



## WYATT A. HOCH

PARTNER

WICHITA OFFICE

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## PROFILE

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Foulston Siefkin partner Wyatt Hoch is an accomplished construction lawyer who is sought after by project owners, architects, engineers, and contractors for projects across the country. Wyatt combines 38 years of experience in construction law with five years of undergraduate study in architecture and hands-on work in the residential home-building industry to provide his clients with practical, goal-oriented counsel. The leader of the firm's Construction team, his transactional and litigation practice encompasses drafting design/build contracts, preparing development agreements, negotiating claims, and resolving disputes through the courts and in arbitration forums. As a member of the American Arbitration Association's national panel for construction industry cases, he frequently serves as a mediator and arbitrator in AAA proceedings.

Named by *Best Lawyers* as the "Lawyer of the Year" for Construction Law (2011, 2016, 2019, 2021) and Construction Litigation (2013, 2017, 2020, 2022) in Wichita, Kansas, Wyatt stays on the cutting edge of industry developments and loves discovering why designs and products don't work in particular contexts. He is particularly attuned to the drawbacks associated with relying solely on technology.

Wyatt has been involved in some of the most significant commercial, industrial, cultural, and educational projects that have changed the landscape of Kansas over the last three decades. His reputation for excellence also attracts clients with projects all over the nation. In addition to identifying what is – and what is not – crucial in contract negotiations to achieve successful projects, Wyatt is equally practical when advising clients on matters involving construction disputes. A veteran of bet-the-company, multimillion-dollar cases, he understands the unpredictability of trials and juries, and explores all the alternatives with clients in order to determine the best avenue to achieve their goals. He served as lead counsel for a major aircraft manufacturer in a complex construction defect and schedule dispute over its Florida service center; as co-counsel to a Fortune 500 health care company in a 24-day arbitration over the construction of its Ohio headquarters; and secured a favorable verdict for the plaintiff in a 23-day federal court jury trial involving the expansion of a municipal electrical generating plant.

In the community, Wyatt serves on the executive committee of the Quivira Council of the Boy Scouts of America, the board of trustees of Northern Seminary in Chicago, and is an emeritus trustee of the Wichita Botanical Gardens. A native of Kansas, he "bleeds purple" when it comes to supporting K-State Wildcat

# FOULSTON

## ATTORNEYS AT LAW

athletics and is a self-proclaimed baseball junkie. Wyatt and his wife, Mary Ann, live in Wichita where he enjoys working on home remodeling and gardening projects.

### Education

- University of Kansas (J.D., 1983)  
Order of the Coif; *University of Kansas Law Review*, Editor
- Kansas State University (B.Arch., *magna cum laude*, 1980)

### Admissions

- U.S. Court of Appeals for the Tenth Circuit (1985)
- U.S. District Court for the District of Kansas (1983)
- U.S. Court of Federal Claims (1986)
- Kansas (1983)

## PRACTICE AREAS

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- Construction
- Litigation & Disputes
- Water Rights
- Mediation/Dispute Resolution
- Energy
- Governmental Liability
- Renewable Energy, Storage & Transmission

## INDUSTRIES

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- Construction

## COMMUNITY INVOLVEMENT

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- Boy Scouts of America, Quivira Council – Executive Committee (2009-Present)
- Northern Baptist Theological Seminary – Board of Trustees (2004-Present), Chair
- University of Kansas Law Alumni Board of Governors (2005-2008)
- Botanica, Inc., the Wichita Botanical Gardens – President, Board of Trustees (2002)
- Kansas Aviation Museum – Board of Trustees (1994-2000)
- USD 259 – Southeast High School Site Council (2001-2005)

## RELEVANT EXPERIENCE

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- Represented the facility owner in a federal-court lawsuit over an industrial-piping project in southwest Kansas (2017-2019).
- Counsel to the design/builder for the arbitration of disputes with the project owner and subcontractors over assisted-living facilities in Colorado and Texas (2018-2020).
- Successfully defended a public hospital from a subcontractor's post-completion, *quantum meruit* claim for disputed change order costs in *Decker Electric v. Pratt Regional Medical Center*, Kan. App. 2019 (unpublished).
- Successfully defended the project owner from a \$1.4 Million construction-specification claim implicating the Kansas Act for Judicial Review of Administrative Actions in *Crossland Constr. Co. v. Otis Elevator Co. et al.*, Ks. App. 2018 (unpublished).
- Counsel for the design/builder on a structural-engineering malpractice claim over a grain-loading facility on the Columbia River (2015-2017).
- Arbitration counsel to the EPC contractor for a \$40 million anaerobic-digester project in western Kansas (2014-2015).
- Counsel to Kansas State Athletics for drafting and negotiation of design and construction-management contracts for the West Stadium and North End Zone stadium-expansion projects (2012-2015).
- Owner's counsel for hotel building-envelope design/construction defect claims in Austin, TX, and Pensacola, FL (2013).
- Arbitration counsel to the owner in a successful multi-million dollar claim over the blown structural design for the Cessna Mesa (AZ) Citation Service Center (2011).
- Counsel for a piping subcontractor in a cost and schedule dispute with the design-builder of two Iowa ethanol plants (2008-2014).
- Arbitration counsel for the sellers of a privately-held regional corrugating and packaging business (2008-2009).
- Successfully defended a design defect and construction administration claim against the architect for a medical office building in *Newman Memorial Hospital v. Walton Construction Co., et al*, 37 Kan. App. 2d 46, 149 P.3d 525, (2007) rev.denied
- Counsel for the owner in an arbitration over construction of a luxury yacht (2006-2007)
- Counsel for the owner in a construction defect and schedule dispute arising from the construction of the Cessna Orlando Citation Service Center (2003-2006)
- Co-counsel to the owner in a cost and schedule dispute over the construction of the Cardinal Health corporate headquarters in Dublin, OH (1999-2001).
- Plaintiff's counsel in the successful 1998 federal court trial in *Hatch & Kirk Power Services Corp. v. City of Girard*, involving the expansion of a municipal electrical generating plant.
- Plaintiff's counsel in the successful challenge to an administrative regulation taking plaintiff's intellectual property in *National Council on Compensation Insurance v. Todd*, 258 Kan. 535, 905 P.2d 114 (1995).
- Special counsel to the utility owners for evaluation of construction at the Wolf Creek Nuclear Generating Station (1985-1986).
- Converted a government termination for default to a termination for convenience, then established the basis for a bad faith termination claim, in *Industrial Coatings, Inc. v. United States*, 11 Cl.Ct. 161, 33 Cont.Cas.Fed. (CCH) P 74,722 (settlement of bad faith claim in 1992).

