



Richard J. Wittbrodt

Partner, AAA Mediator/Arbitrator

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Professional Experience

Richard J. Wittbrodt is an equity partner. He is recognized as a leading construction lawyer and is a prolific speaker and author, including co-author of the seminal construction law treatise, *California Construction Law* (18th ed. Wolters Kluwer Law and Business 2020). Mr. Wittbrodt is a member of the Governing Committee for the ABA Forum on Construction Law, the largest organization of construction lawyers in the world.

His primary emphasis is in construction litigation, including prosecuting and defending claims of delay, design issues, breach of contract, warranty of plans and specifications, prompt payment requirements, contract interpretation issues, lost profits, disruption, defective construction, mechanics lien and stop notice foreclosure actions, for both public and private projects. Mr. Wittbrodt has experience representing owners, designers, general contractors and subcontractors on multi-million dollar complex cases involving hospitals, hotels, commercial structures, educational institutions, and transportation and other infrastructure projects. He is also a mediator and arbitrator with the American Arbitration Association.

Mr. Wittbrodt has practiced law for over 30 years, all of it with Gibbs Giden. During his tenure with the firm he was Managing Partner for 16 years, and is currently a member of the firm's Executive Committee.

Practice Areas

- Construction Law
- Civil Litigation
- Commercial Law
- Appellate Law

Education

- Pepperdine University School of Law (J.D., *cum laude*), Malibu, CA, 1988
- Golden Gate University (M.B.A., Tax), Los Angeles, CA, 1984
- University of Michigan (B.B.A., *with distinction*, Accounting), Flint, MI, 1980

Certifications

- American Arbitration Association, Mediator and Arbitrator
- LEED® Accredited Professional, 2009
- Certified Public Accountant, Michigan, 1983
- Certified Public Accountant, California, 1983

Bar Admissions

- California Bar No. 138829, 1988
- U.S. District Court Central District of California, 1988
- U.S. District Court Eastern District of California, 1988
- U.S. District Court Northern District of California, 1988
- U.S. District Court Southern District of California, 1988

Representative Clients and Experience

- Layton Construction Company, LLC
- Schuff Steel Company
- RLJ Lodging Trust
- HNTB, Inc.

- Reliance Steel & Aluminum Co., Inc.
- Climatec Building Technologies Group

Professional Memberships

- Governing Committee member for the ABA Forum on Construction Law, 2017-2021
- American Arbitration Association, Mediator and Arbitrator
- LEGUS, an International Network of Law Firms, Advisory Board Member, 2008 – Present
- ABA, Forum on Construction Law, Chair of the Finance Committee, 2020-
- ABA, Forum on Construction Law Fall Marketing Committee, 2016-present
- Member, Trial Law Institute, 2021
- Fellow, Diversity Law Institute, 2021
- ABA, Forum on Construction Law Fall Meeting Program Co-Chair, 2014 Chicago IL
- ABA, Forum on Construction Law Division 12 Steering Committee, 2012-2017
- ABA, Forum on Construction Law, Member, 2010 – Present
- US Green Building Council (USGBC) Los Angeles Chapter, Member, 2009 – 2015
- Southern California Development Forum (SCDF), Member, 2009 – 2012
- Construction Finance Management Association (CFMA), Member 2007 - 2012; Board Member and Co-President, Los Angeles Chapter 2009 – 2011
- State Bar of California, Member, 1988 – Present
- Los Angeles County Bar Association, Member 1988

Speaking Engagements

- Speaker, ABA Forum on Construction Law - Fall Meeting (October, 2016); Topic: It's Getting Better All The Time: Best Practices in Presenting Delay Claims
- Moderator and Speaker, Gibbs Giden Annual Review Preview Construction Law Seminars (2006-2016)
- Speaker, Moss Adams, LLP Construction Industry Roundtable (Dec. 2010); Topic: Construction Law Discussion
- Speaker, ABA Forum on the Construction Industry - Annual Meeting (April 2010); Topic: Pre and Post Judgment Collection Remedies: Show Me The Money!

