



Janlynn R. Fleener

Partner / Chair, Litigation Practice Group

621 Capitol Mall | 18th Floor
Sacramento, CA 95814

916.520.5227 | Direct
jfleener@downeybrand.com

Practice Areas

Appellate & Writ Practice | Class Action Defense | Complex Business Litigation | Financial Institutions | Real Property & Land Use Litigation

For over 20 years, a variety of businesses — from financial institutions to national property developers and shopping center owners, governmental agencies, regional businesses, sole proprietorships and individuals — have turned to Jan Fleener to handle their complex business litigation.

Because her clients span a broad range of industries, Jan is adept at quickly grasping the industry issues and specific client goals. She takes this knowledge and applies a relentless, creative approach to resolving each unique dispute, whether doing so requires negotiation, mediation, arbitration or hard-fought trial.

As lead trial counsel for many of the region's leading companies, Jan manages litigation matters from start to finish, and has handled numerous trials in both state and federal courts, including jury trials that resulted in substantial verdicts in favor of her clients. Additionally, Jan also practices in the appellate courts, handling all aspects of appeals as well as extraordinary writ review.

Experience

Representative Real Estate, Land Use and Environmental Litigation

- Trial counsel for individual plaintiff suing to enforce agreement for purchase of undeveloped property in Amador County. Obtained jury verdict after trial in excess of \$1M, plus punitive damages in favor of client. Verdict also required defendants to honor contract and sell 240 acres of property to client.
- Litigation counsel for property developer sued by adjoining landowner for actions related to pursuit of development entitlements from County of Placer. Obtained dismissal of suit in its entirety at outset of case under California's Strategic Litigation Against Public Participation ("anti-SLAPP") statute, based on client's constitutional free speech and public participation rights. Dismissal was affirmed on appeal.
- Trial counsel for water district in southern California seeking to enforce contractual water rights against upstream users. After five-week trial in the United States District Court for the Central District of California,

court ruled that upstream user had committed bad faith breach of contract.

- Litigation counsel for property owners and alleged hazardous waste generators defending against claims under CERCLA and RCRA, among others, based on groundwater contamination. Case filed in federal court (Northern District of California) was settled favorably for clients after court dismissed majority of claims against clients on summary judgment.
- Trial counsel for commercial and residential developer seeking enforcement of easement rights against adjacent property owners. Jury rendered verdict in favor of client on interpretation of easement running over adjacent property owners' property.
- Trial counsel for major land developer in action seeking petition for writ of mandamus against City of Chico to enjoin City's attempt to require client to prepare supplemental environmental impact report. Obtained alternative writ at outset of case, staying any action by City pending trial. Court granted writ in favor of client after trial.

Representative Commercial Litigation and Class Action Experience

- Lead litigation and appellate counsel for shopping center owner in defense of class action suit filed by group of tenants for fraud, unfair and deceptive business practices, and breach of contract; trial court's denial of class certification, based on failure to show common issues of fact or law, was upheld on appeal.
- Lead litigation counsel for large California credit union in defense of putative class action challenging debit card overdraft practices and violation of consumer lending regulations. Case settled favorably while client's motion for summary judgment was pending.
- Defended large California financial institution in multi-million-dollar breach of contract case filed by software vendor after client terminated contract for non-performance; at mediation, vendor dismissed case in its entirety.
- Authored successful appellate brief (affirmed) defending against class action claims of unfair business practices under California's Unruh Act and Unfair Competition Law.
- Lead litigation counsel for plaintiff seeking to recover investment in what was eventually exposed as a \$27M Ponzi scheme. Received substantial arbitration award, including punitive damages, and client was likely the only investor who ever recovered. Defendants were criminally indicted and are now serving 17-year sentences.
- Trial counsel for developers defending against claims of fraud and breach of fiduciary duty based on alleged joint venture agreement to purchase substantial piece of investment and development property. After three-week jury trial, jury rendered complete defense verdict in favor of clients.
- Successfully handled litigation on behalf of bank agent against former officer who misappropriated bank's technology and trade secrets. Obtained temporary restraining order and preliminary injunction at the outset of case requiring former officer to return bank's intellectual property.
- Currently presenting global manufacturer of infant and toddler car seats in defense of putative California and nationwide class actions alleging unfair and fraudulent business practices and false advertising, in connection with marketing of car seats as eco-friendly. Litigation is on-going.

Professional & Community Service

- American Leadership Forum, Mountain Valley Chapter, Senior Fellow, Class XX, 2016-2017
- U.C. Davis Mondavi Center for the Performing Arts, Chair, 2019-2020; Board Member, 2015-present
- Sacramento Go Red for Women, Executive Leadership, 2014-present
- Litigation Section, State Bar of California, 1993-present
- Sacramento County Bar Association, Real Property Law Section, Former Member
- Sacramento County Bar Association, Appellate Law Section, Former Member
- Women Lawyers of Sacramento
- Business Volunteers for the Arts, Former Member

Education

- J.D., *summa cum laude*, Santa Clara University School of Law, 1993
- B.A., *magna cum laude*, Art History, Santa Clara University, 1990

Honors & Rankings

- Clerkship, Hon. LaDoris H. Cordell, Santa Clara County Superior Court, 1992-1993
- *Sacramento Magazine*, Top Lawyer, Appellate, Banking & Finance Litigation, Business Litigation, Commercial Litigation, General Litigation, Class Action/Mass Torts, 2015-2019
- *Sacramento Business Journal*, Best of the Bar, 2016-2018

Speaking Engagements / Events

- *Cyber Risk Management*, Co-presenter, 2018 Moss Adams Credit Union Conference, July 27, 2018
- *Legal Issues Impacting Financial Institutions*, Presenter, 2018 Moss Adams Credit Union Conference, July 27, 2018
- *Legal Update: Hot Legal Issues Impacting Credit Unions in California*, Presenter, 2016 Moss Adams Credit Union Conference, July 22, 2016
- *Positioning Yourself for the Next Big Opportunity*, Speaker, Sacramento Women in Leadership Symposium, March 10, 2016