



Kelly L. Pope Partner

621 Capitol Mall | 18th Floor
Sacramento, CA 95814

916.520.5362 | Direct
kpope@downeybrand.com

Practice Areas

Bankruptcy & Insolvency | Complex Business Litigation | Eminent Domain & Inverse Condemnation | Family Law | Financial Institutions | Food & Agriculture | Food & Agriculture Litigation | Privacy & Data Integrity | Real Property & Land Use Litigation

Kelly Pope assists clients throughout California in all types of litigation, including business, family law, eminent domain, real estate, and bankruptcy.

Kelly has extensive experience in all aspects of California and Federal civil procedure, as well as bankruptcy procedure. Her experience includes evidentiary hearings, trial, and private arbitration, drafting and opposing motions, arguing motions in state and Federal court, propounding and responding to discovery, taking and defending depositions, retaining and working with expert witnesses, securing provisional remedies, and drafting and opposing Chapter 11 and Chapter 13 plans of reorganization.

Kelly's litigation experience covers a wide range of issues, including family law, contract disputes, real property disputes, fraud, professional negligence, the Unfair Competition Law, and constitutional interpretation.

She also represents public agencies and property owners in eminent domain matters. The skills needed for this type of practice range from litigation, to negotiation with regulatory agencies within the State and Federal government (such as the Department of Water Resources and the Army Corps of Engineers), to real property contract expertise, all under the overlay of the Eminent Domain Code.

Kelly's bankruptcy work includes representing secured and unsecured creditors in Chapter 7, 11 and 13 cases, debtors in Chapter 11, plaintiffs and defendants in bankruptcy court adversary proceedings, as well as a stalking horse bidder in an auction of real property by the trustee for a bankruptcy estate.

Experience

Representative Commercial Litigation Experience

- Represent association in fraud and intentional interference action against independent insurance consultant. Successfully moved to dismiss counterclaim for conversion.
- Successfully defended and obtained summary judgment on behalf of high-profile local developer in an action for breach of contract, fraud, conversion, and civil conspiracy.

- Represented secured creditor in an action by borrower for cancellation of voidable contract, fraud, breach of contract, and breach of the implied covenant of good faith and fair dealing. Removed action to bankruptcy court, and obtained dismissal of the action with prejudice.
- Successfully demurred on behalf of home developer in action brought by purchasers for breach of fiduciary duty, professional negligence, and breach of the implied covenant of good faith and fair dealing.
- Represented a public school district in fraud action against professional accounting firm.
- Represented proponent of California ballot proposition in writ action challenging language drafted by the California Attorney General's office for the General Election State Ballot Pamphlet.
- Represented California egg producers in action challenging the constitutionality of a California law impacting the egg industry.

Representative Eminent Domain Experience

- Represented Alameda County Flood Control and Water Conservation District, Zone 7 in eminent domain action against aggregate mining company to construct a groundwater well and pumping facility, and successfully obtained emergency order of possession based on drought emergency.
- Represented the Three Rivers Levee Improvement Authority in more than 60 property acquisitions in Yuba County for two large levee improvement projects, including the construction of the largest set back levee in the western United States.
- Represented the Sutter-Butte Flood Control Agency in property acquisitions for a 41-mile levee improvement project along the west bank of the Feather River.
- Represented the Modesto Irrigation District in eminent domain actions involving the acquisition of property for a 230 kV transmission line.
- Represented CalPERS in the condemnation of its property by the City of Sacramento for the new Sacramento Kings Arena.
- Represented owner of agricultural property in condemnation action brought for road widening project.

Representative Bankruptcy Experience

- Represented secured creditor that was owed more than \$1.6 million on an apartment building in Chapter 11 bankruptcy filed by borrower with nine rental properties. Obtained order requiring debtor to pay significant attorneys' fees and default interest as part of client's claim. Obtained favorable rulings regarding client's treatment under debtor's plan of reorganization after three-day trial.
- Represented agricultural lender that was owed more than \$4.0 million in bankruptcy of commercial rice farmers. Filed adversary proceeding against the borrowers and a related family business on theory that the family businesses operated as a single farming partnership for profit. Defeated attempts to dismiss the partnership theories of liability.
- Represented houseboat business in Chapter 11 reorganization through confirmation of Chapter 11 plan.
- Represented unsecured creditors in bankruptcy filed by developer of Panamanian real estate, and successfully moved for partial summary judgment in related litigation filed by the debtor.

- Successfully defended first deed of trust holder in adversary proceeding filed by another creditor asserting a priority of interest in Chapter 11 bankruptcy. Conducted oral argument at the Ninth Circuit Court of Appeals, which affirmed bankruptcy court's grant of summary judgment resolving the adversary proceeding in favor of the first deed of trust holder and other defendants.

Representative Family Law Experience

- Downey Brand's family law practice is particularly sensitive to the privacy of its clients, thus the family law group does not discuss specific case results.

Professional & Community Service

- Leadership Sacramento, Sacramento Metro Chamber of Commerce, Class of 2013
- Women Lawyers of Sacramento; President, Board Member since 2010
- Sacramento Theatre Company Foundation, Board Member, 2017
- California Women Lawyers
- Sacramento Valley Bankruptcy Forum
- Sacramento County Bar Association, Bankruptcy and Commercial Law Section
- Insolvency Law Committee, State Bar of California
- International Women's Insolvency & Restructuring Confederation United States
- Former Co-Editor in Chief, UCLA Women's Law Journal

Education

- J.D., University of California at Los Angeles School of Law, 2004
- B.A., University of Nebraska Lincoln, 2001

Honors & Rankings

- *Sacramento Business Journal*, Best of the Bar, 2015-2016, 2019
- *Sacramento Magazine*, Top Lawyer, Bankruptcy & Creditor/Debtor, Eminent Domain, Family, 2015-2019
- *Super Lawyers*, Northern California Rising Star, Eminent Domain, 2011-2014
- Phi Beta Kappa

Speaking Engagements / Events

- *Time for a New Trail: Confronting the Blaze of Sexual Harassment, Abuse and Assault in Our Society*, Moderator, California Bankruptcy Forum 2018 Insolvency Conference, May 18, 2018
- *Severance Damages and Offsetting Benefits: Theory and Practice*, Eminent Domain Institute, 12th Annual

Conference, San Francisco, Co-Presenter, October 2010

- *Apportionment, Payment and Cancellation of Ad Valorem Property Taxes on Property Acquired by Eminent Domain, International Right of Way Association, Chapter 2, Sacramento, Presenter, April 2010*
- *Apportionment, Payment and Cancellation of Ad Valorem Property Taxes on Property Acquired by Eminent Domain, Continuing Legal Education (CLE) International, Eminent Domain Conference, San Francisco, Presenter, November 2009*

Publications

- *The Premier Cru Bankruptcy*, Guest blogger, LEX VINI Blog published by Dickenson Peatman & Fogarty, March 6, 2016

Blogs

- *California Supreme Court Clarifies Creditor Access to Spendthrift Trusts*, April 4, 2017