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## Current Events

### MDC® INDUSTRY EVENTS

**ABA-Forum on Construction, 2015 Fall Meeting  
Construction ADR Summit  
Austin, TX**  
October 8-9, 2015  
[More Info](#)

**2015 ASHRAE Annual Conference  
Atlanta, GA**  
June 7, 8 and 9, 2015  
[More Info](#)

**Pennsylvania Society of Professional Engineers**

## Construction Manager at Risk Held to Assume the Risk of Design Changes on Massachusetts Public Construction Project

Written by [James Hollyday](#), Partner, Pepper Hamilton

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The Massachusetts Superior Court (County of Worcester) held in *Coghlin Electrical Contractors, Inc. v. Gilbane Building Co. and Travelers & Surety Company of America* decided on June 24, 2014 that a Construction Manager at Risk (CMR) assumed responsibility for design changes (1) based on the Construction Manager's duty under the contract to review design documents during the preconstruction phase of the Project and (2) based on the broad indemnification provision in the contract. The case is now on direct appeal to the Massachusetts Supreme Judicial Court, Docket No. SJC-11778. Oral argument was held on March 2, 2015.



The case has far-reaching implications because if the decision is upheld, a Construction Manager at Risk in Massachusetts will assume much if not all of the liability for the design of the project, even though the design is furnished by a third party Designer under contract with the Owner. The upshot of this is that either there will be fewer bidders on construction management at risk contracts, or bidders will include a substantial premium in their bids to account for the additional risks.

"Construction management at risk" or "Construction management at risk services" or "Construction management at risk delivery method," a construction method wherein a construction management at risk firm provides a range of preconstruction services and construction management services which may include cost estimation and consultation regarding the design of the building project, the preparation

**(PSPE) Boot Camp  
Pittsburgh-Cranberry, PA**  
*McCue 4 PDH Hours  
Forensic Project Management  
June 7, 8 and 9, 2015*  
[More Info](#)

**2015 ASHRAE-Philadelphia  
Chapter Presentation  
Philadelphia, PA**  
*Connecting Green Building  
Outcomes to Enterprise  
Sustainability Programs,  
May 14, 2015*  
Swann Distinguished Lecturer  
[More Info](#)

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and coordination of bid packages, scheduling, cost control, and value engineering, acting as the general contractor during the construction, detailing the trade contractor scope of work, holding the trade contracts and other subcontracts, prequalifying and evaluating trade contractors and subcontractors, and providing management and construction services, all at a guaranteed maximum price, which shall represent the maximum amount to be paid by the public agency for the building project, including the cost of the work, the general conditions and the fee payable to the construction management at risk firm.

Gilbane contracted with the Massachusetts Division of Capital Asset Management and Maintenance (DCAMM) for the construction (and for preconstruction services) for a psychiatric facility to be built for the Massachusetts Department of Mental Health. DCAMM contracted separately with Ellenzweig Associates, Inc. as the "Designer" of the project. Gilbane's involvement in the design of the project was limited to review of design documents prepared by the Designer. The contract specifically stated that in reviewing the design, Gilbane did not assume the Designer's responsibility for design.

[Read More](#)

## Mitch Swann Presents at 2015 ASHRAE Annual Conference Atlanta, GA - June 27 - July 1, 2015

MDCSystems® was strongly represented at the 2015 ASHRAE Annual Conference in the Society's hometown of Atlanta, Ga. The Conference took place June 27-July 1 at the Atlanta Hilton.



The Conference Technical Program focused on the design, construction and operation of high performance buildings, refrigeration and the annual Research Summit Laboratories, refrigeration, fundamentals, applications, systems and equipment round out the program.

[E. Mitchell Swann, PE, Principal of MDCSystems®](#), presented two conference programs:

- (1) If You Build It, Will They Come? The Next Design-Build Guide , and
- (2) ASHRAE College of Fellows Debate: "Attorneys Will Love BIM!" Pro/Con?

**Ms. Marcella Stokes**, Member, US General Services Administration, (and **former MDC® employee** as a co-op student) also spoke about Design Build and the GSA as part of the distinguished "If You Build It, Will They Come? The Next Design-Build Guide" panel.

For detailed information about MDC's involvement in the 2015 ASHRAE Annual Conference please [click here](#).

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