



## **John Gambill**

**Associate**

**Columbus**

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### **Practice Focus**

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- Construction
- Construction litigation
- Litigation
- Business litigation
- OSHA appeals and workplace safety

John A. Gambill is an associate in the Litigation Department. He came to McDonald Hopkins in May 2017 after five years with his own firm, Gambill & Associates Co., L.P.A.

John primarily focuses on construction law and works with our construction litigation team. He has represented contractors and project owners in claims arising out of construction projects of all sizes. John has also litigated cases from inception to conclusion, including arguing a complex contractual issue before the Ohio Supreme Court. Although he has extensive experience in civil litigation, John also has considerable experience helping businesses with legal matters outside the courtroom.

John earned his J.D. from Cleveland State University's Cleveland-Marshall College of Law and a Bachelor of Arts in business and economics from Muskingum College.

### **Representative Cases/Matters**

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- Represents clients, including developers and contractors, in drafting construction contracts, and in claim avoidance and/or preservation during the course of projects.
- Represents contractors with claims on complex public works construction projects for the State of Ohio.
- Represents contractors with bid protests on public construction projects.
- First chair for general contractor in appeal against municipality challenging a liquidated damages provision of a public works project in the Fourth District Court of Appeals and Ohio Supreme Court, including oral argument before the Ohio Supreme Court. *See Boone Coleman Constr., Inc. v. Village of Piketon, 2014-Ohio-2377*, reversed by Ohio Supreme Court, 2016-Ohio-628, 2014-0978, Oral Argument 06/09/2015 available <http://www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=146665>.
- Second chair trial counsel in jury trial for construction manager against developer regarding unsigned \$500,000 change order for tenant improvement work in retail shopping center not shown on base building drawings. Obtained summary judgment as to liability on theory of unjust enrichment and ultimately obtained approximately \$500,000 jury verdict after jury trial on damages.
- Represented general contractor against Ohio Department of Transportation in arbitration for seven figure

## John Gambill

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claim for additional costs on bridge project for unknown conditions, superior knowledge, and *Spearin* Doctrine issues.

- Second chair trial counsel for general contractor in litigation matter against Ohio Department of Transportation in the Ohio Court of Claims concerning bid protest dispute and claims for additional work performed on public improvement project.
- Second chair for Tier-1 Supplier in contract dispute with Tier-2 supplier regarding price and quantity of materials to be shipped and incorporated into product for OEM, including obtaining a preliminary injunction requiring Tier-2 supplier to continue shipping parts at previously-agreed price pending resolution of dispute.
- Member of litigation team for mechanical contractor with eight figure claims against a Fortune 100 engineering and manufacturing company involving a \$60 million design build natural gas conversion project.
- Represented general contractor against Ohio Department of Transportation arising out of significant additional costs arising out of changed conditions discovered during the course of the construction of two non-buried bridges.
- Represented general contractor against developer related to contract dispute and claim for unpaid balance of contract.
- Member of the litigation team representing material supplier in dispute related to major solar farm construction projects spanning 13 states in \$7M claim against German manufacturer's U.S. subsidiary in the U.S. District Court of North Carolina, Western District. The litigation involved claims of breach of contract, fraud, prompt payment claims, unfair and deceptive trade practices claims, and other extraordinary relief.

### Admissions - Court

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- All Ohio State Courts
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Northern District of Ohio

### Admissions - State

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- Ohio

### Education

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- Cleveland-Marshall College of Law
- Muskingum College

### Honors and Awards

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- CALI Awards - Contracts

### Professional Membership

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- Ohio State Bar Association

- American Bar Association
- Scioto County Bar Association
- Defense Research Institute
- Builders Exchange of Central Ohio
- Associated General Contractors of Ohio
- Ohio Contractors Association

### Alerts

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- Ohio Department of Transportation advisory to all prime contractors
- Update on Ohio's construction statute of repose application to tort and contract claims
- OSHA stepping up enforcement of silica in construction standard
- Ohio House introduces bill to protect general contractors
- Victory for construction contractors: Ohio Supreme Court rules that construction statute of repose applies to both tort and contract actions
- Appellate court holds Ohio's construction statute of repose applies to breach of contract and tort claims
- Hundreds of Ohio EDGE Certifications called into question after investigation by Ohio Inspector General
- OSHA Update: Record keeping and required postings
- Ohio Supreme Court holds that general contractor's insurance policy does not cover defective work performed by subcontractors
- OSHA increases excavation and trenching enforcement
- Construction trade organizations file brief in Ohio Supreme Court on statute of repose
- Ohio EPA issues new construction storm water general permit
- Ohio contractors: Ensure compliance with public bidding and contracting laws or risk not being paid
- Federal appellate court upholds OSHA's stringent silica in construction standard
- Ohio's construction statute of repose still only applies to tort claims
- Enforcement of OSHA's silica in construction standard begins under interim enforcement memorandum
- OSHA's new silica safety standard imposes additional burdens on contractors

### Blog Posts

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- Coronavirus-related construction delays and force majeure provisions in industry-standard contracts
- Ohio's "Stay at Home" Order regarding construction- issues and interpretations may cause confusion
- OSHA Guidance – When is COVID-19 a recordable illness?
- Recommendations for proper back charges on commercial construction projects
- An overview of Ohio's EDGE program following an investigative report by the inspector general
- Illinois Mechanics Lien Law: Fundamentals and general contractor liens
- Recent changes to Florida's statute of repose provide clarity for contractors
- 4 steps for handling unexpected conditions claims on construction projects
- Fifth District publishes new interpretation of Ohio's construction statute of repose
- 3 ways to build a better residential construction contract
- OSHA's new injury and illness reporting requirements
- Construction contractors must remain vigilant to minimize cybersecurity risks

- Mechanic's lien update: What is waived and what can you recover?

### News

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- "The 2017 Revisions to AIA Standard Construction Contracts"
- Attorney John A. Gambill joins McDonald Hopkins

### Events

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- Guns, Drugs & Cybercriminals – Avoiding Modern Risks | Wednesday, March 11, 2020
- Charting the Course and Navigating Through Treacherous Waters | Tuesday, March 3, 2020
- Qualified Opportunity Zones: What are they and how do they work? | Tuesday, May 14, 2019
- Nuts and Bolts of Construction Law for Developers | Tuesday, February 19, 2019

### Speaking Engagements

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- Presenter, "Improve Your Contracts to Improve Your Bottom Line: Contract Provisions that Contractors Need," NARI Greater Cleveland General Membership Meeting & Educational Conference, February 21, 2018