



Curriculum Vitae and Expert Witness Qualifications James B. Hibert

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Educational Background:
High School: Point Loma High School, San Diego, CA –Grad. 1981
College: Pomona College, Claremont, CA – Grad. 1985, B.A.
Areas of concentration—Accounting, Economics, and Philosophy

Licenses: Licensed California Real Estate Broker (BRE #01901827)
California Finance Lender and Broker (DBO #6031920)

Relevant Course work: Allied Real Estate School. 2010-2011
Continuing Education requirements necessary to maintain licenses above, 2014
Annual Banker Compliance Courses in all areas of Commercial and Retail Banking various times from 1985 through 2009
UCLA Business School Courses 1986-1987

**Trade Associations
Past and/or present:** RMA
Biocom
USD Family Business Forum
American Electronics Association (AEA)
Chairmen’s Roundtable
Association for Corporate Growth (ACG)
UCSD Economics Roundtable
San Diego Downtown Partnership
Carlsbad Chamber of Commerce
San Diego County Flower & Plant Association

Relevant Experience: **Bank of America Corporate Banking**—Los Angeles, CA, 3 years. Responsibilities included managing and assisting servicing of clients with annual revenues that exceeded \$50,000,000.

Union Bank of California Corporate Banking—San Diego and Los Angeles, CA, 7 years. Responsibilities included portfolio management of clients with annual revenues from \$20,000,000 to \$750,000,000.

Additional responsibilities included real estate loan underwriting, monitoring, and bank syndications.

Chief Financial Officer, Engineered Equipment Company—Corona, CA, 3 years. Responsible for all decisions related to company's finance and administration. Negotiated contracts and related contract disputes including those where litigation was necessary.

Mellon First Business Bank—San Diego, CA, 3 years. Responsible for managing a portfolio of private companies. Duties included real estate loan underwriting and monitoring.

Regents Bank—San Diego, CA, 8 years. Member of Founding Team and shareholder. Manager of Bank's Real Estate Department with expertise in Construction lending, SBA 504 loan structuring, participation loans and loan brokering. Responsibilities included portfolio management, real estate underwriting, monitoring, and disbursement/underwriting for construction and tenant improvement loans.

Market Street Consulting Group.—May, 2009 to present. Founding partner of a licensed and bonded California Finance company. Primary focus to provide commercial real estate loans in all asset classes and expert witness and consulting services in bank related cases primarily involving commercial real estate transactions and SBA loans for both banks and non-bank clients.

Market Street Homes/Market Street Realty Group---February 2015 to present. Primary focus is residential redevelopment in San Diego, CA and Portland, OR.

Other Experience:

Treasurer—Pacific Southwest Conference, Walnut Creek, CA, 2001 through 2003.

Chairman of the Board-- Pacific Southwest Conference, Walnut Creek, CA, 2004 through 2006

**Seminar presentations
And courses taught:**

- Financial Management for Treasurer of non-profit organizations
- Expert panel member for "CPA Continuing Education Courses" sponsored by RSM McGladrey
- Fundamentals of financial accounting
- Expert panel member for "What Every Small Business Owner Should Know to Improve Their Banking Relationship"
- Expert panel member for "What Bankers Look for in a Construction Company Client"
- Guest presenter for commercial brokerage companies in the area of finance and investment opportunities in commercial real estate

Relevant Expert Designations:

***Design Build Tenant Improvements v. FX Luminaire, Inc., et al.*
San Diego Superior Court Case No. 37-2007-00068964-CU-CO-CTL**

Represented the Plaintiff. Review, commentary and provide opinion of SBA and Bank documents/correspondence in relation to a construction and permanent loan. Responsibilities included review of all title, escrow, and legal documents.

Vogt, et al v. All California Mortgage, Inc., et al. Contra Costa Superior Court Case No. C10-01313

Represented the Defendant. Review, comment and provide an expert report containing opinion of loan documents in relation to a dispute involving additional collateral and lender's right to foreclose.

Covington, et al v. All California Mortgage, Inc. et al. Contra Costa Superior Court Case No. MSC10-00539

Represented the Defendant. Review, comment and provide opinion on loan documents in relation to a dispute involving the lender's disclosures regarding collateral used in a loan transaction and subsequent impact on the borrower's decision to pledge collateral.

Marriage of Mark Jen v. Fatima Satya. Los Angeles Superior Court, Case No. YD047109

Represented the Defendant. Review bank loan documents and files related to the borrower and its various entities. Provided opinion and deposition testimony regarding loan approval process, plaintiff's role and subsequent liability in each of several loan transactions involving multiple loans and lenders.

Morrissey Construction Company v. Farmers and Merchants Bank. Riverside Superior Court, Case No. RIC517405

Represented the Defendant. Review bank and various third party documents regarding a construction loan made by the Bank. Provide deposition testimony and opinion regarding the standard of care and practice regarding a bank's use of a fund control agreement in construction lending. Attended the deposition testimony of opposing expert to provide assistance and opinion.

