**Edward Lozowicki**

**Arbitrator and Mediator**

**Legal Career**

\* Full-time Arbitrator and Mediator, 2013-current (Part-time since 1983)

\* Partner, Sheppard Mullin Richter & Hampton LLP, 2005-12 & Of Counsel, 2013-16

\* Partner, Coudert Brothers LLP, 1995-2005

\* Partner, Pettit & Martin LLP, 1978-95

\* Senior Counsel, Owens-Corning Fiberglas Corporation, 1971-78.

**Legal Experience**

LITIGATION AND ARBITRATION: Over 40 years experience as trial counsel litigating and arbitrating construction, energy, real estate, employment and commercial disputes. Served as panel chair, panel member or sole arbitrator in many arbitrations involving same fields of law. Acted as counsel or mediator in same fields of law. Tried numerous cases before federal and state courts, juries, arbitration tribunals, and administrative agencies, some with damages in high eight figures. Prior to private practice was corporate counsel for an international corporation representing it in construction claims, energy cases, commercial and employment matters.

CONSTRUCTION: As trial counsel litigated or arbitrated claims for delay, disruption, acceleration, extra work, differing site conditions, construction defects, default termination, equitable adjustments, mechanics lien and bond claims, bid protests, "Spearin Doctrine" claims, prevailing wage and False Claims Act allegations. Negotiated and litigated contracts on major projects such as the Trans-Alaska Pipeline, the Haj Pilgrimage Terminal, the CEM Zinc Mining Facility, and Santa Clara Hall of Justice. Represented clients in international arbitration of claims on infrastructure projects under ICC, ICSID and CIETAC rules. Negotiated cost-plus, design-build, EPC, GMAX, turnkey, public-private partnerships (P3), and other forms of contracts. Advised clients on regulatory issues such as OSHA citations, Davis-Bacon compliance, and environmental regulations. Project experience includes highways, bridges, tunnels, prisons, hospitals, universities, oil refineries, chemical plants, pipelines, power plants, condominiums, shopping malls, office buildings, residential subdivisions, and luxury homes.

ENERGY & UTILITIES: As trial counsel litigated issues such as contract termination, plant de-rating, price escalation, "claw back" provisions, output ("take or pay") clauses, and unfair competition. Represented clients in gas and electric ratemaking and rule-making cases before Public Utilities Commission. Negotiated power purchase, wheeling, fuel purchase and interconnection agreements. Advised clients on PUC and FERC regulations, tariffs of the ISO, and permit requirements. Relevant projects included fossil, nuclear, geothermal, solar, wind, biomass, cogeneration, LNG, CNG and hydroelectric plants.

REAL ESTATE: Litigated as trial counsel issues including breach of contract, specific performance, rights of first refusal, options, joint venture disputes, commission claims, and defense of mechanics lien and stop notice claims. Negotiated purchase and sale agreements, leases, letters of intent and joint venture agreements.

COMMERCIAL: Litigated as trial counsel such issues as contract termination, breach of warranty, UCC security interests, unfair competition, letters of credit, injunctions, specific performance, trade secrets, business fraud, interference with prospective economic advantage and other business torts. Negotiated vendor-purchaser, marketing and license agreements, purchase orders and other commercial agreements.

**Alternative Dispute Resolution Experience**

Member of the following Panels:

\* American Arbitration Association (AAA) (1983-current): Large Complex Case, Construction, Commercial, Energy and Real Estate, Panels

\* Financial Industry Regulatory Authority (FINRA), Public Arbitrator Panel

\* International Institute for Conflict Prevention and Resolution (CPR), General Commercial Panel

\* California Office of Administrative Hearings, Public Works Contract Arbitration Panel

Over 35 years’ experience as Panel Chair, panel member or sole arbitrator in numerous construction, commercial, energy and real estate cases through hearing and award such as:

\* ***Cogeneration Plant****,* Chair of panel in dispute over tax and contract issues between the Seller and Purchaser

\* ***Biomass Power Plant*,** Panel Chair in dispute regarding performance guaranty and rescission

\* ***Energy Marketing Contract*,** Panel Chair on dispute over termination of power supply contract between Energy Service Provider (ESP) and customer

\* ***Light Rail Subway*,** Panel member in dispute over claims and counterclaims involving tunnel-boring machines (TBM)

\* ***Joint Venture Contract***, Sole arbitrator in dispute over real estate development losses between joint venture partners

