

# PALMIERI TYLER

ATTORNEYS  
AT LAW

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## Don Fisher Of Counsel

[dfisher@ptwww.com](mailto:dfisher@ptwww.com)

Phone: 949.851.7223

Fax: 949.825.5406

A trial lawyer for 40 years, Mr. Fisher has handled hundreds of litigation matters and has been lead counsel in over 100 trials in both state and federal courts. Mr. Fisher also has substantial experience in appellate courts and with alternative dispute resolution, including arbitration and mediation. He has been with Palmieri Tyler since the law firm was founded.

Mr. Fisher's primary areas of practice include: complex business disputes; real estate and construction litigation; probate and trust litigation (including will and trust contests); creditors' rights (debt collection and enforcement of judgments); bankruptcy court litigation (pursuing creditors' claims and defending creditors against voidable preference and fraudulent transfer claims; and landlord-tenant

litigation (including lease disputes and eviction proceedings).

His clients include businesses, individuals, property owners, developers, investors, builders, national and regional banks and trust companies. He also represents lay and professional fiduciaries in probate and trust disputes.

## **Court Admissions**

- State of California
- U.S. District Court (Northern, Central, Southern, Eastern Districts of California)
- U.S. Court of Appeals for the Ninth Circuit

## **Professional Memberships and Activities**

- State Bar of California
- American Bar Association
- Orange County Bar Association
- Association of Business Trial Lawyers
- Orange County Bankruptcy Forum

## **Other Professional Experience**

Mr. Fisher has served as a panelist for the Continuing Education of the Bar's Programs on Mechanic's Lien Law

## **Published Decisions**

*Warmington Old Town Associates v. Tustin Unified School District* (2002) 101 Cal.App.4th 840; First Court of Appeal decision related to the imposition of school fees on residential redevelopment projects.

# Representative Matters

The following is a selection of the types of cases which Mr. Fisher has successfully litigated:

- Obtained an award of over \$9.5 million on behalf of a real estate investor. The litigation related to a residential real estate project and involved allegations of fraudulent transfers and violation of Corporations Code provisions which govern distributions from limited liability companies.
- Obtained a \$3.8 million settlement for a client involved in a series of complex loan transactions.
- Obtained a judgment of over \$1 million on behalf of a developer in an action for damages against a land owner for failure to complete the sale of 10 acres of land in Riverside County. Mr. Fisher also successfully defended the appeal of the judgment.
- After an eight-day trial involving a multi-million dollar estate, Mr. Fisher obtained a trial court judgment setting aside a will and trust. The trial judge determined that the invalidated estate plan was the result of undue influence exercised by the decedent's sister. Mr. Fisher also successfully handled the appeal of the judgment. The Court of Appeal unanimously affirmed the trial court decision.
- Represented the trustee of the Walt Disney Family Trust in a trust jurisdiction matter, obtaining favorable decisions in the trial court and on appeal.
- Obtained a favorable settlement on behalf of several trust beneficiaries in a case involving the appropriate allocation of assets among subtrusts.
- Obtained summary judgment on behalf of a client sued by neighbors claiming that construction of the clients' new home would block their ocean views.
- Obtained a Court of Appeal reversal of a trial court award of attorneys' fees in a real estate dispute.
- Represented an equipment leasing company in an action against a hospital chain for damages for breach of medical equipment leases. After obtaining a court ordered return of the equipment and pursuing prejudgment writs of attachment, the action resulted in judgment against the defendants for \$650,000.
- Represented a bank in a trial with a tenant following a foreclosure on a commercial property. The case involved a defense by the tenant that over

\$500,000 in rent had been pre-paid to the prior property owner. The case involved legal issues related to the priority on title between the bank's deed of trust and amendments to the recorded lease. The trial judge determined that the bank's deed of trust had priority and issued a judgment for eviction of the tenant and an award of unpaid rent.

- Represented a residential developer in obtaining a writ of mandate to compel the refund of school impact fees which had been imposed on a residential redevelopment project. In 2002, Mr. Fisher handled a precedent setting case before the California Court of Appeal in this area of the law. (*Warmington Old Town Associates v. Tustin Unified School District* (2002) 101 Cal.App.4th 840)
- Mr. Fisher obtained a full reversal in the Second District Court of Appeal in Los Angeles of a trial court judgment in a case involving the rental provisions of a long-term ground lease of a shopping center property. In a unanimous decision, the Court of Appeal determined that the trial court erred in adding language to a ground lease under the guise of interpreting the lease.
- Obtained an arbitration award for a client involved in a partnership dispute involving a medical office building.
- Obtained a judgment quieting title in client's favor in a real estate matter involving a long term ground lease.

## Education

- Northern Illinois University, B.A., magna cum laude (1974)
- University of California at Berkeley, Boalt Hall School of Law, J.D., Associate Editor of the California Law Review (1980)

## Practice Areas

- Litigation