

Ashley K. Dunning

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Ashley Dunning is Co-Chair of the Public Pension & Investments Group at Nossaman and is a member of the firm's Litigation Department. She has provided fiduciary and governance counsel services to public retirement systems since 1998. Ashley currently serves as fiduciary counsel to the California Public Employees Retirement System (CalPERS), and fiduciary, litigation, governance, and/or special projects counsel to the majority of the twenty California retirement systems governed by the County Employees Retirement Law of 1937 (CERL), and to the city retirement systems in San Francisco, San Diego and Los Angeles. She is also general counsel to the county retirement system in Marin. She has provided fiduciary training and advice to the Colorado Public Employees' Retirement Association's Board and staff and to the Board of the Government Employees' Retirement System of the Virgin Islands. Additionally, Ashley has represented public retirement systems in litigation in numerous cases resulting in published decisions.

Ashley speaks regularly at national pension conferences and seminars, including the National Association of Public Pension Attorneys (NAPPA), California Association of Public Retirement Systems (CALAPRS), State Association of County Retirement Systems (SACRS), Oklahoma Pension Conference, and the National Conference on Teachers' Retirement Systems.

Ashley was elected to the Executive Board of NAPPA in 2014 and currently serves as President of the organization. She is immediate past-Chair of NAPPA's Fiduciary and Governance Section, a position she held for several years.

EXPERIENCE

Ashley advises on issues involving fiduciary obligations, governance, and public retirement, conflict of interest, open meetings, and public records laws. She appears regularly before boards of trustees and in court proceedings on these issues. She also regularly provides training on these topics to clients and at conferences throughout the country. In addition, Ashley has taught "Ethics for Public Officials" for over a decade at the Principles of Pension Management for Trustees conference sponsored by the California Association of Public Retirement Systems (CalAPRS).

Published California Supreme Court decisions in Ashley's public pension cases include:

- *Flethez v. San Bernardino County Employees' Retirement Assn.* (2017) 2 Cal. 5th 630; and
- *Lexin v. Superior Court* (2010) 47 Cal. 4th 1050.

Published California Court of Appeal decisions in her public pension cases include:

- *Alameda County Deputy Sheriff's Assn., et al. v. Alameda County Employees' Retirement Assn. et al* (2018) 19 Cal.App. 5th 61, Cal. Supreme Court review granted March 29, 2018 (S247095);
- *Marin Assn. of Public Employees v. Marin County Employees' Retirement Assn.* (2016) 2 Cal.App.5th 674, 702, Cal. Supreme Court review granted Nov. 22, 2016 (S237460);
- *Shelden v. Marin County Employees' Retirement Assn.* (2010) 189 Cal. App. 4th 458;
- *Block v. Orange County Employees' Retirement System* (2008) 161 Cal. App. 4th 1297;
- *San Ramon Valley Fire Protection Distr. v. CCCERA* (2004) 125 Cal.App.4th 343; and
- *In re Retirement Cases* (2003) 110 Cal. App. 4th 426.

Ashley regularly presents to national public pension organizations on fiduciary, issues applicable to public pension boards and systems, as described under Select Presentations below.

REPRESENTATIVE CLIENTS

Ashley currently provides fiduciary and/or litigation, governance or special projects counsel for the following public retirement systems (in alphabetical order):

- Alameda County Employees' Retirement Association;
- California Public Employees' Retirement System;
- Colorado Public Employees' Retirement Association;
- Kern County Employees' Retirement Association;
- Los Angeles City Employees' Retirement System;
- Los Angeles County Employees' Retirement Association;
- Los Angeles Fire and Police Pensions;
- Marin County Employees' Retirement Association ;
- Mendocino County Employees' Retirement Association;
- Merced County Employees' Retirement Association;
- Pension Reserves Investment Management Board of the Commonwealth of Massachusetts;
- Sacramento County Employees' Retirement System;
- San Bernardino County Employees' Retirement Association;
- San Diego City Employees' Retirement System;
- San Diego County Employees' Retirement Association;
- San Francisco Employees' Retirement System;
- San Joaquin County Employees' Retirement Association;
- Sonoma County Employees' Retirement Association;
- Tulare County Employees' Retirement Association;
- Ventura County Employees' Retirement Association; and
- Water and Power Employees' Retirement Plan.

