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# Newmark V&A CaseBook

## Litigation Support

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# Litigation Support

Newmark V&A's Litigation Support practice provides strategic consulting services for the nation's most prominent attorneys, corporations, governmental agencies, tenants, and owners.

Newmark's litigation support experts provide critical advice and services across a range of asset classes and property types. The practice consists of seasoned experts in cross-disciplines with collective expertise and deep knowledge of real property and business valuation issues related to economic damages, development rights, options, leaseholds, pipelines and other transportation corridors, contamination and detrimental conditions, various other property interests, minority discounts, and lost profits. The practice has achieved landmark results in a broad range of highly consequential cases.

Our litigation support practice takes advantage of the wide reach of Newmark's geographic platform and expansive resources combining them with a collaborative culture, attention to people and detail, distinctive and varied experiences, and intellectual capital committed to quality execution of services.

*Our experts are qualified in the following courts and panels:*

U.S. District Court

U.S. Bankruptcy Court

U.S. Court of Federal Claims

U.S. Tax Court

Various State and Local Courts

International and Domestic Arbitrations

*In addition to assisting with Trial Strategy, our Litigation Support platform has experience in the following types of assignments:*

Arbitration / Mediation

Ad Valorem Taxation

Bankruptcy

Breach of Contract

Borrower & Lender Disputes

Breach of Fiduciary Duty

Business Valuations

Contamination & Toxic Torts

Construction Defects and

Construction Delays

Ground Lease Consulting

Damages Modeling

Eminent Domain

Fractional and Partial Interests

Lost Profit Analysis

Options

Property Rights

Rights of First Refusal

Shareholder Disputes

Real Estate Contract Disputes

Rebuttal Reports

Riparian Rights

Title Disputes

Transportation Corridors



## ABOUT NEWMARK

**We transform untapped potential into limitless opportunity.**

At Newmark, our integrated platform delivers seamlessly connected services tailored to every type of client, from owners to occupiers, investors to founders, and growing startups to leading companies. We think outside the box, buildings and business lines, delivering a global perspective and a nimble approach. We have the vision to see what's next and the tenacity to get there first.

## CONTACT

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Specialty Practice Leader -  
Litigation Support

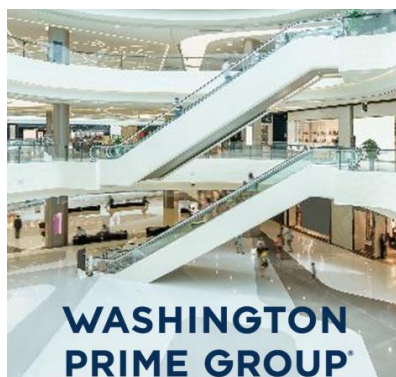
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## Relevant Experience



### Washington Prime

#### National Regional Mall Portfolio

Newmark Valuation & Advisory (V&A) advised Brown Rudnick, LLP, law firm representing equity stakeholders on behalf of Washington Prime Group (WPG). The high-profile bankruptcy case included the appraisal of WPG's portfolio of 110 regional malls. in their Chapter 11 bankruptcy case.

Utilizing Newmark's expansive platform and having collaborated with Newmark V&A on opportunities over the years.

Newmark V&A's Litigation Support team in conjunction with the Retail/Regional Malls valuation team completed the assignment within four weeks. The bankruptcy case was successfully settled in two months with WPG emerging from bankruptcy—its debt reduced, and liquidity improved.

"In all honesty, I think the [quick] settlement was more due to two ... factors. First, we always try to partner with really strong experts and financial advisors. Here, we had the real estate valuation firm, Newmark... They were superb and gave real heft to the litigation threat."

— *Robert J. Stark, Brown Rudnick LLP*



### Marina Development Site

#### British Virgin Islands

Newmark V&A valued a marina development site in the British Virgin Islands, in a case that was heard in the Supreme Court Eastern Caribbean Region.

Complex international litigation cases require relationships with owners and management on a regional scale. The valuation of a mixed-use waterfront asset in the British Virgin Islands, for example, will often require relationships and knowledge of similar properties on several other islands—and in some cases in the surrounding countries. This level of regional command provides a command presence in the courtroom that other practitioners cannot begin to match. This case resulted in a final verdict that was almost exactly the amount set forth in Newmark's report.

