



## Robert E. Schumacher

**PARTNER**

Las Vegas

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### RELATED SERVICES

- Construction
- Commercial Litigation
- Product Liability
- Surety
- Construction Professionals
- Employment
- Insurance
- Professional Liability Defense
- Trial Practice
- General Liability Coverage

### OFFICES

- Las Vegas
- Reno

### OVERVIEW

Robert Schumacher is a Partner in the Las Vegas office, and a member of the Commercial Litigation, Construction, Employment, Insurance and Product & General Liability practice groups. Robert brings more than 29 years of experience in the areas of complex, class and commercial litigation, professional liability, construction, insurance coverage and general liability.

In the context of construction, Robert has extensive experience dealing with insurance issues and represents developers, contractors and design professionals in prosecuting monies owed, delay/impact and inefficiency claims, and defending claims for alleged errors and omissions and defective work.

Regarding commercial litigation, Robert represents all types of businesses in commercial disputes

including contract claims and business torts, privacy lawsuits, defamation, false light and trade libel cases. He regularly handles disputes between owners, landlords and tenants. He handled real estate litigation for a national theatre chain and drugstore chain during consolidation and acquisition which entailed negotiating and litigating “outs” for long-term commercial leases for clients.

Robert has handled a variety of complex engagements involving construction, general liability, professional liability and employment. He has defended many bad faith/negligence/breach of contract matters against carriers and TPA's. He defends insurance carriers in Nevada for alleged violations of the Nevada Unfair Claims Practices Act and has conducted seminars on how to handle claims in compliance with Nevada's statutes.

Robert handles complicated employer liability cases involving sexual assault and battery, all types of discrimination, wrongful termination and other statutory violations. Some representative clients are McDonald's, Big 5 Sporting Goods, Bel Air Patrol and ACS Security.

Robert is approved for handling large loss and catastrophic claims by many well-known carriers.

## REPRESENTATIVE EXPERIENCE

### Supreme Court of Nevada

- Mr. Schumacher has presented successful oral argument before the Supreme Court sitting *en banc* over 10 times for various clients including one of the nation's largest residential builders, a national time share owner/developer and casino owner and various other businesses.

### Construction Practice

- Order Compelling Individual Contractual Arbitration in Class Action involving over 400 homeowners and subsequent purchasers for national homebuilder. Homeowners in northern Nevada filed a class action construction defect lawsuit and sought a phased jury trial spanning over 12 months. We filed a motion to compel arbitration against the original homebuyers pursuant to the original sales contract and against subsequent purchasers pursuant to an arbitration provision in the CC&R's for the community. The court granted the motion enforcing the arbitration provisions in both the original purchase agreements and CC&R's and ordering individual arbitrations on a home by home basis. The class attorney appealed the ruling. The appeal was briefed and argued to the Supreme Court. Ultimately, the matter settled in its entirety for an unprecedented favorable amount. This is one of many large class action lawsuits we successfully defended.

- Dismissal of all claims (over \$12 million) related to a three-day blackout and resultant loss of use and property damage for the design-build electrical subcontractor. The Bellagio Hotel & Casino filed a complaint in State Court against the general contractor and electrical contractor. We filed a series of motions to dismiss based on Nevada’s Economic Loss Doctrine. During the pendency of the motions Bellagio as plaintiff attempted to remove the case to Nevada Federal Court. Bellagio concurrently filed on behalf of its “subrogated” property casualty carriers another Federal complaint for essentially the same claims. The State Court struck Bellagio’s “fugitive” Notice of Removal, retained jurisdiction and ordered Bellagio’s complaint dismissed. Similar motions to dismiss filed in Federal Court were granted based on the Res Judicata and Issue Preclusion Doctrines. The two Federal Court complaints were consolidated and dismissed. Bellagio appealed the state and Federal Court actions. Ultimately the appeals were abandoned.
- Motion for summary judgment granted in favor of the primary developer in a Clark County District Court lawsuit stemming from a development agreement to build a hotel/casino in Las Vegas. GRSM represented the primary developer in this indemnity action to recover over \$2 million spent in breach of contract litigation between former developer partners of the hotel/casino venued in Los Angeles County Superior Court, United States Federal Court, and in a binding arbitration. The basis for the underlying litigation was that some of the developer partners failed to contribute the monies necessary to fund the nearly \$1 billion project causing the primary developer to spend additional millions of dollars on the project and incur debt obligations of over \$400 million in an effort to save the investment. The project eventually was cancelled because of capital deficiencies and the weakening economy. GRSM filed a motion for summary judgment based on a Memorandum of Understanding and Settlement Agreement (“Agreements”) between the former developer partners that contained an indemnity provision in favor of grsm's client, the primary developer. The defaulting developer partners, related entities, and individual guarantors argued in opposition that grsm's client failed to tender the defense of the underlying litigation and therefore was not entitled to indemnity. It was undisputed that the primary developer did not tender its defense in the underlying litigation. GRSM successfully argued that the indemnity language in the Agreements did not require a tender as a condition for the indemnity obligation, relying on Nevada's "Plain Meaning Rule" in arguing to the court that the general rule of law requiring a tender to trigger an indemnity obligation did not apply to this case because the indemnity provision was silent as to any tender requirement. The court granted grsm's motion for summary judgment finding that the client was owed indemnity relative to the underlying litigation from the developer partners, related entities, and individual guarantors notwithstanding the absence of a tender. The case is scheduled to go to trial in August as to damages but will likely settle before then in the client's favor considering the positive ruling from the court.

