

RICHARD J.
Tyler



Partner | New Orleans

Richard Tyler is a partner in the Litigation Practice Group. He regularly serves as lead counsel in complex, high-stakes construction disputes.

Rich joined Jones Walker in 1982 and is a former practice leader of the firm's Construction Practice Group. Widely acknowledged as one of the nation's top construction attorneys, over the past decade Rich has served as lead counsel in disputes involving more than \$500 million in aggregate claim value across the country. He has received top ratings in *Chambers USA*, *The Best Lawyers in America*®, *The Legal 500 United States*, the *International Who's Who of Construction Lawyers*, and other major industry publications. Rich is a Fellow of the American College of Construction Lawyers — an exclusive, invitation-only organization with just 230 members worldwide.

Over the course of his career, Rich has handled complex litigation and arbitration matters in the fields of construction and real estate, and has represented virtually every kind of participant — from owners to suppliers — on a wide array of projects and delivery systems. His project experience includes airports, chemical plants, industrial facilities, pipelines, refineries, multifamily housing, hotels, schools, libraries, and hospitals. Further, Rich has wide experience drafting and

New Orleans

201 St. Charles Ave
New Orleans, LA 70170-
5100

D: 504.582.8266
F: 504.589.8266

rtyler@joneswalker.com

Houston

Suite 2900
811 Main St
Houston, TX 77002

D: 713.437.1822
F: 713.437.1810

negotiating construction and design contracts for commercial, industrial, and petrochemical projects.

Drawing on his extensive experience, Rich is able to help clients quickly analyze the merits of an issue, explore the costs and benefits of various dispute-resolution strategies, and make informed decisions on how to proceed. He also understands the challenges facing clients who may not have in-house legal or litigation departments; in straightforward terms, he helps business leaders understand the legal and business issues at hand and their potential effects on a company's operations and objectives. Once a strategy has been established, he is a tireless advocate for his clients' position, drawing on his knowledge, experience, and advocacy skills to achieve effective resolutions to even the most challenging disputes.

Rich has been an arbitrator with the American Arbitration Association (AAA) since 2004 and is a member of its Commercial, Construction, and International Centre for Dispute Resolution (ICDR), and Large Complex Case panels. He is a member of the AAA-ICDR Council and a Fellow of the Chartered Institute of Arbitrators (CIArb). Rich is experienced with both *ad hoc* and administered arbitrations under the AAA, ICC, ICDR, and UNCITRAL arbitration rules, and has served as an arbitrator in more than 50 cases. He has received ADR training from the AAA (commercial, construction, and international), the CIArb (international commercial arbitration), the Harvard Law School Mediation Program, and the Dispute Resolution Board Foundation (Administration & Practice Workshop, Advanced/Chairing Workshop).

As a participant in various associations serving the construction industry, Rich has served as a member of the American Bar Association Forum on Construction Law's Governing Committee and as chair of the Division 3 (Design) Steering Committee. He frequently writes and speaks on a variety of topics and has participated in seminars and programs for numerous professional organizations.

Rich is an active member of the Fore!Kids Foundation, a charity that produces the annual PGA Zurich Classic of New Orleans golf tournament. In 2019, the Foundation raised and distributed more than \$2 million to children's charities in the Greater New Orleans and Baton Rouge areas, positively impacting the lives of 200,000 children in southeast Louisiana.

Noteworthy

- American College of Construction Lawyers, Fellow (2019)
- *New Orleans Magazine*, Top Lawyer (2013 and 2018)
- *The Legal 500 United States*, Real Estate – Construction (listed annually since 2017)
- Chartered Institute of Arbitrators, Fellow (2014)
- *International Who's Who*, Construction Lawyers (listed annually since 2013)
- *Chambers USA*, Construction (listed annually since 2011)
- Litigation Counsel of America, Fellow (2009)
- *The Best Lawyers in America*®, Construction Law and Litigation – Construction (listed annually since 2007)
- *Louisiana Super Lawyers*, Construction Litigation (listed annually since 2007)
- AV Preeminent® Peer Review Rating in Martindale-Hubbell

