

Bill Eikenberry

SHAREHOLDER

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For 23 years, Bill's Denver-based practice has focused on construction defect and real estate litigation, and commercial collection, including litigating and resolving disputes in court, arbitration and mediation. He counsel's clients in and litigates all types of construction and design defect cases, including representation of both residential homeowners, homeowner's associations and subcontractors.

Bill also represents contractors and homeowners in construction project payment disputes involving breach of construction contracts, mechanics' liens and foreclosure, public works bond claims, and claims under Colorado's Construction Trust Funds Statute.

His real estate practice includes all types of real estate litigation, including representing buyers and sellers in residential and commercial property disclosure disputes, including related claims against real estate agents. Bill also handles commercial evictions, and lease and personal guaranty disputes.

Bill's commercial collection practice includes both obtaining judgment, and collecting judgment by multiple methods, including pursuing assets placed in revocable and irrevocable trusts, Charging Orders, garnishment, attachment, and complex alter ego, successor liability and fraudulent transfer litigation.

Effective and efficient, Bill brings a skillful, knowledgeable and results-oriented work ethic to each case. Clients benefit from Bill's passionate, professional and strategic counsel, open lines of communication, and up-front disclosure of the benefits, risks and legal costs associated with the case.

Bill spends his spare time with his wife and three kids playing soccer, and in the mountains, biking, fly fishing and skiing.

Representative Clients

- Sunbelt Rentals
- Landtech Contractors
- Split Rail Fence
- MacArthur Co.
- AT&T
- Harley Davidson
- Snap-on
- Re/Max Cherry Creek

Admissions

- U.S. District Court for the District of Colorado
- U.S. District Court for the District of Wyoming
- United States Bankruptcy Court for the District of Colorado
- U.S. Court of Appeals for the Tenth Circuit

Significant Representations

- Regularly represents residential and commercial property owners in construction defect cases against contractors that involve claims of defective construction and design.
- Successfully prosecuted homeowner claims in arbitration against prominent Colorado home builder involving construction defect and concealment claims related to a home abutting an irrigation canal.
- Successfully represented a large Cherry Creek homeowner's association on construction defect and breach of contract claims against concrete/paving contractor for defective installation of parking lot and parking garage.
- Successfully represented commercial landscape contractor in lien foreclosure action involving extension of mechanics' lien, which had been filed on only one lot of a larger senior living campus in Colorado Springs, to multiple lots based on integration and use of lots as one property.
- Successfully represented unpaid siding contractor in claims against general contractor, including use of Notice to Disbursed served pre-suit on project owner that froze construction funds payable to general contractor so that they could be (and were) used to satisfy judgment against contractor.
- Have successfully represented numerous home buyers in seller property disclosure claims against sellers, and sometimes their real estate agents, involving undisclosed zoning, land use and foundation issues.
- Regularly represents subcontractors in construction project payment, breach of contract and mechanic's lien foreclosure disputes against project owners and general contractors.
- In \$7.5 judgment domestication and enforcement case, obtained foreclosure Order and Judgment against a several million-dollar Vail residential vacation property, which Judgment debtors held in a revocable trust.
- Obtained Judgment against employment agency for breach of fee splitting contract and then successfully enforced it against residential property held in an irrevocable trust.
- Successfully resolved contract reformation and breach of fiduciary duty case between business partners that involved enforcement of a several million-dollar promissory note.
- Have successfully resolved claims for students dismissed from state university graduate and undergraduate Programs.
- Prevailed on all claims in 3-day jury trial, with an award of \$50k+ in attorney's fees and costs to client, where represented seller of residential property against breach of contract and misrepresentation claims involving allegations of failing to disclose hidden property damage.
- Represented special conservator for minor in case against guardian and national bank involving guardian's misappropriation of conservatorship funds.
- Made new law in case before the United States Bankruptcy Court for the District of Colorado involving homeowner's construction trust fund claim against home builder. Bankruptcy Court ruled that even in the absence of unpaid liens or claims of subcontractors on a project, a homeowner has standing under Colorado Trust Fund Statute to bring a claim against a general contractor for non-project-related use of construction

funds advanced by homeowner.

Publications

- The Colorado Trust Fund Statute - (American Subcontractors Association of Colorado: Subcontractor Report, June 2010)
- Mechanics' liens could reduce losses (Colorado Green Magazine, January 2011)
- Mechanics' liens, other mechanisms for construction project payment (Colorado Real Estate Journal, June 15, 2011)
- Tenant eviction for 'substantial violation' is a complex matter (Colorado Real Estate Journal, October 19, 2011)
- Proposed legislation would require 'pre-lien notice' to preserve rights (Colorado Real Estate Journal, December 7, 2011)
- Know seller's property disclosure and other disclosure standards (Colorado Real Estate Journal, January 18, 2012)
- Mechanics' liens relate back to first work on construction projects (Colorado Real Estate Journal, April 18, 2012)
- Landlords must serve notice to avoid mechanics' liens for TI (Colorado Real Estate Journal, November 21, 2012)
- Landlord has burden to prove security deposit withholding (Colorado Real Estate Journal, April 17, 2013)
- Defaults: Collecting payment deficiency from a guarantor (Colorado Real Estate Journal, July 3, 2013)
- Effects of tenant bankruptcy on eviction, collection of unpaid rent (Colorado Real Estate Journal, September 18, 2013)
- Commercial broker liens used to recoup leasing commission (Colorado Real Estate Journal, December 4, 2013)

Professional & Community Affiliations

- Denver Bar Association - Construction Section
- Colorado Bar Association

DENVER

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LICENSED IN

Colorado
Wyoming

EDUCATION

J.D., Thomas M. Cooley Law School

Finance, Arizona State University

PRACTICE AREAS

- Litigation
- Real Estate
- Business and Corporate/Construction Contracting