

EXPERT WITNESS SERVICES PROJECTS

As a part of *ERA*'s regular consulting activities, the firm has taken on numerous expert witness assignments. As can be seen below, the firm provides both defense and plaintiff services in approximately equal frequency. A sampling of expert witness cases includes:

- **Allison MacKenzie - Performance Contract for Casino.** Plaintiff was casino owner. Complaint was a non-performing project. *ERA* reviewed case files and evaluated contract and design documents, analyzed historic energy use data, interviewed percipient witnesses and developed a preliminary expert's report. Case pending.
- **Archer, McComas & Lageson - Condominium HVAC Systems.** Defendant was HVAC contractor. Complaint was insufficient cooling in second story. *ERA* reviewed case files and evaluated design documents, performed cooling load calculations, performed site survey, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court.
- **Archer, McComas & Lageson - County Office Building HVAC.** Defendant was HVAC contractor. Complaint was insufficient cooling. *ERA* reviewed case files and evaluated design documents, performed cooling load calculations, performed site survey including whole-building testing, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court.
- **Archer, McComas, Breslin, McMahon & Crittendon - County Office Building HVAC.** Defendant was HVAC sales representative. Complaint was insufficient cooling and failed thermal energy storage system. *ERA* reviewed case files, performed site survey, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court.
- **Belzer Hulchiy & Murray - Office Building HVAC Systems.** Plaintiff was building owner. Complaint was HVAC system failure (collapse of fan room plenum). *ERA* reviewed case files, conducted on site investigation, interviewed percipient witnesses and advised counsel. Case settled out of court.
- **Branson, Fitzgerald & Howard - Apartment HVAC Systems.** Defendant was HVAC contractor. Complaint was poorly-constructed and inadequate heating. *ERA* reviewed case files and performed site survey. Case settled out of court.
- **Brobeck, Phleger & Harrison, LLP - Office Building HVAC Systems.** Plaintiff was office building tenant. Complaint was poor comfort and insufficient cooling and restricted access to temperature controls. *ERA* reviewed case files, performed site survey, interviewed percipient witnesses, researched control system and advised counsel. Case settled out of court.
- **Community College District - Campus Heating Water Distribution Piping.** Plaintiff was community college district. Complaint was failure of underground piping when first energized. *ERA* reviewed case files and evaluated design documents, interviewed percipient witnesses, performed site survey, performed research and participated in settlement conferences. Case settled out of court.
- **Community College District - Performance Contract for District.** Plaintiff was the community college district. Complaint was a non-performing project. *ERA* reviewed case files and evaluated design documents, analyzed historic energy use data, performed site survey

including control system testing, interviewed percipient witnesses and developed settlement strategies. Case settled out of court.

- **Cox & Burns - Performance Contract for K-12 School District.** Plaintiff was the K-12 school district. Complaint was a non-performing project. *ERA* reviewed case files and conferred with counsel. Case settled out of court. Counsel advised in writing that the Fortune-500 defendant settled largely due to *ERA*'s reputation in cases of this nature.
- **DeBene & Associates - Single-family Residential HVAC Systems.** Plaintiff was developer. Complaint was insufficient cooling in second story. *ERA* reviewed case files and evaluated design documents, performed cooling load calculations, performed site survey including whole-building testing, interviewed percipient witnesses, developed remediation program and participated in settlement conferences. Case settled out of court.
- **Engstrom, Lipscomb & Lack - Employment Contract.** Plaintiff was former employee of a performance contractor. Complaint was non-payment of sales commissions. *ERA* reviewed case files, analyzed project job cost accounting records, interviewed percipient witnesses and developed settlement strategies. Case settled out of court.
- **Filice, Brown, Essa & McLeod - Maintenance of Leased Premises.** Plaintiff was building owner. Complaint was that lessee failed to pay for work needed to maintain the building under a triple-net lease. *ERA* reviewed case files, performed a site survey, interviewed percipient witnesses, and gave deposition. Case settled out of court.
- **Fong & Fong - High-rise Condominium Cogeneration System.** Plaintiff was homeowner's association. Complaint was poor system performance and incorrect billings from third-party system owner. *ERA* reviewed case files and evaluated design documents, audited billing history, performed performance calculations, performed site survey including performance testing, interviewed percipient witnesses, developed new automated billing procedure and participated in settlement conferences. Case settled out of court.
- **Gassett Perry & Frank - Condominium HVAC Systems.** Defendant was HVAC contractor. Complaint was inadequate heating and cooling. *ERA* reviewed case files and evaluated design documents, performed site survey, interviewed percipient witnesses and participated in settlement conferences and gave deposition. Case settled out of court.
- **Gillen, Jacobson, Ellis & Larsen - Personal Injury/Construction Defects.** Plaintiff was high school student. Complaint was personal injury stemming from a performance contractor's construction defect. *ERA* reviewed case files and performed research. Case settled out of court.
- **Hansen, Bridgett, Marcus, Vlahos & Rudy - Nursing Home Cogeneration System.** Defendant was building owner. Complaint was that owner's remodeling work damaged the cogeneration system owned by an energy services contractor. *ERA* reviewed case files, conducted on site investigation, performed research, interviewed percipient witnesses and participated in settlement negotiations. Case settled out of court.
- **Hansen, Bridgett, Marcus, Vlahos & Rudy - Office Building HVAC Construction Defects.** Plaintiff was hospital building owner. Complaint was HVAC systems which provided inadequate cooling and caused excessive building pressurization. *ERA* reviewed case files, conducted on site investigation, interviewed percipient witnesses, wrote technical report and participated in settlement meetings. Case settled out of court.
- **Hospital Owner - Guaranteed Energy Savings Project for Hospital.** Plaintiff was owners of the hospital. Complaint was a non-performing project. *ERA* reviewed case files and evaluated

design documents, analyzed historic energy use data, performed site survey including control system testing, interviewed percipient witnesses and developed settlement strategies. Case settled out of court.

