



JAMES E. FITZGERALD

**MEDIATOR | ARBITRATOR
LEGAL CONSULTANT**

Mr. Fitzgerald is a mediator, an arbitrator, and a consultant in trial and litigation strategy. Jim draws from his 40+ years of experience as a trial lawyer and complex business litigator to provide these services in a variety of substantive areas of law and business.

Jim has first and foremost always been a trial lawyer. He approaches every matter as an experienced trial lawyer – early assessment of the real issues and laser focus on a path to resolution. This avoids getting mired in the clutter of extraneous issues with unnecessary, costly discovery. The focus instead is on what needs to be proved or disproved at trial, and then developing a strategic plan to accomplish the most efficient resolution of the matter. Having tried 50 civil cases and dozens of arbitrations, Jim knows what would, and does, happen at trial and how to prepare for it in the most focused, cost-efficient matter.

This “trial approach” is directly applicable to mediations. Jim approaches mediation with an eye to bringing the parties together to listen to each other, identify the real issues involved in the dispute and helping the parties forge options for resolution. This requires listening, out-of-the-box thinking and a willing commitment to the process. Jim uses techniques learned through years of dealing with litigants and counsel, as well as courses in mediation training, especially transformative mediation, to provide participants with the best opportunity to deal with their disputes and conflicts. Finally, Jim brings a highly respectful manner and calming demeanor for the best opportunity to achieve a successful mediation.

Jim also uses the trial approach in providing services as an arbitrator. Jim assists the parties and counsel in framing the issues in dispute, focusing the parties to design a limited discovery plan, and removing clutter from their arbitration. This approach meets the parties’ expectation consistent with the goal of arbitration – to reduce the costs of court litigation, unnecessary extended discovery, and a faster, less costly resolution. Early-on assessment, strategic focusing of the real issues in dispute, mutual respect for the parties and counsel, and listening are the keys to success in arbitration. Jim’s trial approach implements those principles to achieve that success.

Jim has a J.D. from Fordham University Law School, and a BSBA from Georgetown University School of Business Administration. He is a licensed attorney in New York and California. Jim is a member of the American Bar Association, New York Bar Association, California Bar Association, and Los Angeles County Bar Association. He is a member of ARIAS (Insurance/Reinsurance), PLUS (Professional Liability Underwriting Society) and previously served on the Executive Committee of Los Angeles County Bar Association’s Center for Civic Mediation.

BACKGROUND and EXPERIENCE

Jim began his career practicing in New York at the national insurance firm Mendes & Mount where his practice focused on lawyer's professional liability, directors and officers and reinsurance matters. Several years later, Jim moved to Los Angeles where he began practicing general business litigation with an emphasis on complex insurance/reinsurance cases representing insurers, and, on occasion, insureds. Jim has practiced at several large national/international firms since moving to Los Angeles, during which time he has built a strong foundation for mediation, arbitration and consulting in trial and litigation strategy.

Over the years, Jim has tried 50 jury cases in federal and state courts in California and other select courts around the country. He has also tried dozens of arbitrations before a variety of tribunals, including the AAA, JAMS, ARIAS, The Independent Film and Television Alliance and NASD/FINRA. Jim has also been a trial instructor for the National Institute for Trial Advocacy (NITA) for 30 years, as well as presented CLE courses on trial strategy for in-house and outside counsel.

Jim's practice has allowed him to become expert in the field of insurance law, particularly complex coverage, claims handling and bad faith, as well as defense of professionals (lawyers, accountants, directors and officers, investment advisors, broker-dealer, architects and engineers, and agents and brokers), and, on occasion, prosecuting professional liability claims. Jim has been involved in coverage issues for all types of property & casualty claims (including environmental, wildfires, earth movement, earthquake, hurricanes, and storms), life insurance claims, class actions, cedant/reinsurer claims, cyber claims, and professional liability claims. Insurers have also sought Jim's assistance in investigation and prosecution of claims against managing general agents, insureds and third parties for fraud, embezzlement, and breach of fiduciary duty. He has also advised and assisted U.S. and London brokers in creation and editing of insurance policy wordings and select underwriting risks, as well as advising corporate clients on placement of coverages (especially D&O) and presentation of claims for coverage.

In other business litigation matters, Jim has handled a wide variety of cases including complex contract disputes, partnership disputes, securities cases, theft of trade secrets, and entertainment matters.

Jim has also shared his expertise by being an instructor and presenter in a variety of in-house and outside CLE courses and seminars on trial advocacy, trial strategy, insurance claims handling, bad faith, attorney-client privilege/work-product doctrine issues and best practices.