



Jeff Novel

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Recognized with numerous awards by many prominent publications and ranking agencies, Jeff Novel focuses his practice on complex business litigation.

Jeff principally represents clients in financial institution-related matters and real estate disputes. With almost 20 years of trial experience, Jeff has successfully prosecuted and defended lawsuits and appeals on behalf of his clients in state and federal trial courts and before arbitration panels throughout the country.

On the financial services side of his practice, Jeff advocates for banks and credit unions in a variety of matters including:

- Lender liability defense, including issues arising from non-disbursement of loan funds, termination of credit facilities, charging default rates, legality of fees and charges, refusing to extend loan terms, purported oral loan commitments, the rejection of payments after default, mortgage lending practices and claims based on contract, misrepresentation, fraud, securities fraud, breach of fiduciary duty and the Bank Tying Act.
- Insolvency and creditors' rights, including debt restructuring, collection, foreclosures, workouts, involuntary bankruptcies, and asset sales.
- Statutory and regulatory compliance, including issues relating to the Bank Holding Company Act, the Americans with Disabilities Act, the Electronic Fund Transfer Act, the Real Estate Settlement Procedures Act, Consumer Financial Protection Bureau regulations and usury under the National Bank Act and State laws.

In the real estate arena, Jeff guides developers, retailers, and multifamily owners and managers in a variety of cases including:

- Landlord-tenant issues, lease-related claims and utility and billing matters under the Texas Property Code and Texas Water Code.
- Commercial leases including eviction and forcible detainer actions, issues relating to rights of first refusal, options, common area maintenance, taxes, insurance and other reconciliation issues and pursuit of amounts due under leases and guarantees.
- Major construction disputes, including general contractor and subcontractor disputes.
- Purchase and sale contracts and options, including acquisition, specific performance, and escrow matters, as well as rescission and other fraud/mistake claims.
- Title matters, including liens and ownership priority, mineral rights, easement rights, mechanic's lien rights, adverse possession, and other prescriptive rights.

In addition to his commercial litigation practice, Jeff also works as the Managing Director of Administration at the firm. In this role, Jeff works with the firm's c-suite and business officers, who have positions and responsibilities similar to the executives he advises in his clients' companies, on matters relating to the day-to-day operation of the firm.

Jeff's recent speaking engagements include presentations to the Southwest Association of Bank Counsel on interest rate swap agreements, collection on bank loans and guarantees and the phase-out of LIBOR as well as presentations to clients regarding pitfalls and issues relating to commercial leases and guarantees. In addition, Jeff is a frequent contributor to the firm's banking and financial services blog, <https://www.krcl.com/insights/the-law-of-banking>.

Away from the Office

Jeff enjoys spending time with his family and playing golf. In addition to coaching his kids' sports teams, he also volunteers for Highland Park United Methodist Church, the Highland Park Independent School District and the Children's Medical Center in Dallas.

Bar Admissions

- State Bar of Texas (2002)
- United States District Courts for the Northern, Southern, Eastern and Western Districts of Texas

Education

Southern Methodist University, Dedman School of Law, J.D., *cum laude*, 2002

Southern Methodist University, B.A. and B.B.A., *cum laude*, 1999

Practice Focus

- Complex Commercial Litigation
- Construction
- Financial Services
- Intellectual Property
- Litigation
- Retail, Restaurant & Hospitality

Testimonials

I highly recommend Jeff without any hesitation based on his expertise, knowledge and professionalism. Jeff has tremendous skills and the talent it takes in presenting the case to obtain a successful outcome. The attention that Jeff paid to detail was excellent. I was especially impressed with his presentation and presence in the courtroom. His demeanor and persona are superb. It was a very rewarding experience having had the opportunity be a client.

Cherie Roughneen, Practice Administrator
Cardioplex

I would highly recommend Jeff to anyone who is looking for a fair and honest, hard working attorney who will represent his client with passion, zeal, and determination. He is diligent, thorough, and knowledgeable and pursues numerous avenues to bring a victory in court.

Mark Borofsky, CCE, CEW, President / CEO
CORE Strategies, LLC

Jeff is a great attorney that aggressively represents the best interests of his clients.

