

# Jill N. Jaffe

Partner | San Francisco

[jjaffe@nossaman.com](mailto:jjaffe@nossaman.com)

415.438.7275

50 California Street, 34th Floor  
San Francisco, CA 94111



Jill is a litigator who specializes in litigating disputes involving real estate, public procurements and infrastructure projects. She is experienced in all phases of litigation in both federal and state courts, including pre-litigation government investigations, pleadings, e-Discovery, dispositive motions, mediation and trial. She has successfully obtained verdicts for her clients as a lead trial attorney, including for the Texas Department of Transportation.

Jill has particular experience counseling clients on myriad aspects of public contracting and procurement disputes, including defending bid protest challenges and litigating construction claims. Her construction claims experience includes representing clients before dispute review panels and boards in multiple states and in high-stakes disputes on numerous issues that arise in the context of a complex infrastructure project, including utility adjustments and relocations, environmental permitting, environmental re-evaluation, and delay and disruption claims.

She also provides general counsel services to public transportation agencies on a wide variety of matters, including construction contracts, alternative procurement processes, the Brown Act and Public Records Act. This expertise includes: organizational conflicts under federal law; Disadvantaged Business Enterprise (DBE) requirements, including good faith efforts regulations; bid protest administrative procedures; and statutes and regulations governing alternative procurement processes, including Construction Management/General Contractor, sole source, and negotiated procurements.

## EXPERIENCE

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### REAL ESTATE & INFRASTRUCTURE LITIGATION

**Texas Department of Transportation – U.S. 181 Harbor Bridge Replacement.** Member of the legal team advising on replacement of the nearly 60-year-old Harbor Bridge spanning the Corpus Christi shipping channel with a new structure that will be the longest cable-stayed bridge in North America. Jill's services include contract administration and advice and counseling in connection with Disputes Review Panel hearings.

**Texas Department of Transportation – Grand Parkway, Segments H, I-1 and I-2.** Leading the legal team that advises on a contractor dispute on the \$1 billion, 52-mile portion of the Grand Parkway (SH 99). Jill's focus is currently assisting with contract administration and claims management in connection with a Dispute Board process – the first of its kind in the State of Texas. The Disputes Board issued a full defense verdict in favor of TxDOT.

**Arizona Department of Transportation – South Mountain Freeway.** Member of the legal team advising on a dispute pertaining to the first P3 project in Arizona – the Loop 202 South Mountain Freeway Project. The dispute centered on purported cost overruns associated with utility relocations necessitated by the Project. Our services included advising on determination of risk allocations with respect to the cost of utility relocation costs, advising on the viability of loss of productivity and delay claims, and representing the client in mediation. The dispute settled without the need for litigation.

**Rancho Maria Golf Club.** Represented Rancho Maria Golf Club in an action to quiet title via easements by prescription and adverse possession. Over several decades, our client's golf course had encroached onto adjacent property. These encroachments included cart paths, fairways, a green, a restroom facility and other golf course features. In addition, numerous golfers have been traversing over adjacent properties for decades in order to play balls or to cut through to other parts of the golf course. When a developer purchased the adjacent properties, it created plans to develop it and threatened to fence off our client's use of the adjacent properties. We promptly filed our lawsuit to protect our client's interests. In addition, we are representing our client in related water rights issues concerning the developer's threatened claim to use the groundwater for its residential development. Shortly before documenting a settlement, the property owner filed for bankruptcy, so we are now advising the client on bankruptcy issues as we wait for the bankruptcy stay to be lifted.

**Custom House v. City of Monterey.** Represented client in dispute stemming from damage to hotel due to City's construction activities, and potential impacts to hotel's property rights due to City's activities. The dispute resolved in successful settlement between the parties.

**Federal Deposit Insurance Corporation.** Represents the FDIC in a variety of commercial litigation matters resulting from the negligent approval of ADC loans. Assists in investigations of professional liability claims against officers and directors and outside professionals.

**San Francisco County Transportation Agency (SFCTA).** Represented SFCTA in pre-litigation claims negotiations related to stop loss notice filed by worker of general contractor.

**Orozco v. Conrad.** Successfully represented Ms. Orozco, who was fraudulently coerced into signing a lease with her new landlord. The jury made findings of fraud and returned a verdict of over \$2.1 million in punitive damages after a one-month trial.

**Telecommunications Company.** Represented tenant in dispute related to impact of tenant's equipment on roof of building. Dispute resolved in successful settlement between the parties.

**West Coast v. SANDAG et al.** Represented SANDAG in bid protest proceeding. The court denied the protester's request for a preliminary injunction to halt SANDAG's award of the contract, and the case resolved favorably and quickly for SANDAG. As a result, SANDAG was able to move forward with awarding the contract within the time frame set forth in the bid documents.

## COUNSELING

**Riverside County Transportation Commission (RCTC).** Represented RCTC in bid protest that was filed during the bid scoring process. We negotiated and drafted a settlement agreement that avoided any need for a final decision on the protest and permitted the agency to move forward without impact to the scoring timeline.

**San Francisco Bay Area Water Emergency Transportation Authority (WETA).** Member of the Nossaman team that served as general counsel to WETA. Provided advice on Brown Act matters at public agency meetings. Provided pre-litigation counseling regarding bid protests and contract disputes.