Additionally, she is part of Nossaman's public pension team that serves the following additional public retirement systems (in alphabetical order):

- Hawaii Employees' Retirement System;
- Maryland State Retirement and Pension System;
- New York State Teachers' Retirement System;
- State of Connecticut Office of the Treasurer; and

- Texas Municipal Retirement System.

INSIGHTS

SPEAKING ENGAGEMENTS

Speaker, "Pursuing What You're Due: One Retirement System's Experience Suing Its Carrier," State Association of County Retirement Systems 2019 Fall Conference, Monterey, CA, 11.14.2019

Speaker, "CalPERS & SACRS; Reciprocity, Do I Get It? Part 1 of 2: Legal, CalPERS Guest Panels at SACRS," State Association of County Retirement Systems 2019 Fall Conference, Monterey, CA, 11.14.2019

Speaker, "Litigation Update 2019: What's Happening in California Courts on the Public Retirement Front?," California Association of Public Retirement Systems' Administrator's Institute, Carmel-by-the-Sea, CA, 09.27.2019

Speaker, "Disability Retirement – the Fiduciary Role of the Retirement Board," Ventura County Employees' Retirement Association, Ventura, CA, 09.23.2019

Panelist, "Roundtable: Top Fiduciary Issues for Public Plans," Nossaman's 2019 Public Pensions & Investments Fiduciaries' Forum, Berkeley, CA, 09.05.2019

Panelist, "California Public Pension Litigation Update," Nossaman's 2019 Public Pensions & Investments Fiduciaries' Forum, Berkeley, CA, 09.05.2019

Panelist, "Practical Considerations for Retirement System Trustees and Staff After the Supreme Court Rules in *Alameda*," Nossaman's 2019 Public Pensions & Investments Fiduciaries' Forum, Berkeley, CA, 09.05.2019

Speaker, "2019 Public Pensions & Investments Fiduciaries' Forum: Evolving Demands on Public Plan Fiduciaries," Nossaman's 2019 Public Pensions & Investments Fiduciaries' Forum, Berkeley, CA, 09.04.2019

Moderator, "General Session: Public Retirement Board Governance and the Role of the Dissenter(s) on the Board," National Association of Public Pension Attorneys' 2019 Legal Education Conference, San Diego, CA, 06.26.2019

Panelist, "California Supreme Court to Decide: What's Next for the 'California Rule' and Public Employee Pensions as Vested Rights," State Association of County Retirement Systems 2019 Spring Conference, Lake Tahoe, CA, 05.09.2019

Moderator, "Attorney Breakout Roundtable Discussion," State Association of County Retirement Systems 2019 Spring Conference, Lake Tahoe, CA, 05.08.2019

Speaker, "Ethics Training for Public Officials (AB 1234)," State Association of County Retirement Systems 2019 Spring Conference, Lake Tahoe, CA, 05.07.2019

Panelist, "Fiduciary Implications of Investment Negotiations and Decision-Making," National Association of Public Pension Attorneys' 2019 Winter Seminar, Tempe, AZ, 02.20.2019

Speaker, "An Analysis of Oral Argument Before the California Supreme Court in *CalFIRE vs. CalPERS*," California Association of Public Retirement Systems (CALAPRS) Attorneys' Roundtable, Oakland, CA, 02.01.2019

Speaker, "A Focus on Two Pending Cases: *CalFIRE vs. CalPERS* and *Wilmot v. CCCERA*," California Association of Public Retirement Systems Attorneys' 2019 Administrators' Roundtable, Burbank, CA, 01.25.2019

Panelist, "Vested Rights: Is This The Year The California Supreme Court Revisits The 'California Rule'?" 2018 California Public Employers Labor Relations Association (CalPELRA) Annual Training Conference, Monterey, CA, 12.06.2018

Speaker, "Board Governance at Marin County Employees' Retirement Association," Marin County Employees' Retirement Association Retirement Board Fall Strategic Workshop, San Rafael, CA, 10.30.2018

Speaker, "Defense and Indemnification Rights of Trustees and Staff: How Protected Are You?," Nossaman's 2018 Public Pensions and Investments Fiduciaries' Forum, San Francisco, CA, 10.19.2018

Panelist, "Key Pension Litigation Nationally with a Focus on California, Texas, Washington and Kentucky," Nossaman's 2018 Public Pensions and Investments Fiduciaries' Forum, San Francisco, CA, 10.18.2018

