



Neal P. Panish

Shareholder

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Mr. Panish is a trial attorney, serving as lead counsel for a wide variety of institutional and entrepreneurial clients in State and Federal Court trials and arbitrations. He is a member of Seltzer Caplan McMahon Vitek and has been recognized as a Super Lawyer, a Top Lawyer by *San Diego Magazine*, and one of San Diego's top ten real estate and construction litigation attorneys by his peers.

Practice Groups

- Administrative, Land Use, & Environmental Law
- Appellate Law
- Construction Law & Construction Litigation
- Employment Law
- Estates & Trusts Litigation
- Insurance Law
- Intellectual Property
- Litigation
- Real Property

Education

Mr. Panish received his B.A. in economics, with provost honors, from the University of California, San Diego in 1983. He earned his law degree, *cum laude*, from Loyola Law School in 1987, where he was a staff member and Note and Comment Editor of the *International and Comparative Law Journal*.

Representative Matters

General Practice

- Representation of institutional and entrepreneurial clients in commercial litigation
- Representation of businesses, financial institutions, banks, real estate entrepreneurs, developers and owners, contractors, subcontractors and individuals in a wide array of finance, real estate and construction-related litigation
- Representation of publicly traded REIT in commercial litigation, real estate litigation, commercial lease disputes, condemnation proceedings and CEQA litigation
- Representation of corporations, limited liability companies, officers, directors and managers
- Representation of publicly traded corporation in high stakes derivative action involving alleged breach of fiduciary duty and fraud claims
- Representation of manager of limited liability company in governance disputes involving breach of duty, removal of manager and related claims in derivative action
- Representation of managing member of limited liability company defense of claims against managing member for breach of duty, fraud and removal

- Representation of public agency in defenses of an array of claims including real estate litigation, taxpayer claims
- Representation of technology, services and other companies in alleged trade secret/proprietary misappropriation, unfair business practices and employment litigation
- Defense and prosecution of real property title insurance and escrow claims/disputes on behalf of title insurance companies and their insureds, escrow companies and property owners
- Representation of real property owners, hoteliers, restaurant owners and business owners in tax controversies, property tax assessment appeals and valuation hearings
- Representation of institutions and individuals in probate trust litigation
- Defense of public officials in Political Reform Act litigation

Specific Representative Matters

- Representation of reinsurance intermediary in complex litigation filed by insurance agent/producer alleging damages in excess of \$10 million for breach of producer's agreement, misappropriation of trade secrets and fraud. The case involved complex surety bond underwriting, claims handling, reinsurance and proprietary information issues, as well as the investigation of numerous, underlying surety bond claims. After approximately one week of hearings on motions *in limine* and *voire dire* of 200-plus potential jurors for anticipated 6-month trial, the case settled favorably during jury selection
- Defense of German bank/secured creditor in adversary proceeding filed by general contractor asserting damage claims in excess of \$22 million on theories of equitable subordination, fraud and conspiracy in Chapter 11 bankruptcy proceeding in the United States Bankruptcy Court, Central District of California. Successfully resolved complex adversary proceeding during trial, freeing up in excess of \$40 million in secured sales proceeds
- Defense of German bank in complex, consolidated San Diego Superior Court proceedings involving 40-plus civil cases brought by materialmen, suppliers, subcontractors and design professionals seeking priority over German bank's deed of trust. Successfully obtained dismissals, defense judgments and settlement of all cases
- Representation of public agency in successful defense of \$67 million damages claim arising from failed negotiations of long-term Public-Private Partnership (P3) to develop public agency (and culminating defense verdict (12-0) on breach of contract claims after lengthy jury trial)
- Prosecution of trade secret claims by information technology company against former employees and competitor, resulting in recovery of substantial monies through settlement
- Representation of institutional real property owner in complex real estate litigation and condemnation proceedings arising from various public projects, including California State Route 56, widening of Interstate 5 and the Carmel Valley Restoration and Enhancement Project (CVREP)
- Prosecution of specific performance action for real estate developers after 30-day trial. Obtained specific performance judgment acquiring approximately 80-acres of undeveloped land in northern San Diego County and attorney fee awards exceeding \$800,000
- Representation of automobile conglomerate in approximately 30-day arbitration over 6-month period of time in alleged wrongful termination/breach of contract claims by former employee
- Representation of automobile conglomerate in approximately 14-day arbitration over 3-month period in defense of commercial contract claims asserted by individual dealer/broker and counterclaim for breach of an alleged oral contract. Complete defense verdict and substantial award on counterclaim and attorney fees
- Defense of CPA firm in multi-party, real estate-related, malpractice/securities litigation
- Defense of national real estate developer in class action case and arbitration asserting unfair business practices and violations of Business & Professions Code §§ 7000 – 7191 (contractors licensing law)
- Defense of national title insurance company in insurer bad faith litigation case in San Diego Superior Court arising from the purchase and later foreclosure on 100-plus room motel. Defense judgment obtained on motion for summary judgment and successfully upheld on appeal

