



HON. JOHN ZEBROWSKI

Los Angeles Superior Court (Ret.)

California Court of Appeal (Ret.)

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PROFESSIONAL PRACTICE

Arbitration and mediation, mostly arising out of business contracts or business operations, and related matters.

ARBITRATION AND MEDIATION EXPERIENCE

Full-time arbitration and mediation practice since leaving the Court of Appeal in 1999 (approximately 22 years). Encompassing commercial contracts, real estate, insurance, finance, securities, entertainment, partnership and corporate disputes, employment and related matters.

OTHER ADR-RELATED EXPERIENCE

In addition to arbitrations and mediations, Justice Zebrowski's ADR practice has included a special master assignment marshalling assets and winding-up a failed insurer; a provisional directorship during liquidation of a family corporation holding numerous class B and C commercial properties in Southern California; appellate, major motion, and mediation strategy consultations; mock arbitrations; moot court exercises; discovery references; and similar matters.

ADR SERVICES, INC.

Justice Zebrowski conducts his practice with the assistance of ADR Services, Inc. In almost all circumstances, ADR Services, Inc. can provide appropriate case venue with necessary technical support, either physical or virtual, including Zoom or other specialized venues to meet specific circumstances (e.g., conducting mediations outdoors during the pandemic).

PROFESSIONAL EXPERIENCE

- California Court of Appeal, Associate Justice, 1995-1999.
- Los Angeles Superior Court, Judge and Judge *Pro Tem*, 1982-1995 (13 years of civil assignments, as opposed to criminal).
- USA Petroleum, Assistant General Counsel, 1981-1982.
- Private Practice; McCutchen, Black, Verleger & Shea; Alschuler, Grossman & Pines, 1975-1981.
- United States Department of Interior, Legislative Assistant, 1972-1975.

OTHER EXPERIENCE

- California Law Revision Commission, Member 2008-2009, Chair 2010.
- State Bar Lis Pendens Committee, drafted code commentary that now appears in annotated code.
- BAJI Committee (Civil Jury Instructions), 2005-Present.
- Loyola Law School (Los Angeles), Adjunct Professor, 1987-1993.

- Contributor to yearly edit of Rutter Group, Civil Procedure Before Trial, 1984-1991.
- Attended California Judicial College twice; attended NYU Appellate Judge training twice.
- In the 1980s held a California real estate broker's license; arranged several sale and financing transactions.

EDUCATION

- J.D., Georgetown University Law School, 1975, Member of Law Journal.
- B.A. with Honors, University of Pennsylvania (Philadelphia), 1970.

REPRESENTATIVE CASE SUMMARIES

BUSINESS, COMMERCIAL CONTRACTS, FINANCE, AND SECURITIES

- Securities claims arising out of sale and purchase of derivatives designed to monetize concentrated equity positions without liquidation of stock holdings or payment of capital gains taxes; issues of valuation of options, negligence, contract, limitations statutes, etc.
- Dispute over executive compensation contract tied to stock performance; issues of damages, valuation by regression analysis, legal ethics, breach of contract, etc.
- Contract dispute over whether imported products complied with specifications; issues of ASTM specs, measure of damages, mitigation, etc.
- Dispute among commercial real estate lender, commercial borrower, and guarantors; issues of default, foreclosure, bankruptcy, guaranties, UCC issues, calculation of cure amount, etc.
- Dispute regarding contract for licensing and exploitation of apparel trademark; issues of contract interpretation and compliance, real party in interest, powers of agent, damages, etc.
- Legal malpractice claim following large losses on securities investments; issues of fraud and negligent misrepresentation, scope of duty, etc.
- Fraud claims arising out of promotion of securities investment fund; issues of negligent or fraudulent management, etc.
- Contract dispute arising out of delays in construction of multi-hundred-million dollar oil refining support facilities caused by protracted environmental reviews.
- Disagreement over outside sales commissions for sales of advanced-tech diagnostic devices; issues of contract, fraud, patents, patent licenses, bankruptcy, foreign enforcement of judgment, etc.
- Claim of failure to pay for large order of foreign-sourced and imported goods; issues of contract, alter ego, fraudulent conveyance, etc.
- Dispute over buy/sell contract for ongoing business; issues of valuation, minority discounts, executive compensation, etc.