- Speaker, Construction Financial Management Association (Oct., Nov. 2009); Topic: Legislative and Case Law Update
- Speaker, Los Angeles County Bar Association (April 2009); Topic: Mechanics Lien's and Bonded Stop Notices and Their Uses in Tough Economic Times
- Speaker, AOD Conference West, Session 9 (May 5 -6, 2008); Topic: Overview of New Building Technologies: What Owners and Developers Should Know
- Speaker, Lorman Education Services (2004); Topic: Construction Liens and Other Construction Issues in California
- Speaker, Lorman Education Services (2000 – 2001); Topic: Public and Private Construction Law In California
- Speaker, Van Rylin Associates, Inc.: (1989 - 2000, 2003); Topic: California Lien Law
- Mr. Wittbrodt is a frequent speaker at numerous construction associations and organizations. He provides seminars on California construction law topics to various groups representing owner, developers, architects, engineers, contractors, sub-contractors, material suppliers and his representative clients (1989 – present).

Publications

- R. Wittbrodt (Co-Author) California Construction Law, 18th Ed. and 2020 Supplement (Wolters Kluwer Law and Business 2020).
- R. Wittbrodt Chapter 7, "Scheduling and Proof of Delay Claims," California Construction Law, 18th Ed. Supplement (Wolters Kluwer Law and Business 2020).
- R. Wittbrodt & K. Gibbs, Chapter 6, "Construction Claims," California Construction Law, 18th Ed. Supplement (Wolters Kluwer Law and Business 2012-2020).
- R. Wittbrodt (Co-Author and Update Author), Chapter 5, "Private Works Contracts: Disputes, Remedies for Breach of Contract," California Construction Contracts, Defects and Litigation, Continuing Education of the Bar (Cal. CEB 2009-2020).
- R. Wittbrodt (Co-Author) "It's Getting better All the Time": Best Practices in Presenting Delay Claims Bench Trial/Arbitration/Jury Trial, The Construction Lawyer, Fall 2017
- R. Wittbrodt, Sara H. Kornblatt, Michele A. Ellison, Applying *Lydig* to the Requirements for Requesting a Writ of Attachment, Los Angeles Lawyer, April 2016
- R. 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.
- R. Wittbrodt & K. Gibbs, Chapter 12, "Bankruptcy in the Construction Industry," California Construction Law, 17th Ed. and Update Supplement (Aspen Publisher 2011).
- R. 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.

- R. 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.
- R. Wittbrodt (Co-author), *Understanding Contractor Rights & Risks*, CFMA Building Profits Magazine for Construction Financial Professionals, March - April 2010.
- R. Wittbrodt (co-author), *Project Suspension: What Owners And Contractors Need To Know - NOW!*, Article/White Paper, CMAA Southern California Chapter Newsletter, Summer 2009.
- R. Wittbrodt, Chapter 11, "Termination," and Chapter 12, "Project Closeout," California Construction Law (HLK Global Communications, Inc., 2007).

Published Opinions

- *Lydig Construction, Inc. v. Martinez Steel Corporation*, Court of Appeal, Fourth Appellate District, Division One, (2015) 234 Cal. App. 4th 937
- *MW Erectors, Inc. v. Niederhauser Ornamental and Metal Works Company Inc., et al.*, (2006) 36 Cal.4th 412

Representative Matters

- Represented a general contractor on the construction of the \$200M acute-care medical facility under the jurisdiction of OSHPD. The matter involved a general contractor and multiple key subcontractors who asserted \$45M in claims as a result of owner caused breaches including construction delay claims, design issues, breach of contract, warranty of plans and specifications, prompt pay, and contract interpretation issues. The owner had asserted a claim of nearly \$10M in lost profits. The litigation consisted of the coordination of several key subcontractors and consultants in order to recover the damages sustained by owner and subcontractors and defeat the claims asserted by the owner. The large multiparty complicated litigation involving OSHPD, subcontractors, and experts. The matter was resolved in its entirety on the eve of trial.
- In a case of first impression in California, argued before the court of appeal *Lydig v. Martinez Steel* 234 Cal.App.4th 937, 184 Cal. Rptr. 3d 329 (2015) Martinez Steel defaulted and was terminated on the \$90M Adelanto Detention Center Expansion. Damages included scheduling impacts and cost overrun claims. Suit was filed by our client, general contractor Lydig Construction against Martinez Steel and its President. As a result of the firm obtaining a provisional writ of attachment remedy, Martinez Steel filed an appeal to the California court of appeal thus the trial was stayed pending the appeal. Further, another subcontractor on the project asserted a multi-million dollar claim against Lydig, partially as a result of the conduct of Martinez Steel. The Court of Appeal affirmed the trial court's orders in full, in favor Lydig Construction, holding that as a matter of law, Martinez Steel was required to establish the probable validity of the cross-claim it asserted in a construction claim

dispute in order to obtain the offset permitted by Code of Civil Procedure section 483.015, and that Martinez failed to do so.

