

# Résumé



## L. TYRONE "TY" HOLT, ESQUIRE

### THE HOLT GROUP LLC

Attorneys & Counselors at Law  
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Denver, Colorado 80202

### WESTERN NEUTRAL SERVICES, LLC

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Websites: www.holtllc.com  
www.mediatorindex.com  
www.thecca.net  
www.imimmediation.org

## PERSONAL

Date of Birth: July 28, 1949  
Place of Birth: Mebane, North Carolina  
Citizenship: United States of America

Marital Status: Married      Wife: Mary  
Daughter: Kathie (Age 27)

### EMPLOYMENT HISTORY [Since Graduation from College] (Location is Denver, Colorado, unless otherwise specifically noted)

1973	Summer Clerk, Holland & Hart LLP, Attorneys
1974-79	Associate, Holland & Hart LLP, Attorneys
1979-81	Associate/Partner, Shank, Irwin & Holmes; Shank, Irwin, Conant, Williamson & Grevelle (Dallas and Washington, D.C.)
1981-84	Partner, Durham, Gassman & Holt
1984-88	Principal, Holt & Gebow, P.C.
1988-91	Principal, Holt & Associates, P.C.
1991-92	Principal, Bookhardt, O'Toole & Holt, P.C.
1992-94	Director, PMCA, S.A., Geneva, Switzerland <sup>1</sup>

<sup>1</sup> Managed Geneva office operations, handled communications interface with American, German and French shareholders, negotiated currency expatriation and transactional documents for soft commodities price "hedge" financing instrument between PMCA, S.A., and various African governmental entities, e.g., African Development Bank, Central Bank of Nigeria, Central Bank of Namibia, Central Bank of South Africa, Central Bank of Zimbabwe, Central Bank of Tanzania and Central Bank of Egypt.

- 1993-94 Member and Committee Secretary, Site Selection Committee for the Headquarters (Cairo, Egypt) and Regional Branch Offices, (Harare, Zimbabwe) of The African Export Import Bank World, African Development Bank, Adijan, Cote D'Ivoire, Western Africa
- 1994-95 Vice President & General Counsel, CMTS, Inc. [national construction management firm]
- 1995-2000 Principal, Holt Professional Corporation
- 2/00-9/01/03 Partner, Ireland, Stapleton, Pryor & Pascoe, P.C.
- 09/03-6/30/05 Managing Principal, Holt & Stalder LLC, Attorneys & Counselors at Law
- 03/01/05 - President, WESTERN NEUTRAL SERVICES, LLC [professional alternative dispute resolution services for the construction industry]
- 07/01/05 - Managing Principal, THE HOLT GROUP LLC, Attorneys & Counselors at Law

### **BAR AND COURT ADMISSIONS**

Licensed in Colorado: 1974

Registration No: 005779

### **COURT ADMISSIONS (CURRENT)**

Supreme Court of Colorado and all subordinate Courts  
 United States District Court for the District of Colorado  
 Superior Court, Los Angeles County, California (Pro Hac Vice)  
 United States District Court for the Western District of Texas (Pro Hac Vice)  
 United States District Court for the Northern District of Georgia (Pro Hac Vice)  
 United States Court of Appeals for the Ninth & Tenth Circuits  
 The United States Supreme Court

### **JUDICIAL CLERKSHIP**

1974 (Spring) Law Clerk to The Honorable Preston Devine, Presiding Justice, California First District Court of Appeals, San Francisco, California (Stanford Law School Externship Program)

### **PROFESSIONAL, CIVIC AND COMMUNITY ORGANIZATIONS, ASSOCIATIONS AND SOCIETIES**

Past Member, Governing Committee, American Bar Association Forum on the Construction Industry, 2007-2010

Fellow, College of Commercial Arbitrators ("CCA"), Secretary, Member of the Executive Committee; Past Chair, Membership Committee; Contributing Author, *CCA Guide to Best Practices for Commercial Arbitrators, 2<sup>nd</sup> Edition (2010)*

Certified Mediator, International Mediation Institute  
<http://www.imimmediation.org/ityrone-holt>

Member, American Arbitration Association (AAA), National Construction Arbitrator Master Panel  
 Member, American Arbitration Association (AAA), National Panel of Construction Mediators  
 Member, International Institute for Conflict Prevention and Resolution (CPR) Mediation and Arbitration

Construction Panels of Neutrals  
Member, Board of Visitors, The Stanford Law School  
Life Fellow, American Bar Foundation  
Visiting Lecturer, University of Colorado at Denver, Graduate School of Architecture  
Member, Phi Beta Kappa National Honor Society, Delta of Georgia Chapter (1971)  
Trustee, Denver Architectural Foundation  
Member, Association for Conflict Resolution  
General Counsel for the Eulipions Foundation [a nonprofit organization which fosters, promotes and preserves the artistic expression with an emphasis on Colorado African-American heritage and lifestyles by providing grants to generate, assist, increase and encourage the performing arts in the Colorado African-American communities.]