- Dispute over performance of commercial software replacement/upgrade contract; issues of SOW, deliverables, compliance with contract specs and procedures, etc.
- Contract dispute over development of commercial website; issues of compliance with SOW, contract construction, ownership of work product, damages, etc.
- Dispute over consulting work intended to guide development of large institutional computerized accounting system; issues of SOW, compliance with specs, breach of contract, damages, etc.
- Financial and contract disputes arising out of multi-million dollar tax-credit funded low-income housing project; issues of contract compliance, etc.
- Dispute between independent physician's association and medical laboratory testing company regarding obligation to pay for lab tests ordered by doctors, issues of contract, statutory requirements, etc.
- Dispute arising out of refuse collection and disposal franchise agreement; issues of construction of municipal ordinances, interpretation of contracts, etc.
- Fee dispute arising out of consultation services regarding public funding of hospital operations.
- Allegations of defects in solar panels and in installation of solar panel systems and system components; issues of contract, warranty, tax credits, landowner liability, insurance coverage, etc.
- Control and management dispute over large multi-family multi-component enterprise; issues of interpretation of contract and enterprise governance issues, valuation, remedies, damages, etc.
- Control and management dispute over single-family multi-component enterprise; issues of governance, remedies, interpretation of operating agreements, etc.
- Many cases involving claims of misappropriation of trade secrets, often allegedly by voluntarily departing or terminated employees, and/or violations of covenants not to compete.
- Dispute over accounting for and distribution of profits from major motion picture.
- Appellate consultation regarding claim of idea theft involving major motion picture.
- Corporate promoter raised funds from private investors, then set up his own sourcing companies to purchase materials and sell to the corporation at a mark-up, diverting most of the corporate profit to himself; issues of corporate and partnership law, contracts, fiduciary duties, damages, etc.
- Valuation of \$100 million plus real estate company for purposes of effecting a buy-sell; equitable legal issues, business and real estate appraisal methodology, corporate governance, etc.
- Commercial shipping dispute involving issues of cargo damage, overbilling, reversal notifications, shipping tariffs, etc.
- Contractual indemnity/release dispute arising out of sequential collision of three large aircraft on the ground at an airport.
- Contract dispute regarding fuel pipeline easements running beneath railroad tracks.

- Mediation of class action alleging false designation of contents on food items.
- Mediation of class action alleging false designation of ingredients on restaurant menus.
- Contract dispute arising out of multi-state mining contract. Issues of choice of law, contract interpretation, mining output measurement, statute of limitations, etc.
- LLCs with overlapping, but not identical, memberships developed several parcels into a residential/retail complex that was functionally one development, but did not have identical ownership. Claims of contract interpretation, breach of fiduciary duty, self-dealing, derivative claims, damage calculations, etc.
- Dispute arising out of executive employment contract for company providing assistance to hospitals regarding Medicare and other payment collections. Issues of contract interpretation, accounting, breach, wrongful termination, constructive termination, etc.
- Commission or performance payment dispute arising out of contract to assist hospitals in recovering government medical care payments. Issues of contract interpretation, breach, damages.
- Claim by executive employ terminated without cause in RIF that stock option expiration dates had been misrepresented by employer, causing in-the-money options to expire unexercised per the terms of the option plan. Issues of negligent misrepresentation, indemnity, calculation of damages, comparative fault, etc.
- Claim by unit of large restaurant chain that landlord violated lease by failing to meet air conditioning specifications. Issues of contract interpretation, measurement of lease compliance, damages, specific performance, etc.
- A group of investors, via several interlocking LLCs, invested in several multi-family residential rental properties. Different groups of investors managed different properties. After a period of years, disputes arose regarding management of the properties, with each side contending that the other was self-dealing, committing fraud, etc. Issues of cost allocation, contract interpretation, fraud, fiduciary duty, accounting, etc.
- After a major theatrical motion picture was released, disputes arose over alleged misdirection of streams of income, misallocation of receipts, mischaracterization and misallocation of costs, etc. Resolved in lengthy arbitration.
- A large cosmetic order somehow became contaminated by microbiologic organisms. Issues of materiality, scope of damage, mitigation, etc.

INSURANCE

- Many duty-to-defend disputes between insured and liability carrier; issues of policy interpretation, exclusions, Buss, etc.
- Many indemnity coverage disputes between carriers and either insureds or claimants against insureds.