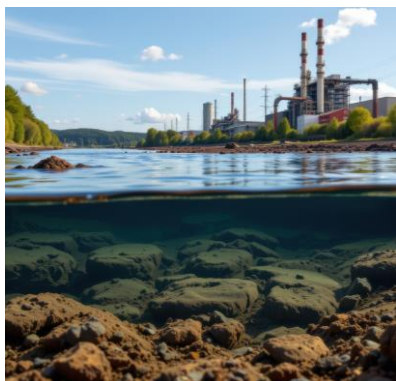
# Relevant Experience



## International Arbitration

### Properties throughout the U.S. and Canada

Newmark provided advisory and valuation services and expert testimony regarding a 12-property portfolio, including thoroughbred horse racetracks in South Florida and Los Angeles respectively and other equestrian-related properties in Florida, Maryland, and San Diego, development sites in the San Francisco Bay area and Ontario Province, and an office property in Toronto. Newark collaborated on the engagement with two investment banking firms and a business valuation firm. The matter was adjudicated in arbitration proceedings in Toronto.



## Toxic Tort

### Groundwater Contamination

Newmark was retained in a class action matter involving groundwater contamination around a superfund site in a densely populated area. The underground plume was identified as five miles in length and more than two miles wide. More than 10,000 home sales were collected and analyzed over an 18-year period. For comparative purposes, the plume and surrounding communities were divided into study areas and control areas to determine the effect of the plume on home prices, foreclosure rates, differences between listing and sale prices, and other metrics. The results of this research demonstrated that the plume did not adversely influence marketability or property values and that in some years prices of homes in the plume outperformed homes in the control areas.

# Relevant Experience



## Detrimental Conditions

### **United States Virgin Islands**

Investors of condominium units sought damages because of widespread media and internet coverage of an incident involving the use of illegal pest control chemicals that caused serious physical harm to several visitors. Plaintiffs contended that reputational damage to the resort would result in lost income and diminution in property values. The case was initially heard in U.S. Federal Court but later brought in local court in the USVI. Research was complicated by the fact that the island was also recovering from two devastating hurricanes occurring within one month of each other. After separating “noise” in the data attributable to the hurricanes, analysis of local economic conditions and sales within the complex revealed that properties within the resort increased in value, sometimes substantially, demonstrating that claims for property damages were baseless and unfounded by empirical evidence.



## Contamination

### **Airborne Particulates and Class Certification Issues**

Newmark was retained in a class action matter involving airborne particulates emitted intermittently by a smelting process over a period of several days. In rebuttal to Plaintiffs expert report, Newmark addressed the inability of Plaintiffs to satisfy threshold class certification issues because of the extremely broad variability of properties in the putative class and the neighborhoods in which they are located, the failure of Plaintiffs to establish causation related to the discharges, and unproven claims regarding declines in property values. After the filing of Newmark’s rebuttal and before any deposition testimony was taken, the case was settled.



## Richard Marchitelli MAI, CRE

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### YEARS OF EXPERIENCE

# 45+

### AREAS OF SPECIALTY

Valuation & Advisory

Litigation Support

Calculation of damages  
and economic harm related  
to commercial real estate  
disputes

Contamination and detrimental  
conditions issues

Easements & transportation  
corridors

Richard Marchitelli, MAI, CRE is a Senior Managing Director of Newmark Valuation & Advisory. Marchitelli is also the Litigation Support Practice Leader whose team focuses on applied research, property economics, unusual valuation problems, complex litigation, damages theory, and real estate industry standards & practices nationally.

Prior to joining Newmark, Marchitelli was the Leader of the Litigation Support Practices at both PricewaterhouseCoopers and Cushman & Wakefield.

Marchitelli has prepared expert reports in matters involving economic damages, breach of contract and breach of fiduciary duty, toxic torts and detrimental conditions, construction defects and construction delays, shareholder disputes, real estate industry practices, and class certification and lender liability issues.

Marchitelli has provided consulting and valuation services in disputes involving challenging and unusual properties such as the High Line, an elevated rail corridor in Manhattan that has been converted into an urban park; development restrictions on properties surrounding McCarran Airport in Las Vegas; the Trans Alaska Pipeline; a mixed-use development site in Lima, Peru; the Hancock Center Observation Deck in Chicago; an 1,800-mile rail corridor and over 900 separate underground pipeline easements extending through six western states from Texas to Oregon and Nevada; a submarine maintenance and manufacturing facility in Groton, Connecticut; luxury condominium resort on St. John in the U.S. Virgin Islands; mixed-use development properties in Guadalajara and Puerto Vallarta, Mexico; an office/pharmaceutical manufacturing complex in Dublin, Ireland; and matters throughout the U.S. involving groundwater, radioactive waste, PFAs, and airborne contamination.

