



## → John T. Brooks

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John Brooks is a partner in the Business Trial Practice Group in the firm's San Diego office.

### Areas of Practice

John is a proven first-chair trial lawyer — defeating over \$500 million in claims at trial or arbitration, against less than \$600,000 in adverse verdicts. John, a member of the California Academy of Appellate Lawyers, also helps clients preserve victories and expunge defeats on appeal, winning numerous published opinions. He is a three-time recipient of the California State Bar's Wiley W. Manuel Award for outstanding pro bono legal services.

John's clients include insurers, health care service plans, self-storage operators, and other consumer-facing companies that entrust him with high-exposure cases in California and nationwide.

### Honors

Best Lawyer in America, *Best Lawyers*, 2020-2022

Leading Lawyer, *Chambers USA*, 2019

### Experience

Clients turn to John, inside and outside California, because of his track record of success in high-exposure cases before trial, at trial, and on appeal.

#### **Recent Significant Victories**

Won summary judgment on claim seeking to impose over \$4 billion in retroactive gross premium tax liability on a health care service plan client. (2020)

Victory, in arbitration, on \$50 million claim against health care service plan client for alleged underpayment of emergency room claims and alleged violation of reimbursement regulations. (2020)

Won summary judgment on \$36 million claim against insurer client for bad faith failure to settle brain damage and traumatic amputation claim. (2019)

Defense verdict, after 4-week jury trial, on \$46 million claim against insurer client for bad faith failure to settle brain damage claim. (2018)

Defense verdict, after 10-day jury trial, on \$5.5 million claim against insurer client for bad faith and elder abuse in connection with claim for uninsured motorist benefits. (2018)

In California Supreme Court, defeated class action accusing self-storage client of illegal sale of insurance. *Heckart v. A-1 Self Storage, Inc.*, 4 Cal. 5th 749 (2018).

Won reversal on appeal of \$4 million judgment against insurer client accused of bad faith failure to settle death claim, with order that judgment be entered in favor of the client. *McDaniel v. Government Employees Insurance Company*, 681 Fed.Appx. 614, 2017 WL 892516 (9th Cir. 2017)

Under Louisiana law, won reversal on appeal with directions to enter judgment for insurer client in a coverage dispute involving the effect of the "separations of insureds" clause. *Petrozziello v. Thermadyne Holdings Corp., et al.*, 211 So.3d 1199. WL 658242 (La. App. 2017)

Under Hawaii law, won summary judgment for insurer client in action seeking over \$30 million based on accusation that insurer's delay in settling business interruption claim drove insured out of business. (2016)

Won summary judgment for insurer client, establishing non-coverage of \$21 million judgment construction defect judgment based on "your product" exclusion. (2016)

Won dismissal on the pleadings, affirmed on appeal, in class action alleging that motor club client's compensation system illegally incentivized sales agents to upsell. *Rogers v. Automobile Club of So. Cal.*, 2016 WL 1253528 (Cal. Ct. App. 2016).

After being brought in on eve of trial in an \$80 million certified class action alleging underpayments by health care service plan client, won class decertification and complete dismissal without payment by the client. (2015)

Under Missouri law, won affirmance on appeal for insurer client accused of bad faith failure to settle a multi-claimant auto injury claim. *Purscell v. Tico Ins. Co.*, 790 F.3d 842 (8th Cir. 2015).

After being brought in as replacement counsel after close of discovery, tried 4-week trial of bad faith claim against insurer client for bad faith handling of UIM claim, resulting in verdict less than 25% of plaintiffs' lowest pre-trial demand. (2015)

After being brought in two years into class action litigation, won complete dismissal through an anti-SLAPP motion of suit contending that a medical group client illegally charged excessive witness fees when its physicians were subpoenaed to testify. (2015)

Under Arizona law, defeated class action alleging that auto insurer client failed to adequately secure customer consent to waive UM/UIM coverage. (2014)

Victory, after 9-day arbitration, on \$22.5 million claim against insurer client accused by excess insurer of bad faith failure to settle. (2014)

### **Other Victories Resulting in Appellate Opinions**

Victory at California Supreme Court in class action attacking insurer clients' contractual med pay reimbursement rights. *21st Century Ins. Co. v. Superior Court*, 47 Cal.4th 511 (2009).

Defeated class action seeking over \$200 million from insurer client for allegedly charging illegal premium installment fees. *Interinsurance Exchange of the Auto. Club v. Superior Court (Williams)*, 148 Cal.App.4th 1218 (2007).

Defeated two class actions alleging false price advertising and misleading sales practices by motor club client. *Davis-Miller v. Automobile Club of So. Cal.*, 201 Cal.App.4th 106 (2011).

