



## **MICHAEL RUBIN**

### **Partner**

Government and Regulatory

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Orange County

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Michael Rubin's practice emphasizes eminent domain, inverse condemnation, property valuation, property tax, real estate, landslide, public agency litigation, environmental/toxic law, land use entitlement and regulatory matters. Mike's leadership in the eminent domain/right-of-way field was recognized by his selection as "Professional of the Year" by the Orange County Chapter of the International Right-of-Way Association. He has been selected by Los Angeles Magazine every year since 2005 as one of Southern California's "Super Lawyers", an honor bestowed on 5% of Southern California's attorneys each year.

Mike's professional, community and philanthropic activities are reflected in his being honored with the Judge Learned Hand Lifetime Achievement Award by the American Jewish Committee. He was also honored by the Anti-Defamation League, Orange County/Long Beach Region, with its 'Marcus M. Kaufman Jurisprudence Award' in 2018. He is the immediate past Regional Chair of the Orange County/Long Beach Region of the Anti-Defamation League. His partners at Rutan & Tucker honored him with its John B. Hurlbut award for "setting the highest standard of excellence, teamwork and integrity." Mike's mission is to provide quality service that exceeds clients' expectations for cost-effectiveness, timeliness, personal attention, technical excellence and creativity, all guided by a clear understanding of the clients' desires and needs.

### **Areas of Expertise**

- Eminent Domain
- Property Valuation Disputes
- Landslide/Construction Defect
- Public Agency Litigation
- Environmental & Toxic Law
- Land Use/Entitlement
- Property Tax
- Real Estate Litigation

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### **Related Services**

- Government and Regulatory
- Condemnation and Property Valuation
- Environmental
- Land Use and Natural Resources
- Municipal Law General and Special

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### **Related Industries**

- Public Entities and Municipalities
- Environmental and Natural Resources

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### **Bar & Court Admissions**

- State Bar of California
- U.S. Supreme Court
- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Central District of California
- U.S. Claims Court

## Representative Matters/Cases

- *Delmonico v City of Anaheim*, Orange County Superior Court Case No. 718071 and 21 other consolidated cases. Defended the City of Anaheim against 15 landslide damage lawsuits filed by one of California's largest law firms on behalf of 465 Anaheim Hills homeowners. The lawsuits asserted inverse condemnation, negligence, nuisance and breach of mandatory duty causes of action and sought several hundred million dollars for damages to plaintiffs' homes and for emotional distress alleging that the City was responsible for the landslide damages due to (1) alleged leaks in the City's water distribution system, (2) grading for public streets which allegedly destabilized a slope, and (3) negligent approval of development in a landslide hazard area. The litigation was resolved after the first day of trial when favorable legal rulings and a neutral expert's testimony resulted in dramatically decreased demands and a settlement favorable to our client.
- *Golden West Baseball Company v. City of Anaheim*, et al., 25 Cal. App. 4th 11 (1994). Represented City of Anaheim in defending against \$200 million lawsuit brought by the California Angels over the rights of the City, the Angels, the Los Angeles Rams and a real estate developer in Anaheim Stadium and surrounding properties. Handled complex eleven month trial and all appellate proceedings after trial court's judgment was appealed by all parties. The 4th District ruled in the City's favor.
- *City of Anaheim v. Insurance Companies*, San Diego County Superior Court Case No. 65-06-78. Represented the City of Anaheim in lawsuit against multiple insurance companies for breaching insurance agreements by refusing to defend the City or reimburse defense costs in various lawsuits. Negotiated settlement on eve of trial whereby insurers paid Anaheim \$5,050,000.
- *State Department of Transportation v. Skate Ranch*, Orange County Superior Court Case No. 38-15-19. Represented owner of skating rink in condemnation action filed by the State. State's pretrial offer was \$450,000. After a jury trial State agreed to settlement paying owner over \$3,200,000 including all attorneys fees and litigation costs incurred by owner.
- *Redevelopment Agency of the City of Riverside v. Gracal Corporation, et al.* Riverside Superior Court Case No. RIC 385136. Represented Gracal, the lessor of a portion of the Riverside Plaza Shopping Center, in a condemnation action brought by the Redevelopment Agency. Our client had an unfavorable lease with a remaining term of 58 years under which the annual rent was only \$10,000 per year. The Agency's pre-condemnation offer was \$183,000 based upon the present value of the right to receive the \$10,000/yr rent and the discounted value of the right to the reversion (the right to get the land back in 2060). The case settled after mediation proceedings with Gracal receiving compensation of \$1,600,000.
- *Palm Springs Unified School District v. Godo; Nevada Land & Livestock Co. et al.*; Riverside Superior Court Case No. 063731. Represented owner of two adjacent parcels totaling 11.72 acres condemned by the School District. The District's pre-condemnation appraisal was \$1,120,000 which it lowered to \$1,000,000 by the time of the pretrial exchange of valuation data. The case settled thirty days before trial for payment of \$2,550,000 plus interest by the District and concessions by lenders to our client which made the effective value of the settlement the equivalent of an award of approximately