**AMERICAN BAR FOUNDATION/PEOPLE TO PEOPLE INTERNATIONAL**

Member, Delegation to Russia on the "Rule of Law", April 2005  
Member, Delegation to China on the "Rule of Law", October 2006  
Member, Delegation to Brazil, Law and Legal Systems Delegation, November 2010

**AMERICAN BAR ASSOCIATION**

**Forum on the Construction Industry**

Chair, Special Projects and Education Committee (SPEC) – 2010-2011

Program Coordinator, "Getting Better All the Time: Advancing Negotiation Strategies", Midwinter Meeting, January 2011, New York City

Member, Governing Committee – 2007-2010

Chair, Division Chairs Committee – 2008-2010

Chair, Division 3 – Design 2004-2006

Member, Steering Committee, Division 3 – Design, 2000 - 2006

Governing Committee Program Liaison:

2009 Annual Meeting Program, "Talking Green Blues: Energy, Sustainability, and Green Building Challenges Affecting the Construction Industry," "New Orleans, LA, April 2009

Project Manager/Editor:

*Design Professional/Construction Manager Liability Law* © ABA Press, January 2007

Program Co-Chair [With Timothy Thornton]:

2003 Fall Program, "Best Value Contracting -- It Isn't Just Price Anymore," Washington, D.C., October 2003

**Section of Dispute Resolution**

Vice Chair, Arbitration Committee – 2010-2011  
Section Nominating Committee - 2010

**Section - Tort, Trial and Insurance Practice**

**Section of Litigation**

Co-Chair, Subcommittee on Design Professional Liability 2003 - 2006

**COLORADO BAR ASSOCIATION**

**Construction Law Section**

**Dispute Resolution Section**

**Litigation Section**

Chair, Governing Council (1990-91)  
Member, Governing Council, Litigation Section (1988-91)

**DENVER BAR ASSOCIATION**

**NATIONAL BAR ASSOCIATION**

**SAM CARY BAR ASSOCIATION**

**INTERNATIONAL BAR ASSOCIATION**

**EDUCATIONAL BACKGROUND**

**DEGREES AWARDED:**

Master of Theology (1997)	Peace Theological Seminary and College of Philosophy Santa Monica, California
Juris Doctor (1974)	The Law School Stanford University Palo Alto, California
Bachelor of Arts (1971)	Morehouse College Atlanta, Georgia

**ADDITIONAL INSTITUTIONAL STUDY AND FORMAL COURSE WORK:**

September 2009	Chartered Institute of Arbitrators Keble College, Oxford, University, Oxford, England, UK The Diploma Course In International Commercial Arbitration
Summer School (1970)	University of North Carolina Chapel Hill, North Carolina

Special Study (9/69-6/70) University of Madrid Institute for European Studies  
Madrid, Spain

Special Study (Summer 1969) University of Ghana  
Accra, Ghana, West Africa

### **REPRESENTATIVE SCHOLASTIC AND ACADEMIC AWARDS AND HONORS**

#### **STANFORD LAW SCHOOL**

Three-Year Academic Scholarship, 1971-74

President, Legal Aid Society, 1973-74

#### **MOREHOUSE COLLEGE**

Four Year "All Expense" Scholarship, 1967-71

Graduated *summa cum laude*

Departmental Honors, English and Spanish, Morehouse College

Merrill Overseas Travel-Study Scholarship, University of Madrid, Spain (1969-70)

Merrill Summer Travel-Study Scholarship, University of Ghana (Summer 1969)

#### **CENTRAL HIGH SCHOOL, GRAHAM, NORTH CAROLINA**

National Merit Scholar (1967)

National Honor Society (1967)

The Governor's School of North Carolina (1965)

### **REPRESENTATIVE PUBLISHED ARTICLES, PAPERS AND PRESENTATIONS**

- April 2011 American Bar Association, Section of Dispute Resolution, 13<sup>th</sup> Annual Spring Conference, Denver, CO, "*The ADR Diversity Challenge*", Mark Smalls, Laurie Korneffel; Linda Singer; Larry D. Harris; Reginald A. Holmes; and Ty Holt.
- September 2010 AAA Handbook on Mediation, 2<sup>nd</sup> Edition, Juris Publishing (2010), Co-author of Chapter 63, "*Large, Complex Construction Disputes: The Dynamics of Multi-Member Mediation Teams*", L. Tyrone Holt, Esquire and Alan Bates, Esquire.
- September 2010 American Arbitration Association, The Fall 2010 American Arbitration Association, "*Construction Conference: Planning Resolution Strategies*", Allen Overcash, Esquire and L. Tyrone Holt, Esquire (Paper and Presentation).
- April 9, 2010 American Bar Association, Section of Dispute Resolution, 12<sup>th</sup> Annual Spring Conference, San Francisco, CA, "*Six Deadly Behaviors to Avoid in Mediating the Complex Multi-Party Case*", L. Tyrone Holt, The Holt Group, LLC, Denver, CO; Dave Rudy, Just Accord, Inc., Black Forest, CO; William Peters, Esquire, Gordon & Rees LLP, San Francisco, CA (Paper and Presentation).
- February 2010 American Arbitration Association, AAA University Webinar – "*Five Steps to Fast-Track the Large Complex Construction Case*", Allen Overcash, Esquire and L. Tyrone Holt, Esquire (February 25, 2010) (Paper, Presentation and National Webinar).