Marchitelli has testified in arbitration proceedings at the International Centre for Settlement of Investment Disputes in Washington, DC, and has qualified as an expert witness in United States District Court, United States Tax Court, United States District Court of Federal Claims, United States Bankruptcy Court, and in various state and local courts, including Alaska, California, Georgia, Florida, New York, North Carolina, South Carolina, Tennessee, Virginia, and Wisconsin.

Marchitelli is a former Adjunct Assistant Professor of Real Estate at New York University in the Master of Real Estate program where he taught post graduate courses in real property valuation and market and feasibility studies. He is also a frequent lecturer at conferences and other real estate industry venues.

Marchitelli has authored articles published in *The Appraisal Journal*, *Real Estate Issues*, *Real Estate Forum*, *Appraisal Digest*, and *The Canadian Appraiser*. He has also contributed to various texts and is the coauthor of a chapter on the valuation of pipeline corridors in *Corridor Valuation: An Overview and New Alternatives* published in 2019 by the Appraisal Institute, International Right of Way Association, and Appraisal Institute of Canada.

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# Richard Marchitelli

MAI, CRE

*(Richard Marchitelli Cont'd)*

## Professional Achievements

- George L. Schmutz Memorial Award – presented by the Appraisal Institute for Marchitelli's role in the publication of the first edition of The Dictionary of Appraisal
- Wagner Award – presented by the Appraisal Institute to individuals in recognition of their contribution to the advancement of valuation knowledge and education
- Lum Award – presented by Appraisal Institute to individuals for furtherance of the ideals of the real estate valuation profession

## Professional Affiliations

- American Bar Association (Associate Member)
- International Right of Way Association

## Licenses and Designations

- MAI designation, Appraisal Institute
- The Counselors of Real Estate (CRE designation)
- Licensed as real property appraiser in various states throughout the country

## Education

Marchitelli earned his Bachelor of Arts in Political Science from Belmont Abbey College, (Who's Who in American Universities and Colleges). He also completed post graduate courses in real estate at New York University, courses required for the MAI designation, and continuing education courses and seminars.



## Raymond T. Cirz MAI, CRE

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### YEARS OF EXPERIENCE

# 45+

### AREAS OF SPECIALTY

Valuation & Advisory  
Litigation Support  
Arbitration  
Expert Witness  
Complex Retail  
Urban Properties

Raymond T. Cirz MAI, CRE, serves as a Senior Managing Director and is a Co-Leader of the Newmark Valuation & Advisory's Litigation Support Specialty Practice. Based in Morristown, Cirz is actively engaged in real estate valuation and consulting, including acquisition and disposition analyses, portfolio valuation for major public and private institutions, financial analyses, market and feasibility studies and other advisory services. His experience is concentrated in major domestic and international urban properties, including the Pacific Design Center in Los Angeles, International Place in Boston, and the Willard Hotel in Washington, DC. Cirz also has valuation and consulting experience involving over 600 regional malls including the Westchester, The Mall at Short Hills, Copley Place in Boston, South Street Seaport in New York, Ala Moana in Hawaii, and Water Tower Place in Chicago.

New York City experience includes many prominent properties including the World Trade Center, Met Life Building, One Times Square, the Helmsley Building, General Motors Building, and Time Warner Center.

Cirz joined Newmark in 2017, when the firm acquired several affiliate offices of Integra Realty Resources (IRR). He was a founding member and previous Chairman of the Board of IRR.

Qualified as an expert witness in the New York Supreme Court, New Jersey State Tax Court, New Jersey Superior Court, U.S. Bankruptcy Court and U.S. District Court, Cirz has testified in various courts throughout the country on matters involving bankruptcy, partnership disputes, condemnation and ad valorem taxation. He has successfully testified in trials in which the client has won awards that exceed the equivalent of \$100 million. Cirz has also served on a number of panels in arbitration matters and is a past member of the New Jersey Supreme Court Committee on Taxation.

Cirz is nationally recognized as an expert in the commercial real estate field. He has lectured at New York University, is an adjunct professor at Rutgers University real estate school, and he has conducted lectures for many professional and educational organizations including the Appraisal Institute, Counselors of Real Estate, the Royal Institution of Chartered Surveyors, International Council of Shopping Centers, American Bar Association, American Institute of Certified Public Accountants and National Council of Real Estate Investment Fiduciaries. He has been interviewed by many national publications including the *New York Times*, *Wall Street Journal*, *Forbes Magazine*, and *Bloomberg News* and has had articles published in the *Appraisal Journal*, *Real Estate Issues*, *Real Estate Forum*, *National Real Estate Investor* and *Shopping Center World*.

