



James E. Breitenbucher

Partner

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Jim has a national litigation practice focused on defending manufacturers against product liability claims and related contract disputes. His clients include manufacturers of automated process control systems, valves and other industrial equipment used in power plants, oil refineries, chemical plants and other industrial facilities.

Jim's pragmatic legal counsel draws from a deep background of having worked in a number of industrial settings, including a door manufacturing plant, industrial dredging operations and a paper mill. His hands-on experience and legal skill combine to offer clients nuanced guidance and strategic insight, particularly with disputes that involve complex technical issues.

Jim has won numerous cases on summary judgment for both plaintiffs and defendants before state and federal courts, allowing his clients to avoid the risk and expense of trial. Recent successes include:

- Obtaining summary judgment in Texas federal court for an automated process control system, arguing that his client had fulfilled all contractual obligations and that the plaintiff power plant could not avoid those contract terms by suing in tort.
- Persuading a Wyoming federal court on summary judgment that an industrial valve manufacturer did not owe the plaintiff oil refinery any legal duty to ensure that it chose the correct valve for its industrial process.
- Obtaining summary judgment in a Washington state court that the State of Washington would be legally liable for property damages if its road construction contractor started the Taylor Bridge Wildfire, leading to a \$59.75 million settlement.

Jim also advises businesses on risk-mitigation strategies such as their terms and conditions of sale, online warranties and product safety programs, including best-practices for documenting product safety testing, and legal risks in emerging technologies, such as automation, smart devices (Internet of Things), and VR/AR.

Representative Matters

Product Liability and Industrial Accidents

- Defended **automated control system manufacturer** against allegations that a control logic programming error damaged a steam turbine generator. Obtained summary judgment based upon our client fulfilling its contractual obligations and the Economic Loss Rule.



- Defended **automated control system manufacturer** against allegations in subrogation action that client's control system failed to prevent the manual opening of a valve that resulted in an explosion and \$1 billion insurance payout. Obtained dismissal without any settlement payment.
- Defended **PID temperature controller manufacturer** against allegations that product started fire that caused \$25 million in damages to food processing plant. Obtained summary judgment in favor of our client based on plaintiff's inability to prove a product defect.
- Advised **major software company** regarding risk mitigation strategies for selling operating system as embedded software for third-party products.
- Defended **industrial valve manufacturer** against allegations that it supplied a valve with the wrong metallurgy for the plaintiff's application and therefore was responsible for over \$100 million in damages resulting from a large oil refinery fire. Obtained summary judgment in favor of our client based on plaintiff's inability to prove a product defect or breach of duty.
- Defended **HVAC compressor manufacturer** against allegations of a product defect. After moving for summary judgment, the other parties in the lawsuit reached a settlement and all claims against our client were dismissed.
- Represented **international paper manufacturer** as co-lead counsel in multimillion-dollar dispute over defects in the construction of a boiler for a biomass co-gen power generation plant.
- Represented purchaser of **plastics extrusion business** against the sellers to recover from post-closing damages caused a plant explosion. After an arbitration hearing in Milan, Italy, resolved the matter on favorable terms.
- Defended **video game console, audio equipment, and boat manufacturers** against product defect allegations.

Non-Compete Litigation

- Defended a **mortgage lender** sued for hiring an employee subject to non-compete and non-solicitation agreements. After successfully opposing the entry of any injunctive relief, resolved the matter on favorable terms.
- Represented a **technology company** to enforce former employee's non-compete and non-solicitation agreements. After successfully obtaining injunctive relief, the defendant's new employer terminated his employment.
- Represented a **medical device manufacturer** to enforce former president's non-solicitation agreement.
- Defended an **insurance broker** sued for hiring an employee subject to non-compete and non-solicitation agreements. After successfully opposing the entry of any injunctive relief, resolved the matter on favorable terms.

Real Estate Disputes

- Represented a **private electric utility** as lead defense counsel in validating its utility easements through a former railroad corridor that had been "railbanked" under the federal Rails-to-Trails Act.
- Represented **landlords and tenants** in commercial lease disputes.

Other Commercial Disputes



- Defended a **private equity fund** and its principals as defense counsel during four-week trial that resulted in a defense verdict that was upheld on appeal.
- Represented a **consumer lender** as lead defense counsel in an administrative hearing over charges brought by the Washington Department of Financial Institutions. The hearing resulted in DFI withdrawing certain charges before the matter was settled.
- Defended a **national mortgage lender** as lead counsel in lawsuit alleging fraud and CPA violations.

Before Fox Rothschild

Prior to joining Fox Rothschild, Jim was a principal at Riddell Williams.

He previously served a two-year clerkship for the Honorable Faye C. Kennedy of the Washington Court of Appeals and practiced in the New York office of a national law firm.

During law school, Jim was a Scholar in Law, received the Honor Scholar Award and served as an editor on Law Review.

Honors & Awards

- Recipient, Outstanding Young Lawyer Award, King County Bar Association (2002)
- Named a "Washington Super Lawyer" by *Super Lawyers* (2016-2020)
- Named to a list of Washington Rising Stars, Thomson Reuters

Practice Areas

- Litigation
- Manufacturing
- Product Liability & Mass Torts
- Appellate Practice

Bar Admissions

- Washington
- New York

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. District Court, Eastern District of Washington
- U.S. District Court, Western District of Washington
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Central District of Illinois



Education

- Washington University in St. Louis (J.D., *Order of the Coif*)
- University of Washington (B.A.)

Emerging Technology

Technology is advancing at an ever-increasing pace, presenting businesses with new and challenging risks. Jim leverages his knowledge of this area to lead a Fox team dedicated to helping manufacturers whose products incorporate emerging tech such as artificial intelligence, AR/VR, automation, machine learning and smart devices (Internet of Things/IoT) lower their risk of class action lawsuits. The Emerging Tech group provides strategic advice on:

- Product safety testing and documentation
- Health and safety risk assessments
- Product warnings and instructions (often with outside experts)
- Risk allocation strategies through contracting
- Privacy concerns
- Dispute and litigation avoidance and preparedness measures

For additional detail, visit our [Emerging Tech: AI, AR/VR, IoT, Automation](#) group page.