



Profile: Mary Catherine Wiederhold

Tenant lawyer keeps landlords in check across the rent-happy Bay Area

BY STEPHEN ELLISON

The rent-rich Bay Area is prime territory for a tenant law specialist, meaning Mary Catherine Wiederhold's passion for protecting renters and keeping landlords in check has kept her fairly busy and promises to do so for some time.

Wiederhold has been advocating for tenants for the better part of 15 years, litigating wrongful evictions, owner move-ins, landlord harassments, lockouts, fires and general housing violations among other cases. And while she has witnessed plenty of unseemly behavior through the years, even to this day, much of what she sees surprises her to some degree.

"Some aspects of human behavior are really disconcerting to me," she said. "You think, well people can't act that way, people can't just throw other people's stuff in boxes and lock them out of their home; nobody's going to act like that, right? Well, they do. Nobody's going to take a 14-year tenant who always paid the rent and just throw them out because they want to sell the place for more money, right? Well, they do."

COVID-19 brings emergency rent laws

Wiederhold's work has taken on a much grander importance in this pop-up era of the coronavirus, as the state of California and several local governments issued moratoriums on evictions and even rent deferrals for tenants impacted by the disease. Her firm, Law Offices of Mary Catherine Wiederhold, responded quickly to these actions, providing critical information, advice and sample communications in three languages posted on its website.

Even before COVID-19 swept through the state, Gov. Gavin Newsom



Wiederhold

had signed a new law, effective Jan. 1, 2020, boosting renters' protections, such as more stringent limits on just-cause evictions, tighter caps on rent increases

and new rules governing conversions of affordable units into market-rate housing.

For her part, Wiederhold becomes a veritable enforcer of those rules, a role in which she has thrived and one she treasures. That was made clear when she spoke about one of her first cases, which effectively launched her own practice.

"So, I started small, defending unlawful detainers, and then I got this one case. It was my first trial," she recalled. "I went to the tenant's house, looked at his apartment. He was a retired city employee, and his house, the outside was pretty bad, but inside it was spotless. He had spent all his time improving his apartment, it was a jewel. Then, I looked around and said, 'Where's your heater?' He said, 'I don't have one, I use my stove for heat.' Turns out, he was in the middle of an unlawful detainer, allegedly for nuisance."

In those days, Wiederhold explained, if you didn't show up to a mandatory settlement conference, you lost your right to a jury trial. Her client didn't show up to a mandatory settlement conference, so when the time came, she picked him up herself for the trial; she wanted to make sure he got there. During the trial,

Wiederhold got the landlord on the stand and basically grilled him about the heater. She prevailed.

"The tenant stayed in possession," she said. "And because the tenant had a clause in his lease for attorney's fees to the prevailing party, I put in my cost memo and attorney's fees and was awarded \$25,000. So, I went out on my own."

Her firm today includes one associate, Courtney Brown. The firm focuses on landlord-vs.-tenant cases on the residential tenant side, commercial tenants, commercial landlords and other forms of real estate litigation, she said. The only thing they don't do is transactional work.

Visions of being a litigator

Wiederhold attended UC Berkeley for her undergrad studies and became a commercial real estate appraiser right out of college. She specialized in all aspects of market-rate senior housing, working in that field for about 5-6 years. Then she started thinking it was a good time to go to law school. Either that, or she was going to get her accreditation as an appraiser. She chose law school at University of San Francisco.

"I thought I would have more opportunities being a lawyer," she said. "After law school, I interviewed with various firms, and there was one in San Francisco that dealt with a lot of senior transactional housing matters. But I just thought that would not be the right fit. Staying in the office all day? That would not be exciting. My idea of being a lawyer was someone who went to court, someone who was a litigator."

When she first started out, she began by contacting the bar association's volunteer legal services program and said she wanted to volunteer. The person who



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ran the program would drop off files at Wiederhold's place on her way home from the office, and that's what led to Wiederhold's breakthrough case.

Today, her process is much different. If Wiederhold gets a call, she and her associate will talk to the prospective client, then have them fill out a questionnaire. That's followed by an investigation conducted by the lawyers and their experts to see if, for instance, it's a bad-faith owner move-in. They will get the experts out to the tenant's apartment before the tenant moves out because once the tenant moves out, they're not allowed to get their experts in, even into a tenant's apartment that has no connection to the litigation, she said.

Then, oftentimes they wait to see if there's any bad faith by the person who is supposed to move in.