September 2009	American Bar Association, 2009 National Minority Lawyers Conference, Sofitel Hotel, Philadelphia, Pennsylvania, “ <i>The New Deal: Transactional Skills for a Changing Environment</i> ”, Program Panel Co-chairs: Professor Jonathan Lipson and L. Tyrone Holt.
September 2009	DePaul University, College of Law School, <u>DePaul Business &amp; Commercial Law Journal</u> , Spring 2009, “ <i>Whither Arbitration? What Can Be Done to Improve Arbitration and Keep Out Litigation’s Ill-Affects?</i> ” L. Tyrone Holt, with Raymond Dean Jones, Esquire, (Judge Ret.), Daniel J. Hillis, Esquire and Felicia G. Euell, Esquire.
April 16, 2009	American Bar Association, Section of Dispute Resolution, 11 <sup>th</sup> Annual Spring Conference, Sheraton New York Hotel & Towers, New York, New York, “ <i>Mediating Large and Complex Construction Disputes</i> ”, L. Tyrone Holt, Esquire and Mark J. Heley, Esquire April 2009) (Paper, Presentation and National Teleconference).
March 2009	DePaul University Law School, 2009 Arbitration Symposium “ <i>Winds of Change: Solutions to Causes of Dissatisfaction with Arbitration</i> ”, Chicago, Illinois, Presentation by L. Tyrone Holt, Esquire.
February 2009	American Arbitration Association, 2009 AAA and ICDR Neutrals Conference – Coronado Island Marriott Resort & Spa, San Diego, California, “ <i>Advanced Mediation – Large and Complex Construction Disputes</i> ”, L. Tyrone Holt, Esquire and Alan Bates, Esquire (February 2009).
Oct 31/Nov 1, 2007	Design Build Institute of America, 2007 Design-Build Conference & Exposition, Dallas, Texas, “ <i>Bridging Documents - How Do They Alter the Liability of Design-Build Participants</i> ”, G. William Quatman, Esquire, L. Tyrone Holt, Esquire and Bennett Greenberg, Esquire (Paper and Presentations).
May-July 2007	<u>Dispute Resolution Journal</u> , “ <i>Large, Complex Construction Disputes: The Dynamics of Multi-Party Mediation</i> ”, American Arbitration Association © 2007.
March 2007	American Arbitration Association, the Construction Mediation Conference – Hyatt Regency Miami, Miami, Florida, “ <i>Large, Complex Construction Disputes: The Dynamics of Multi-Member Mediation Teams</i> ”, L. Tyrone Holt, Esquire and Alan Bates, Esquire (March 31, 2007).
March 2007	Practicing Law Institute, “ <i>Making Construction Arbitration ‘Better, Cheaper and Faster’</i> ”, © PLI - Paper and Presentation: March 2, 2007, New York, New York).
January 2007	Co-Editor <u>Design Professional/Construction Manager Liability Law</u> , © ABA Press, January 2007.
January 25, 2007	American Bar Association, Forum on the Construction Industry, 2007 Mid Winter Meeting, “ <i>Use of Bridging Consultants in Design-Build</i> ”, © 2007 ABA Publications, Inc., G. William Quatman, Esquire and L. Tyrone Holt, Esquire (Paper and Presentation).
January 2007	“ <i>Considerations for Subconsultant and Subcontract Agreements for Design Professionals and Construction Managers</i> ”, Chapter 15, Co-author with Carrie L. Okizaki, Esquire, <u>Construction Manager – Design Professional Liability Handbook</u> , © ABA Press - January 2007.