Anthony DeBenedictis, Director
BKD CPA's & Advisors

Experience

- Represented FDIC in litigation against the officers and directors of a financial institution that failed during the financial crisis and obtained a **significant settlement** on behalf of client.
- Represented financial institutions in numerous workouts seeking to maximize recovery of amounts owed on troubled loans through modifications, restructuring of loan obligations and note and asset sales.
- Represented lenders and mortgage servicers in lawsuits by borrowers seeking to invalidate liens and prevent foreclosures.
- Defended numerous financial institutions in class action lawsuits alleging failure to comply with the Americans with Disabilities Act and Electronic Fund Transfer Act.
- Defended financial institutions in lawsuits relating to borrowers' obligations under ISDA Master Agreements and hedge transactions.
- Advised numerous financial institutions on compliance issues relating to automated teller machines.
- Represented regional restaurant chain in lawsuit seeking to recover damages from vendor in relation to data breach which resulted in favorable settlement.
- Unanimous jury verdict on behalf of a large national discount store chain in breach of lease action. The jury found that the landlord breached the lease and client was awarded substantial damages.
- Judgment on behalf of commercial landlord following a bench trial. The Court ruled that the tenant had breached its lease, was properly evicted from the leased premises and that the landlord was entitled to a judgment for all amounts due and owing under the lease.
- Judgment against the guarantor of a lease on behalf of commercial landlord following a bench trial. Although the guarantor disputed execution of various documents and the damages sought by the landlord, the trial court entered judgment in favor of the landlord for all amounts sought in the lawsuit.
- Judgment in favor of commercial property developer in lawsuit involving a seller's breach of a commercial real estate contract when seller refused to return earnest money refundable to developer.
- Defended a national restaurant chain franchisee in a lawsuit filed by its franchisor for non-compliance with a franchise agreement and obtained a favorable settlement for the franchisee following the successful defense of the franchisor's application for injunctive relief.
- Obtained judgments for numerous businesses and individuals in lawsuits regarding debts owed and have successfully enforced such judgments through post-judgment collection activities.

REPORTED CASES

- *BBVA Compass Investment Solutions, Inc. v. Brooks*, Cause No. 02-13-00047, 2015 WL 595209 (Tex. App.—Fort Worth Feb. 12 2015) (successful appeal of trial court denial of motion to compel arbitration).
- *Superbag Operating Co. v. Sanchez*, Cause, No. 01-12-00342, 2013 WL 396247 (Tex. App. Houston [1st Dist.] January 31, 2013) (successful appeal of trial court denial of motion to compel arbitration).
- *Kramer v. Hollmann*, Cause No. 02-11-00136, 2012 WL 5869423, (Tex. App.—Fort Worth Nov. 21, 2012) (appeal of trial court ruling following jury trial).
- *Bever Properties, LLC v. Jerry Huffman Custom Builder, LLC*, 355 S.W.3d 878 (Tex. App.—Dallas 2011) (defense of trial court victory on appeal).
- *Pierre v. Greenstreet Properties of Texas, LLC*, No. 05-09-00794, 2009 WL 3135240 (Tex. App.—Dallas Oct. 1, 2009) (defense of victory on summary judgment in trial court on appeal).
- *In re Trammell*, 246 S.W.3d 815 (Tex. App.—Dallas 2008, no writ) (successful defense of Third-Party Defendant's attempt to compel arbitration in trial court and on appeal).
- *Brookview Partners, L.P. v. Hannah*, 260 S.W.3d 643 (Tex. App.—Dallas 2008, no writ) (successful appeal of trial court's summary judgment ruling).

