



Jeffery A. Garofalo, Senior Counsel

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| Practice Areas | Construction Litigation, Corporate and Commercial |
| Admissions | California Nevada |
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Professional Summary

Jeffery A. Garofalo is a seasoned business and construction litigator based in Procopio's Las Vegas office. He is a Martindale-Hubbell Preeminent AV Peer Review rated attorney who has successfully resolved cases with a total exposure of over \$600 million in his 28-year career. Before coming to Procopio, Jeff was a shareholder at Lee, Hernandez, Landrum and Garofalo, where he handled cases venued throughout the Southwest.

His construction practice includes litigation of disputes regarding defects and non-conforming work, mechanic's lien foreclosures, contract disputes, delay claims, and advising clients on licensing matters and disputes that arise on projects during the course of construction. His practice includes commercial developments, high-rise construction, defense of single-family class actions, and product cases. He is frequently consulted to address risk management, contract negotiation and early dispute resolution, and has been retained by contractors, construction managers, large commercial trades, product manufacturers, owners and developers.

Jeff's commercial litigation practice includes a broad array business clients who have had disputes in the corporate, healthcare, technology, real estate, and hospitality fields.

Representative Matters

Construction



- Lead Trial Counsel - CityCenter/Harmon Tower Litigation. Secured very favorable settlement for subcontractor that participated in construction of the tower, after extensive litigation that entailed more than 250 depositions, production of 12 terabytes of ESI, 4 weeks of evidentiary hearings with live witnesses, and a 7-week jury selection process, in case arising from construction of one of the largest private developments in the world, with nearly \$1 billion in controversy.
- Co-counsel for national construction firm in case involving an Indian gaming casino that was in trial for nearly 3 months before resolving within client parameters.
- Filed mechanic's lien foreclosure action against owner of cannabis processing facility who owed general contractor client more than \$500,000, and owner counter-sued for \$300,000 in alleged non-conforming work. Coordinated all implicated trades to defend, conducted discovery, and resolved case before trial, collecting 94 percent of amount claimed and paying nothing on counter-claim.
- Represented multi-national construction manager that was owed money after completion of an \$8 million commercial office structure, where owner claimed over half a million dollars in non-conforming work. Achieved settlement within client parameters, funded by owner and its architect, that included unconditional project release of client by owner.
- Achieved early recovery of nearly one hundred percent of damages claimed by contractor who was not paid by developer of storage unit facility, in action to foreclose mechanic's lien.
- Licensing issues: advised numerous general contractors and trades on licensing scope, licensing limits, and contractor's board enforcement actions.

Business and Commercial Litigation

- Sued state regulatory agency for injunctive and declaratory relief on behalf of a charter school, to remove illegal provisions of the school's charter contract that were inserted by the agency as a condition of the charter renewal. Secured temporary restraining order barring enforcement of the conditions and ultimately resolved the case before trial with an agreement that the conditions would be stricken.
- Retained by distributor of lab supplies to collect damages of nearly one million dollars from a manufacturer based in France that delivered faulty product and then refused to deliver new product, causing lost sales. Initiated international arbitration proceedings and retained French co-counsel, then ultimately resolved the case with full recovery of all damages and with structured agreement with defendant's parent company to manufacture and supply the products at

guaranteed higher quality, resulting in multi-year, multi-million-dollar revenue stream for client.

- Secured dismissal at pleading stage of defamation action brought by managing member of a corporation against other members, based on defenses of intra-corporate communications privilege and truth of the statements, after which court granted a motion awarding client attorneys' fees.
- Retained by restaurant and nightclub that was threatened with writ of attachment by supplier who was not paid due to embezzlement of payments by client's manager. Negotiated standstill agreement with supplier, which was a secured creditor, while client sought financing. Ultimately resolved the claim for approximately half of the supplier's claimed damages without formal litigation.
- Retained by entertainment venue to respond to demands made by Performing Rights Organizations ASCAP and SESAC for licensing fees purportedly owed by the venue. Reached settlement with one claimant for roughly ten percent of amount allegedly owed. Litigated with the other claimant, which ultimately dropped its suit without recovering damages.
- Retained by large nightclub on the Las Vegas Strip to defend a 5-day unlawful detainer notice asserted by the landlord, a national property holding company that claimed rent was over \$500,000 in arrears. Successfully contested summary eviction and negotiated safe harbor agreement modifying tenant's rent payment obligation, allowing tenant to remain on premises and in business.
- Retained by commercial landowner, who bought property through foreclosure, to sue a media company that maintained a large billboard on the property, when the media company refused to acknowledge our client as the rightful owner, or to pay rent to him. Recovered all past due rent owing, terminated the prior lease, and negotiated new lease for client at significantly higher rate.

Tort and Casualty

- Successfully defended and resolved propane explosion case involving two deaths and catastrophic burns to two toddlers with \$8 million in past and future medical special damages on behalf of propane filler.
- Retained to defend apartment building owner against habitability and personal injury claim brought by 30 tenants who claimed buildings contained environmental toxins, mold, and water intrusion, and who sought \$2 million dollars in damages. Secured dismissal of 7 plaintiffs and resolved the case with the remaining 23 plaintiffs for approximately 25 percent of demand, much of which was structured for eight minor plaintiffs.



Recognitions

- *Martindale-Hubbell*® AV Preeminent Rating
- *The Best Lawyers in America*® 2021 (Commercial Litigation, Construction Litigation, and Construction Law)

Community

- Children's Attorney Project – Legal Aid Center of Southern Nevada, Pro-bono attorney volunteer representing abused and neglected minors who are in foster care placement, institutions, or who are wards of the state
- Attorney Mentor for State Bar of Nevada - Transitioning into Practice Program (TIP), 2012-present
- Attorney Volunteer for Ya Es Hora, a national program providing assistance to legal residents applying for U.S. Citizenship, 2011-2014
- Member, Board of Directors for the State of Nevada Public Employee Benefits Program Board, 2009-2016
- Governor, National Board of Governors, Human Rights Campaign, 2006-2012
- Human Rights Campaign, Federal Club Member

Education

- JD, University of the Pacific - McGeorge School of Law, 1992
- BA, University of California San Diego, Political Science, 1989

Seminars

- Speaker. "Ethical Issues for Construction Professionals - The Boundaries of Zealous Advocacy and Confidentiality in the Mediation Process" CLM National Construction Conference, San Diego, California, September 2016.
- Speaker. "Construction and Insurance Trends" - Highlighting impact of AB 125 and reviewing significant Supreme Court decisions, MC Consultants West Region Construction Litigation and Insurance Conference, September 2015.



- Speaker. "Our Rules Are Better Than Your Rules" - Exploring new trends and holdings impacting construction and insurance law, and the public policy in expanding or changing them, West Coast Casualty Construction Defect Seminar, May 16, 2013.
- Speaker. "Arizona and Nevada Coverage and Current Trends." MC Consultants West Region Construction Defect & Insurance Coverage Conference.