

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

Damien Michael Schiff
Damien Michael Hennessy Schiff (birth name)

2. **Position:** State the position for which you have been nominated.

Judge, United States Court of Federal Claims

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Pacific Legal Foundation
930 G Street
Sacramento, CA 95814

4. **Birthplace:** State year and place of birth.

1979; San Jose, California

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2001-2004; University of San Diego School of Law; J.D., 2004

1997-2000; Georgetown University; B.A., 2000

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2005-present
Pacific Legal Foundation
930 G Street
Sacramento, CA 95814

Senior Attorney (2017-present)
Principal Attorney (2012-2014, 2015-2017)
Senior Staff Attorney (2011-2012)
Staff Attorney (2005-2011)

2015
Alston & Bird LLP
1115 Eleventh Street
Sacramento CA 95814
Counsel

2004-2005
United States Court of Federal Claims
Howard T. Markey National Courts Building
717 Madison Place, NW
Washington, D.C. 20005
Law Clerk to the Honorable Victor Wolski

Approx. 2002-2004
University of San Diego School of Law
5998 Alcalá Park
San Diego, CA 92110
Legal Research Center, Student Worker

2003
United States District Court, Southern District of California
Edward J. Schwartz U.S. Courthouse
221 West Broadway
San Diego, CA 92101
Extern to the Honorable Thomas J. Whelan

Approx. 2001
Law Offices of David Zweig
4425 Bayard Street, Suite 200
San Diego, CA 92109
Law Clerk

2000-2001
San Diego District Attorney's Office
220 W. Broadway
San Diego, CA 92101
Child Support Division, Clerk

Summer 2000
St. Agnes Catholic Church
1140 Evergreen Street

San Diego, CA 92106
Sunday school teacher

Other Affiliations (uncompensated):

2014-present
Sacramento Life Center
2316 Bell Executive Lane
Sacramento, CA 95825
Member of the Board of Directors

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

California Lawyer Magazine Attorney of the Year Award in Appellate Law (2013)

Magna cum laude graduate of the University of San Diego School of Law, member of the Order of the Coif, and recipient of the General George W. Hickman, Jr. Award for Excellence in Constitutional Law

Magna cum laude graduate of Georgetown University (Georgetown College), and member of Phi Beta Kappa, Phi Alpha Theta, and Theta Alpha Kappa

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Environmental Law Section of the California Bar (approx. 2014-2017)

Sacramento County Bar Association (2015)

St. Thomas More Society of Sacramento (approx. 2015-present)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

California, 2004

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

U.S. Supreme Court (admitted 2008)
U.S. Court of Appeals for the Fourth Circuit (admitted 2010)
U.S. Court of Appeals for the Fifth Circuit (admitted 2010)
U.S. Court of Appeals for the Eighth Circuit (admitted 2006)
U.S. Court of Appeals for the Ninth Circuit (admitted 2005)
U.S. Court of Appeals for the Tenth Circuit (admitted 2006)
U.S. Court of Appeals for the District of Columbia Circuit (admitted 2007)
U.S. Court of Appeals for the Federal Circuit (admitted 2006)
U.S. Court of Federal Claims (admitted 2005)
U.S. District Court for the Central District of California (admitted 2006)
U.S. District Court for the Eastern District of California (admitted 2005)
U.S. District Court for the Northern District of California (admitted 2006)
U.S. District Court for the Southern District of California (admitted 2011)

There have been no lapses in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

American Philatelic Society, Member (approx. 2015-present)

The Federalist Society for Law and Public Policy Studies, Member (2007-present)

Georgetown University Alumni Admissions Program, Member (approx. 2004-present)

Sacramento Life Center, Board Member (approx. 2014-present)

Vatican Philatelic Society, Member (2017-present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct

states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of the above-listed organizations currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

“We can pursue Earth Day’s goals without endangering freedom,” *American Thinker*, Apr. 21, 2017. Copy supplied.

Judicial Review Endangered: Decisions Not to Exclude Areas from Critical Habitat Should Be Reviewable Under the APA, 47 ENVTL. L. REP. 10352 (Apr. 2017). Copy supplied.

“Environmental Law – A Good Place to Start for Trump to Make America Great Again,” *Investor’s Business Daily*, Feb. 9, 2017. Copy supplied.

“California Species Protectors Don’t Let Facts Get in Their Way,” *Capital Press*, Dec. 15, 2016. Copy supplied.

