



# James T. Yand

Partner

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fromthegrounduplaw.com

**“I work with clients to solve problems efficiently, keeping their goals and budget expectations in mind. I tailor my legal advice to a client’s needs and use my experienced judgment and creativity to find solutions and return value. Communication, effective advocacy, and innovative solutions are the keys to a successful outcome.”**

Jim Yand’s practice focuses on resolving challenges involved in construction and property development. Challenges often arise from competing interests in allocating risk and responsibility in the complex supply chain for bringing new projects out of the ground. Jim has more than 30 years of experience resolving high-conflict cases that often determine the continued success of the client’s project or business. His representation across the construction chain also allows him to craft and litigate contract terms that achieve the most effective results. This work also extends to serving as outside counsel for various trade groups and advising on a range of business questions that arise. Jim is a frequent author and speaker on various construction industry topics.

## Professional Activities

- King County Bar Association, I-502 Task Force, Member
- Washington State Bar Association
  - Professionalism Committee, Chair, 2006-2007
  - Construction Law Section, Member
- Oregon State Bar House of Delegates, Former Member (out of state region)
- American Bar Association Forum on Franchising and Construction, Member
- American Subcontractors Association Attorney’s Council, Member
  - Past Chair, 2011-2012
- Northwest Wall & Ceiling Bureau, Member
- University of Washington
  - Professional and Continuing Education Advisory Board, Member
  - Complex Litigation Course, Instructor
  - Contracting for Goods and Services, Instructor

## Education

J.D., Lewis & Clark Law School, *cum laude*, 1988

B.S., Portland State University, with honors, 1984

## Bar Admissions

Washington, 1989

Oregon, 1988

## Court Admissions

U.S. District Court, Western District of Washington

U.S. District Court, Eastern District of Washington

U.S. District Court, District of Oregon

U.S. Court of Federal Claims

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals, Federal Circuit

## Civic Activities

- Music Aid Northwest, President, 2022-present
- King County Bar Association Neighborhood Legal Clinic, Volunteer
- Open Door Legal Services Legal Clinic, Advisory Board Member and Volunteer

## Representative Experience

### Construction

- Lien foreclosure and contract dispute over development of commercial real estate high rise building. (*Mehrer Drywall v. JTM Construction*)
- Contract and product defect claims arising from property development project. (*West Coast Flooring v. HYDS*)
- Miller Act claim on Navy project. (*Absco Alarms v. Safeco Insurance*)
- Defense of claims related to wastewater treatment facility. (*Pacific Crest v. Town of Cathlamet*)
- Defense of multimillion-dollar lawsuit involving construction defects and product liability claims. (*Mosler Lofts v. Belltown Dev.*)
- Representation of electrical contractor on claim arising from Chief Joseph Dam project. (*United States ex rel. Graybar Elec. v. Overstreet Elec. Co.*, 2006 WL 1455652)
- Lien foreclosure for improvements to shopping mall restaurant. (*Lake Washington Construction v. SFC Foods West*)

### Commercial Litigation

- Breach of technology contract and RICO lawsuit. (*Nintex v. ProSymmetry*)
- Multimillion-dollar claims related to defects arising out of parking garage. (*ABM v. Seattle Second & James*)
- Condemnation action of property on Northgate Mall for light-rail station. (*Sound Transit v. Simon Props.*)
- Prosecution of fraud claims locally and internationally involving factoring arrangements. (*Kyko v. Prithvi*)
- Dismissal of maritime defendant with prejudice before trial based on successful assertion of defenses. (*Rhodehouse v. Asbestos Corp. Ltd.*, King County Superior Court Case No. 12-2-31684-8 SEA)
- Representation of trade association on claims for retrospective insurance refund. (*NWCCA v. Dep't of Labor & Indus.*, Wash. App. No. 42018-0.11)
- Successful representation of foreign manufacturer on claims of trade-dress violations. (*Atlas Equip. Co. v. Weir Minerals Australia Ltd.*, 2011 WL 52455)
- Defense of municipality and employees from civil-rights claims in land use dispute. (*Mauser v. City of Edmonds*, 1997 Wash. App. LEXIS 1772)
- Franchise dispute over territorial rights. (*Sub Bros. N. v. Subway*)
- Multimillion-dollar claim against accountant arising from hedge fund audit. (*Adams Financial v. Patke & Associates*)

