

Hon. Gary A. Feess



In 1996, Judge Feess was appointed to the Los Angeles County Superior Court where he served for three years. In 1999, he was nominated by President Clinton to serve as a United States District Judge in Los Angeles, California. During his more than 15 years on the federal bench, Judge Feess presided over several hundred criminal prosecutions and more than 6,000 civil lawsuits, including many disputes involving intellectual property rights, securities and corporate governance, and rights under government contracts. For ten years, Judge Feess presided over the implementation of the federal consent decree that mandated substantial reforms of the Los Angeles Police

Department, and handled more than 200 federal civil rights actions arising from the Rampart Division Scandal. During his nearly 19 years of service as a judge on the state and federal courts, Judge Feess presided over between 200 and 300 trials.

Areas of Expertise:

- ACCOUNTING/FINANCE
- ATTORNEY FEE/MALPRACTICE
- BANKING/LENDER LIABILITY
- ENTERTAINMENT, MEDIA & SPORTS
- ENVIRONMENTAL/CERCLA
- INSURANCE/REINSURANCE
- IP (TRADEMARK & COPYRIGHT)
- PATENT
- SECURITIES/FINANCIAL SERVICES

After four years as a litigation associate with Jones Day Reavis & Pogue in Los Angeles, Judge Feess served with distinction in the United States Attorney's Office from 1979 to 1989 in its Criminal Division. During his tenure he served as Assistant Division Chief, Major Crimes, Assistant Division Chief, Major Frauds, First Assistant Division Chief, Chief Assistant United States Attorney and, in 1989, Acting United States Attorney. As an Assistant United States Attorney he investigated and prosecuted major mail fraud, wire fraud and securities fraud violations, public corruption matters, criminal tax cases, and serious street crime cases including several involving assaults using improvised explosive devices. He tried more than 35 cases to verdict achieving convictions in all but one of them.

From 1990 to 1992, Judge Feess was a partner with Jones Day LA, where he was the head of the litigation group. During that period, he also served as Deputy General Counsel to the



Christopher Commission on the Los Angeles Police Department and participated in drafting the Commission's final report to the Mayor, City Council, and Chief of Police. From 1992 to 1996, Judge Feess was a litigation partner at the then-recently formed law firm of Quinn Emanuel Urquhart & Oliver. At both firms, he was lead counsel on major business litigation for corporations such as TRW Inc., Hughes Electronics, and Parsons Engineering. A major portion of his practice was devoted to the defense of False Claims Act litigation brought under the Act's qui tam provisions.

Judge Feess has been active in the Judge Paul R. Michel Intellectual Property Inn of Court since its inception. He served as its Counsel in 2011, and its President in 2012 and 2013. He has served on several panels dealing with current issues in patent litigation. Judge Feess has presided over hundreds of intellectual property disputes, including cases involving patents, copyrights, trade secrets and trademarks. He has handled patent cases involving mobile wireless networks, forensic software, complex movie camera systems, laser dental technology, devices used in ophthalmological surgery, and business methods with implications under the Hatch Waxman Act.

In the copyright arena, Judge Feess presided over disputes regarding ownership and copyright infringement issues relating to major motion pictures, including *Watchmen*, *We Are Marshall* and *The Dukes of Hazard*, and numerous television programs including *The Biggest Loser*, *Big Brother*, *Heroes* and *Vegas*. Judge Feess also handled many trademark infringement and counterfeiting cases including suits brought by *Chloe* and other luxury brand owners against a Saudi Arabian business catering to manufacturers of so-called "replica" products, and a series of 1400 lawsuits brought by *Altria Group* over the manufacture and sale of counterfeit *Marlboro* cigarettes.

During his tenure on the district court, Judge Feess also presided over two MDL air crash cases – the crash of Singapore Airline Flight 006 during takeoff from Taipei, Taiwan, in October 2000, and the *Spanair* crash of flight 5022 on takeoff from Madrid, Spain, in August of 2002. In addition, he also presided over a series of consolidated cases involving a helicopter crash in the Idaho wilderness in 2010 during a wildlife survey.

