

# Snell & Wilmer

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## **James J. Sienicki**

Partner | Phoenix

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### **Main Bio**

Jim Sienicki's practice involves construction contract preparation, construction law representation and litigation, procurement law and bid protests, general commercial litigation, creditors' rights and other litigation, alternative dispute resolution (mediator, arbitrator, advocate), and appellate matters. Jim was the head of the firm's construction practice group for over 15 years, and the firm's construction litigation practice has been recognized as a National Tier 1 practice for the past nine years by U.S. News and World Report/Best Lawyers. Jim has been named to Best Lawyers in America® 2003-2023 in the area of Construction Law and Litigation. Jim is often selected as a mediator and arbitrator of construction disputes.

### **Representative Matters**

#### ***Construction Law Representation***

- Since 1983, Jim has represented owners, developers, general contractors, subcontractors, suppliers, design professionals, and lenders in litigation, negotiations, arbitration, and mediation matters involving public and private projects. He has experience in public bid procedures, bid protests, contract administration, preparation of construction claims, calculation and proof of damages, surety rights, lien and bond claims, licensing and registration requirements, architect and engineer liability, Registrar of Contractors' disputes, personal injury litigation, administrative law issues, legislation, insurance risks and coverage, and bankruptcy matters. Jim's practice includes preparation of construction contracts, architect agreements, and consultant agreements for multimillion-dollar projects, and purchase orders, subcontracts, joint check agreements, and other construction documents.

#### ***General Commercial, Creditors' Rights & Other Litigation***

- Jim works with clients regarding creditors' rights, UCC, bankruptcy, contract, lease, personal injury defense, and aviation litigation. This involves representation of secured and unsecured creditors, including banks, lending institutions, construction material suppliers, pharmaceutical companies, hotel industry clients, and various other clients regarding creditors' rights and remedies (from the demand letter stage through collection of judgment and bankruptcy). He has experience in promissory note, open account, Uniform Commercial Code foreclosure and real property foreclosure litigation, domestication of foreign judgments and collection thereof, mechanics' lien and bond claim litigation, and prejudgment writs of replevin, garnishment and attachment litigation.

#### ***Alternative Dispute Resolution (ADR)***

- Arbitrator, Panel Member, American Arbitration Association (AAA) (1996-present), Advanced AAA Arbitration Training (2001), Annual Arbitrator Update (2002-Present); Prior Panel Member, United States Arbitration and Mediation of Arizona, Nevada and New Mexico; State Bar of Arizona ADR Section. Jim is experienced in arbitration and mediation of all types of construction disputes.

## **Education**

- University of Kansas (J.D.)
  - Order of the Coif
  - Managing Editor, Kansas Law Review
- Central Michigan University (M.A., Business Management)
- U.S. Air Force Academy, Colorado Springs, Colorado (B.S.)
  - Earned private pilot's license
  - Earned parachute wings

## **Professional Memberships & Activities**

- State Bar of Arizona
  - ADR, Construction Law and Trial Practice Sections
- American Bar Association
  - Forum on the Construction Industry
  - Public Contract Law, Tort and Insurance Practice, ADR and Litigation Sections
- Maricopa County Bar Association
- Frequent seminar speaker on various construction-related topics and creditors' rights issues
- American Arbitration Association, Arbitrator, Mediator
- Construction Lawyers Society of America
  - Fellow, Construction, ADR, and Governmental

## **Construction Organizations**

- Associated General Contractors of America
- American Subcontractors Association, Board of Directors (2007-2009, 2011-2013)
- Arizona Builders' Alliance, Legislative Committee (1994-present)
- AGC, Arizona Building Chapter (prior to 1994)
- Associated Builders and Contractors of Arizona
  - General Counsel (1992-1994)
  - Legislative Committee (1992-1994)
- Arizona Masonry Council Inc.
- Arizona Consulting Engineers Association
- Construction Financial Management Association, Board of Directors (2000-2003)

## **Representative Presentations & Publications**

- "Thorny Issues When Drafting Settlement Agreements in Construction Cases," Panelist, State Bar of Arizona (2022)

