

# Snell & Wilmer

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## **Jason Ebe**

Partner | Phoenix

Tel. 602.382.6240

[jebe@swlaw.com](mailto:jebe@swlaw.com)

## **Main Bio**

Jason Ebe serves as co-chair of the firm's nationally ranked construction industry practice. Jason is a Fellow of the Construction Lawyers Society of America, an invitation-only construction lawyer honorary society with membership limited to 1,200 practicing Fellows from the United States and internationally. He frequently represents owners, developers, contractors, subcontractors and design professionals in all aspects of design and construction transactions and disputes in Arizona, nationally and internationally. Jason is a frequent counselor, negotiator, litigator, author and speaker on a wide range of construction issues and topics, and has served in senior leadership positions in local and national construction industry organizations. His relevant and recent project experience includes public and private infrastructure, including military installations, federal government facilities, football stadiums (professional and collegiate), airport, marina, transportation, water/wastewater, and public-private partnerships (P3s); natural resources, including solar and mining; healthcare, including acute care, medical office and senior living; commercial office, retail, mixed-use, data centers, and hi-tech manufacturing; education (universities and K-12); entertainment, hospitality, resorts, convention centers and casino; sports and recreational; and high-rise, multifamily and single family residential. Jason is well versed in advanced project delivery methods, including integrated design build and design assist, construction management at risk, and job order contracting.

## **Representative Matters**

### ***Transactional***

- Represented developer of Bahamas resort devastated by Hurricane Dorian in procurement and contracting for relief and restoration construction efforts.
- Represented developer of inland surf park in procurement and contracting for design and construction of artificial wave surf park and related amenities.
- Represented automobile manufacturer in procurement and contracting for design and construction of automobile manufacturing plant.
- Represented food producer in procurement and contracting for design, construction of food processing plant.
- Represented lead contractor in contracting for design-build of professional football stadium.
- Represented developer of Baja Mexico resort in negotiations for hotel construction.
- Represented developer of Utah ski resort in negotiations for construction of new resort infrastructure.
- Represented developer of collegiate campus housing for design and construction of housing projects

in multiple states.

- Represented hotel developer in contracting for design and construction of new and renovated hotels in multiple states.
- Represented public university in contracting for renovations of collegiate football stadium.
- Represented health care owner in contracting for data center expansion.
- Represented developer with respect to contracts with design-builder and federal government for GSA Exchange project.
- Represented multi state healthcare provider in drafting and negotiating design and construction contracts for multiple projects.
- Represented airport authority in revising family of design, construction and construction management contracts for multiple projects.
- Advise owner and solar provider clients in triparty agreements for solar power installation and power purchase.
- Advise owner/developers with respect to public-private partnership (P3) mixed use commercial developments.
- Represent international joint venture in negotiations with county for a nine figure design build operate maintain water reclamation facility.
- Represent botanical garden with respect to design-build contract for horticulture center.
- Represented owner of nine-figure condominium hotel in negotiation of design and construction contracts.
- Represented owner and developer of nine-figure resort in negotiation of design and construction contracts.
- Represented builder in drafting manuscript forms of design, design-build, and construction contracts and subcontracts.
- Represent owners, architects, engineers, general contractors, and subcontractors in review, revision and negotiation of contracts.
- Represented solar contractor in obtaining Registrar approval of contracts and warranties for residential and commercial projects.
- Represented condominium developer in drafting alternate dispute resolution provisions for condominium development, including condominium declaration, sales documents, design and construction contracts.

### ***Trials, Arbitrations, Administrative Hearings and Bid Protests***

- Represented general contractor in arbitration against subcontractor arising from deficient work on automobile dealership.
- Represented supplier of shooting range equipment and facilities in municipal bid protest of award of contract for police department indoor firing range renovation.
- Represented general contractor in five-week jury trial against public owner and architect arising from wrongful contract termination on elementary school.
- Represented marina developer in arbitration in defense of contractor claims for differing site conditions and prosecution of counterclaims.
- Represented owners of custom home against builder for overbilling and defective work.

