

Charles M. Sink

Of Counsel

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Education

- University of California, Hastings College of the Law (J.D., 1977)
 - . Order of the Coif
- Harvard University (1973)
 - . *cum laude*

Bar Admissions

- California

Charles Sink is of counsel in the firm's Construction Practice and former chair of the Complex Litigation Department. His commercial litigation experience has largely involved construction or energy claims, and related insurance issues. He also has served as the sole arbitrator or panel chair in over 100 cases with the American Arbitration Association, with California's Office of Administrative Hearings, and with the International Chamber of Commerce.

In state and federal courts, and in private arbitrations, Charles has represented private owners, public entities, architects, engineers, and EPC contractors. His claims experience covers many forms of public and private infrastructure, including: conventional, nuclear, and alternative energy power plants; mass transit systems; sewage treatment plants; bridges and roads; commercial, governmental, and office buildings; housing; and hospitals.

He has negotiated, drafted, or reviewed all manner of construction documents, including design-build agreements, EPC contracts, purchase orders, and professional service agreements. He has frequently advised clients on how to structure projects and how to resolve claims short of litigation or arbitration.

Charles is a Fellow in both the College of Commercial Arbitrators and the American College of Construction Lawyers. He has spoken and taught several classes on construction contracts and on dispute resolution. *Chambers USA* consistently ranked him among the top construction attorneys in California. He is listed in *The Best Lawyers in America* (Construction Law and Litigation - Construction), named the Best Lawyers 2015 San Francisco Litigation – Construction "Lawyer of the Year" and has been recognized by *Who's Who Legal* as one of the "Most Highly Regarded Lawyers" in construction.

For several years, he edited *The Construction Lawyer*, a quarterly publication of the ABA Forum on the Construction Industry. Some of his published books include: Co-editor, *Construction ADR*, 1st Ed. (ABA, 2014); *Construction Damages and Remedies*, 1st Ed. (ABA, 2004) and 2nd Ed. (2013); *False Claims in Construction Contracts: Federal, State, and Local*, (ABA, 2007, update 2010); and *The 2007 A201 Deskbook* (ABA, 2008).

Distinctions

- Top ranked in *Chambers USA* in California for construction (2009-2014)
- *The Best Lawyers in America* (Construction Law and Litigation - Construction); 2015 San Francisco Lawyer of the Year - Litigation - Construction
- *Who's Who Legal's* "Most Highly Regarded Lawyers" in construction for 2012
- Northern California Super Lawyers (2005-2020)

Memberships and Affiliations

- Fellow, College of Commercial Arbitrators
- Fellow, American College of Construction Lawyers
- Arbitrator, American Arbitration Association

- Arbitrator, Office of Administrative Hearings
- Member, ABA Forum on the Construction Industry

Experience

BART v. GE Transportation Systems

We represented GE in a \$500 million federal court litigation in the Northern District of California involving the development of an experimental train control technology for BART. The case successfully settled after a partial summary judgment motion knocked out BART's breach of contract claim based on the exclusive remedy provision of the contract.

County of San Mateo – San Mateo County Health Center

Represented the County of San Mateo in disputes arising from its five-phased renovation and construction project to replace its aging hospital facility with a state-of-the art, full service medical facility, including a dispute of more than \$2 million involving the project's former architect, a delay and backcharge dispute of more than \$1.4 million with the project's construction manager, and multi-million dollar disputes with various trade contractors.

Hokuli'a Community Association, Inc. and the Club at Hokuli'a

The Hokuli'a Community Association and the Club at Hokuli'a engaged Farella to prosecute claims against the developer of a master planned community in Hawaii after it failed to complete its work under three development agreements. Farella was also retained to prosecute claims against the bond surety who issued three performance bonds for the project in the penal sum of \$50 million, but refused to perform its obligations.

Chaya Brasserie

Represented the owner of the Chaya Brasserie restaurant in San Francisco in a dispute with its architect over construction costs and fees, ultimately achieving a successful result for our client through mediation.

