

STEPHEN A. HESS, ESQ.

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CURRENT PROFESSIONAL AFFILIATIONS

SHERMAN & HOWARD, LLC

Denver and Colorado Springs, Colorado

Albuquerque, New Mexico

Member

International and Olympic Sports Law: My sports law practice focuses on advising National Governing Bodies and International Federations, as well as Olympic and International athletes, coaches, and officials concerning the unique rules that apply to Olympic and International sports, and representing those parties in arbitration and litigation concerning sports matters. My experience includes national and international matters in more than two dozen sports.

Construction and Business Law and Litigation: My construction and business litigation practice focuses on construction and commercial contracts and the litigation of construction, real property, and business disputes before trial and appellate courts, administrative tribunals, and arbitration panels. In addition, I serve as general outside counsel to a number of construction and real property-related businesses, including developers, general contractors, design professionals, and large subcontractors.

STURM COLLEGE OF LAW, UNIVERSITY OF DENVER

Denver, Colorado

Adjunct Professor

Construction Law Seminar (2004, 2006, 2008; 2014; 2016; 2019; 2022)

Federal Government Contract Law (with D. Timmons) (2010) Sports

Law Guest Lecturer (2014)

INTERNATIONAL BOBSLEIGH AND SKELETON FEDERATION

Lausanne, Switzerland

Chair, IBSF Appeals Tribunal (2010 – current)(formerly FIBT Court of Arbitration)

Member, IBSF Ethics Committee (2011 – current)

WORLD TAEKWONDO

Seoul, Korea

Member, Juridical Committee (2021-present)

AMERICAN ARBITRATION ASSOCIATION

Arbitrator, National Panel of Construction Arbitrators

HONORS AND DESIGNATIONS

Fellow, American College of Construction Lawyers

Best Lawyers in America (Construction Law; Litigation – Construction)

International Who's Who of Construction Lawyers

International Who's Who of Construction Law – Thought Leaders

Chambers, Sports Law

PUBLICATIONS

BOOKS

CONSTRUCTION LAW TREATISES

- Carol Patterson, Ross Altman, Allan Overcash, & Stephen Hess, eds., American Bar Association – Forum on the Construction Industry, **CONSTRUCTION LAW, SECOND EDITION** (2019)
- Stephen Hess, “Damages” and “Construction Contract Pricing” in **CONSTRUCTION LAW, SECOND EDITION** (2019)
- Andrew Ness, Stephen Hess, and Robbie MacPherson, **THE INSIDER’S GUIDE TO CONSTRUCTION CONTRACTS**, American Bar Association – Forum on the Construction Industry (forthcoming 2022)
- Stephen Hess, “Damages,” “Construction Contract Pricing,” and “The Design Undertaking” (the latter with Lawrence Melton) in William Allensworth, Ross Altman, Adrian Bastianelli, & Allan Overcash, eds., American Bar Association – Forum on the Construction Industry, **CONSTRUCTION LAW** (2009)(textbook for law students)
- Stephen Hess, “Cost-Plus Contracts – Contractor Considerations,” “Stipulated Sum Contracts – Contractor Considerations,” and “General Conditions – Contractor Considerations” in Eric Berg, ed., **CONSTRUCTION CHECKLISTS** (American Bar Association – Forum on the Construction Industry, 2008 & Second ed. 2021)
- Stephen A. Hess, Executive Editor, **DESIGN PROFESSIONAL AND CONSTRUCTION MANAGER LAW** (American Bar Association – Forum on the Construction Industry, January 2007)
- Stephen A. Hess and Stephen Miller, “Damages and Remedies,” in Stephen A. Hess, Executive Editor, **DESIGN PROFESSIONAL AND CONSTRUCTION MANAGER LAW** (American Bar Association – Forum on the Construction Industry, January 2007)
- Chapter 3, “Private Construction Contracts,” and Chapter 10 “The Contractor” in Robert Benson, ed., **THE PRACTITIONER’S GUIDE TO COLORADO CONSTRUCTION LAW** (CLE in Colorado Inc., 2d ed. 2005 through 7th ed. 2020)

SELECTED CONSTRUCTION LAW PERIODICALS AND PROGRAMS [2005 - present only]

EDITORIAL POSITIONS

- Editor (2012 – 2015); Associate Editor (2008-2012), *The Construction Lawyer*, American Bar Association
- Editor-in-Chief, *Construction Briefings*, (Thomson Reuters)(2006-2008)
- Member, Board of Editors, *Real Estate Review*, 2005 - 2007 (West)

AUTHOR

NATIONAL WEBINARS (2014-present)

[Project Delivery Methods](#)
[Noncomplying Change Orders](#)
[Construction Pricing Mechanisms](#)
[Termination of Troubled Construction Projects](#)
[Shop Drawings: Rights and Liabilities](#)
[Construction Contract Implied Obligations](#)
[Construction Contracts: Boilerplate Provisions](#)
[Damages in Construction Projects](#)
[Substantial Completion, Final Completion, and Project Closeout](#)
[International and Olympic Sports Law](#)

ARTICLES

[The Sanctity of Contracts](#), *Journal of the American College of Construction Lawyers*
(Thomson/West for the American College of Construction Lawyers forthcoming
Summer 2020)