Publications

- The Law of Banking, "Is Crypto a Currency or Security? Litigation Involving the SEC May Provide Guidance," November 2021
- The Law of Banking, "Proposed Legislation Would Require Financial Institutions to Report Data for Accounts with Annual Activity of \$600," September 2021

- The Law of Banking, "Appraisal Requirements Deferred for 120 Days for Certain Real Estate Transactions Due to COVID-19", April 2020
- The Law of Banking, "Warning Paycheck Protection Program Lenders! Limitations on Permissible Loan Applicants Lead to Class Action Lawsuits, April 2020
- The Law of Banking, "Bill That Would Overturn *Madden v. Midland Funding, LLC* And Codify Valid-When-Made Doctrine Passes In House," February 2018
- The Law of Banking, "Are Your Loan Documents Ready For The Death Of LIBOR?" February 2018
- The Law of Banking, "U.S. Supreme Court Refuses To Apply FDCPA To Purchasers Of Debt But Leaves Potential Arguments For Applicability Undecided," June 2017
- The Law of Banking, "Can An Unexecuted Loan Modification Coupled With Performance Satisfy The Statute Of Frauds? A Simple Step Can Help Your Financial Institution Avoid Being The First To Find Out In Texas," June 2017
- The Law of Banking, "Fifth Circuit Confirms That Constitutionally Non-Compliant Home Equity Liens Are Invalid And That No Statute Of Limitations Applies To A Quiet Title Action Alleging Such Violations," May 2017
- The Law of Banking, "Third Circuit Ruling Could Reduce Value Of Modified Loans Serviced Under Fannie Mae And Freddie Mac Guidelines," March 2017
- The Law of Banking, "Seventh Circuit Finds That Bank May Have Right To Sue Its Regulator Over Camels Rating," March 2017
- The Law of Banking, "New York Cybersecurity Regulations Impacting Financial Services Companies And Their Vendors Are Effective March 1, 2017 And Likely Foreshadow Forthcoming Regulations In Other States," March 2017
- The Law of Banking, "The Consumer Review Fairness Act Impacts Form Consumer Contracts Used by Financial Services Companies," February 2017
- The Law of Banking, "Attempts To Collect Time-Barred Debt Provide Fertile Ground For FDCPA Violations In The Fifth Circuit," September 2016
- The Law of Banking, "CFPB Finalizes Amendments to Mortgage Servicing Regulations," August 2016
- The Law of Banking, "What Conduct By a Lender or Servicer Constitutes Waiver of Acceleration?" March 2016
- The Law of Banking, "Payment at Foreclosure Sale Must Be Made Immediately or Within Reasonable Time," March 2016
- The Law of Banking, "30 Days And Counting: TRID Disclosure Requirements Effective On October 3, 2015," September 2015
- The Law of Banking, "Warnings From The CFPB On Private Mortgage Insurance," August 2015
- The Law of Banking, "Debt Collectors Must Prove FDCPA Exception For Communications With Third Parties," August 2015
- The Law of Banking, "Mortgage Servicers Proceed With Caution: Warning About Communications In Close Proximity To Demands," July 2015
- The Law of Banking, "Texas Debt Collection Act Claims Not Limited To Borrowers," July 2015
- The Law of Banking, "Are Your Customers Complaining? CFPB Publishes Complaint Narratives About Financial Products And Services," July 2015
- The Law of Banking, "Texas Supreme Court Denies Rehearing Relating To Deficiency Calculations," June 2015
- The Law of Banking, "Texas Lender Beware: Loan Renewal May Cause Lender's Security Interest In Collateral to be Subordinated to Judgment Creditor's Lien," May 2015
- The Law of Banking, "Reach Of Fair Debt Collection Practices Act Expanded To Formal Foreclosure Pleadings In Recent Third Circuit Decision," May 2015
- The Law of Banking, "Deficiency Calculations: Fair Market Value at Foreclosure Can Be Based on Post-Foreclosure Sale Price," May 2015
- Quoted, "What You Should Know About the Upcoming Fraud Liability Changes," National Federation of Independent Business, Clare Curley (April 14, 2015)
- The Law of Banking, "Fifth circuit affirms certification of class holding that Electronic Funds Transfer Act amendment is not retroactive," March 2015

- The Law of Banking, "A taxing decision: Determining whether a form 1099-c should be issued upon discharge of debt," March 2015
- The Law of Banking, "Notes must be analyzed to determine whether a four or six year statute of limitations applies," March 2015
- The Law of Banking, "Principal balance paid off by home equity loan is not included in 80/20 calculation," February 2015
- Co-author, "ATM Operators Beware: Class Actions for Failing to Post Required Notices," KRCL Litigation Alert (June 2010).

