



## Kenneth E. Rubinstein

Director

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Kenneth E. Rubinstein practices as a Director in the firm's Boston, Massachusetts and Concord, New Hampshire offices and is co-chair of the firm's [Construction Law](#) group, and a member of the firm's [Litigation](#) and [Professional Liability](#) groups. Ken regularly represents public and private clients, as well as insurance companies and their insureds, in complex commercial disputes, with an emphasis on matters involving construction issues and financial professionals.

Ken has practical industry experience in both the construction and financial services industries, having worked at a Manhattan construction management firm and at "Big 6" accounting firm, Arthur Andersen, LLP, before beginning his practice as a civil trial lawyer. Prior to joining Preti Flaherty, Ken was an Officer at a New England regional law firm.

### Admissions

- Massachusetts
- New Hampshire

### Education

- Boston University School of Law (J.D., 1998)
- University of Rochester (B.A., 1995)
- Simon School of Business
  - Certificate of Business Management

### Professional Activities

Ken is a member of the American Arbitration Association's Panel of Construction Arbitrators and was one of the founding co-chairs of the Construction Law Committee of the Massachusetts Bar Association. Additionally, Ken is the co-chair of the Boston Bar Association Construction Law Committee, and the chair of the programming committee for the Associated General Contractors of Massachusetts. Ken is also a member of the Massachusetts Bar Association Civil Litigation Section Council, the Boston University School of Law Alumni Executive Committee, the adjunct faculty at the Boston University School of Law, and the programming committee for the Associated Builders & Contractors of New Hampshire and Vermont. Ken assisted the Associated General Contractors of New

### Services

- [Construction Law](#)
- [Litigation](#)
- [Professional Liability](#)

Hampshire in drafting and supporting the organization's proposed legislation to overhaul New Hampshire's mechanics lien law.

Ken has chaired or presented programs for the ENR Risk & Compliance Summit, the Construction SuperConference, the American Council of Engineering Companies (Annual Conference and Fall Convention), Build Boston, Architecture Boston Expo, the Professional Liability Underwriting Society (Annual International Conference), the Associated General Contractors of Massachusetts, the Associated General Contractors of New Hampshire, Associated Builders and Contractor of New Hampshire, Massachusetts Bar Association, Suffolk University Law School, National Business Institute, Sterling Educational Services, Half Moon Seminars, and Lorman Seminars.

## Honors & Recognition

Ken has received regional and national awards for his work representing construction companies and financial professionals. Ken was named one of the nation's Top 75 Most Influential Professionals in the Collection Industry by *The Collector Magazine* (the official publication of the Association of Credit and Collection Professionals), and has been listed in *SuperLawyers*. Ken has been listed in Best Lawyers in America every year since 2015, including being named "Lawyer of the Year" for Construction Law in 2016.

Earlier in Ken's career, he was selected as one of *Engineering News-Record's* (ENR) Top Construction Professionals Under 40 in New England, and one of 15 "Up & Coming Lawyers" by *Massachusetts Lawyers Weekly*.

## Publications

February 17, 2021

### **The Role of the Additional Insured**

*New Hampshire Bar News*

December 15, 2020

### **Massachusetts Superior Court Strictly Enforces Prompt Pay Statute**

June 8, 2020

### **Contractor's Guide to Mitigating Risks in the AIA A201-2017 General Conditions**

June 2, 2020

### **Owner's Guide to Mitigating COVID-19 Risks in the AIA A201-2017 General Conditions**

May 7, 2020

### **Contractor's Guide to Mitigating COVID-19 Risks in the AIA A201-2017 General Conditions**

April 1, 2020

### **Construction Alert: Gov. Baker Clarifies Massachusetts Construction Requirements and Possible Future Impacts for New Hampshire**

