

Joseph M. Welch

Orange County, California
Portland, OR
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Shareholder

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Areas of Practice & Industry Specialties

Insolvency & Financial Law Group; Litigation; Real Estate;
Agribusiness; Alternative Lenders; Health Care/Life Sciences;
Mortgage Banking



Joseph M. Welch is a Shareholder and Co-Chair of the firm's Agribusiness/Agrifinance group, where he helps clients address the sector's challenges in supply chains, financial volatility, risk mitigation, and other business issues. Mr. Welch leverages extensive experience in real estate, insolvency, restructuring, bankruptcy, and related litigation to provide clients with expert insights and strategies. He is a Certified Bankruptcy Specialist, an elite designation from The State Bar of California Board of Legal Specialization. Mr. Welch also holds a California real estate broker license.

Mr. Welch counsels clients across a range of industries, including lending, leasing, and real estate. He has served as lead counsel in representing investors, large banks, and international and Fortune 100 companies. He conducts training seminars and presentations on trending legal topics throughout the country. Before practicing law, Mr. Welch was the principal of a real estate and mortgage brokerage.

Highlights of Mr. Welch's practice include:

- **Creditor counsel:** represent creditors in all aspects of bankruptcy and insolvency matters, including numerous adversary proceedings and contested matters across the country;
- **Secured lending:** document numerous multimillion-dollar loan transactions secured by personal and real property collateral, enforce UCC rights, and litigate competing security interests;
- **Outside general counsel:** advise agricultural companies supervising all transactional and litigation matters (from routine matters to deals over \$1 billion);
- **Trial attorney:** experienced first-chair counsel in cases won on circumstantial evidence; lead counsel on a complete defense of over \$48 million in alleged claims against clients in both federal and state courts;
- **Unlawful detainer actions:** resolve complex/commercial unlawful detainer actions, including an award of prevailing attorneys' fees and costs for defending one action at almost \$1.4 million;
- **Appellate counsel:** act as lead counsel on appeals before the federal district court, Ninth Circuit Court of Appeals, and California Court of Appeal.

Mr. Welch has earned recognition from *Super Lawyers* and other organizations for legal excellence. He currently serves as Chair-Elect of the J. Reuben Clark Law Society, Orange County Chapter, and as Chair of the Agribusiness Committee for the state-wide California Lawyers Association. A classically trained cellist, Mr. Welch has performed at Segerstrom Concert Hall in Costa Mesa.

Representative Matters

- Represent committees of unsecured creditors and equity interest holders in overseeing all debtor operations and maximizing recoveries.

- Represent largest unsecured creditor in successfully opposing motions to (1) dismiss chapter 11 bankruptcy case, (2) convert chapter 11 case to one under chapter 7, (3) appoint a chapter 11 trustee, and (4) obtain relief from stay so lenders could foreclose on the estate's primary assets (intended to provide payment in full plus interest for all unsecured claims).
- Represent secured parties in asserting cash collateral rights and maximize recoveries in chapter 11 bankruptcy cases.
- Represent national distributor of batteries in asserting recoupment/setoff rights and defending against turnover demands totaling over \$30 million.
- Prepare intercreditor and subordination agreements involving some of the largest crop and working capital lenders in the world.
- Represent a distributor in acquiring a majority interest in an avocado grower.
- Represent a marketer in acquiring ownership in table-top strawberry productions.
- Represent parties in diversifying supply chains with ownership stakes in international companies with year-round production of key produce categories.
- Represent marketer/lender in successfully asserting claims against growers/borrowers and competitors for (1) declaratory relief (involving competing security interests and competing marketing/distribution rights), (2) breach of contract, (3) tortious interference, (4) breach of loan documents and promissory notes, (5) unjust enrichment, and (6) conversion.
- Prepare warehouse agreements for cold storage and dry-pack facilities across the country.
- Handle disputes involving crop quality and related losses, including with the Fruit and Vegetable Dispute Resolution Corporation.
- Document loans to finance a grower's multimillion-dollar cherry packaging facility from an international manufacturer.

