

**James J. Banks**

[jbanks@bw-firm.com](mailto:jbanks@bw-firm.com)

Mr. Banks has practiced law for 34 years, representing private and public sector clients in a variety of litigation matters, and as general counsel. As an outgrowth of his litigation experience, Mr. Banks also serves as counsel to a number of private law firms in professional liability, ethics, and risk management issues.

**Legal Experience**

Mr. Banks counsels a diverse group of private and public sector clients, including institutions, special districts, school districts, commercial businesses, accounting and law firms. Mr. Banks has appeared in numerous state and federal trial and appellate courts throughout the U.S. He has had an AV Martindale-Hubbell rating since 2001 and has been recognized as a Northern California “Super Lawyer” in 2006 and 2010-2020. Mr. Banks is listed in the peer-reviewed publication “Best Lawyers in America” and was named in the Sacramento Business Journal’s 2015, 2016, 2017, 2018 and 2019 “Best of the Bar,” which recognizes leading local attorneys after nomination and vetting by a panel of their peers. In 2017, “Best Lawyers in America” selected Mr. Banks as Sacramento’s litigation/real estate lawyer of the year. In 2020, Mr. Banks was recognized as a Life Fellow of the American Bar Foundation, a global honorary society of attorneys, judges, law faculty and legal scholars. Membership in the Fellows is limited to one percent of lawyers licensed to practice in each jurisdiction. Mr. Banks is a member of the Federation of Defense and Corporate Counsel, whose membership is by invitation only following an extensive peer-reviewed selection process. Mr. Banks has been certified by the California State Bar as a specialist in Legal Malpractice Law. Mr. Banks serves as an arbitrator for the Sacramento County Bar Association Mandatory Fee Arbitration Program, and has presided over numerous fee arbitrations.

Mr. Banks advises his clients in a number of legal matters, including:

- Business and commercial litigation
- Civil writs and appeals
- Class action litigation
- Insurance coverage matters
- Malpractice claims
- Professional ethics
- Risk management
- School and special district issues

A skilled trial lawyer, Mr. Banks has handled cases across a broad spectrum of subject areas, including:

- Antitrust matters
- Catastrophic injury
- Contract disputes
- Corporate disputes

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- Education law
- Employment issues
- Insurance disputes
- Intellectual property
- Probate
- Professional liability

### **Practice Examples**

- As lead trial counsel represented a physician's assistant in a wage and hour dispute with a Northern California dermatology practice. Litigation results include judgment following a binding arbitration in excess of \$1 million for the client and an award of approximately \$1.5 million in statutory attorneys' fees.
- As lead trial counsel represented the seller of a large ranch in litigation filed by the purchasers over alleged environmental and other issues. Litigation resulted in a favorable settlement during trial.
- As lead trial counsel, successfully represented a law firm through trial in the District Court, Douglas County, Nebraska in a litigation initiated by a former partner over the value of his partnership interest.
- As lead trial counsel, successfully represented a construction company in a wage and hour class action and individual employment discrimination claims, both of which settled for a nuisance amount on the first day of trial.
- As lead trial counsel, successfully represented an issuer of municipal securities in litigation against its bond counsel arising from issues in connection with a \$130 million bond refinancing.
- As lead trial counsel, successfully represented an East Coast and European investment group in litigation concerning working interests the group had purchased in natural gas wells, which resulted in a \$1.4 million judgment in the group's favor.
- As lead trial counsel, successfully represented an attorney in federal and state court litigations in California and in Hawaii, through the commencement of trial in the Court of the Third Circuit, State of Hawaii (Hilo). Litigation results included obtaining a judgment of \$2.8 million for the client in California Superior Court litigation and successfully resolving the Hawaii litigation, which arose out of an alleged breach of a settlement agreement by client's co-counsel.
- As lead trial counsel, won a jury verdict in favor of a real estate investor against the County of El Dorado permitting the investor's right to rescind a tax-sale contract and recover funds due to the County's failure to disclose delinquent assessments under the

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Improvement Bond Act of 1915, which the County previously had stripped from its tax roll.

- As lead trial counsel, successfully represented the sellers of a large tract of real property to a national home builder in litigation in which the purchaser was seeking damages in excess of \$60 million, resulting in a favorable settlement on the first day of trial.
- As lead trial counsel, successfully defended a law firm at trial in a Virginia Court, resulting in a judgment in the firm's favor in a breach of contract action.
- As lead trial counsel, successfully represented a property owner in a fair value hearing following a judicial foreclosure in which a lender was seeking a \$12 million deficiency; the litigation resolved on the eve of trial with the lender accepting \$1.6 million in satisfaction of its deficiency claim.
- As co-trial counsel, won a multi-million dollar jury verdict on behalf of a motorcyclist critically injured in an accident caused, in part, by visual obstruction negligently created through a packing company's vineyard harvest.
- As lead counsel, successfully defended claims against a law firm in the United States District Court for the Southern District of New York alleging violations of the Lanham Act.
- As lead counsel, successfully defended a California attorney accused in a North Carolina state court of participating in a multi-million dollar embezzlement scheme.
- As lead counsel, successfully represented a law firm through a Department of Justice criminal inquiry initiated by its exercise of search warrants seizing that firm's files.
- As lead counsel, won a reversal on appeal of a multi-million dollar malicious prosecution jury verdict against a local attorney.
- As lead counsel, successfully represented a large Central Valley school district in a multi-million dollar claim involving 70 separate workers compensation claims that had been improperly adjusted and administered by that district's third party administrator.
- As lead counsel, successfully represented the Boy Scouts of America in a claim by its former attorneys to some \$1.1 million in unearned attorneys' fees.
- Represented attorneys and their law firms in nearly 150 professional liability and malicious prosecution claims. Mr. Banks has also defended numerous accountants, insurance and real estate professionals in negligence claims.

