

James P. Fogelman

Partner

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Los Angeles

James P. Fogelman is a partner in the Los Angeles office of Gibson, Dunn & Crutcher. He is a member of the firm's Litigation Department. James provides advice to clients on pre-litigation and litigation matters, and has represented clients in state and federal courts and in arbitrations across the United States.

Most recently, James was included in the 2025 edition of the *The Best Lawyers in America* for his work in Commercial Litigation. He has also successfully litigated several high-profile disputes and was recognized by *Law360* as a Sports MVP for 2017.

James has represented clients in a variety of matters, including in connection with real estate and real estate development disputes and litigation, gaming, sports and fantasy sports litigation, consumer class action and consumer representative action litigation, mergers & acquisitions, joint venture and corporate transaction litigation, software/technology development and implementation litigation, entertainment litigation, shareholder and derivative litigation, antitrust litigation, and complex contract and business disputes litigation. For more than twenty years, James has also advised and represented international, national and regional law firms in connection with litigation in state and federal courts across the country, as well as with respect to internal and external investigations, conflicts and claim analyses, and disqualification and sanctions motions.

Representative Real Estate/Real Estate Development Matters

- ***Fifteen Group v. Cadre***: Represented Operating Manager in a New York JAMS arbitration over an attempt to remove the Operating Manager by the Investment Member of a real estate joint venture. Successfully overturned the attempted removal after a week-long evidentiary hearing when a 3-member panel issued a unanimous decision in our client's favor.
- ***NMS v. AEW Capital Management***: Represented AEW and its affiliates in Los Angeles Superior Court, in an action stemming from a real estate development joint venture, in which the plaintiffs sought almost \$12 billion in damages. After a multi-week bench trial on AEW's motion for terminating sanctions, the Court granted AEW's terminating sanctions motion, finding that NMS had engaged in the forgery of key contracts, committed perjury and engaged in widespread evidence destruction in an effort to cover up the wrongdoing. In addition to dismissing the NMS' entire case with prejudice, the Court entered a default judgment in favor of AEW on its cross-complaint and granted AEW monetary sanctions. Prevailed on appeal.
- ***Garland Connect v. HRRP Garland, LLC***: Represented HHRP in a suit filed by GC filed in Los Angeles Superior Court seeking to establish that it had properly exercised options to extend its license to operate the Meet-Me-Room at a major Los Angeles commercial property and alleging breach of the license agreement. Got all claims dismissed with prejudice, permitting the immediate removal of GC



Capabilities

Litigation
Antitrust and Competition
Appellate and Constitutional Law
Betting and Gaming
Class Actions
Law Firm Defense
Media, Entertainment, and Technology
Real Estate
Securities Litigation
Sports Law

Credentials

Education

University of California - Los Angeles -
1992 Juris Doctor
University of Pennsylvania - 1989 Bachelor
of Science

Admissions

California Bar
Nevada Bar
New York Bar
District of Columbia Bar

from the property and its replacement as the MMR operator. Prevailed on appeal. Also represented HRRP in a related action filed by GC alleging wrongful ejection from the premises; GC voluntarily dismissed the action after Gibson Dunn defeated two consecutive applications for temporary restraining order, and also defeated a subsequent identical claim on summary judgment in an arbitration filed by GC at JAMS.

- ***In re Seven Hills Golf Course Litigation:*** Represented Rio Hotel Suites & Casino in two trials of consolidated class actions filed in the District Court of Nevada, Clark County, and a related appeal to the Nevada Supreme Court, in which the plaintiffs had sought to set aside the Rio's purchase of a multi-million dollar golf course and establish special rights to play on the course. The purchase was affirmed and no special rights to play the course were established.
- ***Southeast Corner LLC v. LF-120 Spalding LLC:*** Represented LF-120 Spalding, an affiliate of The Lefrak Organization, in a Los Angeles Superior Court action over a commercial real estate dispute concerning the rights to a parking structure in Beverly Hills. Prevailed on summary judgment and on appeal.

