

JOHN D. FAIRBROOK

LITIGATION



John Fairbrook is a shareholder of Trainor Fairbrook and Chair of the firm's Litigation Department. Mr. Fairbrook is a highly regarded litigator having successfully tried, arbitrated, and resolved hundreds of real estate and commercial litigation matters throughout California. His litigation practice focuses on commercial real estate, leasing, construction and real estate development.

Over the course of his 35-year career, Mr. Fairbrook has tried numerous jury trials to verdict, both in state and federal courts, 90% of which resulted in wins for his client. In addition to real estate disputes, he routinely deals with matters involving business and partnership disputes, including issues concerning corporate governance. He has also represented developers in prevailing wage disputes.

Mr. Fairbrook's successes include successfully negotiating a \$20 million settlement for his client in a construction defect case which involved five years of litigation and three months of trial relating to the construction of a hotel and casino. He also represented a tenant against a major real estate investment trust for breach of an exclusive use provision in a shopping center ground lease. Following trial and an appeal, his client ultimately recovered in excess of \$6 million. On behalf of a closely held corporation, Mr. Fairbrook successfully prosecuted claims against the company's prior president for breach of fiduciary duty and self-dealing. In addition, Mr. Fairbrook worked as National Trial Counsel for a major U.S. automobile manufacturer serving as lead

attorney on all cases across the United States involving non-disclosure claims in repurchased automobiles.

Mr. Fairbrook's experience contributes to his ability to act as a partner to his clients, with a laser focus on resolving the matter at hand as promptly and efficiently as possible. He is immensely focused on achieving results for his clients, and those results are defined exclusively by his clients' goals.

John Fairbrook is well-known and respected in the legal community. His accolades include a listing by Super Lawyers, an AV Preeminent rating by Martindale Hubbell®, recognition as a Best Lawyer in America® since 2014, and awarded Real Estate Litigation Attorney of the Year in 2015 and 2019.

CONTACT

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REPRESENTATIVE MATTERS

Jury Trials – Selected jury trials handled by Mr. Fairbrook include:

Real Estate

- Represented national home builder in action to obtain a refund of deposit monies due to breach of real estate purchase contract by sellers. Jury returned a verdict in favor of plaintiff home builder. Awarding attorneys' fees and costs, for a total judgment of \$949,832.
- Defended owner of 320 acres of undeveloped property in West Sacramento in specific performance action. The court entered judgment in favor of the property owner and assessed judgment for attorneys' fees in the amount of \$801,133.36. This fee award was subsequently modified to include judgment against individual members of defendant's LLC following successful application to pierce the corporate veil.
- Successfully defended developer and custom home builder in fraud action arising out of the sale of real property. The plaintiffs alleged that they were wrongfully induced to enter into the real estate transaction by misrepresentations of the developer/home builder. The jury returned a defense verdict in favor of defendant.
- Acted as trial counsel on behalf of plaintiff property owner. The case involved issues of taking by inverse condemnation and a claim for nuisance arising out of the operation of a wastewater treatment facility. Following a four month jury trial, the jury returned a verdict for Plaintiff in the sum of \$2,564,009. This verdict was affirmed on appeal.
- Acted as co-trial counsel on behalf of property owner in eminent domain proceeding before U.S. District Court (Ninth Circuit). This case involved the valuation of property rich in limestone taken by U.S. Army Corp. of Engineers in connection with the construction of the New Melones Dam. Handled this case on appeal to the Ninth Circuit Court of Appeal. The Appellate Court upheld a total award, including interest and attorneys' fees, in excess of \$2.7 million. (See Reported Decision U.S.A. v. 88.88 Acres of Land (Ordway) (1990) 907 F.2d 106).

Leases

- Defended owner of property in action to enforce option to purchase contained in a ground lease. Following trial, the jury returned a verdict in favor of the property owner and denied plaintiff's claim for specific performance.
- Represented owner of shopping center in action for declaratory relief. This case involved interpretation under

the lease and impermissible use of common areas by tenant. Case was affirmed on appeal in reported decision of Muzzi v. Bel Air Mart (2009) 171 Cal.App.4th 456.

- Represented tenant against a national REIT for breach of exclusive use provision. The jury returned a verdict in favor of the plaintiff/tenant in the sum of \$1,480,740. Following plaintiff's election to seek rescission, court entered judgment in favor of plaintiff in the sum of \$2,142,175.
- Represented REIT and owner of shopping center in claim of breach of exclusive use provision of lease. Following trial, the jury entered verdict in favor of the shopping center owner.