Experience

- Lead counsel for mechanical subcontractor in a dispute with an EPC contractor on a \$3 billion greenfield chemical plant project in Iowa. Obtained jury verdict for our client in the amount of \$62.5 million for breach of contract and consequential damages, and dismissal of \$94.5 million in counterclaims for overcharges, delay, inefficiency, and rework of defective work (federal court).
- Arbitration panel member hearing \$3 million claim for defective construction of a library in Texas (AAA arbitration).
- Counsel for a mechanical and structural subcontractor in arbitration with an EPC contractor. Obtained award for our client in the amount of \$10.2 million for breach of contract and dismissal of counterclaim seeking \$14.24 million in damages for improper billings, delay, inefficiency, and rework of defective work (ICC arbitration).
- Arbitration panel chair with respect to a \$1.9 million claim by a subcontractor for delay, acceleration, and disruption due to the acts and omissions of a general contractor on a school project in Louisiana (AAA arbitration).
- Counsel for the owner in arbitration with a mechanical and erection contractor related to the construction of a direct reduction iron facility in Texas.
- Owner claimed extra costs and delay damages due to contractor's failure to timely complete, and the contractor counterclaimed seeking damages of \$40.25 million for breach of contract, failure to grant extensions of time, and failure to approve change orders. The matter was settled at the Terms of Reference stage (ICC arbitration).
- Counsel for a subcontractor in a termination dispute with a contractor in Louisiana (litigation).
- Counsel for a contractor in litigation over termination of a subcontractor for failure to perform specialty welding in a workmanlike manner at a refinery project in Texas (litigation).
- Counsel for a demolition contractor in multiple lawsuits arising from the deconstruction and repurposing of the original Interstate 10 "Twin Spans" bridge across Lake Pontchartrain (litigation).
- Lead counsel for a marine contractor with respect to multiple claims arising out of a project to replace a 23 km offshore section of a 28-inch gas pipeline running between Singapore and Indonesia without disrupting service. Prosecuted the contractor claims for delay and extra work in the amount of \$18.77 million. The matter was settled at the conclusion of the written submission stage (*ad hoc* UNCITRAL arbitration).
- Lead counsel for a mechanical contractor in a dispute with the owner on a \$100 million project to relocate an ammonium nitrate fertilizer plant. Obtained jury verdict for our client in the amount of \$7.23 million for breach of contract, and dismissal of \$1.5 million in counterclaims for defective work (litigation).
- Counsel for a FEMA contractor defending claims that a sitework for a Katrina group housing project ruined the economic development prospects of the landowner's property, causing \$66 million in damages (litigation).
- Counsel for a contractor with respect to class and individual actions arising out of failure of the New Orleans area hurricane protection system during Hurricane Katrina (litigation).
- Counsel for an airport program manager in multiple suits arising out of the termination of a general contractor (litigation).

Publications

- *Construction Defects, Second Edition*, American Bar Association, 2021
- "Supreme Court to Schein Additional Light on Question of Who Decides Arbitrability," *Under Construction*, March 2021
- "Kicking and Screaming: Joinder of Non-Signatories in Arbitration Proceedings," *Dispute Resolution Journal of the American Arbitration Association* (Vol. 75, No. 1), October 2020
- "Right-Sizing Dispute Resolution," *Louisiana Associated General Contractors Magazine*, 2020
- "Defending Against Owner Claims," chapter in *Construction Disputes: Representing the Contractor, Fourth Edition*, Wolters Kluwer, 2019
- "Construction Defects," *American Bar Association Forum on Construction Law, Construction Law, Second Edition*, August 22, 2019
- "Jury Consultants in Construction Cases: From Early Case Development through Trial," *American Bar Association's Under Construction*, August 20, 2019
- "Admissibility of Expert Testimony," *Chapter 11 in Real Estate Damages, Third Edition* (Appraisal Institute 2016), (Appraisal Institute 2016)
- "Discovery in Arbitration," *The Construction Lawyer*, Winter 2015
- "Discovery," Chapter 8 in *Construction ADR*, American Bar Association 2014
- "The Future Is Now—The Impact of Globalization on Construction Dispute Resolution," 2013 Annual Meeting, ABA Forum on the Construction Industry, 2013
- "Construction Defects," *Construction Law*, American Bar Association 2012
- "Construction Defects," Chapter 22 in *Construction Law*, American Bar Association 2009
- "Tip Sheets For Hiring Contractors in LA and TX," *Jones Walker LLP EBulletin*, October 20, 2005
- "Clause For Concern: Common Construction Contract Provisions," *ASHRAE Journal*, February 1, 2002
- "Contract Law Principles," *ASHRAE Journal*, January 1, 2002
- "Defending Against Owner Claims," Chapter 20 in *Construction Litigation: Representing the Contractor*, 3d Ed., Aspen 2001
- *Fifty-State Monograph on the Enforceability of "No Damages for Delay Clauses"*, American Bar Association 1998
- *Louisiana Construction Law*, Federal Publications 1995-1996
- "Legal Aspects of Building Commissioning—Claim Avoidance," *ASHRAE Transactions*, Vol. 100, Pt. 2, 1994