- Professional liability insurance coverage dispute in financial services industry; issues of broker liability, Interrelated Wrongful Acts, measure of damages for broker negligence, misrepresentation on application, when claim made, etc.
- Dispute regarding insurance of large art objects; issues of coverage, third party beneficiary status, negligence, damages, etc.
- Insurance allocation conflict between employment practices coverage and directors and officers coverage; issues of burning limits, duty to defend, interpretation of policies, etc.
- Insurance coverage dispute arising out of Employee Dishonesty Coverage.
- Duty-to-defend dispute involving offsite underground and groundwater contamination; issues of potential indemnity coverage, interpretation of policy, etc.
- Appellate consultation relating to termination of defense under commercial general liability policies.
- Numerous allocation disputes between co-insurers, e.g., on personal injury liability or other claims.
- Insurance coverage dispute arising out of industrial operations; issues of alleged misrepresentation on application, etc.
- Alleged defects in solar panels and installation of solar panel systems and system components; issues of insurance coverage plus issues of contract, warranty, tax credits, landowner liability, etc.
- Title insurance dispute between homeowner and carrier over undisclosed easements affecting the land.
- Claims of hillside damage allegedly resulting from defective landscaping and landscape maintenance; issues of insurance coverage, negligence, contract and duty, etc.
- Several Cumis fee disputes.
- Insurance coverage dispute arising out of workmen's compensation contract; issues of contract, insurance coverage, collateral levels and administration, etc.
- Insurance coverage dispute plus related issues arising out of collision between small propeller aircraft and a helicopter on the ground in an airport.
- Insurance coverage dispute regarding damage to high-end rental home.
- Coverage dispute arising out of third-party TCPA class action against insured. Carrier defended claim under reservation and filed suit for declaratory judgment on duty to defend and duty to indemnify. Issues of effect of broadening endorsements, calculation of remaining coverage on burning limits policy, advertising injury, bad faith theories relating to carrier's refusal to stipulation to certain findings, rejection of settlement offer below limits, number of accidents, etc.

REAL ESTATE

- Dispute arising out of joint venture to develop real property; issues of land use entitlements, easements, self-dealing, fiduciary duties, interpretation of operating agreements, etc.
- Misrepresentation and fraud case arising out of purchase-and-sale of large shopping center.
- Appellate consultation relating to alleged breach of contract to purchase and sell real estate, plus issue of intervening purchaser.
- Financial and contract disputes arising out of multi-million dollar tax-credit funded low-income housing project; issues of contract compliance, excuses for non-compliance, etc.
- Claim by landlord against former lessee regarding responsibility for environmental liabilities at vacated retail site.
- Claim by landowner against former lessee for failure to comply with CUP at leased landfill site; issues of contract construction, measure of damages, etc.
- Landlord's claim that lessee returned leased premises with damage to structural components; issues of structural engineering, existence and cause of damage, interpretation of lease obligations, spoliation of evidence, etc.
- Dispute among commercial real estate lender, commercial borrower, and guarantors; issues of default, foreclosure, bankruptcy, guaranties, UCC issues, calculation of cure amount, etc.
- Dispute over hillside damage allegedly caused by defective landscaping and landscape maintenance; issues of negligence, contract, insurance coverage, compliance with court orders, etc.
- Dispute over obligation to repair and maintain residential housing access easement; issues of statutory obligations, construction of CC&Rs, indemnity rights, etc.
- Claim of mismanagement or diversion of funds intended for investment in real property in Africa; issues of contract interpretation, UCC, fraud, misrepresentation, etc.
- Dispute over dissolution of real estate partnership; issues of separation of parties, determination of remedies, valuation, etc.
- Ten cases valuing different retail gasoline/convenience stores; issues of appraisal methodology, determination of factors affecting value, etc.
- Allocation of eminent domain proceeds between fee owner and ground lessee.
- Misrepresentation and fraud case arising out of purchase-and-sale of large shopping center.
- Several cases involving alleged failure to disclose defects in sales of high-end houses.
- Insurance coverage dispute regarding damage to high-end rental home.

- Dispute among commercial real estate lender, commercial borrower, and guarantors; issues of default, foreclosure, bankruptcy, guaranties, UCC issues, calculation of cure amount, etc.
- Valuation of \$100 million plus real estate company for purposes of effecting a buy-sell; equitable legal issues, business and real estate appraisal methodology, corporate governance, etc.
- LLCs with overlapping, but not identical, memberships developed several parcels into a residential/retail complex that was functionally one development, but did not have identical ownership. Claims of contract interpretation, breach of fiduciary duty, self-dealing, derivative claims, damage calculations, etc.
- Claim by unit of large restaurant chain that landlord violated lease by failing to meet air conditioning specifications. Issues of contract interpretation, measurement of lease compliance, damages, specific performance, etc.
- A group of investors, via several interlocking LLCs, invested in several multi-family residential rental properties. Different groups of investors managed different properties. After a period of years, disputes arose regarding management of the properties, with each side contending that the other was self-dealing, committing fraud, etc. Issues of cost allocation, contract interpretation, fraud, fiduciary duty, accounting, etc.
- Dispute regarding lease obligation for large purpose-built airplane hangar arguably not reasonably amenable to an alternative use, issues of breach of lease, remedies and damages.
- Retail building returned at conclusion of lease found to have damage to roof membrane, truss system, earthquake resistive elements, etc. Disputed whether caused by tenant misuse of building (overloading roof), or whether the defects pre-dated inception of lease.
- Large real estate holding and development company devolved to succeeding generation, and numerous disputes followed. Governance issues decided first in partial final award. Second partial final award effected disentanglement of disputing parties via an in-kind allocation of parcels and land interests. Inventory of discrete transaction-specific disputes then decided separately.
- After parents passed down a hundred-million-plus portfolio of real estate to brother and sister, disputes arose over management of the properties. A detailed arbitration determined monetary issues, with indemnity issues reserved.
- Dispute arose out of a long-held raw land investment by eight families regarding whether one owner was entitled to a ROFR and, if so, had properly exercised.
- Application of an environmental trust easement, effect on secured financing.
- Dispute over purchase and sale contract for four developable parcels in downtown LA, questions of breach and damage.