Alpert Family Trust v. Heritage Oaks Bank. Superior Court of California, County of San Luis Obispo, Case No. CV 098220

Represented the Plaintiff. Review Defendant's loan file and all documents relating to loans made by the defendant to a developer. Provided opinion and deposition testimony regarding defendant's adherence to its policies and procedures, State and Federal Banking rules, laws and regulations.

Victor Solano and Sandra Moreno Solano v. MidCountry Bank, et al. Superior Court of California, County of San Diego Case No. 07-2010-00091648-CU-BC-CTL

Represented the Plaintiff. Review bank and other related loan documents for a loan used to construct a single family residence. Provided opinion and deposition testimony regarding the Standard of Care, policies and procedures, and management of the construction loan process including the Defendant's predatory lending practice in this case.

George Fiegl v. Van Buren Estates, et al. Superior Court of California Indio Division Case No. INC 1204442

Represented the Plaintiff. Review bank, title and other related documents regarding a private loan made for the development of 301 residential lots. Provided opinion, deposition testimony, and trial testimony regarding the standard of care and fiduciary responsibility of a loan broker/intermediary related to a loan transaction in the Hard Money area.

Lake Point Tower Renaissance Plaza LLC v. United Central Bank. United States District Court for the Northern District of Illinois Case No. 12-cv-07575

Represented the Defendant. Review bank loan documents, internal and external communication, deposition transcripts and pleadings regarding a commercial condominium project in Chicago. Provide expert report adherent to Federal Rule 26 and opinion on the reasonableness of the bank's consent regarding the sale and leasing of the commercial units held as collateral for its loan.

California Business Bank v. Kenmore Villas, LLC. BC 412112 Superior Court of Los Angeles County, Court of Appeal Case No. B233593

Representing the Plaintiff in a cross complaint. Review bank loan documents, including communication regarding the loan approval, administration and foreclosure regarding a residential condominium project in Los Angeles. Provided expert opinion prior to mediation conference in an effort to reach an agreement with the Defendant, Bank. Provided deposition and trial testimony. Prepared questions and attended various depositions of the defendants' witnesses and provided feedback and opinion to the plaintiffs and attorney.

TomatoBank v. Kathryn Reece, Superior Court of the State of California, County of Los Angeles, Central Division Case No. BC452315

Represented the Plaintiff. Review bank loan file and all communication with the defendant regarding loan approval, administration by the bank and the foreclosure process. Provided expert opinion regarding the bank's actions specifically in the area concerning claims of fraud and negligence.

Cynthina Espino v. John Mahon, ET AL. Superior Court for the State of California, for the County of Ventura. Case No. 56-2013-00430924-CU-BT-VTA

Represented the Plaintiff. Review all documents related to an SBA 504 real estate loan made to the Plaintiff and Defendant. Provided direction/assistance to the client and attorney for depositions of officers at the CDC. Attended depositions of the Defendant's witnesses and testified at deposition. Opinions were given about the SBA's Standard Operating Procedures and the Customs and Practices surrounding an SBA 504 loan.

Danny Ho v. Eva Neumann, ET AL. Superior Court for the State of California, for the County of Los Angeles. Case No. BC 449777

Represented the Plaintiff. Review all documents related to two PUD developments in the San Gabriel Valley. Attend depositions of the oppositions' experts. Provided trial testimony regarding the availability of construction and residential permanent financing during the time period of the subject developments.

Bank of America, NA v. Nationwide Title Clearing, Inc. Superior Court for the State of California, for the County of Los Angeles. Case No. BC 496763

Representing the Defendant. Review documentation related to a residential real estate loan and opine on the Standard of Care and Banking Customs and Practices regarding the bank's servicing of the subject loan and its monitoring of the collateral. Prepared to provide Expert deposition and trial testimony.

Farmer Boys Produce Markets Inc., James and Arlene Agalos, Claimant v. Wells Fargo Bank National Association, Respondent. Case No. 01-14-0001-4915, American Arbitration Association.

Representing Claimant. Review all documents provided by the Claimant pertaining to a commercial loan made by Wells Fargo Bank. Testified at Arbitration hearing delivering opinion regarding the minimum standard of care concerning interest rate derivative products provided by the Respondent.

CALIFORNIA FURNISHING INC., dba SOFA OUTLET v DUBU INC. Case #: KGK15-010 Redwood City, CA

Representing Claimant. Review lease agreement between client and landlord and prepare a MRV report to set the base rent as adjusted according to the terms of the lease. Review and respond to landlord's MRV and advise attorney and client prior to Mediation. Prepare to Represent Client at Arbitration.

