



## Todd M. Heffner

Partner | Atlanta

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### Areas of Practice

Construction Contract Drafting | Construction Dispute Resolution | Energy Law | Litigation/Trial Practice

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Todd Heffner is a first-chair litigator focused on serving clients in the construction and energy industries. Todd serves as a Partner in the Construction Law Practice of Smith, Gambrell & Russell, LLP.

Todd focuses his practice on construction and energy law, with a specialization in litigating high-stakes construction claims and other highly technical disputes. He has handled a diverse array of projects, including power plants, chemical plants, airports, wind farms, military bases, solar farms, highway reconstruction, water treatment facilities, environmental projects, hospitals, rail projects, high-rises, and various other commercial and industrial endeavors.

Known for his doggedly pragmatic approach to litigation, Todd strives to help clients achieve their goals by zeroing in on what matters most. He regularly takes cases to trial, averaging at least one major trial or final arbitration hearing each year.

Todd also counsels clients in all phases of the construction process. This includes advising on project development, contract drafting and negotiation, and dispute avoidance and risk mitigation during construction.

Recognizing the document-intensive nature of construction disputes, Todd has also cultivated an expertise in eDiscovery. Todd's knowledge allows him to conduct discovery in an efficient manner by keeping up with the latest developments in the law and using the latest technology.

Todd serves as the president of the Georgia Tech Bar Association. In that role, Todd works to both connect Georgia Tech lawyers with each other and to provide mentoring programs and scholarships for aspiring lawyers. He also regularly

volunteers with Camp Twin Lakes, which provides accessible camp programs for children and youth with special needs, including participating in its Spin for Kids fundraiser.

Todd received his law degree magna cum laude from Washington and Lee in 2013, where he also served on the Law Review, and his undergraduate degree from Georgia Tech in 2009.

## Representative Experience

- Obtained a decisive seven-figure judgment following a week-long arbitration against a general contractor who refused to honor its change orders after accelerating the schedule.
- Represented an investor-owned electric utility in the procurement and generation development of 8,500 MW of capacity resources to satisfy demand requirements. This work included drafting and negotiation of engineering, procurement, and construction agreements, equipment supply agreements, and other related agreements.
- Assisted an owner with an eight-figure recovery against the original equipment manufacturer after bringing claims in federal court.
- Assisted a specialty rail contractor in resolving an eight-figure delay and inefficiency dispute with a public agency without the need for litigation.
- Obtained a decisive seven-figure judgment following a two-week trial against a module manufacturer who supplied defective modules and refused to honor its warranty.
- Obtained a \$35.5 million arbitration award following a two-week, 22 witness evidentiary hearing against an engineer that specified and furnished defective equipment for three solar facilities, resulting in the production of significantly lower amounts of electricity than promised to the off-takers.
- Regularly represent various owners, designers, and contractors in negotiations of bespoke contracts, as well as AIA, Consensus Docs, and other industry standard forms.
- Develop customized standard form agreements and exhibits for owners with unique needs for use across all future projects.
- Assist designers and contractors in the development and implementation of master services agreements and standard subcontracts for repeated and efficient use across projects.
- Fully defeated a turbine supplier's seven-figure claim for additional costs on behalf of the project owner through a three-week arbitration hearing.
- Successfully defended a solar facility owner facing an eight-figure claim from its EPC contractor, resulting in the recovery of a seven-figure judgment based on successful counterclaims.
- Advised an international owner, as project counsel, on contract management, dispute resolution, and contract negotiations for the company's \$9.4 billion construction of an industrial complex.
- Assisted a joint venture in the resolution of a seven-figure delay and inefficiency claim against a subcontractor through successful mediation.

- Represented a global chemical manufacturer in the resolution of more than \$100 million in claims against the engineer of record on a \$2.5 billion project.
- Obtained a seven-figure arbitration award for a global chemical manufacturer in a dispute with a supplier on a \$2.5 billion project.