City and County of San Francisco – Oceanside Wastewater Treatment Plant

Represented the City and County of San Francisco in connection with a \$40 million claim arising out of the design and construction of the Oceanside Wastewater Treatment Plant.

Dublin San Ramon Services District – Wastewater Treatment Plant

Represented a multipurpose Northern California agency in contract drafting, bid review and bid protests, and contractor claims for construction costs arising out of the construction and expansion of the District's treatment plant and pipelines.

Fujian Pacific Electric Co. – Coal-Fired Power Plant

Represented Fujian Pacific Electric Co. in prosecuting claims for liquidated damages and defending claims for delay, bonus payments and extra work, arising out of a coal-fired power plant in Fujian Province, Peoples Republic of China.

General Electric Transportation Systems, Global Signaling, LLC

Represented General Electric Transportation Systems, Global Signaling, LLC in a multi-million dollar breach of contract dispute with Bay Area Rapid Transit

(BART) related to the development of an experimental computerized system that would automatically control BART trains using adapted military technology.

Pelican Bay Prison

Represented Walsh Construction in numerous construction delay and cost overrun claims over the years, including those arising out of the construction of the Pelican Bay Prison.

Plastic Pipe Water Distribution Systems Failures

Represented the Marin Municipal Water District, Alameda County Water District and the City of Fresno pursuing claims for millions of dollars in damages for past and future plastic pipe failures within their water distribution systems.

Ritz-Carlton Hotel

Representing Thomas Morone, the Court-appointed Receiver for the Ritz-Carlton Highlands Hotel and Residences at the Northstar ski resort in Lake Tahoe. Among other things, we have been assisting the Receiver with respect to issues regarding the proposed sale of the Hotel property, disputes involving the sale of a dozen penthouse condominium units, a number of construction and mechanics' lien matters and various other litigation issues.

Salton Sea Project

Represented Kvaerner in a dispute including a \$70 million claim and \$40 million of counter-claims involving delays, changes in scope of work, and cost overruns incurred in the construction and commissioning of a \$160 million mineral extraction plant located at the Salton Sea in California.

San Francisco Giants – AT&T Park

Represented the San Francisco Giants in connection with several claims arising out of the construction of AT&T Park.

Transmission Lines and Power Plants

Represented the Turlock Irrigation District in a variety of matters, including disputes arising out of the construction of transmission lines and power plants.

University of California –Teaching Facilities and Housing

Represented the Regents of the University of California in connection with claims arising out of the design and construction of several of its facilities in Berkeley, including the Genetics and Plant Biology Building, the Foothill Student Housing Project, the Chemistry III Building, the Haas School of Business, the Boalt Hall School of Law, and the College Nine housing project at UC-Santa Cruz.

Wastewater Treatment Plant

Retained to represent the design engineers responsible for the complete redesign and expansion of one of the world's largest treatment plants. The issues include mechanical, electrical, structural and process design, and involve multiple delay, cost-overrun, and breach of contract claims between the project participants.

Wisconsin Energy/Elm Road

Represented Wisconsin Energy and Power in connection with the development of a \$2.3 billion twin unit super critical coal-fired power plant on the banks of Lake Michigan. Our representation included defending

against a \$515 million claim by the project's general contractor.

Publications

3/15/2016

Negotiating Consequential Damages Waivers

Summer 2015

Contractor Licensing, Lender Security, Bid Protests, and Placement of Bonds and Insurance: Perils to the Start of a Project

Winter 2014

Using Attorneys' Fees to Promote a Better Result

1/31/2014

Construction ADR - A Comprehensive Resource from the Top Legal Minds in the Construction Industry

8/24/2012

Security for Getting Paid

October 2010

Negotiating Consequential Damages Waivers

1/6/2010

Mega Project Construction Contracts: An Owner's Perspective

January 2008

The 2007 A201 Deskbook