- Represented the general contractor, the builder of a new hotel in San Francisco. Due to design issues and owner interference, the general contractor and some subcontractors were due in excess of \$14M. The owner claimed the general contractor was responsible for the delayed hotel opening and as a result incurred additional costs of \$8M. After three years of litigation the case was fully resolved in favor of the general contractor before a jury was empaneled.
- Represented a REIT that owns and operates hotel properties across the country. The REIT retained the services of a large general contractor in the US to refurbish two of its properties in San Francisco, CA and Houston, TX. Despite paying nearly \$30M combined, the hotel projects experienced major cost overruns and delayed openings with losses and claims exceeding \$10 million dollars. Retained to analyze the claims and bring the case to resolution before significant litigation costs were incurred.
- Represented the joint venture of two of the largest general contractors in the U.S. on the design-build expansion of a new correctional facility in San Diego. The matter was successfully resolved in favor of the client contractor prior to commencement of litigation.
- Represent hotel builders who are major contractors in the hotel renovation space. The firm is negotiating and drafting construction contracts for multiple hotel and hospitality renovations in support of the client's extensive business. With each construction project value typically \$20 million or more. The goal is to resolve the claims before or during litigation using the ADR process.
- Structural steel provider on the \$1.6-billion-dollar design build of a concourse modernization program at LAX. The general contractor failed to adequately manage the designer and its subcontractors causing steel provider to incur \$25 million in extra costs. The matter settled before litigation commenced.
- Defended general contractor in an action filed by a union and other plaintiffs to stop construction of the warehouse facility being built by a general contractor client. Plaintiffs filed for an injunction and expedited writ of mandate hearing. Defended the contractor against the claims of the union and other individual plaintiffs. Resolved the matter at mediation for the benefit of our client.
- Represented the general contractor in the deconstruction of a chip plant for a Fortune 500 chipmaker. Subcontractor had submitted a claim in the millions of dollars against our client. The matter was successfully resolved at mediation.

Honors & Awards

- Governing Committee member for the ABA Forum on Construction Law, 2017-present
- LEGUS, an International Network of Law Firms, Advisory Board Member, 2008 – Present
- Chambers USA, Key Individual, 2013, 2014, 2021
- The US Legal 500, Recommended Lawyer, United States, 2011-2016, 2019, 2020, 2021
- Fellow, Construction Law Society of America, 2021

- Richard J. Wittbrodt profiled and interviewed by Julie Schaeffer in American Builders Quarterly , View From The Top "*Lawyers Are Generally Risk Adverse*" January-March 2015
- Richard J. Wittbrodt, interviewed and quoted by Ameera Butt and Stephanie Vatz, Daily Journal Staff Writers, *Mechanics' Lien law changes go into effect*, Article, Los Angeles Daily Journal, June 29, 2012
- Richard J. Wittbrodt, interviewed and quoted by Jason W. Armstrong, Daily Journal Staff Writer, *More California Lawyers Get Green Credentials*, Article, Real Estate Supplement to Los Angeles and San Francisco Daily Journal, July 28, 2010
- Richard J. Wittbrodt, interviewed and quoted by Sue Pascoe, Palisadian - Post Staff Writer, *Attorney, Commercial Broker Earn Their LEED Certification*, Article, Business & Finance Section, Palisadian - Post, September 10, 2009
- Selected for inclusion by Los Angeles Magazine in *Southern California Super Lawyers* (2004, First Year Awarded, 2015-present).
- Guest Speaker before Arizona House of Representatives, Subcommittee on proposed amendments to Arizona's Statutory Remedies for the Construction Industry (December 4, 1997).
- Recipient, American Jurisprudence Awards in Corporations; Creditors Rights and Bankruptcy.