Representative Gaming, Sports and Fantasy Sports Matters

- ***Los Angeles Forum Acquisition:*** Represented CAPSS LLC, a company formed and owned by L.A. Clippers Chairman Steve Ballmer, in connection with the \$400 million acquisition of the Forum property, a famous concert and event venue in Inglewood, California, from Madison Square Garden Company; the acquisition included a settlement of three years of bitter litigation and claims in Los Angeles relating to the new proposed arena in Inglewood, future home of the Los Angeles Clippers basketball team; continue to serve as litigation counsel in connection with claims related to the development of the Clippers' new home in Inglewood.
- ***Brincko v. Rio Properties:*** Represented Rio Properties, LLC, a subsidiary of Caesars Entertainment, Inc., in a multi-week jury trial in the United States District Court for the District of Nevada. The plaintiff, a bankruptcy trustee for a mortgage and investment company, had filed both state and federal claims seeking to void 66 alleged fraudulent transfers at the Rio Sports Book, totaling millions of dollars. The jury unanimously upheld Rio's good faith defense to the claims with respect to approximately 90% of the alleged transfers.
- ***Boren v. Harrah's Entertainment:*** Represented Harrah's Entertainment, Inc. and Rio Properties, Inc. in a bench trial in the United States District Court for the District of Nevada. The plaintiff had sought millions of dollars in damages stemming from an alleged malicious prosecution related to an unpaid marker. Obtained a complete dismissal of the case pursuant to FRCP Rule 52 after the close of the plaintiff's case.
- ***Patriots for Legal Equality v. DraftKings:*** Represented DraftKings in an action filed in Massachusetts state court challenging the legality of fantasy sports in the state and seeking over \$1 billion in damages. Prevailed on a motion to dismiss.
- ***Independent Sports & Entertainment v. Fegan:*** Represented ISE in a dispute with an NBA agent over the sale of his business to ISE. Obtained a temporary restraining order against the agent in Los Angeles Superior Court and subsequently prevailed on a motion to remand in the United States District Court for the Central District of California after the action was removed to federal court subsequent to the issuance of the TRO. Participated in a lengthy arbitration through the evidentiary hearing, and subsequently entered into a confidential settlement after the decision by the Arbitrator.
- ***Caesars Interactive v. Ultra Internet Media:*** Represented the owner of the World Series of Poker in a series of breach of contract and trademark infringement actions in the United States District Court for the District of Nevada concerning advertisements on WSOP poker tables televised on ESPN during WSOP tournaments.

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Representative Class Action Matters

