

# David Graeler

Partner | Los Angeles

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David Graeler serves as Chair of Nossaman’s Litigation Department and Co-Chair of its Real Estate Group. With nearly 25 years of litigation and trial experience representing both plaintiffs and defendants, David excels at partnering with his clients to identify their goals and to develop and execute winning strategies to effectively resolve complex business disputes both inside and outside the courtroom. Through the development of his civil trial practice, David has honed his ability to communicate and connect with judges and juries, as well as with clients, witnesses, and other attorneys.

David strives to learn and understand his client's business objectives, key issues and goals in order to develop a tailored strategy and obtain the best possible result. His track record of success in high stakes litigation in federal and state courts has earned him numerous awards and accolades, including a California Lawyer Attorney of the Year (CLAY) Award for litigation, recognition as co-lead counsel in securing a jury verdict that ranked among the National Law Journal’s Top Verdicts, and securing a spot as lead counsel for the Top Verdicts in California. David was also recognized by the National Law Journal as one of its Top 50 Litigation Trailblazers & Pioneers, and has been repeatedly recognized by the Los Angeles Business Journal as one of the 50 Best Litigators in Los Angeles and also one of the Most Influential Minority Attorneys in Los Angeles. He has also been included in *The Best Lawyers in America*.

David focuses his practice on the representation of public and private sector clients principally in the areas of real estate, eminent domain, construction, and commercial disputes.

David is currently serving on the Board of Governors of the Association of Business Trial Lawyers and previously served as Chair of the Courts Committee, where he liaised with industry leaders from the bench and from various Bar associations. He also served on the Judicial Appointments Committee for the Los Angeles County Bar Association for numerous years, which assisted the California Governor in evaluating judicial candidates for the Los Angeles County Superior Court.

## EXPERIENCE

**Complex Breach of Lease Involving Fortune 100 Company.** Represented a Fortune 100 defendant in a federal court action for breach of contract and unfair business practices. The plaintiff challenged the validity of 11 site lease terminations by our client. The case was rendered more complex due to a choice of law provision that triggered the application of California, Washington, Nevada, Texas, and Massachusetts law. The parties ultimately filed cross motions for summary judgment that addressed the interpretation of a clause that permitted termination when the lessee determined that a premises was no longer appropriate for its operations due to technological reasons. The District Court sided with the interpretation promoted by the defendants and granted summary judgment in their favor,

and awarded significant attorneys' fees. Our client's parent company was also dismissed from the case under Rule 12 (b)(2) for lack of personal jurisdiction.

**Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, F.S.B. v. Van Dellen et al.** This case was the first lawsuit filed by the FDIC in connection with the 2008 banking crisis, and followed an 18-month investigation into numerous complex residential acquisition, development, and construction loans that were made by IndyMac Bank, F. S.B. IndyMac failed in July 2008 and was one of the largest bank failures in U.S. history. After two and a half years of hotly contested litigation in federal court, pre-trial rulings eliminated all of the defendants' affirmative defenses including the business judgment rule, mitigation of damages, regulatory conduct and the economy as a superseding cause of loan losses. David was one of three lead trial lawyers that took the case through a five-week jury trial. The nine-person jury returned a unanimous verdict on December 7, 2012 on all claims and awarded damages of nearly \$169 million. The *National Law Journal* ranked the verdict as number 13 in its annual national Top Verdicts list. The verdict was also recognized by the *Daily Journal* in 2012 as having the most significant impact of any plaintiff's verdict in California and for being the second largest dollar verdict in the state.

**Four Independent Oil Producers.** David represented four independent oil producers in defense of a lawsuit filed by a water company to recover unpaid fees and also in a cross-complaint against the water company and its directors. The water company had been subjected to regulatory action that resulted in operations to be shut down. The water company then tried to pass off all of its closure costs solely to its current members (including our clients) rather than to all producers of wastewater since its inception in 1950. This case had the potential to set precedent for the way all independent oil producers are treated in the wake of historic oil production by large oil companies. We ultimately negotiated a favorable settlement on behalf of our clients that resulted in a discounted sum due to the water company in recognition of our clients' affirmative claims. We received support from the water company to pursue a major oil company for indemnity. That subsequent claim against the major oil company resulted in a further payment of more than 50% of the liability associated with closure of the water company facility at issue.

