

CHARLIE LEWIS

Global Construction Dispute Resolution ‘Makes Life Interesting’

by John M. Toth

Although he has more than 30 years of experience trying and arbitrating construction industry disputes around the world, Charles B. Lewis, partner in the Chicago office of **Duane Morris LLP**, places primary emphasis on settling controversies short of trial. “Whether they are contractors, owners, architects or material suppliers, clients hire me because they

Lewis has tried or arbitrated well over 100 cases, but he has also mediated over 300 cases as a mediator and arbitrated well over 50 cases as an arbitrator. He is certified by the American Arbitration Association (AAA) as a mediator and arbitrator—a highly unusual combination for a trial lawyer. “I’ve seen the litigation process from all angles, and know

breach of contract claims, delay claims, allegations of structural deficiencies, and similar problems, and arbitration is the largest part of Lewis’ client representation. However, he increasingly is involved in mediation proceedings, a non-binding process that many contracts specify as a prelude to arbitration and that is driven by the voluntary desire of both sides to reach a resolution. “Arbitrators make binding decisions, just as judges do,” Lewis notes, “but because mediation is a voluntary process a mediator is only as effective as his force of personality enables him to be.”

The only real leverage a mediator has is the ability to convince the parties that a settlement is in their best interests, Lewis says. “Because I’ve been involved in so many dispute resolution proceedings, participants give weight to my views on settlement,” he adds. “My reputation is as a mediator who is effective, and my success rate for mutually acceptable settlements is such that parties seek me out to resolve their disagreements.”

Making Lewis even more effective as an arbitrator and mediator is the fact that he has represented all of the various participants in construction disputes and that he drafts construction contracts as well as resolves controversies over them. “Because I can see any given situation from all sides involved, I have a better feel for the solution that will work,” Lewis observes. “And the more I get involved in mediation and arbitration, the better I can help clients draft contract terms that will either prevent problems down the road, or provide a means to settle them short of arbitration or litigation.”

When Lewis notes that “what makes life interesting for me is that my practice is not just a local one,” he understates his extensive international involvement in construction dispute resolution. Although he represents



know my track record of success in arbitrating and litigating construction disputes,” Lewis says. “The more sophisticated a client is, however, the greater its expectation that its lawyer will find a way to advantageously settle a case early, without the expense of arbitration or litigation.”

which means of dispute resolution is most likely to produce the results a client wants,” he explains.

‘Force of Personality’

Most construction contracts specify arbitration as the primary means for resolving

many leading contractors, developers, and owners in the Chicago area, he has extensive global experience. For the first 25 years of his practice, as a member of the global Baker & McKenzie law firm, he had frequent involvement with construction projects in Europe and the Asia/Pacific region, a focus that continued and expanded after he joined the former Jenkens & Gilchrist in 2001 and Duane Morris in 2006. Lewis has conducted alternative dispute resolution worldwide (including in Russia, Switzerland, Saudi Arabia and Guam) under the auspices of the International Centre for Dispute Resolution (ICDR) and the International Chamber of Commerce (ICC). In addition to representing clients in international arbitrations, he also handles the enforcement of judgments entered in favor of his clients.

Lewis often works on behalf of large international contractors in project disputes: for example, his representation of the government of Greece in \$200 million of claims filed over the Athens Metro Rail System by 23 European contractors was at the request of global giant Bechtel, which had acted as project manager for the government.

More recently, Lewis represented two contractors on claims arising from the construction of a portion of Bagram Air Force base in Afghanistan. "One of the contractors is based in Kuwait, the other in Afghanistan, and their contracts call for arbitration pursuant to U.S. law," he says. Although Islamic law (Sharia) was not involved in the dispute, Lewis is experienced in that legal system as well as civil law and the Napoleonic Code.

Haz-Mat Suit

In the U.S., Lewis has handled contracts and disputes involving luxury hotels, retail and office developments, hospitals, power plants, and public infrastructure construction related to mass transit, telecommunications and such municipal services as streetlights. A good example of his work was representing the landlord in the reconstruction of a historic New York City post office building that was located directly across from the World Trade Center and was heavily damaged in the September 11 terrorist attacks. "My client's building was a

beautiful WPA project from the 1930s," he recalls, and because of its proximity to the No. 7 World Trade Center, it required extensive remediation from the hazardous materials that were blown into it. "I spent considerable time in a haz-mat suit at the property site, and while it was a very devastating experience, in the end the renovation was highly successful."

The current real estate and construction market has created new challenges for Lewis' practice. "There is an entirely new class of disputes arising over the ability of developers and owners to pay contractors for projects that they suddenly can't complete because financing is no longer available," Lewis says. "In such instances, the only way for contractors to get their money, particularly if the developer goes bankrupt, is to either work with the bank as a new project owner or to file a lien and get the building sold. Five years ago, we didn't see these types of situations; now, resolving them is a growing part of what I do."

The preeminent position that Lewis has established in construction dispute resolution is reflected in his recognition by the legal directories *Chambers USA* (where he is one of only six Illinois construction lawyers listed in the top tier) and *The Best Lawyers in America*. He also is a frequent author and speaker on construction industry topics. However, he says, "The greatest compliment paid to me is when clients invite me to attend their business meetings. I'm not just there as a lawyer; I'm a member of their team. Construction is a high-risk industry, and I'm proud to be included as a key player on the business side."

Becoming a lawyer was a natural career path for Lewis. "My family on both my father's and mother's sides included a number of lawyers, including an uncle who served on the Supreme Court of Wisconsin, so becoming a lawyer was something I always wanted to do," he recalls. After graduating from the University of Michigan and the University of San Francisco School of Law, he returned to his hometown of Chicago in 1976 and has been practicing ever since in the construction law field that he still enjoys. He sums up his career simply: "I'm a lucky guy because I have a great practice that I enjoy, with clients and colleagues I respect." ■

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