



**James D. Nelson**

Shareholder

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### PRACTICE AREAS

Defense Litigation, Commercial Litigation, Construction Litigation, Indian Law, Intellectual Property, Professional Liability, Transportation Law, International Law, Insurance Coverage, Coverage Analysis, Extracontractual Exposure Advice and Insurance Litigation

### OVERVIEW

James represents businesses in “bet the company” cases. According to a law partner, “clients want James on the field when the game is on the line.” Like a seasoned quarterback, James focuses narrowly on the goal line. James calls plays that are carefully designed to score quickly and efficiently, mindfully respecting his clients’ budget and goals. James uses his years of experience in court to call the right plays at the right time.

James is a member of the Design Professionals Industry Group, a multi-disciplinary team of firm attorneys who help their clients achieve their goals, mitigate risk, and maximize opportunities throughout their business life cycle.

James joined Betts, Patterson in 1980. Since then he has counseled hundreds of clients in a diverse array of complex business disputes including trade secrets, securities, estate, and consumer class action cases. He has represented manufacturers, engineers, distributors, banks, general contractors, developers, insurance brokers, and technology companies. James is a seasoned litigator whose notable engagements include:

- Defending a Texas-based Fortune 100 manufacturing conglomerate in a suit brought by the largest construction contractor in the Pacific Northwest. The dispute involved a multi-million-dollar contract for the sale of massive diesel generator sets that were specially designed to power an Air Force radar station on a remote Aleutian island. The contractor sued the manufacturer for delaying the project. The manufacturer recovered \$2.4 million on its counterclaim.
- Representing an automobile manufacturer that purchased 12,000 motor vehicle engines in Japan for assembly in Windsor, Ontario. The engines were worth \$13 million. They had been shipped from Japan to Washington for rail transport to Windsor and were delayed at Sea-Land’s Tacoma dock due to a major West Coast Teamsters strike. Because the delay threatened to shut down the manufacturer’s Windsor minivan plant, the manufacturer brought an emergency replevin action. The engines were released from Sea-Land’s dock within 24 hours.
- Defending the leading manufacturer of digital multimeters in Europe against color-combination-related trade dress claims brought by the largest manufacturer of digital multimeters in the U.S. The U.S. manufacturer

claimed that the French manufacturer infringed trademark rights that it had developed in its contrasting yellow and dark color scheme. The case settled on the eve of trial. The French manufacturer acquiesced in the U.S. manufacturer's trademark rights in the U.S. in exchange for a perpetual, paid up license that allowed it to continue to use its traditional corporate colors on key product lines.

- Defending hotel owners against securities fraud, racketeering, breach of fiduciary duty, and wrongful withholding of wages claims arising out of a troubled hotel acquisition. The defense was seller's remorse—that is, that the plaintiff withdrew from the partnership because he could not tolerate the risk. The plaintiff's motion for a preliminary injunction was denied, and the plaintiff's *lis pendens* was quashed. The jury returned a defense verdict after deliberating for only two hours following a two week jury trial.
- Representing a decedent's former business partner in a struggle with the decedent's estate for control of a corporation. The corporation owned a casino. Initially, the partner won a preliminary injunction blocking an estate-backed special shareholders meeting for the purpose of removing the corporation's board and halting a 3,333% rent increase. The partner also won summary judgments thwarting the estate's infringing use of the casino's trademark and awarding the corporation \$3 million on its counterclaim.
- Representing a computer network consulting company in a suit against a former employee who secretly concluded an independent contract with a major customer by presenting proprietary technical information as his own. Following a one-week trial in federal court, an Oregon jury returned a verdict for compensatory and punitive damages for violations of the Uniform Trade Secrets Act.
- Representing an Alaska corporation in a suit to recover losses it suffered due to theft and mismanagement by the manager of its retail stores and to remove a member of its board of directors who covered up the fraud. Following a one-week jury trial in Alaska Superior Court, the retailer recovered a judgment for compensatory and punitive damages against the former manager and the director. The court also barred the director from re-election to the board pursuant to Alaska Stat. § 10.06.463.

In recent years, James has also developed a substantial mid-market transactional practice that includes business planning, estate planning, and commercial real estate. He works with clients at every stage of the business life cycle, offering clients advice from “cradle to grave.”

James is admitted to practice in Washington, Oregon, Alaska, and Idaho. He is rated “AV” by Martindale-Hubbell and has been recognized as a “Super Lawyer” each from 2003-2020. James served as the firm's managing partner for 15 years. He graduated from University of Oregon with a B.S. in Economics in 1977 and received his J.D. from University of Washington in 1980.

James is the firm's representative at LAWorld. LAWorld is a network of 57 mid-sized law firms covering most of the major commercial centers around the world, with more than 1350 lawyers in 100 cities. LAWorld's purpose is to provide its members' clients with instant access to quality legal advice anywhere in the world.