- ***In re Daily Fantasy Sports Litigation:*** Represented DraftKings before the U.S. Judicial Panel on Multidistrict Litigation and successfully obtained the transfer of over 80 putative class actions that had been filed across the United States, related to the marketing and provision of Daily Fantasy Sports, to a single judge in the United States District Court for the District of Massachusetts.
- ***Kelly v. eHarmony:*** Represented eHarmony in a putative nationwide class action filed in federal court challenging eHarmony's alleged representations regarding the security of its matching service, and obtained a complete dismissal at the pleading stage.
- ***Withers v. eHarmony:*** Represented eHarmony in a putative nationwide class action in federal court challenging eHarmony's matching practice. Defeated class certification and prevailed on a motion for summary judgment against the named plaintiff.
- ***Patel v. Farmers Insurance Exchange:*** Represented Farmers in a putative class action in federal court involving allegations of consumer protection act violations arising out of certain automobile policies. Plaintiffs voluntarily dismissed the action in the face of a motion to dismiss.
- ***Melendrez v. DaimlerChrysler:*** Represented DaimlerChrysler in a putative nationwide class action filed in New Mexico, in which the plaintiffs alleged claims of product defect, false advertising and warranty law violations under New Mexico law, the UCC and the Michigan Consumer Protection Act, in connection with an allegedly defective "seat back mechanism" in certain Dodge Ram trucks. Defeated class certification and prevailed on a motion to dismiss.
- ***Phillips v. DaimlerChrysler:*** Represented DaimlerChrysler in a putative nationwide class action involving claims of unfair trade practices and false advertising related to the towing and payload capacity of certain Dodge Ram trucks. After a motion to dismiss the complaint was granted in part, and after the plaintiff filed an amended complaint, the trial court granted defendant's motion to strike the amended complaint as being inconsistent with the court's prior order and containing false allegations. Judgment was entered in favor of the defendant, and attorneys' fees were awarded to the defendant in connection with the motion to strike.
- ***Angelino v. DaimlerChrysler:*** Represented DaimlerChrysler in San Diego Superior Court in a state-wide class action involving allegations of safety defects and false advertising relating to the absence of a "brake shift interlock" system in certain vehicles. Substituted in as counsel of record on the eve of trial and prevailed on a motion for judgment on the pleadings in favor of DaimlerChrysler. Following a successful motion to strike plaintiff's amended complaint, judgment was entered in favor of DaimlerChrysler.
- ***Lubitz v. DaimlerChrysler:*** Acted as both trial and national coordinating counsel for DaimlerChrysler in a series of class actions filed across the United States alleging safety defects and false advertising, and breach of warranty, in connection with the braking system of certain Jeep Grand Cherokee vehicles. While dispositive and class motions were pending in most of the actions, negotiated a complicated but favorable settlement of all claims on a nationwide basis, involving over 1.4 million vehicles and 2.8 million consumers. Obtained approval of the nationwide class settlement in New Jersey state court.

Representative Software And Technology Development and Implementation Matters

- ***Harrah's Operating Company v. PROS Revenue Management:*** Represented Harrah's in a breach of contract and fraud action filed in Clark County District Court in Las Vegas related to the development and implementation of revenue management software.
- ***Robin Hood Foundation v. Patriot Communications:*** Represented the Robin

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Hood Foundation in a breach of contract and fraud action filed in Los Angeles Superior Court related to the development and implementation of a website and telephone system designed to collect donations related to the 12-12-12 Hurricane Sandy Benefit Concert at Madison Square Garden.

Representative Law Firm Defense Matters

- Represented a law firm in an action filed in Washington, D.C. in which the plaintiff, a major accounting firm, had alleged negligence and fraud and sought hundreds of millions of dollars in damages relating to the accounting firm's own marketing of certain tax products. Prevailed on summary judgment and before the District of Columbia Court of Appeal.
- Represented a law firm in two multi-million dollar actions in Los Angeles Superior Court in which the now infamous and scandal-plagued City of Bell alleged claims of negligence and fraud related to numerous municipal bond sales. After discovery, secured voluntary dismissals of both actions, obtained prevailing party status and cost awards in favor of the law firm.
- Represented a law firm in connection with a claim for almost \$175 million in damages for alleged professional negligence and intentional interference with contract and prospective economic advantage relating to the failure of a direct marketing and infomercial campaign for a celebrity skin care line; prevailed after a month-long jury trial in Los Angeles Superior Court.
- Represented a law firm in an action filed by various pension trusts in Portland, Oregon for almost \$100 million for alleged professional negligence in connection with the high-profile failure and bankruptcy of Capital Consultants, Inc. Prevailed on summary judgment.

James earned his law degree in 1992 from the UCLA School of Law. He received a Bachelor of Science degree in Economics, with a concentration in Finance, from the Wharton School of Economics at the University of Pennsylvania in 1989.

James is a member of the bars of the State of California, the State of Nevada, the State of New York, and the District of Columbia. James is a member of the Firm's Office of General Counsel, a member of the Firm's Ethics Committee, a member of the Firm's Lateral Partner Committee, and Co-Chair of the firm's Law Firm Defense Practice Group.

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