

Daily Journal

MAY 7, 2014

TOP WOMEN LAWYERS

The Daily Journal's Annual List of Leading Women Lawyers in California

Miriam
A. Vogel

Morrison &
Foerster LLP
Los Angeles

Practice Type:
Litigation

Specialty:
Civil appeals



Vogel played a significant role in removing a major hurdle in the development of a new residential community north of Los Angeles.

On March 20, a state appellate court reversed a trial court decision that had set aside the state Department of Fish and Wildlife's approval of Newhall Land and Farming Co.'s development of a 26,000-acre project. *Center for Biological Diversity, et al, v. California Department of Fish and Game, et al*, B245131 (Cal. App. 2nd Dist., filed March 20, 2014).

Environmental and Native American groups challenged the department's six-year review of the proposed project, claiming that it would threaten protected animal habitats, plant life and cultural artifacts in the area of the Santa Clara River.

An appellate court rejected all of the challenges, reversed the judgment and remanded the case to the trial court, with directions to enter judgment for the department and Newhall.

Vogel played a major role in the appellate briefing, which, she said, "led to an extraordinarily detailed and carefully

reasoned opinion by the appellate panel."

Among her challenges, she added, "I had to translate scientific lingo into plain English. When you work with lawyers who specialize in environmental law, or any highly technical subject, as opposed to appellate lawyers, they speak their own language."

Among her other matters, Vogel briefed and argued an appeal on behalf of Bank of America in which an appellate court affirmed an order denying class certification in a case dating back 15 years. *Miller v. Bank of America N.A.*, (2013) 213 Cal. App. 4th 1.

At issue, the plaintiff challenged overdraft deductions made from certain accounts. He prevailed at trial, resulting in a landmark \$1 billion judgment against the bank.

In 2009, the Court of Appeal reversed the judgment and the state Supreme Court affirmed the reversal.

On remand to the trial court, the plaintiff then unsuccessfully sought class certification and appealed. In a published opinion, the First Appellate District last year affirmed the bank's win and rejected all of the plaintiff's arguments.

"These decisions likely will put an end to litigation in this area," Vogel said.

— Pat Broderick