the earliest possible trial date and to aggressively engage in discovery and motion practice in order to move the case along. In relatively short order, and much because of the contractor's outstanding performance in the project, a settlement soon emerged, for all litigation except for minor subcontractor claims. Stein, Ray & Harris LLP's client obtained approximately, including the interim settlement, \$60 million dollars in compensation. And the airport, if you've had a chance to visit it, is really terrific too.



SRH Ranks First in Construction Law According to Chambers USA

"A well-oiled machine." "The most successful construction law boutique in Illinois".

These are just some of the accolades bestowed upon Stein, Ray & Harris LLP in Chambers USA Guide to Leading Lawyers. The firm was given first rank among construction law firms in Illinois in 2003. Chambers USA is the United States' counterpart to the UK's most respected peer review publication, which showcases and ranks firms by state and practice area. SRH is proud of this distinction and is working hard to maintain the quality which led to this honor.

Honor and Recognitions

This year, a number of Stein, Ray & Harris LLP partners were recognized by the construction community:

Stephen Ray - Steve continues to attend the ASCE Legal Counsel Forums meetings twice annually in various locations. Steve has many stories about the best locations (San Diego) and the worst (Buffalo). Steve was also recognized by Chambers Publications as a leading lawyer of the Illinois construction bar in conjunction with Stein, Ray & Harris LLP's firm-wide recognition by Chambers.

Jeffrey Winick - Jeff was elected as a full member of the Chicago Committee on High Rise Buildings after serving many years as an alternate. He has been extensively involved in the CCHRB's efforts to address the needs of the construction community, and particularly in connection with the City of Chicago facade ordinance, and the building and permitting process. Jeff also serves on the ASTM committee responsible for the recent issuance of ASTM E2270-03 Standard Practice for Periodic Inspection of Building Facades for Unsafe Conditions; the first national facade inspection standard. Jeff was instrumental in the creation of, and is an instructor in a new course at the University of Illinois School of Architecture entitled "Integrated Design and Construction of Buildings."

Steven Stein - Steven Stein served another year as President of the Design Build Institute of America's Great Lakes Chapter and as its Treasurer. Starting next year, Steve will act as the Secretary and Treasurer of that organization. From 1993 through 1995, Steve served as President of the Chicago Building Congress. This year the CBC again asked Steve to attend board meetings as a Director. Steve Stein was also recognized by Chambers Publications as one of three top construction lawyers in Illinois.

Robert Harris - Each year Bob is recruited to give a lecture at Northwestern's Kellogg Business School on design/build and other project delivery methods. He seems to enjoy it very much, but not as much as when he serves as "Principal for the Day" at Elihu Yale Elementary School in Chicago. Bob was also recognized as one of three top construction lawyers in Illinois by Chambers Publications.

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- *Midwestern Cases.* SRH is involved in three cases in the Midwest involving aspects of co-generation power plant construction. In two of the cases SRH represents an EPC contractor in disputes involving tens of millions of dollars. One case is a claim arising from alleged delay and remediation efforts arising from the effects of boiler feedwater impurities. In the other, SRH represents the EPC contractor in defense of a subcontractor's claim for increased costs associated with fabrication and erection. Both of the projects utilizes heat recovery steam generators. In a third case, Stein, Ray & Harris LLP represents the contractor in a claim for costs incurred because of increased scope of work and acceleration in connection with the installation of environmental discharge improvements in an amount in excess of \$7 million dollars. In all of these cases SRH partners, Steve Stein, Carl Popovsky and John Walker are heavily involved.

- *EPC contractor obtains \$10 million dollar settlement.* In the only case involving an Illinois project, Stein, Ray & Harris LLP acted as co-counsel with another law firm in prosecuting an EPC contractor's claim for additional compensation arising from project delays and changes in scope. The case made it all the way through a three-week arbitration but, just short of the announcement of a verdict, the parties reached settlement. Partner Joel Rhiner was chiefly in charge of the effort.