Barry McCown and Chula Vista Physicians Group, v. California Bank & Trust. Superior Court of the State of California, for the County of San Diego, Central Division. Case No. 37-2013-00065072-CU-BC-CTL

Representing the Plaintiff. Review and consult with client to form and give opinions regarding the defendant's performance as measured against the minimum standard of care, customs and practices of the banking industry. Opine on issues regarding the defendant's liability and responsibility regarding credit management and failure to properly manage a commercial real estate loan.

NC Queen, Inc and Won Ki Kim v. National Bank of California. Superior Court of the State of California for the County of Los Angeles Case No. BC 499651

Representing the Plaintiff. Review bank documents and Pleadings regarding the loan application process, performance and foreclosure of real assets. Opine on the Bank's management of loans in question and prepare for testimony of same. Issues include the defendant's liability and damages that resulted.

First Foundation Bank v. William J. Smith, Jr. an individual, Wheelie's Convenience Market, Inc., a California Corporation Superior Court of California County of Riverside, Blythe Case No. BLC 1400064

Representing the Defendant. Review all documents related to original SBA construction loan made for the construction of a carwash, documents for a refinance and related applications for loan modifications. Opine on the bank's breach of fiduciary responsibility that was created over years of a relationship with Defendant. Opine on the industry minimum standards of care, and customs and practices. Further opine regarding Federal regulations as they relate to this case.

Fiber-Tech Manufacturing, Inc. v. Fiber-Tech Engineering et al. Superior Court of the State of California County of San Diego Case No. 37-2013-00059766-CU-BT-CTL

Representing one of the Defendants. Review documents that relate to loan origination and management of a troubled SBA 7(a) loan. Opinions to include Defendant's disposition of assets, compliance with the SBA SOP regarding same and the valuation of collateral assets in a loan liquidation.

Sheryl Briggs, et al., v. Alterra Bank, et al. Circuit Court of Jackson County, Missouri at Kansas City, Case No. 1516-CV06122 Div 1

Representing the Plaintiff. Review bank file and all related documents to an SBA 504 loan made by the Defendant Bank. Provide opinion regarding the Bank's administration of the loan and resulting damage to the Plaintiff. Prepare for deposition and trial testimony.

Robert D. Voit, et al. v. Brian K. Malliet, et al. Superior Court of the State of California for the County of Orange, O.C.S.C 30-2013-00652567

Representing the Plaintiff. Review various entity operating agreements, formation documents, financial statements, and related investment documents for various investment entities that were created to acquire, lease, manage and sell commercial real estate assets. Opine on the management of certain entities and the fees associated with them. Provided deposition and trial testimony. Testimony specifically addressed “waterfall” and “promote” cash flows in a commercial real estate transaction. Opinion included the ability for certain entities to obtain senior debt financing during time periods in question.

David Stebbins v. Pacific Horizon Financial, Inc., Case No. 01-15-0003-2054, American Arbitration Association

Representing the Claimant. Review all documents as a part of a loan and investment managed by the Respondent and opine on the reasonableness of the interest rates being charged. Provide expert analysis and opinion of market conditions during the subject time period and the ability to obtain like kind financing from other sources. Provided deposition testimony, attended opposition’s expert deposition and provided testimony at the arbitration hearing.

San Diego Credit Union v. Carlton Roark and North Island Financial Credit Union, Case No. 37-2011-00100322-CU-DF-CTL for the County of San Diego, Superior Court of the State of California

Representing the Defendant. Review all documents relating to loans and loan files for the defendant pertaining to prior business clients of the plaintiff. Assist the defendant’s economic expert witness in determining potential damages resulting from lost commercial loan business. Additionally, provide opinions relating to trade secrets associated with credit union bank loan officers. Attend mediation in attempt to reach a settlement and prepare to provide deposition and trial testimony. Trial is still pending.

Real Estate Acquisition Leaders, Inc., v. Union Bank of California, Case No. BC489711, Superior Court of the State of California for the County of Los Angeles

Representing the Plaintiff. Review all documents related to an SBA 504 Construction loan obtained from the Defendant for the purpose of acquiring and improving a commercial place of business for the Plaintiff. Assist attorney by preparing deposition questions for various employees of the defendant. Provide opinion relating to the standard of care and industry customs and practices pertaining to SBA 504 loans. Be prepared to provide deposition and trial testimony.

Patrick Kealy v. Ford Motor Credit Company, LLC. Superior Court of the State of California, County of Los Angeles Case No. BC497696

Representing the Plaintiff. Review all documents related to Plaintiff's business and personal real estate portfolio and all activity associated with same. Review credit bureau documents, and all discovery provided by Ford Motor Credit regarding Plaintiff's account and derogatory credit comments. Provide testimony with opinions regarding damages resulting from inaccurate credit information provided by Defendant. Trial is pending.