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## Education

- University of Michigan Law School (J.D., 1974), magna cum laude, Order of the Coif, Associate Editor, Michigan Law Review
- University of Michigan (B.A., 1970), James B. Angell Scholar, Varsity Wrestling Team, Druids Honorary Society

\$3,000,000.

- *Victor Village Associates v City of Victorville*, San Bernardino Superior Court, Case No. VCVVS 029831 consolidated with *City of Victorville v Victor Village Associates*, San Bernardino Superior Court, Case No. VCVVS 033512. Represented Victor Village Associates (VVA), the owner of 3.4 acres in the City of Victorville, in a writ of mandate and inverse condemnation action against the City for its alleged improper denial of development approvals and its defacto taking of VVA's property. The City denied development approvals because the property might be needed sometime in the future as the location for an interchange to the I-15 freeway. During the course of the litigation the City filed a direct condemnation action against VVA to acquire the property and the two cases were consolidated. The City initially appraised the property at \$896,000 or \$6 per sf. The case settled immediately prior to trial with the City agreeing to pay \$2,017,048.50 as the fair market value of the property taken (\$13.50 per sf), plus \$192,032.43 for pre-condemnation damages, plus \$45,000 for attorneys fees (total \$2,254,080) plus interest and statutory costs.
- *Redevelopment Agency of the City of Glendale v Better Foods Land Investment Company*, Los Angeles Superior Court Case No. BC 317 831. Represented Big 5 Corp. dba Big 5 Sporting Goods in seeking loss of business goodwill in connection with condemnation of property in the City of Glendale leased by Big 5 on which Big 5 operated a sporting goods store. The agency appraised Big 5's loss of goodwill at \$604,000. After mediation the case settled with the agency paying Big 5 \$1,600,000 for loss of business goodwill. In addition Big 5 was paid \$90,000 for relocation assistance and \$90,690 for its permanent fixtures and equipment.
- *State Department of Transportation v Schumacher Trust, et al.*, OCSC Case Nos. 755626, 755628, 755629. Represented the owner of a 4.5 acre strip of multi-tenant industrial/quasi commercial units in the City of Orange adjacent to the Santa Ana Freeway in a complete take by the State for the widening of the freeway. The State's pre-condemnation offer of just compensation was \$5,638,500. A settlement was reached for \$7,255,000 plus interest (which included precondemnation damages in the amount of \$1,115,000).
- *Interstate Electronics v. County of Orange*, Orange County Assessment Appeal Petition Nos. 594-82 through 598-82, 1345-83 through 1346-83 and 4364-82 through 4368-82; 15858-86, 15885-86, 01416-87, and 01417-87. Represented defense contractor, Interstate Electronics, in seeking refund of property taxes paid to County of Orange based upon Interstate's right to use "Government Furnished Equipment" in fulfilling contracts with the United States relating to Trident submarines. The County appointed Assessment Appeals Board refunded Interstate over \$1,500,000 in property tax payments.
- *Bass Lake Homeowners Association, v County of Madera*, Madera County Superior Ct No. 57795 (1997); State of California Court of Appeal, Fifth Appellate District, No. F028265 (December 1998). With local counsel, Ted Frame of Frame & Matsumoto, jointly handled trial and later appeal on behalf of the Bass Lake Homeowners Association challenging the County's \$76.8 million property tax assessment. The assessment arose out of a complicated set of transactions whereby, the Association, acting on behalf of long term sublessees of property owned in fee by Pacific Gas & Electric, first purchased the master lessee's interest in the properties and thereafter purchased the fee simple interest from PG&E, thereby uniting the subleasehold, leasehold and fee

