

LAW OFFICE OF
VIN A. FICHTER

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CURRICULUM VITAE

EDUCATION AND BACKGROUND

Mr. Fichter received his Bachelor of Science Degree in Economics in 1967 from the University of Oregon, and in 1970 obtained a Doctor of Jurisprudence Degree from the School of Law of the University of California at Los Angeles (UCLA), historically one of the top eight law schools in the nation. Mr. Fichter has practiced law in California since 1972.

Mr. Fichter is admitted to practice before the following courts:

Federal Courts: U.S. Supreme Court; U.S. Ninth Circuit Court of Appeals; U.S. District and Bankruptcy Courts for the Central District of California and the District of Arizona; U.S. Bankruptcy Court for Central District of Florida (*pro hac vice*); U.S. Bankruptcy Court for District of Hawaii (*pro hac vice*).

State Courts: California Supreme Court and all California state courts.

AREAS OF PRACTICE

Mr. Fichter has substantial litigation experience, at both the trial and appellate levels, in California state courts, and in federal courts, including bankruptcy courts, in California and other states. Throughout his extensive career Mr. Fichter has been engaged in the following areas of the law:

☞ Commercial, business and real estate matters (insurance, Uniform Commercial Code matters, liens, leasing, landlord-tenant), both plaintiff and defense matters, and representing owners, operators and managers of self-storage facilities.

☞ Civil litigation (business and contractual disputes; real estate, foreclosing and defending liens of all types; commercial matters; collections; computer law; will contests; and major torts such as fraud and anti-racketeering and securities violations), both plaintiff and defense matters.

☞ Litigation matters (adversary proceedings) in bankruptcy courts, on behalf of debtors and creditors.

Mr. Fichter has lectured to hundreds of other attorneys through the California Continuing Education of the Bar on the law of construction litigation, mechanics liens and stop notices, and has conducted numerous seminars, as well, for the self-storage industry.

EXAMPLES OF CLIENT REPRESENTATION IN REAL ESTATE MATTERS

Self-Service Storage Facilities: Since 1994 Mr. Fichter has represented scores of self-storage facility owners and operators in almost every type of legal matter facing self-storage facilities, including the following types of legal matters:

- Has obtained more than 700 judgments against tenants in self-storage lien-foreclosure civil lawsuits and has successfully defended self-storage owners and operators against lawsuits and claims by tenants.
- Advises over 100 self-storage owners and operators on a regular basis regarding the operations of their self-storage facilities and general real estate, employment, contractual, bankruptcy and related matters.

A recognized “expert” in self-storage law: Because of his extensive background and experience in the field of self-storage law in particular, and civil litigation generally, Mr. Fichter was retained as an “expert” to advise a Los Angeles law firm which defended the owners of a self-storage facility in two lawsuits brought against the owners in an Unfair Competition lawsuit brought by tenants of the facility under the California Unfair Competition Law seeking restitution on behalf of hundreds of tenants of that facility. Mr. Fichter's advice regarding the client's compliance, or non-compliance, with the Self-Storage Act, case law nation-wide on the subject of “wrongful sale” of tenant's property, and related matters, was relied on by the defense. The two cases were eventually settled.

Mr. Fichter regularly advises self-storage clients regarding procedures to following in the following circumstances: eviction of troublesome tenants, death, divorce or bankruptcy of tenants, theft of contents of storage units, construction of new facilities, hazardous materials, operations and risk/liability-avoidance, contractual matters, tenant notices required by law, compliance with the American’s With Disabilities Act and the California Disabled Persons Act, and all aspects of the *California Self-Service Storage Facility Act* and ownership and operation of self-storage facilities.

Mr. Fichter served a 3-year term as a member of the Western Regional Board of Directors of the national Self Storage Association and was Vice President of that Board for one year. Mr. Fichter also has conducted seminars for that Association, for the California Self Storage Association and, privately, for owners, operators and managers of self-storage facilities.

Mr. Fichter has successfully defended self-storage facilities in lawsuits brought by tenants for “conversion” and “wrongful sale” of the tenant’s property stored in their units. In one case Mr. Fichter obtained a court-ordered dismissal of the tenant’s claims. In the other action Mr. Fichter successfully defended against similar claims by the attorney-tenant, including through the appeal process.

