

## **STEPHEN A. HESS, ESQ.**

111 SOUTH TEJON, SUITE 102  
COLORADO SPRINGS, COLORADO 80903  
STEPHEN@STEPHENAHESS.COM  
(719) 332-7207 (CELL)

### **PROFESSIONAL AFFILIATIONS**

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#### **COLARELLI CONSTRUCTION, INC.**

*Colorado Springs, Colorado*  
General Counsel

#### **THE LAW OFFICE OF STEPHEN A. HESS, P.C.**

*Colorado Springs, Colorado*

**Construction and Business Law and Litigation:** I serve as litigation and arbitration counsel to a variety of parties in construction and business litigation.

**International and Olympic Sports Law:** I advise National Governing Bodies and International Federations concerning the unique rules that apply to Olympic and International sports, and representing those parties in arbitration and litigation concerning sports matters.

#### **STURM COLLEGE OF LAW, UNIVERSITY OF DENVER**

*Denver, Colorado*  
Adjunct Professor

Construction Law Seminar (2004 – current)  
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)  
Member, IBSF Ethics Committee (2011 – current)

#### **WORLD TAEKWONDO**

*Seoul, Korea*  
Member, Juridical Committee (2021-present)  
Legal Liaison, Ethics and Integrity Committee (2021-present)

#### **AMERICAN ARBITRATION ASSOCIATION**

Arbitrator, National Panel of Construction Arbitrators

### **HONORS AND DESIGNATIONS**

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*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 (Nationwide – Band 2)*

## PUBLICATIONS

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### 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 2024)

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” "Termination of Contracts -- Contractor Considerations," and "Mechanics' Liens" 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 Matthew Ninneman, et al. **DESIGN PROFESSIONAL'S GUIDE TO CONSTRUCTION LAW** (American Bar Association – Forum on the Construction Industry, 2021)

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. 2021 )

#### SELECTED CONSTRUCTION LAW PERIODICALS AND PROGRAMS

##### *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; Summer 2021)

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 CE R CLA 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 2022)

Stephen A. Hess & Sheila K. Hyatt, **COLORADO COURTROOM EVIDENCE MANUAL**  
(Thomson Reuter 2003 with annual replacement volumes; current through 2022)

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** (3<sup>rd</sup> ed.1998 and 4<sup>th</sup> ed. 2003 & 2004, 5<sup>th</sup> ed. 2012; 6<sup>th</sup> ed. 2018, 7<sup>th</sup> ed. 2021)(Seven chapters on litigation with annual supplements beginning in 1998; current through 2021)

## **MEMBERSHIPS and ADMISSIONS**

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Member: Academy of Court Appointed Neutrals, 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

## **PRIOR AFFILIATIONS**

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### **Sherman & Howard L.L.C.**

Colorado Springs, Colorado  
Equity Member  
2008-2021

### **Sparks Willson Borges Brandt & Johnson, P.C.**

Colorado Springs, Colorado  
Shareholder  
1998-2008

### **Colorado Interstate Gas**

Colorado Springs, Colorado  
Senior Attorney  
1995-1998

### **Gelt Fleishman & Sterling**

Associate  
Denver, Colorado  
1992-1998

### **Moye, Giles, O'Keefe, Vermeire & Gorrell**

Associate  
Denver, Colorado  
1988-1991

### **(Chief) Justice Luis D. Rovira**

Colorado Supreme Court  
Law Clerk  
1987-1988