

GREATER LAS VEGAS EDITION | VOL. 2 | ISSUE 3

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# Bremer, Whyte, Brown & O'Meara

By Dan Baldwin

**“W**e understand how homes are built. In order to successfully defend a construction defect claim in the state of Nevada – or in any state - you have to know how a project goes from dirt to roof,” says Peter C. Brown, managing partner of the Las Vegas and Denver offices of Bremer, Whyte, Brown & O'Meara. In the construction defect

area, the firm represents sub-contractors, general contractors and developers across the state in commercial and residential claims. They are well versed in dealing with all aspects of Chapter 40, the residential construction legislative scheme. Bremer Whyte Brown & O'Meara is an AV rated firm providing a full range of transaction and litigation services to businesses and individuals



in such diverse areas as: general civil litigation, government entity defense, construction litigation, business litigation, family law, employment litigation, real estate litigation, sports and entertainment litigation, environmental toxic tort/habitational litigation, homeowner/community association and property management, professional liability, and wills, trusts and estates. The firm's depth of resources in so many areas combined with the specialized expertise in the construction industries gives Bremer Whyte Brown & O'Meara a significant advantage, says Brown. "The firm has 90 attorneys spread throughout nine offices in four states. We have a core group of partners whom I've worked with almost 20 years, so we can rely on each other to make sure that the best result is obtained. It's just not me. It's working with my partners and our associates. We have a great team atmosphere. We call it at times 'family-style' litigation, not unlike family-style dining featured in some restaurants. We all work together for the best result for each client." Four partners form the core of the firm's team in Nevada. Brown, who is licensed to practice in Nevada, Colorado, California, Arizona and Washington, handles complex litigation for clients throughout the Western states. He is currently focusing much of his time on high rise luxury condominium cases where the firm has been retained to represent all parties involved in the construction pursuant to an OCIP or "wrap" insurance policy.

Karen M. Baytosh has experience with all aspects of insurance defense litigation, with particular focus on complex litigation matters, including general liability and construction litigation. She is the managing partner of the Reno office.

Paul A. Acker has similarly extensive experience in complex civil litigation. He has his own team that handles construction defect and general liability.

Nelson L. Cohen concentrates his practice in the areas of general liability and business litigation defense. He has more than 20 years legal experience, is a member of the prestigious American Board of Trial Advocates and is responsible for managing the general liability department in the Las Vegas office.

Brown says, "Most attorneys will tell you that they come to the construction litigation field with very little knowledge about actual construction unless their family was in it. Once you become involved, you quickly learn a vast amount of information with regard to the variety of trades you represent. For instance, before I became a construction defect attorney I didn't know anything about framing. Now I know a lot about framing. The same could be said about roofing, stucco work, ornamental iron work – any trade you end up representing you find yourself becoming an expert in that trade in order to be able to defend your client. I'm very lucky to have my partners here to work with me on the files

because they have the same philosophy."

The typical construction client for Bremer Whyte Brown & O'Meara falls into one of two general categories.

One occurs when the insurance company retains the firm to represent a sub-contractor or a developer/general contractor. Brown says that the attorneys must be skilled at dealing with what is in essence a dual client relationship. Clearly, the contractor has an interest in the case, but at the same time the attorney must work with an insurance carrier representative who's looking at the case from the insurance carrier's point of view with its own set of challenges. "The firm's goal is to make both sides of the equation happy with how the case is being defended, how the case is reported, and how successfully the firm shepherds the case to its conclusion, be that settlement or trial," Brown says.

The other client is a sub-contractor, contractor and developer who has what is called a self-insured retention, which means

they pay for the defense from their own funds. The case may even involve a company that has decided to go without insurance.

Such clients cannot depend on the prospect of a verdict or a settlement being paid by the insurance company. They have to pay for the defense and any settlement or judgment out of their own pocket. "The prospect of an adverse judgment or adverse verdict really hits home with that client. They are much more involved in the on-going litigation and how the defense is being run," Brown says.

The "family style" way of dealing with a case extends to an overall corporate philosophy based on honesty and open communication. "It sounds corny, but my dad told me that if you never lie, you never have to worry about anything," says Brown. "I hold true to that. If you're honest with your client, the insurance carrier, the judge, opposing counsel and the people who work for you, that's going to take care of a lot of problems that are going to come up in any case. If you're not honest and you don't focus on your case in that fashion, then you're going to eventually create problems for yourself that you cannot fix. If people view you as being honest and hard-working, that in my experience means the litigation will run much more smoothly and at the end everyone will feel satisfied in some fashion with the result." Key to that, he says, is keeping your word to all parties. "What also puts us ahead of other people is that when we say we're going to do something, we will do it."

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