\* ***County Medical Center***, Sole arbitrator in dispute over claims for lost profits between parties to a Teaming Agreement

\* ***Industrial Building Lease,*** Sole arbitrator in disputes between seller and buyer regarding exercise of option to purchase real estate and related damages

\* ***Gas Fired Merchant Plant,*** Panel member in dispute over termination and damages between EPC contractor and subcontractor

\* ***Shopping Mall*,** Panel member in dispute between owner/builder and contractor regarding claims for delay, disruption and acceleration

\* ***Juvenile Detention Center***, Sole arbitrator in dispute over claims and damages for unpaid change orders, delay, disruption and acceleration

\* ***Geothermal Power Project****,* Sole arbitrator in contract termination dispute between owner and developer of geothermal wells

\* ***Big Box Superstore***, Sole arbitrator in dispute between general contractor and subcontractor regarding termination and construction defects

\* ***Luxury Residence***, Sole arbitrator in dispute between owner, general contractor and subcontractors regarding claims and cross-claims for construction defects

\* ***Shopping Center***, Sole arbitrator in dispute over change in site conditions and multiple change orders between contractor and developer.

**Professional Licenses**

\* Admitted to the Bar: California, 1970 \* U.S. District Court, Northern, Central, Southern and Eastern Districts of California, 1974 \*  U.S. Court of Appeals, Ninth Circuit, 1984 \* All state courts in California.

**Professional Associations**

\* Fellow, College of Commercial Arbitrators

\* Fellow, Chartered Institute of Arbitrators

\* Fellow, Construction Lawyers Society of America

\* Co-Chair, Arbitration Committee, ABA Dispute Resolution Section (2017-2019)

\* Member, Governing Council, ABA Dispute Resolution Section

\* ABA Construction Industry Forum (ADR Division)

\* Past Chair, Legal Advisory Committee, AGC of California

**Awards and Honors**

\* Distinguished Service in Pursuit of Justice Award, St. Thomas More Society

\* Recommended Lawyer for Construction Law, PLC Which Lawyer

\* Adjunct Professor of Alternative Dispute Resolution Law, School of Law, Santa Clara University

\* Who's Who Legal: California.

\* Rated AV-Preeminent, Martindale Hubbell

**Education**

\* St. Joseph's University (AB) \* Santa Clara University (JD).

**Alternative Dispute Resolution Training**

\* AAA Construction Conference, Techniques for Managing the Growing Complexities of Construction Disputes, 2019

\* AAA Construction Conference, Adapting Dispute Resolution Strategies to Today’s Complex Construction Projects, 2018

\* ABA 10th Annual Arbitration Training Institute, 2017 (Faculty)

\* AAA Construction Conference: Navigating the Unique Aspects of Construction Arbitration, 2017

\* AAA International Arbitration Summit, 2016

\* AAA Consolidation and Joinder In Construction Arbitration: Ignorance Is Not Bliss, 2016

\* AAA Clarity in Award Writing, 2016

\* AAA/ICDR Mediation.org Panel Conference, 2016

\* AAA Arbitrator Use & Misuse of Experts, 2015

\* AAA Crossing the Line: New Developments in the Law of Arbitral Jurisdiction, 2015

\* AAA Roundtable - Arbitration Panels, 2015

\* AAA Developments in Arbitration Law: Testing the Boundaries of Court Intervention, 2015

\* AAA Sanctions in Arbitration: Everything You Might Not Know that You Should Know, 2015

\* AAA Handling Pro Se Parties in Arbitration, 2015

\* AAA Construction Conference – Keeping Arbitration Lean, 2015

\* AAA Damages for Neutrals, 2014

\* AAA E-Discovery 2.0, 2014

\* AAA Guided Choice: Innovations in Mediation to Get Better Settlements at Less Cost, 2014

\* AAA "Exceeded Powers": Recent Trends in Challenging Arbitrator Authority, 2014

\* AAA Managing the Costs of Exchanging ESI, 2013

\* AAA Essential Mediation Skills for the New Mediator, 2013

\* AAA What's a Respondent Like You Doing in a Place Like This?