April 21, 2006	PLI - Practicing Law Institute, “ <i>Mediate, Arbitrate or Litigate—Proper Forum Selection for Construction Disputes</i> ”, © L. Tyrone Holt, Esquire - Paper and Presentation: April 21, 2006, New York, New York).
November 2005	American Bar Association, Sections of Dispute Resolution and Litigation, 2005 Joint CLE Program, “ <i>Structuring and Formatting the Mediation of Complex, Multi-Party, Multi-Issue Construction Disputes</i> ”, © 2005 ABA Publications, Inc. and L. Tyrone Holt, Esquire (Panel Presentation: Las Vegas, Nevada, November 11, 2005).
June 2005	Continuing Legal Education of Colorado, Inc., “ <i>Arbitration and Mediation: Current Trends, Effective Techniques, and Expanded Uses for ADR</i> ”, © L. Tyrone Holt, Esquire (Paper Published June 2005 by CLE of Colorado, Inc.; Presentation: June 2, 2005).
April 2005	PLI - Practicing Law Institute, “ <i>Representing the Multi-State Client in Arbitration Proceedings</i> ”, (Paper Published April 2005 by Practicing Law Institute, New York, New York; Presentation: April 2005).
October 2004	Continuing Legal Education of Colorado, Inc., “ <i>Defending the Construction Lawsuit to Maximize the Potential Recoveries that are Insured</i> ,” © L. Tyrone Holt, Esquire (Paper Published October 2004 by CLE of Colorado, Inc.; Presentation: October 2004).
April 2004	Continuing Legal Education of Colorado, Inc., “ <i>Standard Construction Contract Clauses from the Perspective of the Owner, Contractor and Design Professionals</i> ”, © L. Tyrone Holt, Esquire, Jeffery B. Stalder, Esquire and Charlotte Wiessner, Esquire (Paper Published April 2004 by CLE of Colorado, Inc.; Presentation: April 2004).
October 2003	Continuing Legal Education of Colorado, Inc., “ <i>Representing Design Professionals</i> ”, © L. Tyrone Holt, Esquire and William H. Knapp, Esquire (Paper Published October 2003 by CLE of Colorado, Inc.; Presentation: October 2003).
August 2003	American Arbitration Association, 2003 National Neutrals Retreat – Providence, Rhode Island, “ <i>Mediating Construction Disputes Involving Public and Quasi-Public Entities -- Selected Issues, Challenges, Techniques and Approaches</i> ,” The Westin Providence, Providence, Rhode Island, © 2003 L. Tyrone Holt, Esquire (Paper Published August 8, 2003; Presentation: August 22-23, 2003).
June 2003	American Council of Engineering Companies of Colorado, Expert Witness Certification Committee, “ <i>Litigation and the Role of the Expert Witness</i> ,” © L. Tyrone Holt, Esquire (Paper Published and Presentation: Lakewood, Colorado, June 20, 2003).
April 2003	American Bar Association, Section of Litigation, 2003 Annual Meeting, “ <i>Developing and Utilizing Special Expertise in the Modern Paralegal</i> ”, © 2003 ABA Publications, Inc. and L. Tyrone Holt, Esquire (Presentation: Houston, Texas, April 11, 2003).
January 2003	American Arbitration Association, 2003 National Neutrals Retreat “ <i>Advanced Concepts &amp; Techniques for the Successful Mediation of Public Sector Construction Disputes</i> ”, © 2003 L. Tyrone Holt, Esquire. The Westin Kierland Resort & Spa, Scottsdale, Arizona (Paper Published: December 2002; Presentation: January 2003).
April 2002	American Bar Association, Forum on the Construction Industry, 2002 Annual Meeting, “ <i>Understanding, Negotiating and Documenting the Relationships Between and Among Prime Design Professionals and Their Consultants</i> ,” © 2002 ABA Publications, Inc.

January 2002	American Bar Association, Forum on the Construction Industry/TIPS Fidelity & Surety Committee, 2002 Joint Winter Meeting, <i>“Legal Limitations On Allocating Risk Through Indemnification Agreements,”</i> © 2001 ABA Publications, Inc.
Summer 2001	<u>The Construction Lawyer</u> , <i>“AIA Electronic Forms – “New” Version 3.0 – The Good, The Bad, and The Ugly,”</i> American Bar Association © 2001 ABA Publications, Inc.

**EXAMPLES OF MEDIATION CASES OF HANDLED: 2000 – 2010**

Ty has served as the mediator in over one hundred construction cases over the last ten years. Examples are as follows:

Two day mediation in Southern California, with three parties (Owner, General Contractor and Subcontractor), including design, construction and project close-out issues on high luxury condominium, in Los Angeles, California. All disputes involving the Owner and General Contractor were resolved.

One day mediation conference, with three parties in Southern California, with three parties (Owner, General Contractor and Subcontractor), including design, construction and project close-out issues on high luxury condominium, in Los Angeles, California. All disputes involving the Owner and General Contractor were resolved.

One day mediation conference, in Phoenix, AZ, with three parties (Owner, General Contractor and Subcontractor), involving project close-out issues on major sports facility and subcontractor equitable adjustment claim.

One day mediation conference, in Phoenix, AZ, with three parties (Owner, General Contractor and Subcontractor), involving project close-out issues on major sports facility and subcontractor equitable adjustment claim.

Mediation with seven parties (Owner, General Contractor, Design Engineer, Clerk of the Works On-Site Engineer, Materials Testing Subcontractor, Excavation Subcontractor and Specialty Liner Subcontractor), including design and construction of industrial facility. Owner claims exceeded \$25,000,000. All disputes involving the Owner, General Contractor, "Clerk of the Works" - On-Site Engineer, Excavation Subcontractor and Specialty Liner Subcontractor were resolved. A unique aspect of this mediation was that over ten insurance companies were involved, with coverage and excess coverage issues.

Mediation with nine parties (City, General Contractor, Design Engineer, Inspector, Fabrication Subcontractor and Coatings Supplier), including large city, general contractor, four subcontractors, architect, engineer, and product vendor, with respect to the design, construction and construction inspection of two large steel bridges. The parties resolved their respective monetary claims and thereafter, the matter proceeded to decision in the appellate court on legal issues only.

Two party mediation of \$6,000,000 claim relating to design, construction and performance of water treatment facility. The two parties were the design engineer and the owner/municipality.

