AMERICAN ARBITRATION ASSOCIATION® | INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION®

Gene Commander

Aurora, Colorado

View Video

Primary Areas of Expertise

Real Estate Development
Construction
Law Firm Operations

Current Employer-Title Gene Commander Inc - President

Profession Arbitrator, Mediator, ADR Advisor, and Executive-level Business Counselor to the Legal Profession.

Work History President, Gene Commander Inc, 2015 - Present; Shareholder, Polsinelli PC, 2000-2015 (formerly known as Polsinelli Shughart PC, 2009-2013, and Shughart Thomson & Kilroy PC, 2000-2009); Member, Hall & Evans LLC, 1981-2000; Associate, Smith Petersen Beckman & Willson, 1977-1981.

Experience Over 35 years construction law experience advising owners and developers, design professionals, general contractors, EPC contractors, design-builders, and subcontractors on the business of construction, contract negotiations, and project claims, including litigation and arbitration arising from international projects and commercial transactions. Named Best Lawyers 2016 Denver Lawyer of the Year in field of construction law. Recipient of Engineering News-Record's 2015 Mountain States Legacy Award.

COMMERCIAL
Experience includes business-to-business disputes between publicly traded, closely held, and family-owned companies - including family feuds in excess of $70 million from decades of business dealings involving limited partnerships, limited liability companies, family trusts, and probate proceedings - with allegations of breach of fiduciary duty, self-dealing, fraud, collusion, undue influence, conversion, and securities violations seeking damages and equitable relief through UCC Article 9, replevin, foreclosure, bankruptcy, accounting, specific performance, and interpleader proceedings.

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CONSTRUCTION
Experience includes delay, acceleration, lost productivity, cost overrun, design error, construction defect, and supply chain disruption claims.
* Infrastructure: interstate highway/tollway, bridge, airport runway, railway, earth dam/reservoir, heavy civil, water/wastewater, and multimodal transit.
* Industrial: renewable/green/solar/wind and petroleum fired power generation & distribution, wind energy research & development, oil & gas production, automated high-grade gold ore milling, computer chip/plastic injection mold/concrete block manufacturing, telecommunications, and data centers.
* Public/Private: schools, higher education, rapid transit, stadium/sports facilities, zoo, criminal justice/detention facilities, community center, and religious.
* Commercial: medical, healthcare, high-rise office, retail, mixed use, hospitality, resort, convention center, and hotel.
* Residential: high-rise apartment and condominium, townhome, custom single-family, and subsidized low income/senior multi-family housing.

REAL ESTATE
Experience includes claims from development agreements, purchase agreements, promissory notes, deeds of trust, personal guarantees, property management agreements, listing agreements, commercial leases, HUD audits, appraisals, irrevocable family trusts, jointly owned property separation agreements, contested wills and probate, limited partnership agreements, private offerings, historic preservation tax incentives, surface/storage water rights, reservoir/ditch company agreements, oil & gas production agreements, and Comprehensive Environmental Compensation Liability Act (CERCLA).

LAW FIRM OPERATIONS
Experience includes M&A transactions and law firm/partner/shareholder disputes based on decades of leadership/ownership roles and responsibilities in local, regional, and national firms. Served on management team for mid-sized litigation firm. Held leadership positions in rapidly growing construction law practice group in regional firm. Served as managing shareholder in Denver office of Polsinelli PC, an Am Law 100 firm, from 2011-2015, during rapid growth in number of attorneys, breadth of services, revenue, and facilities via successful nontraditional staffing, organic growth, lateral hires, and mergers.

INSURANCE & REINSURANCE
Experience includes disputes with London-based syndicates, domestic surplus lines, sureties, and home warranty companies involving claim handling/duty to defend obligations and coverage issues arising under commercial liability, product liability, excess liability, professional liability, and builder's risk insurance policies, and claims under reinsurance treaties, homeowner warranty agreements, and performance, payment, bid, and completion bonds involving contractor and developer defaults.

Alternative Dispute

Served on AAA construction and commercial arbitration rosters for 25+ years.

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Resolution Experience

Appointed to updated roster for AAA-ICDR Dispute Avoidance and Resolution Board (DARB) in 2023. Recognized annually by Best Lawyers in fields of arbitration and construction law. Named Best Lawyers 2019 Denver Lawyer of the Year in field of arbitration and 2016 Denver Lawyer of the Year in field of construction law. Invited to become a Fellow in College of Commercial Arbitrators in 2018. Stepped away from practice of law in 2015 to form private ADR business.