Speaker, "Litigation Update 2018: What's Happening in California Courts on the Public Retirement Front?," California Association of Public Retirement Systems 2018 Administrators' Institute, Carmel, CA, 09.27.2018

Speaker, "Litigation Update," National Association of Public Pension Attorneys' 2018 Legal Education Conference, Savannah, GA, 06.29.2018

Moderator, "What to Do When #MeToo Hits Your Public Retirement Board and System," National Association of Public Pension Attorneys' 2018 Legal Education Conference, Savannah, GA, 06.28.2018

Speaker, "Setting Economic Actuarial Assumptions: A Fiduciary Process," National Association of Public Pension Attorneys' 2018 Legal Education Conference, Savannah, GA, 06.27.2018

Speaker, "What's Next for the "California Rule?": Public Employee Pensions as Vested Rights," The Rutter Group Seminar, Universal City, CA, 06.19.2018

Speaker, "What's Next for the "California Rule?": Public Employee Pensions as Vested Rights," The Rutter Group Seminar, San Francisco, CA, 06.12.2018

Speaker, "Litigation Update," State Association of County Retirement Systems 2018 Spring Conference, Anaheim, CA, 05.16.2018

Speaker, "Ethics for Public Officials – What Public Retirement System Officials Need to Know (AB 1234 Training)," State Association of County Retirement Systems 2018 Spring Conference, Anaheim, CA, 05.15.2018

Speaker, "Disability Retirement Determinations: Continuing Refinements of MCERA's and the Board's Processes," Board of Retirement Strategic Workshop, Marin County Employees' Retirement Association, San Rafael, CA, 04.18.2018

Speaker, "Rules of the Road for MCERA Retirement Board Compliance with Open Meeting Laws," Board of Retirement of the Marin County Employees' Retirement Association, San Rafael, CA, 04.18.2018

Speaker, "Felony Forfeitures," California Association of Public Retirement Systems' Attorneys' General Assembly, Indian Wells, CA, 03.05.2018

Speaker, "Using Social or Political Criteria in Making Investment Decisions for Pension Plans," National Association of Public Pension Attorneys' 2018 Winter Seminar, Tempe, AZ, 02.23.2018

Speaker, "Fiduciary Challenges in an Evolving Legal Landscape," CalPERS Board of Administration Offsite Workshop, Petaluma, CA, 01.18.2018

Speaker, "Participating Employer Audits: Continuing and Upcoming Challenges," Nossaman's 2017 Public Pensions & Investments Fiduciaries' Forum, San Francisco, CA, 12.01.2017

Speaker, "Fiduciary Challenges in an Evolving Legal Landscape," Nossaman's 2017 Public Pensions & Investments Fiduciaries' Forum, San Francisco, CA, 11.30.2017

Speaker, "How Protected Are Your Pension Benefits?," State Association of County Retirement Systems 2017 Fall Conference, Burlingame, CA, 11.17.2017

Speaker, "Litigation Update," State Association of County Retirement Systems 2017 Fall Conference, Burlingame, CA, 11.14.2017

Speaker, "History, Context and Fiduciary Principles Regarding KCERA's Supplemental Retiree Benefit Reserve," Special Meeting of the Board of Retirement Kern County Employees' Retirement Association, Bakersfield, CA, 11.03.2017

Speaker, "Alternative Investments Fees – Public Report Required Under G.C. Sec. 7514.7(b)," California Association of Public Retirement Systems' Attorneys' Round Table, San Jose, CA, 10.27.2017

Speaker, "Recent and Pending Litigation Over Retiree Benefits," California Retired County Employees Association 2017 Fall Conference, Emeryville, CA, 10.23.2017

Speaker, "Ethics for Public Officials – AB 1234 Training," California Association of Public Retirement Systems' Principles of Pension Management for Trustees Conference, Malibu, CA, 08.28.2017

Speaker, "Varying State Perspectives on Defined Benefit Pension Protections," National Association of Public Pension Attorneys' 2017 Legal Education Conference, Monterey, CA, 06.28.2017

Speaker, "Ethical Issues in Public Records Litigation," Law Seminars International: Public Records Act Litigation, San Francisco, CA, 06.07.2017

Speaker, "AB 1234 Ethics Certification for Trustees and Staff," State Association of County Retirement Systems 2017 Spring Conference, Napa, CA, 05.16.2017