Four party mediation involving a public utility in the electrical general and transmission business, the design-build engineer/contractor and several subcontractors with respect to the design, construction, commissioning and performance of a chilled water plant.

Two party mediation of \$13,000,000 claims relating to "differing site conditions" and related time based claims arising out of a subcontract, where prime contract was with federal government.



Mediation of disputes between national highway general contractor and its excavation subcontractor with respect to issues associated with the negotiation and execution of liquidation and common interest agreements. Following the successful mediation, the two parties jointly pursued the prosecution of a claim against a public entity.

Two party mediation of \$750,000 claims relating to change orders, quantity-based, unit priced changes to horizontal construction project located in the northeastern United States. The dispute involved Type II differing site conditions claims and related time based claims arising out of a subcontract, where prime contract was with federal government agency.

Mediation in a mid-western state, involving claims among a general contractor, municipal owner and the owner's design professional arising out of a waterline installation project. This was a publicly bid project, which settled following a lengthy one day mediation conference and some follow-up negotiation of the settlement documentation.

Mediation of disputes between national highway general contractor and its excavation subcontractor with respect to issues associated with the negotiation and execution of liquidation and common interest agreements. Following the successful mediation, the two parties jointly pursued the prosecution of a claim against a public entity.

Mediation in a mid-western state, involving a claim by the owner directly against an electrical subcontractor and its bonding company, relating to extensive modifications to a meatpacking plant. This matter had two parts to the litigation, one of which was pending in federal court and the other in the state court. Claims involved the issues of the performance of the subcontractor, who left the job before its completion and the responsibility that it had, if any, directly to the owner for the costs of completion.

Mediation in a case involving the general contractor and electrical subcontractor on the construction of a water treatment plant in Colorado for the State of Colorado. This was a bid job and the key issue involved claims for extras and retainage from the subcontractor, and a counterclaim for defective and unacceptable work.

Mediation involving a water and sanitation district ("owner") and general contractor arising out of the construction of a sewage treatment plant. The general contractor asserted claims for its retainage and various change orders for which it had not been paid, as well as delay, acceleration and impact claims.

Mediation involving a dispute between the owner of a large residence and the general contractor that had constructed it. Issues involved claims for failure to pay and time based claims, and counterclaim of alleged construction defects.

Mediation in a northern Rocky Mountain state of a dispute among the school district, the architect and two of the architect's subconsultants. The dispute originated with a claim by the architect and its consultants for fees and expenses due to it for the design of two new schools and the remodeling of a third. The school district asserted claims against the architect and its subconsultants for various alleged design defects and deficiencies in the three facilities.

Four-party mediation dispute involving a school district owner, the general contractor, its mechanical subcontractor and electrical subcontractor. This dispute involved the issue of responsibility for change orders and extras on a public works job, based upon a guaranteed maximum price contract for the construction of two new high schools.

Four-party mediation involving a dispute between a homeowner, the general contractor, one of its subcontractors and one of its suppliers. This dispute commenced as a mechanic's lien foreclosure action and expanded to include cross claims among the homeowner, general contractor and one subcontractor over issues of defective and unacceptable workmanship and time and materials charge, plus fees allegedly owed to the general

contractor by homeowner. The very highly charged emotions of the homeowners were significant elements of the mediation process.

Multi-party dispute involving a chiller plant for a large Midwestern Utility, with a dispute between the owner, design-builder and various subcontractors. This dispute involved the issue of responsibility for design and performance of the facility, where multiple prime contractors were engaged by the owner and issues of both ultimate costs and performance were in dispute. Parties achieved resolution of the dispute in the mediation process.

Multi-party dispute involving a western airport and a general contractor claiming delay, acceleration and related impact/loss of productivity claims. The project consisted of major additions and remodeling of an operating airport. Parties achieved resolution of the dispute in the mediation process.

### **REPRESENTATIVE ARBITRATION CASES: 2000 - 2010**

#### **HEAVY HIGHWAY & BRIDGE CASES:**

##### Case 1

Served as Chair of three-arbitrator panel. Claim: \$768,310.00. Two Parties: General contractor sued by assignee of subcontractor. Three weeks of hearings, resulted in a lengthy written opinion and award for the general contractor, plus attorneys' fees, costs and expenses.

##### Case 2

Served as single arbitrator. Claim \$225,000 subcontractor, with \$150,000 counterclaim by general contractor. Claimant was "dirt work"/excavation subcontractor in Nebraska against general contractor, which was principally a paving contractor. Two days of hearings resulted in written opinion and award to subcontractor.

##### Case 3

Chair of three-person panel involving protracted construction dispute among the general contractor, an assignee of one of its subcontractors who defaulted, and three other subcontractors who were brought into the dispute on a third-party basis by the general contractor on theories of indemnity and contribution. Three weeks of hearings, with award for general contractor, plus subsequent three days of hearings on attorneys' fees. Award was confirmed by the United States District Court for the District of Colorado and subsequently affirmed in an opinion of the Tenth Circuit Court of Appeals.

