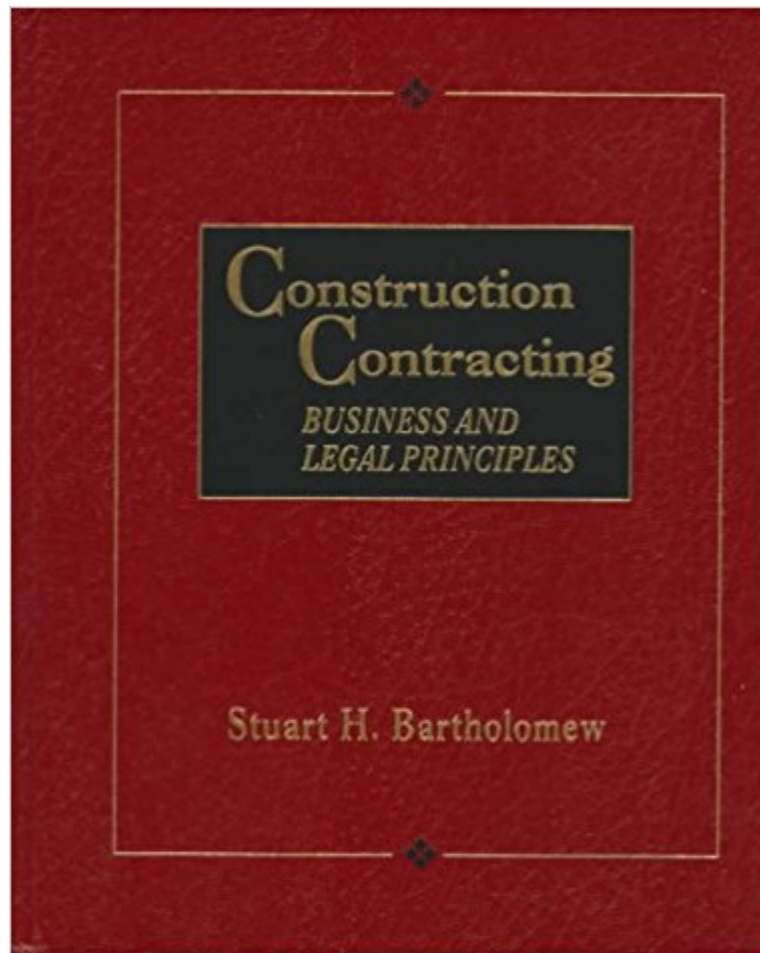




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# Construction Contracting: Business And Legal Principles



## Synopsis

Exceptionally practical and authoritative, this introduction to construction contracting as it applies to typical, every-day situations explains "theoretical" ideas in terms of what really happens in practice.\* Reflects the authors extensive experience as an educator and in the contracting field at virtually every position - from junior engineer to Executive Vice President and Director of a major national construction contracting company. \* The author has personally experienced in practice every concept covered. \* Examines the more common case law holdings and the customs and practices of the industry. \* Relies on case law extensively to explain and illustrate how courts/boards/arbitrators view the typical legal problems that occur in contracting practice. \* Presents the clear contractual basis of the normal relationship of the various parties to the construction process in the United States today. \* Explains how to read and identify the "key" or "red flag" clauses in prime contracts for the provision of construction services. \* Systematically examines a number of construction-related contracts common to the industry (other than the prime construction contract), e.g.: \* Labor agreements. \* Purchase orders and subcontract agreements. \* Insurance contracts. \* Surety bonds. \* Joint venture agreements. \* Offers extensive treatment and examination of the bidding and proposal procedures in common use in the U.S. today, and a thorough discussion of the procedure and practice followed in the event of mistakes in bids. \* Provides an in-depth examination of the operation of the more important of the key clauses in construction contracts, including: \* Breach of contract. \* The changes clause. \* The differing site conditions clause. \* Delays suspensions and terminations. \* Liquidated damages/force majeure/time extensions. \* Covers the theory and application of methods of allocation of responsibility for construction delays, and the application of the Doctrine of Constructive Acceleration. \* Examines the common methods of dispute resolution in use in the construction today. \* Provides extensive chapter-end questions and problems - some complex - that help develop students understanding in the context of typical industry situations.

## Book Information

Hardcover: 330 pages

Publisher: Prentice Hall; 1 edition (June 16, 1997)

Language: English

ISBN-10: 013264441X

ISBN-13: 978-0132644419

Product Dimensions: 9.6 x 7.7 x 0.9 inches

Shipping Weight: 1.6 pounds

Average Customer Review: 4.0 out of 5 stars 9 customer reviews

Best Sellers Rank: #1,027,944 in Books (See Top 100 in Books) #87 in [Books > Law >](#)

[Business > Construction](#) #151 in [Books > Crafts, Hobbies & Home > Home Improvement &](#)

[Design > How-to & Home Improvements > Contracting](#) #1204 in [Books > Law > Specialties](#)

## Customer Reviews

Exceptionally practical and authoritative, this introduction to construction contracting as it applies to typical, every-day situations explains the theoretical ideas in terms of what really happens in practice. The book reflects the author's extensive experience as an educator and in the contracting field at every position from junior engineer to Executive Vice President and Director of a major national construction contracting company. It examines the more common case law holdings and the customs and practices of the industry. It presents the clear contractual basis of the normal relationship of the various parties to the construction process in the United States today. For anyone interested in Legal and Business aspects of construction, construction contracting or contract administration.