**Los Angeles County Metropolitan Transportation Authority (LACMTA).** Represented LACMTA in a bid protest matter.

**California High-Speed Rail Authority.** Provides pre-litigation counseling regarding funding obligations, highway and street maintenance issues, and applicability of portions of the Public Contract Act.

**California Water Association.** Represents the statewide association representing investor-owned public utilities regulated by the California Public Utilities Commission in proceedings affecting the delivery of safe, reliable water service at reasonable rates. Also provides advice regarding cybersecurity/privacy regulations.

**San Francisco County Transportation Authority (SFCTA).** Member of team serving as general counsel. Provides advice on Brown Act and administrative code matters at public agency and committee meetings. Negotiates construction services contracts on behalf of SFCTA with construction firms, design firms and technical consultants. Provides pre-litigation counseling regarding bid protests, potential contract award disputes and stop notices.

**Port of Long Beach.** Member of team assisting the Port with pre-litigation issues related to the Long Beach International Gateway Bridge replacement project and various anticipated construction claims. Provided advice on California Public Records Act issues and pre-litigation counseling regarding potential construction disputes.

## INSIGHTS

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### SPEAKING ENGAGEMENTS

Speaker, "Hot Topics in Real Estate and Land Use," Urban Land Institute Next Group, 02.08.2022

Moderator, "Open Forum with Members of the Judiciary," Association of Business Trial Lawyers' 46th Annual Seminar, La Quinta, CA, 10.05.2019

Speaker, "Privacy in a Connected World Has Risks," 2019 California Special Districts Association Annual Conference and Exhibitor Showcase, Anaheim, CA, 09.26.2019

Speaker, "Social Media and Open Government," California Lawyers Association's Open Meetings and Open Records Conference 2019, San Francisco, CA, 05.31.2019

Panelist, "A Connected World Has Risks: Systems, Data, and Privacy," Association of California Water Agencies' 2019 Spring Conference and Exhibition, Monterey, CA, 05.07.2019

Speaker, "Bid Protests and Alternative Dispute Resolution Procedures," Nossaman's Infrastructure CLE Update - Parts I & II, San Francisco, 2019

Speaker, "Devices, Data, and Privacy: Legal Concerns, Risks, and Best Practices," 2018 California Special Districts Association Annual Conference & Exhibitor Showcase, Indian Wells, CA, 09.25.2018

Speaker, "Cybersecurity Threats Facing Water Utilities and the Steps You Should Take to Mitigate Risk," Nossaman's Drought Solutions Webinar Series, 10.12.2017

Speaker, "Stay Ahead: 2017 Emerging Employment Issues," Nossaman Employment Seminar, San Francisco, Sacramento, Los Angeles & Orange County, CA, 02.2017

Moderator, "What is Personally Identifiable Information?," Litigation Section of the Barristers Club, San Francisco, CA, 08.30.2016

### PUBLICATIONS

Co-Author, "Design-Build in the Transportation Arena," *Design-Build, Public-Private Partnerships and Collaboration Handbook, 13th Edition*, 03.01.2022

Co-Author, "California Supreme Court Rejects Claim by Second-Lowest Bidders on Public Works Contracts that Low Bidder Interfered with a Prospective Economic Advantage," *Nossaman eAlert*, 03.10.2017

Co-Author, "Re-Evaluating California's Emergency Drought Regulation," *Law360*, 02.19.2016

Co-Author, "Recent Decisions Applying the Covalt & Hartwell Test," *Nossaman eAlert*, 02.05.2016

Co-Author, "The Water Board will Consider Changes to its Emergency Drought Regulation for 2016," *Nossaman eAlert*, 01.22.2016

Co-Author, "Notice-and-Comment is Not Required for Changes Made to Interpretive Rules," *Nossaman eAlert*, 03.20.2015

Co-Author, "The Hearsay Rule Matters in California PUC Proceedings," *Law 360*, 03.12.2014

Co-Author, "Biomethane Rising: California Policies Open the Gate to Electricity and Natural Gas Markets," *Fortnightly's Spark*, 11.27.2013

Author, "Limited Defenses Available Against FDIC as Receiver," *Law360*, 10.01.2013

## HONORS & RECOGNITIONS

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Selected to the Northern California Rising Stars list, 2020-2021

## COMMUNITY & PROFESSIONAL

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Association of Business Trial Lawyers – Northern California Chapter, Board of Governors, Community Outreach Committee Co-Chair

Urban Land Institute (ULI), NEXT; NEXT Steering Committee

Berkeley Real Estate Alumni Association, Member

## PRACTICES

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Litigation

Real Estate

Real Estate Litigation

Intellectual Property

Construction Law, Claims & Litigation

Financial Services

## INDUSTRIES

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Government & Public Sector

Real Property

## EDUCATION

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University of California, Berkeley School of Law, J.D., *Order of the Coif*, Articles Editor and Submissions Coordinator, *Ecology Law Quarterly*

University of California, Santa Barbara, B.S., *Highest Honors and College Honors*

## ADMISSIONS

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California

U.S. Court of Appeals, Ninth Circuit

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