- Represented owner of luxury custom home against builder for defective work.
- Represented owner of luxury custom home against builder for overbilling and abandonment in administrative (Registrar) hearing and arbitration.
- Represented general contractor against private owner on claim for failure of payment in court trial.
- Represented civil engineer in defense of claim by owners for professional negligence in arbitration.
- Represented bidders in six, seven and eight-figure protests of awards on large municipality and ADOT projects.

### ***Other Litigation***

- Represented owner of gold mine in claims against engineer arising from design of processing plant for gold mine in Mexico.
- Represented owner/operator of data center in litigation against designer/builder arising from utility performance defects.
- Represented electric cooperative in appeals before the Armed Services Board of Contract Appeals relating to utilities privatization project on military installation.
- Represented engineering company in defending eight figure claim by contractor for negligence and tortious interference arising out of the rehabilitation of an earthen dam.
- Represented multimedia company in defense and prosecution of claims against design-builder arising from construction of a movie and television filming site.
- Represented transportation company in prosecution of claims for engineering malpractice against designers of infrastructure for an airport automated people mover system.
- Represented hi-tech manufacturing clients in disputes regarding construction delays and defects.
- Represent public university in litigation arising from fire damage restoration of campus facilities.
- Represented engineer in defending eight-figure claim by sanitary sewer district and bond purchaser against engineer and others for negligence and securities fraud.
- Represented architect in defense of eight-figure claim by large municipality on high profile public works project.
- Represented engineer in defending seven-figure claim by school district for negligent design.
- Represented municipality in defending claims by general contractor on eight-figure infrastructure project.
- Represented general contractors pursuing claims for differing site conditions against improvement district and municipalities.
- Represented owner of custom home defending six-figure payment claims by builder.
- Represented developer of multi-use project in case against builder for overbilling, fraud and defective construction.
- Represented developer of resort in claims with general contractor following contract termination.
- Represented healthcare facility owners in claims involving designers and contractors.
- Represented general contractor and surety in defense of multiple payment and bond claims by subcontractors and suppliers.
- Represented subcontractors in payment claims against general contractors, sureties, and owners.
- Represented owner of luxury custom home in seven-figure claim against seller and builder for fraud

and defective construction.

- Represented municipality in defense of seven-figure contractor claim for delay and disruption

## Education

- University of Arizona (J.D., cum laude, 1996)
- The Ohio State University (B.S., Materials Science Engineering, magna cum laude, 1993)

## Professional Memberships & Activities

- Fellow, Construction Lawyers Society of America
- State Bar of Arizona
  - Construction Law Section Executive Council, Chair (2007-2008)
- American Bar Association
  - Forum on the Construction Industry
- Arizona Builder's Alliance
- Alliance for Construction Excellence
  - Project Delivery Methods Task Force
- American Subcontractors Association of Arizona
  - ASA National Attorneys' Council, Chair (2013-2014)

## Representative Presentations & Publications

- "Best Practices for Managing Risk and Maximizing Success of your Team and Project," Presenter, American Subcontractors Association (September 2019)
- "Indemnity, Damages Limitations and Dispute Resolution Clauses in Development, Design and Construction Agreements," Presenter, Real Estate Practice Group (September 2019)
- "Contract Clauses Legal Seminar," Presenter, Arizona Builders Alliance (April 2019)
- "Maximizing Use of ASA's Subcontractor's Negotiating Tip Sheets," Presenter, ASA of Arizona (February 2019)
- "[Will Your Contracts Help You Succeed or Hold You Back in 2019?](#)" Author, Under Construction (January 2019)
- "Construction Contracting and Administration Best Practices," Presenter, Private Client Seminar (November 2018)
- "[Design Professional Best Practices for Successful Project Delivery and Loss Prevention](#)," Author, Under Construction (September 2018)
- "Best Practices for Contracts, Project Delivery and Loss Prevention," Presenter, Private Client Seminar (May 2018)
- "Recommended Do's and Don'ts in Project Scheduling, Schedule Analysis and Delay Claims," Author, ASA Contractor's Compass (May 2018)
- "Negotiating Dangerous Contract Provisions," Presenter, ABA Legal Roundtable (April 2018)
- "[Practical Solutions to Common Legal Disputes in Construction](#)," Co-Author, Under Construction (March 2018)
- "Design and Construction Contracts - Industry and Manuscript Forms," Presenter, ASU Masters of