- Motion for summary judgment granted in construction defect litigation which eliminated all construction defect and related claims asserted against the firm's client, a subcontractor. The complex multi-faced litigation involved numerous lawsuits covering a myriad of issues relating to construction defect, fraud, mechanics' liens, bankruptcy, and contracts. The matter arose from construction of a concrete parking garage and work on an office building that was part of an industrial and commercial complex. The GRSM client, a subcontractor, entered into two contracts totaling over \$3 million. Approximately nine months after construction commenced, the owner removed the general contractor and its subcontractors from the Project due to alleged fraud and other improprieties on the part of the general contractor, including construction deficiencies. At the time GRSM's subcontractor client was removed from the Project, the client was owed about \$300,000 for work performed. The client recorded mechanics' liens and filed a Complaint with the Nevada State Contractors Board ("NSCB"). The NSCB found that the Complaint was valid and ordered the general contractor pay the full amount owed to the client. The general contractor refused to make payment. Complex litigation ensued between the owner, general contractor and most of the subcontractors. The general contractor filed for bankruptcy protection shortly after litigation began. The bankruptcy stay was eventually lifted and the litigation ensued. The owner defended its refusal to make payment by contending there were millions of dollars in construction defects attributable to subcontractors, including grsm's subcontractor client. Mr. Schumacher successfully argued to the court that Nevada's Economic Loss Doctrine precludes an owner from pursuing claims against those with which it does not have privity of contract (either direct or as a third party beneficiary) and where there are no claims of personal injury or damage to other property as the latter term is defined in Nevada case law. The court granted Mr. Schumacher's motion for summary judgment and, thereby, all construction defect and related claims against the subcontractor client were eliminated.

- Victory in \$2 million three week binding arbitration on behalf of a design build general contractor ("GC") in a large commercial/industrial project. The owner sought approximately \$2 million in damages for delay, liquidated damages, impact and construction defects. At issue were various revisions to the scope of the contract and whether the GC was entitled to contract increases (many of which were alleged by the owner to be fraudulent) above the guaranteed maximum price ("GMP"). The owner argued that since it was a GMP design build project, the GC was not entitled to anything above the GMP amount. GRSM argued that owner-initiated changes and upgrades expanded the scope of the project and, accordingly, the GC was entitled to contract increases (which equated to an underlying \$700,000 mechanic's lien) commensurate with the scope changes. The arbitrator awarded the GC over \$700,000 on its affirmative claim and awarded the owner only \$650,000 of its \$2 million in claimed damages. Many post arbitration motions were filed. The arbitrator granted the GC's motion to reduce the owner's award and the District Court granted the GC's motion to reduce the arbitrator's modified award and granted a motion for statutory attorney fees, costs and interest. GRSM also initiated an indemnity against subcontractors and GRSM expects to recoup a substantial portion of the arbitration award for its client.
- Motion for Summary Judgment granted as to alleged \$8 million domestic plumbing system defect for the plumbing/HVAC contractor at the Venetian Hotel & Casino days before trial. Case prosecuted concurrently with Federal Court action, binding arbitration process and out of state coverage lawsuit. Contractor went on to prevail at trial on its mechanics lien case for over \$4 million. Was appointed by project OCIP carrier to represent most of the other enrolled subcontractors alleged to have performed negligent and defective work. Successfully defended all defect claims against those subcontractors.
- Dismissal of all claims (over \$50 million) related to delayed opening of Cirque Du Soleil show and cancelled shows at the MGM Grand Hotel & Casino/KA Theatre caused by construction defects for specialty steel contractor.
- Motion for Summary Judgment granted in favor of life safety consultant related to wrongful death of worker on construction site at the World Market Center. Numerous violations of OSHA job site safety regulations were alleged. We filed motion based on the Nevada Industrial Injury Act and related case law. Consultant was deemed through statutory construction to be "employer" and consequently the exclusive remedy of worker's compensation applied insulating our client from liability.

### **Commercial Litigation**

- Counsel for all types of business entities servicing their litigation needs both defensively and offensively. Most claims relate to contract disputes, unfair business practices, interference and injunctive relief.

- Approved as counsel for various D&O and E&O carriers to represent companies, Boards, Officers, Directors and Managers in various capacities for alleged corporate malfeasance including self-dealing, conflicts of interest, negligence and other violations of Business Judgment Rule.
- Represented the owner of a medical spa in her suit against an employee and the employee's cosmetic surgeon husband who set up a clandestine after hours cash-only side business which was the subject of a [television interview](#).