**Los Angeles Metropolitan Transportation Authority v. North Chandler Associates.** David represented LA Metro in a rent adjustment dispute involving a long-term ground lease on property being used for an industrial /incubator complex. The primary issue was whether the land should be appraised at its highest-and-best use without regard to the time remaining on the lease or whether the property should be appraised according to the use chosen by the ground tenant. David served as lead trial counsel for a multi-day arbitration before a panel of three arbitrators that resulted in an arbitration award that exceeded LA Metro's offer to settle.

**Real Estate Investment Firm.** Our client owned a country club located in Palm Desert, California. The adjacent/ adjoining 900+ unit homeowner's association initiated litigation against our client for various breaches of the covenants, conditions, and restrictions, including claims that our client was not maintaining the country club according to "industry standards." The maintenance demanded by the homeowner's association would have rendered the country club economically unviable for our clients, so this litigation was essentially a bet-the-company dispute. After multiple years of hard-fought and contentious litigation, we managed to negotiate a full resolution of the dispute that included the sale of the country club to the homeowner's association. Our client was already looking at opportunities to sell, and the ability to sell to the homeowner's association proved to be an elegant solution to a complex problem.

**First Federal Bank of California.** David served as lead counsel for the FDIC as Receiver for First Federal Bank of California in an investigation into the failure of First Federal Bank of California. This investigation resulted in authority to sue several former bank officers and directors in connection with more than \$40 million in losses incurred on more than 250 residential Option Adjustable Rate Mortgage loans. David successfully negotiated a settlement for the FDIC following several mediation sessions that resolved the dispute without having to file suit.

**Affinity Bank.** David served as lead counsel for the FDIC as Receiver for Affinity Bank in an investigation into the failure of Affinity Bank that resulted in an estimated loss of \$310 million to the Deposit Insurance Fund. This investigation resulted in authority to sue several former bank officers and directors in connection with losses resulting from large commercial loans. David negotiated a settlement for the FDIC shortly after filing suit in federal court.

**Port of Los Angeles.** David serves as the litigation team leader for Nossaman's representation of the Port of Los Angeles in real estate matters.

**Real Estate Dispute Involving Subsurface Utilities.** Represented a Fortune 100 company in a real estate dispute relating to subsurface utilities and plaintiffs' claim for trespass and negligence related to loss of lateral support. Also represented the client in a related cross action to quiet title via an easement by prescription.

**Port of Long Beach.** Represents the Port of Long Beach in analyzing and preparing strategy to respond to construction claims involving a design-build contract for the Long Beach International Gateway Bridge Replacement Project, a 1.5-mile bridge to serve one of the world's largest and busiest container ports. The project is the first cable-stayed bridge for vehicles ever built in California. David also represents the Port of Long Beach in myriad real estate matters.

**Galpin Motors, Inc.** David represents Galpin Motors and many of its related entities in a variety of real estate related matters and corporate disputes.

**Rancho Maria Golf Club, Inc.** David represents Rancho Maria Golf Club in real estate litigation involving its golf course in Santa Maria, California.

**Eastern Columbia Homeowners Association v. Coast Prime Properties.** Represented Coast Prime Properties in an action for breach of contract and declaratory relief stemming from a dispute between the tenant of a long-term parking agreement and the owner of the parking garage. Also represented Coast Prime Properties in a cross complaint for breach of contract, injunction, intentional interference with contract, and intentional interference with prospective economic relations. Successfully negotiated a structured settlement for Coast that resulted in a cash payment on its cross complaint and an arbitration process to determine market rent for a key rent adjustment. The arbitration process resulted in a substantial recovery for Coast and a market rent determination that was nearly double the amount offered by Coast early in the litigation.

