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EXPERTISE

Arbitration & Mediation, Bankruptcy & Creditors' Rights, Construction & Real Estate Litigation, Litigation, Arbitration & Trial, and Securities Litigation

EDUCATION

University of Colorado, J.D., 1988
University of Wisconsin, B.S., Civil & Environmental Engineering, *with Honors*, 1979

ADMITTED IN

Colorado

Tom Bell is a partner in the Trial Group of Davis Graham & Stubbs LLP. He represents clients in complex litigation involving breach of contract, breach of warranty, fraud, breach of fiduciary duties, interference with contractual relations, and other contract and tort claims. Mr. Bell has in-depth experience in construction and real estate mediation, arbitration, litigation and appeals, and representing creditors in bankruptcy. He focuses on resolving disputes through mediation and arbitration in order to avoid the time and expense of litigation, but, when necessary, he brings an extensive background in litigation and appeals in state and federal courts.

Mr. Bell has served as the chair of the Trial Department, and on the DGS Executive Committee. He is a contributing author of *The Practitioner's Guide to Colorado Construction Law* (2003, 2005, 2007, 2010, 2013, 2015, and 2018 Supplements) and was a registered professional civil engineer. Mr. Bell has lectured on the resolution of construction related disputes and risk management and is a member of the Legal Advisory Forum of Associated General Contractors of Colorado. He is a fellow of the American Bar Foundation. He has also been selected for inclusion in *The Best Lawyers in America*® in Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, Commercial Litigation, Construction Law, Real Estate Litigation, and Bankruptcy Litigation. He has earned an AV Preeminent® Peer Review Rating™ from Martindale-AVVO® and has been selected for inclusion in *Colorado*

Super Lawyers by Thomson Reuters. Before attending law school, Mr. Bell practiced as a structural engineer for five years. Prior to joining DGS, he served as a clerk for the Honorable Alfred A. Arraj of the U.S. District Court for the District of Colorado.

CONSTRUCTION AND REAL ESTATE RELATED EXPERIENCE:

- Representation of a general contractor in multiple lawsuits by and against subcontractors in both state and federal courts relating to the construction of a \$500 million semiconductor computer chip manufacturing campus, including defense against claims for breach of contract, wrongful termination, and interference with contractual relations.
- Representation of an owner/claimant of a \$20 million home in arbitration against a general contractor and multiple subcontractors relating to claims and counterclaims arising after the general contractor was terminated late in the project due to substandard and defective construction. A successful settlement was reached after eight days of arbitration.
- Representation of a defendant subcontractor/vendor of large air-cooling structures in federal court against a general contractor who claimed back charges of approximately \$7 million concerning equipment supplied for an electrical generating

- project in New York. A successful settlement was reached.
- Representation of the same subcontractor/vendor as a claimant in a two-week arbitration asserting claims totaling approximately \$2 million against a supplier of a defective sound attenuation system for an electrical generating project on the Big Island of Hawaii. A substantial award was obtained.
 - Representation of the same subcontractor/vendor against multiple sub-subcontractors in separate arbitrations relating to claims for defective fabrication and erection of large-diameter rolled steel plate duct work for an electrical generating project in Wyoming.
 - Representation of a subcontractor/plaintiff in a state court trial on claims for wrongful termination, breach of contract and foreclosure of a mechanic's lien concerning a large condominium project in Fort Collins, Colorado. A substantial judgment was obtained (and collected after defending appeals to the Colorado Court of Appeals and Colorado Supreme Court), which included profit, overhead and attorney fees.
 - Representation of an owner/respondent in an arbitration proceeding against claims by an excavation subcontractor arising from differing site conditions on a large Colorado commercial project. A defense verdict was obtained.
 - Appointment by a licensor of prestressed concrete technology to serve on a panel of three arbitrators concerning disputes between the licensor and a company which had contracted to act as an exclusive sales agent.
 - Continuing representation of a large commercial finance company to protect client's rights under contract and the Uniform Commercial Code, including prosecution of claims for breaches of contract and replevin to recover collateral.
 - Continuing representation of a national home improvement retailer in state and federal courts concerning Colorado real estate and contract-related disputes and litigation.
 - Representation of a prominent Colorado family's trust/defendant in a two-week Colorado state court trial against claims exceeding \$42 million for breach of fiduciary duties arising in a transaction in which the family trust purchased \$100 million of convertible securities. A defense verdict was obtained.
 - Representation of a defendant bank/trustee in Colorado state court against breach of fiduciary duty claims in a two-week trial. Plaintiffs/beneficiaries alleged that the trustee breached its duties by making an unauthorized loan in which the bank acted as the trustee and lender. A defense verdict was obtained.
 - Representation of a group of investors/plaintiffs in Colorado state court to recover title to a Colorado golf course from the president of the company in which clients invested who illegally transferred the property to a company owned by the president's family. After obtaining title, negotiated sale of the golf course for \$5.8 million.
 - Representation of an investor/plaintiff in Colorado state court to recover \$4 million invested in a Ponzi scheme, including a claim for civil theft. A \$12.5 million judgment was obtained.
 - Representation of the seller of a \$550 million oil refinery in defense of claims for breach of representations and warranties and fraud related to plant/equipment conditions, compliance with environmental regulations, and financial disclosures. Successfully resolved by mediation after limited, informal discovery.
 - Representation of a corporation/plaintiff in Illinois state court asserting multi-million dollar claims for wrongful termination of and interference with an agency agreement against a national telecommunications company and numerous of its employees/agents. A successful settlement was negotiated.

CREDITORS' RIGHTS AND OTHER LITIGATION EXPERIENCE:

- Representation of banks and other commercial lenders, owners, vendors, landlords, tenants, contractors, and subcontractors in bankruptcy proceedings concerning (i) motions for relief from stay to pursue lien rights, including foreclosure on a \$12.5 million commercial condominium development, (ii) protection of mechanic's lien rights, including challenging proposed DIP-loan priming liens, (iii) defense of multi-million dollar preference actions, and (iv) claims objecting to discharge and dischargeability.