April 1, 2020

### **Lien Waivers: Understanding the Risks in a Common Form**

*Construction Executive*

March 27, 2020

**NH Gov. Sununu Issues Stay-At-Home Order - Construction Considered Essential Industry**

March 4, 2020

**The Moving Finish Line: Statutes of Limitation and Repose Are Not Always What They Seem**

*Construction Executive*

February 4, 2020

**Litigation and Arbitration Venue Provisions in Construction Contracts: When and How They Work**

*Construction Executive*

January 7, 2020

**ConsensusDocs vs. AIA - Which Contract Is Best for Contractors?**

*Construction Executive*

December 5, 2019

**Understanding the Contractor's Consent: The Hidden Dangers in a Common Form**

*Construction Executive*

October 25, 2019

**Avoid the Pain Points in Trump Tariffs**

*Engineering News-Record*

July 15, 2019

**Prefabrication in Practice: Weighing the Advantages Against the Challenges**

*Constructor Magazine*

June 26, 2019

**Construction Alert: U.S. Supreme Court Declines to Knock Down Tariffs**

*Construction Alert*

March 17, 2019

**Best Practices for Avoiding Cyber-Fraud on Capital Projects**

*Owners Perspective*

March 12, 2019

**Hurry Up and Wait: Dealing with Delays When the Project Still Finishes Early**

*ABA Forum on Construction Law*

February 20, 2019

**Social Engineering Insurance Vital for Capital Project**

*New Hampshire Bar News*

February 12, 2019

**Selecting the Right Project Delivery Method**

*MEREDA Maine Real Estate Insider*

November 13, 2018

**How To Make Sure Your Subs Can Finish The Work**

*Engineering News-Record*

October 2, 2018

**Construction Alert: Best Practices for Avoiding Cyber-Fraud on Construction**

## Projects

July 9, 2018

**Construction Alert: Massachusetts High Court Rules that Contractor Can Pursue Claims Despite Contractor's Own Breach**

**Construction Alert: Massachusetts SJC Issues Ruling Concerning Termination for Convenience**

*Preti Flaherty Construction Alert*

February 21, 2018

**Coverage Constraints: Understanding the Quirks of the "Your Work" Exclusion in Construction CGL Policies**

*New Hampshire Bar News*

February 14, 2018

**New Ideas On How to Cope With Lawsuit Discovery**

*Engineering News-Record*

September 20, 2017

**How an Owners' Project Manager Can Smooth Collaboration**

*Engineering News-Record*

March 8, 2017

**New Hampshire Legislature Rejects Right-to-Work Legislation**

*Construction Law Alert*

December 15, 2016

**Recent NH Supreme Court Opinion Changes the Scope of Liability for the Construction Industry**

*Construction Alert*

December 14, 2016

**Viewpoint: So Who Is the Designer In Construction Projects, Anyway?**

*Engineering News-Record*

December 14, 2016

**Viewpoint: So Who Is the Designer In Construction Projects, Anyway?**

*Engineering News-Record*

March 15, 2016

**Time Does Not Run Against the King — But What About The Prince? When Municipalities Can Assert Nullum Tempus**

*Under Construction, Vol 17. No 4.*

September 3, 2015

**Alert: Massachusetts High Court Clarifies Construction Manager's Role**

## Representative Matters

- Represented general contractor in complex multi-party dispute regarding school construction
- Represented subcontractor in presenting \$17M bond claim and prevailing on subsequent dispute