“Challenge to Ban on Dredging for Gold Headed to U.S. Supreme Court,” *Sacramento Bee*, Dec. 1, 2016. Copy supplied.

Laws of Nature Newsletter, Pacific Legal Foundation, Nov. 17, 2016. Copy supplied.

Laws of Nature Newsletter, Pacific Legal Foundation, Oct. 13, 2016. Copy supplied.

With Karen Harned, “Pushing Back Against a Union Foot in the Door,” *The Washington Times*, Sept. 19, 2016. Copy supplied.

With M. David Stirling, “State Collective Bargaining Coercion Unconstitutional,”

The Californian, Sept. 7, 2016. Copy supplied.

Laws of Nature Newsletter, Pacific Legal Foundation, Aug. 29, 2016. Copy supplied.

Laws of Nature Newsletter, Pacific Legal Foundation, July 26, 2016. Copy supplied.

Laws of Nature Newsletter, Pacific Legal Foundation, June 20, 2016. Copy supplied.

“Feds’ Permafrost Land Grab in Alaska Has National Implications,” Capital Press, May 26, 2016. Copy supplied.

Laws of Nature Newsletter, Pacific Legal Foundation, May 19, 2016. Copy supplied.

“How Will President Obama’s Judicial Appointees Affect the Federal Courts?,” *The Federalist Society Blog* (May 6, 2016). Copy supplied.

“Government Turns Up the Heat on the First Amendment,” The Hill Policy Blog, Apr. 13, 2016. Copy supplied.

“When Land is Labeled ‘Wetlands,’” The Washington Times, Mar. 30, 2016. Copy supplied.

“Coastal Commission Regulatory Overreach Continues,” San Diego Union-Tribune, Mar. 30, 2016. Copy supplied.

Defining “Water of the United States”: A Litigious Task, ABA Section of Environment, Energy, and Resources (45th Section Spring Meeting Working Paper, Mar. 30, 2016). Copy supplied.

“Supreme Court to Address Right to Challenge Feds on ‘Wetlands,’” Capital Press, Mar. 18, 2016. Copy supplied.

With Mark Miller, U.S. Army Corps of Engineers v. Hawkes Co., Inc.: *Wetlands Jurisdictional Determinations and Right of Federal Judicial Review*, 17 FED. SOC’Y REV. 1 (Mar. 15, 2016). Copy supplied.

With Ethan Blevins, “Alaska’s Land and Water Go to Court,” Daily Journal, Jan. 8, 2016. Copy supplied.

“Endangered Listing for Gray Wolf Threatens Livestock,” Sacramento Bee, Jan. 4, 2016. Copy supplied.

With Brian Hodges, *United States Army Corps of Engineers v. Hawkes Co: Can a Landowner Seek Judicial Review of a Jurisdictional Determination Under the Clean Water Act?*, JURIST, Dec. 29, 2015. Copy supplied.

The Endangered Species Act and the Commerce Clause: A Tangential Relationship, in *Endangered Species Act: Current & Emerging Issues Affecting Resource Development*, ROCKY MTN. MIN. L. INST. (Nov. 4, 2015). Copy supplied.

With Sarah T. Babcock, *Standing Ground*, THE ENVIRONMENTAL FORUM, Nov./Dec. 2015. Copy supplied.

“Will California’s Environmental Regulations Increase Damage from El Nino?”, San Diego Union-Tribune, Oct. 21, 2015. Copy supplied.

With Paul J. Beard, *Interpreting “Waters of the United States,” An Analysis of the New Clean Water Act Regulations*, Water Law & Policy Monitor (Bloomberg BNA), Aug. 14, 2015. Copy supplied.

Expanding Judicial Review of Environmental Agency Action, Alston & Bird Environment, Land Use, and Natural Resources Advisory (Apr. 14, 2015). Copy supplied.

“Significant Expansion of Judicial Review Under the Clean Water Act,” *Alston & Bird Envtl., Dev. & Climate Change Blog* (Apr. 10, 2015). Copy supplied.

“*Underground Regulation*” — *Agency Rulemaking & the California Administrative Procedure Act*, The Water Report (Mar. 15, 2015). Copy supplied.

With Paul J. Beard, *District Court Holds Utah Prairie Dog Protection Unconstitutional*, ABA Section of Litigation, Environmental Litigation (Feb. 18, 2015). Copy supplied.

CA Court Issues Important Decision on Underground Regulations, ABA Section of Litigation, Environmental and Energy Litigation (Feb. 18, 2015). Copy supplied.

