

## Seth A. Russell

### Shareholder

#### PRACTICE EMPHASIS:

Complex Construction and Engineering Matters; Litigation;  
Project Transactional and Counseling Matters; Alternative  
Dispute Resolution

#### EDUCATION:

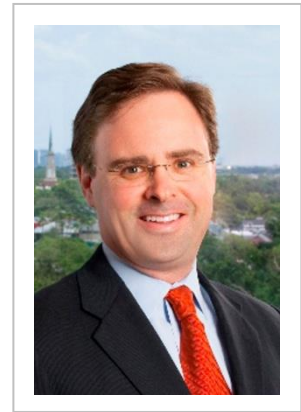
J.D., *cum laude*, University of Houston Law Center, 2000  
Order of the Barons  
B.S., University of Texas at Austin, 1994

#### ADMITTED:

State Bar of Texas

#### COURT ADMISSIONS:

U.S. District Courts, Southern District of Texas  
U.S. Patent and Trademark Office



Email: [srussell@andrewsmyers.com](mailto:srussell@andrewsmyers.com)  
Phone: (713) 850-4224  
Fax: (713) 850-4211

### Profile:

Seth represents commercial building, energy and public infrastructure industry clients in complex litigation, transactional and claims counseling matters. His transactional experience includes preparing and negotiating construction contracts (including EPC, design-build, AIA, and public works contracts) and professional services agreements (including engineering and architect agreements). His litigation and counseling experience includes advising clients in connection with breach of contract claims (including delay, disruption, hindrance, liquidated damages and loss of productivity/efficiency claims) and warranty claims, certificates of merit, indemnity, insurance, suretyship, standard of care, tort, mechanic's and materialmen's liens, and performance and payment bond claims.

### Affiliations:

Construction Law Section, Houston Bar Association, Former Chair  
Construction Law Section, Houston Bar Association, Former Secretary-Treasurer  
Construction Law Section, Houston Bar Association, Former Advisory Council  
Construction Law Section, Houston Bar Association  
Construction Law Section, State Bar of Texas  
Forum on the Construction Industry, American Bar Association  
Associated Builders and Contractors  
The Associated General Contractors of America  
The American Society of Civil Engineers  
Chi Epsilon

### Recent Speeches and Publications:

"Industry, Policy and Legal Implications of Infrastructure Corrosion: A Panel Discussion," American Bar Association, Forum on the Construction Industry, Midwinter Meeting (Moderator), February 2012  
"An Examination of Texas Civil Practice & Remedies Section 150.002 'Certificate of Merit' Statute and Associated Caselaw," Construction Law Journal (Co-Author), Summer 2011  
"An Overview of Texas Certificate of Merit Law," State Bar of Texas, Construction Law Seminar, San Antonio, TX, February 2011  
"An Examination of Texas Civil Practice & Remedies Section 150.002 'Certificate of Merit' Statute and Associated Caselaw," Construction Law Section of the Houston Bar Association

**Representative Experience:**

- Represented owner in arbitration arising out of construction of multi-hundred million dollar industrial gas facility, involving claims of cost overruns, delay, disruption, acceleration, loss of efficiency and loss of productivity. Final evidentiary hearing spanned 19 days, conducted before panel of 3 AAA complex construction case arbitrators and was tried to award.
- Represented a prominent Houston-based commercial building contractor in the negotiation of a multi-hundred million dollar construction contract, funded through synthetic lease financing, for the construction of the new headquarter campus for a major downstream and refining oil and gas company.
- Co-leading prosecution of EPC subcontractor delay and breach of warranty claims in arbitration against construction contractor arising out of gas processing project and defense against contractor counterclaims of loss of efficiency/productivity and disruption
- Co-leading representation of developer and owner of wind power generation project regarding equipment supply, operation and maintenance issues
- Co-leading defense of building contractor-project manager against governmental owner asserting breach of contract and negligence claims in multi-party, complex litigation arising out of convention center project
- Co-led prosecution of loss of efficiency/productivity and disruption and delay claims of EPC contractor in arbitration against refinery owner, settling case favorably to contractor-client shortly after formal commencement of proceedings
- Representing power developer in connection with EPC contract preparation for transmission line project
- Representing Fortune 500 company in connection with design-build form contract preparation for large and complex projects
- Tried jury trial to verdict representing air conditioning repair service contractor against homeowner asserting breach of contract and mental anguish damages, settling case favorably to client upon appeal
- Tried arbitration to award representing owner of family entertainment complex prosecuting breach of contract claims against contractor asserting wrongful termination and other breach of contract claims
- Tried bench trial to judgment pending judicially officiated settlement representing air conditioning repair service contractor against homeowner asserting breach of implied warranty claims
- Assisted in representation of governmental owner of container terminal complex and wharf facility against large general contractor asserting breach of contract claims, including interference with contractor means and methods, owner caused delay and hindrance, and wrongful withholding of liquidated damages
- Assisted in representation of Fortune 500, top ENR EPC contractor in complex, multi-party litigation against super-major energy company and foreign fabricator of refinery equipment in electronic and paper document-intensive case involving highly technical issues of quality control/quality assurance and warranties, as well as liquidated damages and indemnity
- Assisted in representation of governmental owner of administration building in complex multi-party construction defect and breach of contract and warranty case involving general, completion and remediation contractors, subcontractors, suppliers, sureties, and insurance carriers
- Assisted in representation of petrochemical process product supplier in technically complex breach of contract and warranty case against motor gasoline additive plant owner
- Assisted in representation of non-profit owner of state of the art performing arts center against general contractor in breach of contract case involving construction defect, delay, and liquidated damages claims
- Assisted in representation of private owner of natural gas pipeline facility following explosion and alleged injury to construction worker on public works waterline project
- Represented material supplier in complex multi-party construction and design defect case involving breach of contract and warranty claims arising out of public school auditorium project