James is a frequent writer and speaker in the legal community. His topics include developments in antitrust law that impact intellectual property licensing transactions and law firm organizational health.

## REPRESENTATIVE CASES

### APPELLATE DECISIONS

*Ceva Freight, LLC v. Employment Dept.*, 279 Or. App. 570 (2016), *rev. denied*, 360 Or.751 (2016).

*Bryant v. Am. Seafoods Co.*, 348 Fed. Appx. 256 (9th Cir. 2009) (affirming dismissal for lack of standing).

*Grand View Homes L.L.C. v. Cascade Testing Laboratory, Inc.*, No. 60217-9-I, 2008 WL 4053439 (Wash. App. Div. I September 2, 2008) (notation of unreported decision at 146 Wash. App. 1044).

*Experience Hendrix L.L.C. v. The James Marshall Hendrix Foundation*, No. 05-36029, 2007 WL 1748354 (9th Cir. June 18, 2007), cert. denied, 128 S. Ct. 908 (2008).

*Stonebridge Securities, LLC v. Devine*, No. 58458-8-I, 2007 WL 1464431 (Wash. App. Div. I May 21, 2007) (notation of unreported decision at 138 Wash. App. 1047).

*Martinez v. Cape Fox Corporation*, 113 P.3d 1226 (Alaska 2005).

*Shields v. Cape Fox Corporation*, 42 P.3d 1083 (Alaska 2002).

*Omega Environmental, Inc. v. Blohorn*, No. 00-35211, 2001 WL 1356831 (9th Cir. Nov. 5, 2001).

*Undersigned Shareholders of the Cape Fox Corporation v. Cape Fox Corporation*, No. 0990 (Alaska Sup. Ct. Aug. 30, 2000).

*Hewitt v. Hewitt*, No. 36607-6-I, 1997 WL 306417 (Wash. App. Div. I June 9, 1997).

*Hamilton Properties, Inc. v. Associated Grocers, Inc.*, 144 Or. App. 171, 925 P.2d 1237 (1996).

*City of Ketchikan d/b/a Ketchikan Public Utilities v. Cape Fox Corporation*, 65 F.3d 754 (9th Cir. 1995), opinion withdrawn, 74 F.3d 191, opinion replaced, 85 F.3d 1381 (1996).

*BBC Dodge, Inc. v. Chrysler Corporation*, No. 36799-4-I, 1996 WL 146723 (Wash. App. Div. I Apr. 1, 1996).

*Ketchikan Public Utilities*, 74 Fed. Energy Reg. Comm'n ¶ 62,113, 1996 WL 21903 (Fed. Energy Reg. Comm'n Jan. 22, 1996).

*Tongass Alaska Girl Scout Council, Inc. v. Cape Fox Corporation*, No. 94-36177, 1995 WL 555747 (9th Cir. Sept. 18, 1995) (notation of unreported decision at 67 F.3d 309).

*Hewitt v. Hewitt*, 78 Wash. App. 447, 896 P.2d 1312 (1995).

*Wright Schuchart, Inc. v. Cooper Industries, Inc.*, Nos. 93-35778, 93-35946 and 93-36074, 1994 WL 621889 (9th Cir. Apr. 21, 1995) (notation of unreported decision at 40 F.3d 1247).

*Beal v. Aexel*, No. 16355-1-II (Wash. App. Div. II Feb. 23, 1995).

*Overlake Chrysler Plymouth, Inc. v. Chrysler Corporation*, Nos. 25917-2-I and 26122-3-I (Wash. App. Div. I Aug. 26, 1991).

*Richter v. Trimberger*, 50 Wash. App. 780, 750 P.2d 1279 (1988).

*Rawson v. United Steelworkers of America*, 111 Idaho 630, 726 P.2d 742 (1986).

*Hewson Construction, Inc. v. Reintree Corporation*, 101 Wash. 2d 819, 685 P.2d 1062 (1984).

*Hoppenbrouwer v. Farmers Insurance Exchange*, No. 83-3752 (9th Cir. Feb. 17, 1984) (notation of unreported decision at 730 F.3d 766).

*Cascade Cabinet Co. v. Western Cabinet & Millwork, Inc.*, 710 F.2d 1366 (9th Cir. 1983).

*Williams v. Seattle School District No. 1*, 97 Wash. 2d 215, 643 P.2d 426 (1982).