- Represented specialty contractor in \$10M multi-party dispute in Canada
- Represented engineer in \$20M dispute arising from EPC contract for the construction of a combined cycle power plant
- Represented construction manager in \$30M multi-party dispute over environmental remediation
- Represented leading specialty contractor in negotiation of over \$350M in construction and services contracts
- Represented construction manager in multi-party dispute concerning renovation of a water treatment facility
- Represented consortium led by major regional engineering company in presenting bid protest of design-build project
- Represented design-build contractor in dispute concerning installation of complex mechanical system
- Represented construction manager in \$10M cost overrun and defective work dispute with owner over construction of luxury home
- Represented owner in presenting lengthy delay claim against contractor of luxury home
- Represented owner in multi-party dispute with both contractor and design professional over construction of surgical center
- Represented general contractor in dispute with subcontractor concerning additional costs claim in construction of a secondary school
- Represented design professional subcontractor in procuring \$800K mechanics' lien on university building
- Represented drywall subcontractor in complex delay dispute
- Represented electrical subcontractor in defending against significant preference claims and to protect validity of mechanics' liens
- Represented prominent accounting firm in defending complex litigation involving \$30M deepening insolvency claim
- Represented financial institution in \$5M lender liability action
- Represented multiple owners and contractors in dealing with claims for material escalation following imposition of "Trump Tariffs"
- Represented owner in significant construction defects dispute
- Represented subcontractor in dispute alleging damage to over 80,000 sq. ft. of fiber cement siding
- Represented multiple clients in responding to governmental investigations involving OSHA, Department of Labor, Internal Revenue Service, Federal Bureau of Investigations, Securities and Exchange Commission, Massachusetts Securities Division, and other state and federal agencies
- Regularly represents numerous institutional creditors in enforcement of commercial debts in bankruptcy and workout situations

## News

August 19, 2021

**46 Preti Flaherty Attorneys Selected by Peers for Inclusion in Best Lawyers in America 2022, Including 3 “Lawyers of the Year”**

August 20, 2020

**46 Preti Flaherty Attorneys Selected by Peers for Inclusion in Best Lawyers in America 2021, Including 4 “Lawyers of the Year”**

August 15, 2019

**45 Preti Flaherty Attorneys Selected by Peers for Inclusion in Best Lawyers in**

**America 2020, Including 3 “Lawyers of the Year”**

August 15, 2018

**45 Preti Flaherty Attorneys Selected by Peers for Inclusion in Best Lawyers in America 2019, Including 3 “Lawyers of the Year”**

November 17, 2017

**Preti Flaherty’s Kenneth Rubinstein named co-chair of Boston Bar Association committee**

August 15, 2017

**41 Preti Flaherty Attorneys Selected by Peers for Inclusion in Best Lawyers in America 2018**

December 15, 2016

**Preti Flaherty Attorneys Secure Significant Win for NH Construction Industry**

August 15, 2016

**36 Preti Flaherty Attorneys Selected by Peers for Inclusion in Best Lawyers in America 2017**

March 15, 2016

**Ken Rubinstein & Laura Rideout Author ABA Article on Municipalities Asserting Nullum Tempus**

August 17, 2015

**35 Attorneys Selected by Peers for Inclusion in The Best Lawyers in America® 2016**

April 1, 2015

**Ken Rubinstein Named Construction Law Lecturer at the Boston University School of Law**

August 22, 2014

**35 Preti Flaherty Attorneys Named to Best Lawyers 2015**

April 28, 2014

**Preti Attorneys Contribute to MCLE New England Book**

November 1, 2013

**10 Preti Flaherty Attorneys Recognized by New England Super Lawyers**

February 4, 2013

**Kenneth Rubinstein Honored as One of ENR’s Top Construction Professionals Under 40**

October 2, 2012

**Attorney Ken Rubinstein Selected to Serve as Editor of Book Published by MCLE New England**

March 30, 2012

**Ken Rubinstein Quoted in ENR on Controlling Personal Liability for Construction Executives**

February 28, 2012

**Ken Rubinstein Quoted in ENR on Controlling E-Discovery Costs in Construction**

## Litigation

December 6, 2011

**Attorney Kenneth E. Rubinstein Joins Preti Flaherty**

## Press Coverage

August 7, 2019

**What the FIU Bridge Collapse Says About Peer Review**

October 17, 2016

**Judge: Designer's One-Sentence Claim Notice Allows Insurer to Deny Coverage**

October 13, 2014

**When the choice is between innovation or risk**