



ERICH R. LUSCHEI, *Senior Attorney*

Orange County Office

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Erich R. Luschei represents and has represented private and public owners, design professionals, contractors and subcontractors in complex disputes and transactional matters for over 35 years. His matters have included some of the largest and most difficult design and construction projects in Southern California, including bridges, fireboats, subways and stations, freeways, pipelines, light rail, flood control facilities, power plant projects, hospitals and school buildings for some of the largest project owners in Southern California.

The matters Mr. Luschei handles typically present difficult and novel legal theories and law, as well as specialized and unique forms of dispute resolution, such as the emergent use of evaluative mediation. Most of the matters he handles include difficult issues involving schedule and delay, disruption and productivity impacts, acceleration and interference, compliance with specialized regulatory requirements, design errors and omissions, defective specifications, subcontractor and supplier management and integration, cumulative impacts from multiple interrelated events, and similar issues requiring expert witnesses for analysis and testimony in many different technical areas. Because of his work for public agencies throughout his career, he also is highly experienced and well versed in public law, including public procurements, bid protests, open meeting and public records laws, chartered cities and counties, false claims, stop notices, mechanics liens, payment and performance bonds, and the large array of statutes and regulations that apply to design and construction of public projects.

REPRESENTATIVE MATTERS

Recent Construction Litigation Experience

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Representing the San Bernardino County Transportation Authority in complex litigation on the I-10 Corridor, Section 1 project involving design builder claims for delay, disruption, acceleration and numerous asserted changes for disputes alleged to exceed \$250 million. (2023-present)

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Represented the Los Angeles Metropolitan Transportation Authority in disputes by design builder over \$675 million in claims for delay, disruption, acceleration, differing site conditions and changes involving broad range of disciplines, including civil, electrical, systems and other work on an 8-mile light rail and subway project. (2021-2023)

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Represented the City of Long Beach as project counsel for the \$1.5 billion Gerald Desmond Bridge Replacement Project in connection with regular and ongoing advice and consultation and major claims involving disputes relating to design, specifications, construction, labor, materials, quantum and schedule disputes, including extensive proceedings before a three-member disputes review board and related litigation. (2017–2022)

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Represented the City of Long Beach in connection with litigation arising from the construction of two new state of the art fireboats for use at the Port of Long Beach. The case involves a claim for more than \$10 million in liquidated damages by the City and over \$30 million in claims by the contractor, including more than a dozen claims for additional time and compensation for asserted City-caused delays, disruptions, design changes and responsibility, extra work, submittal reviews, approvals and inspections. (2016–2021)

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Represented the Los Angeles Metropolitan Transportation Authority in litigation brought by contractor responsible for I-405 HOV expansion and infrastructure improvement project involving over \$400 million in claims asserted by contractor involving dozens of major issues relating to delay, acceleration, disruption and schedule. (2014-2017)

Other Construction Litigation Experience

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Represented large public transportation agency on the Exposition Light Rail Transit Project in disputes between the owner and contractor in Dispute Review Board proceedings, delays, schedule recovery and disputed change orders.

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Represented major school district in dozens of construction cases, including new school construction and renovation of existing school structures, arising from multi-billion dollar construction program, including disputes with general contractors, subcontractors, architects and engineers, construction managers, sureties and insurers on a wide range of issues.

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Represented major community college district in numerous litigation matters arising from construction and renovation of facilities pursuant to \$6 billion construction program.

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Represented design engineer responsible for 500-megawatt combined cycle power plant in lawsuit brought by contractor against owner and design engineer for \$20 million in extra costs.

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Represented operator of oil concession in \$20 million dispute involving defective welds, delays and extra work in construction of 12-mile underwater pipeline.

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Represented purchaser of major construction and engineering firm in litigation and arbitration of \$600 million purchase price adjustment relating to valuation of and accounting for large projects throughout the world, including power plants, dams, infrastructure and industrial projects.

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Represented public owner in \$100 million subway construction litigation involving contractor claims for extra compensation related to asserted differing site conditions, defective specifications, delay and need for extensive chemical grouting program.