Honors

- AV Preeminent®, Martindale Hubbell
- Texas Rising Stars, Thomson Reuters (2009-2016)
- Top Rated Lawyer in Health Care by Martindale-Hubbell and Corporate Counsel, 2012
- Corporate America News Legal Elite 2016: Best Financial Institution Defense Litigator (Texas)

Clients

- Federal Deposit Insurance Corporation
- Macy's Retail Holdings
- Altera Development Company
- Avison Young
- CGF Industries
- Amegy Bank
- First National Bank

Presentations

- Interest Rate Swap Agreements: Overview and Litigation Issues – Presented at Texas Association of Bank Counsel Annual Conference on September 22, 2017.
- Texas Association of Bank Counsel, Banking 101 Webinar Series – Collection Issues presented on May 11, 2018.

Associations

- Claims and Litigation Management Alliance
- Pro Bono College of the State Bar of Texas
- Dallas Bar Association
- Dallas Association of Young Lawyers
- Texas Young Lawyers Association

Community

- The Children's Trust, Children's Medical Center Foundation
- Highland Park United Methodist Church
- Park Cities YMCA

Insights

- Is Crypto a Currency or Security? Litigation Involving the SEC May Provide Guidance.
- Proposed Legislation Would Require Financial Institutions to Report Data for Accounts with Annual Activity of \$600
- Appraisal Requirements Deferred for 120 Days for Certain Real Estate Transactions Due to COVID-19
- Warning Paycheck Protection Program Lenders! Limitations on Permissible Loan Applicants Lead To Class Action Lawsuits

- Bill That Would Overturn *Madden v. Midland Funding, LLC* And Codify Valid-When-Made Doctrine Passes In House
- Are Your Loan Documents Ready For The Death Of LIBOR?
- U.S. Supreme Court Refuses To Apply FDCPA To Purchasers Of Debt But Leaves Potential Arguments For Applicability Undecided
- Can An Unexecuted Loan Modification Coupled With Performance Satisfy The Statute Of Frauds? A Simple Step Can Help Your Financial Institution Avoid Being The First To Find Out In Texas.
- Fifth Circuit Confirms That Constitutionally Non-Compliant Home Equity Liens Are Invalid And That No Statute Of Limitations Applies To A Quiet Title Action Alleging Such Violations
- Third Circuit Ruling Could Reduce Value Of Modified Loans Serviced Under Fannie Mae And Freddie Mac Guidelines
- Seventh Circuit Finds That Bank May Have Right To Sue Its Regulator Over Camels Rating
- New York Cybersecurity Regulations Impacting Financial Services Companies And Their Vendors Are Effective March 1, 2017 And Likely Foreshadow Forthcoming Regulations In Other States.
- The Consumer Review Fairness Act Impacts Form Consumer Contracts Used by Financial Services Companies.
- Attempts To Collect Time-Barred Debt Provide Fertile Ground For FDCPA Violations In The Fifth Circuit
- CFPB Finalizes Amendments to Mortgage Servicing Regulations
- What Conduct By a Lender or Servicer Constitutes Waiver of Acceleration?
- Payment at Foreclosure Sale Must Be Made Immediately or Within Reasonable Time.
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- Debt Collectors Must Prove FDCPA Exception For Communications With Third Parties
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- Are Your Customers Complaining? CFPB Publishes Complaint Narratives About Financial Products And Services.
- Texas Supreme Court Denies Rehearing Relating To Deficiency Calculations
- Lender Beware: Loan renewal may cause lender's security interest in collateral to be subordinated to judgment creditor's lien.
- Reach Of Fair Debt Collection Practices Act Expanded To Formal Foreclosure Pleadings In Recent Third Circuit Decision.
- Deficiency Calculations: Fair Market Value At Foreclosure Can Be Based On Post-Foreclosure Sale Price.
- Fifth circuit affirms certification of class holding that Electronic Funds Transfer Act amendment is not retroactive
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