

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; Law Review
B.S. Civil Engineering, University of Texas at Austin, 1994
Chi Epsilon

ADMITTED:

State Bar of Texas

COURT ADMISSIONS:

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



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Profile:

Seth represents industrial and commercial participants in the building, energy and public infrastructure industries in complex litigation, arbitration, transactional and claims counseling matters. His litigation, arbitration, 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 and defect claims, certificates of merit, indemnity, insurance, suretyship, standard of care, tort, mechanic's and materialmen's liens, and performance and payment bond claims. 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).

Affiliations:

Construction Law Section, Houston Bar Association, Served previously as Chair, Secretary-Treasurer and Advisory Council
Construction Law Section, State Bar of Texas
Associated Builders and Contractors
The Associated General Contractors of America

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

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Representative Experience:

- Representing governmental entity in defense against differing site conditions claim asserted by dredging contractor
- Representing applicator of industrial coatings in connection with property damage suffered during construction of liquefied natural gas project
- Represented apartment complex building contractor in prosecution of breach of contract/non-payment claims and defense of construction defect/property damage claims arising out of two apartment complex projects. Consolidated arbitration proceedings into single case during pendency of multiple state court litigation proceedings.
- Represented private equity project developer in lease negotiation for oil and gas terminal complex project with major port authority located on U.S. Gulf Coast.
- 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-led 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-led representation of developer and owner of wind power generation project regarding equipment supply, operation and maintenance issues
- Co-led 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
- Represented power developer in connection with EPC contract preparation for transmission line project
- Represented 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

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Representative Experience (Cont'd)

- 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