interests. The County valued the property upon the change of ownership based upon what each individual sublessee's property would sell for if sold individually while the Association contended that the property should be assessed based upon its value in a "bulk sale" of all of the individual sublessee's properties in one transaction (and argued that the bulk sale value was represented by the \$16.3 million paid to PG&E for their lessor's interest in the property). The trial court ruled that the bulk sale methodology was the correct approach but that the \$16.3 million purchase price did not represent fair market value of the entire property because the lessor's interest sold by PG&E to the Association was burdened by the sublessee's long term leasehold right to use the property for only \$1 lease rental per year. The Court of Appeal ruled on all points for the Association and ordered that judgment be entered finding that the fair market value of the land for purposes of property tax assessment was \$16.3 million.

- *Beauwood California v David Frost*, American Arbitration Association Case No 73 133 00254 94A. Represented golf club manufacturer in breach of contract arbitration against PGA golf professional David Frost based on Frost's failure to utilize and endorse client's golf clubs. After 9 day arbitration hearing which resulted in favorable determination on liability issue, settlement agreed to whereby client was paid \$800,000 in damages plus interest.
- *City of Anaheim v. Orange County Local Agency Formation Commission*, Santa Ana Valley Irrigation Company and City of Yorba Linda, Orange County Superior Court Case No. 37-96-78. Represented the Santa Ana Valley Irrigation Company (SAVI) in lawsuit challenging County's use of a negative declaration instead of a full environmental impact report to approve the addition of the SAVI Ranch to Yorba Linda's sphere of influence preparatory to annexation. The Court ruled for SAVI and upheld the use of the negative declaration over Anaheim's complaint that a full Environmental Impact Report was required.
- *Newport Beach v. Armstrong Petroleum Corporation*, Orange County Superior Court Case Nos. 35-79-89, 35-58-16 and 34-87-83. Represented the City of Newport Beach in extra-territorial eminent domain case and companion breach of contract case to compel Armstrong to assign to the City surface locations outside City boundaries for oil wells which were slant drilled beneath Newport Beach to the City owned tidelands area. The Court ordered Armstrong to assign the sites to the City and to pay Newport Beach's legal fees and costs.
- *Signal Hill Redevelopment Agency v. B.J. Hughes, D.P. Investments, et al.*, Los Angeles Superior Court Case Nos. C706123 and C706122. Represented the City of Signal Hill in a series of cases to condemn property impacted by toxic contamination for construction of an auto mall. After pretrial proceedings challenging Signal Hill's right to offset clean up costs against the fair market value of the property being taken, the cases were all settled with the owners being required to pay the bulk of the clean up costs.
- *State Department of Transportation v. Kuster, et al.*, Orange County Superior Court Case No. 64-77-49. Negotiated settlement just prior to trial with State agreeing to pay property owner \$1,210,000, whereas the State's precondemnation offer was \$695,000.
- *Labeda v. United States Amateur Confederation of Roller Skating, VanRoekel, et al.*, USDC #83-2844 ER (Kx). Represented principal director of United States Amateur Confederation of Roller Skating in antitrust action against him and the sports confederation alleging that he conspired to drive manufacturer of

rollerskating speed wheels out of business by banning Plaintiff's wheels from competitive use. Plaintiff dismissed case against our client and issued an apology.