Selby Corporation v. Edward F. Selby et al. Superior Court for the State of California County of Ventura Case No. 56-2014-00461712

Representing the Plaintiff. Review all documents related to the Plaintiff's and Defendant's family real estate portfolio. Provide opinion related to the management of the real estate portfolio and the resulting damage to the plaintiff's financial position in same. Prepare to provide deposition and trial testimony if necessary. Trial is pending.

Lauren Smith-Hams Dressler v. Crown Acquisitions, Inc. et al. In the United States District Court for the Northern District of California San Francisco Division Case No. 15-5330-VC

Representing the Plaintiff. Review all documents related to the defendant's purchase of premium high street trophy retail real estate in San Francisco. Provide a report that adheres to Federal Rule 26 containing my opinions regarding the valuation of the asset. Opine and discuss the acquisition, management and disposition of the asset and the distribution of potential profits to the various members involved in the process.

California Bank & Trust v. PureFitness Carlsbad, Inc., Superior Court of the State of California County of San Diego Case No. 37-2014-00085084-CU-BC-CTL

Representing the Defendant and Cross-Plaintiff. Review bank loan file, all documents and communication regarding the origination and administration of a construction loan. Provide opinion on the Plaintiff's actions regarding the loan process as it pertains to bank industry customs and practices and standard of care specifically for the administration of a construction loan. Prepare for deposition and trial testimony to include a discussion and explanation of the construction loan process.

Relevant Consulting Engagements in last 5 years:

Engineering Firm—New Jersey 2014

Worked with the firm's attorney to understand and negotiate an Offer in Compromise, with the SBA. This included discussions with the lending bank and bank's counsel to ensure that all aspects of the process to present an Offer in Compromise was fully understood.

Construction and Restoration Company—San Diego, CA 2014

Completed a multi-million dollar debt restructuring which resulted in new loans saving thousands of dollars monthly for the client. The new financing included additional working capital to fund accelerated growth.

Bank of America's special asset division—Pasadena, CA 2013

Successfully negotiated a new loan for the bank allowing them to dispose of a non-performing loan.

Large Distribution Company, Nutraceutical industry—Vista, CA 2013

Provide general business financial consulting. Areas include review and disposition of real estate and other assets, contract negotiations and personnel matters. Negotiated the sale of the HQ building which included the 1st TD Bank and SBA on a short sale.

Gaslamp Property Investment Group---San Diego, CA 2012

Represented client through forbearance agreement, dispute resolution, and renegotiation with existing lien holder.

Coffee Roasting and manufacturing company—San Diego, CA 2012

Refinance of commercial building using the new SBA 504 refinance program initiated under the current administration's stimulus plan.

Vacuum Manufacturing Company—New Jersey, 2012

Worked as a consultant/liaison between lender and environmental engineer in order to secure a new loan on the property. Examination and interpretation of Phase I and Phase II requirements made.

Multi-Family—Coronado, CA 2012

Refinance of apartment complex in Coronado. Multiple ownership interests. Consulting work included restructure of assets into an LLC and assistance with title issues on the property due to a death in the family

Software company—San Diego, CA 2012

Refinance of commercial property utilizing SBA 504 expertise to retroactively reimburse client for improvements made at time of purchase. SBA 7a loan for working capital needs.

Janitorial Chemical supply company—New Jersey, 2011

Refinance of commercial building using the new SBA 504 refinance program initiated under the current administration's stimulus plan. Additional consulting provided for property inspection. Credit guidance, and negotiations with current note holder.

Hospitality/Transportation industry---HI, 2011

Provided consulting services in relation to retaining primary real estate assets during a lawsuit regarding potential bankruptcy and foreclosure proceedings.

Commercial RE Investment group—San Diego 2011

Provided consulting services for the mapping and refinance/sale of an office building vested by multiple owners.

Security Business Bank of San Diego—San Diego, CA 2009-2011

Retained Consultant for the bank. Responsibilities included problem loan management, real estate loan review including work-out and placement strategies. SBA lending and secondary market fee generation.

Commercial RE Investor---San Diego, CA 2011

Provided consulting services for the restructure of entire real estate portfolio after the death of primary owner. Services included overall portfolio review, estate appraisals, and refinance recommendations.

Community Involvement:

Member of the HUB Business Networking Group 2011-Present

Hammer and Discus Throw—Volunteer coach 2009-Present

Leader at KOM (kids on the move)—2011 to 2014

Rancho Buena Vista High School—Volunteer coach 1995 to 2002

Valhalla High School—Volunteer coach 2009

Treasurer for Oaks Hills Church, 1995 to 2004

Interim Treasurer for Rancho Vista Covenant Church 2003 and 2004

Interim Treasurer for Canyon Springs Church 2002 and 2003

Rancho Buena Vista Little League—Treasurer 2000 to 2003