### Torts & Product Liability

- Defense of strict products liability claims arising from sporting goods. (*Barron v. Extreme Products and Big 5*)
- Defense of construction products dealer for claims arising from construction defects claims. (*Arion v. Hact Construction and L&W Supply*)
- Representation of distributor in product defect claims arising from PPA (phenylpropanolamine) medication. (*Beard v. Perrigo Co.*, No. 2:03cv00470)
- Multiple cases filed over five years involving defense of siding manufacturer in litigation filed nationwide by national hotel owner against general contractors and product manufacturers. (*ESA Mgmt. Inc. v. Dryvit/Sto Corp.*)

## Publications

Jim frequently writes on various topics. Following is a listing of publications since 2015. A complete list is available upon request.

- “You Snooze, You Lose: Washington’s Strict Notice of Claim Requirements on Construction Projects Continues to Plague Contractors,” Miller Nash, *From the Ground Up* (Jun. 2024)
- “New Law Requires Change Orders Be Paid within 30 Days for Private Construction in Washington,” Miller Nash, *From the Ground Up* (Mar. 2024)
- “Washington Public Contracts Require New Anti-Discrimination Clause Effective January 1, 2024,” Miller Nash, *From the Ground Up* (Jan. 2024)
- “Contract Drafting 101: Implied Warranties and Design Delegation,” Miller Nash, *From the Ground Up* (Aug. 2023)
- “Washington Update: Contractor Registration Bonding Requirements Raised,” Miller Nash, *From the Ground Up* (July 2023)
- “Retention Reform Bill Passed in Washington for Private Construction Projects,” Miller Nash, *From the Ground Up* (Apr. 2023)
- “Pathways to a Healthier New Year,” American Subcontractors Association, *Contractor’s Compass* (Jan. 2023)
- “Recession Planning: Prepare Ahead if Contract Terminated for Convenience,” Miller Nash, *From the Ground Up* (Jan. 2023)
- “Seattle Tunnel Partners’ Bertha Case Sinks as Appeal Hits Dead End,” Miller Nash, *From the Ground Up* (July 2022)
- “Prevailing Wage Calculation Method Challenged and Determined To Be Unconstitutional,” Miller Nash, *From the Ground Up* (Sept. 2021)
- “Governor Inslee Issues Vaccination Requirement for Most State Employees, Including Workers on State Construction Projects,” Miller Nash, *From the Ground Up* (Aug. 2021)
- “New Homestead Exemption Significantly Impacts Property Owners,” Miller Nash, *From the Ground Up* (June 2021)
- “Vaccines Open Up in Washington for Construction Workers,” Miller Nash Graham & Dunn, *From the Ground Up* (Mar. 2021)
- “Oregon & Washington Construction Impacted by Governors’ New Orders” Miller Nash Graham & Dunn, *From the Ground Up*, coauthor (Nov. 2020)
- “Bid Shopping Protection Extended to Steel and Rebar Subcontractors on Public Works Projects,” Miller Nash Graham & Dunn, *From the Ground Up*, cocontributor (July 2020)
- “Payment Clauses: What to Watch For and How to Negotiate Them,” American Subcontractors Association (Jan. 2020)
- “Getting Paid and Protecting Your Company During a Construction Project,” NW Wall & Ceiling Bureau, Northwest Wall & Ceiling Conference & Trade Show (Apr. 2019)
- “Injunctive Relief Exclusive Remedy For Successful Bidder Seeking Damages on Construction Job Not Performed,” Miller Nash Graham & Dunn, *From the Ground Up* (Aug. 2018)
- “Washington Subcontractors Can Seek Bond for Early Release of Retainage,” Miller Nash Graham & Dunn, *From the Ground Up* (June 2017)
- “Individual Laborers Granted Lien Rights by Court,” Miller Nash Graham & Dunn, *From the Ground Up* (Nov. 2016)
- “Unfair Business Practices Concerning Lien Waivers,” American Subcontractors Association, *The Contractor’s Compass* (Nov. 2015)
- “Beware of Inadvertent Disclosure of Electronic Information,” American Subcontractors Association, *The Contractor’s Compass* (March 2015)

## Presentations

Jim is a frequent speaker on various topics. Following is a listing of presentations since 2015. A complete list is available upon request.

