

# P. Douglas Folk

## Member

**P. Douglas Folk** serves business clients in architecture, engineering, geomatics, landscape architecture, construction, and other technology-driven industries as a vigorous advocate and trusted advisor. By drawing on his extensive experience in business transactions and commercial litigation, Doug developed practice specialties in construction law, professional liability defense, contracts and negotiations, risk management, administrative law, and government relations. Doug's team at Clark Hill's Phoenix office has tackled difficult negotiations and litigation involving master-planned communities, commercial and mixed-use projects, destination resorts, medical facilities, factories, airports, mines, and infrastructure projects. Doug builds lasting relationships with his clients by finding practical solutions for difficult legal problems.

Doug's practice includes the formation and management of architectural, engineering, and construction companies, as well as other business organizations. Doug promotes sustainable design principles, integrated project delivery methods, and greater use of building information modeling to reduce waste and inefficiency in design, fabrication, and construction. Doug conducts an active trial and appellate practice in the defense of professional liability claims, design and construction defect litigation, OSHA citations, bid protests, lien and bond claims, professional licensing and disciplinary matters, government contracts, and other business disputes. Doug serves as outside general counsel to many of his clients. He is listed in the 2014 editions of Best Lawyers in America® for Construction Law and Litigation, and Southwest Super Lawyers® for Construction Litigation and Professional Liability Defense.

Doug wrote Arizona's Certificate of Merit Act, which requires early disclosure of expert opinions in professional liability cases, and he overhauled Arizona's indemnity laws for public works projects to cure long-standing problems with unfair and uninsurable contracts for government work. Doug has written amicus curiae briefs for the Arizona Supreme Court in precedent-setting cases involving the economic loss doctrine, limitation of liability, and the statute of repose. Through his work as Legal Counsel to the American Council of Engineering Companies of Arizona, and active participation in the American Council of Engineering Companies, US Green Building Council, and American Institute of Architects, Doug has developed a national practice serving design professionals and contractors. He is a member and past chairman of ACEC's Legal Counsel Forum, a member of the Risk Management Committee, and co-chair of the Sustainable Design Subcommittee.

Doug was re-appointed by Governor Jan Brewer in 2013 to his fourth term as the public member of Arizona's Board of Technical Registration. The Board licenses and regulates architects, engineers, land surveyors, landscape architects, geologists and other certified occupations. Drawing on more than two decades of involvement in professional licensing and disciplinary proceedings, Doug consults with design firms, design-builders, and contractors in risk management and professional standards of practice. He is a past Chairman of the Construction Law Section of the State Bar of Arizona and an active member of the American Bar Association's Forum on the Construction Industry. Doug wrote several chapters of the Arizona Construction Law Practice Manual (2d ed.) and was a co-editor of Design Professional and Construction Manager Law published by the American Bar Association Forum on the Construction Industry. He serves as a trainer in the Leadership in Engineering Administration Program and business practices seminars for contractors and design professionals. His community service has been recognized with the Patron and Affiliates Awards bestowed by AIA Arizona, a component of the American Institute of Architects, and Doug was presented with a Presidential Commendation by AIA Arizona at its 2013 Arizona Design Awards.

Doug graduated from the University of Iowa College of Law with Honors in 1980. He is a member of the State Bar of Arizona, and admitted to practice before the US Supreme Court, the Ninth Circuit US Court of Appeals, the US Court of Federal Claims, the US Court of Appeals For the Federal Circuit, and the District Courts of Arizona and Northern Texas.

### Experience

- [1800 Ocotillo, LLC v WLB Group, Inc.](#), 219 Ariz. 200, 196 P.3d 222 (2008) – Confirmed that contractual limitations of liability are not against public policy and may be enforced as agreed by a design professional and its client.
- [Flagstaff Affordable Housing Limited Partnership v. Design Alliance, Inc.](#), 223 Ariz. 320, 223 P.3d 664 (2010) – As between a design professional and its client, contractual remedies for recovery of economic loss



### Office

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### Education

J.D., with Honors, University of Iowa  
College of Law, Iowa City, Iowa,  
1980

B.A., Franklin and Marshall College,  
Lancaster, Pennsylvania, 1977

### State Bar Licenses

Arizona

### Court Admissions

U.S. Supreme Court  
U.S. Court of Appeals, 9th Circuit  
U.S. Court of Federal Claims  
U.S. Court of Appeals, Federal  
Circuit  
U.S. District Ct., N.D. of Texas

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will bar tort claims seeking the same damages, which enables proper risk allocation through contract negotiations.

- [Albano v. Shea Homes Ltd. P'ship](#), 227 Ariz. 121, 254 P.3d 360 (2011) – Held that Arizona's statute of repose is not tolled by the filing of a class action complaint in construction defect litigation.
- [Sullivan v. Pulte Home Corporation](#) 232 Ariz. 344, 306 P.3d 1 (2013) – Held that a subsequent purchaser's construction defect claim is not barred by the economic loss doctrine or statute of repose, but purchaser may not have a cause of action for negligent construction.

## Practices, Industries & Services

Construction  
Construction Law  
Government & Regulatory Affairs  
Information Governance 360

## Areas of Emphasis

Appellate  
Architecture, Engineering & Construction  
Commercial Litigation  
Discovery Services  
Public/Private Partnerships

## Honors

- Named among Best Lawyers in America® for Construction Law; Litigation-Construction by Best Lawyers® (2019-2021)
- P. Douglas Folk has been named Scottsdale, Arizona's 2020 Litigation - Construction "Lawyer of the Year"

## Presentations

- Managing Indemnity Risk For Design Professionals Presentation
- Professional Ethics While Driving the Economy of Transportation