Judge Feess received his B.A. from Ohio State University cum laude and with distinction in history in 1970. He was the recipient of a University Fellowship in history in 1970 at the University of California, and received his J.D. from the UCLA School of Law in 1974, where he was a member of the Law Review from 1972 to 1974. Judge Feess is a member of the Phi Beta Kappa and Order of the Coif honorary societies.

Representative and Significant Cases: 1999 – 2015

- *1800 Rosecrans Partners v. Fairchild Industries, Inc. et al.*, CV 98-8176-GAF (Dispute between purchaser of real estate and former owners involving the allocation of remediation costs associated with environmental contamination discovered at the site.)

- *Advanced Media Networks LLC v. Gogo LLC, et al.*, CV 11-10474-GAF; *Advanced Media Networks LLC v. Row 44, et al.*, CV 12-11018-GAF (Patent disputes in which Plaintiff claimed that Gogo and other airline Wi-Fi providers infringed on Plaintiff’s mobile network patent). See 2014 U.S. Dist. LEXIS 156225 (C.D. Cal. Nov. 4, 2014) Opinion and order denying motion for partial summary judgment.
- *Ahdoot v. Babolat VS North American*, CV 13-2823-GAF; *Clark v. Babolat VS North America Inc. et al.*, CV 13-7898-GAF (Consumer class action over alleged misrepresentations in marketing features of high-end tennis rackets endorsed by Rafael Nadal).
- *AIG Europe (UK) Ltd. v. McDonnell Douglas Corp, et al.*, CV 02-8703-GAF (Suit by insurers following payment of \$80,000,000 claim by China Airlines following crash of MD-11 aircraft on landing at Hong Kong International Airport) See 2003 U.S. Dist. LEXIS 1770 (C.D. Cal. 2003) Opinion and order denying insurers’ motion to remand to Superior Court.
- *American Institute of Intradermal Cosmetics v. Society of Permanent Cosmetic Professionals, et al.*, CV 13-2823-GAF (Antitrust litigation involving trade association’s alleged use of membership requirements to restrain trade).
- *Arista Records LLC, et al. v. Myxer Inc.*, CV 08-3935-GAF (Lawsuit between music companies and internet service provider over the use of copyrighted musical compositions, raising question whether Myxer qualified for protection under the Digital Millennium Copyright Act) See 2011 U.S. Dist. LEXIS 109668 (C.D. Cal. April 1, 2011) Opinion and order on motions for summary judgment.
- *Cassirer v. Thyssen-Bornemisza Collection Foundation [Kingdom of Spain]*, CV 05-3459-GAF (Suit to recover Nazi stolen art from victims of the Holocaust); See 461 F. Supp. 2d 1157 (C.D. Cal. 2006) Opinion and order denying motion to dismiss under Foreign Sovereign Immunities Act; affirmed 616 F.3d 1019 (9th Cir. 2010) (en banc).
- *CBS Broadcasting, Inc. v. American Broadcasting Companies*, CV 12-4073-GAF (Copyright dispute involving alleged misappropriation of “Big Brother” reality show format); related: *Rosen, et al. v. CBS Broadcasting, Inc.*, CV 12-9751-GAF (Former “Big Brother” showrunner and staff seek declaration of rights to work on competing television program).
- *Chandler v. State Farm Mutual Automobile Ins. Co.*, CV 08-3184-GAF (Class action involving right of insurer to recoup costs from third party tortfeasor’s carrier before the insured brings suit against the third party and is “made whole”), see 596 F. Supp. 2d 1314 (C.D.Cal.2008) Opinion and order granting judgement in favor of insurer, affirmed 598 F.3d 1115 (9th Cir. 2010) (adopting district court opinion verbatim).
- *Chloe SAS et al. v. Sawabeh Information Servs. Inc.*, CV 11-4147-GAF (Trademark infringement and counterfeiting case brought by several purveyors of luxury goods against on-line business selling “replica” merchandise) See 2013 U.S. Dist. LEXIS 187398 (C.D. Cal. October 8, 2013) Opinion and order re: granting plaintiffs’ motion for summary judgment.
- *City of Los Angeles v. County of Kern*, CV 06-5094-GAF (Commerce clause litigation questioning constitutionality of Kern County ordinance banning the trucking of sludge from Los Angeles County to Kern County facility) See 509 F. Supp. 2d 865 (C.D. Cal., 2007) Opinion