- “Killer Contract Series Part II: Retention and Change Orders,” American Subcontractors Association of Washington (July 2024)
- “Inadvertent Disclosure of Electronic Information,” Washington State Bar Association, The Washington Law and Practice Refresher Course CLE (Feb. 2024)
- “Killer Contract Clause,” Educational Workshop for the American Subcontractors Association of Washington (May 2023)
- “Delegated Design - Risk & Rewards,” 2023 Wall and Ceiling Conference and Trade Show, co-presenter (May 2023)
- “Managing the Impact of Supply Chain Shortages, Delays, and Inflation,” American Subcontractors Association SUBExcel (Mar. 2023)
- “Inadvertent Disclosure and Ethics,” Washington State Bar Association, The Washington Law and Practice Refresher Course (Feb. 2023)
- “Metadata in Context,” Washington State Bar Association, Dangerous Data: Metadata and Information Security in Discovery and Your Daily Practice CLE (Nov. 2022)
- “The WSBA Reinstatement Course and The Washington Law and Practice Refresher,” Washington State Bar Association (Mar. 2022)
- “Resolving Disputes Related to Defects and Failures,” HalfMoon Education, webinar (Mar. 2021)
- “Inadvertent Disclosure of Electronic Information,” Washington State Bar Association, Reinstatement Course CLE (Mar. 2021)
- “Inadvertent Disclosure of Electronic Information,” Washington State Bar Association, Reinstatement Course CLE (Aug. 2020)
- “COVID-19 and Construction Impacts: Who Pays?” Northwest Wall & Ceiling Bureau, webinar (June 2020)
- “Prompt Payment Clauses: What to Watch For and How to Negotiate,” American Subcontractors Association (Oct. 2019)
- “Getting Paid and Protecting Your Company During a Construction Project,” Miller Nash Graham & Dunn, Construction Roundtable (Oct. 2018)
- “Inadvertent Disclosure of Electronic Information,” Washington State Bar Association, CLE Seminar (Mar. 2018)
- “Washington’s State-Mandated Paid Sick Leave Law: Requirements, Interplay with City Ordinances, and New Risks for Employers,” Northwest Wall and Ceiling Bureau, Chapter Luncheon (Jan. 2018)
- “Winning the Claim with Documentation that Tells a Story,” Northwest Wall & Ceiling Industries, Convention and Trade Show (May 2017)
- “What Do You Do If You Do Not Get Paid?” National Business Institute, Construction Law Seminar (Apr. 2017)
- “Construction Photos—Avoid Putting Your Selfie in the Cross Hairs,” Society for Design Administration, Seattle Business Practice (Jan. 2016)
- “Why is Metadata Problematic? The Essentials,” Washington State Bar Association, Everything You Need to Know About Metadata: Essentials and Advanced Topics CLE (Dec. 2015)
- “Inadvertent Disclosure of Electronic Information,” Washington State Bar Association, CLE Seminar (Aug. 2015)
- “Labor Productivity Study,” Northwest Wall and Ceiling Bureau, Convention and Trade Show (Apr. 2015)
- “Tackling the Challenges of Professionalism,” Washington State Bar Association, Legal Lunchbox Series (Mar. 2015)

## Recognition & Honors

- Selected for inclusion as a Washington Super Lawyer, 2015-2022
- Team Teaching Excellence Award, University of Washington Continuum College, 2018
- President's Award, King County Bar Association, 2014
- Rated AV<sup>®</sup> Preeminent<sup>™</sup> by Martindale-Hubbell<sup>®</sup>

## Personal Activities

Jim lives in Seattle with his wife and children. Born in Thailand and raised there until he was 12, Jim enjoys cooking Thai food for friends and family as his creative outlet.