#### **HOTELS:**

##### Case 1

Member of three-member panel, for four-week arbitration hearing on a 400-room new hotel project. Dispute was between owner and general contractor on design-build procurement. Claim of \$3,000,000 by general contractor; counterclaim of \$2,000,000 from Owner. Decision and Award following hearing, with net award of \$1,300,000 to general contractor.

##### Case 2

Served as single arbitrator for eight weeks of arbitration hearings over 18 months on a luxury hotel, involving eight parties, including individual unit owners, condo association, general contractor, architect, mechanical design-build subcontractor, electrical subcontractor, roofing subcontractor, and developer. Claim of

\$2,500,000. Decision and award to condominium owners and its homeowners' association.

**MULTI-FAMILY AND RESIDENTIAL DISPUTES:**

144 Unit Condominium Project

Sole Arbitrator in multi-party arbitration involving a \$25,000,000 condominium project in the Western United States. Ten (10) days of hearing, with claims totaling in excess of \$7,000,000. Claims included breach of contract, design professional liability, subcontractor design-build, construction defect and warranty claims.

120-Unit Condominium Project

Chair of three-arbitration panel between owner/developer and general contractor following completion of condominium project, where owner had failed to pay for contract balance, delay and impact claim. Award for general contractor for \$945,000, following three weeks of hearings.

Single Family Residence

Single arbitrator on a \$200,000 claim, between an owner who is an architect, and the general contractor who built his home. Four day arbitration hearing. Findings of fact and conclusions of law, issued with net award to owner/architect.

Forty Unit Condominium Project

Chair of three-person arbitration panel for construction dispute in which general contractor sued owner of a large condominium project for delay, acceleration and extras on a guaranteed maximum price contract.

Single Family Residence Remodel

Single arbitrator case, involving dispute between remodeling contractor and couple who owned home over cost of remodeling and performance of windows and doors. Award of \$50,000 to homeowners, after three days of hearings.

Multi-family Development in Caribbean

ICDR Rules dispute involving the development of a multi-family residential project. Member of three-person arbitration panel for construction contract dispute between developer and general contractor.

**ARBITRABILITY – INTERPRETATION OF ARBITRATION AGREEMENT:**

Arbitrator in limited scope situation in which role was limited to decision on issue of the three parties' rights, if any, to consolidate two separate arbitration proceedings into one at the request of the general contractor. Matter was submitted on written argument by the parties without any hearing or appearance. Handled dispute between general contractor and owner over quality of work, claims for extras and contract balance involving a major remodel job on a single-family residence.

**CONSTRUCTION CONTRACT DISPUTES:**

General Contractor, Subcontractor, Insurance and Bonding Company

Arbitration of contract dispute and claim for reimbursement by national general contractor against subcontractor and its insurance and bonding companies. One (1) day evidentiary hearing and award.

### Paving Contractor and Apartment Developer/Owner

Handled fast track case involving asphalt paving contractor's claim against large apartment complex management company. Matter was handled in a three-hour hearing that was held by conference call. No appearances were necessary by any of the parties.

### Paving Contractor and Subcontractor

Mr. Holt served as Chair of Three Member Panel; \$245,647.88 Award confirmed by United States District Court for the District of Colorado and affirmed by the Tenth Circuit Court of Appeals. Case involved a claim for \$364,678.40 by assignee holding security interest in landscaping subcontractor's property. Assignee brought claim against the general contractor on a public works project based upon delay and breach of contract claims. Three-member panel found in favor of the general contractor and awarded attorneys' fees, cost and expenses of arbitration. In confirming the award, the District Court found that the members of the Arbitration Panel "...carefully questioned each party as to their arguments about what the law required, and expressed a desire to make sure that they understood both the arguments of the parties and the law before they made their decision."

### **TELECOMMUNICATIONS INDUSTRY/FIBER OPTIC CABLE CASES:**

#### Case 1

Single arbitrator in a case between a major telephone company and a general contractor, claiming \$2,400,000 in damages for additional work and out of scope work on the installation of a fiber optic telephone cable in northern Arizona. Award rendered for telephone company.

#### Case 2

Single arbitrator in dispute between telecommunications company, general contractor and its subcontractor over additional unit costs and charges on multi-state fiber optic cable installation in southwestern United States. Decision and award for general contractor and subcontractor for \$1,400,000.

#### Case 3

Single arbitrator in dispute between design engineer and telecommunications company relating to cause of fire in Operations Center. Award for telecommunications company for \$375,000.

### **OFFICE/COMMERCIAL BUILDING AND RESTAURANTS:**

#### Restaurant Dispute

Chair, three-member arbitration panel, in dispute among general contractor, owner and five subcontractors, where subcontractors intervened in action between owner and general contractor on restaurant project. Award for general contractor and subcontractors, with set-offs for back charges and incomplete work. Finding of Fact and Conclusion of Law for mechanic's lien decree of foreclosure.

#### Commercial Office Building

Single arbitrator in a case between a steel fabricator and general contractor regarding steel detailing, erection and fabrication for commercial office building. Award for general contractor for \$1,200,000, after ten days of arbitration hearings.