**Preface to the Second Edition** In general, this second edition incorporates numerous changes and additions to every chapter of the first edition based on three years of the book's use as a classroom text since the publication of the first edition in 1998. Most of these changes are minor and are in response to student questions and comments. Numerous additional examples have been included to illustrate points that needed clarification. More specifically, the material on reports of physical site conditions has been shifted from its previous location in Chapter 4 to a more appropriate place in Chapter 5 on contract "red flag" clauses. Chapter 18, on allocating responsibility for delays, has been extensively revised and expanded with new material and illustrations. Finally, a new Chapter 22 on the important subject of construction contract claims has been included before the final chapter in the book on dispute resolution, which now appears as Chapter 23. The response from university faculty who use the book has been encouraging and my sincere thanks are due to them for the helpful comments I have received. I would also like to thank the reviewers of this second edition, who include David Bilbo, Texas A&M University; Dianne H. Kay, Southern Illinois University; and John Wiggins, New Jersey Institute of Technology. Finally, I remain grateful to Ed Francis, Executive Editor at Prentice Hall, for his continued encouragement and support; to the entire Prentice Hall editorial staff; and especially to my students at California State University, Chico, who

have been immensely helpful in revising this second edition. Stuart H. Bartholomew Chico, California March 2001

**Preface to the First Edition**

This book was written primarily as a teaching text for senior students in baccalaureate university programs in construction engineering or construction management who plan careers in the contracting or construction management segments of the industry. It should also serve as a useful reference for the younger, less-experienced person in construction contracting or construction management organizations as well as owners of small contracting firms or related businesses. The material, drawn from various sources, has been organized and presented in the light of the writer's many years in the industry and 13 years' experience in teaching construction management courses at California State University, Chico. I am not a lawyer, and this book does not purport to offer legal advice. A competent construction attorney should always be sought for that purpose. This book does, however, furnish practical guidance for construction practitioners in typical everyday situations empirically by examination of the more common case law holdings and the customs and practices of the industry. The field of construction law is so broad that difficult choices must be made in deciding what to include in a text primarily intended for a single three-semester-hour university course. Accordingly, I have tailored the material to those areas that, in the light of my own experience, seem most fundamental, leaving such topics as claims preparation, presentation, and defense; damages quantification; and CPM scheduling techniques, and the like to the authors of the many excellent specialized texts on these subjects available today. Similarly, I have excluded detailed discussion of mechanic lien laws and similar topics that vary widely from state to state. The Table of Contents should provide the reader an immediate referral to topics of particular interest. The key words and concepts used and developed in each chapter are listed in the beginning of the chapter. These should prove helpful as a study guide and to test recollection as the reader completes the chapter. Also, each chapter concludes with a series of questions and problems. The questions provide a direct opportunity for testing comprehension of the material. The problems have been designed to develop the reader's understanding in the context of typical industry situations. Many individuals have indirectly contributed to this book. They include Harvey Slocum, a legendary figure in heavy construction, who gave me my first job more than 50 years ago, and John Soult, Wallace Hunt, and Floyd Crawford (all now deceased) who furnished continual encouragement and support during my years at Fruin-Colnon Corporation. Also, extremely capable construction attorneys have skillfully guided me over the years and contributed to my understanding of legal matters. They include Harold Blasky, Esq., with both the law firms of Max E. Greenberg, Trayman, Cantor & Blasky and Schnader, Harrison, Segal & Lewis; Overton Currie, Esq., Aubrey Currie, Esq., and Tom Kellerher, Esq., all

with the law firm of Smith, Currie & Hancock; John Tracy, Esq., at various times with the law firms of Lewis, Mitchell, & Moore, Gadsby & Hanna, and Thompson & Waldron; Lewis Baker, Esq., with the law firm of Watt, Tieder & Hoffer; James Hawkins, Esq., Michael Wilson, Esq., and Larry Lubner, Esq., all with Greensfelder, Hemker & Gale; and William McInerney, Esq., and Robert Leslie, Esq., with the law firm of McInerney and Dillon. In addition, I would like to thank Robert Leslie, who stole many hours from his busy schedule to review an early draft of the book and offered countless helpful criticisms and suggestions for improvement. Finally, shared construction experiences with my many friends—engineers, owners, and contractors alike—have inevitably shaped the content of this book. These individuals will have no difficulty in recognizing much of themselves in its pages. To all who have shared and influenced my life in construction, named and not named, I am profoundly grateful. This book is my offer of thanks—by the means of passing on to young people today, with their careers ahead of them, what we collectively learned and wish we had known when we were their age. Stuart H. Bartholomew Chico, California August 1996 --This text refers to the Paperback edition.

Works as advertised

First things first, there is a lot more to contracts than what this book has to offer. This will give you a basic idea of what a contract is and what some of the terminology means, but it is no way a substitute of reading through actual contracts in the real world. If this is for coursework, then I would highly recommend it. But for real-world application, I am not sure this book has a whole lot of usefulness.

Very well written book and easy to follow. Many co-workers have borrowed it and state the same.

THIS BOOK IS SIMPLE, AND EASY TO UNDERSTAND. HAVE LOTS OF GOOD INFORMATION ON THE CONSTRUCTION LAW AND GENERAL INFORMATION ON THE CONSTRUCTION INDUSTRY.

My expectations were definitely met and what I received meet and beat my given expectations. The book was in amazing shape.

Good

Seriously how long does it take to ship a book! Been waiting over a week just to ship and almost two weeks. Why pay extra for expedited if they take their sweet time to ship!

I was terribly disappointed in this book. I teach construction law at a community college and was assigned to use this book my first semester. I'll not use it again. The organization of the information was questionable. Many statements contained in the book were flat wrong or presented only a misrepresentative portion of a bigger picture. Many key topics were completely unaddressed. I can say that where the book is correct, the information is presented in plain English and provides the student with useable information about the basics.

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