Presentations

- Guest Lecturer on Litigation, Arbitration, and Mediation for course "Legal Issues in Building Construction" Columbia University Master of Science in Construction Administration program, annually since 2012
- "Journey to E-Discovery World: The Six Rings of Hell," ABA Forum on Construction Law Midwinter Meeting, January 2015
- "Claims Avoidance through Effective Cost Engineering," Annual Meeting of the Association of the Advancement of Cost Engineering, July 2014
- "The Future Is Now—The Impact of Globalization on Construction Dispute Resolution," ABA Forum on Construction Law Annual Meeting, April 2013
- "I Can See for Miles: Cutting Edge Tools for Construction Practitioners," Governing Committee Liaison, ABA Forum on the Construction Industry Annual Meeting, April 2011
- "AIA Contracts," Lorman Education Services, 2008-2012
- "Owners and Architects Part II: 'I Think this is the Beginning of a Beautiful Relationship'," ABA Forum on the Construction Industry Fall Meeting, September 2008
- "Utilizing and Responding to TROs and Other Litigation 'Fast-track' Processes," Annual Meeting of the ABA Forum on the Construction Industry, April 2008
- "The 2007 AIA Documents: New Forms, New Issues, New Strategies," American Bar Association Forum on the Construction Industry, February 2008
- "Fundamentals of Construction Law," American Bar Association Forum on the Construction Industry, November 2006
- Program Co-Chair, "Ten Key Decisions to a Successful Construction Project," American Bar Association Forum on the Construction Industry Fall Meeting, October 2005
- "Louisiana Construction Law, Mechanics' Liens and Public Works Contracts," Professional Education Systems, Inc., May 2005
- "Utilizing AIA Forms for Design Contracts in Louisiana," Lorman Education Services, April 2005
- "Trying the Complex Construction Case: Closing Arguments that Win at Trial," ABA Forum on the Construction Industry Annual Meeting, April 2004
- "Challenges of Multi-party Litigation," ABA Forum on the Construction Industry Fall Meeting, September 2002
- "Cross Examination of Experts: Practical Techniques," ABA Forum on the Construction Industry Annual Meeting, April 2001
- "Oh No! Did I Agree to That? Everything the ASHRAE Member Ever Wanted to Know About Contracts," American Society of Heating, Refrigeration and Air Conditioning Engineers Annual Meeting, 2001
- "Experts in the Courtroom," American Society of Heating, Refrigeration and Air Conditioning Engineers Annual Meeting, 2000
- "The Owner Sues: A Simulated Arbitration," American Society of Heating, Refrigeration and Air Conditioning Engineers Mid-Winter Meeting, 1999
- "Commissioning of HVAC Systems," University of Wisconsin-Madison, College of Engineering, Department of Engineering Professional Development, 1994-2002

Memberships

- American Arbitration Association, National Roster of Neutrals since 2004 (Commercial, Construction, International Centre for Dispute Resolution (ICDR), and Large Complex Case Panels); Member, AAA-ICDR Council (2021–present); Co-chair, National Construction Dispute Resolution Committee (2021–present)
- American Bar Association, Forum on the Construction Industry, Co-Liaison to AAA National Construction Dispute Resolution Committee (2010–); Governing Committee (2009–2012); Division 3 (Design) Steering Committee, Chair (2006–2008); Member (2002–2006); Planning Committee (2008 Midwinter Meeting); Program Co-Chair (2005 Fall Meeting); Division Communication Task Force (2007–2008); Strategic Planning Committee (2008)
- American Bar Association, Section on Litigation, Construction Litigation Committee, Co-Chair, Program Subcommittee (2002–2006); Chair, State Law Survey Subcommittee (1999–2002)
- American College of Construction Lawyers, Fellow (2020)
- American Society of Heating, Refrigeration and Air Conditioning Engineers, Consultant, Guideline Committee GPC1-1996R; Voting Member, Task Group 1-GLE, General Legal Education (2000–2002), Program Chair (2001–2002)
- Chartered Institute of Arbitrators, Fellow (2014)
- Defense Research Institute, Construction Law Committee (1996–1998)
- International Bar Association, Arbitration Committee; International Construction Projects Committee; Real Estate Section
- Litigation Counsel of America, Fellow (2009)
- Louisiana Attorney Disciplinary Board, Hearing Committee 9, Member (2001–2004); Chair (2005–2006)
- Louisiana State Bar Association
- State Bar of Texas

Education

- Georgetown University Law Center
JD, 1981
Dean's List, 1978-1979
- Georgetown University
AB, 1978
Dean's List, 1976-1977, 1977-1978
- Harvard Law School Mediation Workshop
- Chartered Institute of Arbitrators Fellows Workshop
International Arbitration

Bar Admissions

- District of Columbia
- Louisiana
- Texas

Court Admissions

- US Supreme Court
- US Court of Federal Claims
- US Court of Appeals for the Fifth Circuit
- US Court of Appeals for the District of Columbia Circuit
- US District Court for the District of Columbia
- US District Court for the Eastern District of Louisiana
- US District Court for the Middle District of Louisiana
- US District Court for the Western District of Louisiana
- US District Court for the Northern District of Texas
- US District Court for the Southern District of Texas