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- Represented attorneys in excess of 200 State Bar inquiries.

A catalog of Mr. Banks' jury trials, bench trials, arbitrations and administrative hearings is hereto attached as Exhibit A.

The following is a selected list of published decisions in which Mr. Banks was counsel:

- *Antelope Valley – East Kern Water Agency v. Los Angeles County Waterworks District No. 40 (In re Antelope Valley Groundwater Cases)* (2018) 30 Cal.App.5th 602.
- *Fredericks Peebles & Morgan LLP v. Fred Assam* (2018) 300 Neb. 670.
- *Ribeiro v. County of El Dorado* (2011) 195 Cal.App.4th 354.
- *Modesto City Schools v. Education Audits Appeal Panel* (2004) 123 Cal.App.4th 1365.
- *Rohn v. United States* (2002) 2002 U.S. Dist. LEXIS 19122
- *Modesto City Schools v. Riso Kagaku Corp., et al.* (E.D. Cal. 2001) 157 F.Supp.2d 1128.
- *Krough v. Reynolds Packing, Inc.* (2001) 91 Cal.App.4th 1243.
- *Keeling v. Kronick, Moskovitz, Tiedemann & Girard* (2000) 2000 U.S. Dist. LEXIS 23372
- *Municipal Court v. Superior Court* (1992) 15 Cal.App.4th 1101.
- *Sosinsky v. Grant* (1992) 6 Cal.App.4th 1548.
- *Vinod C. Bhan, C.R.N.A. v. NME Hospitals, Inc.* (9th Cir. 1990) 929 F.2d 1404.
- *Olney v. Sacramento County Bar Association* (1989) 212 Cal.App.3d 807.
- *Bank of America National Trust & Savings Association v. Superior Court of Stanislaus County* (1988) 200 Cal.App.3d 1000.

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### **Professional Activities and Affiliations**

Mr. Banks frequently lectures on risk management, ethics, malpractice and litigation issues. His speaking engagements include:

- Presenter      October 2019, Schwartz-Levi Inn of Court. Topic: Proposed rules permitting lay ownership of legal firms.
- Lecturer      March 2019, Schwartz-Levi Inn of Court. Topic: Delivered lecture on the revised California Rules of Professional Conduct.
- Lecturer      July 2014, Shanti Bhavan School, Baliganapalli, India. Topics: Delivered lectures in Contract Law, appellate advocacy and Human Rights.
- Speaker      August 2011, Sacramento Law Firm Seminar. Topic: Conflicts of Interest, with emphasis on rules 3-300 and 3-310 of the California Rules of Professional Conduct.
- Panelist      2007 United States District Court for the Eastern District Bench/Bar Conference – “Erosion of the Attorney-Client Privilege,” “Attorney-Client Privilege, Crime Fraud Exception.”
- Panelist      2006 United States District Court for the Eastern District Bench/Bar Conference – “Ethical and Legal Obligations of Leakers, Whistleblowers and Their Attorneys in a Post-9/11 World.”
- Speaker      March 2005, Sacramento Law Firm Seminar. Topic: Conflicts of Interest.
- Speaker      March 2002, University of California, Davis, King Hall School of Law. Topic: Attorney Ethics.
- Speaker      November 2001, University of the Pacific, McGeorge School of Law. Topic: Ethical Issues Impacting Class Action Practice and Complex Litigation.
- Speaker      April 2001, University of California, Davis, King Hall School of Law. Topic: Attorney Ethics.
- Speaker      February 2000, Seminar, Santa Fe, New Mexico. Topic: Law Firm Risk Management Issues.
- Speaker      April 1999, University of California, Davis, King Hall School of Law. Topic: Attorney Ethics.

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- Speaker      October 1997, Sacramento Law Firm Seminar. Topic: Selected Risk Management Issues for Lawyers.
- Speaker      July 1997, Sacramento Law Firm Seminar. Topic: Evidentiary Privileges and Their Use in Civil Discovery.
- Speaker      November 1996, Sacramento Association of Health Underwriters. Topic: Selected Risk Management Issues for Insurance Agents and Brokers.
- Speaker      August 1996, Sacramento Law Firm Seminar. Topic: Selected Risk Management Issues for Lawyers.
- Speaker      July 1996, Sacramento Association of Professional Administrators. Topic: Selected Risk Management Issues for Public Accounting Firms.
- Speaker      March 1996, Sacramento Association of Legal Secretaries. Topic: Avoiding Malpractice.
- Speaker      February 1994, Reliance Insurance Group Seminar for Attorney-Insureds, San Francisco, California. Topic: How to Avoid Being Sued for Malicious Prosecution and What to Do If You Are.
- Panelist      1993, 1994, 1995, “Taking Effective Depositions,” Lorman Education Services.

His professional and community affiliations include:

- California State Bar Association
- American Bar Association
- Federal Bar Association
- Association of Professional Responsibility Lawyers
- Federation of Defense & Corporate Counsel
- Board of Trustees, St. Michael’s Episcopal Day School (1998-2003)
- Trustee, Sacramento Children’s Home (1996-2000)
- Secretary and Counsel, Trinity Cathedral Episcopal Church (1991-1996)

### **Academic Background**

A.B. University of California, Berkeley, 1982

J.D. University of California, Davis, 1985  
– *Member, U.C. Davis Law Review*