Speaker, "War Stories and Practical Solutions Around Managing Risk," National Association of Public Pension Attorneys' 2017 Winter Seminar, Tempe, AZ, 02.24.2017

Speaker, "All You (as In-House Attorney for a Public Retirement System) Ever Wanted to Know About Fiduciary Principles," National Association of Public Pension Attorneys' 2017 Winter Seminar, Tempe, AZ, 02.22.2017

Speaker, "Disability Retirement and Reciprocity: What's Your System Paying? What Does Ours Owe?," State Association of County Retirement Systems 2016 Fall Conference, Indian Wells, CA, 11.08.2016

Speaker, "The Evolution of Vested Rights in California Supreme Court Precedent and Recent Court of Appeal Developments," Nossaman's 2016 Public Pensions & Investments Fiduciaries' Forum, San Francisco, CA, 10.27.2016

Speaker, "Legal Counsel Panel," National Council on Teacher Retirement's 94th Annual Conference, Providence, RI, 10.10.2016

Speaker, "Fiduciary Fundamentals for Public Pension Fund Trustees," Oklahoma Pension Conference, Tulsa, OK, 09.28.2016

Speaker, "It Ain't Easy Being You: Managing the Attorney-Client Relationship at a Public Pension Fund," National Association of Public Pension Attorneys' 2016 Legal Education Conference, New Orleans, LA, 06.23.2016

Speaker, "Fiduciary Principles to Guide In-House Counsel Who Advise Public Retirement Systems," California Public Employees' Retirement System In-House Counsel, 06.17.2016

Speaker, "Post-traumatic Stress Disorder (PTSD) and Disability," State Association of County Retirement Systems 2016 Spring Conference, Costa Mesa, CA, 05.10.2016

Speaker, "Disability Retirement Processing," Marin County Employees' Retirement Association Board of Retirement Strategic Workshop, San Rafael, CA, 03.16.2016

Speaker, "Pension Reform in California: What's Next?," California Association of Public Retirement Systems' Attorneys' General Assembly, Indian Wells, CA, 03.06.2016

Speaker, "Fiduciary Responsibility in Selecting and Managing Relationships with Service Providers," National Association of Public Pension Attorneys' 2016 Winter Seminar, Washington, DC, 02.17.2016

Speaker, "Rules of the Road for Compliance with the Brown Act and Robert's Rules of Order," Central Basin Municipal Water District Board of Directors' Workshop, Commerce, CA, 01.29.2016

Speaker, "Navigating the Attorney-Client Relationship Within California Public Retirement Systems," California Association of Public Retirement Systems' Attorneys' Round Table, 01.22.2016

Speaker, "Recent Court Cases on PEPPRA and Voter-Initiatives Regarding Pensions and Vested Rights," Nossaman's 2015 Public Pensions & Investments Fiduciaries' Forum, San Francisco, CA, 09.25.2015

Speaker, "Ethics for Public Officials: Principles of Pension Management for Trustees," Pepperdine University, 08.26.2015

Speaker, "Ethics for Public Officials: Rules of the Road That County Retirement System Trustees, Staff and their Advisors Need to Know," State Association of County Retirement Systems 2015 Spring Conference, Anaheim, CA, 05.12.2015

Speaker, "Oversight Challenges Posed By Alternative Investments," Marin County Employees' Retirement Association Retirement Board Strategic Workshop, Novato, CA, 03.25.2015

Speaker, "Fiduciary Considerations When Investing MCERA Assets," Marin County Employees' Retirement Association Retirement Board Strategic Workshop, Novato, CA, 03.25.2015

Speaker, "SEC Investigations and Prosecutions re Pay-to-Play, Campaign Contributions and Public Retirement Systems," California Association of Public Retirement Systems' Trustees Round Table, 02.06.2015

Chair, "SEC Investigations and Prosecutions re Pay-to-Play, Campaign Contributions and Public Retirement Systems," California Association of Public Retirement Systems' Attorneys' Round Table, 01.23.2015

Speaker, "New Trustee Training: The Roles of Public Retirement Board Members and Rules That Govern Them," State Association of County Retirement Systems, 11.11.2014

Speaker, "Fiduciary Duty of Impartiality Among Those Whom the Board of Retirement Serves," National Association of Public Pension Attorneys' Section Meeting, 02.19.2014

Speaker, "Two Cases Regarding the Pensionable Treatment of Nonstandard Public Safety Officers' Hours," National Association of Public Pension Attorneys' Section Meeting, 02.18.2014

