BURKE, WILLIAMS & SORENSEN, LLP



David J. Hyndman

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David Hyndman maintains a practice with two complementary sides: a transactional and construction contracting practice, and a commercial litigation practice focused on construction disputes and related matters. He represents public and private entity clients across a wide range of projects, including EPC contracting, construction management, public works projects, and other complex construction matters. David is admitted to practice in both California and Wisconsin.

In his transactional practice, David regularly counsels public and private entity clients on construction project documents that set the ground rules for projects of all kinds. He works comfortably across a range of procurement and delivery models — from traditional bid awards to design-build, and other alternative structures. His drafting work extends to agreements engaging architects, engineers, and other design professionals and others. He also prepares the broader suite of documents these projects require, including agreements for complex construction work, license agreements, professional services agreements, and easement agreements, among others, and he guides clients through the negotiations that shape them.

On the litigation side, David represents clients in construction and commercial disputes and general litigation matters. His experience includes evaluating and resolving claims and disputes involving water processing plants, power plants, roadways, schools, hospitals, tunnels, and airports, among other facilities. Over the course of his career, he has represented clients in jury trials, arbitrations, and mediations.

David also has significant experience implementing efficient and effective procedures for managing pretrial discovery in complex cases. This has frequently included managing document-intensive e-discovery and electronic database issues, including implementing cost-effective protocols for the review and production of millions of paper and electronic documents, as required by and in compliance with current and evolving federal and state rules.

PRACTICES

Construction Law

Litigation

Public Law

EDUCATION

J.D., University of Wisconsin Law School, 1996

B.A., Political Science and French, University of California, Los Angeles, 1990

ADMISSION

State Bar of California

State Bar of Wisconsin

United States Court of Appeals for the Ninth Circuit

United States District Court for the Central District of California

United States District Court for the Eastern District of California

United States District Court for the Northern District of California

United States District Court for the Southern District of California

AFFILIATIONS

Alameda County Bar

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Association
American Bar Association
Bar Association of San Francisco

PUBLICATIONS

Electronic Discovery in Construction Disputes – Pitfalls for the Unwary

Essential Risk Shifting Provisions in Construction Documents

REPRESENTATIVE MATTERS

- **Project Contracting**. Represent project owners across range of construction and development matters; drafts agreements with prime contractors on commercial, municipal, and institutional projects; negotiate and prepare owners' agreements with design professionals, design-build firms, construction managers, and owner's representatives; guide clients through complex projects from initial contracting through completion.
- **Surface Water Treatment Project**. Member of team that represented EPC contractor in litigation involving multi-party claims valued in excess of $50 million.
- **Airport Runway Construction Project**. Represented client with disputes involving claims exceeding $10 million and involving complex issues of design, construction and concrete placement in an FAA-sponsored airport expansion project. Arbitration proceeding resulted in award to client.
- **Municipal Utility Project**. Co-counsel in jury trial with favorable verdict to client regarding municipal utility project. Prepared and participated in all aspects of pre-trial case and jury trial, including percipient and expert depositions, jury selection, motion practice, witness and case presentation, jury instructions up to final verdict after six week trial.
- **Toll Road Project**. Member of four-attorney trial team representing EPC contractor in complex litigation involving panoply of multi-party claims and counterclaims exceeding $1.0 billion. Participated in all aspects of case preparation, including motion practice, percipient and expert witness depositions, and presentation at arbitration in multi-phased proceedings. Successful in defeating over $100 million in claims and in establishing validity of over $145 million in client's claims.
- **Vineyard Development Project**. Co-counsel for plaintiff in jury trial of contract dispute involving nationally-known winemaker, in defense of counterclaims brought by vineyard developer for additional compensation outside of oral contract.
- **North American Power Plant**. Member of five-attorney trial team that represented a major EPC contractor in disputes involving in excess of $500 million arising out of the design, construction and commissioning of a major EPC combined cycle co-generation power facility. Participated in all aspects of case preparation, including motion practice, percipient and expert witness depositions, and presentation at arbitration. Successful defense of $450 million in claims against client in year-long proceeding.

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- **European Wastewater Treatment Plant**. Involved in representing international EPC contractor in multi-million dollar disputes over large European wastewater treatment plant project. Favorable settlement for client before trial in international proceedings.
- **Middle Eastern Power Plants**. Part of trial team that represented major EPC Contractors in disputes involving megawatt Combined cycle, Co-Generation Gas Fired and Oil Fired Power Facilities in Middle East, including discovery and evaluation of delay, disruption and performance issues. Defense of client in multiple district court actions brought by owner seeking over $50 million.

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