Business and Warranty

- Defended owner of a landfill operation from claims of breach of contract and fraud.
- Acted as lead trial counsel in federal court jury trial. Successfully represented, federally affiliated lender as plaintiff in a lawsuit against a loan originator for breach of contract and fraud. The jury returned a verdict in favor of Mr. Fairbrook's client in excess of \$1,900,000.
- Acted as lead trial counsel on behalf of manufacturing company in lawsuit for breach of fiduciary duty and violations of the Lanham Act. Case involved breaches of fiduciary duty and trademark violations by former corporate officer. Following trial, the jury returned a verdict in favor of Mr. Fairbrook's client. The court awarded attorneys' fees and Trainor Fairbrook's client obtained a judgment in excess of \$1,400,000.
- Acted as trial counsel on behalf of a major automobile manufacturer in consumer fraud action. This case involved claims made by plaintiffs that the manufacturer defrauded plaintiffs by failing to properly disclose information concerning a vehicle which had been repurchased by the manufacturer pursuant to California's Lemon Law. The jury returned a defense verdict in favor of the manufacturer.
- Acted as trial counsel on behalf of a major automobile manufacturer in consumer fraud

action. The plaintiff alleged the manufacturer was liable for fraud arising out of the purchase of a used vehicle for failing to disclose the vehicle's repair history. The jury returned a defense verdict in favor of the manufacturer.

Court Trials, Arbitrations and Administrative Hearings

- Defended an Environmental Impact Report for expansion of medical office complex in downtown Sunnyvale. The trial court ruling was upheld on appeal. (See Pfeiffer, et al. v. City of Sunnyvale City Council (2011) 200 Cal.App.4th 1557.)
- Represented a real estate broker in disciplinary proceedings brought by the Department of Real Estate. Following a nine-day evidentiary hearing, the administrative law judge returned a verdict completely exonerating Trainor Fairbrook's client from any wrongdoing.
- Defended this federal court case involving interpretation of lease and CC&Rs. The court determined that the client had complied with all obligations necessary to go forward with modification of the shopping center subject to the CC&Rs. The court awarded attorneys' fees in favor of Mr. Fairbrook's client in the sum of \$231,713.10.
- Represented owner in Construction Claim Arbitration before the California Office of Administrative Hearings. This case involved a claim by the general contractor in excess of \$7 million arising out of the construction of Lincoln Plaza (currently CalPERS headquarters) in Downtown Sacramento.
- Acted as lead counsel representing the Transit District in Construction Claim Arbitration before the California Office of Administrative Hearings. This case involved in excess of \$8 million of construction claims by the general contractor arising out of the construction of the Sacramento Light Rail facility. The case was favorably settled prior to trial.

Reported Decisions:

Cases handled on appeal by Mr. Fairbrook and reported in official publications include:

- Jeni L. Pfeiffer, et al. v. City of Sunnyvale City Council (2011) 200 Cal.App.4th 1557
- Muzzi v. Bel Air Mart (2009) 171 Cal.App.4th 456
- Sixells, LLC v. Cannery Business Park, LLC (2008) 170 Cal. App.4th 648
- U.S.A. v. 88.88 Acres of Land (Ordway) (1990) 907 F.2d 106

∴ HONORS

- **Rated AV Preeminent** – Martindale-Hubbell
- **Sacramento Real Estate Litigation Lawyer of the Year** – Best Lawyers in America: 2015, 2019
- **Northern California's Best Lawyers** – Best Lawyers in America, Real Estate Litigation: 2014-2018
- **Top Lawyer** – Sacramento Magazine, 2015 – 2018
- **Best of the Bar** – Sacramento Business Journal: 2013, 2014, 2016-2018
- **Northern California Super Lawyers** – Super Lawyers: 2011-2018

∴ MEMBERSHIPS

- **Member** – State Bar of California, Civil Litigation Section
- **Member** – Sacramento County Bar Association, Civil Litigation Section
- **Member** – American Bar Association
- **Member** – American Board of Trial Advocates (since 2003)
- **Member** – Litigation Counsel of America
- **Admitted to Practice** – United States District Court, Eastern & Northern Districts of California
- **Admitted to Practice** – United States District Court, District of Arizona
- **Admitted to Practice** – United States Court of Appeals, Ninth Circuit
- **Admitted to Practice** – United States Supreme Court

∴ EDUCATION

- **J.D.**, University of the Pacific, McGeorge School of Law
- **B.A.**, Humboldt State University