- *The J. David Gladstone Institutes - v. Pacific Gas & Electric Co.* (U39E) C.08-02-002. We represented the J. David Gladstone Institutes in a proceeding filed with the Public Utilities Commission against Pacific Gas & Electric which resulted in a settlement with the utility paying our client \$800,000.
- *Lee v. City of Lompoc*, 14 Cal.App. 4th 1515 (1993) Prepared and filed an Amicus Appellate Brief on behalf of over 100 California cities at the request of the League of California Cities in a case adjudicating whether the California Environmental Quality Act applied to an initiative measure placed on the ballot by the city council to amend the city's General Plan. The Court of Appeal ruled such action was exempt from CEQA (as we urged).
- Ontario Center Specific Plans, Land Use Entitlements and Environmental Processing. Principal attorney for Chevron Land and Development Company in processing land use approvals with the City of Ontario for the 680+ acre commercial, residential and industrial development known as the Ontario Center (on the site of the former Ontario International Speedway). This included environmental impact processing and the negotiation and drafting of a Specific Plan which served as the basis for zoning and land use entitlements.
- Santa Ana Valley Irrigation Company Land Use Entitlements. Principal attorney representing the Santa Ana Valley Irrigation Company in obtaining land use approvals for 286 acres of property in North Orange County which had been classified as flood plain property impacted by wetlands and wildlife habitat.
- Rossmoor Business Park. Represented owner of 160+ acres adjacent to Rossmoor Leisure World in preparing and processing environmental documentation and procuring land use entitlements including a County General Plan Amendment to permit the construction of a regional business park.
- Development Agreement with City of Huntington Beach for Huntington Beach Company's Holly SeaCliff Development. Represented Huntington Beach Company's affiliates in negotiating and preparing Development Agreement with the City of Huntington Beach vesting land use entitlements and providing for the build out and infrastructure for the massive 545+ acre Holly SeaCliff project.
- GSV-2 Resort Developers LLC - Property Tax Dispute with County of Riverside. Application for Changed Assessment No. 07-01096. Represented ground lessee/developer of approximately 408 vacant acres in Riverside County in its appeal of the County's property tax assessment of its possessory interest in land owned by an Indian tribe. The Assessor valued the possessory interest at \$81,600,000 for the base year and increased this "base year value" by 2% each year. We were successful in reducing the base year assessed value to \$15,066,129. This translated into a reduction of property taxes of close to \$4,000,000 over the 4 & ½ years involved in the tax appeals.
- *Palm Springs Unified School District v. Godo; Nevada Land & Livestock Co. et al.; Riverside Superior Court Case No. 063731*. Represented owner of two adjacent parcels totaling 11.72 acres condemned by the School District. The District's pre-condemnation appraisal was \$1,120,000 which it lowered to \$1,000,000 by the time of the pretrial exchange of valuation data. The case settled thirty days before trial for payment of \$2,550,000 by the District and concessions by lenders to our client which made the effective value of the

settlement the equivalent of approximately \$3,000,000.

