



## Kevin P. McCarthy

Partner

Oakland

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### PRACTICES

Construction Law

Real Estate and Business Law

### EDUCATION

J.D., Santa Clara University  
School of Law

B.S., Business/Finance,  
Valedictorian, University of San  
Francisco

### ADMISSION

State Bar of California

State Bar of Colorado (inactive)

United States District Court for  
the Central District of California

United States District Court for  
the Eastern District of California

United States District Court for  
the Northern District of  
California

United States District Court for  
the Southern District of  
California

### AFFILIATIONS

American Bar Association

General contractors, developers and subcontractors in California turn to Kevin McCarthy for his knowledgeable legal counsel on corporate/construction risk management, asset protection, contract negotiation and construction defect litigation matters. Kevin skillfully helps those in the construction industry that are responsible for building the region's office towers, residential developments and retail centers proactively mitigate liability and risk. When conflicts do arise, he advises clients on applicable insurance coverage in relation to disputes, which have a significant focus on construction failure, resultant property damage, diminution in value, and related claims.

Kevin is an experienced litigator handling jury trials, bench trials, arbitrations, and multi-party mediation and dispute resolution on behalf of both defendants and plaintiffs. With a track record of litigation success and a commitment to economic, responsive and efficient client service, Kevin offers clients the valuable legal counsel they need to get the job done.

### RECOGNITIONS

Selected to Super Lawyers, 2006-2013

### REPRESENTATIVE MATTERS

#### Risk Management

- Represented general contractor client on insurance risk and minimize liability exposure by examining loss run and insurance coverage and additional insured status for on-going projects to minimize exposure and maintain preservation of assets.
- Successfully tried matter and received full defense verdict and judgment for HVAC/Sheetmetal subcontractor against large national insurer on claims relating to breach of contract and defense/indemnity obligations including recovery through equitable subrogation rights.

- Successfully responded to appeal by large national insurer while achieving an affirmed decision of underlying court trial verdict/judgment. First Appellate District of California has certified and published its opinion.
- Successfully took matter through jury trial in Alameda County and achieved full value resolution after the close of our case-in-chief.
- Received full value award following a three week arbitration hearing involving an employee-related fraud and embezzlement action.

### **Litigation**

- Obtained substantial fraud and misrepresentation verdict against a former employee of a construction company based on embezzlement and misappropriation of funds.
- Obtained defense verdict for waterproofing construction company on high-level condominium project in San Francisco.
- Successfully responded to appeal by large national insurer while achieving an affirmed decision of underlying court trial verdict/judgment. First Appellate District of California has certified and published its opinion.

### **Insurance Recovery and Insurance Coverage**

- Successfully tried matter and received full defense verdict and judgment for HVAC/Sheetmetal subcontractor against large national insurer on claims relating to breach of contract and defense/indemnity obligations including recovery through equitable subrogation rights.
- Successfully responded to appeal by large national insurer while achieving an affirmed decision of underlying court trial verdict/judgment. First Appellate District of California has certified and published its opinion.

### **Liens, Claims and Defense**

- Successfully obtained a substantial award in arbitration for impact and unpaid progress invoices and unapproved and unpaid change orders for a subcontractor on a prominent automotive facility project regarding payment and delay claims.
- Represent general contractor on multi-million-dollar construction of a Silicon Valley apartment complex and obtain judgments and maximized settlements from other culpable construction parties based on defective workmanship and design.