



Michael Yoder

Partner

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Backed by a long record of trial and arbitration wins, Michael Yoder handles a wide range of complex matters, including securities, mergers and acquisitions, licensing disputes, unfair competition, professional liability defense, business torts, insurance, contract, real estate, land use, and general commercial disputes. His deep experience enables him to provide strategic guidance to clients at every stage of litigation and in settling matters out of court.

Mike is a Fellow of the prestigious American College of Trial Lawyers and has been featured in the *National Law Journal's* special report, "Winning: Successful Strategies from the Nation's Top Litigators." Mike was named *Best Lawyers®*' Orange County Bet-the-Company Litigation "Lawyer of the Year" in its 2013 and 2019 rankings. He also has been recognized consistently as one of Orange County's "Top 50 Lawyers" in *Law & Politics Media Inc.*'s annual surveys, which are published in *Los Angeles* magazine.

Mike has practiced in Orange County for close to 40 years. He plays a prominent role in Orange County's legal community, having served in numerous leadership positions for a variety of bar and civic organizations, including president of the Orange County Bar Association. Mike also has served as an adjunct professor at the University of California Irvine School of Law, teaching evidence.

Admissions

Bar Admissions

California

Court Admissions

US Supreme Court

US District Court, Central, Southern, Northern, and Eastern Districts of California, and Eastern District of Missouri

US Court of Appeals, Eighth and Ninth Circuits

Education

Stanford University, J.D., 1978: Order of the Coif; First Year Honor for highest first year GPA; President, Moot Court Board

University of Southern California, A.B., Political Science, 1975: *magna cum laude*; Phi Beta Kappa

Experience

Representative Experience as Lead Trial and Arbitration Counsel

- Most recently, Mike served as lead trial counsel in a month-long trial in the Los Angeles Superior Court for the owners of a major manufacturing company who were sued for over \$50 million for fraud, breach of fiduciary duty, intentional interference and aiding and abetting relating to a claimed joint venture agreement. One of Mike's clients was dismissed after plaintiffs rested their case, the jury returned a complete verdict for another of Mike's clients, and the plaintiffs' claims against the third client for fraud and punitive damages were rejected by the jury, which awarded only limited damages against Mike's client.
- The successful defense of the sponsor/manager of five major commercial real estate investment funds in a month-long arbitration evidentiary hearing in which the claimant / investors sought over \$300 million in damages. In an interim award, the arbitrator rejected the claimant / investors' claims for breach of fiduciary duty and fraud and denied all but of a fraction of the derivative claims brought on behalf of the investment funds.
- A complete victory on behalf of the same sponsor/manager in a week-long arbitration evidentiary hearing in which a broker claimed a right to a share of "back end" profits earned by the funds and sought damages exceeding \$20 million. The arbitrator found in our client's favor and awarded our client nearly half a million dollars in attorneys' fees.
- A complete victory on behalf of four commercial real estate investment funds in a three-week arbitration in which the funds' former manager sought over \$60 million in a claimed "back end" profit share. The arbitrator rejected the former manager's claims and awarded the funds over a half million dollars in damages for improper payments the former fund manager made to himself, and further awarded the funds over \$2 million in attorneys' fees.
- A jury verdict after a three-week trial in the U.S. District Court for the Central District of California in which Mike represented a major surfwear company and obtained a permanent injunction against a competitor, the jury finding both willful trademark infringement and intentional trademark dilution.
- For that same client, another jury verdict in a three-week jury trial in the U.S. District Court in the Central District of California on claims for trademark infringement and false designation of origin. The court entered a permanent injunction requiring the defendant to phase out all use of its competing trademark.
- Also for that same client, another jury verdict in a two-week trial in the U.S. District Court for the Central District of California. The jury found defendants guilty of willful trademark infringement and intentional trademark dilution, and the Court issued a permanent injunction restricting defendants' use of their competing mark.
- Also for that same client, a complete victory in a two-week arbitration evidentiary hearing involving claims that Mike's client breached a license and royalty agreement with the claimant relating to legendary skateboarder "Tony Hawk" trademarks. The arbitrator denied all of claimant's claims and awarded Mike's client its attorneys' fees.
- Also for that same client, a jury verdict in a two-week jury trial in the U.S. District Court for the Central District of California in which the plaintiff asserted claims for breach of a licensing agreement and sought over \$50 million in damages. The jury in its verdict denied all of the plaintiff's claims and awarded Mike's client over \$5 million in damages on its cross-complaint.