Specializes in resolving complex commercial disputes on construction and real estate development projects. Uses ADR best practices learned during 30+ year construction law career representing hundreds of clients in civil litigation, AAA and private arbitration and mediation, public/private DRB, and other customized dispute resolution proceedings.

ADR experience includes serving as sole arbitrator, panel member, and chairperson; DRB panel member; and mediator in 200+ multiparty disputes from construction, real estate, insurance, and other commercial transactions between companies ranging in size from family-owned businesses to publicly traded companies acting as public/private project owners and developers, design professionals, general contractors, EPC contractors, design-builders, specialty subcontractors, insurance companies, sureties, lenders, borrowers, guarantors, receivers, trustees, fiduciaries, limited partners, investors, landlords, and tenants.

Some examples: Served as panel chairperson in multi-million-dollar commercial dispute between designer of record and owner/operator of gold mine over design and construction of automated high-grade ore milling facility. Unanimous final award was entered following extended in-person evidentiary hearing in arbitration proceeding administered by AAA pursuant to its construction industry arbitration rules.

Also served on DRB panel to help parties resolve commercial impacts of delays/cost overruns on public/private design-build interstate highway expansion project across major metro area with extensive traffic control, viaduct demolition, mainline railway relocation, and express tollway requirements.

Also served as sole arbitrator in ad hoc arbitration proceeding to resolve claims between three generations of feuding family members over commercial disputes from decades of real estate development projects. Multiple claims totaling $40+ million from separate and distinct transactions were asserted among numerous family-owned businesses; individual family members; and grantors, trustees, and beneficiaries of irrevocable family trusts. All claims were consolidated into single binding arbitration case that was administered privately pursuant to terms of parties' arbitration agreement, which incorporated industry standard commercial arbitration rules and Federal Rules of Civil Procedure.

Parties requested equitable accounting to examine jointly owned projects, family business transactions, and individual trust administration practices. Also sought

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	determination of their rights in securities (membership interests) that were tendered to the arbitrator through consensual interpleader procedure. Eleven separate in-person evidentiary hearings were conducted over span of 14 months. During the 50+ days of hearing, testimony was offered from nearly 60 fact/expert witnesses and over 1900 exhibits were admitted into evidence. Twelve interim awards were issued during hearing process, which was bifurcated and sequenced to first determine liability for each claim and then appropriate damages for the remaining meritorious claims. This customized approach streamlined pre-hearing procedures and significantly reduced total number of hearing days. Final binding award was confirmed by state district and appellate courts.
Technology Proficiency	Available for in-person and virtual hearings.
Education	University of Iowa (JD, with distinction-1977); Iowa State University (BA, Architecture-1975).
Professional Licenses	Admitted to the Bar: Iowa (1977), Colorado (1981); U.S. District Court: District of Colorado (1981); U.S. Court of Appeals, Tenth Circuit (1981).
Professional Associations	College of Commercial Arbitrators (Fellow and Committee Co-Chair, Associates Mentorship Program); American, Colorado, and Denver Bar Associations; Colorado Women's Bar Association; Colorado LGBT Bar Association; Colorado Hispanic Bar Association; Sam Cary Bar Association; Asian Pacific American Bar Association of Colorado; and National Conference of Women's Bar Associations (GOOD Guys Committee). Also has distinguished resume of prior community engagement, including Construction Education Foundation of Colorado (Board of Directors); Associated General Contractors of Colorado (Board of Directors); Mayoral appointment to Denver Urban Renewal Authority (Board of Commissioners); and Downtown Denver Partnership (Chairperson).
Recent Publications & Speaking Engagements	Has written numerous articles for legal industry publications and spoken at a variety of legal industry conferences, symposiums, continuing education programs, and law firm retreats. A more complete list of publications is available through www.genecommanderinc.com/blog. Recent Business of Law Publications: AI in Law Firms: The AI Revolution in the Business of Law (January 21, 2025). Reimagining Talent Development, An Essential Investment in the Business of Law, Colorado Lawyer (December 2024, Vol.53, No.9) Smart Growth Strategies for Law Firms: Essential Investments in an Evolving Industry, Attorney at Work (November 20, 2024). Strategic Slowness: A New Mantra for Law Firm Leaders, Attorney at Work (August 14, 2024).