## Publications/Seminars

- CLE International, Conference on Eminent Domain, Presenter: "Introduction to the Eminent Domain Playbook Part I (Pre-Litigation Activities)", Los Angeles, January 18-19, 2018.
- Appraisal Institute, 49th Annual Litigation Seminar, Southern California Chapter, Presenter "The Tension Between Expert Witnesses and Counsel", November 4, 2016.
- CLE International, 18th Annual Eminent Domain Conference, Presenter: "Part Take or Full Take: The Need for New Rules; How to Convince a Condemnor to Change its Full-Take to a Part-Take and Vice Versa (and Special Thoughts on Lender Involvement)", San Francisco, October 21, 2016.
- CLE International Conference on Eminent Domain, Presenter: "Full Take vs Part-Take", San Diego, February 25-26, 2016.
- California Condemnation Case Review 2012 – presented to Chapter 67, International Right of Way Association, March 12, 2013.
- CLE International, Eminent Domain Institute, 14th Annual Conference: "Motions *in Limine* or Cross-Examination? How Best to Attack Comparable Sales Data", April 26-27, 2012.
- CLE International, Eminent Domain Institute, 13th Annual Conference: "Eminent Domain – From Pre-Condemnation to Appeal", Instructor on "Pre-Condemnation Practice – How to Avoid Early Mistakes; Special Strategies for Multiple Parcels", May 12-13, 2011.
- ABA Seminar, "Real Estate Damages: Environmental Conditions, Systems & Strategy", Instructor on "Eminent Domain and Environmental Contamination – Who Pays for What?", November 18, 2010.
- "Eminent Domain and Environmental Contamination – Who Pays for What" [Part of American Bar Association, Section of Litigation, Regional CLE Workshop on "Real Estate Damages: Environmental Conditions, Systems & Strategy", held at Whittier Law School, November 18, 2010].
- Faculty Instructor, California Continuing Education of the Bar, "*Laying Evidentiary Foundations*"
- Instructor, University of California Continuing Education in Public Policy and Planning, "*Government Liability in Damages: Can the King Do Wrong?*"
- Instructor, University of California, Irvine, Program in Social Ecology, "*The Evolving Law of Planning and Development Control*"
- Co-Coordinator and Participant, 2001 Mock Trial for the International Right-of-Way Association
- Lecturer, International Right-of-Way Association, "*Understanding the Appraisal from the User's Viewpoint*"
- Lecturer, International Right-of-Way Association, "*Hot Topics Concerning the Right to Take Private Property, Including the 'Redevelopment Abuse' Controversy*"
- Lecturer, International Right-of-Way Association, "*The Special Fiduciary – Like Responsibility, a Public Agency and the Right-of-Way Agent owe to a Private Property Owner*"
- Lecturer, International Right-of-Way Association, "*Condemning Contaminated Property May be Hazardous to a Public Agency – but You can Reduce the Risk*"

- Lecturer, American Society of Safety Engineers, *"Environmental Crimes and Tough New Safety Laws"*
- Los Angeles Daily Journal Article , *"The Broad Immunity for Negligent or Omitted Inspections Trumps Public Entities' Liability for Breach of Mandatory Duties"*
- South Coast Metro Article, *"Government Claims Act: A Trap for the Unwary"*
- Orange County Medical Association Bulletin Article, *"Property Taxes and the Doctor"*
- Michigan Law Review Article, *"A Sixth Amendment Right to Counsel Under Article 15 of the Uniform Code of Military Justice"*

## Community/Affiliations

- Anti-Defamation League (Immediate Past Regional Chair)
- Anaheim Community Foundation
- International Right of Way Association
- University of Michigan Law School Fund
- Temple Beth Shalom
- University of Michigan Alumni Club of Orange County

## Memberships & Associations

- California State Bar, Environmental Section; Litigation Section; Public Law Section
- American Bar Association, Section of Natural Resources, Energy and Environmental Law (SONREEL); Litigation Section; Land Use Section
- Orange County Bar Association, Co-chairperson: Education Committee (1994-1995); Member: Toxics and Environmental Section; Business Litigation Section

## Awards & Honors

- Anti-Defamation League Marcus Kaufman Jurisprudence Award, 2018
- Best Lawyers in America, 2021-2022



- Southern California "Super Lawyers", 2005-2020
- AV® Preeminent™ rating with LexisNexis/Martindale Hubbell
- John B. Hurlbut award by his partners at Rutan & Tucker for "setting the highest standard of excellence, teamwork and integrity"
- Judge Learned Hand Lifetime Achievement Award by the American Jewish Committee
- Professional of the Year by the Orange County Chapter of the International

Right-of-Way Association

- Opera Pacific's Niles Gates Leadership Award
- Opera Pacific's "Volunteer of the Year" Award

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