With Paul J. Beard, *Calif. Case Could Shape Enviro Permit Challenge Rights*, Law360 (Feb. 18, 2015). Copy supplied.

California Court of Appeal Issues Important Decision on Underground Regulations, Alston & Bird Environment, Land Use, and Natural Resources Advisory (Feb. 13, 2015). Copy supplied.

“Supreme Court Could Help California Meet Its Water Needs,” San Diego Union-

Tribune, Dec. 11, 2014. Copy supplied.

“Harming the Environment in Order to ‘Help’ It,” Capital Press (co-authored with Ashley Indrieri), July 17, 2014. Copy supplied.

The Endangered Species Act at 40: A Tale of Radicalization, Politicization, Bureaucratization, and Senescence, 37 ENVIRONS 105 (May 2014). Copy supplied.

Clean Water Act Case Law Update, CLE International (California Wetlands: Insights from Policy Makers & Regulators Working Paper, May 2014). Copy supplied.

Trends in the Law of the Clean Water Act, Alaska Miners Association (24th Biennial Conference Working Paper, Apr. 2014). Copy supplied.

With Julie MacDonald, “Federal Rules Leave Drought-Stricken California High and Dry,” Washington Times, Feb. 13, 2014. Copy supplied.

With Julie MacDonald, “The Endangered Species Act Turns 40 – Hold the Applause,” Wall Street Journal, Dec. 27, 2013. Copy supplied.

With Randall O’Toole, “Do Single-Family Homes Threaten the Planet?,” Washington Times, Nov. 20, 2013. Copy supplied.

Beyond Jurisdiction: What Sackett v. EPA Portends for Wetlands Regulation and Enforcement, State Bar of Texas (Changing Face of Water Rights Working Paper, Feb. 22, 2013). Copy supplied.

With Luke A. Wake, *Leveling the Playing Field in David v. Goliath: Remedies to Agency Overreach*, 17 TEX. REV. L. & POL. 97 (2013). Copy supplied.

Judicial Minimalism and the Supreme Court’s Recent Environmental Law Jurisprudence: An Update, ABA Section of Environment, Energy, and Resources (20th Section Fall Meeting Working Paper, Oct. 10, 2012). Copy supplied.

With Daniel Himebaugh, “Orcas Don’t Belong on the Endangered Species List,” The Oregonian, Aug. 17, 2012. Copy supplied.

“It’s the Feds Who Link Killer Whales to Farm Water,” Sacramento Bee, Aug. 12, 2012. Copy supplied.

NFIB v. Sebelius, *Coercion, and the Unconstitutional Conditions Doctrine*, SCOTUSreport, Aug. 6, 2012. I was unable to locate a copy.

Sackett v. Environmental Protection Agency: *Compliance Orders and the Right*

of Judicial Review, 13 ENGAGE 45-48 (July 2012). Copy supplied.

Sackett v. Environmental Protection Agency: *Compliance orders and the right of judicial review* (Working Paper, 2012). Copy supplied.

“Sacketts’ Wetlands Fight about Liberties,” Spokesman-Review, Feb. 18, 2012. Copy supplied.

“*Sackett v. EPA: Property and the Right to Judicial Review*,” Irrigation Leader, Feb. 2012. Copy supplied.

Current Issues in Land Use: Takings and Vested Rights (Working Paper, 2012). Copy supplied.

Sackett v. EPA: *Compliance Orders and the Right of Judicial Review*, 2011-2012 CATO SUP. CT. REV. 113 (2012). Copy supplied.

“In a California Ruling, Ninth Circuit Affirms EPA Isn’t Above the Law,” Mountain Democrat, Mar. 7, 2011. Copy supplied.

“Ruling Gives Family Its Day in Court,” Redding Record Searchlight, Mar. 7, 2011. Copy supplied.

With Harold Johnson, “Who Is for People Power? Jerry Brown or Prop. 8 Sponsors?,” San Francisco Chronicle, Feb. 9, 2011. Copy supplied.

With Brandon Middleton, “Throughout the West, a Flood of Attacks on Water Rights,” Lahontan Valley News, Nov. 2, 2010. Copy supplied (reprinted in multiple outlets).

With Joshua P. Thompson, *Divisive Diversity at the University of Texas: An Opportunity for the Supreme Court to Overturn Its Flawed Decision in Grutter*, 15 TEX. REV. L. & POL. 437 (2011). Copy supplied.

“Smelt Regulations Violate Constitution,” Capital Press, Aug. 26, 2010. Copy supplied.

