



## Patrick J. Casey

Partner

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Patrick is the Managing Partner of the firm's Denver office. He also serves as a member of the firm's Executive Committee.

### **Construction:**

A seasoned trial attorney, Patrick represents owners, builder/vendors, developers, declarants, general contractors and design professionals in all aspects of construction projects.

He has deep experience in a wide array of claims, including:

- construction and design defect
- breach of contract and indemnity
- recovery and subrogation
- constructive changes, delay, acceleration and lost labor productivity
- differing site conditions, defective specification

His experience extends from the simple to the most complex multi-party disputes. He has been instrumental in early disposition of cases through motions and effective settlement negotiations, saving clients significant legal expenses. Through negotiations, mediation, trial and arbitration, Patrick has obtained favorable results to resolve claims and disputes throughout Colorado, and in New Mexico, North Dakota, and Wyoming.

Patrick is also regularly involved in the drafting and negotiating of construction agreements and architectural and engineering contracts. Among his clients are several of the nation's largest homebuilders, as well as developers, general contractors, regional and custom builders, and REITs and capital providers in the senior living and housing arena.

### **Insurance:**

As a result of his experience in litigating some of Colorado's largest residential construction defect lawsuits, Patrick is frequently sought out by construction professionals for advice on risk avoidance, insurance coverage and risk management strategies. He has a wide range of experience with claims under general liability policies, professional liability policies, commercial property policies, builders' risk policies and excess insurance. He has successfully represented clients in negotiating and resolving multimillion-dollar general liability, property damage and builder's risk claims.



## **Representative Matters**

### **Construction:**

- Represented a developer, declarant, general contractor and builder/vendor in a construction and design defect arbitration stemming from a 14-building townhome project. Claims involved grading, drainage, firewalls, building envelope and retaining walls. Following a two-week arbitration, obtained a favorable award that was less than one third of the demand.
- Represented a REIT and national senior living provider in an eight-figure recovery action involving a construction and design defect. Dispute centered on building envelope issues and architectural, civil, geotechnical, structural and mechanical engineering claims due to plumbing failures on an site with expansive soils that included issues with construction improper sequencing of work, improper design specifications, and design deviations. The matter was successfully settled within days before a scheduled three-week jury trial.
- Represented a developer, declarant, general contractor and builder/vendor in a construction defect arbitration involving building envelope, structural, civil, fire-rated assemblies, retaining walls claims at a project consisting of over 170 townhome and single-family units in 51 buildings. In the middle of a multi-week arbitration in which the Association demanded more than \$27 million, successfully settled the matter for fraction of the demand.
- Defended a general contractor against claims by a subcontractor for alleged damages incurred for direct labor costs, added project management, expedited materials, and overhead and profit due to a compressed work schedule, in addition to counterclaims asserted by the general contractor against the subcontractor for breach of contract related to delay and additional jobsite overhead costs. Following extensive discovery, was able to resolve the matter successfully in the general contractor's favor with the subcontractor abandoning its claims.
- Represented a not-for-profit organization in a construction and design defect arbitration involving breach of contract and indemnification claims pertaining to building envelope and fire-rated assembly defects. Following a 10-day arbitration, was successful in obtaining an award of the owner's claimed damages.
- Represented a builder/vendor in a \$65 million claim involving construction and geotechnical design issues with 92 single-family homes in two subdivisions. Successfully negotiated repair-based settlements with all homeowners. Pursued recovery action against adjacent property owners and design professional.

### **Insurance:**

- Represented an apartment developer in multi-million dollar builder's risk claim involving a peril stemming from the construction retaining walls and favorably resolved matter with the insurance carrier.
- Represented a general contractor in a garnishment action against two commercial general liability insurance carriers based upon the general contractor's status as an additional insured. Following extensive discovery and filing multiple summary judgment motions, was able to settle the matter favorably for the general contractor.
- Represented a property owner in eight-figure property damage claim triggered by soil movement on a foundation system of an 80,000 square foot building and successfully resolved matter with the insurance carrier.
- Represented a builder/vendor in negotiations with a general liability insurance carrier of a \$30 Million settlement of a construction defect lawsuit.

## **Selected Published Decisions**



- *Prima Exploration, Inc. v. LaCounte*, No. 1:18-CV-116, 2018 WL 4702153 (D.N.D. Oct. 1, 2018).
- *Broomfield Senior Living Owner, LLC v. R.G. Brinkmann Company*, 2017 COA 31, 413 P.3d 219 *reh'g denied* (Apr. 20, 2017), *cert. denied*, No. 17SC351, 2017 WL 3868161 (Colo. Sept. 5, 2017).
- *Abercrombie v. Aetna Health, Inc.*, 176 F. Supp. 3d 1202, 1204 (D. Colo. 2016), *aff'd*, 704 F. App'x 728 (10th Cir. 2017).
- *Hoang v. Assurance Company of America*, 149 P.3d 798, 799 (Colo. 2007), *as modified* (Mar. 5, 2007).
- *Stockman's Water Company, LLC v. Vaca Partners, L.P.*, 425 F.3d 1263, 1264 (10th Cir. 2005).
- *Power Engineering Company v. Royal Insurance Company of America*, 105 F. Supp. 2d 1196 (D. Colo. 2000).

### **Before Fox Rothschild**

Prior to joining Fox Rothschild, Patrick was a shareholder and head of the Construction Practice Group at Lottner Rubin Fishman Saul, which merged with Fox in 2013.

### **Honors & Awards**

- AV Preeminent<sup>®</sup> Judicial Review rating by Martindale-Hubbell
- AV Preeminent<sup>®</sup> Peer Review rating by Martindale-Hubbell
- "Super Lawyers" for Construction Litigation in Colorado (2019-2020)

### **Practice Areas**

- Litigation
- Construction
- Insurance
- Real Estate

### **Bar Admissions**

- Colorado

### **Court Admissions**

- U.S. District Court, District of Colorado
- U.S. Court of Appeals, Tenth Circuit

### **Education**

- Gonzaga University School of Law (J.D., *cum laude*, 1993)
- University of Colorado–Boulder (B.A., 1989)

### **Memberships**

- American Bar Association, Construction Section
- Denver Bar Association
- Colorado Bar Association
- Colorado Defense Lawyers Association