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For more information contact:

Brigette E. Burton
Marketing/Business Development
P: 407-740-6600
F: 407-740-6363
E: beb@kirwinnorris.com
www.kirwinnorris.com

Firm Wins Bid Protest Civil Rights Case Before Federal Court Of Appeals

Orlando, FL-The firm is pleased to announce that it has won a civil rights case before the Eleventh Circuit Court of Appeals. The Eleventh Circuit is one step below the United States Supreme Court. The head of the firm's appellate department, Douglas Ackerman, successfully briefed the appeal and also appeared live before a panel of judges in the federal courthouse in Atlanta, Georgia.

The original Project was an addition and renovation to a public school. The firm represented the public owner. A disgruntled electrical subcontractor whose bid was rejected by the general contractor filed a bid protest against the public owner. The public owner prevailed. What seemed like a simple matter was not, however, concluded. Instead, litigation erupted.

First, the electrical subcontractor and its bid protest bond surety rejected a claim by the public owner for attorneys' fees and costs incurred in defending against the meritless bid protest. Thinking it had successfully avoided litigation, the public owner assigned the claim to the general contractor. The general contractor unsuccessfully pursued the claim in state circuit court. The general contractor appealed and lost.

Second, the electrical subcontractor sued the general contractor in a separate suit in state circuit court. After years of litigation, the electrical subcontractor lost. The electrical subcontractor then appealed and lost.

Third, the electrical subcontractor failed to reimburse the surety for attorneys' fees and costs in the assignment litigation. The surety sued the electrical subcontractor and prevailed.

Finally, approximately four years after the original bid protest, the electrical subcontractor sued the public owner which had thought it had avoided the whole fight. Among other claims, the electrical subcontractor alleged that its rights under the First Amendment to the United States Constitution had been violated by the public owner when it assigned the bond claim to the general contractor. Mr. Ackerman removed the case from state court to federal court and first whittled the claims down with a series of successful motions. All that remained was the First Amendment claim.

After extensive discovery, a final motion granting the public owner summary judgment on the First Amendment claim was entered. The electrical subcontractor appealed to the Eleventh

Circuit Court of Appeals. Extensive research and briefing occurred, and after the briefing concluded the Eleventh Circuit granted live oral argument—a rarity. Mr. Ackerman then traveled to Atlanta, Georgia, appeared live before a panel of three federal judges, and successfully argued the case.

Kirwin Norris, P.A. has extensive experience in litigating bid protests of all kinds and is pleased to have prevailed in these unique and legally challenging circumstances.

Kirwin Norris, P.A., with offices in Orlando and Fort Lauderdale, is a boutique law firm established in 1997 to serve the construction industry. For more information about the firm, please visit their website at www.kirwinnorris.com.

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