### Private School Building

Single arbitrator in dispute between owner and general contractor over the construction of a private school building. Award for owner.

### **INDUSTRIAL FACILITIES:**

#### Electrical Power Generating Station

Member, three-person arbitration panel, for dispute between owner and general contractor arising out of the construction of a power generating stations for an electrical utility in the Midwestern United States. Claims of more than \$2,000,000 were asserted, claiming breach of contract, delay, impact, acceleration and related loss of productivity claims. Matter settled shortly before hearings were to commence.

### **ILLUSTRATIVE MEDIATION/ARBITRATION CASES: 2000 - 2005**

#### Condominium Project

Court appointed, based upon the stipulation of the parties to serve as mediator/arbitrator with respect to seven-party condominium dispute. Multiple claims among the parties including alleged construction defects, design errors and breach of contract claims. Over eighteen months, all claims were negotiated to resolution without need for arbitration hearings.

### **EXAMPLES OF CASES WHERE MR. HOLT SERVED AS LEAD COUNSEL IN LITIGATED OR ARBITRATED DISPUTES - REPRESENTATIVE CASES**

#### *Golden Triangle Construction, Inc. and National Fire Insurance Company of Hartford v. Dynamic Sports Construction, Inc., Case Number 2009 CV 1425 Adams County Colorado District Court (2010)*

This lawsuit was filed against our client the Defendant Dynamic Sports Construction, Inc. (“DSC”), by Plaintiffs, Golden Triangle Construction, Inc. (“GTC”), the general contractor and its insurer, National Fire Insurance Company of Hartford (“National Fire”). The Complaint alleges negligence and breach of contract arising out of the construction and renovation of the Adams County Waymire Dome & Conference Center in Adams County, Colorado (the “Project”). The Plaintiffs contended that an incident of alleged mercury contamination occurred during the performance of DSC’s work on the Project, resulting in \$148,798.00 in damages allegedly resulting from the purported contamination. A four (4) day jury trial was held in August 2010, before Edward C. Moss, District Court Judge. The jury entered a verdict for the Defendant on all counts and the Court entered Order of Judgment in favor of DSC on September 14, 2010.

#### *Zehren and Associates, Inc. and Monroe & Newell Engineers, Inc. v. Braeburn Real Estate Development, LLC, Braeburn Builders Ltd, Douglas Boyles, Individually and Timothy White, Individually v. The EP Boundary LLC and Michael Barry, Individually (2009)*

Lead counsel for architect and engineering in arbitration to enforce their copyrights in drawings against developer and developer’s architect. Award of \$565,211.00 in damages, attorneys fees and interest from three-person arbitration panel, following eight (8) days of hearings. United States District Court for the District of Colorado confirmed arbitration award in 2009 WL 42690 (D.Colo.) Slip Opinion available in Westlaw only.

#### *Insurance Bad Faith Claims - Mr. Holt Represented the Plaintiff Owner*

Lead trial counsel for Plaintiff, The YMCA of Metropolitan Denver, in a “first party” insurance bad faith and breach of contract action. The YMCA sought damages in excess of \$7,000,000. At the conclusion of

discovery, the matter settled on terms that were acceptable to the YMCA. The terms of the settlement agreement are confidential.

*Case Involving Claim by Design Professional for Breach of Contract and Foreclosure of Mechanic's Liens - Mr. Holt represented Plaintiff Design Professional*

Lead trial counsel for Plaintiff in mechanic's lien, architectural fee collection case, with counterclaim. Case was tried to the Court. The matter was tried to verdict for Plaintiff before the Court.

*Friends of Eulipions v. Eulipions, Inc., et al.*, District Court, County of Denver, Colorado, Civil Action No. Case Number: 00 CA 832, Honorable John N. McMullen, Presiding Judge (2003)

Lead trial counsel in case involving hearing on motion for preliminary injunction, subsequent multi-day Rule 12(b) (1) bifurcated evidentiary hearing on "standing" issue in case on remand from Colorado Court of Appeals. Obtained dismissal of entire case, which was affirmed by the Colorado Court of Appeals. Certiorari was denied by the Colorado Supreme Court in 2004.

*Zehren & Associates, P.C. v. Ramona Rogers*, District Court, Eagle County, Colorado, Civil Action No. 02 CV 198, Division H, Judge Hart (2002)

Lead trial counsel in architectural fee collection case, with \$500,000 architectural malpractice counterclaim, resulting in verdict for Plaintiff and complete dismissal on all counterclaims.

*Alliance Construction Solutions, Inc. v. State of Colorado – Department of Corrections v. Fireman's Fund Insurance Company*, District Court, County of Las Animas, Colorado, Civil Action No. 99 CV 24, Division D (2002-2003)

Multi-party, prison construction case, where Mr. Holt represented five member, non-party Design Team and special trial preparation counsel for State of Colorado in \$15,000,000, construction delay, impact, acceleration and surety default case. Involvement in case limited to discovery phase only.

