

# Joshua R. Kennedy

Partner

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# Anna M. Brown

Legal Assistant

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## Law Practice:

Josh focuses his law practice on construction services, construction litigation, product liability, and real estate litigation and has represented contractors, developers, design professionals, and property owners in a wide variety of circumstances. He has spent significant time in the courtroom and has tried dozens of jury trials through verdict. He also has a proven track record of negotiating favorable results for clients in contract and settlement negotiations, often involving high stakes and numerous interested parties.

Josh's practice includes:

- Civil litigation of construction, professional liability, real estate, business, product liability, and other disputes;
- Negotiating and drafting construction contracts, lien releases, settlement agreements, waivers, warranties, tolling agreements, and other contractual documents;
- Interfacing with and providing legal advice to corporate general counsel in Oregon and other jurisdictions;
- Assisting clients to establish and maintain appropriate contractual systems, standards, and processes;

## INDUSTRIES

Construction

Real Estate

Professional Services

## PRACTICE AREAS

Construction Services & Litigation

Environmental Law & Toxic Torts

Product Liability

Real Estate Law

Professional Liability

- Risk management, insurance, and business structuring analysis and advice;
- Monitoring of legal, regulatory, and administrative developments and advice regarding compliance; and
- Creative problem solving for clients in a wide variety of other circumstances.

## Representative Cases:

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### Construction Services and Litigation:

- Defended the general contractor in a construction defect lawsuit alleging more than \$10 million of damages arising from alleged construction and design defects at a new high school. After successful depositions and complex motion practice, the case was settled favorably for our client.
- Successfully defended a general contractor in a multi-million dollar suit arising from the design and construction of a big box commercial building and adjacent strip mall. Through effective prosecution of claims against numerous subcontractors and material suppliers, we reached a favorable settlement for our client.
- Defended a developer in two lawsuits arising from alleged construction defects at condominium projects at the Oregon coast, totaling approximately \$5 million in alleged damages. Both suits were settled with favorable results for our client.
- Obtained a defense ruling on summary judgment regarding most of a plaintiff HOA's claims against the developer of a 197 unit townhome project. The case ultimately settled for significantly less than the \$9.8 million of alleged damages.
- Successfully avoided a lawsuit on behalf of a general contractor/developer a five unit townhome project, by organizing repairs through the ORS 701 Notice of Defect procedures. The case was settled pre-litigation without extending the statute of limitations for claims against our client.
- Defended the developer of a 48 unit condominium project with alleged damages of approximately \$3 million. Based upon successful third party practice and depositions the cases settled for significantly less than the amount claimed.
- Successfully defended claims against a general contractor and its subcontractors under an OCIP (owner controlled insurance program) policy for a large condominium project at

the Oregon coast. The case involved a punch-list of alleged construction defects more than 70 pages long. After detailed investigation and expert witness preparation, we were able to reach a favorable settlement for all of the contractors.

## Real Estate Disputes:

- Successfully defended claims against a homeowner arising from the alleged breach of a Christmas tree lease agreement. With the help of a seasoned Christmas tree expert and aggressive litigation planning, the case reached a favorable settlement for our clients.
- Defended a homeowner in a property-line dispute in which one neighbor cut down a property-line fence with a chainsaw, among other heated disagreements. Despite high emotions, a favorable settlement was reached for both sides.
- Defended a home seller in a claim of non-disclosure and fraud arising from water intrusion and mold in a home. The seller was the neighbor of the home that she sold, and the case involved exterior security cameras, restraining orders, and alleged gun threats. Despite very contentious circumstances, we were able to successfully settle the case favorably for our client.

## Education and Bar Admissions:

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Josh graduated Magna Cum Laude from Willamette University in 2002, with a bachelor's degree in psychology. He went on to earn his law degree at University of Oregon School of Law in 2006.

Josh is admitted to practice in Oregon, Washington State, and Utah.

## Civic:

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Volunteer at the Oregon Law Center, Southeast Legal Clinic.

## Personal:

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My wife and I are both native Oregonians. We enjoy hiking, trips to the coast or the mountains, cooking, and gardening.

## Publications:

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*“2018 ALFA Construction Law Compendium - Oregon”*

ALFA International Construction Practice Group

*“2016 ALFA Construction Law Compendium - Oregon”*

ALFA International Construction Practice Group

## Presentations:

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*“New Construction Home Warranties”*

Portland Area Realtors, March 2015