

# Benjamin D. Eastburn

## PARTNER

benjamin.eastburn@stinson.com

Direct: 612.335.1582

Office: Minneapolis



**Ben brings his unique array of government, industry, and legal experience to bear to help clients solve their most pressing problems.**

Ben represents a host of clients nationwide, primarily in the construction, transportation, and energy industries. In the construction law arena, Ben's clients include owners, developers, general contractors, subcontractors, and suppliers. Ben has significant experience negotiating and drafting contract documents for commercial, energy and infrastructure construction projects. He also handles disputes involving construction and design defects, performance and energy efficiency guarantees, delays, disruptions, cost overruns, government contracting, lien, bond, and equitable price adjustment claims. Adept at transportation law, Ben has represented a Class I railroad in disputes throughout the country including in accounting, operational and environmental disputes. Ben serves as a vital resource to clients in a variety of energy-related matters including renewable energy companies, energy savings performance contractors, and utilities. Ben engages with industry experts to tackle emerging challenges in the construction, transportation and energy sectors. He has a deep understanding of complex infrastructure projects and their environmental impact, allowing him to provide clients with comprehensive representation in ever-changing regulatory environments and equipping him with the knowledge needed to navigate potential liabilities associated with emerging

## PRACTICES & INDUSTRIES

Business Litigation  
Construction  
Transportation  
Government Contracts & Investigations  
Real Estate Litigation

## ADMISSIONS

Minnesota  
U.S. District Court of Minnesota  
U.S. Court of Appeals for the Seventh Circuit

## EDUCATION

Regent University School of Law, J.D., *summa cum laude*, 2010

- *Regent University Law Review*, Editor-in-Chief

U.S. Naval Academy, B.S., History, 2003

- Platoon Commander
- Varsity Football Player

## CLERKSHIPS

Honorable Daniel Manion, U.S. Court of

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contaminants like PFAS.

Ben gained invaluable experience working as a vice president and general counsel for a specialty concrete construction company. In that role, Ben gained critical insight of the ins and outs of the operational, financial and legal concerns at each stage of a construction project. Adding to that industry experience, Ben also served as a project manager for a shipyard where he planned and supervised the maintenance and repairs for two U.S. Navy guided missile destroyers.

Ben has served as a judicial clerk to two federal judges: the Honorable Daniel Manion of the U.S. Court of Appeals for the Seventh Circuit and the Honorable Paul Magnuson of the U.S. District Court of Minnesota.

Before attending law school, Ben was an officer in the U.S. Navy where he was deployed twice to the Middle East.

Ben is committed to the firm's pro bono efforts. In addition to several naturalization- and asylum-related matters on which he's worked over the years, Ben also achieved a rare reversal of a criminal conviction for a pro bono client before the Minnesota Court of Appeals.

## EXPERIENCE

### Construction

Represented an owner in litigation involving design defects in a new parking garage, which included technical issues including calculations of forces acting on the structural members of the garage. Ultimately the case resolved before summary judgment with a favorable settlement for the client.

Achieved a favorable settlement just before an evidentiary hearing for a nationally renowned concrete contractor in an arbitration involving complex delay and disruption claims arising out of the construction of a parking ramp and condominium building. Warded off highly technical counterclaims concerning

Appeals for the Seventh Circuit

Honorable Paul Magnuson, U.S. District Court of Minnesota.

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the client's work through skilled expert analysis and deposition.

Represented a national home maintenance and repair company in several litigated and transactional matters throughout the United States, including payment, workmanship and warranty disputes.

Represented a hydrodemolition subcontractor in a multimillion dollar, multi-forum dispute on a federal government project, which included highly technical issues regarding concrete bond strength, microfracturing and testing and inspection standards. Achieved a partial summary judgment on a Miller Act claim.

Advised a condominium homeowner's association in litigation involving construction defect and misrepresentation claims against the developer. After successfully opposing summary judgment, he achieved a favorable settlement for the client.

Represented a national real estate developer in negotiating, drafting and reviewing numerous construction contracts on projects in multiple states.

