

JAMES E. FITZGERALD

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MEDIATOR | ARBITRATOR | LITIGATION AND TRIAL STRATEGY CONSULTANT

Highly accomplished trial lawyer and litigator with extensive experience in business disputes. Emphasis in insurance and reinsurance; utilizing that experience to serve as an arbitrator, mediator, and legal consultant. Served as first chair in 50 state and federal jury trials, and first chair in dozens of arbitrations in various tribunals involving varied substantive areas. Trial instructor for 30 years, in-house CLE program provider for insurers, and speaker on insurance and trial procedure issues for APCIA, PLI, the ABA, the California State Bar and L.A. Bar Association. Licensed in California and New York. Specialties include:

- Complex Insurance Coverage
 - Reinsurance Disputes
 - Insurance Bad Faith
 - Professional Liability/Directors & Officers
 - Fraud/Self-Dealing/Embezzlement
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PROFESSIONAL EXPERIENCE

FITZGERALD LEGAL CONSULT, P.C., Los Angeles, CA **2020 - present**

Provides services as a mediator, arbitrator and consultant in litigation and trial strategy

Principal – Mediator, Arbitrator and Legal Consultant

DRINKER BIDDLE & REATH LLP, Los Angeles, CA **2018 - 2020**

National/International law firm of 600 attorneys with a general practice

(merged in February 2020 to become Faegre Drinker Biddle & Reath, LLP, a 1300 attorney firm)

Partner – Business Litigation; Insurance/Reinsurance; Professional Liability

- Advised insurers on how to strategically deal with cutting edge coverage issues involving sexual molestation and Pandemic business interruption claims.
- Prosecuted professional liability claim against engineering firm over construction of power plant.
- Successful achievement of defense summary judgment in civil rights/securities action, later affirmed by Ninth Circuit.
- Co-chaired Perrin Insurance Conference on Handling Catastrophic Insurance Claims.
- Presented CLE instruction to insurers on how in-house counsel can better monitor outside counsel in trial preparation.

AKIN GUMP STRAUSS HAUER & FELD LLP, Los Angeles, CA **2015 - 2018**

National/International law firm of 900 attorneys with a general practice

Partner - Business Litigation; Insurance

- Represented reinsurer in dispute with cedant (captive insurer of major bank) regarding reimbursement for claims against bank and its directors and officers over settlements of class action suits involving residential mortgage backed securities.
- Defended insurers in bad faith cases arising out of wildfires, water losses and earth subsidence claims.
- Developed and presented in-firm CLE instruction on trial strategy.
- Presented to APCIA on issues involving Attorney-Client Privilege and Work-Product Doctrine for In-House Counsel.

STROOCK & STROOCK & LAVAN LLP, Los Angeles, CA **2003 - 2015**

National law firm of 350 attorneys

Partner – Business Litigation; Insurance

- Prosecuted civil fraud claims against a nationwide group of agents and PEOs for illegally issuing workers compensation policies without knowledge or authorization of the insurer; settled on eve of trial and assisted state attorney general's office in criminal investigation.
- Successfully prosecuted insurer's claims for fraud and embezzlement against insurer's managing general agents for self-dealing and breach of fiduciary duty in connection with automobile gap insurance policies.
- Defended insurers in breach of contract and bad faith Texas litigation arising out of coverage for remediation of California Super Fund site polluted by waste management company.
- Represented major bank in 7-week arbitration before The Independent Film and Television Alliance. \$200M fraud claim by distributor of slate of 12 films financed by bank, resulting in defense award and \$10M attorneys fee award for the bank.
- Created and presented in-house CLE programs on Bad Faith and Claims Handling for insurers.

- Assisted in organizing and teaching in-firm annual Mock Trial Program for young associates.

LUCE FORWARD HAMILTON & SCRIPPS LLP, Los Angeles, CA**1994 - 2003***National law firm of 200 attorneys***Partner – Business Litigation; Insurance**

- Recovered millions for insured producer and distributor of Diethylstilbestrol (DES) in litigation over claims for coverage under missing insurance policy; case resulted in California Supreme Court decision in favor of insured: *Dart v. Commercial Union Insurance Company*, 28 Cal. 4th 1059 (2002).
- Represented major insurer in defense of breach of contract and bad faith claims arising out of Northridge Earthquake; tried seven cases – all to defense verdict in federal and state courts.
- Advised and assisted insurer with internal investigation of its practices in claims handling in the Northridge Earthquake.
- Prosecuted federal case against crooked contractors, engineers and independent claims adjusters who defrauded and embezzled insurer on Northridge Earthquake claims, resulting in verdict for millions, including punitive damages.
- Prosecuted claims for theft of trade secrets against fabrication company that contracted to build proto-type machine designed and created by inventor and ultimately recovered monies in bankruptcy of the fabrication company; prosecuted Performance Bond claim against surety on behalf of same inventor.
- In-firm instructor in CLE deposition and trial programs.

EARLIER PROFESSIONAL EXPERIENCE**ADAMS DUQUE & HAZELTINE**, Los Angeles, CA

Partner – Business Litigation; Insurance

- Member Executive and Compensation Committees
- Responsible for Firm’s Legal Malpractice Insurance and Program

MUSICK PEELER & GARRETT, Los Angeles, CA

Associate – Business Litigation; Insurance

MENDES & MOUNT, New York, NY

Associate – Business Litigation; Insurance

EDUCATION**Juris Doctorate**, Fordham University Law School, New York, NY**BSBA**, Georgetown University School of Business Administration, Washington, DC**PROFESSIONAL AFFILIATIONS**

American Bar Association

New York State Bar Association

California State Bar Association

Los Angeles County Bar Association

ARIAS (Insurance/Reinsurance)

Professional Liability Underwriting Society (PLUS)

Center for Civic Mediation, Executive Committee (2010-2015)

National Institute for Trial Advocacy (NITA), Instructor in Trials, Depositions (1990- present)

CERTIFICATIONS & TRAINING

ARIAS Certified Arbitrator (2020 – present)

Los Angeles Superior Court Judicial Assistance Settlement Program (JASOP) (1990’s)

Transformative Mediation by Dan Simon (August 2000)

Pepperdine University’s Strauss Institute for Mediation – “Mediating the Litigated Case” (January/February 2021)