



## Karen P. Kimmey

Partner

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Karen Kimmey approaches business litigation with the perspective of an experienced trial lawyer, particularly in high-stakes matters. When a company's future is at stake, she knows what matters and what doesn't in a case, leading to effective and efficient resolution. Clients have praised her for her aggressive courtroom advocacy, coupled with sound judgment and a myopic focus on their business objectives.

With experience representing both large and small businesses, as well as individuals, Karen litigates a wide variety of commercial disputes, with particular emphasis on complex contract, fraud, unfair competition, and negligence claims. She also has significant experience in class actions and products liability matters.

Karen is frequently called upon to take over on matters from other law firms as they approach trial and require courtroom expertise. When it comes time to actually stand up in court and make a case, Karen has an unparalleled level of experience and skill, based on, first of all, many hours spent trying cases – both jury trials and arbitrations – usually as lead counsel.

Due in no small part to her theater and public speaking background, Karen tells a great story, in a fashion that makes complex concepts both clear and compelling. It's not an exaggeration to say that she's been presenting arguments for her entire adult life – she was a two-time national champion in persuasive speaking in college forensics and a moot court champion in law school. If advocacy is the heart of trial law, Karen has no equal.

Karen frequently speaks and writes about trial strategy and skills, often addressing the challenges that litigation poses for businesses. She authored the chapter "Opening Statements" in *Being Heard: Presentation Skills for Attorneys* published by the American Bar Association (2018) and was the editor of the chapter on jury selection in the CEB publication *Civil Procedure During Trial* (2022).

Karen's skill in business litigation in Northern California has been recognized repeatedly by *Super Lawyers*. She has been selected for inclusion in *The Best Lawyers in America* in the area of Commercial Litigation law (2021-2022), and she recently received the prestigious California Lawyer Attorneys of the Year ("CLAY") award for her role as trial counsel in a precedent-setting antitrust class action against Sutter Health.

Karen serves as general counsel to Farella and as chair of the firm's Business Litigation Group.

### Distinctions

- California Lawyer Attorneys of the Year (CLAY) Award, *Daily Journal* (2022)
- *Best Lawyers in America* in the area of Commercial Litigation (2021-2024)
- Northern California *Super Lawyers* in Business Litigation since (2015-2018, 2020-2023)
- 2018 Award of Merit Recipient, Bar Association of San Francisco

### Memberships and Affiliations

- Board of Directors, Bar Association of San Francisco (2016-2018)

### Services

- Business Litigation
- Consumer Products + Manufacturing
- Energy + Infrastructure
- Insurance Recovery
- Intellectual Property Litigation
- Patent Litigation
- Healthcare

### Education

- University of California College of the Law, San Francisco (formerly UC Hastings) (J.D.)
  - *magna cum laude*; *Hastings Law Journal*; Thurston Society; Order of the Coif
- Arizona State University (B.A.)
  - *magna cum laude*; top graduate from the College of Liberal Arts and Sciences; Salutatorian of Graduating Class

### Bar Admissions

- California

### Court Admissions

- All California Courts

- Former President, St. Thomas More Society
- Chair, Food from the Bar Campaign
- Fellow, Litigation Counsel of America

## Experience

### **Novartis v. MedImmune, Biogen, Alexion**

Served as co-counsel in litigation alleging infringement of patents for a vector for the expression of polypeptides. The cases were resolved by favorable settlements for Novartis.

### **BVF v. Celera**

Defended lab testing company in suit alleging fraud and breach of fiduciary duty in connection with disclosures made relating to the value of assets to be sold to Quest.

### **Vaccine Act Litigation**

Defended claims brought against vaccine manufacturer and obtain removal and dismissal under Vaccine Act and PREP Act.

### **Licensing Arbitration**

Lead counsel to major pharmaceutical company in series of arbitrations regarding licensing of blood screening technology and interpretation of licensing terms. Prevailed and obtained an award of attorneys' fees.

### **Beckman Research Institute v. Genentech**

We represented Genentech in an arbitration proceeding concerning the royalties due the plaintiff under a research and license agreement regarding recombinant DNA technology, which resulted in the issuance of two patents and the development and commercialization of two highly successful anti-cancer drugs.

