

S. JAY TERRY

Attorney

Contact Information

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S. Jay Terry joined the firm in 2007. Mr. Terry's practice focuses on resolving and litigating commercial disputes and assisting individuals and businesses with contracting issues and risk identification. He works with general contractors, subcontractors, developers and design professionals to solve all types of construction disputes. He has multiple years of experience with construction claims, construction defect litigation, construction contracts, and construction site personal injury cases. Jay is one of the few attorneys in Washington State and the country who has been LEED Accredited Professionals (AP) by the United States Green Building Council. The LEED Green Building Rating System is a nationally accepted rating and certification system for the design, construction, and operation of high-performance green buildings. He understands and can assist both contractors and developers in interpreting LEED certification requirements, with appeals, and contract drafting and assignment of responsibilities and consequences.

In addition to his construction experience, Mr. Terry handles litigation of products liability matters involving commercial and construction equipment as well as consumer products. He has been involved in defending product manufacturers in cases ranging from medical devices and home appliances to heavy machinery and lawn and garden equipment. He is well versed in the types of questions that arise in products matters such as whether the product was used as intended, whether it was reasonably safe as designed, whether the risks were known, and whether warnings or recalls were done appropriately.

Mr. Terry also has experience handling real estate matters and litigation involving breach of residential real estate contracts, broker/agent liability, liens, title disputes and other real property disputes, including inverse condemnation and easement and boundary disputes. He also has experience in school district and special education law.

Mr. Terry serves on the board of the Washington branch of the International Dyslexia Association and is the past president of the board for Country Village Day School. He is also a past president and coach for Northeast Seattle Senior Little League and currently coaches Bellevue baseball.

Mr. Terry was born in New York, New York, and has lived in many of the major metropolitan areas in the United States (New York, Houston, St. Louis, Chicago, Detroit, Washington D.C., Los Angeles, and Seattle). He is an avid baseball fan and still attempts to play in the Olympic Division of the Puget Sound Senior Baseball League. He is also a dedicated fly fisherman. He enjoys any outdoor activity involving his family.

EDUCATION

- J.D., University of Washington School of Law, 1998
- B.A., *cum laude*, Washington State University, Bachelor of Arts, 1994

HONORS & RECOGNITION

- Mr. Terry was named by Washington *Super Lawyers* magazine as one of the top attorneys in Washington State in 2015-2026 and by *Super Lawyers Business Edition* as one of the top attorneys in Washington State in 2015.
- Mr. Terry was listed in *Seattle Metropolitan Magazine* in 2015 and 2016 as one of King County's "Top Lawyers." They culled their listings from *Super Lawyers*.

BAR & COURT ADMISSIONS

- State of Washington
- U.S. District Court, Western District of Washington

PROFESSIONAL ASSOCIATIONS

- King County Bar Association
- Washington State Bar Association

COMMUNITY INVOLVEMENT

- Country Village Day School, past president, board of trustees
- Northeast Seattle Senior Little League, former president and coach
- Lake Heights YMCA T-Ball, YMCA of Great Seattle, coach
- Bellevue Thunderbird Little League, coach

REPRESENTATIVE CASES

Developer Cases

- *El Dorado COA v. El Dorado LLC* (2007). Represented the developer of an eighty-two-unit three-story seven-building complex of senior-living condominiums against a claim by the homeowners regarding alleged construction defects involving design defects, and comprehensive building envelope issues. Representation included pursuit of coverage issues, general contractor and architect. COA claims involved allegedly defective installation of vinyl siding, windows, flashing, roofing and deck to wall interfaces.
- *Major Hotel Development* (2007). Represented developer of a 130-room hotel and business center in a claim against the manufacturer of a roofing membrane that failed during the course of construction resulting in damage to various stages of interior finishing. Joint prosecution of delay and impact claims by owner and general contractor against product manufacturer and for coverage under builders risk insurance.

