



## Jessica Smith

Partner

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**Jessica Smith leads Holland & Hart's nationwide Religious Institutions and First Amendment practice group and is a member of its Business Litigation Group.**

As a member of the Business Litigation Group, Jessica represents businesses in state and federal court, mediation, and formal arbitration proceedings. She has experience handling bet-the-company litigation for clients, and her practice focuses on complex commercial disputes in the areas of breach of contract, fraud, intellectual property, labor and employment, real estate, and other business-related issues.

Jessica handles a wide variety of matters in the Religious Institutions and First Amendment Group, including defamation, reporter's privilege, Free Exercise and Establishment Clauses of the Federal Constitution, their state analogues, tax exemptions, and other key legal doctrines specific to the First Amendment. Jessica also counsels and represents clients on other state and federal constitutional subjects, including takings, cruel and unusual punishment, due process, equal protection, and governmental immunity.

Prior to joining Holland & Hart, Jessica clerked for the Honorable Gregory Phillips on the United States Court of Appeals for the Tenth Circuit and for the Honorable Gregory Hobbs on the Colorado Supreme Court.

### PRACTICES

Appellate  
Stakeholder Disputes  
Business Litigation

### EDUCATION

University of Colorado Law School, J.D.,  
2013

Order of the Coif

*University of Colorado Law Review*,

Volume 84, Editor-in-Chief

Courtland H. Peterson Leadership Award

Civil Procedure, Teaching Fellow

Westminster College, B.A., 2009

Political Studies and French

*cum laude*

### BAR ADMISSIONS

Colorado

### COURT ADMISSIONS

U.S. Court of Appeals for the Tenth  
Circuit

U.S. District Court for the District of  
Colorado

### PUBLICATIONS

"In a Pointed Decision, the Tenth Circuit Addresses Waiver in the Context of Qualified Immunity," *Law.com*, July 26, 2024

"Tenth Circuit Reinforces Plain Meaning Rule in IRS Church Audit Protections Case," *Law.com*, May 28, 2024

"Tenth Circuit Tosses 'Bivens' Lawsuit Against U.S. Marshals, Offers Candid Assessment of Supreme Court Precedent," *Law.com*, March 13, 2024

"Tenth Circuit Sends Class-Action Plaintiffs to Arbitration Over Interpretation of Agreement," *Law.com*, November 17, 2023

"Tenth Circuit Rules That District Courts Cannot Reopen Cases Under Rule 60(b) That Have Been Voluntarily Dismissed Without Prejudice Under Rule 41(a)," *Law.com*, September 26, 2023

"Tenth Circuit Clarifies Application of the 'Continuing-Violation' and

'Repeated-Violations' Doctrines," *Law.com*, April 21, 2023

"Tenth Circuit Holds That Foreign Arbitration Award Still Subject to Confirmation in the US Despite Foreign Court's Post-Confirmation Annulment of Arbitration Award," *Law.com*, February 8, 2023

"Tenth Circuit Applies 'Demanding' Materiality Standard to FCA False-Certification Claim," *Law.com*, October 11, 2022

"Tenth Circuit Adopts Expansive Reading of Express-Preemption Provision," *Law.com*, April 13, 2022

"The Tenth Circuit Reverses Qualified Immunity for University Official Under Rule 12(B)(6) in Student Speech Case," *Law.com*, February 16, 2022

"Tenth Circuit Clarifies an Ambiguity in the Final Judgment Rule," *Law.com*, December 14, 2021

"Tenth Circuit Deepens Circuit Split on the Lanham Act's Extraterritorial Scope," *Law.com*, September 20, 2021

"Tenth Circuit Upholds Colorado's Anti-Discrimination Act Against Constitutional Challenge," *Law.com*, August 23, 2021

"The Tenth Circuit Weighs In on 'Kicker' and 'Clear-Sailing' Provisions in Class Action Settlements," *Law.com*, June 22, 2021

"Tenth Circuit Explicates the 'Inference of Discrimination' and 'Pretext' Requirements in Title VII Claims Based on Favoritism," *Law.com*, May 19, 2021

"The Tenth Circuit Reverses Injunction Against Implementation of Federal Navigable Waters Protection Rule," *Law.com*, April 23, 2021

"Tenth Circuit Analysis," *Author, published monthly by Law.com*

"Tenth Circuit Explains and Applies the Scope of Federal Preemption of Product Liability Suits Based on Medical Device Failures," *Law.com*, March 22, 2021

"Tenth Circuit Holds That a State Can Cede Its Jurisdiction to the Federal Government Only Through State Legislation," *Law.com*, January 25, 2021

"Tenth Circuit: Our Mandate Means What It Says," *Law.com*, December 21, 2020

"Tenth Circuit Dismisses Putative Anti-Vaccination Class Action for Lack of Standing," *Law.com*, November 23, 2020

"Tenth Circuit Holds That Questions of Arbitration Agreement Formation Can Only Be Decided by Court," *Law.com*, October 22, 2020

"Tenth Circuit Upholds Constitutionality of Sex Offender Registry,"

*Law.com*, September 21, 2020

"Tenth Circuit Confirms Extremely Limited Federal Appellate Review for Remand Orders," *Law.com*, September 1, 2020

"Tenth Circuit Affirms Denial of Qualified and Sovereign Immunity Defenses," *Law.com*, July 21, 2020

"Another FRCP Victory: Tenth Circuit Says Federal Rule Trumps State Law," *Law.com*, June 22, 2020

"Tenth Circuit Affirms District Court Decision To Abstain Under 'Pullman' From Exercising Jurisdiction," *Law.com*, May 20, 2020

"Tenth Circuit Addresses Adequacy of Procedures for Sexual Misconduct Investigations at Colleges and Universities," *Law.com*, April 15, 2020

"The Tenth Circuit Rejects Correctional Officer's Qualified-Immunity Defense to Alleged Sexual Abuse of Inmate," *Law.com*, March 25, 2020

"Tenth Circuit Affirms Summary Judgment in Favor of Federal Bureau of Prisons," *Law.com*, January 22, 2020

## **SPEAKING ENGAGEMENTS**

"Women in Trial," *National Institute for Trial Advocacy (NITA) Faculty Member*, September 20-22, 2023

## **RECOGNITION**

- *Best Lawyers: Ones to Watch® in America*, Appellate Practice, 2023-2025; Commercial Litigation, 2021-2025
- Colorado Super Lawyers® Rising Stars, Business Litigation, 2019-2024
- *5280 Magazine* Top Lawyers, Media/First Amendment, 2023, 2024; Commercial, 2025

## **PROFESSIONAL AND CIVIC AFFILIATIONS**

- Colorado Bar Association, Member
- Denver Bar Association, Member
- Colorado Women's Bar Association, Member
- Faculty of Federal Advocates, Member
- University of Colorado Law Review, Alumni Advisory Board
- TerraLex Leadership Program, 2024