Real Estate Development (March 2018)

- "Contracting Tips," Presenter, CMAA Construction Law Seminar (February 2018)
- "[Arizona Court of Appeals Declines to Enforce Subcontractor Prompt Pay Protections on Federal Project](#)," Author, Under Construction (December 2017)
- "Practical Subcontractor Solutions to Common Legal Disputes in Construction," Presenter, ASA of Arizona (September 2017)
- "[American Society of Civil Engineers Publishes New Standard for Schedule Delay Analysis](#)," Author, Under Construction (September 2017)
- "[Arizona Supreme Court Rules Contract Privity Is Not Required for Successful Party to Recover Attorneys' Fees on Breach of Implied Warranty Claim](#)," Author, Under Construction (September 2017)
- "[Arizona Supreme Court Rules in Two Cases Impacting the Construction Industry](#)," Author, Under Construction (June 2017)
- "Legal Issues in Design and Construction: Prompt Pay," Presenter, ASU Sandra Day O'Connor College of Law (April 2017)
- "Negotiating Subcontracts," Presenter, Arizona Builders Alliance (April 2017)
- "[Resources for Owners Implementing Building Information Modeling in Their Projects](#)," Author, Under Construction (March 2017)
- "Kickoff 2017 with Better Bids and Subcontracts," Presenter, ASA of Arizona (January 2017)
- "[Federal Courts Rule Subcontractor Claimants Under Statutory Payment Bonds Need Not Exhaust Contractual Dispute Resolution Procedures to Recover Against Surety](#)," Author, Under Construction (December 2016)
- "[Navigating Prospective Price Redeterminations Under the Federal Acquisition Regulations](#)," Author, Under Construction (September 2016)
- "[Are You Legally Operating That Drone on Your Construction Site?](#)" Author, Under Construction (June 2016)
- "Arizona Construction Law Update," Presenter, Snell & Wilmer Client Event (June 2016)
- "Ethical Issues Facing Paralegals," Presenter, Snell & Wilmer Legal Professionals Business Conference (June 2016)
- "[How the FAA's Announcement Regarding Drone Registration May Affect Drone Use in Construction](#)," Author, Under Construction (December 2015)
- "Danger Zone: Misclassifications of Employees as Independent Contractors," Presenter, American Subcontractors Association National Legal Council (October 2015)
- "Arizona Construction Laws and Customs Q&A," Author, Practical Law online publication (September 2015)
- "[Arizona Court of Appeals Interprets Stricter Requirements for Payment Bond Claimants](#)," Author, Under Construction (June 2015)
- "[Arizona State Legislature Expands Prompt Payment to Design Professionals on Public Works Projects](#)," Author, Under Construction (June 2015)
- "[Tips for Suspending Work Without Getting Fired](#)," Author, Under Construction (March 2015), Author, ASA Contractor's Compass (January 2015), Presenter, ASA Webinar (November 2013)
- "Complying with Arizona Rules and Regulations On the Practice of Professional Engineering,"

Presenter, Seminar Presentation on Arizona Engineering Law (January 2015)