### **Transportation**

Represents a Class I railroad in disputes throughout the country, including in accounting, operational and environmental disputes.

Represented a railroad in defense of a CERCLA contribution action involving an estimated \$200 million cleanup of soils, groundwater and sediments at a site in a former industrial harbor on Lake Superior. In addition to the technical challenges of chemical fate, transport and fingerprinting, this case posed unusual historical and evidentiary issues to deal with events that allegedly occurred between 1885 and 1947 for which no live witness testimony was available.

Represented a Class I railroad in a dispute over the operational and accounting requirements of an 80-year-old joint agency agreement. After a hotly-contested arbitration, he achieved a multimillion dollar award and favorable declaratory judgment terms, along with attorneys' fees and costs associated with the arbitration.

### **Energy**

Represented the operator of a cogeneration power plant in an arbitration brought by the host chemical plant for equipment damage and lost profits resulting from the cogeneration plant's shutdown and inability to supply electricity and steam after an electrical storm. This case involved difficult technical issues regarding the impact of lightning on the cogeneration plant's failure to transition into an independent mode of operation, and the cause of damage to the chemical plant's olefin cracking furnaces.

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Achieved a resounding arbitration victory for an ethanol plant that was wrongfully charged additional fees for natural gas transportation. He mastered the technical complexities of the case and leveled a highly effective cross-examination of the opposition's expert witness, which all but ensured a successful result.

Advised several national companies on energy savings performance contracting disputes, and provided opinions on the impact of state performance contracting laws.

After voluminous discovery, depositions, and complex motion practice, obtained a favorable result for a national energy savings performance contractor in a dispute against a municipality involving alleged savings shortfalls and allegedly defective energy conservation measures.

### Other

Assisted a commercial building owner in a dispute with a single use commercial tenant over the interpretation and application of long-term ground leases drafted nearly a century ago. Obtained partial summary judgment for the building owner on the applicable measure of damages.

### RECOGNITIONS

Named to the *Best Lawyers: Ones to Watch® in America* list, 2021-2025

### PROFESSIONAL & CIVIC ACTIVITIES

Minnesota State Bar Association

Minnesota Federal Practice Committee

International Concrete Repair Institute

Minnesota Utility Contractors Association

### NEWS

Best Lawyers® Names 34 Stinson Attorneys to *Best Lawyers: Ones to Watch® in America* List  
08.15.2024

*Best Lawyers in America* Recognizes 32 Stinson Attorneys as "Ones to Watch"  
08.17.2023

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*Best Lawyers in America*® Recognizes 29 Stinson Attorneys as "Ones to Watch"  
08.18.2022

## SPEAKING ENGAGEMENTS

Co-Presenter, "The 'Responsible' Contractor: Complying with Labor Laws," Stinson Construction Group Annual Client Update Seminar, December 10, 2014

Co-Presenter, "2014 Construction Case Law Summary," MSBA Construction Law Section, December 12, 2014.

Co-Presenter, Minnesota's Responsible Contractor Act-What You Need to Know," Stinson Monthly Client Seminar, July 16, 2014 and September 23, 2014

Co-Presenter, "The Role and Authority of Magistrate Judges," Minnesota CLE Federal Deskbook Seminar, February 25, 2014

Co-Presenter, "2013 Construction Case Law Summary," MSBA Construction Law Section, December 13, 2013

"Introduction to Contractual Risk Shifting," Dakota Chapter of the North Dakota Construction Financial Management Association, March 21, 2013

2023 Construction Law Update  
Stinson LLP, 02.23.2023

## PUBLICATIONS

"[Should Investors be Wary of Esports Arenas? Traditional Stadium Litigation Hints at Risk](#)," Stinson Alert, November 2020

"[SCOTUS False Claims Act Statute of Limitations Decision Looms Large](#)," *Stinson's Government Contracting Blog*, February 2019

Co-author, "The Role and Authority of Magistrate Judges," *Federal District of Minnesota Civil Practice Deskbook*, February 2014

"A Trap For The Unwary Subcontractor," *Law360*, December 20, 2013

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