- Defense of national title insurance company in insurer bad faith litigation filed in United States District Court for the Southern District of California by insured arising out of land use constraints and violations on insured's improved real property
- Defense of national retail tenant in commercial lease dispute with landlord/property owner; defense verdict obtained after trial
- Prosecution of breach of commercial lease case by landlord/property owner against national retailer enforcing liquidated damages provision to judgment and successfully upheld on appeal
- Defense of purchaser/developer of large, retail real estate project in approximately 28-day jury trial, post-trial motions and appeal involving alleged real estate fraud
- Representation of public officials in defense of Political Reform Act cases alleging official misconduct and violations of campaign or election law
- Defense of regional supermarket company in breach of lease/covenant of continuing operations case resulting in defense judgment, upheld on appeal
- Representation of majority co-owners in defense of partition action involving 100-plus room motel in Mission Valley area of San Diego, California
- Representation of trustees/co-owners in successful prosecution of partition action to require sale of approximately 13-acres of undeveloped land neighboring California State University, San Marcos
- Defense of former employees and start-up life science company defeating claims asserted by publicly-traded life science company on alleged theft of trade secrets, breaches of covenants not to compete, breaches of fiduciary duty and related claims. Settlement after summary judgment hearing and successful writ to court of appeal
- Defense of reinsurance intermediary in complex trade secret case brought by health care insurance producer against health care insurer and reinsurance intermediary arising from California's then-largest health care insurance program with hospitals, physicians groups and medical professionals
- Defense of real estate developer/purchase of real property for retail development project for claims of fraud, breach of contract arising from purchase of land for retail development project
- Prosecution of complex bad faith action by commercial property owner against insurance companies arising from 5-alarm fire in China Basin Landing area of San Francisco resulting in substantial settlement
- Representation of co-tenants in real estate partition action compelling sale via public auction of 12.70 acres of raw land in San Marcos, California
- Defense of real estate developer in real estate fraud action by purchasers of condominiums. Defense summary judgment granted by trial court, affirmed on appeal
- Defense of real estate developers on Mills Act claims asserted by purchasers of condominiums. Defense summary judgment affirmed on appeal
- Representation of creditors in trial in United States Bankruptcy Court, Southern District to determine value of assets of debtor's estate including substantial real property, hotel/motel properties, apartments and other residential properties
- Representation of commercial property owner in prosecution of business interruption claim arising from fire losses suffered by owner of 900,000 square foot office building
- Representation of restaurant group in real property tax assessment controversies and successful assessment appeal
- Representation of hotel group in successful assessment appeals in various, multi-day hearings on real property assessment appeals of unlawful taxation of intangible assets, providing total refund recovery in excess of seven figures
- Represented trustees and beneficiaries in will and trust contests and related probate litigation
- Successfully represented co-trustee and beneficiary to defeat opposing co-trustee/beneficiary's petition to reform transfer of interests in limited liability company and title to multi-unit residential apartment complex
- Represented trustor/beneficiary in lengthy probate cases to obtain inheritance of diverse assets of estate of high net worth decedent including family businesses

Professional Affiliations & Admissions

- State Bar of California 1987
- District Court, Northern, Central and Southern Districts of California
- San Diego County Bar Association
- San Diego Trial Lawyers Association

Publications & Speaking Engagements

- “Chile Under Allende: The Decline of the Judiciary and the Rise of a State of Necessity,” published in the *Loyola of Los Angeles International and Comparative Law Journal*
- Speaker, “Legal Ethics in California” seminar (December 2000; Lorman Education Services)

Published Opinions

- *El Centro Mall, LLC v. Payless Shoesource, Inc.*, 174 Cal.App.4th 58; 94 Cal.Rptr.3d 43 (2009)
- *In Re Perry Arden v. Motel Partners*, 176 F.3d 1226 (9th Cir. 1999)

Professional Awards & Honors

- Named a 2013, 2014, 2015, 2016, 2017, 2020 and 2021 Super Lawyer in real estate/business litigation by *San Diego Super Lawyers Magazine*; *San Diego Super Lawyers Supplement to The New York Times*, *Riviera San Diego Magazine* and *Super Lawyers Business Edition*
- Recognized in the 2018-2023 editions of *The Best Lawyers in America* in the practice area of Litigation – Real Estate
- Named a 2014 Top Lawyer in Administrative, Land Use & Environmental by *San Diego Magazine*
- Named by peers as one of San Diego’s “Top Ten Real Estate and Construction Litigation Attorneys,” *San Diego Daily Transcript* (2006)