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- Established the scope of judicial review of arbitration awards in Kansas, in *Jackson Trak Group v. Mid States Port Authority*, 242 Kan. 683 (1988).
- Established the scope of Kansas statutory payment bonds in *J.W. Thompson Co. v. Welles Products Corp.*, 243 Kan. 503, 758 P.2d 738 (1988).
- Successfully defended antitrust essential facilities claims in the first hospital staff privilege case to reach the circuit courts of appeal on the merits, in *McKenzie v. Mercy Hospital of Kansas*, 854F.2d 365 (10th Cir. 1988).

## PROFESSIONAL MEMBERSHIPS, AFFILIATIONS, AND HONORS

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- American College of Construction Lawyers, Fellow
- Kansas State University College of Architecture, Planning & Design, Distinguished Service Award, 2018
- Recognized by *Best Lawyers®* as the 2011, 2016, 2019, and 2021 Construction Law “Lawyer of the Year” in Wichita and the 2013, 2017, and 2020 Litigation – Construction “Lawyer of the Year” in Wichita
- Selected by peers for inclusion in *The Best Lawyers in America®* in the areas of Construction Law and Litigation – Construction, 2005–2021, and Arbitration, 2021
- Selected for inclusion in *Missouri & Kansas Super Lawyers®* List, 2010-2021 (a Thomson Reuters business)
- Named a Local Litigation Star by *Benchmark Litigation* in General Commercial, Construction, Energy, and Government Liability, 2018 & 2019-2020, and Construction, Energy and Natural Resources, General Commercial, and Government Contracts, 2015-2016, Construction, Government and Regulatory, Commercial, and Energy, 2021-2022
- American Bar Association Forum Committee on the Construction Industry
- Kansas Bar Association
- Wichita Bar Association
- American Arbitration Association, Panel of Construction Arbitrators
- American Institute of Architects, Allied Member
- The Jefferson Society, Inc., Member

## PRESENTATIONS

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### 2011

- Trends in Owner and Subcontractor Contracts (Construction Leadership Council, 2011 Panel Discussion/Roundtable Discussion)
- Contracts and Risk Management for Engineers (ACEC, KS Emerging Leaders)

### 2010

- 2010 Construction Industry Legislative Update (Kansas Construction Network)
- Contracts and Risk Management for Engineers (ACEC, KS Emerging Leaders)

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## 2009

- Contracts and Risk Management for Engineers (ACEC, KS Emerging Leaders)

## 2008

- Contracts and Risk Management for Engineers (ACEC, KS Emerging Leaders)

## 2007

- Contracts and Risk Management for Engineers (ACEC, KS Emerging Leaders)

## 2006

- American Bar Association Fundamentals of Construction Law Seminar

## PUBLICATIONS

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## 2023

- Consideration of Mediation and Arbitration Provisions in Wills and Trusts  
-The Journal of the Kansas Bar Association

## 2007

- Inside the Minds, Construction Law Litigation Strategies  
-Aspatore

## 2006

- Design Professional Liability in Kansas  
-Kansas Bar Association Construction Law Handbook

## 2005

- The Kansas Residential Construction Defect Act: A Schematic Blueprint for Repairs  
-The Journal of the Kansas Bar Association

## 1988

- Liability of Engineers for Structural Design Errors: State of the Art Considerations in Defining the Standard of Care  
-30 Villanova Law Review 403 (1985); reprinted in Civil Engineering, American Section of Civil Engineers

## 1983

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ATTORNEYS AT LAW

- Regulatory Revisions to the Surface Mining Control & Reclamation Act: An Exercise Administrative Legislation?  
-31 University of Kansas Law Review 279

## 1982

- Architects' Liability for Construction Site Accidents  
-30 University of Kansas Law Review 429

## ISSUE ALERTS

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### 2014

- 2014 Kansas Legislature Redefines the Practices of Architecture, Engineering, and Landscape Architecture

### 2010

- 2010 Legislature Changes Prompt Payment and Alternative Delivery Statutes

### 2008

- New Construction, Dealership, Franchise, & Transportation Contracts in Kansas Can No Longer Contain Commonly-Used Liability Indemnity Provisions

### 2007

- 2007 Legislature Sets New Rules for Payments on Public Projects