



## James H. Berry Jr.

**Partner**  
**Employment & Labor**

Los Angeles

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(310) 601-1120



### Focus Areas

Arbitration  
Commercial Litigation  
Employment & Labor Law  
Employment Litigation  
Entertainment & Digital Media  
Trademark & Advertising

### Highlights

#### **Leader in Employment Law**

James has defended and successfully resolved multiple claims of employment discrimination and wage claims made to state and federal enforcement agencies.

#### **Seven-Figure Awards to Clients in Business Litigation**

Jim has tried/arbitrated various breach of contract/commercial claims producing six and seven figure awards to clients, including appellate affirmances.

#### **Approaches Litigation as a Business Problem**

Jim approaches every case, not just as litigation to be fought and won, but as a business problem to be solved in the way most advantageous for the client.

### Experience

James (Jim) H. Berry is a partner practicing in the firm's employment and labor law and litigation groups. Jim brings to his clients several decades of experience in employment law, including both litigation and counseling on the wide variety of challenges for employers created by California and federal law. His employment litigation and counseling experience includes advising and representing clients on discrimination, harassment, wrongful termination, disability compliance, whistleblower claims, and wage and hour issues.

Jim practices before all California federal courts and state courts and is admitted to the Ninth Circuit. Among the multiple matters handled by Jim are claims based on common-law tortious discharge theories; breach of express and implied contract; discrimination; harassment; wage and hour violations, including overtime, penalty pay, and Private Attorneys General Act (PAGA) claims; class and representative actions; and matters before the NLRB involving non-union employers. In commercial litigation, Jim advises and represents clients on matters related to breach of contract, unfair competition, and a variety of IP infringement litigation disputes. He also represents advertisers in negotiating and documenting high-value celebrity endorsement contracts and in disputes relating to such contracts.

Since starting his career at Jones Day as an associate and partner, Jim has represented a wide variety of clients, ranging from Fortune 100 companies to mid-sized businesses. Prior to joining MWM, Jim established his own boutique litigation and employment practice and continued to develop his commercial litigation and employment practice there and later at Landau Law LLP. In addition to multiple employment/labor matters, his representative cases have covered virtually every aspect of litigation in which businesses become involved, including claims based on: breach of contract, fraud/misappropriation, trademarks, and intellectual property, trade secrets, antitrust/unfair practices actions under federal and state law, unfair competition and false advertising, corporate control disputes, class actions, and other matters involving a variety of business torts.

## **Representative Matters**

### **Representative Employment/Labor Experience:**

- Defended and successfully resolved multiple employment disputes on behalf of large, medium, and smaller employers, including claims alleging harassment, discrimination/retaliation, wrongful termination, disability compliance (leaves of absence, reasonable accommodations, and the interactive process), and whistleblower claims, through defense summary judgments, mediation/settlement, and other ADR processes
- Defended and successfully resolved multiple claims of employment discrimination and wage claims made to state and federal enforcement agencies, including the Department of Fair Employment & Housing, the EEOC, and the California Labor Commissioner, through agency-initiated investigations, conciliation, and hearing processes
- Defended and successfully resolved single-plaintiff, multiple-plaintiff, and class/representative/collective wage and hour actions, and penalty claims (e.g., claims re: overtime, meal/rest breaks, off-the-clock work, expense reimbursement, pay statement violations, waiting time pay, classification of employees as exempt/non-exempt), including through court-approved settlements of class, Fair Labor Standards Act, and Private Attorneys General Act (PAGA) claims
- Developed and assisted employers in implementing and administering ADR/mandatory mediation and arbitration programs

### **Representative Commercial Experience:**

- Tried/arbitrated various breach of contract/commercial claims producing 6-and7-figure awards to clients, including appellate affirmances
- Lead counsel in trial of breach of \$25 million contract for sale of oil properties, obtaining \$9 million award
- Lead counsel in key franchise cases obtaining substantial awards against breakaway franchisees represented by prominent Los Angeles counsel

- Lead counsel in obtaining for trustee \$1 million trial award for breach of fiduciary duty against management of securities firm
- Lead counsel in arbitration resulting in \$900,000 award against medical practice successors for breach of contract
- Lead counsel in action concerning dissipation of assets of elderly businessman, resulting in recovery of \$3 million+ property
- Successful defense of claim for up to a 50% interest in a 40-store retail chain, resulting in a nominal settlement
- Successful resolution of multiple actions by terminated beverage distributors
- Counseling and litigation of “right of publicity” cases for consumer goods sellers
- Led offensive discovery team in tender offer litigation
- Experience in defense of trademark infringement cases, antitrust/unfair competition claims, and false advertising/deception claims
- Successful resolution of putative class action under Telephone Consumer Protection Act (TCPA)
- Experience in litigation/resolution of various inter-shareholder disputes in closely held corporations

## Representative Entertainment Experience:

- Negotiation and documenting high-value celebrity endorsement contracts for major advertisers
- Counseling advertisers on endorsement usage rights and issues regarding rights of publicity
- Successful resolution of disputes between advertisers and Screen Actors Guild re: pension contributions and other sums allegedly due under SAG agreements

## Credentials

### Education

#### Yale Law School

New Haven, CT  
Juris Doctorate

#### Vanderbilt University

Nashville, TN 1974  
B.A. – Slavic Studies

### Associations and Memberships

California Bar Association  
California Lawyers Association  
Los Angeles County Bar Association

### Honors and Awards

Leaders of Influence: Labor & Employment Attorneys  
Los Angeles Business Journal, 2022

## Admissions

State of California

U.S. District Courts for the Northern, Central, Southern, and Eastern Districts of California

Ninth Circuit Court of Appeals