#### EDUCATION

University of Washington, J.D., 1980

University of Oregon, B.S., 1977

#### ADMISSIONS

Idaho State Bar, 2009

Oregon State Bar, 2007

Alaska State Bar, 2004

Washington State Bar, 1980

#### PROFESSIONAL RECOGNITION

AV® Peer Review Rated by Martindale-Hubbell

*Super Lawyers*, "Super Lawyers" (2003-2021)

#### PROFESSIONAL & CIVIC AFFILIATIONS

Alaska State Bar Association

Federal Bar Association

Idaho State Bar Association

International Association of Defense Counsel

Chair, Business Litigation Committee (2005-2007)

Instructor, Trial Advocacy Program (2006)

King County Bar Association

LAWorld

Oregon State Bar Association

Washington State Patent Law Association

Washington State Bar Association

Member, Intellectual Property Section

#### PUBLICATIONS & PRESENTATIONS

*The "Nuts and Bolts" of Practice Group Management*, Address at LAWorld Annual Meeting in Santiago, Chile (April 12, 2018).

*Making Your Law Firm a Great Place to Work (and Keeping It That Way)*, Address at LAWorld Annual Meeting in Barcelona, Spain (May 3, 2017).

*Consent Judgments in Washington: What You Need to Know to Keep from Getting Burned*, Address at RSUI Group Annual In-House Seminars in Atlanta (April 24, 2012) and Los Angeles (May 14, 2012).

*Developments in Antitrust Law That Impact Intellectual Property Licensing Transactions*, 78 Defense Counsel Journal 274 (July 2011).

*Recent Developments in Antitrust Law that Impact Intellectual Property Licensing Transactions*, Address at the Fifth Annual Conference on Complex Licensing Transactions (August 26, 2010).

*Antitrust and Intellectual Property: Where is that Crossroads in 2010?*, Address at Antitrust Enforcement in Global Technology Markets Conference (June 17, 2010).

*Understanding the Professional Capabilities of LAWorld's American Firms*, Address at LAWorld's Annual Meeting in Dublin, Ireland (April 29, 2008).

*Threats to Excellence in Civil Trial Advocacy*, Address at the Installation of the Betts, Patterson & Mines Professorship in Trial Advocacy at The University of Washington School of Law (April 11, 2008).

*Losing Priority: Security Interests in Collateral Obtained in Contravention of the Federal Securities Laws*, Defense Research Institute Commercial Litigation Committee Newsletter The Business Suit 1-2 (Nov. 2005).

*Composite Trademarks: Deconstructing the Similarity of Marks Element in a Trademark Infringement Action*, 72 Defense Counsel Journal 347 (Oct. 2005).

*The Basics of the Class Action Fairness Act of 2005*, Address at the International Association of Defense Counsel Annual Meeting (July 4, 2005).

*New Class Action Settlement Notice Requirements Made to Combat Clientless Litigation*, 18 LAWorld International Business Briefing 5 (May 2005).

*Removing "Loss" from Loss Causation: An Assessment of the Loss Causation Pleading Requirement in the Ninth Circuit*, Washington Defense Lawyers: Defense News 1-2, 4 (Feb./Mar. 2005).

*Defending Managed Earnings Cases by Understanding Revenue Recognition*, 71 Defense Counsel Journal 289 (July 2004).

*Single Application International Trademark Registration Now Available to the United States*, International Association of Defense Counsel Intellectual Property Committee Newsletter 1-2 (Feb. 2004).

*A Few Things Civil Trial Lawyers Need to Know About the Fifth Amendment*, Washington Defense Lawyers: Defense News 1-5, 14 (Sept. 2003).

*Survey Evidence of Likelihood of Confusion in Trademark Cases: How Much Confusion Is Enough?* International Association of Defense Counsel Intellectual Property Committee Newsletter 1-10 (April 2002).

*Opposing Damages Claims Based Upon Discounted Cash Flow Analysis in Business Cases*, International Association of Defense Counsel Business Litigation Committee Newsletter 1-4 (June 2000).

*Barring Consequential Damages Despite the Failure of an Exclusive Remedy*, International Association of Defense Counsel Business Litigation Committee Newsletter 1-5 (Sept. 1999).

*ANCSA 14c and Shareholder Benefit Issues*, Address at Alaska Bar Association Ninth Annual Alaska Native Law Conference (Oct. 16, 1996).

*The Nuts and Bolts of Commercial Litigation*, Address at Seattle Executives Association Luncheon (Feb. 12, 1994).

*What Makes a Legal Matter Newsworthy? (How to Handle Your Case Without Prejudice to Your Client)*, Address at the Washington State Bar Association's Road Map to Better Understanding Bench/Bar Press Conference (Nov. 19, 1993).

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*Lender Liability: Closing Argument from a Hypothetical Case*, Address at the Sixth Annual Pacific Northwest Bankruptcy and Credit Seminar (May 19, 1990).

*When the Going Gets Rough*, Address at the Alexander Hutton, Inc. Smart Borrower Seminar (Dec. 9, 1987).