Construction Contracting Matters

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Presently representing the Los Angeles County Metropolitan Transportation Authority in connection with a major project involving its procurement processes, including revisions to its acquisition policies and procedures and its templates for requests for proposals and bidding documents for construction contracts (design-bid-build and design-build) and services (fixed price, cost reimbursable, IDIQ and time and materials).

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Presently representing Los Angeles World Airports in connection with procurements and contracts for Multiple Award Contracts for design build, construction and alternative delivery of projects for airport expansion and in preparation for World Cup and Summer Olympics.

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Represented numerous other public and private entities in developing the complete range of construction transactional documents for new building programs, including design build, CMAR/CMGC and construction contracts, and related agreements and transactional documents.

PROFESSIONAL RECOGNITION

Recent Publications

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Co-author, Stipulated Sum Contracts – Owner’s Considerations, American Bar Association Construction Checklists: A Guide to Frequently Encountered Construction Issues (August 2008)

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Co-author, Prequalification of Contractors by State and Local Agencies: Legal Standards and Procedural Traps, 27 Const. Law 21 (Spring 2007)

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Co-author, Price Escalation and Financial Hardship Clauses: Contractual Approaches to Dealing with Hyperinflationary Market Conditions, 2006 Const. Law Update (Aspen 2006)

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Co-author, Hardship Clauses in Fixed Price Construction Contracts, Construction Superconference Program Materials, Session 613 (Dec. 2005)

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Co-author, Prequalification Programs: The Key to the Public Contract Door, Construction Briefings (West June 2004)

SPEAKING ENGAGEMENTS

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California Construction Law Conference, Presenter, "State and Federal Law Update" (Marina Del Ray, April 10, 2025)

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California Construction Law Conference, Presenter, "State and Federal Law Update" (Marina Del Ray, March 21, 2024)

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Solving Problems During the Construction Process, Presenter, "Making Ordered Changes," "Managing Construction Changes," and "Managing Costs" (HalfMoon Education Live Webinar October 30, 2023)

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Solving Problems During the Construction Process, Presenter, "Handling Scheduling Problems," "Managing Construction Changes," and "Managing Costs" (HalfMoon Education Live Webinar June 21, 2023)

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California Construction Law Conference, Presenter, "State and Federal Case Law Update" (Santa Monica March 8, 2023)

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California Construction Law Conference, Presenter, "State and Federal Case Law Update - New Developments in Construction Law" (Santa Monica, May 2022)

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California Construction Law Conference, Presenter, "State and Federal Case Law Update - New Developments in Construction Law" (Webinar April 2021)

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California Construction Law Conference, Presenter, "New Developments in California Construction Law" (Santa Monica March 2019)

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"State and Federal Case Law Update - New Developments in Construction Law" (Santa Monica, January 2017)

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Construction CPM Conference, Presenter, "Presentation and Negotiation of Delay Claims in Public Contracting" (San Diego, January 2015)

- > Construction CPM Conference, Presenter, "Admissible Evidence - Will the Judge let you speak?" (San Diego, January 2015)
- > County Counsels' Association of California Public Works and Contracts, Spring 2014 Study Section Conference, "Emerging Issues in Public Construction" (San Diego, May 2014).

NEWS

- > Kevin Dorse and Erich Luschei Presented at the California Construction Contract Seminar in Irvine

MEMBERSHIPS & ASSOCIATIONS

- > American Bar Association

PRACTICE AREAS

- > Business and Commercial Litigation
- > Construction
- > Corporate and Transactional
- > Appellate

ADMISSIONS

BAR ADMISSIONS

- > California

COURT ADMISSIONS

- > Ninth Circuit Court of Appeals
- > United States District Courts for the Eastern, Central and Southern Districts of California

EDUCATION

- > Loyola Law School, Los Angeles, 1986 J.D.,
 - > *cum laude*
 - > Law Review - Notes & Comments Editor
 - > St. Thomas More Law Honor Society
- > University of California, Santa Barbara, 1982 B.A.,
 - > BA in Sociology with honors and distinction