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Welcome to the fifth issue of 2022 of *The Site Report*.

We have started a new feature of *The Site Report* in hopes that these focused topics strengthen the content and provide more in-depth information for our readers.

Each issue will have a special section concentrated on a specific element of the construction industry and legal issues. For this first issue, we are looking at bridge construction and liability.

If you have a specific area on which you would like our attorneys to focus, please let us know. We are happy to delve into a variety of areas -- as we have more than 120 attorneys with different areas of practice. Each of them can provide a different point of view on a variety of topics.

As always, thank you for reading.

Stephanie U. Eaton - Co-Chair, Construction Group; Vice Chair of Southern Offices, Litigation Department; Editor, *The Site Report*

and

Julian E. Neiser - Co-Chair, Construction Group; Vice Chair of Northern Offices, Litigation Department

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Bridge Construction & Liability

Bridges, Natural Disasters and Liability - The Skanska Decision (Part 1)

By Alexander L. Turner

What follows is a cautionary tale for anyone involved who fails to follow a natural disaster preparedness plan. Taking short cuts and failing to follow agreed upon emergency preparedness plans are a recipe for disaster. While the litigation we analyze in this article stems from bridge construction in Florida, the lessons learned from this real situation are applicable all across the country.

The tale begins with the Florida Department of Transportation ("FDOT") contracting with Skanska USA Civil Southeast Inc. and Skanska USA Inc. ("Skanska") to build two new spans for the Pensacola Bay Bridge ("Bridge"), while simultaneously demolishing the old bridge. In order to complete this project, Skanska employed a fleet of 55 construction barges. In September 2020, Skanska had just completed the new Pensacola Bay Bridge between Pensacola, Florida and Gulf Breeze, Florida. The three mile long Pensacola Bay Bridge is the primary route between Pensacola and Gulf Breeze.

In mid-September 2020, Hurricane Sally was bearing down on the Gulf Coast. Skanska, believing that Sally would make landfall 200 miles to the west despite Pensacola being in the cone of Sally's track, wanted to avoid the downtime associated with moving its 55 construction barges pursuant to its hurricane preparedness plan.

Click **here** to read the entire article.

Consider Extreme Weather, Tech Shifts to Build Resilient Infrastructure

"The IIJA can accelerate more adaptable airports, supply chains and more, National Institute of Building Sciences panelists said."

Why this is important: The National Institute of Building Scientists conducted a recent webinar in which presenters discussed a more expansive view of "infrastructure" to include how infrastructure improvements impact the entire community surrounding the improvements. This is important because the presenters' more holistic outlook validates consideration by those planning infrastructure-related construction projects of how climate change will impact the new facilities. More resilient facilities can be designed with extreme weather events -- from wildfires and earthquakes to hurricanes and resultant flooding -- in mind, thereby reducing impacts of such events on key infrastructure in the future. For example, the Port of Portland, Oregon is installing a seismically resilient runway at the Portland Airport. Further, construction projects that are more energy efficient and that reduce the facility's carbon footprint are more socially and environmentally responsible. In that regard, the Port is also installing a ground source heating system in the airport's terminal. The Institute's presentation is very timely, as the Infrastructure Investment and Jobs Act will provide much needed funding for more resilient and environmentally sound infrastructure projects. --- Stephanie U. (Roberts) Eaton

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How to Mitigate the Effects of Climate Change, Natural Disasters

"Contractors should plan, prepare and consider parametric insurance to help manage risks from extreme weather."

Why this is important: In the immortal words of Bob Dylan "the times they are a-changin." There are intensified and more frequent hurricanes on the East and Gulf Coasts, more devastating wildfires on the West Coast and more frequent powerful tornados in the heartland. Mother Nature has been particularly cruel to the United States since the new millennium. Putting aside the politics involved with climate change, the bare facts reveal in the past 20 years we have seen more frequent category 5 hurricanes, F5 tornados, 100-year floods and devastating wildfires. As with most devastating events, both manmade or otherwise, we as a society have to learn from past experience and improve our society both culturally and the physical world we inhabit. This article discusses the need for an Emergency Action Plan as required of OSHA if you have 10 or more employees, but even if you do not employ 10 or more employees it is still a good idea to develop an Emergency Action Plan so that when an accident or disaster occur your employees know what to do. It is also important to run drills on the Emergency

Action Plan so that your employees are well trained on what to do in the event of a disaster/accident. This article also discusses parametric insurance and how it can be used to supplement the traditional workers' compensation and general commercial insurance. Particularly given the effects of the pandemic and the prevailing view that traditional insurance coverage did not cover losses associated with the pandemic, it would be a good idea to look into parametric insurance to help protect your business. When choosing which type of insurance to get, it would be helpful to consult with the lawyers at Spliman Thomas and Battle that specialize in insurance coverage, so that you get the insurance that fits the needs of your business. --- Matthew W. Georgitis

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Pittsburgh Mayor Gainey Announces Regional Infrastructure Investments, Including Bridge Asset Management Program

"As part of the Bridge Asset Management Program, the city hired a bridge asset manager who will lead an office dedicated to ensuring the safety and integrity of city-owned bridges."

Why this is important: The January collapse of the Fern Hollow Bridge in Pittsburgh (ironically, on the same day President Biden visited the city to discuss infrastructure) has thrust the issues of Pittsburgh's aging bridges back into the spotlight. PennDOT gave 174 of the bridges in Allegheny County (which encompasses the City of Pittsburgh) a "poor" ranking, meaning the bridge is showing signs of decay. Mayor Gainey's program will both likely catch issues with the structural integrity of bridges prior to them becoming catastrophic and lead to an increase in steady construction throughout the city. Moreover, the sheer number of bridges to inspect and potentially repair guarantees a dependable stream of construction for the near future. --- Alyssa M. Zottola

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3D-Printing Robot Enables Sustainable Construction

"'Robotic masonry (brick laying), printing with recycled plastics and printing with metal at a large scale are all exciting areas with lots of room for growth, both in terms of science and understanding, as well as technology and engineering,' Warner said."

Why this is important: This article provides a glimpse into the future of the construction industry, and the key role that robotics may play in both small and larger scale projects. There are ongoing projects involving 3D printing of homes and commercial buildings throughout the U.S., and the world, using special mortar that is pumped through an extruder head and nozzle to create walls for these buildings. At Cornell's College of Engineering, robotic research and testing is being conducted to evaluate ways in which robots can be used to lay brick, print large scale metals and print using recycled plastics and how those products function as they are scaled-up. Cornell's robot, to which a welder or laser can be attached, can cover an area of 8' x 30'; over time, larger sized components, such as those used for bridge construction, may be printed with the robot. These technologies should help reduce waste and the industry's carbon footprint, as well as automate many tedious construction jobs. Leaders in the construction industry will need to keep up with this revolutionary construction technology so they are ready for its implementation on their projects when it is more readily available. --- Stephanie U. (Roberts) Eaton

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Featured Attorney Profile

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Jonathan is an Associate in our Pittsburgh office. His primary area of practice is litigation, with an emphasis on commercial and corporate litigation. Jonathan routinely represents product manufacturers, distributors, contractors, and employers at all stages of litigation up until time of trial in defense of toxic tort, products liability and premises liability claims. In addition, he handles general liability matters involving the defense of personal injury, property damage, and loss of business income claims.

He received his B.S. from Pennsylvania State University and his J.D. from Duquesne University School of Law.

Jonathan is admitted to the Pennsylvania Bar, West Virginia State Bar and the United States District Court for the Western District of Pennsylvania.