and order granting motion for summary judgment barring implementation of ordinance; 581 F.3d 841 (9th Cir. 2009) vacating and remanding on prudential standing grounds.

- *City of Los Angeles, et al. v. Donald Evans, Secretary of Commerce, et al.*, CV 01-1671-GAF (Suit to invalidate the 2000 census due to alleged statistical errors purportedly leading to an undercount of certain population groups) See 2001 U.S. Dist. LEXIS 25977 (C.D. Cal. April 25, 2001) Opinion and order granting defendant’s motion for summary judgment; affirmed 307 F.3d 859 (9th Cir. 2002).
- *Cleopatra Records, Inc. v. William Bruce Bailey*, CV 04-3120-GAF (Copyright and Lanham Act lawsuit involving right of former members of Guns ‘N Roses to publish recordings made by predecessor band, Hollywood Rose) See 2005 U.S. Dist. LEXIS 32780 (C.D. Cal. 2005) Opinion and order granting award of attorney’s fees after granting summary judgment in favor of plaintiff.
- *DeFrees et al. v. John C. Kirkland, et al.*; CV 11-4272 GAF; *Camofi Master LDC et al. v. Jerrold Pressman et al.*, CV 11-4574 GAF (Consolidated cases alleging breach of fiduciary duty, securities violations and derivative claims in connection with outside counsel’s alleged participation in conspiracy to take over company and freeze out existing shareholders and creditors).
- *Del Webb’s Coventry Homes, Inc. et al. v. National Union Fire Ins. Co., et al.*, CV 13-1330-GAF (Insurance coverage dispute arising out of housing development project in Maricopa County, Arizona and underlying class action lawsuit brought by home buyers against builder).
- *Deutsche Bank Nat’l Trust Co. v. FDIC*, CV 09-3852-GAF (Litigation over claim priority under FIRREA) See 784 F. Supp. 2d 1134 (C.D. Cal. 2011) Opinion and order denying motion to dismiss; 854 F. Supp. 2d 756, 759 (C.D. Cal. 2011) reconsidering and granting dismissal and certifying for interlocutory appeal; 744 F.3d 1124 (9th Cir. 2014) affirming dismissal.
- *Diodem LLC v. Lumenis, Inc., et al.*, CV 03-2142-GAF [related *Biolase Technology, Inc. v. Diodem, LLC*, CV 03-3780-GAF] (Patent dispute over rights to method of conducting dental surgery with a laser device) See 2005 U.S. Dist. LEXIS 49470 (C.D. Cal. Sep. 21, 2005) Opinion and order granting in part and denying in part motion for summary judgment.
- *EEOC v. Universal Pictures, et al.*, CV 03-7023-GAF (Litigation involving allegations that Universal Pictures engaged in racial discrimination in connection with the hiring and termination of the First Assistant Director on “2 Fast 2 Furious”).
- *Frazier, et al. v. Roessel Cine Photo Tech, Inc.*, 99-10425-GAF (Patent infringement dispute involving advanced movie camera) See 417 F.3d 1230 (Fed. Cir. 2004) affirming finding of invalidity based on inequitable conduct before the USPTO.
- *Freyr Holdings, LLC v. Legacy Life Advisors, LLC, et al.*, CV 10-9446-GAF (Contract dispute between hedge fund and consulting company regarding investments in life insurance policies).