**Seafood Distributor.** Represented a seafood distributor involving a breach of contract for the sale and purchase of custom-peeled, frozen raw shrimp. Negotiated a favorable resolution for the client pre-litigation after persuading the opposing side that its refusal to accept the goods sold was improper.

**Savoy v. Burdette-de Cock Inc.** Represented the defendants as lead counsel in an action for breach of contract, breach of employment contract, and negligent misrepresentation relating to a home senior care company. This case involved an emotionally-charged dispute between two business partners. David negotiated a favorable settlement at mediation that resulted in defendants making no out-of-pocket payment. In addition, the settlement resulted in the defendants' employment practices liability carrier contributing a substantial amount toward the settlement and legal fees and costs.

**Wham-O, Inc. v. Scott Burke, et al.** Represented one of the defendants in an action brought by Wham-O, Inc. for misappropriation of trade secrets, breach of contract, intentional interference with prospective economic benefit, unfair competition, and computer fraud. After 18 months of hotly contested litigation, the case was resolved through a favorable settlement.

**C.W. Driver, Inc.** Represented a multi-faceted builder who provides general contracting, construction management, and design/build services to the western United States. Representation included construction-related litigation and contract negotiation as well as an assortment of breach of contract cases stemming from various construction projects.

## INSIGHTS

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### SPEAKING ENGAGEMENTS

Guest Lecturer, "Corporate Fraud: Civil and Criminal Consequences of a Decade of Financial Collapses," USC Gould School of Law Corporate Fraud and Government Investigations Forum, 02.23.2022

Speaker, "Long-Term Ground Leases," International Right of Way Association Chapter 67's October Virtual Luncheon, 10.12.2021

Speaker, "Partial Acquisitions: A Case Study on Severance Damages, Offsetting Project Benefits and Mitigation Strategies," Nossaman Webinar, 08.04.2021

Guest Lecturer, "Corporate Fraud: Civil and Criminal Consequences of a Decade of Financial Collapses," USC Gould School of Law Corporate Fraud and Government Investigations Forum, 03.10.2021

Speaker, "Navigating COVID-19 for the Right of Way Industry," Nossaman Webinar, 04.01.2020

Speaker, "Corporate Fraud: Civil and Criminal Consequences of a Decade of Financial Collapses," USC Gould School of Law Corporate Fraud and Government Investigations Forum, 03.04.2020

Panelist, "Student Outreach 2020," The Metropolitan Water District of Southern California Student Outreach Event, Los Angeles, CA, 02.28.2020

Panelist, "The Late Stages of Litigation: Project Modifications, Expert Discovery and Settlement Strategies," Nossaman's 2019 Northern California Eminent Domain Seminar, San Francisco, CA, 03.26.2019

Speaker, "The Late Stages of Litigation: Project Modifications, Expert Discovery, and Settlement Strategies," Nossaman's 2019 Southern California Eminent Domain Seminar, Los Angeles, CA, 03.19.2019

Panelist, "Student Outreach 2019," The Metropolitan Water District of Southern California, Los Angeles, CA, 03.15.2019

Guest Lecturer, "Corporate Fraud," USC Gould School of Law Corporate Fraud and Government Investigations Forum, Los Angeles, CA, 02.20.2019

Speaker, "Motion to Compel Arbitration: A How-to Panel," Association of Business Trial Lawyers' 45th Annual Seminar, Maui, Hawaii, 10.12.2018

Panelist, "Managing Publicly Owned Property: Best Practices for Leases, Licenses, and Encroachments," 2018 Northern California Eminent Domain Seminar Hosted by Nossaman LLP and Bender Rosenthal, Inc., Sacramento, CA, 04.18.2018

Panelist, "Managing Publicly Owned Property: Best Practices for Leases, Licenses, and Encroachments," Nossaman's 2018 Southern California Eminent Domain Seminar, Costa Mesa, CA, 03.29.2018

