

The logo for Higgs Fletcher Mack is displayed in white, uppercase letters against a blue background. The words 'HIGGS', 'FLETCHER', and 'MACK' are separated by vertical bars. The background of the entire page features a faint, blue-tinted image of a classical building with columns and arches.

HIGGS | FLETCHER | MACK

TRUSTED LEGAL EXPERTISE

Professional Liability

HFM's Professional Liability Law Practice Group works on finding successful solutions that meet your needs and minimize your potential economic and reputational injury.

We know how costly professional liability litigation can be to you and your insurers, and how difficult and distracting it can be, potentially jeopardizing your client relationships and revenue generation.

Our significant experience allows us to develop case-specific strategies based on close consultation with you to terminate professional liability disputes and litigation as effectively and promptly as possible. We work shoulder-to-shoulder with clients to find the best resolution, and investigate and analyze claims to quickly understand the core issues. We handle each issue with the utmost discretion.

HFM has the demonstrated courtroom capability and skill set to pursue matters through trial or arbitration. We have tried dozens and dozens of cases with great outcomes for our clients in state and federal courts. Our attorneys have litigated numerous high-value cases involving complex factual and legal issues, regularly litigating against opponents of greater size and resources. Our track record speaks for itself.

Our core areas of professional liability representation includes:

- ▶ Attorneys
- ▶ Accountants
- ▶ Insurance Agents & Brokers

HFM also represents lawyers and their local, regional, national and international law firms. Consistent with our approach to all litigation matters, we devise a case strategy geared to an early resolution that protects both your economic interests and your hard-earned reputation. We work with you to develop a game plan tailored to your goals that focuses on both the big picture as well as the specific matter at hand.

Our team has extensive experience in a variety of lawyer liability matters, including the following types of claims:

- ▶ Professional negligence / legal malpractice
- ▶ Breach of fiduciary duty
- ▶ Breach of contract
- ▶ Unfair competition
- ▶ Fraud
- ▶ Malicious prosecution
- ▶ Abuse of process
- ▶ Defamation
- ▶ Ethical violations
- ▶ Attorney withdrawal
- ▶ Conflicts of interest
- ▶ State Bar complaints
- ▶ Fee disputes
- ▶ Partnership or shareholder disputes, including dissolutions of firms
- ▶ State and federal administrative and regulatory actions
- ▶ Internal law firm investigations
- ▶ Risk management and claim avoidance strategies
- ▶ Disputes with professional liability insurers
- ▶ Law firm employment matters

Our experience in professional liability includes representing accountants with firm clients ranging from large international accounting firms to individual CPAs. We are able to assist with all facets of responding to a professional liability claim and we represent accountants in all manners and forums of litigation and alternative dispute

resolution proceedings. The HFM team can provide sophisticated and experienced risk management counseling, and contract negotiation and drafting assistance. Our focus is always on working to manage and control your risks so that you can concentrate on what you do best.

For our accounting clients, our experience and expertise includes litigation and alternate dispute resolution proceedings for:

- ▶ Professional liability claims (errors and omissions)
- ▶ Fee and payment disputes
- ▶ Breach of contract disputes
- ▶ Unfair competition / Unfair business practices (California Business & Professions Code § 17200)
- ▶ Employment matters
- ▶ Risk management counseling and advisement
- ▶ Employment counseling and advisement
- ▶ Business counseling and advisement
- ▶ Contract drafting
- ▶ Professional service agreements
- ▶ Insurance-related counseling and advisement (including insurance coverage issues)
- ▶ Licensing matters and inquiries
- ▶ Professional Liability – Insurance Agents and Brokers

Our Professional Liability group is frequently engaged by local, regional, and national insurance brokerages to defend errors and omission claims brought against agents and brokers. Our team litigates matters in state and federal courts throughout Southern California.