- "[Drafting Contracts to Minimize or Avoid Claims](#)," Author, Under Construction (September 2014)
- "[Tips for Effective Contract Dispute Resolution Clauses](#)," Author, Under Construction (June 2014)
- "What's Your Damage? Tips for Effective Delay and Impact Claims," Author, ASA Contractor's Compass (May 2013)
- "[Tips for Presenting, Analyzing and Resolving Delay and Impact Claims](#)," Presenter, Presentation to American Subcontractors Association National Membership (March 2013); Author, Under Construction (March 2013)
- "Prescription for Healthy Subcontracts," Presenter, Presentation to Arizona Builders Alliance Legal Roundtable (March 2013)
- "Design-Assist - An 'Update' to the Introduction and Best Methods Approach," Co-Author, Alliance for Construction Excellence (March 8, 2013)
- "Advance Integrated Practice - Create a Culture of Deep Collaboration," Co-Author, Alliance for Construction Excellence (March 8, 2013)
- "BIM & VDC - An 'Update' to the Introduction and Best Methods Approach," Co-Author, Alliance for Construction Excellence (March 8, 2013)
- Guest Lecturer, Arizona State University, W.P. Carey School of Business, Masters in Real Estate Development program (2012-2015)
- Guest Lecturer, Arizona State University, Ira A. Fulton Schools of Engineering, Del E. Webb School of Construction (2013), and Department of Civil and Environmental Engineering
- "Contract Interpretation: How Courts Resolve Ambiguities in Contract Documents," Presenter, Presentation to the State Bar of Arizona Construction Law Section, Annual Construction Law Update (March 2012)
- "[Municipality Code Review Self-Certification Programs Can Add Exposure to Owners, Developers and Design Professionals](#)," Author, Under Construction (December 2011)
- "Renewable Energy in Arizona: legal issues for the construction Industry," Presenter, Seminar Presentation to Invited Clients (November 2011)
- "[Arizona Supreme Court Rules in Favor of Developer on Claim Against CGL Insurer for Cost of Repairing Defective Construction](#)," Author, Under Construction (September 2011)
- "[Summary of Arizona's Prompt Payment Law Regarding Private Payments](#)," Author, Under Construction (June 2011)
- "Contracting for Integrated Project Delivery," Presenter, Presentation to Arizona Contractors Association (May 2011)
- "[Summary of 2010 Amendments to Arizona Prompt Payment Act](#)," Author, Under Construction (March 2011)
- "Recordkeeping Musts for Preserving Your Claims," Author, ASA Contractor's Compass (October 2010)
- "Constructing Your Contract: The Art of Papering a Project," Presenter, ASA Webinar (April 2010)
- "Healthcare Construction Needs: Now and into the Future," Presenter, Seminar Presentation to Invited Clients (April 2010)
- "[Recommended Dos and Don'ts in Project Scheduling, Schedule Analysis and Delay Claims](#)," Author, Under Construction (February 2010)

- Multiple Seminars, Arizona Subcontractors Association
- "Construction Management/Design-Build in Arizona," Lorman Seminar
- "Advanced Construction Law," National Business Institute
- "Legal Roundtable," Arizona Builders' Alliance
- "Arizona's Prompt Payment Law," Arizona Consulting Engineers' Association
- "Liability for Excavation of Underground Utilities," Arizona Utility Group Conference
- Client Alert: "Alternative Project Delivery Methods for Public Construction in Arizona"
- Client Alert: "Summary of Arizona's Prompt Payment Law"

## **Professional Recognition & Awards**

- [The Best Lawyers in America](#)®, Construction Law (2009-2020); Construction Litigation (2012-2020)
- Southwest Super Lawyers®, Rising Stars Edition, Construction/Surety (2012-2013)
- Arizona's Finest Lawyers

## **Community Involvement**

- Phoenix Rotary Club No. 100 (1997-present)
  - Secretary (2004-2005)
  - Board of Directors (2005-2006)
  - Sergeant-at-Arms (2007-2008; 2019-2020)

## **Bar Admissions**

- Arizona

## **Court Admissions**

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