## Admissions

Georgia

U.S. Court of Appeals, Eleventh Circuit

U.S. District Court, Northern District of Georgia

U.S. District Court, Middle District of Georgia

U.S. District Court, Southern District of Georgia

Supreme Court of Georgia

Court of Appeals of Georgia

## Recognitions

Best Lawyers Best Lawyers in America®: Ones to Watch: Commercial Litigation (2021-2025); Construction Law (2025)

Winner, inaugural Holt Gwyn Writing Award Competition for "The Notice Defense: Say It, Don't Overplay It", 19 Journal of the American College of Construction Lawyers 3, Vol. 1, Issue 1 (Winter 2025).

## Memberships

Georgia Bar Association, Construction Law Section (treasurer, 2021-present), E-Discovery and the Use of Technology Section

Atlanta Bar Association, Construction Law Section (executive committee, 2024-present)

Georgia Tech Bar Association (president, 2019-2020; executive committee, 2020-2021; president, 2022-present)

The Sedona Conference, Working Group 1

Construction Owners Association of America, Emerging Professional (2020-2022)

AGC of Georgia, Young Leadership Program (2018-2021)

Camp Twin Lakes, Spin for Kids Steering Committee (2013-2016)

The Ability Experience, a nonprofit devoted to empowering people with disabilities, as a participant in Journey of Hope, Gear Up Florida, and Build America

## Publications

### Construction/Energy

- Co-Author, "The Notice Defense: Say It, Don't Overplay It", 19 Journal of the American College of Construction Lawyers 3, Vol. 1, Issue 1 (Winter 2025).

- Author, "[I Lived It: Litigator Provides His Perspective on Solar Warranty Claims](#)," *Solar Power World*, February 23, 2024.
- Author, "The Bizarre Case That Required a 117-Year-Old Expert," *The Dispute Resolver*, November 21, 2023.
- Author, "[Opinion: Stop Requiring Exhibit Lists!](#)," *The Dispute Resolver*, July 25, 2023.
- Author, "[Twists and Turbines — A New York Case Highlights an Owner's Risk When Not Using Full-Wrap EPC Delivery](#)," *Construct Law*, November 22, 2022.
- Contributing Author, "Southeast Region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia," *Construction Law Update*, Wolters Kluwer, 2021.
- Author, "Warranties v. the Georgia Statute of Repose – Legislature Declares Winner," Atlanta Bar Association Construction Section Newsletter, Fall 2020.
- Author, "[Considerations for Performing Work in a New State](#)," *Associated General Contractors of America Law in Brief Newsletter*, October 6, 2020.
- Contributing Author, "Southeast Region: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia," *Construction Law Update*, Wolters Kluwer, 2020.
- Contributing Author, *Common Sense Construction Law*, Wiley, 6th Edition, 2019.
- Author, "[Plans and Specs Gone Wrong, and How to Deal With It](#)," *ConsensusDocs*, August 14, 2019.
- Author, "Can't Get a Written Change Order? Document, Document, Document," *Common Sense Contract Law*, August 20, 2018.
- Author, "Surety Post Completion Liability," *Common Sense Contract Law*, July 18, 2017.
- Author, "[Special Considerations for Subcontractors and Suppliers on P3 Projects](#)," *Common Sense Contract Law*, November 17, 2015.
- Contributing Author, *Common Sense Construction Law*, Wiley, 5th Edition, 2015.
- Author, "[Bidding and Performing Public Works Contracts in Other States](#)," *Common Sense Contract Law*, December 10, 2014.

## eDiscovery

- Co-Author, "Remove Boilerplate from Your Discovery Responses; A Modest Proposal on a Path Forward," *Daily Report*, July 11, 2023.
- Contributing Author, "[The Sedona Conference Commentary on the Effective Use of Federal Rule of Evidence 502\(d\) Orders](#)," *The Sedona Conference Journal*, Volume 23, August 2021.
- Author, "[TikTok & Ephemeral Messaging & Links to Documents—Oh My!](#)," *Daily Report*, March 9, 2021.
- Author, "[Invest in Training to Make Document Review Efficient](#)," *Daily Report*, August 31, 2020.
- Author, "[The Case for a Comprehensive Information Governance Policy](#)," *Daily Report*, June 17, 2020.
- Author, "[Deja Vu in Discovery: Didn't I Just Review That?](#)," *The Daily Report*, April 7, 2020.
- Author, "[Filters, Curse Words, and 'Lessons Learned': Tips on Discovery Searches](#)," *Daily Report*, February 25, 2020.

