

Josh Marks

Partner

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Clients appreciate Josh's successful, insightful, and professional approach to representation.

Josh's Core Practices

Land Use | Public Entity | Employment | Appeals

Josh specializes in the areas of Land Use Law, Public Entity Law, Employment Law, and Appellate Law.

Land Use

Josh is recognized as one of the most knowledgeable land use lawyers in Colorado. He typically represents local governments and an occasional resort developer and has successfully litigated dozens of land use cases in Colorado and federal courts. He is well-versed in all aspects of annexation, affordable housing, complex and competing land use regulations, conservation easements, development agreements, historic preservation, mining permits, oil and gas permits, planned unit developments, short-term rental regulations, special use permits, subdivisions, roads, takings, vested rights, urban development, and zoning.

Public Entity

Josh is recognized as one of Colorado's most experienced public entity lawyers. He represents cities, counties, home rule municipalities, towns, special districts, and their employees. He is approved counsel for public self-insurance pools in Colorado and for Colorado's largest municipalities. Josh advises and defends local governments and their employees in all aspects of local government law, including cannabis and liquor regulations, the Colorado Governmental Immunity Act, Colorado Open Meetings Law, Colorado Open Records Act, elections, Enhance Law Enforcement Integrity Act, jail, police, and sheriff actions, and the Taxpayer's Bill of Rights (TABOR). He also conducts special investigations into public official conduct for local governments. Josh has successfully litigated and tried cases brought under federal and Colorado law under various civil rights statutes.

Employment

Josh represents employers and employees in a wide array of employment disputes. He has tried dozens of personnel cases involving terminations, suspensions, and demotions before arbitrators, civil service commissions, hearing officers, and review boards. He represents employers and employees in investigatory proceedings before government agencies such as the Equal Employment Opportunity Commission (EEOC), the Colorado Civil Rights Division, the Federal Wage and Hour Division, the Occupational Safety and Health Administration, and the

Colorado Department of Labor. Josh also defends employers in federal and state courts in breach of contract, breach of fiduciary duty, employment discrimination, non-compete, non-payment, non-solicitation, and proprietary information claims, and in discrimination or retaliation claims based on age, disability, free speech, gender, national origin, and race. In addition, he is designated as a special attorney general for the State of Colorado for high-level state education employees. Josh also collaborates with employers to reduce the risks of litigation and disputes through reviews of employee handbooks and oversight of workplace investigations and terminations.

Appellate

Josh is an accomplished appellate attorney. He has successfully represented clients in dozens of cases before the Colorado Court of Appeals, Colorado Supreme Court, and Tenth Circuit Court of Appeals, repeatedly establishing Colorado law in matters of first impression. He is also admitted to practice in the U.S. Supreme Court, where he has filed multiple briefs.

More About Josh

As one of BHGR's longest-serving partners, Josh helped oversee and contribute to the firm's expansion and growing reputation. He leads BHGR's Public Entity Practice Group and co-leads the Employment Law and Appellate Law Practice Groups. He has also served on the firm's Management Committee.

Education

J.D., University of Colorado Law School

B.A., University of California at Santa Barbara

Admissions

- Colorado
- U.S. Supreme Court
- U.S. Court of Appeals, Tenth Circuit
- U.S. District Court, District of Colorado

Related Practices

- Public Entity
- Employment
- Appeals

Associations

- American, Boulder County, and Colorado Bar Associations
- Colorado Defense Lawyers Association
- Faculty of Federal Advocates
- Defense Research Institute

Publications + Presentations



Josh frequently gives continuing legal education presentations and is a speaker at various legal seminars and events. He often speaks to local, regional, and national groups on defending public employees and entities through governmental immunity and qualified immunity defenses.

Published Cases

Josh's appellate work has resulted in more than 20 published opinions in the 10th U.S. Circuit Court of Appeals, the Colorado Supreme Court, and the Colorado Court of Appeals, including the following recent cases:

Kulmann v. Salazar, 521 P.3d 649 (Colo. 2022).

North Mill Street, LLC v. City of Aspen, 6 F.4th 1216 (10th Cir. 2021).

Duke v. Gunnison County Sheriff's Office, 456 P.3d 38 (Colo. App. 2019).

Onyx Properties, LLC v. Board of County Commissioners for Elbert County, 838 F.3d 1039, 1042 (10th Cir. 2016), cert. denied, 137 S. Ct. 1815 (2017).

A full list of Josh's published opinions is available upon request.

Honors + Awards

AV Preeminent Rating, Martindale-Hubbell

Recognized by Best Lawyers in America (Litigation – Land Use and Zoning) (2018-present)

Judicial Nominating Committee for Colorado's 20th Judicial District (a Colorado Governor/Attorney General appointment) (2015-2020)

Out + About

When he is not in the office, Josh enjoys spending time with his family in the mountains, traveling, biking, hiking, and skiing. He is also actively involved in the Marshall Fire rebuilding and recovery effort in Louisville, Colorado.