### **General Liability/Coverage**

- Approved as panel counsel for numerous insurance carriers for large loss personal, commercial, excess and specialty lines. Successful in dismissing extra-contractual claims brought concurrently with personal injury cases based on favorable Nevada case law. Also appointed as litigation counsel for carriers alleged to have violated Nevada Unfair Claims Practices Act.

### **Miscellaneous**

- Association of Volleyball Professionals: Acted as general and litigation counsel for professional beach volleyball league for several years. Personally negotiated all contracts including player agreements, Tour endorsement and sponsor deals, television rights and advertising. Successfully prosecuted anti-trust/unfair competition claim on behalf of AVP players against FIVB—a sub-part of International Olympic Committee. Obtained unprecedented mandatory injunction permitting players to compete on both AVP and International Tours notwithstanding restrictive covenant in FIVB player agreements. Handled all commercial litigation.

### **Results**

The following are examples of cases handled in the Las Vegas office:

- [Las Vegas Office Prevails in U.S. Department of Labor Trial](#)
- [Las Vegas Trial Team Obtains Defense Judgment for Commercial Unit Owners' Association and Property Manager Defeating Multi-Million Dollar Claim](#)
- [Las Vegas Construction Team Obtains Complete Dismissal with Prejudice of Multi Million Dollar Construction Defect Claim Against Developer/General Contractor Client](#)
- [Las Vegas Team Obtains Dismissal in High-Profile Federal Anti-Trust Class Action](#)
- [Las Vegas Team Prevails in Performance Bond Assignment Trial](#)
- [GRSM Las Vegas Team Wins Motion to Dismiss](#)
- [Las Vegas Team Obtains \\$9 Million Settlement in Construction Litigation Case](#)

### **PRESENTATIONS**

Mr. Schumacher regularly conducts seminars for attorneys, insurance companies and businesses

concerning an array of insurance and attorney ethics-related issues. Examples include:

- *What's NOT Working in the Western Region CD Arena Panel*, MC Consultants, Inc., Carlsbad, CA (September 2013)
- *What to Do When Construction Projects Go Bad in Nevada*, Lorman Education Services, Las Vegas, NV (July 14, 2011)
- *Construction Defect Litigation: From A to Z*, National Business Institute (March 31, 2008 and March 10, 2009)
- *What to Do When Construction Projects Go Bad*, Lorman Education Services (July 29, 2008 and November 14, 2008)
- *Nevada Unfair Claims Practices Act—What Carriers Need To Know*  
EMC Insurance Companies, Phoenix, Arizona (July 2004)  
Farmers Insurance, Las Vegas, Nevada (2004)

## CREDENTIALS

### Admissions

- Nevada
- California
- U.S. District Court, District of Nevada
- U.S. District Court, Northern, Central and Eastern Districts of California
- U.S. Court of Appeals, Ninth Circuit

### Memberships

- Defense Research Institute
- Nevada State Bar, Southern Nevada Disciplinary Board
- Nevada State Bar, Diversity Committee
- Clark County Bar Association
- Los Angeles County Bar Association
- Fee Dispute Arbitration Committee
- Las Vegas Defense Lawyers Association

### Community Involvement

Robert was nominated by his peers as a Colleague of the Nevada Law Foundation, an organization that provides legal services to disadvantaged Nevadans.

## Education

- J.D., Southwestern University School of Law, 1991
- B.A., Political Science, University of California at Los Angeles, 1987

## Honors

- *Best Lawyers in America*® distinction in Construction Law (2015-2025), Commercial Litigation (2019-2025), Corporate Law (2019-2025)
- Top Rated Lawyer-AV® Preeminent™, *Martindale-Hubbell* (2005-Present)
- Top Rated Lawyer-AV® Preeminent™ Judicial Edition, *Martindale-Hubbell* (2020-2022)
- Nevada's "Top Rank Attorneys," *Nevada Business Magazine* (2022)
- Attorney of the Year, *Top 100 Registry* (2020)
- *Super Lawyers*® distinction in the fields of Construction Litigation: Business, Business Litigation, and General Litigation (2009-2019)
- Mountain States *Super Lawyers*® (2019)
- Top Lawyers of Las Vegas nominee, *Real Vegas Magazine* 2018-2019)
- *America's Top 100 Attorneys*®, Lifetime Achievement (2018)
- Top 100 Lawyers in Las Vegas, *MyVegas Magazine* (2017)
- Premier 100 Trial Attorneys in Nevada, National Academy of Jurisprudence (2017)
- Top Lawyers: The Best of the Best in Southern Nevada, *Vegas Inc. Magazine* (2013)
- Nevada's "Legal Elite" – Top 100 Attorneys, *Nevada Business Magazine* (2013, 2014, 2016, 2018, 2020)
- Recommended Insurance Attorney, *AM Best*
- Construction Lawyers Society of America—Charter Fellow