Speaker, "Scenarios to Consider Appraising Without USPAP," International Right of Way Association and Southern California Appraisal Institute's Joint Luncheon, Monterey Park, CA, 03.20.2018

Speaker, "Corporate Fraud," USC Gould School of Law Corporate Fraud and Government Investigations Forum, Los Angeles, CA, 02.28.2018

Speaker, "Introduction to the Eminent Domain Playbook Part II (Post-Filing Activities): The Real Rules," CLE International's 20th Anniversary Southern California Eminent Domain Conference, Los Angeles, CA, 01.18.2018

Speaker, "Settlement Techniques for Land Use & Eminent Domain Litigation: Money Isn't Everything," International Right of Way Association Chapter 1 - Annual Valuation Seminar, Montebello, CA, 04.25.2017

Speaker, "Corporate Fraud," USC Gould School of Law Corporate Fraud and Government Investigations Forum, Los Angeles, CA, 03.22.2017

Speaker, "The Project Influence Rule," Nossaman's 2017 Northern California Eminent Domain Seminar, San Francisco, CA, 03.08.2017

Speaker, "Legal Aspects of Easements: What You May Not Know About Temporary Construction Easements," International Right of Way Association Chapter 2 Meeting, San Francisco, CA, 11.09.2016

Speaker, "An Introduction to Temporary Construction Easements," 2nd Annual IRWA Chapter 57 and SCCAI Joint Luncheon and Program, Riverside, CA, 04.06.2016

Speaker, "Corporate Fraud: Civil and Criminal Consequences of a Decade of Financial Collapses," USC Gould School of Law Corporate Fraud & Government Investigations Forum, Los Angeles, CA, 03.09.2016

Speaker, "ROW Tools, Techniques & Strategies to Effectively Manage and Deliver Projects," Nossaman's 2016 Southern California Eminent Domain Seminar, Costa Mesa, CA, 03.03.2016

Speaker, "Parcel Mitigation Planning," Nossaman's 2016 Northern California Eminent Domain Seminar, Oakland, CA, 03.01.2016

Speaker, "Trends Impacting Real Estate Litigation Experts over the Next Decade," Appraisal Institute 48th Annual Litigation Seminar, Los Angeles, CA, 11.13.2015

Speaker, "Precondemnation Procedures: Acquiring Right of Way in a New World," 2015 International Right of Way Association Chapter 1 Fall Seminar, Pasadena, CA, 10.09.2015

Speaker, "Assembly Bill 624 and its Potential Impact on Real Estate Litigation," Appraisal Institute Summer Conference, Cerritos, CA, 07.14.2015

Speaker, "Working with Attorneys: What Appraisal Professionals Need to Know," American Society of Appraisers Webinar, 06.09.2015

Speaker, "What You May Not Know About Temporary Construction Easements: Ignorance is Not Bliss," International Right of Way Association Chapter 1 - Annual Valuation Seminar, Los Angeles, CA, 04.28.2015

Speaker, "Public Projects and Business Losses: Who Gets What and When?," Nossaman's 2015 Southern California Eminent Domain Seminar, Costa Mesa, CA, 03.05.2015

Speaker, "Corporate Fraud," USC Gould School of Law Corporate Fraud & Government Investigations Forum, Los Angeles, CA, 02.25.2015

Speaker, "Winning on Direct and Cross Examination," CLE International's 16th Annual Eminent Domain Conference, Los Angeles, CA, 05.16.2014

Speaker, "Tactics for a Successful Eminent Domain Mediation," Nossaman's 2014 Eminent Domain Seminar, Costa Mesa, CA, 03.20.2014

Speaker, "Corporate Fraud," USC Gould School of Law Corporate Fraud & Government Investigations Forum, Los Angeles, CA, 03.04.2014

Speaker, "FDIC's Historic \$169,000,000 IndyMac Verdict," Los Angeles, 12.03.2013

Speaker, "FDIC's Historic \$169 Million IndyMac Verdict," Association of Business Trial Lawyers Reception, Costa Mesa, CA, 04.17.2013