Confronting Arbitrability and Jurisdiction Issues in Arbitration, 2013

\* AAA Managing the Arbitration Process for Efficiency & Economy Following the Preliminary Hearing, 2012

\* AAA Maximizing Efficiency & Economy in Arbitration: Challenges at the Preliminary Hearing, 2012

\* AAA/AGC, Maximizing Mediation: How to Use Mediation Effectively to Resolve Disputes and Obtain Good Results, 2012

\* AAA Best Practices in Franchise Arbitration, 2011

\* AAA Dealing With Delay Tactics in Arbitration, 2009

\* Various other ADR training, 1981-2007.

**Publications and Speaking Engagements**

BOOKS

\* *Binding Arbitration of Contract Disputes in California*, American Arbitration Association, 1988

\* *Mechanics Liens, Construction Bonds and Stop Notices*, Sheppard Mullin, 2012

\* *"Energy Contracts: Negotiating Strategies for Added Value,"* Energy Law Client Strategies: Leading Lawyers on Litigation, Negotiation and Industry Regulations, Aspatore, 2007

\* *"Contracts, Claims, and Dispute Resolution,"* Construction Accounting Deskbook, CCH, 2005

\* *Presenting and Defending Construction Claims in California,* Lorman,2004

\* *Design-Build/Turnkey Construction in California,* Lorman 2002

ARTICLES

\* “*Second Circuit Reaffirms Manifest Disregard As Ground for Vacature*,” New York Dispute Resolution Lawyer, 2017

\* *"American Arbitration Association Revises Construction Arbitration Rules,* ABA Litigation Section, Alternative Dispute Resolution Newsletter, 2016

\* *"Parsing Arbitration Provisions in Construction Contracts",* Law 360, 2012

\* *"Special Advisory: New Mechanics Lien Act in California",* Sheppard Mullin, 2012;

\* "*A Model Litigation Plan for Construction Claims",* Managing Construction Litigation, Aspatore 2009

\* *"Public Private Partnerships and Public Works Law"*, Construction Superconference, 2008

\* *"Can the Spearin Doctrine Survive in a Design Build World"*, Journal of the American College of Construction Lawyers, Winter 2008

SPEAKING ENGAGEMENTS:

\* *Revamping Arbitration To Meet Client Needs*, ABA Dispute Resolution Section Spring Conference, 2019

\* *Dispelling the Myths of Arbitration*, ABA Webinar, 2019

\* *Does the Arbitrator Have Jurisdiction and Who Decides*, ABA Dispute Resolution Section Spring Conference, 2018

\* *Award and Post Award Issues*, ABA Arbitration Institute (Faculty), 2017

\* *Tricky Business: Avoiding Pitfalls in Drafting Awards*", ABA Dispute Resolution Section Spring Conference, 2017

\* *Dispositive Motions in Arbitration,* ABA Dispute Resolution Section Spring Conference, 2016

\* *Game-Changing Cases in Arbitration: Impact on Construction Claims,* AAA Webinar, 2015

\* *Dispositive Motions in Commercial Arbitration,* AAA, 2015

\* *Recent Developments in Arbitration Law and Impact on Commercial Cases,* AAA, 2014

\* *"Recent Developments in Arbitration Law and Impact on Construction"*, AGC of California 2013

*\* "Impacts of Senate Bill 474 on Indemnity Agreements"*, Aon Risk Services 2012

\* *"Pitfalls of Public Works Contracting"*, Sheppard Mullin 2010

\* *"Public Private Partnerships: The New Wave in Infrastructure Construction"*, Construction Superconference 2008

\* *"Mechanics Liens, Stop Notices and Construction Bonds: Special Remedies in California,"* Associated Builders & Contractors Seminar, 2007

\* *"Defective Specifications: Can the Spearin Doctrine Survive In A Design-Build World,"* CLE International Public Works Seminar, 2007

\* *"Presenting and Defending Construction Claims in California,"* Lorman Education Services, 2004

\* *"Turnkey Contracts vs. The Implied Warranty of Specification Suitability: Allocation of Risks for Defective Specifications,"* Center for International Legal Studies, 2004

\* Other seminars and conferences on arbitration, energy and construction law, 1980-2003.

PUBLISHED APPELLATE DECISIONS: \* *Morris v. Horton*, 27 Cal. Rptr. 2d 585 (1994) \* *Owens Corning Fiberglas Corp. v. Center Wholesale, Inc*., 788 F.2d, 541 (1986) \* *In Re Center Wholesale*, 759 F. 2d 140 (1985) \* *Nickinello v. Roberson*, 23 B.R. 804 (1982).

**Contact**

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