"Usually, based on my experience and our investigation, we can tell, say for an owner move in, there's bad faith," Wiederhold said. "Say, if the building is heavily mortgaged or there's a number of vacant units, there's a buyout offer, then if there's a notice of an owner move in or relative move in, that probably is not going to go through because they want to put the building on the market."

It's a trial from the get-go

As a trial lawyer, Wiederhold's process starts from the moment the client walks in the door, she said. There's no last-minute rush: Get the experts lined up, get the client on board, get the trial consultant on board right from the moment the client comes in, so that on the day of trial, or week before or month before, she's finished with preparation.

When the trial starts, Wiederhold's experience tells her that juries' frame of reference has changed over the years. They used to be more empathetic, she said: What hurts one, hurts us all. Now, she believes if it can happen to her clients, it can happen to anyone.

"Our clients followed the rules; their landlord didn't. That's why we're here today," Wiederhold said. "And getting to that nut, that emotional core of this is

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- Words to Live By: "Every day is an opportunity."

how the landlord treated you, it's tough to get to that part. But I feel it's necessary to get to that part, where they have a relationship with the landlord, usually it's pretty good and then all of a sudden for whatever reason the landlord wants to go in a different direction and uses his or her superior power and the law to get that tenant out."

Wiederhold said during trial, she sticks to three to five main points and pivots back to those throughout the proceedings. The reason: She doesn't want to make it complicated – if it's complicated, jurors will just zone out. Even a case in which a tenant has gone through a lot can be distilled down to three to five points, she said.

Lockout!

Wiederhold had a couple of recent cases that ran that very course, the first of which was a lockout. The landlord called the police and said the tenant in question, her client, had been threatening the other tenants in the apartment. Wiederhold obtained a copy of the police report, and she said it didn't indicate anything resembling a threat. The landlord had changed the locks on the door, and the tenant was locked out of her own home.

"She didn't know what to do," Wiederhold said. "Her stuff was literally thrown in boxes: clothes, bath products – the other tenants just threw her stuff in boxes and threw it in a garage – her art was ruined, her clothes were ruined, it was just unbelievable."

Wiederhold deposed the other tenants, who told her they didn't do anything wrong. As for the landlord, she labeled the tenant dangerous, which Wiederhold said was a ruse.

"They always have various reasons or rationale," she said. "In this case, the landlord fabricated a reason the tenant was dangerous. This was an African American woman, about five-three, 120 pounds. So that's what the landlord told the SFPD, and the police came over and said this is a civil matter, nothing we can do about it and left."

Unfortunately for Wiederhold and her client, the case dragged on in court, and the tenant could no longer endure the stress. There were four motions for summary judgment, all denied, and the defense asked for at least three continuances, perhaps recognizing the tenant was tiring of the process, Wiederhold said. In the end, all parties settled.

"Something we do that I don't think other attorneys do is we try to send our clients a case update every month so they know exactly what's happening in their case," Wiederhold said. Just a message of "here's how we're working on your case, so they're informed. I think that makes it a little easier for the clients. On the other hand, litigation is stressful. And nobody understands the justice system – they all think it's like 'Law and Order.'"

In a case involving a 14-year tenant, the wife told Wiederhold the landlord would peer into their windows. The woman started carrying a whistle around with her, so that she could blow the whistle to alert neighbors if he ever looked in the windows again.

"We had that whistle in our file; we took it to mediation," Wiederhold said. "We laid that whistle on the table and said we were going to put that whistle on the table in front of the jury and tell them, 'This tenant was physically afraid of the landlord.' She was afraid this landlord was going to come in the door because he did have a key."

When she's not in court or in the office, Wiederhold enjoys reading –



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non-law books. She also does some writing of her own, specifically for the CEB book *Neighbor Disputes*. She writes the chapter on domestic animals, which mainly concerns dogs. She's also conducted panels on dog bites and how to do an intake interview for a client that has a dog bite, although she doesn't litigate dog-bite cases.

"I was asked to write a chapter," she explained. "Ninety-nine percent of the chapter is about dogs, but it also includes law about chickens, llamas, horses and sheep. I don't even have a dog. I want to have a cat, but I've been overruled." Wiederhold's advice for young lawyers today is short and simple: "They should

go into an area of law that they feel most passionate about. And where they're going to help someone," she said. "At the end of the day, you're in your office 12, 14 hours a day. If you're not interested in the area of law you're working in, you're going to be miserable.

"Me, I'm interested in fighting for tenants and helping them with their cases," she continued. "That really gets me up in the morning and gets me to the office."

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