Speaker, "Exhibits That Work: Technology v. Traditional," CLE International's 14th Annual Eminent Domain Conference, Anaheim, CA, 04.27.2012

Speaker, "Everything You Need to Know About Appraisals for Litigation," American Society of Appraisers Seminar, Costa Mesa, CA, 03.21.2012

Speaker, "Expert Engagement Contract Overview Strategies for Larger Acquisition Valuation Assignments," Southern California Appraisal Institute's 44th Annual Litigation Seminar, Los Angeles, CA, 11.10.2011

Co-Chairperson, "IRWA Chapter 1 - 2011 Annual Fall Education Seminar," International Right of Way Association's Chapter 1 2011 Annual Fall Education, Montebello, CA, 10.25.2011

Speaker, "The Effective Witness, Best Practices," Southern California Appraisal Institute's 43rd Annual Litigation Seminar, Los Angeles, CA, 11.17.2010

Chairperson, "Fall Education Seminar," International Right of Way Association Chapter 1 – 2010 Fall Education Seminar, Montebello, CA, 10.26.2010

Speaker, "How the Push Toward Renewable Energy Sources Will Impact Eminent Domain," International Right of Way Association Chapter 1 - 2010 Right of Way and The Law Seminar, Montebello, CA, 06.22.2010

Chairperson, "IRWA Chapter 1 - 2009 Annual Fall Education Seminar," International Right of Way Association Chapter 1 - 2009 Annual Fall Education Seminar, Montebello, CA, 10.20.2009

Speaker, "Valuation Issues in a Depressed Market: How Market Conditions Impact Eminent Domain Practitioners," Southern California Chapter Appraisal Institute and IRWA Chapter 1, Commerce, CA, 03.24.2009



Speaker, "Everything You Were Never Taught About Litigation Appraisal – A Hands On Approach," Southern California Appraisal Institute, Irvine, CA, 03.04.2009

## PUBLICATIONS

Co-Author, "Your Client Has Used Far More Space than Permitted Under a Lease for Over a Decade, Does the Continuous Accrual Doctrine Apply or is the Claim Time Barred?," *Association of Business Trial Lawyers—Los Angeles*, 04.01.2022

Podcast Co-Host, "Market Rent Adjustment Provisions in Long-Term Ground Leases," *Digging Into Land Use Law*, 06.09.2021

Author, "When Public & Private Projects Collide," *Law360*, 05.29.2015

Author, "The End of the Hour," *Los Angeles Lawyer*, 09.10.2014

Co-Author, "Whose Business Goodwill Is It?," *Daily Journal*, 06.16.2011

## HONORS & RECOGNITIONS

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Included in *The Best Lawyers in America* © for Eminent Domain and Condemnation Law, 2023

Named one of Los Angeles's Top 100 Lawyers by the *Los Angeles Business Journal*, 2022

Listed, *The Legal 500 United States*, Real Estate - Land Use/Zoning, 2022

Recognized as one of the "2022 Visionaries" in Commercial Real Estate, *Los Angeles Times B2B Publishing*, 2022

Named Professional of the Year by the International Right of Way Association (IRWA) Chapter 1, 2021

Named one of the Top Litigators & Trial Lawyers in Los Angeles by the *Los Angeles Business Journal*, 2018-2021

Named one of the Most Influential Minority Attorneys in Los Angeles by the *Los Angeles Business Journal*, 2018

Named one of the 50 Best Litigators in Los Angeles by the *Los Angeles Business Journal*, 2018

Named to *The National Law Journal's* list of "Top 50 Litigation Trailblazers & Pioneers", 2014

Recipient of the *California Lawyer* Attorney of the Year ("Clay") Award, 2014

Selected to the Southern California Super Lawyers list, 2014-2020

Selected to the Southern California Rising Stars list, 2010-2013

## COMMUNITY & PROFESSIONAL

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The Fellows of the American Bar Foundation, Fellow

