

# Snell & Wilmer

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## **Mark O. Morris**

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## **Main Bio**

Mark Morris has a very diverse practice, accumulating over 35 years' experience in general commercial litigation, including handling cases in the areas of construction law, real estate, securities, legal malpractice, employment, professional liability, trade secrets, general business disputes and defense of class action matters. Mark has been recognized by his peers for not only his litigation skills, but also for his judgment and background in general corporate and business issues that have been informed by his many years of resolving primarily business disputes. For example, Mark is a Fellow of the Construction Lawyers Society of America, an invitation-only construction lawyer honorary society with membership limited to 1,200 practicing Fellows from the United States and internationally. Mark always seeks efficient, amicable and reasonable resolutions to his clients' problems, including informal and formal negotiation and mediation before and after a case commences. Failing agreed resolutions satisfactory to his clients, however, Mark has tried over 70 cases to arbitrators, judges and juries in Utah and other states.

## **Representative Experience**

### ***General Commercial Litigation***

- Mark has general experience in complex contract disputes of all kinds, professional liability, and business torts including many covered by federal and state statutory schemes. These have included very complex cases, including a recently resolved case involving a nearly nine-figure damage claim. He has been lead counsel for class action defendants in Utah, Arizona, and Illinois, in cases involving complex federal statutory schemes, including consumer protection cases against lending and financial institutions. Mark has been lead counsel in cases litigated in Alabama, Arizona, California, Colorado, Florida, Idaho, Illinois, Nevada, New York, and Utah. He has briefed and argued appeals to the Utah Court of Appeals, the Utah Supreme Court, the Florida Court of Appeals, and to the U.S. Courts of Appeal for the Ninth and Tenth Circuits.

### ***Construction Law***

- His practice includes representation of owners, design professionals, financial institutions, sureties, and contractors on private and public projects in contract drafting and negotiation, bid protests, claims analysis and resolution, surety claims, mechanics lien litigation, construction defect claims, resolution of claims in bankruptcy court, contract and claims litigation, and design professional liability issues. Mark recently resolved a nine-figure damage claim concerning a substantial highway construction project.

### ***Real Estate Litigation***

- Mark was recognized by his peers as Lawyer of the Year in Real Estate Litigation and is experienced in easement and right-of-way litigation, commercial landlord-tenant disputes, purchase/sale agreements, quiet title actions, state and federal just compensation and inverse condemnation actions, public lands and natural resources, foreclosure in and out of bankruptcy proceedings, and contract and commission disputes.

### ***Employment Law***

- Mark was recognized by his peers as Lawyer of the Year in Employment Law and represents employers in contractual, statutory, and tortious conduct claims arising from employment relationships, including enforcement of non-compete and trade secret covenants, and defense of Title VII, ADA, ADEA, FLSA, FMLA, ERISA, and other federal and state statutory schemes. Mark recently represented an employer in a three and a half week, multi-million dollar federal jury trial in a matter regarding restrictive covenants.

### ***Securities Litigation***

- Mark served for many years as a member of Utah's Panel of Neutrals for the New York Stock Exchange Department of Arbitration, one of the predecessors to FINRA. During his career, he has litigated securities cases in both state and federal courts of Utah.

### ***Professional Liability***

- Mark has over 20 years of experience defending lawyers against legal malpractice claims. His clients have included lawyers in Utah and Idaho.