Gene Summers, FAIA Recipient of the 2003 Award for Contributions to the Built Environment

In April 2003, Gene Summers, FAIA, received Stein, Ray & Harris LLP's and Hobbs Group/AVA Insurance's Excellence in Architecture Award through the IIT School of Architecture. The award, given annually, is made in connection with an \$8,000 scholarship sponsored by Stein, Ray & Harris LLP and Hobbs Group/AVA.

The Award ceremony was held at the Arts Club and recognized Mr. Summers for a lifetime of design achievement, including several contributions to IIT as campus architect for IIT. There he successfully created a professional architecture practice within the College of Architecture, serving the architectural needs of the university.

Previous years' winners include Helmut Jahn, Harold Schiff, Carter Manny, Bruce Graham, Franz Schulze, Matthew and Daniel Walsh, and Walter Netsch.

Thirteenth Annual Design and Construction Symposium

Last year's Symposium was attended by over 300 guests.

Stein, Ray & Harris LLP's Thirteenth Annual Design and Construction Symposium will be held Thursday, March 11, 2004 at the Chicago Hilton & Towers. The Symposium, a half-day event, will begin with a continental breakfast during registration. The Symposium will feature the following topics:

- *"Men In Black - The Sequel: Recent Important Construction Law Cases"*
- *"There's a Fungus Among Us: Avoiding Mold Claims"*
- *"Hard Copy: The Legal Implications of the Paperless Office"*
- *"Are We There Yet?: Contractual Protection From Owner Initiated Delays"*
- *"Anatomy of Risk Shifting: Analysis and Enforcement of Indemnity Agreements"*

Stein, Ray & Harris LLP is committed to developing quality learning activities in accordance with AIA/CES criteria. As this program meets AIA/CES criteria, participants will receive four designated Learning Units, of which all four meet the qualifications for Health, Safety & Welfare. For more information on the upcoming Symposium, please contact Katie Reibert at 312-641-3700.

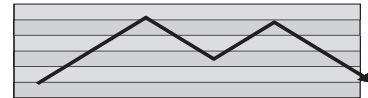
Staying Dry Under a Leaky Roof

Partners Robert Harris and Jeffrey Winick successfully represented a respected residential developer in an eight-year, multi-million dollar dispute involving allegations of roofing deficiencies brought by the homeowner's association. Despite being the principal defendant and the target of the Plaintiffs and the third-party defendants, SRH managed to achieve a settlement that allowed its client to avoid the payment of any money whatsoever to the Plaintiff.

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Advertising Injury

This past year, one of the nation's leading restaurant chains suffered a verdict in excess of \$40,000,000 in a lawsuit brought by individuals who claimed the defendant restaurant chain had breached an implied contract to pay for the ideas used in a successful ad campaign. After the verdict, the restaurant chain called on SRH to bring suit against the corporation's CGL carriers and, in a separate action, against the restaurant's advertising agency to recover the loss. These lawsuits are presently pending in both the California and Illinois courts. SRH's Robert Harris, Steve Stein and Jeff Charkow lead the team involved in both cases.



What Happens When the Market Moves

One of the unfortunate fallouts of the economic downturn in the past several years has been commercial lease disputes which occur when tenants cannot fulfill their obligations. SRH was asked to represent one of its developer clients in a hotly contested lease dispute with a nationally recognized lessee, who, when its business fortunes soured, breached its lease obligations leaving two floors in a downtown Chicago office complex vacant. After more than a year of litigation, SRH was able to successfully negotiate a resolution for its client. Of particular interest in the suit was whether or not the space was substantially complete -- a subject matter with which SRH was particularly well-equipped to handle. SRH partner Robert Harris represented the Defendant's interests.