Defeated class action accusing insurer client of providing less coverage than represented in stated value auto policies. *George v. Automobile Club of So. Cal.*, 201 Cal.App.4th 1112 (2011).

Defeated class action accusing insurer client of violating statute prohibiting “steering” insureds to preferred body shops. *Maystruk v. Infinity Ins. Co.*, 175 Cal.App.4th 881 (2009).

Under Nevada law, won affirmance on appeal of judgment for insurer client accused of bad faith handling of UIM claim. *Sherwin v. Infinity Ins. Co.*, 639 Fed.Appx. 466 (9th Cir. 2016).

Won affirmance on appeal of judgment for insurer client accused of bad faith failure to settle. *Grayson v. Allstate Ins. Co.*, 650 Fed.Appx. 320 (9th Cir. 2016).

Won summary judgment for insurer client accused of breach of duty to defend in fatality case. *Travelers Prop. Cas. Ins. Co. v. Shower*, 648 Fed.Appx. 617 (9th Cir. 2016).

Won affirmance on appeal of jury trial victory for insurer client accused of bad faith failure to settle. *Du v. Allstate Ins. Co.*, 697 F.3d 753 (9th Cir. 2012).

Won affirmance on appeal for restaurant client in trademark infringement dispute. *Department of Parks & Recreation v. Bazaar Del Mundo, Inc.*, 448 F.3d 1118 (9th Cir. 2006).

Won summary judgment, affirmed on appeal under doctrine of judicial estoppel, for insurer client accused of bad faith denial of theft claim. *Hamilton v. State Farm Ins. Co.*, 270 F.3d 778 (9th Cir. 2001).

Won summary judgment of price fixing and other antitrust claims against Realtor® association client concerning pricing for multiple listing service. *Freeman v. San Diego Association of Realtors*, 77 Cal.App.4th 171 (1999).

## Articles

- Should You Appeal? Top 10 Things to Consider  
*The Recorder*, 09.05.2017
- Your Skills: The Key to Persuasion is Credibility  
*The Recorder*, 06.14.2013
- Court does a *Du-Over* in bad faith failure to settle case  
*Daily Journal*, 10.11.2012
- Human Trafficking & Supply Chain For California Businesses  
*Transworld Business*, 10.13.2011
- Human Trafficking and Your Supply Chain: New Disclosure Requirements for Companies Doing Business in California  
10.07.2011
- Credit Card Privacy Class Action Lawsuits Back With a Vengeance  
02.23.2011
- Don't Be Next: Bank Hit for \$203 Million in Overdraft Suit  
08.12.2010
- Just When You Thought It Was Safe to Lend Again: Mortgage Late Fee Class Actions  
07.19.2010
- Overdraft Fees: Barbarians (and Regulations) at the Gate  
06.29.2010
- Merchant Beware: A New Class Action May Be Stalking You If You Accept Credit Cards  
*ABTL San Diego Report*, Fall 2007

- Installment Fee Class Action  
10.03.2007
- Liar's Bane: Using Judicial Estoppel in Civil Litigation  
*ABTL San Diego Report*, 05.2002
- Summary Judgment in Peril?  
*ABTL San Diego Report*, 10.2001
- Point-Counterpoint: The Defense and Plaintiffs Bar Face Off on Kraus and Cortez  
*ABTL San Diego Report*, 08.2000

## Media Mentions

GEICO Wins Bad Faith Claim  
*Dily Journal*, 02.02.2018

## Speaking Engagements

"The Evolving Duty to Initiate Settlement Discussions," ACI 23rd National Advanced Forum on Bad Faith Litigation, Orlando, FL, November 28, 2012

"Class Actions" Emerging Threats From Other States," 22nd Annual General Counsel Seminar, Las Vegas, NV, July 29, 2011

"Class Action Litigation: New Theories of Liability and How to Protect Against Them," Luce Forward Insurance Litigation Seminar, Los Angeles, October 14, 2010

"Don't Be the Next Target: Recognizing and Avoiding Insurance Class Action Risks," Luce Forward Insurance Litigation Seminar, Los Angeles, September 11, 2008

## Memberships

California Academy of Appellate Lawyers

Board of Governors 2004-2007, Editor-in-Chief of *ABTL Report* 2000-2004, Association of Business Trial Lawyers  
San Diego County Bar Association

## Practices

Litigation

Appellate

Class Action Defense

Insurance Litigation

## Industries

Healthcare  
Insurance  
Retail  
Self-Storage

## Education

J.D., Stanford Law School, 1993, with distinction  
B.A., Stanford University, 1988, *Phi Beta Kappa*

## Admissions

California