

July 2011

Welcome to the summer 2011 issue of *Foundations*, Procopio's quarterly construction law newsletter. In this edition, we discuss a recent decision from the Court of Appeal addressing the standard for evaluating when payments can be withheld without invoking penalties under California's "prompt payment" laws. Additionally, we feature an article that examines how the prevailing wage laws impact subcontractors who perform both on-site and off-site manufacturing for public works projects. Our third article reviews the potentially adverse effects of contracting under a fictitious business name not registered with the Contractors State License Board.

Procopio also continues to offer a number of seminars specifically tailored to the construction industry and your company's needs. This month, we feature a workshop designed to keep you apprised of this year's changes to Cal/OSHA standards and regulations.

Finally, we are proud to announce that two members of our construction practice group have recently been distinguished as top construction law attorneys in the San Diego legal community. For the fifth year in a row, Procopio Partner and Construction Practice Group Leader, **Craig Ramseyer** has been included in *San Diego Super Lawyers* and received further recognition from the national publication as one of the top 50 lawyers in the San Diego region. Additionally, Senior Counsel **Jeff Hood** was named a "2011 Top Attorney" by *The San Diego Daily Transcript*. Both *Super Lawyers* and *The Transcript* employ rigorous, multi-phase evaluation processes, including peer nominations and reviews combined with third party research to select their honorees.

Learn more about Craig's inclusion in *Super Lawyers* [here](#).

Learn more about Jeff's selection to "Top Attorneys" [here](#).

## New in the news.

Procopio's legal updates help keep you apprised of the latest developments in the law impacting the construction industry. If you have any questions about these or other issues, feel free to contact one of our experienced [construction law attorneys](#).



### There Better Be A Good Reason for Withholding that Money

By Scott R. Omohundro, Esq.

When can a contractor rightfully withhold payment from a lower-tiered contractor without running afoul of California's "prompt payment" statutes? A recent decision from the Court of Appeal sheds light on this issue. [Learn more here](#).

### Offsite Manufacturer Not Required to Pay Prevailing Wage Even Though Its Onsite Subcontracting Work Was Subject to Prevailing Wage

By Timothy E. Salter, Esq.

When a subcontractor on a public works project performs both on-site and off-site manufacturing for

the project, issues may arise concerning the prevailing wage requirements for the manufacturing labor. To ensure your company complies with California's prevailing wage laws in these situations, [learn more here](#).

## Not Knowing Your Name May Get You Disciplined

*By Steven R. Borer, Esq.*

While many construction companies operate under fictitious business names, few recognize the legal impact that using these fictitious names may carry. A recent decision from the Court of Appeal addresses the possible consequences contractors face when contracting under names different from those registered with the Contractors State License Board. To help ensure your company is not subjected to disciplinary action, [learn more here](#).

## Let us come to you.

Procopio regularly offers free seminars to clients on a variety of topical issues. Unlike other programs available, our attorneys know your business and tailor their presentation to your particular needs.



### The Impact of AB 2774 - Cal/OSHA's New Weapon

AB 2774 has made it easier for Cal/OSHA to allege and prove "serious" violations against an employer, including public entity employers. In this seminar, Procopio Senior Counsel, Steven R. Borer addresses how AB 2774, enacted January 1, 2011, in Labor Code section 6432, has changed the way Cal/OSHA conducts its business and ways employers can ensure compliance with the new statute.

This presentation is ideal for those responsible for creating, implementing and enforcing programs and procedures that comply with Cal/OSHA standards and regulations related to workplace safety. For more information on these changes to the labor code, or to schedule a presentation, contact Steve at [steve.borer@procopio.com](mailto:steve.borer@procopio.com).

For more information about the seminars we offer, contact Valerie Sanderson at [valerie.sanderson@procopio.com](mailto:valerie.sanderson@procopio.com).

For more information on Procopio's construction practice, visit [www.procopio.com](http://www.procopio.com)



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