General Contractor Cases

- *Spokane Airport Holiday Inn and Conference Center* (2006 - 2007). Represented client in a claim regarding failure of an External Insulation Finish System on a 122-room hotel and conference center. Resulted in favorable funding of our developed and proposed scope of repair through insurance proceeds, negotiated repair contracts and pursuit of subcontractors.

Subcontractor Cases

- *Thurston County Juvenile Detention and Justice Center v. Bodenhamer Inc., architect BJSS Duarte Bryant and Turner Construction* (2005 - 2007). Represented the EIFS siding and metal framing contractor in a construction defect/water intrusion action brought by Thurston County stemming from leaks in the building envelope. Identified design errors and filed two summary judgment motions asserting pass-through contractual defenses that the general contractor failed to assert and laying the groundwork for successful resolution of the matter.
- *Maple Court Seattle Condo. Ass'n v. Roosevelt, LLC*, 139 Wash.App. 257, 160 P.3d 1068 (2007). Represented target subcontractor EIFS installer defendant in construction defect/water intrusion matter. Briefed, argued and won a summary judgment for a dissolved corporation in a construction defect case in King County Superior Court where the plaintiff, Roosevelt LLC filed its lawsuit two years after the statutory period for suing a dissolved corporation had expired. In addition, Roosevelt, LLC had allowed its corporate form to be canceled, thus precluding it from asserting any action on its behalf. The dismissal was based on the corporate dissolution argument prevented the client from having to indemnify the plaintiff for potentially several million dollars. The summary judgment was affirmed by the court of appeals.
- *Fortune View Condo Assoc. vs. Fortune Star Development Co.* Represented the target siding subcontractor in a matter where building envelope failures were alleged to have caused significant damage to common elements. Filed summary judgment on implied indemnity and implied warranty of workmanship and successfully resolved the matter for a nuisance payment prior to hearing.
- *Marina Heights Home Owners Association v. E. Kent Halverson, Inc.* Represented target siding subcontractor in a construction defect/water intrusion matter in trial involving luxury condominiums. Successfully limited expert testimony through motions in limine and resolved \$1.8 million claim for very low six-figure settlement during trial.
- *Blueberry Place Homeowners Association v. Northward Construction Company*. Represented distributor of hydroponic heating systems in a fifty-seven-unit community, successfully defended the matter and resolved it for a minimal settlement and release. The installer and manufacturer were pursued and the manufacturer apart from a class action resulting from the investigation into the Iplex tubing.
- *1300 Alki*. Represented the roofing subcontractor in \$1.8 million dollar claim involving water intrusion in a luxury six-story condominium building. Successfully resolve the matter for a low five figure value by disproving allegation regarding the point of water entry, adjoining subcontractor work and manufacture

specifications compliance. Ability to direct investigation to identify defenses related to design defects for wind loading and uplift due to prevailing wind conditions on Alki Point were a key to successful resolution.

Representative Product Manufacturer Cases

- *Residential Fire*. Represented a national consumer electronics and home appliance manufacturer in various matters involving fires allegedly started by defective solenoids, thermal fuses, wiring and switches. Retained experts to rebut fire department and opposing expert findings and procured a reasonable resolution for the client.
- Represented National Drug Manufacturers in autism-related claims. Worked with national counsel and spearheaded drafting motions for summary judgments that resulted in dismissal of claims.
- Represented manufacturer of thermal insulating products in toxic tort claim involving exposure to cancer-causing agents. Successfully resolved the case for low five-figure amount after presentation of plaintiff's case at trial.
- Represented national outdoor power equipment manufactures in several amputation matters involving defective design, warnings and intended use issues.
- *Sundance at Klahanie*. Represented pipe manufacturer regarding a seven-figure claim for water intrusion and damage resulting from allegedly defective sprinklers and piping.
- *Issaquah Pickering Barn*. Represented the roofing installer against claims for removal and replacement roofing, substrate and structural supports allegedly due to product failure that resulted in water intrusion. Successfully identified engineering deficiency in deflection calculations due to incorrect structural loading, that were the primary cause of water intrusion and/or failures. Successfully resolve the matter for a minimal payment.