### Professional Affiliations

- Appraisal Institute (MAI)
- American Society of Real Estate Counselors (CRE)
- National Association of Realtors (NAR)
- International Council of Shopping Centers (ICSC)
- National Council of Real Estate Investment Fiduciaries (NCREIF)

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## Raymond T. Cirz

MAI, CRE

*(Raymond T. Cirz Cont'd)*

### Licenses and Designations

- MAI designation, Appraisal Institute
- Member, The Counselors of Real Estate (CRE)
- Certified general real estate appraiser, states of Pennsylvania, New Jersey, New York, Connecticut and Florida

### Education

Cirz is a graduate of New York University's Real Estate Institute and of Fairleigh Dickinson University, where he earned a Bachelor of Science degree in business management. He has also successfully completed numerous real estate-related courses and seminars sponsored by the Appraisal Institute and accredited universities. Currently, Cirz is certified by the Appraisal Institute's voluntary program of continuing education for its designated members.



## Matthew Krauser

MAI, FRICS

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### YEARS OF EXPERIENCE

28+

### AREAS OF SPECIALTY

Valuation & Advisory

Litigation Support

Matthew Krauser CRE, FRICS, serves as a Senior Managing Director for Newmark Valuation & Advisory. Based in the firm's Whippany, New Jersey, office, Krauser is actively engaged in a wide range of commercial, industrial and vacant land assignments. As the Tri-state team leader for the Litigation Support specialty practice, he specializes in appraisals for tax appeals, condemnations, litigation and open space/land preservation.

Krauser also provides corporate clients and institutional investors with an array of real estate consulting services for properties located throughout New Jersey and New York. He prepares and reviews appraisals, market studies and feasibility assignments to evaluate acquisition and disposition opportunities as well as for financing, tax appeals, bankruptcy proceedings, condemnation and asset management purposes. In addition, Krauser reviews large portfolio assignments throughout the U.S. pertaining to office, multifamily, industrial and retail properties.

Krauser joined Newmark Valuation & Advisory in 2017, when the firm acquired several affiliate offices of Integra Realty Resources. At the time of the acquisition, he was serving as a senior managing director in IRR's Whippany office.

Additionally, Krauser is qualified as an expert witness before the US District Court, Federal Bankruptcy Court, New Jersey Superior County, New Jersey Tax Court, and various planning boards, commissioner hearings and county tax boards.

### Professional Affiliations

- Chair, New Jersey Chapter of the Counselors of Real Estate, 2016 and 2017; vice chair, 2014 and 2015
- Member, North Central Jersey Association of Realtors
- Member, International Right of Way Association (IRWA)
- Member, Urban Land Institute (ULI)
- Member, Morris County Chamber of Commerce Leadership Program, 1997 – 1998

### Licenses and Designations

- Fellow, Royal Institution of Chartered Surveyors (FRICS)
- CRE designation, Counselors of Real Estate
- State certified general appraiser, Commonwealth of Pennsylvania, states of New York and New Jersey
- Licensed real estate salesperson, state of New Jersey

### Education

Krauser earned his Master of Science degree in real estate from New York University and his Bachelor of Arts degree in speech communication from Ithaca College.



## Cory S. Savik MAI

*Senior Vice President  
Litigation Support*

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### YEARS OF EXPERIENCE

# 15+

### AREAS OF SPECIALTY

Valuation & Advisory

Litigation support

Environmental impairment and  
detrimental conditions

Regulatory takings

Damage calculations

Corridor valuation

Condemnation

Cory S. Savik, MAI, serves as a Senior Vice President in Newmark Valuation & Advisory's Charlotte, North Carolina office. Savik has been actively engaged in the commercial real estate economics, appraisal / valuation, and consulting industry since 2009. He is also a member of the Litigation Support specialty practice, which is comprised of experts in damages theory, valuation, accounting, finance, economics, land use, real estate industry standards & practices, capital market issues, and financial & statistical modeling.

Savik came to Newmark after 13 years serving as a Senior Director within Cushman & Wakefield's Dispute Analysis & Litigation Support practice. Prior to joining Cushman & Wakefield, Savik was employed at R.W. Shiplett & Associates, a Charlotte-based valuation firm specializing in condemnation.

