



## John A. Yacovelle

Partner

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### PRACTICE AREAS

- Litigation
- Real Estate

### INDUSTRIES

- Construction and Infrastructure
- Tribal and Indian Law

### OVERVIEW

John Yacovelle is the co-leader of the firm's Business Trial Practice Group and a member of the Construction Litigation and Tribal and Indian Law Teams.

#### Areas of Practice

Mr. Yacovelle has been practicing since 1987 and represents clients in a variety of business disputes, with a special emphasis on construction, real estate, general commercial litigation, and Native American law. He has represented owners, developers, general contractors, subcontractors, suppliers and product manufacturers in connection with private and public works projects. Mr. Yacovelle has provided these clients with a wide range of services including (1) negotiation, and review of construction contracts; (2) representation of parties in bid disputes on public works projects; (3) representation of owners and contractors in private and public works payment disputes (including claims related to changed conditions, delay claims, bond claims, mechanic's lien claims and stop notice claims); (4) representation of developers, contractors and product manufacturers in construction defect matters; and (5) representation of developers in land acquisition disputes.

In addition, Mr. Yacovelle has represented clients in a variety of commercial disputes including corporate dissolution proceedings, enforcement of covenants not to compete, unfair competition, trade secret disputes, matters before the Probate Court, breach of contract disputes and products liability matters.

Mr. Yacovelle has extensive trial experience, including representing clients in jury trials, bench trials and arbitrations.

#### EDUCATION

- J.D., Southwestern University, 1987, *magna cum laude*
- B.A., University of Southern California, 1984, *cum laude*

#### ADMISSIONS

- California
- U.S. District Courts for the Central and Southern Districts of California
- U.S. Court of Federal Claims

#### EXPERIENCE

##### Representative Matters

Represented a limited liability company in connection with a shareholder dispute involving the alleged breach of a covenant not to compete and an anti-solicitation clause. Achieved a successful settlement which included a stipulated injunction against the shareholder defendants.

Represented shareholders in involuntary dissolution matter. Achieved successful settlement via buyout of the shareholders.

Prepared numerous construction, project management, and architectural agreements for various clients, including Native American clients.

Represented a large homebuilder in a dispute with a subdivision seller in a three-week judicial reference proceeding. The dispute centered around the homebuilder's alleged obligations following the homebuilder's termination of the purchase and sale agreement. Claims asserted by the seller were in excess of \$113 million.

Represented Native American Tribe in connection with litigation relating to a major design-build project. Issues involved contract compliance, code compliance, contractor's licensing and accounting. Achieved a successful settlement for the Tribe.

Represented a large homebuilder in an arbitration with a property seller regarding alleged misrepresentations made by the seller regarding the condition of the property. The homebuilder sought the return of its deposit, plus development costs and attorneys fees. After a week-long arbitration and extensive briefing, the arbitrator found that our client was entitled to the return of its full deposit, plus interest, and denied the opposing party any relief on its cross-complaint. Judgment in favor of client in excess of \$2.1 million plus attorneys' fees and costs.

Represented owner of a retirement home in a defect lawsuit against general contractor, subcontractor and design professionals. Settlements in excess of \$21 million. Jury verdict against one subcontractor in the amount of \$1.1 million.

Represented a large homebuilder in connection with a \$50 million claim filed by an adjacent property owner. The claim included claims for nuisance, trespass and the violation of various state and federal laws. Settled the matter for \$12,500.

Represented defendant in connection with a \$15 million Probate Code § 850 claim by alleged heirs. Defended all claims and successfully settled the matter for a nominal amount.

Represented general contractor in a jury trial relating to general's construction of an office building addition in Los Angeles. General sought payment for its work. Owner filed cross-complaint for defective work. Jury verdict in favor of client.

Represented general contractor in a bench trial regarding a dispute between the general and its subcontractor on a high-rise hotel. Midway through the project, the subcontractor walked off the job and sued the general for payment. Judgment in favor of general, including damages in favor of general for costs of repair.

Represented general contractor in a bench trial against a subcontractor on an Orange County hotel project. Judgment in favor of general on the grounds that subcontractor did not comply with licensing law.

Represented general contractor in a jury trial for collection of amounts owed by the owner of a hotel for general's construction of the hotel. Cross-complaint asserted for defective construction. Verdict for general.

Represented general contractor in lawsuit brought by the United States relating to alleged defective work allegedly performed by general on a naval project in San Diego. Negotiated successful settlement to litigation for general.

Represented cabinet manufacturers in products liability action against materials suppliers. Achieved successful settlement recouping repair and lost business costs.

Represented large homebuilder developer in bench trial relating to distributions allegedly owed to seller of real property under a price participation agreement. Successfully settled matter midway through trial.

Represented large homebuilder developer in a trial between the developer and one of its contractors regarding payment. Verdict in favor of the developer.

Represented cabinet manufacturers in separate lawsuits against their respective coatings manufacturers relating to hazing caused by coatings manufacturers' products. Damages sought included cost of repair damages and lost business damages. Negotiated successful settlement to claims.

Represented developer/homebuilder in dispute with former partner, involving complex accounting issues. Successfully settled matter.

Represented large homebuilder/general contractor in the negotiation and preparation of its general contract, subcontracts and consultant contracts in connection with the construction of a major luxury residential project.

Represented various commercial entities in unlawful detainer and other lease disputes.

## **HONORS**

- San Diego Super Lawyer, 2007, 2008, 2009, 2010, 2011
- Legal 500, 2011
- Which Lawyer?, Construction, Practical Law Company, 2011

## **MEMBERSHIPS**

- Member, Associated Builders and Contractors
- Member, American Subcontractors Association
- Member, Associated General Contractors of America

## **ARTICLES**

- The Enforcement of Residential Purchase Contracts, November 1, 2002
- Abandonment of Contract: No Longer a Viable Claim Against a Public Entity,
- Abandonment Claims and Cardinal Changes: Can the Federal and State Rules be Reconciled?