



**BARRY J.
MACNAUGHTON**

CO-MANAGING PARTNER

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Direct 310.281.6342

Barry MacNaughton has spent more than 35 years litigating and resolving significant business and commercial litigation matters for clients in the real estate, construction, manufacturing, technology and environmental sectors in Southern California. He solves clients' problems, litigates their disputes and advocates for them at trial.

Barry understands the impact of disputes and litigation on business—he not only litigates matters once disputes arise, he actively preaches and manages pre-litigation problem resolution and litigation avoidance.

Distinctive among Southern California litigators for his depth of experience and knowledge, Barry has more than three dozen trials or arbitrations to his credit. Areas of significant experience include:

- Real estate disputes
- Construction close-out, scope and change order claims
- Construction defect litigation
- Purchase and sale disputes
- Contract disputes
- Inverse condemnation and eminent domain
- Corporate and LLC governance matters
- Trade secret and unfair competition litigation
- Business tort claims
- Trademark rights
- Insurance coverage litigation on behalf of policyholders

A co-managing partner of Ervin Cohen & Jessup LLP, Barry has served in that leadership role since the position was created. His more than 10 years on the firm's Executive Committee includes acting as the primary partner for

EDUCATION

J.D., The University of Texas at Austin School of Law, *with Honors*

B.A., Trinity University, *magna cum laude, Phi Beta Kappa, Alpha Lambda Delta*

PRACTICE AREAS

Litigation and Alternative Dispute Resolution

Construction

ADMISSIONS

California

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court, Central District of California

U.S. District Court, Northern District of California

U.S. District Court, Southern District of California

strategic planning and internal financial management. During his tenure, the firm's profits have more than doubled and attorney headcount has grown significantly. Barry's breadth of experience helps him not only understand trial and litigation practice and tactics—he also understands how businesses work and how to increase profitability and collaboration in a company and among business teams.

Barry brings both his business and legal acumen to representing clients, many of whom rely on him as a trusted business advisor and sounding board. He works with them in the style of an outside general counsel who provides sound business judgment, and creativity for commercial and legal issues far beyond litigation and dispute resolution.

REPRESENTATIVE MATTERS

Represented investors who purchased a Power Center based upon the fraudulent concealment of material facts affecting the financial viability of the center. Barry was completely successful after a six-week trial, which resulted in a more than \$34 million collected cash award to his clients, plus a decree that the seller take over all obligations in an underlying \$62 million loan, plus attorney's fees. This result was recently confirmed on appeal in *CRCH v. Lakha Properties-Chino Hills, et al.*

Represented a distributor terminated by a manufacturer who attempted to disintermediate the market and appropriate the distributor's business relations. Following a more than two-week trial, Barry achieved a verdict for his client in excess of \$2 million, plus attorney's fees, and a defense verdict on the manufacturer's crossclaims for alleged contract and trademark violations.

Represented a condominium developer in two separate actions brought by disgruntled investors alleging financial mismanagement and conflicts of interest. Barry achieved defense verdicts validating his client's actions in their entirety in both actions.

Represented a restaurant developer in a suit brought by a contractor for alleged nonpayment. Barry achieved a settlement whereby the restaurant developer received a significant amount on his crossclaims for construction deficiencies without paying any sums to the contractor on its claims.

Represent a manufacturer of construction components in matters alleging product deficiencies on commercial, large-scale hotel and multifamily residential projects. Barry has successfully resolved those matters without significant payment by that manufacturer. Barry regularly represents manufacturers and resolves claims against them without any significant payment by the manufacturers, which includes achieving defense verdicts at trial.

Represented a contractor and subcontractor in matters alleging nonpayment for work on a large-scale project, including violation of the Prompt Payment Statutes. Barry achieved a settlement resulting in significant payment to the contractor and subcontractor while defeating claims for alleged defective construction.

Represented an aftermarket automobile component manufacturer in a contract, trademark and trade secret action brought by a competitor alleging contract violations and theft of product design. Barry achieved a defense verdict on the competitor's claims and a recovery on his client's crossclaims, which resulted in significant financial gain for the client and the eventual bankruptcy of the competitor.

Represented multiple clients in contract disputes involving contract interpretation and performance, resulting in significant victories at trial and settlements which advanced the business purposes of the clients.

HONORS & RECOGNITIONS

Best Lawyers in America, 2022

Southern California Super Lawyers, 2021

Top Litigator in Los Angeles, *Los Angeles Business Journal*, 2019

Top Rated Lawyer, *The National Law Journal*, 2019, 2021

Leaders in Law Nominee, *Los Angeles Business Journal*, 2016

COMMUNITY & PROFESSIONAL

Los Angeles County Bar Association, Member

ProVisors (Professional Association of Trusted Advisors) Host and Member

CLIENT ALERTS

Barry MacNaughton Quoted on the Pandemic's Impact on LA's Real Estate Market
Los Angeles Business Journal, 03.29.2021

Partner Barry MacNaughton Quoted In *Construction Dive*
Construction Dive, 02.03.2021

Ervin Cohen & Jessup Names Barry MacNaughton As Managing Partner
12.07.2015

PUBLICATIONS

Toxic Mold – The Centers for Disease Control Weigh In
Real Estate Reporter, Ervin Cohen & Jessup LLP, 09.2004

How to Survive an Eminent Domain Action
Real Estate Reporter, Ervin Cohen & Jessup LLP, 08.2003

Proper Use of the Lis Pendens – The Best Way to Protect Your Real Property Interests – Part I and II
Real Estate Reporter, Ervin Cohen & Jessup LLP, 04.2003

Specific Performance – The Right Tool for the Right Job
Real Estate Reporter, Ervin Cohen & Jessup LLP, 03.2003

A Facelift For Construction Defect Claims
Real Estate Reporter, Ervin Cohen & Jessup LLP, 01.2003

Toxic Mold – It’s Not the New Asbestos
Real Estate Reporter, Ervin Cohen & Jessup LLP, 11.2002

At Last...Environmental Liability Relief for Lenders and Fiduciaries
Legal Update, Ervin Cohen & Jessup LLP, Winter 1997

Lead Paint Disclosure: New Rules & Regulations
Legal Update, Ervin Cohen & Jessup LLP, Summer 1996

Beware: A Trap for the Unwary: Real Estate Construction Contracts
Legal Update, Ervin Cohen & Jessup LLP, Summer 1991

Environmental Damage: Who Will Pay
Legal Update, Ervin Cohen & Jessup LLP, Spring 1991

Attorney’s Guide to Law of Competitive Business Practices
Antitrust, Chapter 5, Supp., 1985

Do Recent Liberalizations in Trade and Currency Regulations Put Japan in the Mainstream of World Commerce or Are They Merely an Illusion?
Comment, 16 Texas International Law Journal, 1982

SUCCESSSES

Barry MacNaughton and Robert Waxman Recognized by The National Law Journal as Top Rated Lawyers

Ervin Cohen & Jessup Partner Barry MacNaughton Leads Litigation Team to “David v. Goliath” Victory

Ervin Cohen & Jessup Prevails On Appeal of \$93M Real Estate Win

Ervin Cohen & Jessup Secures \$93M Against Strip Mall Developer Win Involving Chino Hills Property Among Largest Recent Verdicts in L.A.

Ervin Cohen & Jessup LLP Successfully Defends Real Estate Professional in \$11M Lawsuit