

Claims (Construction, Avoidance, Delay & Disruption)

Timely recognition and proper handling of construction claims is often the key to a successful project. Gibbs Giden counsels clients with respect to claims avoidance and resolution procedures, risk management, insurance, and bonding requirements.

Additionally, our experienced team of attorneys provides clients with project management assistance, including contract administration and interpretation during performance, documentation of disputes, informal negotiations with project management, and project close-out. Documentation is essential to a claim.

Our team has extensive experience litigating delay and disruption cases, including: various Metro Rail Transit projects, Palmdale Regional Medical Center, the Port of Long Beach, Cedars-Sinai Medical Center in Los Angeles, San Francisco International Airport, John Wayne Airport in Orange County, Ritz-Carlton Huntington Hotel in Pasadena, Kaiser Riverside Medical Center, Los Angeles County Central Jail Expansion Project, Southeast Resource Recovery Facility in Long Beach, the Space Shuttle launch facility at Vandenberg Air Force Base, Hyperion Wastewater Treatment Plant in Los Angeles, Coso Geothermal Plant located near China Lake, and the Aladdin and Venetian Hotels in Las Vegas, Nevada.

Published Opinions

Lydig Construction, Inc. v. Martinez Steel Corporation, 234 Cal.App.4th 937 (Cal.App. 4 Dist., 2015)

MW Erectors, Inc. v. Niederhauser Ornamental and Metal Works Co., Inc., 36 Cal.4th 412 (Cal.,2005)

Notable Cases

Richard J. Wittbrodt and Sara H. Kornblatt are currently in litigation on a matter involving HNTB, who is the designer on the \$ 1.5 billion-dollar design contract for Los Angeles County Metropolitan Transportation Authority (LACMTA's) light rail line commonly known as "Crenshaw " to LAX. The design dispute and the resulting schedule and cost impacts one of the newest Metro rail lines (urban rapid transit) in Los Angeles are at issue here. The dispute is against the prime contractor, Walsh Shea Corridor Construction, a Joint Venture.

Glenn E. Turner, III is litigating a multi-million dollar claim involving non-payment issues on change orders, inefficiencies, lost productivity and delays in connection with the design and construction of the California High Speed Rail Project in Central California. Jacobs Engineering is the sub-contractor to Dragados Flatiron's joint venture. Group Delta is a sub-consultant suing to avoid a classic change order trap scenario.

Richard J. Wittbrodt settled on a matter involving construction of a \$200M Acute Care Facility in California. Richard J. Wittbrodt represented the general contractor, who along with multiple subcontractors asserted \$50M in damages as a result of owner caused breaches, the owner asserted a claim of nearly \$20M in damages. The large multiparty complicated litigation involving OSHPD, subcontractors, and experts.

Christopher E. Ng was legal counsel to a key steel subcontractor on the Apple Campus project in Northern California. Client performed over \$30 million dollars' worth of work and was owed almost half. Matter was successfully settled.

Recently litigated a \$70 million dollar Atlanta, USA based project, Emory Point Phase II, concerning a large residential mixed use project adjacent to Emory University and near the Centers For Disease Control (CDC) involving \$10 million dollars in scheduling issues, non -payment claims, lack of performance allegations and \$10 million dollars in cross claims.

Addressed legal issues and contracts surrounding the multiphase renovation and expansion of the historic Rose Bowl Stadium including evaluation of procedures for consultants; effect of Bond funding on wage and apprenticeship requirements; Municipal code and resolutions regarding local workers; contractor default and takeover by performance bond surety; contractor claims and project closeout.

Theodore L. Senet successfully defended a claim against a window manufacturer and won on cross-claim at trial. Windows were manufactured in Italy for installation in Russia on a property owned by a British resident. Claim Value: over \$15 million dollars with a cross claim of \$1.5 million dollars

Settled a lawsuit on behalf of a developer related to the construction of a large apartment complex. Issue/Complexity: Responsibility for project delays and cost overruns. The settlement resulted in a substantial net recovery for the client. Value: The lawsuit involved claims and counterclaims in excess of \$50M.

Gibbs Giden construction lawyers are frequently asked to present and author publications on Claims. Each year Gibbs Giden presents a conference, which among many other topics addresses Claims and related issues. If you are interested in receiving a presentation on claims, please contact us. Below is a sample of relevant publications.

Relevant Articles and Publications

California Construction Law 18th Edition and 2019 Supplement co-authors Richard J. Wittbrodt, Barbara R. Gadbois, update authors Michele A. Elison, Michael B. Geibel, Sara H. Kornblatt, Christopher E. Ng, Wolters Kluwer 2019.

CEB Construction Contracts, Defects, and Litigation Treatise. California Continuing Education of the Bar, California ("CEB"). CEB is the official publication of the California Bar Association. Firm attorney chapter co-authors: Sara H. Kornblatt, Chapter 1, "Contractor Licensing Remedies for unlicensed Work", Theodore L. Senet, Chapter 8, "Architects & Engineers," and Richard J. Wittbrodt, Chapter 5, "Private Contracts: Disputes & Remedies." Firm attorney chapter update authors: Barbara R. Gadbois, Chapter 2, "Drafting Construction Contracts," Jason M. Adams, Chapter 7, "Arbitration," Michael B. Geibel, Chapter 10, Construction Tort Liability, "Defects: Contribution & Equitable Indemnity, Christopher E. Ng, Chapter 13. "Construction Defects: Contribution, Equitable Indemnity and Good Faith Settlement" Cal. CEB 2019.

Richard J. Wittbrodt (co-author) Chapter 6, "Construction Claims," California Construction Law, 17th Ed. Supplement (Wolters Kluwer Law and Business 2012-2016).

Richard J. Wittbrodt (co-author) Construction Divorce: Protect Your Client's Claim Before It Is Too Late (Parts 1 and 2), CEB (Continuing Education of the California Bar) Real Property Law Reporter, (Part 1) September 2011 and (Part 2) November 2011.

Glenn E. Turner, III Chapter Thirteen, Contractor Claims, and Chapter Fourteen, Owner Claims, CALIFORNIA CONSTRUCTION LAW (HLK Global Communications, Inc., 2007).

Glenn E. Turner, III Chapter Nineteen, Alternative Dispute Resolution, CALIFORNIA CONSTRUCTION LAW (Author), HLK Global Communications, Inc., 2007.

Glenn E. Turner, III "Contractor's Guide to Change Orders-How to Resolve Disputes and Get Paid", (Co-author), Prentice Hall, 2002

Richard J. Wittbrodt,(co-author) Project Suspension: What Owners And Contractors Need To Know- NOW! , Article/White Paper, CMAA Southern California Chapter Newsletter, Summer 2009.

Richard J. Wittbrodt, *Prejudgment Remedies and Collection For Owners or Contractors on a Construction Project, Written Materials, Digitally Published Program Materials*, The Age of Turbulence: Managing Money Issues in Construction Presented in Cooperation with the State Bar of Texas Construction Law Section and the ABA Construction Committee of the Section of Litigation, 2010 ABA Forum on the Construction Industry Annual Meeting, April 24, 2010.

Richard J. Wittbrodt, (co-author), Understanding Contractual Suspension Terms: A Risk Management Tool for Owners and Contractors CEB (Continuing Education of the California Bar) Real Property Law Reporter, Summer 2010.