



James J. Ficenec

Partner

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James Ficenec is a partner in the Walnut Creek office of Newmeyer Dillion. From single-person startups to international corporations, Jim represents and counsels companies and individuals in all aspects of California business.

With incredible business acumen, Jim has counseled and defended clients across a variety of industries by advocating for their rights and legal protections. As both a transactional attorney and business litigator, Jim brings the ability to see issues from both perspectives. This offers clients a sharpened skillset of understanding why business breakups happen, and what they can do from the transactions side to stay protected.

Business Transactions & Estate Planning

Jim counsels business owners in sales, acquisitions, leasing, operations, and employment issues leading to a reduced threat in litigation. He also advises clients in personalized estate plans for their assets. Additionally, clients seeking counsel in the administration of trusts, estate administration, or family disputes can look to him for expert counsel.

Jim's experience includes:

- Negotiation of a long-term lease in the new San Francisco Transbay Terminal
- Negotiation of the sale of a multimillion dollar construction company
- Negotiation of employment agreements for top-level executives
- Assisting estate trustees in administration of trusts to maximize amounts available to the beneficiaries.

Business & Real Estate Litigation

As a business and real estate litigator, Jim is especially known for his representation of national and international corporations and material suppliers. He has experience defending clients throughout all stages of litigation before

both federal and state courts.

Jim's experience includes:

- Successfully defended property owner in an action seeking to compel the sale of undeveloped property in San Francisco
- Representation of a limited liability company member in a dispute arising from the sale of company assets
- Protection of investors' interests in litigation alleging fraud of a co-investor

Appellate

An experienced appellate attorney, Jim has argued civil appeals before the California Courts of Appeal and the Ninth Circuit Court of Appeal limit on California's strict product liability laws, among other issues. He has found success in important Appellate cases, including:

- Appellate counsel in *Tait v. Commonwealth* (2024) 103 Cal. App. 5th 271, in which the Appellate Court ruled that a title insurer's standard method of calculating property owners' losses was incorrect and that losses must be measured according to the highest and best use of the property.
- Appellate counsel in *Design Built Systems v. Sorokin* (2019) 32 Cal.App.5th 676, in which the Appellate Court ruled that California's law prohibiting enforcement of contracts with unlicensed contractors does not prevent the introduction of evidence of amounts paid to such contractors in an action against a third party.
- Appellate counsel in *Carrau v. Marvin Lumber & Cedar Co.* (2001) 93 Cal.App.4th 281, in which the Appellate Court limited California's strict product liability laws and acknowledged that plaintiffs suing under tort theories are not entitled to recover the cost of repairing or replacing a defective product.
- Appellate counsel in *Washoe Development Company v. Guaranty Federal Bank* (1996) 47 Cal.App.4th 1518, in which the Appellate Court discussed the application of anti-deficiency laws to the enforcement of out-of-state judgments.

Bankruptcy and Restructuring

As counsel to companies large and small, Jim has advised on a full range of business matters and resolved seemingly insurmountable financial issues. He draws on experience garnered from prior economic downturns to help businesses prepare for and respond to drastic economic swings. Equally skilled at negotiation, work-outs and litigation, Jim is fire-tested on the advantages and disadvantages of Chapter 7, 11 and 13 bankruptcy options. He advises business and property owners and individuals facing vastly changed circumstances, and helps them

determine what makes the most economic sense. For example, a Chapter 11 bankruptcy can allow a business to shed debt and renegotiate loan terms, but it is important to factor in the impact of financial restructuring on future plans. Understanding that bankruptcy and restructuring are part of the financial toolkit, Jim works with clients to evaluate their options and take the sometimes necessary step to rebuild and start over, or to bow out of an unsustainable venture with their personal resources intact.

Outside Private Practice

When not advocating for this client's best interests, Jim focuses on pouring into the next generation of legal experts as an adjunct professor at John F. Kennedy University College of Law.

Services

- Appellate
- Bankruptcy & Restructuring
- Business Litigation
- Business Organizations & Reorganizations
- Business Transactions
- Corporate Matters: Acquisitions, Securities, & Mergers
- Probate Litigation
- Real Estate Litigation
- Real Estate Transactions
- Trust Litigation

Awards & Recognition

- Executive Editor, Industrial Relations Law Journal, 1988-1989
- Recipient, CSUS Alumni Association Senior Achievement Award, 1986

Professional Affiliations

- Adjunct professor at John F. Kennedy University College of Law
- American Bar Association
- Contra Costa County Bar Association

Charitable & Civic Involvement

Jim is active in the Danville Area Chamber of Commerce and is Past Chairman of the Chamber's Board of Directors.

Education

Matters

Real Estate Developer, Contract Defense

A real estate developer agreed to sell a rare undeveloped parcel in San Francisco subject to all easements of record. The buyer, who prepared the purchase agreement, discovered an easement that the

Product Distributor, Employment Compliance

A very successful product distributor needed assistance in ensuring compliance with California's wage and hour laws. Newmeyer Dillion helped the business transition to a system that helped the bu

Mitigating A Trial Disaster

Jim was contacted by a Marin County homeowner who had just lost a jury trial with former contractors and was facing a judgment in excess of \$500,000. Jim reviewed the trial records and identified th

Obtained Quick Dismissal Of A Frivolous Chapter 11

Represented a lender taking possession of equipment and inventory as security for a defaulted loan. Immediately before the lender could take possession of the security, the borrower filed a Chapter

Successfully Protected Creditor Payments Before its Customer's Bankruptcy

Under bankruptcy law, payments received by creditors within 90 days prior to the bankruptcy filing are presumed to be a "preference" and are subject to claw back by the bankruptcy trustee. For e

Publications

Published Article

PG&E Subcontractors: Here's What the Upcoming Bankruptcy Means for You

News

Jul 06, 2022 - Firm News

Newmeyer Dillion Attorneys Named to 2022 Super Lawyers and Rising Stars List

Oct 11, 2019 - Media Coverage

A Prenup is the Latest Must-Have for Tech Startup Founders in Love

Aug 15, 2019 - Firm News

Newmeyer Dillion Attorneys Selected to *The Best Lawyers in America*® and Orange County

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