Insurance Matters: Mr. Fichter has analyzed scores of insurance policies for clients, including real estate, commercial, household and self-storage policies, has advised many clients as to their rights under such policies, and has negotiated successfully with insurance companies on behalf of his clients. Mr. Fichter has defended insureds under insurance policy coverage as well, in real estate and business matters, including defending self-storage owners in lawsuits by tenants for damages for conversion, breach of contract, emotional distress, “wrongful sale and disposal”, wrongful eviction, violation of the *California Self-Service Storage Facility Act*, and related claims. Mr. Fichter has also acted as designated “*Cumis Counsel*” in defending insured self-storage companies in civil actions brought by tenants.

Representation of Homeowners Associations: Mr. Fichter has represented several homeowners' associations in real estate matters including litigation with adjoining property owners, disputes between the association and individual unit owners, and enforcement of dues and special assessments. Mr. Fichter is fully familiar with the Davis-Stirling Common Interest Development Act applicable to condominiums, and has advised homeowners' associations regarding By-Laws and covenants.

Real Estate Construction: Mr. Fichter has advised numerous real estate developers, homeowners and commercial businesses regarding real estate construction matters in all phases of construction and in litigation as well, and has appeared on behalf of clients numerous times before city Zoning and Planning agencies and City Councils. Mr. Fichter was appointed by the Superior Court in Los Angeles to defend 50 mechanics lien lawsuits against a real estate developer.

Real Estate Purchases/Sales: Mr. Fichter has advised numerous clients regarding the purchase and/or sale of commercial and residential real properties, including sales of self-storage facilities.

Business Purchases/Sales: Mr. Fichter has advised numerous clients regarding the purchase and/or sale of businesses, including incorporations of many types of businesses, including self-storage businesses.

EXAMPLES OF OTHER PAST LITIGATION MATTERS OF INTEREST

The following are a few examples of other significant litigation matters Mr. Fichter has handled in the past several years which have resulted in a positive outcome for his clients.

Groucho Marx Fraud/Undue Influence Case: In 1983 Mr. Fichter was co-counsel to the Estate of Groucho Marx in the highly-publicized trial in the case, *Estate of Groucho Marx v. Erin Fleming*, in which a jury verdict was rendered of almost half a million dollars against Erin Fleming, the young woman who was Groucho Marx's companion during the last six years of his life, for fraud, undue influence, breach of trust, breach of contract, and related claims.

Boat Conversion Case: Because of Mr. Fichter's expertise as to the *California Boater's Lien Law*, recently he successfully resolved a lawsuit against his self-storage client by a bank for conversion of a high-value boat after the client sold the vessel at a lien-sale auction, and also successfully resolved the client's cross-complaint against the bank for conversion after the bank wrongfully "repossessed" the boat.

"Bankruptcy Preference" Litigation: For several years Mr. Fichter was counsel of record for approximately 750 persons in 430 separate adversary proceedings in one bankruptcy case entitled *In Re Bullion Reserve of North America*, representing approximately \$3 million of investor funds. As a result of that matter, Mr. Fichter has clients in many other states within the U.S. and in several other countries throughout the world. As a result of his experience Mr. Fichter has developed significant expertise in the area of creditor preferences, a method under Bankruptcy law which has become very popular with bankruptcy trustees in the last several years for recovering money and other assets back into a bankruptcy estate from certain so-called "preferred" creditors in order to benefit all the creditors of the estate.

Precious Metals Fraud Scheme: In 1994, on behalf of 45 individuals, Mr. Fichter obtained a \$6.5 million federal Judgment for fraud under the Anti-Racketeering ("RICO") Act against a Senior Captain of a major U.S. airline for perpetrating a precious metals "Ponzi" scheme against Mr. Fichter's clients.

Saved Santa Monica Airport: During 1982-1985 Mr. Fichter represented the Santa Monica Airport Association in litigation in which Mr. Fichter and his law firm were instrumental in obtaining an injunction preventing the City of Santa Monica from evicting the sixty tenants from, and closing down, the Santa Monica Airport. Mr. Fichter was successful in persuading the Federal Aviation Administration to take an active role in helping prevent the City from closing the airport and turning it into a real estate development. The eventual outcome is what exists today, *to wit* the updated and remodeled airport of Santa Monica.

