

ROBERT H. FAIRBANK'S MAJOR LITIGATION AND TRIAL EXPERIENCE

Robert H. Fairbank established Fairbank ADR in 2014 as an Alternative Dispute Resolution entity that specializes in the mediation of high stakes, complex civil matters. Fairbank ADR is the successor to Fairbank & Vincent, which Bob co-founded in 1996 after beginning his career as an associate (1977-84) and then partner (1984-96) at Gibson Dunn & Crutcher.

From 2002-09, Bob served as an independent consultant for the Regents of the University of California in the Enron, WorldCom, AOL Time Warner, and Dynegy federal securities cases. He has also acted as counsel for Boards or independent committees of Boards of Mattel, Semtech, and Technicline in the investigation or defense of threatened or filed derivative actions. His individual Director and Officer representations have included the Chief Financial Officers of IndyMac Bank, PFF Bank, Homestore.com, and Tenet Healthcare Corporation; Board members of La Jolla Bank, Vineyard Bank, and MetroPacific Bank; and officers of New Century Financial and Fidelity Federal Bank.

As an associate (1977-84) and then partner (1984-96) at Gibson Dunn & Crutcher, Bob had extensive experience in “bet-the-company” cases, including a successful antitrust jury trial for defendant National Gypsum, the successful defense of the first two nationwide conspiracy/medical malpractice trials involving National Medical Enterprises (now Tenet Healthcare Corporation), and a series of successful trials throughout the country in defense of Farmers Insurance Company in one of the first insurance industry hostile takeovers.

Bob has been an adjunct professor at Stanford Law and Business Schools (2007) and USC Gould School of Law (2004-present), teaching a seminar titled “Corporate Fraud.” He is also the co-author of California Practice Guide – Civil Trials and Evidence (The Rutter Group), the leading treatise on California civil trial practice.

Bob has served as the Co-Chair of the Lawyer Representatives to the Ninth Circuit Judicial Conference (2001-02), and the past president of the Association of Business Trial Lawyers (1989-90). He was also a member of the Judicial Council’s Bench and Bar Committee on Local Rules and served as Chair of the Civil Trials Subcommittee (1990-92).

Bob received his A.B. from Stanford University, his M.L.S. from the University of California, Berkeley, and his J.D. from New York University, where he served on the Law Review. In 1995, he was recognized by the first “Law Who’s Who” in Los Angeles Business Journal, which features the 100 most prominent business attorneys in Los Angeles.

Bob currently resides in Los Angeles, California with his wife, the Hon. Valerie Baker Fairbank (C.D. Cal.). He has two children, Sarah and David, and three grandchildren.

For more information regarding Bob’s litigation, mediation, and teaching careers, see fairbankadr.com and corporatefraud.usc.edu.

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Independent Consultant re Securities Class Actions

Bob Fairbank was the co-head of a multi-disciplinary team that provided independent advice to institutional investors in their role as lead plaintiff or plaintiff in securities cases. The team, co-headed by retired District Judge J. Lawrence Irving, included experts on securities litigation (Bob), investment banking, accounting, and damages (Rock Hankin of Hankin & Company), and bankruptcy (Ken Klee of Klee, Tuchin, Bogdanoff & Stern). From 2002 to 2009, Bob and the multi-disciplinary team were retained by The Regents of the University of California to consult in the Enron, WorldCom, AOL-Time Warner, and Dynegy securities cases. Judge Irving also retained Bob (and Rock Hankin) to assist him in his court-appointed role as *guardian ad litem* for the class in the Halliburton federal securities class action (2004).

Representative Cases:

- *In re Enron Corporation Securities Litigation* (S.D. Texas, Case No. H-01-3624) [Lead Plaintiff: The Regents of the University of California]
- WorldCom [*The Regents of the University of California v. Salomon Smith Barney, Inc., et al.* (S.D.N.Y., Case No. CV-03-01119)] [Opt-out case]
- *In re Dynegy, Inc. Securities Litigation* (S.D. Texas, Case No. H-092-1571) [Lead Plaintiff: The Regents of the University of California]
- AOL/Time Warner [*The Regents of the University of California, et al. v. Richard D. Parsons, et al.* (L.A. Sup. Ct., Case No. BC 293848)] [Opt-out case]
- *Richard Moore v. Halliburton Company* (N.D. Texas, Case No. 3: 02-CV-1152) [Court-appointed *guardian ad litem* for the class]

Corporate Defense

Prior to becoming a mediator, Bob Fairbank represented businesses of all sizes in complex commercial disputes, including Hilton Hotels, Mattel, Duff & Phelps Capital Markets, Home Savings of America, National Medical Enterprise (NME), Bank of California, Farmers Insurance Co., Hollywood Park Operating Co., and Hartz Mountain.

Bob Fairbank's experience extends from common breach of contract, professional negligence and business tort claims to internal investigations, securities class action and derivative claims, antitrust litigation, intellectual property litigation, real estate litigation, and Unfair Business Practices (§ 17200) claims. Amounts at issue have ranged from the hundreds of thousands to the hundreds of millions of dollars.

