



Keith R. Hemming

Member



Newark, NJ



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Keith R. Hemming is Chair of the Sills Cummis Construction and Energy Law Practice. He practices in the area of commercial law, with an emphasis on representing owners, contractors, renewable energy firms, designers and manufacturers of building products. Mr. Hemming regularly advises clients on complex commercial transactions and litigates claims in various federal and state courts, as well as arbitration tribunals involving all aspects of the design, procurement and construction of infrastructure.

Mr. Hemming began his career as a Deputy Attorney General. Since entering private practice, he has achieved significant results for his clients in construction claims associated with delay and productivity losses, disputed change orders, payment entitlements, design issues and bid protests. Mr. Hemming also has experience with matters governed by an array of energy programs and provides further counsel to clients in the negotiation and drafting of all types of construction contracts, including construction management, EPC, EPCM, GMP, cost-plus, subcontractor and design agreements.

In addition to construction claims, Mr. Hemming's practice has grown to meet the business needs of his clients. This has afforded Mr. Hemming the opportunity to develop complementary experience in the areas of commercial transactions governed by the Uniform Commercial Code, labor and employment, non-compete agreements, trade secrets, as well as all aspects of real estate financing, leasing, development and management.

Practices

Litigation

Representative Matters

- Lead counsel to a national engineering firm in pending litigation seeking the recovery of \$11 million in claims for unpaid invoices, disputed change orders and the defense of the owner's professional negligence and breach of contract counterclaims.
- Lead counsel to an EPC firm in an arbitration involving claims for change orders and delay damages arising out of three public energy efficiency projects, resulting in a final award of over \$9 million and the dismissal of the owner's professional negligence and breach of contract counterclaims.
- Lead counsel to an energy company in a six-week trial, resulting in the successful defense of a steel fabricator's claims for disputed change orders, discharge of the associated construction lien and the complete recovery of the owner's counterclaim for fabrication errors arising out of a \$700 million project to facilitate plant upgrades.
- Represented a construction management consortium partner in a \$5.6 billion public works construction project, providing advice and counsel concerning compliance with the Federal Acquisition Regulations and the United States Department of Defense's FAR supplement.
- Lead counsel to a general contractor in an 18 day arbitration to recover contract balance and change order claims arising out of the construction of a medical facility, resulting in the recovery of contractor's claims and the successful defense of the owner's counter-claims for defective workmanship and delays.
- Lead counsel to a heavy construction fabricator/supplier in the prosecution of a breach of contract claim through trial, resulting in a verdict and recovery on all claims, an award of attorneys' fees and dismissal of all counter-claims.
- Represented contractors and energy companies in the application for and securing grants under the New York State Energy Research and Development Authority's Energy Storage Market Acceleration Bridge Incentive Program designed to meet the State's goal of 1,500 megawatt of energy storage by 2025.
- Lead counsel to a specialty trade contractor in the prosecution of claims for disputed change orders and contract balance through trial, resulting in a verdict and complete recovery on all claims.
- Represented the owner of a 1,115-megawatt combined-cycle power plant in the management and defense of construction claims associated with plant upgrades.

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- Represented the owner in arbitration proceedings concerning design deficiency and cost overrun claims arising out of a \$25 million renovation of a high-rise office building in Manhattan.
- Lead counsel to a construction manager in the successful defense and dismissal of all claims associated with alleged construction defects in excess of \$10 million arising out of a 90 unit condominium project.
- Represented the building owner in the prosecution of claims for design and construction defects arising out of a 240 unit mixed-use high-rise project.
- Represented an international fabricator of entertainment equipment in the resolution of claims in excess of \$10 million arising out of a 4,500,000 square foot entertainment, sports and retail development project.
- Represented a contractor pursuing \$6 million in claims for delays, productivity losses, acceleration and disputed change orders arising out of upgrades to a dual fuel burning power plant.
- Represented an environmental contractor in the defense of spill claims brought under the Resource Conservation and Recovery Act and the New York Environmental Conservation Law, alleging the negligent installation of multiple 15,000 gallon underground storage tanks, resulting in dismissal of all claims.
- Lead counsel to a national manufacturer of custom signs and electronic displays in litigated proceedings, resulting in a full recovery of all claims in excess of \$2 million for work and materials supplied to a retail development project.
- Lead counsel to a subcontractor in claims for delay, disputed change orders and contract balance arising out of construction project at Newark International Airport, resulting in recovery on claims and complete dismissal of counter-claims.
- Lead counsel to a contractor in claims against the manufacturer of defective construction materials, successfully defeating the manufacturer's contractual limitations of liability, disclaimers of warranties and exclusion of consequential damages under the Uniform Commercial Code, resulting in a full recovery of damages incurred.
- Lead counsel to an energy company in the defense of \$15 million in claims arising out of diesel fuel contracts.
- Represented an international manufacturer of building products and drafted contract documents to support sales operations in the United States.

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Court Admissions

U.S. District Court, District of New Jersey
U.S. District Court, Southern District of New York
U.S. District Court, Eastern District of New York
U.S. District Court, Western District of New York
U.S. District Court, Eastern District of Pennsylvania
U.S. Court of Appeals, Third Circuit
U.S. Court of Federal Claims

Newsroom

Press Releases

Sills Cummis & Gross Welcomes Keith R. Hemming and Frank J. Vitolo

August 4, 2021

In the News

Sills Cummis Adds New Practice Chair, Real Estate Atty

Law360

August 9, 2021

Sills Cummis Brings On Two Members

NJBIZ

August 4, 2021

Rankings and Recognition

Selected for inclusion in:

- *The Best Lawyers in America*®* 2022-2023, Commercial Litigation

* See [Award Methodology](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

Affiliations

- Member, New Jersey State Bar Association*
- *Member, Construction and Public Contracts Section*
 - *Member, Environmental Law Section*
 - *Member, Business Law Section*
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Education

J.D., Rutgers School of Law - Newark

B.A., Rutgers University

Bar Admissions

New Jersey

New York

Pennsylvania