Substantial Other Experience:

Mr. Fichter has personally handled more than 500 bankruptcy litigation/contested cases, representing both debtors and creditors, and many types of real estate "lien" matters including over 150 "mechanics lien" and "stop notice" cases and matters, and has significant experience in representing both debtors and creditors, and both landlords and tenants in lease matters and disputes over tenancies. Mr. Fichter has considerable experience in drafting all kinds of real estate, business and other types of contracts, in litigating disputes over contracts and their interpretation, and has advised all types of businesses, corporations, general and limited partnerships, and sole proprietorships in many different industries regarding corporate and business matters and disputes. Mr. Fichter has handled several will contests and matters involving trusts.

Other litigation matters Mr. Fichter has handled in the past several years are the following:

☛ **Successful Defense of Conversion Claim.** Mr. Fichter successfully defended a conversion lawsuit brought by a self-storage tenant against Mr. Fichter's self-storage landlord client. The tenant had claimed that Mr. Fichter's client had wrongfully withheld the tenant's property stored in a self-storage unit and also sought substantial money damages and punitive damages.

☞ **Successful Civil Action Re: Defective Computer Software.** Mr. Fichter represented one of Los Angeles's largest wholesale supplier to catering trucks in a dispute against a computer software company that sold it a large network of computers and software which were defective. By filing a federal lawsuit Mr. Fichter was successful in obtaining the cooperation of the software company to correct the defects.

☞ **Successful Enforcement of Mechanics Liens.** Mr. Fichter has handled more than one hundred real estate mechanics lien/stop notice matters for one of the largest suppliers of electrical equipment and accessories in the Los Angeles area, and recovered more than \$160,000 for one client in two mechanics lien/stop notice lawsuits.

☞ **Appointed By Court - Successful Defense of Mechanics Liens.** Mr. Fichter was appointed "Special Litigation Counsel" by the Bankruptcy Court in the bankruptcy of a commercial real estate project of a Southern California real estate developer to defend against fifty Mechanics Liens and Stop Notices lawsuits totaling approximately \$1 million recorded against the project. Mr. Fichter was instrumental in reducing the claims to less than \$250,000.

☞ **Collection of Federal Judgment.** Mr. Fichter successfully collected a \$100,000 federal Judgment for a partner of a large Washington D.C. law firm by levying against 1,000,000 of the debtor's product.

☞ **Successful Fraud Action Against Bank.** Mr. Fichter successfully obtained recovery of \$75,000 from a bank in a case for fraud, breach of the implied covenant of good faith and fair dealing, breach of contract, and related claims for the bank's refusal to refund the client's loan application fee of \$35,000. and for not revealing to the client that it had never handled any commercial loans before.

☞ **Largest Settlement Against Local AFL-CIO Union.** Mr. Fichter obtained the largest settlement then ever paid by a particular local union, a member of the AFL-CIO, \$120,000, to one of its own union members under the federal Labor Management Reporting and Disclosure Act. The federal case involved allegations that the management of the labor union defrauded Mr. Fichter's client by depriving him of his legal rights under that Act. What is noteworthy about that case is that it could have been settled for \$140.50 prior to the filing of any legal action, but the Union stonewalled and ended up paying in six figures.

☞ **Successful Federal Fraud Lawsuit for Defective Computer.** In a federal case Mr. Fichter successfully recovered all of the purchase price for a type-setting business client in a lawsuit against a computer manufacturer for fraud in selling the client a \$120,000 computer which was defective.

☞ **Ponzi Scheme Lawsuit.** Also, Mr. Fichter represented several hundred investors in a lawsuit to recover more than \$14 million from 81 defendants who, the lawsuit claimed, defrauded the investors in a real estate investment "Ponzi" scheme involving phony trust deeds and limited partnership investments.

Mr. Fichter does not claim to always achieve such positive results for his clients as those above.

CLIENT REFERENCES ARE AVAILABLE UPON REQUEST

(To protect their right of privacy, we do not reveal the identity of any client without its express permission to do so.)