Valuation and consulting assignments have included a wide variety of properties, uses, and real property interests including fee simple, leased fee, and remainderman interests. Savik has prepared reports for government, corporate, and institutional clients for use in mortgage financing decisions, and matters involving property tax appeals, environmental impairment issues, regulatory takings, international arbitrations, bankruptcy proceedings, construction defects and delays, condemnation, mediation, matrimonial disputes, and other forms of litigation. He has appraised numerous properties in North Carolina, West Virginia, Virginia, Manhattan, Long Island, Mexico, and Canada.

Savik has worked for the New York State Department of Transportation, North Carolina Department of Transportation, West Virginia Department of Transportation, and several other municipalities across the country in eminent domain proceedings. He has also been engaged by property owners that have had their property acquired in partial and full takings in several states including North Carolina, South Carolina, New York, Indiana, Virginia, Michigan, Pennsylvania, District of Columbia, and Missouri.

### Specialized Experience

- Real property tax appeal involving a submarine manufacturing and repair facility in Groton, Connecticut.
- Valued several prominent horseracing assets in California and other properties in Canada for a private international arbitration and provided expert witness testimony in Toronto, Canada.
- Environmental contamination issues involving an upscale condominium property on St. John in the U.S. Virgin Islands.
- International arbitration involving properties in Puerto Vallarta and Guadalajara, Mexico.
- Determined the effect on the value of a subdivision in suburban Atlanta resulting from a pipeline rupture including petroleum contamination of ground and surface water.
- Researched sales and provided statistical analysis due to the presence of Vanadium and Hexavalent Chromium in drinking water wells for use in potential environmental tort litigation in several North Carolina counties.
- Valuation of an abandoned rail corridor through Bronx County, New York.

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## Cory S. Savik MAI

*(Cory S. Savik Cont'd)*

- Provided consulting and advisory services regarding the North Carolina Map Act litigation.
- Determined permanent and temporary damages to a multifamily apartment complex and a single-family subdivision as a result of separate regulatory takings in Texas.

### Licenses and Designations

- MAI designation, Appraisal Institute
- Certified General Real Estate Appraiser in North Carolina, South Carolina, Virginia, Texas, District of Columbia, New Jersey, and New York.

### Education

Savik earned his Bachelor of Science in Business Administration degree with a focus on finance from Coastal Carolina University. Savik completed all appraisal coursework for the MAI designation through the Appraisal Institute.



## Beau Cantera MAI

*First Vice President  
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### YEARS OF EXPERIENCE

# 19+

### AREAS OF SPECIALTY

Valuation & Advisory

Litigation Support

Beau V. Cantera, MAI currently serves as a First Vice President in Newmark's Valuation & Advisory Litigation Support practice. Beau is a real property appraiser with over 19 years of commercial appraisal experience. He specializes in complex appraisal matters focused on litigation support. Beau's experience as a qualified expert witness includes testimony in U.S. Bankruptcy Court, the American Arbitration Association, Court of Common Pleas, and various taxing authorities.

Beau joined Newmark after 9 years of employment at Cushman & Wakefield, most recently holding the title of Executive Director and serving as a senior leader in Cushman & Wakefield's Litigation Support practice. He has been the primary professional involved with the valuation of over \$3 billion worth of real estate, comprised of a wide array of commercial property types. These valuations were utilized for financing, lost opportunity/damages, estate planning, eminent domain, assessment appeal, bankruptcy, dispute resolution, litigation support, internal planning, rent studies and highest and best use analysis.

### Guest Speaking Engagements

- Presentation for the Appraisal Institute, Wharton School of Business, MBA Wharton Real Estate Club – October 2017

### Professional Affiliations

- American Bar Association (Associate Member)

### Licenses and Designations

- MAI designation, Appraisal Institute
- Certified General Real Estate Appraiser in various states

### Education

Beau earned his bachelor's degree from Widener University. He is in the process of completing the Appraisal Institute's course work for the Litigation Development Program, and has completed the following course work as developed by the Appraisal Institute in connection with continuing education focused on litigation services:

- The Appraiser as an Expert Witness: Preparation & Testimony (Appraisal Institute)
- Appraiser's Guide to Expert Witnessing (Appraisal Institute)
- Litigation Appraising: Specialized Topics and Applications (Appraisal Institute)
- Eminent Domain and Condemnation (Appraisal Institute)
- Arbitration Do's and Don'ts (Appraisal Institute)