Association of Business Trial Lawyers (Los Angeles), Board Liaison to Judicial Advisory Council (2016-2017); Board of Governors (2013-2017, and present); Courts Committee Co-Chair (2014-2016)

Los Angeles County Bar Association, Judicial Appointments Committee (2015-2021)

International Right of Way Association – Chapter 1, Educational Conference Bid Committee Chair (2019-present);

Nominations & Awards Committee (2013-2018); President (2012-2013); President-Elect (2011-2012); Treasurer (2010-2011); Secretary (2009); Fall Seminar Chair (2008-2013)

American Bar Association, Litigation Section; Condemnation, Zoning and Land Use Committee

UC Irvine Alumni Association, Member

Southern California Chinese Lawyers Association, Member

El Camino College Foundation, Board of Directors (2004-2008)

## EMINENT DOMAIN

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David Graeler represents public agencies, property owners and businesses in a variety of eminent domain matters, including complex land acquisition and valuation disputes. He has successfully handled hundreds of condemnation matters, including numerous multimillion dollar eminent domain cases in California. David has worked on some of the largest public works projects in California having tried cases for the Los Angeles Unified School District, Los Angeles County Metropolitan Transportation Authority, the Alameda Corridor Transportation Authority, and the Exposition Metro Line Construction Authority.

In addition to representing clients in eminent domain litigation and trial, he also provides strategic advice and counseling to creatively resolve or proactively avoid disputes through effective project planning and implementation practices.

David is active in leadership both within the firm, serving as Chair of the Litigation Department and co-chair of its Real Estate Group, and in the legal community, where he is a Past President of the Los Angeles Chapter of the International Right of Way Association (IRWA). He also served two terms on the Board of Governors for the Los Angeles Chapter of the Association of Business Trial Lawyers (ABTL) and recently rejoined the Board in 2022. He also served on the Judicial Appointments Committee for the Los Angeles County Bar Association, which assists the California Governor in evaluating judicial candidates for the Los Angeles County Superior Court.

His track record of success in high stakes litigation in federal and state courts has earned him numerous awards and accolades, including a California Lawyer Attorney of the Year (CLAY) Award for litigation, recognition as co-lead counsel in securing a jury verdict that ranked among the National Law Journal's Top Verdicts, and securing a spot as lead counsel for the Top Verdicts in California. David was also recognized by the National Law Journal as one of its Top 50 Litigation Trailblazers & Pioneers, and recently was recognized by the Los Angeles Business Journal as one of the 50 Best Litigators in Los Angeles and also one of the Most Influential Minority Attorneys in Los Angeles. Most recently, David was recognized by the International Right of Way Association as its Professional of the Year in 2021.

He frequently presents and publishes on news and policy impacting eminent domain in California and regularly contributes his insights to the Firm's California Eminent Domain Report blog.

## EXPERIENCE

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**Los Angeles County Metropolitan Transportation Authority.** Currently serves as the Nossaman team leader representing Metro in acquiring property for a variety of projects including the Crenshaw/LAX Transit Corridor Project, a \$2+ billion, 8.5-mile light rail line through the Crenshaw and Inglewood area; the Purple Line Westside Subway Extension Project, a \$6+ billion, 9-mile subway extension through Beverly Hills and Westwood; and the Rosecrans/Marquardt Grade Separation Project, a project to improve one of the most dangerous intersections in California. David also advised Metro on future projects such as the East San Fernando Valley Transit Corridor.

- **Los Angeles County Metropolitan Transportation Authority v. VCC Alameda, et al.** Represented Metro in litigation involving the condemnation of commercial property related to the expansion of a bus depot facility. The case involved complex issues relating to a challenge of the right to take that resulted in litigation before the California Supreme Court. In addition, this case involved complex valuation issues including claimed severance damages and loss of business goodwill. David also advised Metro in connection with eminent domain issues in a related Chapter 11 bankruptcy proceeding.