- *FTC v. Steve Garvey*, CV 00-9358-GAF (Action by FTC against well-known former baseball player for allegedly fraudulent endorsement of weight loss and nutritional supplements).
- *Herrick Family Ltd. Partnership v. Odyssey Medical, Inc.*, CV 99-8781-GAF (Patent litigation involving alleged infringement of medical device used to treat dry eye. See 1999 U.S. Dist. LEXIS 23563 (C.D. Cal. Nov. 9, 1999) Opinion and order granted summary judgment of non-infringement).
- *In re Air Crash at Taipei, Taiwan on October 31, 2000*, MDL No. 1392-GAF (Litigation involving the crash of Singapore Air Flight 006 on takeoff from the Taipei, Taiwan airport in which 83 people were killed and 71 injured. See related: *Van Schjndel v. Boeing Co.*, 434 F. Supp. 2d 766 (C.D. Cal. 2006) dismissing related product liability claims against manufacturer on forum non conveniens grounds).
- *In re Air Crash at Madrid, Spain on August 20, 2008*, MDL No. 10- 2135-GAF (Litigation involving the crash of Spanair Flight JK5022 which crashed on takeoff in Madrid, Spain killing 154 and injuring 18). [Related Case: *Perez v. The Boeing Co.*, CV 09-7285-GAF (products liability class action against aircraft manufacturer arising from crash of Spanair Flight JK5022).
- *In re American Funds Mutual Funds Fee Litigation*, CV 06-7815-GAF (Class action brought against American Funds challenging \$15 billion in fees charged against mutual funds and born by holders of fund shares) See *In re American Mutual Funds Fee Litigation*, 2009 U.S. Dist. LEXIS 120597 (C.D. Cal. Dec. 28, 2009) Final order setting forth the Court's findings of fact and conclusions of law following court trial.
- *In re MannKind Securities Litigation [Mui v. MannKind Corporation et al.]*, CV 11-929-GAF and related derivative action *Talley v. Alfred Mann, et al.*, CV 11-5003-GAF (Securities class action and related derivative litigation arising from alleged false statements regarding approval status of inhalable insulin product) See *The MannKind Securities Actions*, 835 F. Supp. 2d 797 (C.D. Cal. 2012) Opinion and order denying reconsideration of denial of motion to dismiss.
- *In re MyKey Technology Inc. Patent Litigation*, MDL 13-2461-GAF (Multi-district patent litigation involving alleged infringement of plaintiff's patented computer software).
- *In re Wetseal Securities Litigation* [*Partners LLC v. Teitelbaum, et al.*, CV 04-7205; *Tyler v. Wet Seal, Inc.*, CV 04-8343; *West v. Wet Seal, Inc., et al.*, CV 04-8315; *Sadowdsky v. Wet Seal, Inc., et al.*, SA CV04-1149; *Matayzic v. Wet Seal, Inc., et al.*, CV 04-9381] (Securities fraud claims brought against specialty retailer alleging false statements regarding its new clothing lines and its anticipated business prospects) See 518 F.Supp.2d 1148 (C.D. Cal. 2007) Opinion and order dismissing claims under PSLRA.
- *Intamin Ltd. v. Magnetar Technologies Corp.*, CV 04-511-GAF (Patent/antitrust suit involving magnetic braking technology used in amusement park rides) See 623 F. Supp. 2d 1055 (C.D. Cal. 2009) Opinion and order granting defendant's motion for summary judgment of non-infringement.