### **Historic \$575 Million Settlement With Sutter Health in Antitrust Class Action**

Represented UFCW & Employers Benefit Trust (UEBT) and a certified class of direct purchasers of hospital services in seeking preliminary approval of a historic settlement reached on the eve of trial in the landmark antitrust class action against Sutter Health, the largest hospital system in Northern California. Sutter has agreed to pay \$575,000,000 in monetary relief and to comply with comprehensive injunctive relief, including an independent monitor who will police Sutter's compliance with the proposed final judgment over a 10-year period.

### **Titeflex**

Serve as national coordinating counsel for products liability litigation relating to gas delivery system, and products liability counseling relating to Prop. 65.

### **MPS Acquisition, Inc. v Micro Power Systems, Inc., et al.**

Defended Micro Power Systems, Inc. in a multi-million dollar suit for breach of contract, fraud and conspiracy resulting from failed acquisition negotiations. Obtained judgment for the defendant, and then acted as lead counsel in a trial in Santa Clara Superior Court before the Honorable Conrad Rushing to successfully establish alter-ego liability against the principals of MPS Acquisition, Inc. to enforce recovery on cross-complaint. Obtained a verdict in favor of plaintiffs on all issues, which was affirmed on appeal.

### **Technology Licensing Agreement Arbitrations**

Represented Novartis in a series of arbitrations arising out of technology licensing agreements.

**Stafursky et al. v. Internet Success Systems et al.**

Defended a nationwide leasing company in a class action alleging deceptive marketing practices, including violations of the Unfair Competition Law, the False Advertising Law, the Consumer Legal Remedies Act, and common law fraud and unjust enrichment. We derailed the plaintiffs' case at the outset of the litigation by obtaining a trial court order staying all claims against our client based on a forum selection clause that required the plaintiffs to bring their claims in another state. We then successfully settled the matter on favorable terms.

**Chiron v. Hoffman-LaRoche**

We represented Chiron Corporation (now Novartis) as a plaintiff in this patent infringement action in the Northern District of California. The case involved the patent for a vaccine for the Hepatitis C virus, as well as antitrust counterclaims.

**Creo Products v. Dainippon Screen**

Successfully defended Japanese manufacturer Dainippon Screen against patent infringement and trade secret claims brought in the United States District Court for the Western District of Washington. Obtained summary judgment of non-infringement in our client's favor based on application of prosecution history estoppel, and summary judgment dismissing all other claims and an award for attorneys' fees in favor of our client. The district court judgment was affirmed in all respects by the Federal Circuit.

**Weiner v. Cal Shake**

Represented a class of homeowners in a trial relating to sale of defective products.

**Ischemia Research and Educational Foundation v Pfizer, Inc., et al.**

We defended Pfizer, Inc. against claims of trade secret misappropriation in Santa Clara County Superior Court. The plaintiffs' misappropriation claims arise out of clinical drug trials for Bextra, a second generation COX-2 inhibitor.

**CyberMedia v. Symantec, et al.**

Represented an Atlanta-based software development company and its officers in connection with copyright and trade secret claims arising out of the development and sale of a popular software program.

**Hodge v. Franklin; Vigneau v. Franklin**

Represented the directors of a publicly traded Real Estate Investment Trust in companion state court class actions alleging violations of securities laws and related statutes.

**Visa v. Maritz**

Represented Visa in connection with claims against Maritz arising out of Maritz's attempt to develop and deploy a points based rewards program for Visa and its members.

**John Goodman / Goodman Real Estate**

Represented board member and co-owner of entity contracted to provide privatized housing for military personnel and their families as a defendant in two suits for fraud (in California and Georgia) and a federal

grand jury investigation out of Virginia. Issues include breaking into federal facilities, insurance fraud, and other frauds. *Monterey Bay Military Housing v. Pinnacle Monterey, et al. and Fort Benning Family Communities, et al.*

## Publications

5/10/2016

**Trial Pros: Farella Braun's Karen Kimmey**

7/28/2010

**Insurance Coverage for Food Contamination Recall**

5/4/2009

**Maximizing Coverage**

11/10/2008

**Going to Trial**

4/28/2008

**Will Insurers be on the Hook for Losses Arising from Subprime Related Securities Litigation?**

## Outside the Office

Karen lives in Marin with her husband and three children. She's passionate about ballet, enjoys traveling in South America and spends a lot of time watching her kids' sporting events. She's the former President of the St. Thomas More Legal Society and enjoys hiking with her kids and their (very large) dog.