*Zimmerman Metals Inc. v. M.A. Mortenson Company; Keystone/ Intrawest L.L.C., d/b/a Keystone Real Estate Developments; Federal Insurance Company; and American Home Assurance Company*, District Court, County of Summit, Colorado, Civil Action No. 98 CV 277, Division R

Lead defense counsel for one of Colorado's largest architectural firms against subcontractor and general contractor delay, impact, loss of productivity and acceleration, breach of contract and professional liability claims on \$40,000,000 mixed use project in the Colorado mountains. Claim was settled during mediation after extensive discovery and motions practice.

*City & County of Denver v. C.W. Fentress, J.H. Bradburn and Associates, P.C., et al.*, District Court, County of Denver, Colorado, Civil Action No. 94 CV 845, Division 2

Lead defense counsel for bifurcated multi-party professional liability and insurance coverage litigation arising out of the construction of the Denver International Airport Terminal Building and associated civil improvements.

*North Hills Company LLLP v. Martin/Martin, Inc., Wiss Janney, Elstner Associates, Inc., John Lund, P.E. and Gary Thomas, P.E.*, Jefferson County, Colorado, District Court Case No. 05 CV 1862 (2006)

Defense counsel for three civil and structural engineering defendants (two individual and one corporate)

in a breach of contract, negligence, negligent misrepresentation and breach of warranty case. The case was tried to a jury in June 2006, resulting in defense verdict.

*Eulipions, Inc., et al. v. Nulan, et al.*, (NSOP) Case No. 02CA1983 (Colo. App. 2004); *Certiorari Denied, Eulipions, Inc. v. Nulan, et al.*, 2004 WL 2581454 (Colo. Nov 15, 2004) (No. 04SC465)

Lead trial and appellate counsel in case alleging breach of fiduciary duty against non-profit board of directors. Obtained successful decision under Rule 12(b) (1), C.R.C.P, in the trial court after evidentiary hearing. Judgment affirmed on appeal; certiorari denied by Colorado Supreme Court on November 15, 2004.

*Scholar Group Architects, P.C. v. Sooper Credit Union*, 113 3d 768 (Colo. 2005)

Lead trial counsel and appellate counsel in construction arbitration. Appeal was necessary to obtain order directing the Denver District Court to enter order confirming arbitration award and the correction of a mathematical error in the award. Court Appeals decision was reversed by Colorado Supreme Court.

*Jardell Enterprises, Inc. v. Tri-Consultants, Inc.*, 770 P.2d 1301 (Colo. App. 1988)

Lead trial counsel and appellate counsel for construction subcontractor interpretation of the first reported Colorado appellate decision on the economic loss rule.

*Financial Associates, Ltd. v. G. E. Johnson Construction Company, Collins & Roberts, Architects, Lincoln-Devore Testing Laboratories, Inc. and Howard C. Dutzi & Associates, Inc. Structural Engineers*, 723 P.2d 135 (Colo. 1986)

Lead trial counsel and appellate counsel for structural engineering defendant, in multi-party construction case involving claims relating to expansive soil damage in office building in Colorado Springs, Colorado. Appellate issues focused on interpretation of Colorado's two-year statute of limitations applicable to construction litigation. Case was bifurcated on remand, where jury verdict for defense was obtained after one-week trial.

*The May Department Stores Company v. University Hills, Inc., May Design and Construction Company, Al Cohen Construction Company, SLP, Inc. et al.*, 789 P. 2d 434 (Colo. App. 1989), Cert Denied 1990

Lead trial counsel and appellate counsel for the architect in a case tried to a jury before Judge Warren Martin of Denver District Court, where department store sued shopping center owner, its manager, general contractor and architect to recover damages sustained alleged to have resulted from a fire, which destroyed the University Hills Mall in 1983. Pre-trial motions for partial summary judgment eliminated certain legal issues and allowing more efficient presentation of evidence to the jury.

*Davis & Ruxton v. Bruton, Rotella Park, et al.*, 797 P.2d 830 (Colo. App. 1990)

Lead trial counsel and appellate counsel for Defendants on successful appeal in case contesting the award of attorneys' fees, costs and expenses by trial court in Adams County, Colorado.

*A.T.E. Inc. v. Nelson West Constructors, Inc. and California Park Construction Company*, 757 P.2d 151(Colo. App. 1988)

Lead trial counsel and appellate counsel for defendant general contractor in case involving the interpretation of a construction subcontract on construction of air cargo building at Stapleton International Airport.

*Blocker Exploration Company v. Frontier Exploration, Inc.*, 740 P.2d 983 (Colo. 1987)

Lead trial counsel and appellate counsel on appeal to Colorado Supreme Court for Plaintiff Blocker Exploration Company in oil and gas lease dispute.

*Federal Deposit Insurance Corporation v. Mars*, 821 P.2d 826 (Colo. App. 1991)

Lead trial counsel and appellate counsel for Plaintiff Federal Deposit Insurance Corporation in a quiet title action successfully tried to Court, which reversed in part and affirmed in part on appeal.

**PERSONAL, PROFESSIONAL AND/OR BANK REFERENCES**

Professional, personal and/or bank references furnished upon request.