### **Education**

- Brigham Young University, J. Reuben Clark Law School (J.D., cum laude, 1985)
  - Order of the Barristers
- Columbia College, Columbia University (B.A., English, 1982)

### **Languages**

- Finnish

### **Professional Memberships & Activities**

- Fellow of the Construction Lawyers Society of America (2019 to Present)
- State Bar of Utah
  - Committee on Early Diversity Outreach, Chair (July 2020-September 2022)
  - Executive Committee (July 2019-July 2023)
  - Board of Bar Commissioners, 3rd Division (July 2017-July 2023)
  - Construction Section, Chair (2014)
  - Utah State Bar Annual Meeting, Co-Chair (2012)
- American Bar Association
- Salt Lake County Bar Association
- International Association of Defense Counsel (IADC)
  - Utah State Committee Chair (2017-2020)

- Construction Law and Litigation Section, Vice Chair of Programs and Projects (2011-2015)
- ABA Forum on the Construction Industry
- Center for Public Resources (CPR)
  - Regional Panel of Distinguished Neutrals
- New York Stock Exchange Department of Arbitration
  - Panel of Neutrals
- Model Utah Jury Instructions Civil Committee, Member (2022-2025)
  - Panel of Neutrals
- Defense Research Institute (DRI)
- Brigham Young University Law School Alumni Association, President (1997-1999)
- Brigham Young University Law School, Advisory Board Member (2005-present)

## Representative Presentations & Publications

- "[Utah Court Confirms "Seller Beware" Rule in Failed Sale Suits, Requiring Return of Earnest Money Before Seeking Other Remedies](#)," Author, Snell & Wilmer Under Construction Newsletter (January 2023)
- "[An Apology for Lawyers and the Utah State Bar](#)," Author, Utah Bar Journal (January/February 2023)
- "[Hogs Can Get Slaughtered on Fees in Utah if Their Iaim is Too Greedy](#)," Co-Author, Snell & Wilmer Under Constructions Newsletter (October 2022)
- "[A Deal is a Deal in Utah: Court Enforces 'Walk-Away' Settlement Despite Subsequent Disagreements On Terms](#)," Co-Author, Snell & Wilmer Under Constructions Newsletter (July 2022)
- "[Patience on Payments Can Hurt](#)," Author, Snell & Wilmer Under Construction Newsletter (April 2022)
- "[Utah's Employers/Independent Contractor Distinction Remains Cloudy, Even to Judges](#)," Author, Snell & Wilmer Labor and Employment Law Blog (February 14, 2022)
- "[Utah Courts Expand the Reach of the Economic Loss Rule in Construction Disputes](#)," Co-Author, Snell & Wilmer Under Construction Newsletter (January 2022)
- "[In Utah, Asbestos Take-Home Exposure Equates to Damages Exposure for Premises Operators and Contractors](#)," Co-Author, Snell & Wilmer Under Construction Newsletter (October 2021)
- "[Construction Post-Pandemic: Safety Guidelines for Returning to 'Normal'](#)," Co-Author, Utah Construction & Design Magazine (June/July 2021)
- "[A Planned Executive Order Regarding Competition](#)," Author, Snell & Wilmer Labor and Employment Law Blog (July 9, 2021)
- "[Hotel Utah: You Can Check-Out Any Time You Like, but You Can Never Leave...Your Disclosure Obligations](#)," Author, Snell & Wilmer Under Construction Newsletter (July 2021)
- "[Prompt Pay Act Lessons from the Arizona Court of Appeals](#)," Co-Author, Snell & Wilmer Under Construction Newsletter (April 2021)
- "[In Utah, Preconstruction Lien Notice Deficiencies Affect Payment Bond Claims Too](#)," Co-Author, Snell & Wilmer Under Construction Newsletter (January 2021)
- "[Clarifying the Standard for Severance Damages for Condemned Property in Utah](#)," Co-Author, Snell & Wilmer Under Construction Newsletter (July 2020)

