

## Joshua R. Kennedy

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## Law Practice

Josh focuses his law practice on construction services, construction litigation, product liability, and real estate litigation and has represented contractors, developers, design professionals, manufacturers, distributors, and property owners in a wide variety of circumstances. He has spent significant time in the courtroom and has tried dozens of jury trials through verdict. He also has a proven track record of negotiating favorable results for clients in contract and settlement negotiations, often involving high stakes and numerous interested parties.

### Josh's practice includes:

- Civil litigation of construction, professional liability, real estate, business, product liability, and other disputes;
- Negotiating and drafting construction contracts, lien releases, settlement agreements, waivers, warranties, tolling agreements, and other contractual documents;
- Interfacing with and providing legal advice to corporate general counsel in Oregon and other jurisdictions;
- Assisting clients to establish and maintain appropriate

## INDUSTRIES

Construction

Real Estate

Professional Services

## PRACTICE AREAS

Construction Services & Litigation

Environmental Law & Toxic Torts

Product Liability

Real Estate Law

Professional Liability

contractual systems, standards, and processes;

- Risk management, insurance, and business structuring analysis and advice;
- Monitoring of legal, regulatory, and administrative developments and advice regarding compliance; and
- Creative problem solving for clients in a wide variety of other circumstances.

## Representative Cases

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### Construction Services and Litigation

- Defended the general contractor in a construction defect lawsuit alleging more than \$10 million of damages arising from alleged construction and design defects at a new high school. After successful depositions and complex motion practice, the case was settled favorably for our client.
- Successfully defended a general contractor in a multi-million dollar suit arising from the design and construction of a big box commercial building and adjacent strip mall. Through effective prosecution of claims against numerous subcontractors and material suppliers, we reached a favorable settlement for our client.
- Defended a developer in two lawsuits arising from alleged construction defects at condominium projects at the Oregon coast, totaling approximately \$5 million in alleged damages. Both suits were settled with favorable results for our client.
- Obtained a defense ruling on summary judgment regarding most of a plaintiff HOA's claims against the developer of a 197 unit townhome project. The case ultimately settled for significantly less than the \$9.8 million of alleged damages.
- Successfully avoided a lawsuit on behalf of a general contractor/developer a five unit townhome project, by organizing repairs through the ORS 701 Notice of Defect procedures. The case was settled pre-litigation without extending the statute of limitations for claims against our client.
- Defended the developer of a 48 unit condominium project with alleged damages of approximately \$3 million. Based upon successful third party practice and depositions the cases settled for significantly less than the amount claimed.

- Successfully defended claims against a general contractor and its subcontractors under an OCIP (owner controlled insurance program) policy for a large condominium project at the Oregon coast. The case involved a punch-list of alleged construction defects more than 70 pages long. After detailed investigation and expert witness preparation, we were able to reach a favorable settlement for all of the contractors.
- Successfully defended component parts manufacturer in a product defect claim by proving through detailed discovery and expert analysis that the manufacturer used another company's component parts. The case involved significant alleged damages arising from a traumatic brain injury.
- Defended a water heater manufacturer in a claim regarding extensive damage to a mid-rise commercial building. Through effective discovery, expert analysis, and motion practice we reached a favorable resolution for our client prior to trial.
- Represented hotel developer in dispute with general contractor involving hundreds of change orders and RFIs, complicated design disputes, and numerous other complex issues. The case resolved in the first day of multi-week arbitration after successful cross examination of the general contractor's owner.
- Represented mechanical engineer regarding alleged design, construction, and manufacturing defects in the HVAC system of a mid-rise commercial building. Reached a favorable result for our client based on effective discovery and expert analysis.

## Education and Bar Admissions

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Josh graduated Magna Cum Laude from Willamette University in 2002, with a bachelor's degree in psychology. He went on to earn his law degree at University of Oregon School of Law in 2006.

Josh is admitted to practice in Oregon, Washington State, and Utah.

## Civic

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Volunteer at the Oregon Law Center, Southeast Legal Clinic.

## Personal

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My wife and I are both native Oregonians. We enjoy hiking, trips to the coast or the mountains, cooking, and gardening.

## Publications

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*“2018 ALFA Construction Law Compendium - Oregon”*

ALFA International Construction Practice Group

*“2016 ALFA Construction Law Compendium - Oregon”*

ALFA International Construction Practice Group

## Presentations

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*“New Construction Home Warranties”*

Portland Area Realtors, March 2015