

## **Richard C. McSwain**

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### **Summary**

Eighteen years of experience in the construction industry including the industrial, power production and oil and gas segments of the market. Proficient in the management of available resources with proven success as a litigator and contract negotiator.

#### **Strengths include:**

- Proficient in evaluating and devising appropriate risk strategies,
- Strong background in the use of joint venture and other risk sharing business structures,
- Respected by operations team members for producing pragmatic solutions, and
- Trusted legal advisor and management team member in the acquisition of new business units.

### **Professional Experience**

McNelis + Associates, PLLC - San Antonio, Texas

March 2017 - Present

The law firm of McNelis + Associates, PLLC is one of San Antonio's most widely recognized construction law boutiques in South Texas, representing owners, contractors, suppliers and design professionals in all aspects of construction and real estate law.

#### **Director/Senior Litigator**

Responsible for the management of firm's extensive litigation docket involving issues of breach of contract, lien and bond claims, delay claims, defective work, performance and related matters.

Coats Rose Yale Ryman & Lee, PC - San Antonio, Texas

September 2011 - March 2017

Coats Rose is a premiere law firm founded in the practice areas of construction/surety and real estate law. Over the last 35 years, the firm has grown to more than 85 lawyers practicing in six major areas of practice.

#### **Of Counsel**

Manage a substantial litigation docket encompassing every kind of construction issue including breach of contract, construction defects, delay/interference, administrative and regulatory matters.

Draft and negotiate complex agreements including Joint Venture Agreements, EPC Contracts, Land Lease Agreements, Power Purchase Agreements and Interconnection and Transmission Agreements.

Zachry Industrial, Inc. - San Antonio, Texas

August 2008 - August 2011

Zachry Industrial, Inc., formerly Zachry Construction Corp., is an 85 year old, privately held multi-billion dollar construction, engineering, and procurement contractor with over 20,000 employees.

## **Corporate Counsel**

- Negotiated complex Engineering and Construction, Joint Venture and Teaming Agreements, Power Purchase Agreements, Interconnection Agreements and Land Leases providing flexibility in project execution while limiting the company's risk exposure.
- Drafted and successfully negotiated the Company's first regional construction project contract facilitating the launch of a new business unit and positioning the company in a new market.
- Performed risk assessment of a key business unit resulting in the successful renegotiation of two major contracts.
- Participated in Due Diligence and Transition Teams resulting in successful acquisition of two regional engineering companies helping position the company to meet strategic growth objectives.
- Developed and presented training programs for Business Development Groups across the enterprise to enhance the understanding of risk strategies relevant to the challenges of the different business units.
- Provided legal counsel and project support for a number of large electric generating power plant projects contributing to the profitability and sustainability of the company.
- Managed a variety of litigation matters minimizing legal expenditures and substantially reducing settlement costs.

Curry, McSwain & McKendrick, PC

February 1998 – August 2008

A regional law firm with work concentrated in the construction industry including: litigation, contract negotiation, bankruptcy, and labor and employment law.

**Partner**, 2001 – 2008

**Associate**, 1998 – 2001

- Provided leadership to the firm managing a substantial case load and producing positive results for clients.
- Lead counsel on more than 20 cases resulting in successful verdicts or awards totaling more than \$25 million.
- Negotiated complex commercial construction contracts using a variety of delivery methods including EPC, Design Build and Construction Manager at Risk agreements.
- Earned principal role in the firm by developing a targeted client base including nine of the top twenty general contractors in the region.
- Actively participated in legal and trade associations providing leadership to increase membership and promote legislation favorable to the construction industry.
- Managed the financial and administrative business of the firm.

## **Education**

- Juris Doctorate - St. Mary's University School of Law – May 1997
- Master of Business Administration - University of Texas San Antonio – December 1992

- Bachelor of Business Administration - North Texas State University - December 1984

## **Professional**

- Licensed to practice before all courts in the State of Texas
- Licensed to practice in the United States District Court for the Western District of Texas
- Member of the Construction Law Section of the State Bar of Texas
- Former Chair of the Construction Law Section of the San Antonio Bar Association
- Served in a number of civic activities including: Board Chair of a private school, Board member of two Home Owners associations, and various charitable fund raising activities including The United Way and station KTRU of Trinity University.