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Dismantling the Obstacles Facing Mothers in Law Firms, Law Week Colorado (June 27, 2024).
Supporting and Retaining Mothers in Law Firms, Law Week Colorado (May 27, 2024).
Adjusting to the Hybrid Work Paradigm, Colorado Lawyer (April 2024, Vol. 53, No. 3).
Announcing the State of the Solo Survey Results, Law Week Colorado (March 29, 2024).
Strategic Slowness: A New Planning Lens for Colorado Law Firms, Law Week Colorado (March 6, 2024).
Building Successful Hybrid Workplaces in Colorado Law Firms, Law Week Colorado (November 28, 2023).
Talent Strategies for the Well-Being of Colorado Law Firms, Colorado Lawyer (November 2023, Vol. 52, No. 9).
Building a Foundation for Growth in 2024, Law Week Colorado (October 12, 2023).
A Laudable Approach to Promoting Diversity in the Legal Profession, Law Week Colorado (August 15, 2023).
Announcing the State of the Law Firm Survey Results, Law Week Colorado (June 30, 2023).
Women Lawyers in Colorado Grow in Ranks, Law Week Colorado (June 5, 2023).
Introducing the State of the Law Firm Survey, Law Week Colorado (May 18, 2023).
Staying Ahead of the Talent Curve- Part 2, Colorado Lawyer (April 2023, Vol. 52, No. 3).
Staying Ahead of the Talent Curve- Part 1, Colorado Lawyer (March 2023, Vol. 52, No. 2).
Smart Growth in Action: M&A 101, Law Week Colorado (March 15, 2023).
Smart Growth in Action: Law Firm M&A, Law Week Colorado (February 17, 2023).
Succession Planning: Time is of the Essence, Law Week Colorado (November 25, 2022).
Protecting Law Firm Investments in Human Capital, Law Week Colorado (August 8, 2022).
Staying Ahead of the Succession Planning Curve, Colorado Lawyer (April 2022, Vol. 51, No. 8).

Recent Arbitration Publications:

SCOTUS Decision Applies FAA to Empower Businesses and Arbitrators, Colorado Lawyer (Aug/Sept 2019, Vol. 48, No. 8)
Making the Economic Case for Mandatory Binding Arbitration, Colorado Lawyer (May 2018, Vol. 47, No. 5).

Recent Business of Law Speaking Engagements:

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Speaker, Association of Legal Administrators - Mile High Chapter (August 2024).
Moderator, GOOD Guys Program, National Conference of Women's Bar Associations (August 2024).
Speaker, Colorado Attorney Mentoring Program (July 2024).
Keynote Speaker, Rocky Mountain Bankruptcy Conference, American Bankruptcy Institute (June 2024).
Moderator, Solo/Small Firm Panel, Law Week Colorado (April 2024).
Speaker, Pitkin County (Colorado) Bar Association (January 2024).
Speaker, 5th Annual Colorado Solo-Small Firm Institute, CBA-CLE (September 2023).
Speaker, Inaugural Symposium for Colorado Supreme Court Well-Being Recognition Program, CBA-CLE (September 2023).
Panelist, Rock Star Mentors Program, Colorado Women's Bar Association (August 2023).
Panelist, GOOD Guys Program, National Conference of Women's Bar Associations (August 2023).
Speaker, Valuing Human Capital for Law Firms and Other Professional Practices, National Association of Certified Valuators and Analysts, Colorado/Wyoming Chapter (September & December 2022).

Locations Where Parties Will Not be Charged for Travel Expenses

Charges for travel expenses waived in all cases with a minimum of five in-person hearing days conducted in Arizona, California, Oregon, Washington, Hawaii, and Alaska.

Citizenship

United States of America

Languages

English

Compensation

Hearing:	$550.00/Hr
Study:	$550.00/Hr
Cancellation Period:	0 Days
Comment:	Hourly rate is applied to all proceedings, activities, and communications involving the parties, counsel, AAA, and/or panel members to study/review submissions and prepare/conduct conferences, including site visits, discovery dispute resolution, evidentiary hearings, deliberations, preparation of orders and awards, post-award follow up, award modification, and any other requested or necessary services. No charges for travel time. Travel expenses waived in all cases conducted in Metro Area- Denver, CO. Except for cases conducted in the states noted above, travel expenses are charged in all other cases conducted outside Metro Area- Denver, CO, including airfare, ground transportation, rental car, parking, meals, lodging, and expedited shipping. No charges for hearing cancellation fee or other expenses in

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