[Anticipatory Repudiation](#), *Journal of the American College of Construction Lawyers*
(Thomson/West for the American College of Construction Lawyers Winter 2020)

[Delay Damages and Site Conditions: Contrasts in U.S. and U.K. Law](#), (with Julian Bailey),
2015 Construction Lawyer (Summer 2015); published simultaneously by the Society of
Construction Law

[Assessing Liability for Green Building Failures, Part 2: How Claims for Green Building
Failures Fare Under Common Law Doctrines](#), *Journal of the American College of
Construction Lawyers* (Thomson/West for the American College of Construction Lawyers
2013)(with William McConnell)

[Termination American Style: Handling the Acutely Troubled Construction Project](#), *Journal of
the Canadian College of Construction Lawyers* (Thomson/West for the Canadian College of
Construction Lawyers 2013)

[Assessing Liability for Green Building Failures, Part 1: The History, Development, and Status
of Green Building Codes](#), *Journal of the American College of Construction Lawyers*
(Thomson/West for the American College of Construction Lawyers 2012)(with William
McConnell)

[Who Should Own the Float?](#), *Journal of the American College of Construction Lawyers*
(Thomson/West for the American College of Construction Lawyers 2010)

[The Availability and Proof of Damages for Lost Bonding Capacity](#), *Journal of the American
College of Construction Lawyers* (Thomson/West for the American College of Construction
Lawyers 2008)

[Flow-Down Clauses](#), *Construction Briefings* (October 2008, West)

[A Mechanics' Lien Primer](#), *Construction Briefings* (May 2008, West)

[Noncomplying Change Orders](#), *Construction Briefings* (April 2008, West)

Nondischargeability of Personal Debts for Violations of Construction Trust Fund Statutes, Under Construction (American Bar Association March 2008).

Unbalanced Bidding, *Construction Briefings* (December 2007, West)

Personal Liability, Payment Protection, and Construction Contract Defaults *Construction Briefings* (November 2007, West)

Jury Verdict Method of Proving Damages, *Construction Briefings* (May 2007, West)

The Total Cost Method of Proving Damages, *Construction Briefings* (February 2007, West)

'All Appropriate Inquiry' Regulations Under CERCLA for the Protection of Innocent Landowners, 35-3 *Real Estate Review* 25 (2007)(with Christopher Brandt)

Scope of Work, Standard of Care, and Changes, American Bar Association, Forum on the Construction Industry Advanced Drafting Seminar (Scottsdale, Fall 2006)(paper and presentation, with Gary Berman)

Application of the Cardinal Change Doctrine in Federal Construction Contracts, 9 A.L.R.Fed.2d 969 (2006 West)

Assessing Default Termination, *Construction Briefings* (February 2006, West)

Anticipatory Repudiation and Construction Contracts, *Construction Briefings* (June 2006, West)

Dealing With the Financially Marginal Contractor, 35 *Real Estate Review* 5 (December 2006)(with Kent Borges)

Use of Total Cost Method to Prove Damages or Equitable Adjustments in Federal Cases, 200 A.L.R. Fed. 475, (2005, West)

Cardinal Change, *Construction Briefings* (September 2005, West)

COLORADO LITIGATION PRACTICE TREATISES

Stephen A. Hess, Editor, **COLORADO METHODS OF PRACTICE, VOLS. 1, 1A, 2, 2A, 2B, 3, 3A** (2015 - present) (West/Thomson Reuters)(Continuation of Krendl's COLORADO METHODS OF PRACTICE)

Stephen A. Hess, **COLORADO CIVIL LITIGATION MANUAL** (Thomson Reuters 2002 with annual replacement volumes; current through 2021)

Stephen A. Hess & Sheila K. Hyatt, **COLORADO COURTROOM EVIDENCE MANUAL** (Thomson Reuter 2003 with annual replacement volumes; current through 2021)

Sheila K. Hyatt, **COLORADO EVIDENCE TREATISE** (Thomson Reuter 2009 with annual supplements)(I began providing annual updates in 2019)

Stephen A. Hess, **COLORADO CIVIL RULES ANNOTATED** (5th ed. 2020)(two volumes) (3rd and 4th ed. with Sheila K. Hyatt)

Cathy Krendl & James Krendl, eds. **COLORADO METHODS OF PRACTICE** (3rd ed.1998 and 4th ed. 2003 & 2004, 5th ed. 2012; 6th ed. 2018)(Seven chapters on litigation with annual supplements beginning in 1998; current through 2021)

Leonard Plank & Anne Gill, **COLORADO APPELLATE LAW & PRACTICE** (West Group 1999) (I served as substantive and technical editor under contract with publisher)

MEMBERSHIPS and ADMISSIONS

Member: New Mexico Bar, Colorado Bar Association, American Bar Association (Construction Litigation Committee, Litigation Section), American Bar Association Forum on the Construction Industry (former Member of Publications Committee, Steering Committee of Division 5, Contract Performance and Administration)

Admitted to Practice: New Mexico, Colorado, United States Tax Court, United States District Court (Colorado, Western District of Michigan, Northern District of Ohio), United States Court of Appeals (Sixth Circuit, Tenth Circuit, Federal Circuit), United States Court of Federal Claims