

# PAYNE & FEARS

## Business Litigation Spotlight: Real Estate

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The Payne & Fears business litigation group this month puts the spotlight on real estate litigation. Last week, the California Supreme Court reaffirmed broad protections for borrowers using purchase money loans. In *Coker v. JPMorgan Chase Bank, N.A.*, the Court explained that the state limits "a lender's recovery on a standard purchase money loan to the value of the security, no matter how the security has been exhausted...." In other words, the borrower in most cases cannot be liable for a deficient security (home value that is less than the balance of the note secured by lender's deed of trust). The court insisted that it will look to the "substance rather than the form" of the transaction to determine the breadth of protection. In the case of standard purchase money loans, the court held these protections are "automatically" in place. For more exotic lending arrangements, courts will protect borrowers against deficiencies from lenders overvaluing property or general economic stresses in the market.

Several Payne & Fears attorneys specialize in this area. These attorneys are headlined by partners Dan Livingston and Tom Vincent, who have both successfully handled real estate litigation matters for over twenty-five years. Dan has been named to *The Best Lawyers in America* for Commercial Litigation and Litigation-Real Estate for several years running.

Within this practice area, the firm handles all aspects of real estate litigation. We have been highly successful in disputes involving purchase and sale agreements, easements, equitable mortgage claims, landlord-tenant, partnership, lien and title disputes. Financial institutions regularly enlist the firm to defend wrongful foreclosure cases and claims involving secured transactions and other interests in real property.



**Dan Livingston**



**Tom Vincent**

The Business Litigation Group of Payne & Fears LLP has experience in a variety of commercial litigation practice areas, including business torts (unfair competition, interference with prospective economic advantage, trade secrets, unfair trade practices); real property (landlord/tenant, mechanic's liens, contract drafting and negotiations, construction defects, breach of real property contracts, specific performance, broker liability, land use); product liability (negligent design or manufacture, breach of warranty, strict liability, case coordination); Uniform Commercial Code; partnership disputes; corporate (securities fraud, takeover litigation, shareholder derivative suits, corporate opportunities, vicarious liability); and fiduciary relations.

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