We also have experience and expertise in a variety of professional liability matters involving insurance agents and brokers, including the following:

- ▶ Errors and omissions claims
- ▶ Disputes between insurers and their agents and brokers.
- ▶ Unfair competition and false advertising claims
- ▶ Trade secret infringement claims

- ▶ Breach of contract claims
- ▶ Class actions against insurance agents and brokers
- ▶ Disputes between competing insurance agencies and brokerages
- ▶ Partnership or shareholder disputes within insurance agencies and brokerages, including dissolutions of firms
- ▶ Internal investigations of problematic conduct or practices within agencies or brokerages which could lead to third party claims or regulatory action
- ▶ Advisement on risk management and claim avoidance strategies to resolve or terminate toxic customer relationships short of claim assertion

Representative matters for HFM's Professional Liability Practice Group include the following:

- ▶ Representation of a national law firm in a professional liability action brought by a health care staffing company. The company claimed the law firm negligently litigated trade secret cases and billed excessively for its work. The case was settled after an eight-week jury trial.
- ▶ Representation of a law firm in a professional liability action brought by limited partners in a Texas real estate venture. Plaintiffs claimed damages of \$12 million. A defense verdict was rendered in favor of the law firm after a two-week jury trial.
- ▶ Representation of three former Heller Erhman partners in a judicially-initiated contempt proceeding arising from e-discovery violations in the Qualcomm v. Broadcom litigation. Each client was absolved of responsibility and was dismissed from the proceeding.
- ▶ Defended international law firm in a professional liability claim brought by a California resort developer arising from acquisition of real property in Mexico for a proposed resort development. Litigation involved proceedings in California and Mexican courts.
- ▶ Represented major Orange County law firm in a federal court fee disgorgement action initiated by the SEC and the court-appointed receiver of a bankrupt entity under investigation by the SEC.
- ▶ Defended national law firm in a professional liability action arising from a series of business transactions between clients and firm partners, including a failed real estate development. Plaintiffs' damage claims exceeded \$6.5 million. A defense verdict was rendered in favor of the law firm and its partners after a seven-week jury trial.
- ▶ Successfully defended law firm in consolidated class action professional liability and securities fraud cases in state and federal court over issuance of tax-exempt municipal bonds. Class members sought damages in excess of \$75 million.

- ▶ Defended international law firm in consolidated professional liability actions brought by FDIC and bankruptcy trustee of failed savings and loan association. Claims arose from law firm's prior defense of the savings and loan in underlying securities class action and derivative litigation. The consolidated claims brought against law firm client exceeded \$140 million.
- ▶ Defended national law firm in a professional liability action brought by limited partners in a real estate limited partnership that was represented by the law firm. Obtained dismissal of client from action by way of motion for summary judgment
- ▶ Defended international accounting firm in coordinated class action securities and professional liability litigation in state and federal courts. Litigation arose from alleged accounting fraud at a publicly traded business software company. The class plaintiffs sought damages in excess of \$100 million.
- ▶ Representation of an international accounting firm in a professional liability action brought by a sports memorabilia company. The action arose from advice given by the accounting firm concerning tax avoidance strategies later disqualified by the IRS, resulting in a significant tax liability and penalties to the plaintiff.
- ▶ Defended a national surplus lines insurance broker in a professional liability action involving allegations of fraud, misrepresentation and insurance code violations. Obtained judgment favorable to client after binding arbitration.
- ▶ Represented a wholesale insurance broker in consolidated claims alleging fraud, breach of contract and various Insurance Code violations in connection with the denial of coverage for third party claims relating to the development of a multi-family residential tract.
- ▶ Represented a retail insurance broker in connection with claims for breach of contract, breach of fiduciary duty and fraud. Obtained a dismissal of all claims with no monetary payment.



SUSAN E. BASINGER



HARRISON B. BRYANT



DOUGLAS M. BUTZ

Professional Liability



JOSEPH J. KAGAN



WILLIAM M. LOW



TIMOTHY S. NOON



JACOB T. SPAID