Representative Cases:

A. Bet-the-Company Litigation and Takeover Battles

- *Majestic Resorts, Inc. v. Hilton Hotels Corp., et al.* (JAMS Arbitration)
- *National Medical Enterprises* (later renamed Tenet Healthcare Corporation) *Litigation* (San Diego Sup. Ct. Trial; S.D. Cal. Trial)

- *British American Tobacco v. Farmers Insurance Co* (Takeover Battle) (Trials in 7 States)
- *Hubbard v. Hollywood Park Operating Company* (Takeover Battle)
- *Shoen v. Shoen* (U-Haul Takeover Battle) (Arizona Injunction Trial)

B. Defense of Shareholder Securities Class and Derivative Actions

- *Satterthwaite, et al. v. Jill Barad and Mattel, Inc.* (L.A. Sup. Ct., Case No. BC 219022) (Derivative)
- *Reiss, et al. v. SMTEK International, Inc., et al.* (Ventura Sup. Ct., Case No. CIV 192130) (Derivative)
- *Albert, et al. v. Walter Fletcher, Inc., et al.* (L.A. Sup. Ct., Case No. BC 136761) (Class and Derivative)
- *Schug v. Chopra, et al.* (L.A. Sup. Ct.) (Derivative)
- *Jordan, et al. v. Lefkowitz, et al.* (C.D. Cal.) (Class)
- *In re National Medical Enterprises, Inc. Securities Litigation* (C.D. Cal.) (Class)
- *Polikoff v. Eamer, et al.* (L.A. Sup. Ct.) (Derivative)
- *Shaffer v. NME, et al.* (C.D. Cal.) (Class)
- *Love v. NME, et al.* (Houston State Ct.) (Class)
- *Blumenthal v. Farmers Group Inc.* (L.A. Sup. Ct.) (Class)
- *Lou v. Belzberg* (L.A. Sup. Ct.) (Class and Derivative)
- *Himebaugh v. Bateman, Eichler Hill Richards* (C.D. Cal.) (Class)

C. Antitrust Litigation

- *UWS Materials & Supply Co., Inc. v. National Gypsum Company* (Santa Clara Sup. Ct.) (Trial)
- *Hartz Mountain Antitrust Litigation* (C.D. Cal.)

D. Intellectual Property Litigation

- *Bird Products Corp. v. Pulmonetic Systems, Inc., et al.* (C.D. Cal., Case No. CV 99-7380) (Product: Portable Ventilator)

E. Real Estate Litigation

- *Majestic Resorts, Inc. v. Hilton Hotels Corp., et al.* (JAMS Arbitration)
- *LVH Corporation v. Las Vegas Convention Hotel, LLC; And Related Cross-Actions* (D. Nev., Case No. A429265)
- *Kertesz v. Home Savings of America, et al.* (L.A. Sup. Ct. Case No. SC 037986)
- *Park Plaza Santa Barbara v. Doubletree DTWC Corporation* (L.A. Sup. Ct. Case No. BC 332232) (Fess Parker case)

F. State Court Bus. & Prof. §17200 Cases and Miscellaneous Business Litigation

- *Sullivan Kelly & Associates v. Truck Insurance Exchange, et al.* (San Diego Sup. Ct.) (B&P §17200)
- *Ruiz, et al. v. Home Savings of America, et al.* (L.A. Sup. Ct.) (B&P §17200)
- *Hameetman v. Schumann* (L.A. Sup. Ct., Case No. BC 139341)
- *Gigatek Memory Systems, Inc. v. Duff & Phelps Capital Markets Co.* (LA. Sup. Ct. Case No. 172418)
- *Initiative Media Worldwide, Inc. v. DSLV/Lawlor Advertising, Inc., et al.* (L.A. Sup. Ct. No. BC 326497) (Paul's TV)
- *City Freight Lines v. United Parcel Service* (L.A. Municipal Court) (Trial)

G. Independent Investigations of Derivative Actions

- *Threatened Derivative Action Against Techniclone Corporation*
- *Threatened Derivative Action Against Semtech Corporation*

H. Healthcare Fraud and Mass Torts Litigation

- *National Medical Enterprises* (later renamed Tenet Healthcare Corporation) *Litigation* (San Diego Sup. Ct. Trial; S.D. Cal. Trial)

I. Environmental Litigation

- *City of Los Angeles v. Arrowhead* (Administrative Hearing)
- *City of San Bernardino v. Culligan* (Trial)

J. Construction Delay Litigation

- *M.A. Mortenson Co. v. City of Los Angeles, et al.* (C.D. Cal., Case No. CV-00-2015) (Represented Steve Huyghe in expert witness disqualification case)

K. Tax and Trust Litigation

- *Bank of California Embezzlement Case*
- *State of California v. Max Factor* (L.A. Sup. Ct. Trial)

Officer & Director Representation in Financial Crisis Cases

Bob Fairbank represented officers and directors of companies such as IndyMac Bank, Homestore.com, Tenet Healthcare Corporation, PFF Bank, New Century Financial Corporation, La Jolla Bank, Vineyard Bank, MetroPacific Bank, and City of Hope as both defendants and third-party witnesses in a wide variety of business litigation.