PUBLICATIONS

Author, "California Supreme Court Announces Date for Oral Argument in the First of Its Five Pending Vested Rights Cases," *Nossaman eAlert*, 11.08.2018

Co-Author, "California Court of Appeal Rejects Constitutional Challenges to New Felony Forfeiture Statute," *Nossaman eAlert*, 06.26.2018

Co-Author, "California Court of Appeal Upholds Application of PEPRA to Judges Who Were Elected Before, But Assumed Office After, PEPRA Took Effect," *Nossaman eAlert*, 03.27.2018

Co-Author, "California Supreme Court Gears Up for Showdown Over the Scope of Vested Public Pension Rights," *Nossaman eAlert*, 02.26.2018

Author, "Superior Court Upholds Retirement Board's Provision of Due Process Through Administrative Hearing Process," *Nossaman eAlert*, 11.27.2017

Author, "California Supreme Court Upholds Public Retirement Boards' Fiduciary Role When Adjudicating Disability Retirement Applications," *Nossaman eAlert*, 03.03.2017

Co-Author, "California Supreme Court Rules that Public Business Conducted on Personal Devices Result in Public Records," *Nossaman eAlert*, 03.03.2017

Author, "First District Court of Appeal Speaks Again on Vested Rights as it Upholds the Constitutionality of PEPRA's Elimination of "Airtime" Service Credit Purchases," *Nossaman eAlert*, 01.03.2017

Author, "Court of Appeal Rejects Another Post-PEPRA Challenge," *Nossaman eAlert*, 12.21.2016

Author, "California Supreme Court Grants Review of MAPE Decision," *Nossaman eAlert*, 11.23.2016

Co-Author, "What's Next After First District Court of Appeals' Vested Rights Decision in MAPE v. MarinCERA?," *SACRS Magazine*, 10.01.2016

Co-Author, "A Critical View of California Vested Rights Law," *Law360*, 09.16.2016

Co-Author, "First District Court of Appeal Weighs in on the Law of Vested Rights in California," *Nossaman eAlert*, 08.29.2016

Author, "No Surprises in Recent Vested Rights Decision: *Fry v. City of Los Angeles*," *Nossaman eAlert*, 04.05.2016

Co-Author, "California Supreme Court Holds that Inadvertent Disclosure in Response to a Public Records Act Request Does Not Waive the Exemption for Withholding Privileged Documents," *Nossaman eAlert*, 03.29.2016

Author, "The Trouble with Tibble: The Uncertain Scope of Trustees' Ongoing Duty to Monitor Investments," *The NAPPA Report*, 10.01.2015

Co-Author, "Court of Appeal Strikes Down 2011 S.F. Charter Requirement that SFERS Be "Fully Funded" before Vested Supplemental COLAs may be Granted," *Nossaman eAlert*, 03.30.2015

Co-Author, "Nossaman Comment on Recent Court of Appeal Decision re Constitutionality of PEPR," *Nossaman eAlert*, 02.02.2015

Co-Author, "Overview of SEC's Rules on "Pay to Play" and Campaign Contributions Impacting Public Retirement Systems," *The Public Retirement Journal*, 01.2015

Co-Author, "Conflict of Interest Rules for Public Retirement System Trustees and Staff," *SACRS Magazine*, 12.01.2010

HONORS & RECOGNITIONS

Named to California's Top Women Attorneys list by *The Daily Journal*, 2016

McFetridge Inn of Court, San Francisco, 2000-2003

Urban Fellow, City of New York, 1991-1992

COMMUNITY & PROFESSIONAL

President, National Association of Public Pension Attorneys

Program Committee, State Association of County Retirement Systems

Board of Directors, Montera Middle School PTO

PRACTICES

Public Pensions & Investments

Fiduciary

Pension Plan Litigation

Retirement & Welfare Plan Benefits

Litigation

Corporate Governance

Employment

Insurance Recovery & Counseling

INDUSTRIES

Government & Public Sector

EDUCATION

University of California, Hastings College of the Law, J.D., 1996, *cum laude*; Order of the Coif, Thurston Society, *International and Comparative Law Review*, American Jurisprudence Awards in Property, Trial Advocacy, Judicial Administration and Professional Responsibility

Yale University, B.A, 1991, *cum laude*, with Distinction in History, Yale President's Award for Public Service

ADMISSIONS

California

Texas

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