

Judge Valerie Baker Fairbank
United States District Court
Central District of California
ABTL Judicial Profile

Profile Authors: Jesse Cripps and Roxanna Iran / Gibson, Dunn & Crutcher LLP

General Background

Born in Minneapolis, Judge Fairbank graduated from the University of California-Santa Barbara with a Bachelor's degree in 1971 and a Master's degree in 1972. She received her J.D. from the UCLA School of Law in 1975. After two years in private practice, Judge Fairbank joined the U.S. Attorney's Office as an Assistant U.S. Attorney. She returned to private practice in 1980 and made partner two years later. In 1986, Judge Fairbank served as a Municipal Court Judge for the Los Angeles County Municipal Court. One year later, she was elevated to the Superior Court bench, where she spent 20 years until her appointment to the federal bench in 2007.

Judge Fairbank is currently a member of the American Bar Association, the Los Angeles County Bar Association, the Santa Monica Bar Association, the National Association of Women Judges, the California Judges Association, Women Lawyers of Los Angeles, and the Association of Business Trial Lawyers.

Judge Fairbank was previously a member of the Judicial Council of California's Complex Litigation Task Force Committee and Chair of the Recruitment Committee of the UCLA School of Law Alumni Board. She also received the Alfred J. McCourtney Trial Judge of the Year Award from the Consumer Lawyers of Los Angeles in 1994.

Judge Fairbank handles approximately 360 civil and 150 criminal cases per year. She insists upon reading all the papers herself and sometimes makes recommendations to her clerks about how the case should be worked up before they begin working on the matter. She prides herself on getting into the details of the case.

Pre-Trial Matters

Scheduling Conferences: Judge Fairbank likes to hold scheduling conferences very early in the process and is open to creative suggestions from attorneys. She is particularly interested in hearing from counsel as to how the case would best be managed in terms of how much time the parties will need, whether phasing is appropriate, and whether it is proper to bifurcate the trial. She also finds it helpful when attorneys not only tee up certain issues for early adjudication, but also explain how it could best be done.

Motions: With pre-trial motions, such as class certification and summary judgment, Judge Fairbank finds it very helpful when lawyers get into the specifics of the evidence. She says that in these types of motions, the more attorneys can do to flush out the evidence and the specific details applicable to a given motion, the better. For example, in a motion for summary judgment, she prefers that attorneys list all the material facts in the separate statement of facts. She then uses this list to determine whether or not the defendant wins if those facts are taken as

true. In such motions, she also advises attorneys to request their right to relief up front—i.e., in a motion for summary judgment, an attorney should explain at the very outset of the motion why there are no factual disputes before getting into the specific details as to why there are no factual disputes.

Tentative Rulings/Oral Argument: Judge Fairbank tries her best to issue tentative rulings or a minute order in advance of the hearing, but advises that an attorney should never take a tentative ruling for granted. She also likes to direct specific questions to the attorneys so that they know what issues need to be addressed. For significant issues, Judge Fairbank will often grant as much as one hour for oral argument. According to Judge Fairbank, it is important that attorneys not simply repeat what is in the papers when presenting oral argument.

Separate Motions for Separate Issues: Judge Fairbank often considers whether or not certain issues can be tried in separate phases. For example, when one issue or affirmative defense may dispose of all the claims, it may be more efficient to try that matter first. She also suggests that attorneys should consider raising summary judgment or summary adjudication issues in separate motions because she finds it helpful to have discrete issues broken down and filed/addressed separately.

Sanctions: Judge Fairbank rarely issues sanctions on motions to compel.

Trial Practice

Pre-Trial Conferences: Judge Fairbank suggests that, when appropriate, attorneys should ask for a pre-trial conference hearing well in advance of trial. She is more than happy to accommodate such requests. She is also open to pre-trial telephone conferences as opposed to in-person conferences.

Voir Dire: Judge Fairbank is open to *voir dire* examination by the attorneys but says that attorneys should not ask improper questions. She believes that it allows the attorneys to get a better feel for the jury.

Time Limits: Judge Fairbank sets time limits at the outset of the trial in almost every case but discusses it with the attorneys first—i.e., she will give the attorneys a certain number of hours to present their entire case and will let them know at the end of each day how much time is remaining. However, she is not always wed to these limits and notes that they may change if it proves necessary. She also informs the jurors about the time limits so that they have an expectation as to how long the trial will last.

Trial Briefs: According to Judge Fairbank, trial briefs are a good idea and attorneys should always ask whether or not they would be helpful in a particular case.

Pocket Briefs: Judge Fairbank advises that attorneys should make more frequent use of “pocket briefs” to deal with issues that may come up during trial.

Jury Instructions: Judge Fairbank believes that jury instructions really drive the evidence that will be put on at trial. For that reason, she suggests that attorneys pay particular attention to

planning during the pre-trial conference so that they have enough time to address the jury instructions.

Opening Statements: Judge Fairbank believes that attorneys should not present arguments during an opening statement.

Objections: In order to efficiently address objections to evidence, Judge Fairbank asks the attorneys to submit a joint exhibit and stipulation with a column listing all the various objections that may be raised. She then rules on those objections at the time the evidence is introduced. She finds that this requires the attorneys to give more thought to their objections and that it also keeps her from having to rule on evidence that never gets submitted or introduced at trial. For testimony, Judge Fairbank does not like “speaking” objections before the jury. Instead, she prefers that the attorneys stand up and concisely state their objection (e.g., “hearsay”) and the applicable rule of evidence. She generally rules on such objections at the time they are made.

Cross-Examination: Judge Fairbank suggests that in some cases attorneys should “get to the point” in their cross-examination. Also, she believes that absent good cause, witnesses should only be called once as opposed to being called separately for each party’s case-in-chief.

Schedule

On Mondays, Judge Fairbank handles criminal matters and scheduling conferences at 10:00 a.m. and civil motions at 1:30 p.m. She holds trial on Tuesdays through Fridays from 8:30 a.m. to 4:30 p.m. If the attorneys consent, she prefers to hold trial for 1½ hours in the morning, allowing ½ hour for lunch, in order to have a compressed trial day of 8:30 a.m. to 2:00 or 2:30 p.m.

Judge Fairbank’s local rules can be found on the Central District of California’s website: <http://www.cacd.uscourts.gov/CACD/JudgeReq.nsf/2fb080863c88ab47882567c9007fa070/5176811ba2bb75e3882572820063b0c2?OpenDocument>.