Reversal of Fortune

Last year, one of Stein, Ray & Harris LLP's contractor clients was accused of breaching its contract; fraudulently overcharging its customer, a large utility; and faced being terminated. In a reversal of fortune, the arbitrator instead found that the utility company had breached the contract and awarded SRH's client over \$1 million in damages. More important, the arbitrator found that the utility company had improperly invoked the contract's price renegotiation provisions and determined that SRH's client could proceed with its work under the existing pricing terms. SRH Partner Joel Rhiner arbitrated the case, assisted by associate Michael Kelly.



Let the Games Begin

Football season in the Midwest, with its beautiful autumn weather and the pageantry, could be the best time of the year. And it was for the designer and builders of some of the most well-known stadiums in the region.



Stein, Ray & Harris LLP successfully concluded negotiations to resolve two major cases where it was responsible for defending architects and engineers from claims brought by ownership of the Notre Dame Stadium and an NFL Stadium. Although the settlements did not allow for the design teams' vindication by judge or jury, the projects themselves have led the public jury to conclude that their efforts were exemplary. Partners Steve Stein and Jeff Charkow led the defense of the Notre Dame design team and Stephen Ray, Robert Harris and Ryan Hiss represented the design team of the professional football stadium.

New Partners and Associates

Scott R. Fradin, a member of the firm since October 1997, will become a Partner in January 2004. Scott received his Juris Doctor from Chicago-Kent College of Law - IIT in 1996 where he graduated Order of the Coif, with high honors and was a Member and Senior Associate of the Chicago-Kent Law Review. Prior to his decision to enter law school, Scott was an Architect. He received his Masters Degree in Architecture in 1988 from the University of Illinois.

In September 2003, Stein, Ray & Harris LLP welcomed Kate Eu Zu Kim to the firm. Ms. Kim received her Juris Doctor from the University of Chicago in 2003. While in attendance there, Ms. Kim was a Rosenson Scholar. She received her undergraduate degree from the University of California, Berkley in 1997.

Robert "Chad" McCracken also joined the firm in 2003. Chad graduated with honors from the University of Texas School of Law in 1999, where he was the Book Review Editor for the Texas Law Review. He received his B.A. in Philosophy cum laude from Yale University in 1988.

Partners Recognized as Illinois Leading Lawyers

In 2003, four partners in the firm were recognized as leading lawyers in Illinois for construction law. Steven Stein, Stephen Ray, Robert Harris and Jeffrey Winick all received the honor of being one of Illinois distinguished Leading Lawyers by the Leading Lawyers Network. This award ranks them as lawyers in the top 5% of their peers, and among few in the construction field.

Legal Fees Recovered in Win for CM

Partners Stephen Ray and Carl Popovsky successfully completed the trial of a mechanic's lien lawsuit on behalf of a top international EPC firm that provided construction management and procurement services in connection with a food processing facility project. The CM held and administered all subcontracts, but on a cost-reimbursable basis. The trial judge held in the CM's favor, finding that the CM was not liable for the owner's cost of settling a subcontractor lien claim. In addition to ruling in favor of SRH's clients on the liability issues, the court also ruled that SRH's client was entitled to be repaid all of the attorneys' fees that it incurred to defend against the lien claims.

Presentations and Publications

"Licensing", Chapter One in Illinois Construction Law, Aspen Publishing
January 2003, Carl L. Popovsky

"Here Comes the Judge: The Duties and Responsibilities of Design Professionals When Deciding Disputes", American Society of Civil Engineers' Journal of Professional Issues in Engineering Education and Practice
July 2003, Steven G.M. Stein and Ryan A. Hiss

"Risk Management Techniques"
Primera Engineering - Chicago, Illinois
September 19, 2003, Jeffrey H. Winick

"Legal Implications of the Paperless Office"
American Institute of Architects - Chicago, Illinois
October 15, 2003, Jeffrey H. Winick

"Putting Yourself on the Line: Current Certification Issues", American Society of Civil Engineers' Journal of Professional Issues in Engineering Education and Practice
February 2004, Steven G.M. Stein and Joel J Rhiner