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## Robert L. Smith

*Shareholder*



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### Practice Focus

Rob has a unique background that allows him to approach projects from a client's perspective. For the first 12 years of his career, Rob practiced law at one of Minneapolis's largest law firms where he resolved construction disputes through trials, arbitrations, mediations and negotiated settlements. Rob then spent the next eight years working as an in-house construction lawyer, including seven years as in-house counsel for one of the ten largest general contractors in North America. Having been a client and supervised outside counsel across the country, Rob understands what matters to construction clients and the importance of resolving disputes quickly and efficiently.

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### Practice Areas

- Claims Counseling
- Construction Dispute Resolution (Trials, Arbitrations and Mediations)
- Construction Contracts
- Mechanic's Liens
- Payment and Performance Bond Claims
- Construction Defects
- Government Contracts and Claims
- Bidding and Procurement
- Public Private Partnerships (P3)
- Insurance Claims and Coverage
- OSHA Citations
- Native American Contracts
- Internal Investigations

## Representative Matters – Contract Negotiation and Counseling

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Rob has negotiated numerous construction contracts for all project delivery methods (traditional design-bid-build, design-build, EPC, construction manager at risk, etc.) and of all sizes ranging from small residential agreements to projects valued at more than \$250M. Some notable contracts Rob has negotiated include an MLS soccer stadium in California, a \$275M condominium tower in Hawaii, a \$185M design-build airport project in California, a \$145M mixed-use project in Washington, and a \$60M hotel in Minnesota. On the counseling side, Rob has advised contractors in connection with projects of every size, ranging from small tenant improvement projects to several jobs valued at over \$1B.

## Representative Matters – Litigation

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Some examples of litigated matters Rob has successfully handled include the following:

Obtained complete jury verdict for the owner of an apartment complex against a material supplier for breach of contract and slander of title.

Obtained complete jury verdict for hotel owner against neighboring property owner arising out of nuisance and trespass.

Represented general contractor in claims for extra compensation and schedule relief against owner and claims for termination costs against defaulted subcontractor in Las Vegas, Nevada.

Successfully resolved claims for additional compensation on behalf of earthwork contractor arising from a historic mine reclamation in South Dakota.

Successfully defended national home builder in numerous AAA arbitration hearings in Minnesota.

Successfully overturned summary judgment decision dismissing home builder's claims for contribution and indemnity based on 2007 amendment to Minnesota's statute of repose. *U.S. Home Corporation v. Zimmerman Stucco & Plaster, Inc.*, 749 N.W.2d 98 (Minn. Ct. App. 2008).

Represented general contractor in AAA arbitration hearing against owner claiming construction defects at a warehouse facility in southern Minnesota.

Resolved multiple subcontractor disputes for general contractor arising from construction of big box retail store in Montana.

Represented condominium developer in connection with lawsuit involving fraud and failure to disclose material construction defects in Minneapolis real estate transaction.

## Speeches and Publications

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Speaker and Author, *AIA Contract Documents: Interpreting, Negotiating and Modifying*, National Business Institute (2021).

Speaker, *Construction Contracts: Key Differences*, Associated General Contractors of Minnesota (2021).

Panelist, *What a General Contractor Should Do When Hit With a Massive Claim Alleging Defective Construction*, Construction Super Conference (2018).

Panelist, *Panelists Tackle the Perennial Question: What Do General Counsel Want?*, MN State Bar Association Construction Section (2014).

Speaker, *Contract Drafting*, Minnesota Mechanical Contractors Association (2011).

Speaker and Co-Author, *2010 Case Law Update*, MN State Bar Association Construction Section (2011).

Speaker, *Recent Developments in Minnesota Construction Law*, Construction Specifications Institute (2010).

Speaker and Co-Author, *2009 Case Law Update*, MN State Bar Association Construction Section (2010).

Speaker, *Public Bidding: Do It Right*, Associated Builders and Contractors (2009).

Speaker, *Lien Waivers in a Lean Economy*, Associated Builders and Contractors (2009).

Speaker and Co-Author, *2008 Case Law Update*, MN State Bar Association Construction Section (2009).

Speaker and Co-Author, *Concrete from A to Z*, Lorman Education Services (2008).

Speaker and Co-Author, *2007 Case Law Update*, MN State Bar Association Construction Section (2008).

Speaker and Co-Author, *2007 Revisions to the AIA A201*, Construction Specifications Institute (2008).

Speaker and Co-Author, *Proprietary Specifications: What They Are and Why They Are Important*, Construction Specification Institute (2007).

Speaker, *2006 Case Law Update*, MN State Bar Association Construction Section (2007).

Speaker, *Proprietary Specifications*, MN State Bar Association Construction Section (2005).

Speaker and Co-Author, *Advanced Construction Law in Minnesota*, National Business Institute (2005).

Author, *Contractors Criminally Liable For Their Subcontractor's Bad Work?*, ABA Forum on Construction Industry "Under Construction" Newsletter (2004).

Speaker and Co-Author, *Advanced Construction Law in Minnesota*, National Business Institute (2002).

Speaker, *Statute of Limitations Case Law Update*, MN State Bar Association Construction Section (2002).

Speaker and Author, *Defending Against Lien and Bond Claims*, MN Institute of Legal Education (2001).

Numerous in-house trainings and presentations for construction executives and business units, including contract training sessions, design-build training and training on unique risks associated with residential construction.

## Professional Organizations and Achievements

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### **Fellow, Construction Lawyers Society of America**

### **Member and Volunteer Investigator, Fourth District (Hennepin County) Ethics Committee**

### **Member, Minnesota State Bar Association**

- Former Chair, Construction Law Section
- Former Treasurer, Construction Law Section
- Former Secretary, Construction Law Section
- Former Member of Governing Council, Construction Law Section

### **Member, American Bar Association**

- Forum Committee on the Construction Industry
- Section of Litigation

### **Member, Hennepin County Bar Association**

## Past Positions

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Legal Counsel – US Operations, PCL Construction Enterprises (2012-2020)

Associate General Counsel, Life Time Fitness (2011-2012)

Shareholder/Associate, Leonard, Street and Deinard, P.A. (2000-2011)

Associate, Bowman and Brooke, LLP (2000)

## Education

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- J.D., University of Minnesota Law School, *cum laude*, 1999
- B.A., Concordia College, *magna cum laude*, 1996

## Admissions

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- State of Minnesota
- State of Montana
- State of North Dakota
- State of South Dakota
- State of Colorado
- United States District Court, Minnesota
- United States District Court, Montana
- United States District Court, Eastern District of Wisconsin
- U.S. Court of Appeals – Fourth Circuit