

Gene Tanaka

Partner

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At a Glance

Gene represents municipalities in a myriad of environmental and hazardous waste issues.

He has nearly 30 years of experience representing public agencies, and understands that litigation reflects the public's concerns.

Northern California Super Lawyers has recognized Gene for Environmental Litigation every year since 2011.

Profile

Gene Tanaka's practice focuses on environmental, land use and public agency litigation. A partner at Best Best & Krieger LLP, he strives to reduce the uncertainty of litigation by providing his clients with case analyses and budgets at the outset and taking a measured, consistent approach through the course of the case.

Environmental Litigation

Environmental litigation can be complicated, protracted and very expensive. Early preparation and evaluation are key to obtaining favorable results and efficiently directing experts and discovery. Gene has taken this approach in a wide range of environmental matters.

- Clean Water Act and Resource Conservation and Recovery Act:
Represented the City of Merced in an action brought by approximately 2,200 plaintiffs for alleged chemical and biological contamination, CWA and RCRA violations, and flood damages. The City obtained dismissal of the CWA and RCRA claims and settled on favorable terms.

Areas of Focus

Practices

[Environmental Law & Natural Resources](#)

[Environmental Litigation](#)

[Hazardous Waste](#)

[Municipal Law](#)

[Public Agency Litigation](#)

[Special Districts](#)

[Water](#)

Industries

[Municipal](#)

[Special Districts](#)

- Comprehensive Environmental Response, Compensation, and Liability Act: Represented the City of Colton in approximately 10 federal and state lawsuits, in litigation lasting nearly 10 years, over perchlorate groundwater contamination. The cases settled with Colton recovering almost all of its damages, and the responsible parties funding a nearly \$100 million cleanup.
- California Hazardous Substances Account Act: Represents Los Angeles County before the California Department of Toxic Substances Control regarding the cleanup of the former BKK Carson Landfill and cost recovery from numerous public agencies and private entities.
- Water Law: Represented North Kern Water Storage District as co-counsel in a three-month bench trial concerning pre-1914 appropriative water rights. North Kern prevailed on appeal. *North Kern Water Storage District v. Kern Delta Water District*, 147 Cal. App. 4th 555 (2007).
- California Radiation Control Law and Federal Land Policy and Management Act: Represented the City of Needles in two related lawsuits that helped prevent the licensing of a low-level radioactive waste facility at Ward Valley, Calif.

Land Use Litigation

Public agencies must balance the rights of project applicants with protecting their land use policies. Gene helped public and private clients strike the right balance in many different land use lawsuits.

- Fair Housing Act and Civil Rights Act: Plaintiffs claimed a regulatory taking and violations of the CRA and FHA regarding the City of Claremont's implementation of its sewer policy and its opposition to plaintiffs' Alzheimer's facility. After a six-day jury trial, the jury found for the City. The City prevailed on all claims after an appeal to the Ninth Circuit. *Sanghvi, et al. v. City of Claremont, et al.*, 328 F.3d 532 (9th Cir. 2003).
- Regulatory Takings: Lockheed Martin sued the Riverside County Habitat Conservation Agency, Riverside County and seven cities for \$90 million claiming that their endangered species habitat conservation plans amounted to a regulatory taking and other legal violations. All claims except the permanent takings claim were dismissed by the trial court and court of appeal. Defendants settled the permanent takings claim by purchasing the property close to their appraised value with mostly state funding.
- California Endangered Species Act: Successfully represented RCHCA, Riverside County and seven cities in defending a habitat conservation plan for an endangered species under the CESA. *San Bernardino Valley Audubon Society v. City of Moreno Valley*, 44 Cal.App.4th 593 (1996).
- Mello Roos Act: Plaintiff challenged Riverside County's formation of a district under the Mello Roos Act. Gene successfully defended the County before the trial court and court of appeal. *New Davidson Brick Co. v. County of Riverside*, 217 Cal.App.3d 1146 (1990).

Public Agency Litigation

Public agency litigation often reflects the concerns of the public, whom we serve. With nearly 30 years of experience representing public agencies, Gene understands this dynamic and has had the good fortune to handle many high

profile, unique cases.

- **First Amendment:** A neighborhood association sued for access to Riverside Unified School District's elementary school under the First Amendment. After two appeals to the U.S. Ninth Circuit Court of Appeals, the parties settled the case.
- **1965 Voting Rights Act:** Defended the Merced County Local Agency Formation Commission in a federal court case regarding the Voting Rights Act of 1965. LAFCO prevailed on a motion to dismiss.
- **California Cartwright Act:** Defended the Cucamonga Valley Water District in an antitrust lawsuit regarding its ownership of a mutual water company. Following class certification and extensive discovery, CVWD settled with mostly insurance proceeds.
- **Gene taught trial advocacy and deposition skills** for the National Institute of Trial Advocacy and others in Boulder, Col.; Denver; Des Moines, Iowa; San Diego, Calif.; Belfast, Ireland; Osaka, Japan and Hobart, Australia.

He is licensed to practice law in the State of California.

Education

- Columbia Law School, Columbia University, J.D.
- Columbia College, Columbia University, B.A., political science

Awards

- The Best Lawyers in America®, Environmental Litigation, 2016-2019
- International Municipal Lawyers Association Outstanding Associate Member Award, Health and Environment Section, 2017
- Northern California Super Lawyers List, Environmental Litigation, 2011-2018
- Super Lawyers Business Edition List, Construction, Real Estate and Environmental, 2015

Authorships

AUTHORED ARTICLES & PUBLICATIONS | MAY 08, 2019

Blue is the New Red in Federalism

Partner Gene Tanaka Discusses a Flip in the States' Rights Discussion in Municipal Lawyer

AUTHORED ARTICLES & PUBLICATIONS | NOV 09, 2016

Endangered Fish v. Humans: The Fight Over Competing Water Needs

The Struggle to Find Balance is Explored by BB&K Partner Gene Tanaka in Municipal Lawyer Magazine

AUTHORED ARTICLES & PUBLICATIONS | DEC 21, 2015

No Good Deed Goes Unpunished: Public Agency Liability for Flood Control

BB&K Partner Gene Tanaka Discusses in *Municipal Lawyer Magazine* How Local Agencies May Be Liable for Flood Damage — Just in Time for the Expected Rainy Season

LEGAL ALERTS | APR 07, 2015

New Federal Fracking Rules

Local Government Agencies with Authority Over Fracking Sites May Be Impacted

- “Role Reversal as Golden States Takes the Federalism Reins,” *Daily Journal*, May 24, 2019
- “Deposing Expert Witnesses,” *Daily Journal*, Jan. 24, 2017
- “[What If We Have Too Much Water: El Niño and Flood Damages](#)” *PublicCEO*, Oct. 27, 2015 (via *BBKnowledge*)
- “Double Jeopardy and More: Citizen Suits Under The Clean Water Act,” *IMLA’s Municipal Lawyer*, March/April 2013
- “What The Frack – Legal Liability for Hydraulic Fracturing,” *California Bar Journal*, Summer 2012 (co-authored with Shawn Hagerty)
- “Walking the Tightrope Over Stormwater Management and Liability,” *California Bar Journal*, Fall 2011 (co-authored with Shawn Hagerty)
- “Finding The Missing Link of Toxic Torts: Using ‘Cottle’ Orders to Determine Causation,” *California Environmental Law Reporter*, December 2010