- **Hughes & Associates - Single-family Residential HVAC Systems.** Plaintiffs were homeowners. Complaint was "staining" of carpet. *ERA* reviewed case files and evaluated design documents, performed cooling load calculations, performed site survey including whole-building testing, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court.
- **Jacobsen, White, Diamond & Bordy - Performance Contract for University.** Plaintiff was a private university. Complaint was a non-performing project. *ERA* reviewed case files, analyzed historic energy use data, interviewed percipient witnesses and developed settlement strategies. Case settled out of court.
- **Larson & Burnham - Office Building HVAC Systems.** Defendant was design engineer. *ERA* reviewed case files and evaluated design documents, performed cooling load calculations, performed site survey, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court.
- **Larson & Burnham - University Campus Chilled Water Distribution Piping.** Defendant was mechanical contractor. Complaint was failure of piping and flooding of building. *ERA* reviewed case files and evaluated design documents, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court.
- **Law Offices of Jack Provine - Pacific Park Plaza Condominium HVAC Systems.** Plaintiff was homeowners' association. Complaint was faulty building "skin" and inadequate HVAC systems. *ERA* reviewed case files and evaluated design documents, performed heating and cooling load calculations, performed site survey including instrumented testing of the building and the HVAC systems, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court for \$19,300,000 (as announced in the press).
- **Law Offices of Larry Langley - Single Family Tenant Carbon Monoxide Poisoning.** Defendant was HVAC contractor. Complaint was that faulty heating system was leaking carbon monoxide into the residence. *ERA* reviewed case files and evaluated construction documents, performed site surveys including operational testing of the HVAC system, interviewed percipient witnesses, participated in settlement conferences and gave deposition. Case settled out of court.
- **Locke Liddell & Sapp - Performance Contract for School District.** Defendant was consultant to the school district. Complaint was that Owner's consultant damaged the relationship between the Fortune-500 performance contractor plaintiff and the Owner, causing the Owner to not proceed with a second, \$40,000,000 phase of work. *ERA* reviewed case files and evaluated contract and other historical documents, analyzed the performance contract and defendant's interpretation thereof, prepared expert's report and gave deposition. Case settled out of court (\$10,000,000 claim abandoned by plaintiff).
- **McNamara, Dodge, Ney, Beatty, Slattery & Pflazer - Single-family Residential HVAC Systems.** Defendant was HVAC contractor. Complaint was inadequate air distribution and faulty dryer vent installations. *ERA* reviewed case files, performed site survey, interviewed percipient witnesses and prepared expert's report. Case settled out of court.
- **Morrison & Foerster - Maintenance of Leased Office Building.** Plaintiff was building owner. Complaint was that lessee failed to properly maintain the building under a triple-net lease. *ERA* reviewed case files, performed an extensive site survey including examination of all building

systems and the grounds, interviewed percipient witnesses, wrote a technical report and participated in settlement negotiations, including re-inspection of the building following lessee's (inadequate) remediation work. Case settled out of court.

- **Nagle, Bustamante & O'Hara - Single-family Residential HVAC System.** Plaintiff was homeowner. Complaint was inadequate air distribution and heating and cooling. *ERA* reviewed case files, performed site survey, interviewed percipient witnesses, prepared expert's report, gave deposition and testified at trial. Judgement in favor of Plaintiff.
- **Owen & Melbye - Pharmaceutical Laboratory HVAC Systems.** Defendant was equipment sales representative. *ERA* reviewed case files and evaluated design documents and participated in settlement conferences. Case settled out of court.
- **Pacific Gas & Electric - Single-family Residential Furnaces.** Plaintiff was Pacific Gas & Electric. Complaint was premature and catastrophic failure of furnace heat exchangers. *ERA* reviewed case files, examined failed equipment, performed site survey including equipment testing, interviewed percipient witnesses and assisted in the development of remediation program. Case settled out of court.
- **Ronald J. Souza - Residential Energy Use.** Plaintiff was landlord. Complaint was non-payment of rents. *ERA* reviewed case files and evaluated utility consumption data to prove occupancy of rental unit. Case settled out of court.
- **Ropers Majeski - Luxury Single-family Residential HVAC and Electrical Systems.** Plaintiff was homeowner. Complaint was shoddy workmanship, malfunctioning equipment, excessive HVAC system noise and excessive operating and maintenance costs. *ERA* reviewed case files and evaluated design documents, performed site survey including equipment testing, interviewed percipient witnesses and participated in settlement conferences. Case settled out of court.
- **Sedgewick, Detert, Moran & Arnold - New Hospital Wing HVAC.** Defendant was mechanical contractor. Complaint was excessive noise from HVAC system. *ERA* reviewed case files and evaluated design documents, interviewed participants and participated in settlement and mediation conferences. Case settled out of court.