- A jury verdict after a seven-week jury trial in Orange County Superior Court, in which Mike defended an *AmLaw 25* firm and one of its estate planning partners in a legal malpractice action. Mike was able to cut the claimed damages down from over US\$15 million to slightly under US\$7 million, and persuaded the court to grant a motion for nonsuit as to one of three of the plaintiffs' claims. The jury found in defendants' favor on all remaining claims.
- A win in three-week jury trial in the U.S. District Court for the Central District of California, in which Mike defended a major D&O insurance carrier against claims for breach of contract and insurance bad faith. The Court granted the client's motion for judgment on the bad faith claim, and the case settled shortly before closing arguments.
- A jury verdict in a five-week jury trial in San Diego Superior Court, involving a US\$28 million breach of contract and breach of fiduciary duty action brought against a major apparel company and its founders by the company's former chief financial officer, a major shareholder.
- Three decisive wins in a series of international arbitration proceedings between Mike's client, a commodities broker, and the Russian Federation's chief instrumentality for the export of commercial-grade uranium. In all three arbitrations, Mike's client pursued its rights against the Russian Federation's chief instrumentality for the export of commercial grade uranium. The decisions awarded Mike's client millions of dollars in damages and costs and fees.
- A key interim ruling from an international arbitration panel for a U.S.-based surfwear company and its Hong Kong subsidiary, in connection with a three-year dispute involving proceedings in four separate forums in three countries, establishing the client's right to the exclusive use of its trademarks in China.
- Represented a major U.S. homebuilder in a three-week jury trial in San Diego Superior Court in which the plaintiff asserted claims for breach of an off-balance sheet financing agreement and related fraud claims. The jury found in favor of Mike's client on all tort claims; although limited breach of contract damages were awarded to the plaintiff, on appeal, the Court of Appeal reversed all but a minor portion of the judgment for plaintiff.
- A complete win in a three-week arbitration evidentiary hearing in which Mike represented a group of tenant-in-common investors. The arbitrator found that defendants had breached their fiduciary duties and that plaintiffs had properly terminated defendants as property managers of the 345,000 square-foot Austin, Texas office building at issue in the arbitration.
- Represented a venture capital firm, one of its portfolio companies, and the directors and officers of both companies in a three-week jury trial in the Orange County Superior Court brought by the founder and former Chairman of a the portfolio company. The jury found in favor of the venture capital firm and all of the individual defendants on all claims, and found for the company on all claims but fraud, on which the jury hung; after some post-trial motions, which left the jury's verdict intact for the venture capital firm and the individual defendants, the case settled for a nominal amount paid fully by the company's D&O carrier.
- A complete win in a one-week arbitration evidentiary hearing in which Mike represented the former stockholder of a privately-held U.S.-based bank in a dispute centered on a buy-out agreement, pursuant to which our client sold all of his stock in the company back to the company. The arbitrator found for Mike's client and awarded over \$2 million in damages, plus pre-judgment interest.

- A jury verdict for the general contractor for a Los Angeles Unified School District project, which was significantly delayed due to problems with one of the subcontractors and, eventually, El Niño rains. After a 32-day trial, the jury awarded Mike's client all of its claimed damages, even those in excess of the "penal" amount, or limits, of the bond, under a novel legal theory based upon the surety's "takeover" of the project.
- A complete win in a two-week arbitration evidentiary hearing in which Mike represented the owner/operator of a chain of hospitals against claims by its landlord for a \$14 million fee for consenting to various lease assignments. The arbitrator found for Mike's client, denying all of the claimant's claims.

Professional Activities

Externships

- Honorable Charles B. Renfrew, US District Court, Northern District of California

Fellowships

- American College of Trial Lawyers (2008-present)

Adjunct Professor

- University of California Irvine School of Law (2010-2013)

Former President

- Orange County Bar Association Charitable Fund (2010)
- Orange County Bar Association (2009)
- Association of Business Trial Lawyers, Orange County Chapter (2003)
- Constitutional Rights Foundation of Orange County (1989-1993)

Former Chair

- Orange County Bar Association Judiciary Committee (2002-2003)
- Litigation Section of the Orange County Bar Association (1997)
- California Region (1994-1995) and Fraud Subcommittee (1992-1994) of the Business Torts Committee of the Litigation Section, American Bar Association

Former Member

- Orange County Bar Association Board of Directors (2000-2010)
- Lawyer Delegate to the Ninth Circuit Judicial Conference (2002-2005)
- Board of Directors, Association of Business Trial Lawyers, Orange County Chapter (1998-2004)
- California Judicial Council Task Force on Complex Civil Litigation (1998-2000)

Author

- Regular contributor to *The OC Lawyer*
- "What to Do When Your Brand Is Being Sold Online by cheapandcrummyproducts.com," Orange County Business Journal (June 2010)

- “Cutting Off California State Court Class Actions Before They Start: Recent Appellate Decisions Should Embolden Defendants to Attack Class Complaints Swiftly by Demurrer,” Association of Business Trial Lawyers Report, Orange County (2001)
- “Look Before You Leap: Evaluating the Impact of Insurance Coverage on Your Client’s Objectives Before Filing Suit,” Business Torts Newsletter, American Bar Association, Litigation Section (1992)

Speaker

- “Attitudes Across Latitudes: Challenges in Cross-Border Litigation,” Association of Business Trial Lawyers 36th Annual Seminar (2009)
- “Bridging the Gap,” Orange County Bar Association seminar panel (2009)
- “Businesses in the Courtroom: Getting Your Message Across,” Association of Business Trial Lawyers 35th Annual Seminar (2008)
- “Mediation and Arbitration Practice: Skills for the Successful Advocate,” Continuing Education of the Bar, California (2005)
- “The Clock is Ticking: Trying a Case Under Time Limits,” Association of Business Trial Lawyers Dinner Program (2004)
- “Winning at the Beginning: The Battle for Injunctive Relief,” Association of Business Trial Lawyers 29th Annual Seminar (2002)
- “The Offensive Defensive,” Practising Law Institute, Civil Trials Institute (1997)

Honors & Awards

- Recognized by *Best Lawyers*® 2022 for Bet-the-Company Litigation, Commercial Litigation, and Litigation - Mergers & Acquisitions in Newport Beach, CA; Mike has been listed in *Best Lawyers*® since 2006
- Named Orange County Bet-the-Company Litigation “Lawyer of the Year” by *Best Lawyers*® (2013 and 2019)
- Recommended by *The Legal 500*, Insurance (2018)
- Recognized by *Legal 500 USA* in the Insurance: advice to Insurers category (2011)
- Named a “Super Lawyer” and one of Orange County’s “Top 50 Lawyers” in surveys conducted by *Law & Politics Media Inc.* and published in *Los Angeles* magazine (2005-2019)
- “Southern California’s Top Rated Lawyers” by *American Lawyer Media*