- "Delay and Disruption Claims," Presented to American Subcontractors Association and to the National American Subcontractors Association (2022)
- "Material and Labor Supply Issues – Perspectives from Across the Industry," Panelist, State Bar of Arizona (2021)
- "Delay and Disruption Claims," Co-Presenter, Arizona Builders Alliance (2021)
- "Understanding Delay and Disruption Claims," Co-Author, Levelset (March 2021)
- "Is a Claim for Fraudulent Inducement Barred by the Economic Loss Doctrine?," Mock Appellate Argument, State Bar Construction Law Section (October 2020)
- "[Delay and Disruption Claims in the Time of COVID-19](#)," Co-Author, The Contractor's Compass, American Subcontractor's Association (July 2020)
- "[The Increasing Use of Drones in Construction and Related Legal Issues](#)," Co-Author, The Contractor's Compass (June 2019)
- "The Owner's Implied Duty to Cooperate, as illustrated by MW Builders v United States," Presenter, State Bar Construction Law Section (April 2019)
- "Preserving and Proving Subcontractor Delay and Disruption Claims," Co-Author, The Contractor's Compass (June 2018)
- "Delay and Disruption Claims: Key Elements and Considerations," Presenter, State Bar Construction Law Section (January 2018)
- "Preserving Subcontractor Claims for Delay, Disruption, and Cumulative Impacts," Co-Author, The Contractor's Compass, American Subcontractors Association (June 2017)
- "Mechanics' Lien Rights and Applicability of A.R.S. § 12-821.01 on Charter School Projects," Co-Presenter, Mock Appellate Argument, State Bar Construction Law Section (March 2017)
- "[So You've Contracted Your Way into a Pickle](#)," Co-Author, The Contractor's Compass, American Subcontractors Association (July 2016)
- "Violations of Due Process Issue in *Holder Construction v. Arizona Board of Regents*," Co-Presenter, Mock Appellate Argument, State Bar Construction Law Section (March 2016)
- "How to Negotiate Retainage," Co-Author, The Contractor's Compass (May 2015)
- "The Art of Documenting Your Project in Today's Technological World," Co-Author, The Contractor's Compass (April 2015)
- "Is *American Continental Life Ins. Co. v. Ranier Const. Co., Inc.*, 125 Ariz. 53, 607 P.2d 372 (1980), Still Good Law?," Presenter, Mock Appellate Argument, State Bar Construction Law Section (April 2015)
- "In 2015, If You Occupy It, You Must Pay for It," Co-Presenter, Mock Appellate Argument, State Bar Construction Law Section (April 2015)
- "Transaction Privilege Tax (TPT) Reform - Prime Contracting," Co-Presenter, Snell & Wilmer (March 18, 2015)
- "Tips for Making Effective Claims: How to Make 'Winning' Your Reality," Speaker, American Subcontractors Association Business Forum and Convention, Las Vegas, NV (March 2013)
- "Documenting A Project In a New Age," Speaker, Mayo Hospital, Scottsdale, AZ (February 2013)
- "The Economic Loss Rule and Legal Perspectives for Natural Gas Operators," Speaker, 2012 Western Regional Gas Conference (August 2012)

- "Holding Legal Costs Down: Controlling Legal Expenses in a Down Economy," Speaker, Snell & Wilmer (June 2012)
- "Death by a Thousand Cuts: Best Practices in Litigating Loss of Productivity Claims," Speaker, Arizona Builders' Alliance, Phoenix, AZ (April 2012)
- "Contract Interpretation: How Courts Resolve Ambiguities in Contract Document," Speaker, Annual Construction Law Update 2012, Phoenix, AZ (March 2012)
- "Maximizing the Benefits of Insurance & Indemnity in Construction Projects," Speaker, Snell & Wilmer, Phoenix, AZ (November 2011)
- "Contracting for Integrated Project Delivery," Speaker, California Construction Law Update 2011, Snell & Wilmer, Costa Mesa, CA (October 2011)
- "Selection and Use of Experts Regarding Construction Claims," Author, Arizona Construction Law Practice Manual (June 2003; Update October 2011)
- "Arizona Procurement Rules and Regulations," Author, American Bar Association Guide to State Procurement Manual (June 2011)
- "Under Construction Newsletter," Editor (November 2005 to present)
- Numerous national, regional, and state presentations on construction topics

## **Professional Recognition & Awards**

- Best Law Firms, "National Tier 1" in Construction Law, U.S. New Media Group and Best Lawyers, Head of Practice Group and Team Member (2000-2022)
- The Best Lawyers in America<sup>®</sup>, Construction Law, Construction Litigation (2003-2024); Commercial Litigation (2014-2024)
  - Phoenix Lawyer of the Year, Construction Litigation (2018)
  - Phoenix Lawyer of the Year, Construction Law (2013)
- Southwest Super Lawyers<sup>®</sup>, Construction Litigation (2007-2020)
- Ranking Arizona: The Best of Arizona Attorneys, Construction & Real Estate Law (2008-2011)
- Top People to Know in Commercial Real Estate, Arizona Commercial Real Estate Magazine (2010-2011)
- Arizona's Top Lawyers, AzBusiness Magazine (2010)
- Arizona's Finest Lawyers
- America's Most Honored Professionals, American Registry (2011-2012)

## **Community Involvement**

- Air Force Academy Association of Graduates, Arizona Chapter President (1993-present)
- Toastmasters Club (ATM, CTM)
- Arizona Forum, Speaker's Committee Chairperson (1998-2000)
- Boston Marathon (2003, 2005)

## **Bar Admissions**

- Arizona

## **Court Admissions**

- Supreme Court of Arizona
- United States Court of Appeals, Ninth Circuit
- United States Court of Claims
- United States District Court, District of Arizona
- United States District Court, District of Colorado