EMPLOYMENT

- Executive compensation dispute involving interest in real estate development; issues of specific performance, accounting, appraisal methodology, indemnification, contract interpretation, etc.

- Case regarding liabilities of employees departing insurance brokerage firm; issues of trade secret, successor employer liability, contract construction, employment, liquidated damages, non-compete clauses, etc.
- Dispute over executive compensation contract tied to stock performance; issues of damages, valuation by regression analysis, legal ethics, breach of contract, etc.
- Corporate control dispute involving ousted executive; claims of misappropriation of trade secrets, trade libel and disparagement, etc.
- Many cases involving claims of misappropriation of trade secrets and/or violation of covenants not to compete, often involving voluntarily departing or terminated employees.
- Several cases involving wage and hour and related claims, some class actions.
- Dispute over executive compensation contract tied to stock performance; issues of damages, valuation by regression analysis, legal ethics, breach of contract, etc.
- Dispute arising out of executive employment contract for company providing assistance to hospitals regarding Medicare and other payment collections. Issues of contract interpretation, accounting, breach, wrongful termination, constructive termination, etc.
- Claim by executive employ terminated without cause in RIF that stock option expiration dates had been misrepresented by employer, causing in-the-money options to expire unexercised per the terms of the option plan. Issues of negligent misrepresentation, indemnity, calculation of damages, comparative fault, etc.
- After a change in management at a major real estate development/management company, disputes arose over sums owing on a large executive incentive contract. Issues of contract interpretation, appraisal methodology, accounting per contract terms.

ENVIRONMENTAL

- Claim of landowner that groundwater remedial activity damaged landowner's building and property.
- Insurance duty-to-defend dispute involving offsite underground and groundwater contamination.
- Class action claim arising out of ground and groundwater contamination generating plume underlying residential area; issues of causation and quantification of damages, etc.
- Several disputes involving insurance coverage for dry cleaning businesses arising out of groundwater solvent contamination.
- Subrogation dispute between primary carrier and E&O carrier.
- Several Cumis fee disputes arising out of defense of underlying environmental liabilities case.

OTHER CASES

- Charter school's claim to statutory entitlement to share of educational facilities greater than allotted by school district; issues of interpretation of statutes, construction of charter, breach of contract and torts, valuation, damages, remedies, etc.
- Large attorney fee dispute arising out of marital dissolution.
- Dispute between independent physician's association and medical laboratory testing company regarding obligation to pay for lab tests ordered by doctors.
- Fee entitlement dispute arising out of consultation services relating to obtaining public funding for hospital operations.
- Many legal malpractice cases, mostly in mediation, occasionally in arbitration.
- Contract dispute regarding fuel pipeline easements running beneath railroad tracks.
- Class action alleging overcharging for water supply.
- Disputes among governmental entities regarding application of 100 year old water allocation agreements. Contract issues, as affected by Constitutional and statutory law.

APPELLATE CONSULTATIONS

- Appellate consultation relating to securities class action.
- Appellate consultation relating to interpretation of LLC Operating Agreement.
- Appellate consultation relating to alleged breach of contract to purchase and sell real estate, plus issue of intervening purchaser.
- Appellate consultation regarding allegations of jury irregularities during trial.
- Appellate consultation regarding statutory requirements for health plans sold in California.
- Appellate consultation relating to water rights case.
- Appellate consultation relating to securities class action.
- Several consultations on title insurance/land boundary issues.

FURTHER INFORMATION

Further information can be found on Justice Zebrowski's website at www.JusticeZebrowski.com and at www.ADRServices.com. A list of Justice Zebrowski's appellate cases authored and/or a list of other publications and articles can be provided upon request.