- *IV Solutions Inc. v. United Healthcare Services Inc. et al.*, CV 12-4887-GAF (Lawsuit between medical provider of costly in-home infusion services and health insurer over construction of agreements covering reimbursement claims).
- *Karl Storz Imaging Inc. v. Pointe Conception Medical, Inc.*, CV 09-8070-GAF (Patent/trademark dispute regarding video technology used primarily in medical procedures).
- *Koninklijke Philips Electronics NV et al. v. National Film Laboratories Inc. et al.*, CV 12-4576-GAF (Patent/licensing dispute involving DVD technology licensed to defendant DVD manufacturers).
- *Kournikova v. General Media Communications*, CV 02-3747-GAF (Suit by Anna Kournikova against publisher of for publishing partially nude photographs another woman and falsely identifying her as the subject) See 278 F. Supp. 2d 1111 (C.D. Cal. 2003) Opinion and order granting defense motion for summary judgment on false endorsement claim under Lanham Act.
- *Marshall & Swift/Boeckh, LLC v. URS Corporation, et al.*, CV 08-4375-GAF (Copyright litigation involving alleged misappropriation of data from plaintiff's copyrighted real estate appraisal manuals).
- *Metro Lights, LLC v. City of Los Angeles*, CV 04-1037-GAF (First Amendment challenge to implementation of Los Angeles sign ordinance that imposed total ban on "off-site" signs (e.g. billboards) See 488 F. Supp. 2d 837 (C.D. Cal. 2006) Opinion and order granting plaintiff's motion for summary judgment on First Amendment claim); reversed 55 F.3d 898 (9th Cir. 2009).
- *Milano v. NBC Universal, Inc.*, CV 06-3237-GAF (Copyright and contract dispute in which Plaintiff claimed the rights to "The Biggest Loser" based on her submission of a treatment for a program called "From Fat to Phat") See *Milano v. NBC Universal, Inc.*, 584 F.Supp.2d 1288 (C.D. Cal. 2008) Opinion and order granting defendant's motion for summary judgment.
- *Moonrunners Limited Partnership, et al. v. Time Warner, Inc., et al.*, CV 05-1362-GAF (Dispute over derivative rights to "Moonrunners," a movie from which the "Dukes of Hazzard" television show was derived, and which was alleged to be the basis for the Dukes of Hazard movie) See 2005 U.S. Dist. LEXIS 41244 (C.D. Cal. June 21, 2005) Opinion and order granting preliminary injunction. Related: *First Nat'l Bank, Trustee v. Warner Brothers Entertainment, Inc.*, CV 09-8887-GAF (Dispute over right to royalties on movie version of "Dukes of Hazzard" following resolution of 05-1362).
- *New.Net, Inc. v. Lavasoft, et al.*, CV 03-3180-GAF (Lawsuit in which purveyor of spyware sought injunction against seller of anti-spyware program for allegedly engaging in unfair competition and related torts).
- *Novak et al. v. Warner Bros. Pictures LLC, et al.*, CV 07-4000-GAF (Lawsuit in which authors of documentary film regarding the 1970 airplane crash carrying Marshall University football team claimed Warner Brothers dramatization of the event infringed their copyright).