- "[Unions Don't Always Get Their 'Dues'](#)," Co-Author, Snell & Wilmer Under Construction Newsletter (April 2020)
- "[Under Construction - October 2019: "Coming and Going" Does Not Include the Parking Lot](#)," Author, Appearing in JD Supra (October 2019)
- "[In Utah, It's Obvious What's Open and Obvious](#)," Author, Appearing in JD Supra (July 2019)
- "[Wall Street Journal Notes Growing Clouds Over Restrictive Covenants](#)," Author, Snell & Wilmer Labor and Employment Law Blog (May 2019)
- "[Brain Damage' in Contract Negotiations Saves Real Damage to Bottom Line](#)," Author, Utah Construction & Design (July 2018)
- "[My Strangest Day In Court: When I Did Nothing And Won](#)," Author, Law360 (June 2017)
- "What Utah Employers Need to Know About H.B. 251: Post-Employment Restrictions Act," Co-Author, ABA Employment and Labor Relations Committee (March 2016)
- "[The Status of Lien Waivers in Utah Remains Cloudy](#)," Author, Snell & Wilmer Legal Alert (January 2015)
- "Enforcement of Foreign Arbitration Awards in the United Arab Emirates," Co-Author, Defense Counsel Journal, Vol. 81, No. 3, pp. 279-287 (July 2014)
- "Unintended Third-Party Beneficiaries Created Through Flow Down Clauses in Subcontracts," Co-Author, Snell & Wilmer Under Construction (December 2013)
- "Utah Court of Appeals to Lenders Relying Upon Their Own Boilerplate Lien Release Language in Form Draw Requests: Use the Legislature's Form and Elements," Co-Author, Snell & Wilmer Legal Alert (October 2012)
- "Health Care Reform: An Overview of Important Changes to Employee Health Care Benefits," Co-Presenter, Meeting of American Council of Engineering Companies, Park City, Utah (September 2010)
- "The New Normal: Thirteen Realities and Issues that Lenders are Considering, and Borrowers Should Now Consider in Connection With Construction Financing," Co-Presenter, ABA Forum Owners & Lenders Division (Division 12) (August 2010)
- "Legislative Corraling of Construction Defect Litigation, Home Builder's Right to Cure Statutes," IADC Mid-Year Meeting (February 2008)
- "Utah Courts Will Likely Enforce Pay-If-Paid/Pay-When-Paid Clauses," Utah Under Construction Newsletter (March 2007)
- "A Case for National E-Mail Regulation: State UCE Statutes Have Infirmities," Co-Author, Defense Counsel Journal (July 2003)
- "The Erosion of the Parol Evidence Rule: More Holes in the Dike," Defense Counsel Journal (April 2000)

## Professional Recognition & Awards

- The Best Lawyers in America®, Commercial Litigation, Construction Litigation, Employment Law - Individuals, Labor & Employment Litigation, Real Estate Litigation (2009-2023)
  - Salt Lake City Lawyer of the Year, Real Estate Litigation (2013)
  - Salt Lake City Lawyer of the Year, Employment Law (2022)

- Chambers USA, America's Leading Lawyers for Business<sup>®</sup>, Litigation: General Commercial (2017-2022)
- Benchmark Litigation, Local Litigation Star – Utah, General Commercial, Labor and Employment, Securities (2016-2018)
- Mountain States Super Lawyers<sup>®</sup>, Business Litigation (2007, 2012-2022)
  - Top 100 (2020-2022)
- Lawdragon Top 3000 Leading Lawyers in America (2010-2011)
- Super Lawyers, Business Litigation - Corporate Counsel Edition (2008)
- Utah's Legal Elite: Employment and Business Litigation (2013 & prior years), Civil Litigation (2013-2020), Business & Corporate Law (2022), Utah Business Magazine

## **Community Involvement**

- University of Utah Hospital Foundation, Board Member (2011-2017)
- Utah Children, Board Member (1987-1995)

## **Previous Professional Experience**

- Ray, Quinney & Nebeker, Salt Lake City, UT (1985-1991)

## **Bar Admissions**

- Idaho
- Utah

## **Court Admissions**

- Supreme Court of Idaho
- Supreme Court of Utah
- United States Court of Appeals, Eleventh Circuit
- United States Court of Appeals, Ninth Circuit
- United States Court of Appeals, Tenth Circuit
- United States District Court, District of Colorado
- United States District Court, District of Idaho
- United States District Court, District of Utah
- United States Supreme Court