**Los Angeles World Airports (LAWA).** Leading the legal team that is advising LAWA on real property matters related to the Landside Access Modernization Program, a \$5 billion program to ease access in and out of the second largest airport in the United States. The project includes a consolidated rental car facility, an elevated 2.5-mile automated people mover system, intermodal transportation facilities, and a joint station connecting to the Los Angeles County light rail system. David has advised LAWA on myriad issues including: the scope of acquisitions and schedule impacts; aerial, roadway, column & footing, and temporary construction easements; purchase and sale agreements; title reviews; valuation of real property; lease analyses; business goodwill; damages analyses; escrow instructions for both transactions and for relocation obligations under the City of Los Angeles' Rent Stabilization Ordinance / Ellis Act; and is currently representing LAWA in multiple eminent domain actions.

**Port of Long Beach.** Represents the Port of Long Beach in myriad real estate and right-of-way matters including the rights and obligations under the Uniform Relocation Act (URA) and various contractual agreements the Port has with various tenants. David also recently assisted the Port in analyzing lease provisions for a lease renewal involving oil pipelines and implications on its property given possible common carrier operations.

**Port Authority of New York and New Jersey.** David represents the Port Authority on right-of-way matters for the high-profile LaGuardia AirTrain Project, which is a 1.5-mile-long people mover system and elevated railway in New York City.

**Dunnagan/Celebron v. Los Angeles County Waterworks District No. 40.** David represented the Los Angeles County Waterworks District No. 40 in two consolidated inverse condemnation actions stemming from numerous homes that were inundated by floodwaters during torrential storms. The case turned on whether the District's unimproved

property and its agreement to allow flowage of water across it resulted in inverse condemnation liability. The City of Lancaster and the City of Palmdale were also defendants in the case due to the alleged failure of their flood control improvements to perform according to their design specifications. David negotiated a settlement that resulted in a token / cost-of-defense payment by the District.

**City of Corona v. SJRK Investments.** David represented both the property owner and sole business tenant in a condemnation action brought by the City of Corona for its McKinley Street Grade Separation Project. The City was acquiring a small portion of the land in fee, a small portion of the land as a permanent roadway easement, and a temporary construction easement. The owner presented a claim for compensation for real estate, including severance damages; and the business presented a claim for loss of business goodwill. The City's original offer was \$257,000. David negotiated a settlement with the City for compensation totaling \$3,675,000.

**The People of the State of California v. GPJCo Properties, LLC.** David represents the property owner in a condemnation action brought by Caltrans to acquire a portion of a commercial property for a new onramp to the 405 Freeway. The primary issue is the amount of just compensation to be paid for Caltrans' acquisition of permanent and temporary easements.

**Exposition Metro Line Construction Authority.** Represented Expo with acquiring commercially developed properties in Santa Monica for Phase II of the Exposition Light Rail Transit Project, a \$2+ billion, 15-mile light rail line connecting downtown Los Angeles with Santa Monica.

- **Expo v. 9000 Venice Partners.** Represented Expo in the condemnation of a portion of a retail shopping center. Successfully negotiated settlements with 14 of the 15 businesses on the property, and served as lead trial counsel as to the business goodwill claim presented by a Wendy's fast food restaurant. After a three-week jury trial, the verdict was exactly at Expo's severance damages figure as to the real estate, and nearly one-tenth of the goodwill claim presented by the restaurant.
- **Expo Construction Authority v. Patchett.** Represented Expo in a condemnation action to acquire property at the Bergamot Station Art Center in Santa Monica. Nossaman was able to secure early and favorable settlements with all but one defendant who operated an art gallery at the property and valued his damages at more than \$10.1 million, plus costs, interest, and attorneys' fees. David took several key depositions of the art gallery owner and its experts, which ultimately resulted in a successful legal issues motion and motions in limine to exclude all of the business's real estate, goodwill, and inventory experts. The parties thereafter settled the case for \$125,000 -- less than 1% of the business's claim.

**Metro Gold Line Foothill Extension Construction Authority.** Represent client in various right-of-way issues related to the Metro Gold Line Extension Project.