Representative Cases:

- IndyMac Bank Matters (Blair Abernathy, CFO):
 - *SEC v. Abernathy* (C.D. Cal., Case No. 11-CV-01308-JFW-SS)
 - *In re IndyMac Mortgage-Backed Securities Litigation* (S.D.N.Y., Case No. 09-CV-04583 LAK) (and related lawsuits)

- *XL Specialty Insurance Company, et al. v. Michael Perry, et al.* (C.D. Cal., Case No. 11-CV-02078-RGK) (D&O Insurance Lawsuit)
- *Arch Insurance Company v. Michael Perry, et al.* (C.D. Cal, Case No. 12-CV-6290) (D&O Insurance Interpleader Lawsuit)
- Homestore Matters (Joe Shew, CFO):
 - *United States v. John Giesecke, et al.* (C.D. Cal., Case No. 02-1028) (Criminal Case)
 - *In re Homestore.com, Inc. Securities Litigation* (C.D. Cal., Master Case No. 01-CV-11115)
 - *Securities and Exchange Commission v. John Giesecke Jr., Joseph J. Shew and John R. Desimone* (C.D. Cal.)
- Tenet Healthcare Corporation Matters (David Dennis, CFO and Co-President):
 - *Securities and Exchange Commission v. Tenet Healthcare Corp., David L. Dennis, Thomas B. Mackey, Christi Sulzbach, and Raymond L. Mathiasen* (C.D. Cal., Case No. CV-07-2144)
 - *In re Tenet Healthcare Corp. Securities Litigation* (C.D. Cal., Case No. CV-02-8462) (and related lawsuits)
 - *In re Tenet Healthcare Corp. Derivative Litigation* (L.A. Sup. Ct. No. 01098905)
 - *In re Tenet Healthcare Corp. Derivative Litigation* (C.D. Cal., Case No. CV-03-11)
 - *Rudman Partners, LP v. Tenet Healthcare Corporation* (C.D. Cal., Case No. CV-06-3455)
 - *Lourdes Cordero v. Tenet Healthcare Ltd., et al.* (N.D. Tex. No. 04-1189N)
- New Century Matter (Joe Eckroth, CIO):
 - *New Century Liquidating Trust and Reorganized New Century Warehouse Corp. v. Cole, et al.* (Bankr. D. Del., Case No. 07-10416) (Settlement Purposes Only)
- PFF Bank Matters (Greg Talbott, CFO):
 - *Maiman v. Talbott, et al.* (C.D. Cal., Case No. SACV-09-00012 AG) (Federal Securities Class Action)
 - *In re PFF Bancorp, Inc. ERISA Litigation* (C.D. Cal., Case No. EDCV 08-01093-SVW)
- Vineyard Bank Matters (Jim LeSieur, Chairman of the Board and Interim CEO):
 - *Sharp v. Morales, et al.* (Bankr. C.D. Cal., Case No. 10-AP-1569)
 - *FDIC Investigation* (Part of Global Settlement)
- La Jolla Bank Matters (Richard Colbourne, Chairman of the Board):
 - *FDIC v. Colbourne, et al.* (S.D. Cal. Case No. 13-CV-00351)

- Representation of City of Hope Witnesses:
 - *City of Hope v. The Fairfax Group* (L.A. Sup. Ct., Case No. BC 194474)
- MetroPacific Bank Matters (Full Board of Directors)

Plaintiff Contingent-Fee and Hourly Representation

Bob Fairbank represented individuals, businesses, and class plaintiffs in a variety of contingent fee and hourly plaintiff cases.

Representative Cases:

- *In re Toyota Motor Corporation Securities Litigation* (C.D. Cal., Master File No. CV-10-922)
- *Merchant, et al. v. Redstone, et al.* (L.A. Sup. Ct., Case No. BC 244270) (Blockbuster Class Action Case)
- *Holman, et al. v. OCWEN Financial Corp., et al.* (American Arbitration Association, Case No. 32 Y 148 00183 01) (Arbitration)
- *Nissan v. Adesco et al.* (C.D. Cal.) (Trial)
- *Kopp v. IMI V, LLC, et al.* (Orange County Sup. Ct., Case No. 01CC10736)
- *MAS Asset Management Corp. v. Kennedy-Wilson, Inc., et al.* (L.A. Sup. Ct., Case No. BC 209991)
- *M.A.G. Capital, LLC v. Sheppard, Mullin Richter & Hampton LLP, et al.* (L.A. Sup. Ct. Case No. BC 376165)

ATTORNEY REFERENCES

The following attorneys have been co-counsel, opposing counsel, or in-house counsel in one or more of the cases listed above.

Defense Counsel

John W. Spiegel, Esq.

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