- Author, "[How Not to Handle Potential Spoliation of Evidence: A Case Study](#)," *Daily Report*, January 30, 2020.
- Author, "[Behind the Magic of Technology-Assisted Review, Part 1](#)," *Daily Report*, January 2, 2020.
- Author, "[Use These Best Practices With Technology-Assisted Review](#)," *Daily Report*, January 2, 2020.
- Author, "[Discovery of Mobile Data Doesn't Have to be Complicated or Scary](#)," *Daily Report*, October 14, 2019.
- Author, "[Demystifying Social Media Discovery](#)," *Daily Report*, August 30, 2019.
- Author, "[How to Avoid Big eDiscovery Costs in 'Small' Cases](#)," *Daily Report*, July 25, 2019.
- Author, "[Yes, Virginia, There Is a Way to Reduce the Pain of Privilege Logs](#)," *Daily Report*, May 28, 2019.
- Author, "[Avoiding Privilege Waiver Is Easier Than You Might Think](#)," *Daily Report*, April 4, 2019.

## Presentations

- Speaker, "Construction Law 101: Working with Experts," Construction Law Section, January 12, 2025.
- Dialogue Leader, "Meeting the Mark: Recommendations for Path Forward to Complying with Initial Disclosure Obligations under Rule 26," Sedona Conference Working Group 1, October 23, 2025.
- Speaker, "AI and Ethics in an Everchanging Construction Legal Environment," Construction Law Conference, State Bar of Georgia, October 10, 2025.
- Moderator, "Practical uses of AI for Construction Lawyers," Construction Law Section, Atlanta Bar Association, September 24, 2025.
- Speaker, "Legal Technology in Depositions and Hearings," E-Discovery & the Use of Technology Law Section, State Bar of Georgia, September 9, 2025.
- Moderator, "National Panel of Construction Mediators Q&A," Construction Law Section, State Bar of Georgia, June 20, 2025.
- Speaker, "What happens with your warranty when things go wrong? Lessons learned and practical advice." *Energy Storage South*, April 17, 2025.
- Moderator, "Data Center Construction, Unique Challenges, Unique Opportunities," Atlanta Bar Association, Construction Law Section, November 6th, 2024.
- Moderator, "Construction Arbitration from the Arbitrator's Perspective," State Bar of Georgia, Construction Law Section, June 25, 2024.
- Moderator, "Joint Practical Arbitration Topics CLE," State Bar of Georgia, Construction Law and Dispute Resolution Sections, January 25, 2024.
- Moderator, "National Panel of Construction Mediators Q&A," Construction Law Section, State Bar of Georgia, May 17, 2023.
- Speaker, "[Annual eDiscovery Updates](#)," Troutman Pepper eMerge Webinar, April 12, 2023.
- Moderator, "Q&A with Georgia Tech Alums and Northern District of Georgia Judges," Georgia Tech Bar Association, February 21, 2023.

- Moderator, "[Construction Law Section Q&A with National Panel of Construction Arbitrators](#)," State Bar of Georgia, September 27, 2022.
- Speaker, "eMerge Webinar: Annual eDiscovery Updates," Troutman Pepper eMerge Webinar, March 1, 2022.
- Speaker, "[Webinar on The Sedona Conference Commentary on the Effective Use of Federal Rule of Evidence 502\(d\) Orders, Public Comment Version](#)," The Sedona Conference, July 14, 2021.
- Moderator, "Q&A with Georgia Tech Alums and Northern District of Georgia Judges," Georgia Tech Bar Association, November 13, 2019.