**Los Angeles Unified School District.** Handled numerous condemnation matters for the District in connection with its massive school expansion program. Encountered a wide array of relocation, valuation, and legal issues over the course of representation that spanned more than eight years.

- **Los Angeles Unified School District v. Dara, et al.** Represented the District as lead trial counsel in an eminent domain matter involving a clothing designer and wholesaler seeking loss of goodwill in excess of \$1 million. After a week-long trial, the jury reached a verdict of \$298,800. Also, successfully represented the District on an appeal brought by a business tenant subsequent to the verdict.
- **Los Angeles Unified School District v. Hill.** Represented the District as lead trial counsel in a case involving a right-to-take challenge and real estate valuation. The court ruled in favor of the District with respect to its right to take, and concluded the property's fair market value was the District's appraised amount.
- **Los Angeles Unified School District v. City National Bank.** Represented the District as lead trial counsel in an eminent domain matter involving two vacant parcels of commercial property condemned for a new primary school center in South Central Los Angeles. The property owner was seeking more than \$1.5 million in just compensation. After a week-long trial, the jury reached a verdict of \$870,600.

**Alameda Corridor Transportation Authority.** Represents client with condemnation litigation related to the construction of the high profile Alameda Corridor project, and related transportation infrastructure.

- **Action Sales & Metal Co., et al. v. Alameda Corridor Transportation Authority, et al.** Successfully defended ACTA as lead trial counsel in an inverse condemnation action filed by a property owner and business that



claimed millions of dollars in damages resulting from the construction of the Pacific Coast Highway Triple Grade Separation Project. After substantially narrowing the claims during discovery, the case proceeded to trial on only two claims. Following a five-week trial, the court found in favor of ACTA on every disputed issue and ruled that plaintiffs had failed to establish any entitlement to compensation.

***The People of the State of California, acting by and through the Department of Transportation v. Northridge Properties, LLC, et al.*** Represented Northridge Properties, LLC as lead counsel in an eminent domain action filed by Caltrans as part of its I-5 widening project. The action involved property located in Burbank, California and included numerous valuation issues surrounding Caltrans' partial acquisition of a multi-acre property. Caltrans offered Northridge Properties, LLC less than \$1.8 million prior to commencing eminent domain proceedings. After expert discovery concluded, negotiated a favorable settlement with Caltrans agreeing to pay \$4.5 million.

***County of Santa Barbara v. Coldwater Farms.*** Represented Coldwater Farms in an eminent domain action filed by the County for a conservation easement. The conservation easement threatened to acquire substantial quantities of oil owned by Coldwater as the owner of the mineral estate. Successfully negotiated a settlement that resulted in the County limiting its acquisition to the surface and entirely preserving Coldwater's mineral estate.

***City of Santa Fe Springs adv. Wilsonart International, Inc.*** Successfully represented landowner, Wilsonart International in a threatened taking. The City dropped its eminent domain effort rather than face numerous challenges raised by Wilsonart International.

## PRACTICES

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Litigation  
Real Estate  
Eminent Domain & Valuation  
Real Estate Litigation  
Business Owners Facing Condemnation  
Commercial Litigation  
Construction Law, Claims & Litigation  
Corporate Fraud & Investigations  
Inverse Condemnation & Regulatory Takings  
Leasehold & Other Valuation Disputes  
Oil & Gas  
Private Landowners Facing Condemnation  
Project & Right of Way Acquisitions  
Trial Practice

## INDUSTRIES

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Government & Public Sector  
Real Property  
Transportation

## EDUCATION

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Loyola Law School, J.D., 1998  
University of California, Irvine, B.A., Criminology, Law and Society, 1995  
University of California, Irvine, B.A., Psychology, 1995

## ADMISSIONS

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California  
U.S. Supreme Court  
U.S. Court of Appeals, Ninth Circuit  
U.S. District Court, Central District of California  
U.S. District Court, Eastern District of California  
U.S. District Court, Northern District of California

U.S. District Court, Southern District of California