Publications

- Ag "Distributor" Cannot Use PACA Trust to Jump Ahead of First-Lien Creditor, Circuit Court Rules, *Buchalter Client Alert*, February 4, 2021
- Buchalter Client Alert COVID-19: Feeding America in Crisis and Protecting Agribusiness, *Buchalter Client Alert*, March 26, 2020
- Consignment, the UCC, and You – Protecting Your Goods and Their Proceeds, *Buchalter Client Alert*, March 28, 2019
- Ag Lenders Face New PACA Liability Over the Substance of Transactions, *Buchalter Lender Alert*, February 1, 2018
- Intellectual Property Overview For Agribusiness, *Buchalter Nemer Client Alert*, October 18, 2016
- Regulatory and Product Liability Overview for Distributors of Food Products in California, September 27, 2016
- The Consumer Financial Protection Bureau (CFPB): The New Federal Landscape For Lenders and Servicers, *Buchalter Nemer Lender Alert*, June 2014
- 9th Circuit Allows Certain Consensual Liens to Be Avoided In Chapter 7 Bankruptcy; Still, the Devil is in the Details, *Buchalter Nemer Lender Alert*, June 2013
- Think Again Before Walking Away from Second Trust Deeds in Bankruptcy, *BNA's Bankruptcy Law Reporter*; *Buchalter Nemer Points & Authorities*; *Buchalter Nemer Lender Alert*, February 2013
- Litigation in the Courts: Getting the Square Peg into the Round Hole, *ABI Journal*, June 1, 2012

Presentations

- Speaker, "The Future of Business Development: Positioning Yourself to Thrive in Post-Pandemic

Marketplace," California Lawyers Association Presentation, March 31, 2021

- Speaker, "Joseph Welch, Speaker at CCUCC & CALR Collections & Lending Conference," Las Vegas, NV, October 26, 2018
- Speaker, "Two Powerhouse Firms-One Opportunity-Zero in on Agribusiness Seminar," October 6, 2016
- Speaker, "Bankruptcy Hot Topics and CFPB Developments," the National Credit Union Collections Alliance in Las Vegas, NV, March 17, 2016
- Speaker, "The CFPB Updates and BK," the National Credit Union Collections Alliance in Dallas, TX, April 18, 2015
- Speaker, "Consumer Financial Protection Bureau (CFPB) regulations and Bankruptcy Developments," the California Credit Union Collectors Council (CCUCC) in Los Angeles, CA, February 12, 2015
- Speaker, "Consumer Financial Protection Bureau (CFPB) and Bankruptcy Developments," the South Bay Remarketing Services, Inc.'s Educational Seminar at the Venetian Hotel and Casino in Las Vegas, NV, November 15, 2014
- Co speaker, "Bankruptcy Updates," the North Los Angeles Chapter of the California Credit Union Collectors Council, June 17, 2014
- Speaker, "Maximizing Collections: Hot Topics in Bankruptcy and CFPB," the South Bay Auto Auction's Annual Cruise in Marina Del Rey, CA, June 11, 2014
- Co Speaker, "Bankruptcy Update and 2014 Outlook," the North Los Angeles and Gold Coast Chapter Dinner Meeting for the California Credit Union Collectors Council, October 22, 2013

Education

Mr. Welch earned his Juris Doctor degree *with honors* from Loyola Law School, Los Angeles where he was President of the St. Thomas More Law Honor Society and Co-Chair of the J. Reuben Clark Law Society. He was inducted into the Alpha Sigma Nu Honor Society and the Order of the Coif. During his last year in law school, Mr. Welch earned the highest G.P.A. in his class and received the Alumni Association Award at graduation. Mr. Welch received his undergraduate degree from Brigham Young University, where he was a member of the Golden Key International Honor Society and Philharmonic Orchestra (cello). He was the youngest member of his graduating class at age 19.

Bar Admissions

- California
- Washington
- Oregon

Court Admissions

- Supreme Court of the United States
- U.S. Court of Appeals for the Ninth Circuit
- United States District Courts for all Districts in California
- United States Bankruptcy Courts for all Bankruptcy Courts in California
- United States District Courts for all Districts in Washington
- United States Bankruptcy Courts for all Bankruptcy Courts in Washington
- United States District Court and Bankruptcy Court for the District of Oregon