

Florida GC Files for Chapter 11
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Dive Brief:

- A Tampa, Florida-based general contractor is seeking Chapter 11 bankruptcy protection citing challenges brought on by the COVID-19 pandemic including severe material and labor shortages and supply chain delays.
- Matcon Construction Services filed the paperwork in U.S. District Court on Jan. 20 due to its “insurmountable debt load” stemming from pandemic-related impacts, [according to court documents](#). The general contractor said it suffered issues stemming from fixed-price and fixed-schedule contracts, inflation and delay in shipping of materials needed for jobs, according to the filing.
- Matcon specializes in retail, office, hospitality and medical work, and remains hopeful it will complete as many of its ongoing projects as possible, if not all of them, said Scott Underwood, attorney with Tampa law firm Underwood Murray, which is representing Matcon. Some of the firm’s notable recent projects include Yuengling Brewing Company’s Tampa campus and the University of South Florida’s research innovation building.

Dive Insight:

The purpose of Chapter 11 of the U.S. Bankruptcy Code is to rehabilitate a business as a going concern or reorganize finances through a court-approved reorganization plan. This reorganization plan must be accepted by a majority of the debtor’s creditors.

Matcon’s next court date is set for February 17, said Underwood. The court on Monday recently granted Matcon the authority to continue operating and making payments, including to employees, during the Chapter 11, added Underwood.

“Matcon was hampered by extreme material and labor shortages, which were followed by related material and price increases,” said Underwood. “These substantially harmed the ability to complete fixed-priced and fixed-cost construction projects in a profitable manner.”

More construction-related bankruptcy filings could be on the horizon this year due to issues with the supply chain, inflation, labor and financing, said Trent Cotney, partner and construction team leader at Adams and Reese, a Washington, D.C.-based law firm.

“There is a trend of contractors and trades filing for bankruptcy protection and I anticipate additional filings,” said Cotney. “I believe these bankruptcies arise primarily out of issues with material volatility and the inability to adjust fixed-price contracts.”

Surging costs

As in Matcon’s case, recent bankruptcies in the construction industry are often at least partially caused by inflation and the associated increases in material, labor and financing costs, said James Bailey, partner at Birmingham, Alabama-based law firm Bradley Arant Boult Cummings.

“Within the last six months or so, our firm has seen more [bankruptcy] matters related to construction,” said Bailey. “I wouldn’t say it’s unique to general contractors [but also] project owners [and] subcontractors.”

That volatility causes major headaches for contractors tied to fixed-price type contracts, said John Sparacino, principal in law firm McKool Smith’s Houston office.

“Because their prices have increased, their ability to get materials is slowed and delayed — I can absolutely see how those issues would really potentially hammer general contractors that are locked into a bunch of fixed-price contracts,” said Sparacino. “If they’ve got more flexible time and material type of

contracts, if they're lucky to have that as their contract base, then they may be able to weather the storm a little bit better."

Commercial construction stays strong

In general, the commercial construction industry seems to be holding a more steady course when compared to residential builders, said Diana Lyn Curtis McGraw, construction attorney and partner at Fox Rothschild, a Washington, D.C.-based law firm.

For example, backlog in commercial construction remains at its highest levels since the second quarter of 2019, according to Associated Builders and Contractors. Meanwhile, home builders are dealing with shrinking demand and falling starts.

Nevertheless, McGraw expects contractors that work on private commercial projects to tighten their belt this year as well. That means work related to federal construction may ultimately "provide a safe haven for many in the construction industry," she said.

"We will continue to see filings in the construction industry in 2023 caused by the rise in inflation, increased material costs and labor shortages," said McGraw. "General contractors will not be the only ones affected. We will see spillover to owners and downstream to subcontractors."