- *NYKO Technologies, Inc. v. Energizer Holdings Inc., et al.*, CV 12-3001-GAF (Patent dispute involving charging systems for video game controllers) See 2013 U.S. Dist. LEXIS 189 (C.D. Cal. Dec. 22, 2013) Opinion and order granting defendant’s motion for summary judgment on invalidity.
- *Ovando v. City of Los Angeles, et al.*, CV 99-11629-GAF [and 225 related cases] (Civil rights cases brought against City of Los Angeles and Los Angeles Police Department arising from misconduct in the Rampart Division CRASH Unit).
- *Palm Desert Nat’l Bank v. C.D.L. Construction, Inc., et al.*, CV 12-1429-GAF (Consolidated series of cases involving failed real estate development project in Palm Springs area).
- *Pollara v. Radiant Logistics, Inc. et al.*, CV 12-344-GAF (Intellectual property dispute involving former employee’s alleged use of stolen trade secrets in competing business).
- *Professional Business Bank v. FDIC*, CV 10-04614 GAF, *aff’d sub nom. Bank of Manhattan v. FDIC*, 778 F.3d 1113 (9th Cir. 2015) (Dispute involving ability of FDIC to void contractual obligations of its predecessor in interest after predecessor was deemed insolvent and seized by the FDIC).
- *Santa Clara Seeds Inc. v. Mutual Serv. Casualty Ins. Co.*, CV 00-7744-GAF (Insurance coverage dispute after insurer, based on contract exclusion, refused defense of claim brought against seed broker when its seeds failed to properly germinate).
- *SEIU, et al v. City of Los Angeles, et al.*, CV 00-1179-GAF (First Amendment case seeking injunction against City’s plan limiting demonstrations at the Democratic National Convention to a fenced area several blocks from the Staples Center.)
- *Shimano, Inc. v. Campagnolo S.R. L., et al.*, CV 00-7710-GAF (Patent dispute dealing with the design of bicycle hand braking systems).
- *Spacey v. Burgar*, CV 01-3848-GAF (Dispute involving the right of a celebrity to bring suit in United States District Court for the alleged misappropriation of his name by a foreign internet web site operator) See 207 F. Supp. 2d 1037 (C.D. Cal. 2001) Opinion and order granting motion to dismiss.
- *Stan Lee Media, Inc. v. Merrill, Lynch, Pierce, Fenner & Smith Inc.*, CV 03-1036-GAF (Securities fraud case allegedly perpetrated by a Stan Lee executive and major shareholder with assistance from Merrill Lynch, who allegedly engaged in a market manipulation scheme).
- *Thermolife International LLC v. Better Body Sports LLC*, CV 12-9229-GAF (and 19 related cases) (Patent dispute over claimed rights in d-aspartic acid used in muscle building supplements).
- *Traveler’s Indem. Co. v. Sylvia Burnett, et al.*, CV 12-4373-GAF (Coverage dispute on performance bonds issued on failed construction project in Riverside County).
- *Twentieth Century Fox Film Corp. v. Warner Bros. Entm’t Inc., at al.*, CV 08-889-GAF (Dispute over movie rights to the graphic novel, “Watchmen”).

- *UMG Recordings, Inc. et al. v. American Home Assurance Company, et al.*, CV 07-3257-GAF (Insurance coverage dispute regarding obligation of carrier to defend and indemnify record company in RICO action brought in state court) See 321 Fed. Appx. 553 (9th Cir. Sep. 2, 2008) affirming grant of summary judgment holding insurer had no duty to defend under CGL policy.
- *United States v. City of Los Angeles*, CV 00-11769-GAF (Civil Rights litigation involving consent decree mandating substantial reforms to the Los Angeles Police Department).
- *United States v. Tenet Healthcare Corp., et al.*, CV 03-206-GAF (False Claims Act and fraud suit brought by United States against Tenet and 103 hospital subsidiaries for allegedly overbilling Medicare by more than \$100,000,000).
- *Webb v. Carter's Inc., Avery Dennison, Inc.*, CV 08-7367-GAF (Consumer class action alleging personal injury to infants and toddlers from chemicals used in labeling of baby clothes) see 272 F.R.D. 489 (C.D. Cal. 2011) Opinion and order denying class certification.
- *Wild v. NBC Universal, Inc.*, CV 10-3615-GAF (Infringement suit brought by author of graphic novel series against NBC for alleged use of copyrighted elements in "Heroes" television series) See 788 F. Supp. 2d 1083 (C.D. Cal. 2011) Opinion and order dismissing suit.
- *Wishtoyo Foundation v. Magic Mountain LLC, et al.*, CV 12-5600-GAF (Environmental dispute involving allegations that Magic Mountain amusement park was discharging toxic waste, primarily in the form of storm water run-off, into the Santa Clarita River in violation of federal and state environmental laws and regulations).