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MICHAEL J. ROBERTS, ESQ.

CONSTRUCTION DISPUTE RESOLUTION EXPERIENCE

“Mediation almost always results in settlement when a skilled and determined mediator is involved in the process. My personal mission is to 'go the extra mile' to insure settlement no matter what obstacles stand in the way.”

Mike Roberts has over 30 years experience in the litigation and mediation of construction disputes. During the past 20 years, he has served as a mediator, arbitrator, special master and discovery referee in over 2,000 construction disputes with aggregate settlements in excess of \$500 million. Mike is widely recognized for his expertise and resolve in settling difficult and complex construction cases.

REPRESENTATIVE CONSTRUCTION ISSUES MEDIATED AND ARBITRATED BY MIKE ROBERTS

- Disputes by and between owners, contractors, subcontractors, material suppliers, construction managers, design professionals and bonding companies
- Construction defect claims by Homeowner Associations and owners against developers and general contractors
- Commercial and public works projects including schools, shopping centers, hospitals, hotels, high rise office buildings, utility power plants, waste water treatment facilities, pipelines, highways, bridges, parking structures, flood control projects, and marine ship building and repair facilities
- Construction delays and disruption claims
- Change order and extra work claims
- Mechanics liens and stop notice claims on public and private works projects
- Architect and engineer errors and omissions
- Subcontractor bidding errors
- Mold exposure and remediation
- Insurance coverage disputes for construction related damages
- Soil movement arising from improper design, testing, grading or lack of lateral support
- Bidding and subcontracting disputes
- Steel fabrication and erection
- Underground storage tank and other environmental disputes
- EFIS and curtain wall systems
- Waste Water Treatment Plants
- Pipe manufacturing and supply
- Earthquake and structural damage

- Pools, ponds and water works projects
- Flood and drainage projects
- Public transportation projects
- AC and concrete paving
- Mechanical, electrical and plumbing
- Underground water proofing failures
- Obligations arising under indemnity, hold harmless, and additional insured agreements
- Withholding of payment issues and enforceability of “pay when paid” clauses
- Warranties regarding correctness of plans and specifications
- Anticipatory breach and contractor termination disputes
- Enforceability of “time is of the essence” and “no damages for delay” provisions

REPRESENTATIVE CONSTRUCTION CASES RESOLVED BY MIKE ROBERTS

- Construction defect case involving 150 home subdivision with significant damage arising from soil movement and cost of repair estimates in excess of \$25 million
- Construction defect action by HOA against developer and general contractor on mixed condominium and single-family project containing 500 units. Issues involved architectural, structural, drainage, HVAC, plumbing and electrical, structural and mold related damage. Case involved dozens of insurance carriers, attorneys and experts and numerous coverage, exhaustion, additional insured and shortfall issues
- Claims by architectural firm against school district for money owned in connection with construction of new high school and counter claims for negligent supervision by architects
- Construction defect action by HOA in connection with defective EFIS system and curtain wall on high rise condominium project
- Claims against contractor's bonding company arising from \$18 million earthquake damage claim to church and related facilities
- Construction claims of \$7.5 million by City against engineering contractor arising from failure to construct a 12-mile pipeline project in compliance with plans and in a workmanlike manner
- Mechanic's lien and payment bond claims related to construction of regional shopping center
- Design and construction failures of 200 post tension slabs constructed on expansive soils
- Construction claims for business interruption, loss of use and cost of repair to 100,000 square foot office building arising from soil subsidence against the original developer of industrial park lots
- Claims for over \$2 million in remediation costs and personal injury arising from mold damage caused by negligent repair of water main break
- Claims by structural steel fabricator against contractor on construction of Business School facility on UCLA campus. Issues involved negligent “take offs” and preparation of shop drawings by detailer
- Bad faith claims by homeowners against insurance company for negligent repairs to homes following Northridge Earthquake

- Dispute between owner, contractor, architects and construction manager concerning \$12 million in delay damages in connection with construction of senior retirement and long-term care facility
- Claims against developer of 400-unit Mobile Home Community for defects in construction and maintenance
- Claims by contractor against U.S. Navy arising from construction of 150 military housing units
- Construction disputes between owner and contractor in connection with construction of cogeneration power plant
- Architect and structural design errors and omissions arising out of construction of Palm Springs hotel and convention center
- Design and workmanship claims arising from inadequate HVAC system in connection with the construction of a community college facility
- Design and construction claims arising out of construction of wastewater treatment plant for public sanitation district
- Class action by over 100 homeowners in two separate lawsuits involving sulfate damage to concrete slabs
- Design, construction, structural engineering deficiencies and delay claims arising out of construction of \$12 million dollar single-family residence in Los Angeles
- Flood damage claims in Riverside against numerous developers of residential communities and flood control district

ACTIVITIES AND HONORS

- Full time mediator, arbitrator, special master and discovery referee since 1993. Mediation Offices of Michael J. Roberts, 1993 to 2002; JAMS, 2002 to 2005; and, ADR Services, 2006 to Present.
- Fellow, International Academy of Mediators, 1997-present
- Member CPR Panel of Distinguished Neutrals, Los Angeles
- Member, Construction Mediation Panel, United States Arbitration and Mediation, Inc., 1990-1996
- Chairperson of the Construction Industry Advisory Committee of the American Arbitration Association, 1989-1990
- Member, San Diego Chapter of Associated General Contractors of America, 1980-1992
- Senior litigation partner in major San Diego law firms specializing in construction and real property matters, 1974-1993

SPEAKING ENGAGEMENTS

Frequent speaker at various legal and industry seminars on subjects relating to construction disputes including:

- *Innovative Representation of Clients In Construction Defect Litigation: A View from a Special Master*
- *Alternatives to Litigation in the Construction Industry*
- *Effective Management of Construction Litigation Through Case Management Orders*

- *Preparation for Construction Mediation*
- *Mediating and Arbitrating Construction Disputes*
- *Mediating The Complex Multi-Party Construction Dispute*, ABA Dispute Resolution Section Conference, Atlanta, 2006
- *Creative Strategies For Handling Construction Defect Claims In California*, Lorman Educational Services Seminar, 2002
- *California Construction Defect Claims*, 2000
- *Issues of the Additional Insured” and “Economic Loss: What is it and how to Deal with It?*, West Coast Casualty’s Annual Construction Defect Seminar, 2000
- *The Great Debate: Current Issues Affecting The Resolution of Construction Defect Disputes*, West Coast Casualty’s Annual Construction Defect Seminar, 1999
- *Mediating Complex Multi-Party Construction Disputes*, International Academy of Mediator’s Spring Educational Conference, 1998
- *Mediation Panel on Construction Defects*, West Coast Casualty’s Fifth Annual Construction Defect Seminar, 1997
- *Mediation - What's A Contractor To Do?*, Las Vegas Construction Show, 1996
- *Taking the Mystery Out of Construction Defects*, Construction Defect Seminar sponsored by San Diego Daily Transcript, 1995
- *A Mediator's Point of View...Do's and Don'ts For Architects In Construction Disputes*, Society of American Registered Architects, 1995
- *Getting the Most Bang for Your Buck in Construction Defect Cases From the Mediator's Point of View*, West Coast Casualty's Third Annual Construction Defect Seminar, 1995
- *California Construction Law*, National Business Institute, 1991

REFERENCES AVAILABLE UPON REQUEST