Letter to the Editor, Eureka Times Standard, Feb. 24, 2010. Copy supplied.

“The Greens Are All Wet,” San Diego Union-Tribune, Feb. 5, 2010. Copy supplied.

With Joshua P. Thompson, *The Distinct Population Segment Provision of the Endangered Species Act and the Lack Thereof in the California Endangered Species Act*, 30 J. LAND RESOURCES & ENVTL. L. 267 (2010). Copy supplied.

With Joshua P. Thompson, *California Standing Doctrine: The Enigma Explained* (PJA Working Paper, 2010). Copy supplied.

Takings and Water Rights: Law in a State of Flux (Working Paper, 2010). Copy supplied.

Post-Rapanos Fallout, TRENDS Newsletter (ABA Section of Environment, Energy, and Resources) Nov./Dec. 2009, at 12-13. Copy supplied.

“Franco DeCicco: Another Victim of Coastal Commission Arrogance,” PLF Coastal Guardian, Sept. 30, 2009. Copy supplied.

“Putting Good Sense on the Endangered List,” Casper Star-Tribune, Sept. 28, 2009. Copy supplied.

With Brandon Middleton, “Governor Needs to Summon the ‘God Squad,’” Redding Record Searchlight, July 3, 2009. Copy supplied (reprinted in multiple outlets).

“Fairbanks Borough Fights Federal Land Freeze,” Fairbanks Daily News-Miner, Mar. 1, 2009. Copy supplied.

Fairbanks Northstar Borough v. United States Army Corps of Engineers: *Can a Landowner Seek Judicial Review of a Jurisdictional Determination (JD) under the Clean Water Act?*, 8 No. 2 ABA WATER QUALITY AND WETLANDS COMMITTEE NEWSL. 5 (Jan. 2009). Copy supplied.

State Attorneys General Win Fight to Enforce Roadless Rule, 1 State AG Tracker No. 5 (Federalist Society Issue Brief) (2009). Copy supplied.

With Wilson S. Buntin et al., *2008 Annual Report*, ABA ENV’T, ENERGY, & RESOURCES L.: YEAR IN REV. 146 (2008). Copy supplied.

Letter to the Editor, Sacramento Bee, Nov. 24, 2008. Copy supplied.

“County-Forced Changes to Existing Contracts Hurt Everyone,” The Eureka Reporter, Oct. 29, 2008. Copy supplied.

With Timothy Sandefur, *The Modern California Supreme Court: Progressivism and Practical Constraints* (Federalist Society), Oct. 2008. Copy supplied.

“Why We’re Challenging Measure T in Court,” The Eureka Reporter, Aug. 31, 2008. Copy supplied.

“New Growth on Forests,” Daily Journal, July 18, 2008. Copy supplied.

“Homeschool Is a Constitutional Right for Parents,” San Francisco Chronicle, June 23, 2008. Copy supplied.

“‘Endangered’ Polar Bear Is Trotted Out as the Extremists’ Latest Trojan Horse,” Investor’s Business Daily, Feb. 25, 2008. Copy supplied.

With J. David Breemer & Elizabeth Yi, *Property Rights in the Ninth Circuit and Beyond*, 9 ENGAGE 47-51 (Feb. 2008). Copy supplied.

When Marks Misses the Mark: A Proposed Filler for the “Logical Subset” Vacuum, 9 ENGAGE 119-24 (Feb. 2008). Copy supplied.

Article III and the United States Court of Federal Claims: An Uneasy Partnership, ExpressO (Working Paper, 2008). Copy supplied.

Forest Management Op-Ed, San Francisco Chronicle Open Forum, Nov. 5, 2007. Copy supplied.

“Bald Eagle Recovery Falls Short,” Washington Times, June 27, 2007. Copy supplied.

“While Nearly Everyone Agrees that Federal Forest Lands Are in Need . . .” Placerville Mountain Democrat, Apr. 11, 2007. Copy supplied.

“Environmental Agenda Threatens Lives, Forest Health,” Porterville Recorder, Mar. 15, 2007. Copy supplied.

Nothing New Under the Sun: The Minimalism of Chief Justice Roberts and the Supreme Court’s Recent Environmental Law Jurisprudence, 15 MO. ENVTL. L. & POL’Y REV. 1 (2007). Copy supplied.

Purposivism and the “Reasonable Legislator”: A Review Essay of Justice Stephen Breyer’s *Active Liberty*, 33 WM. MITCHELL L. REV. 1081 (2007). Copy supplied.

With M. Reed Hopper, *The Rapanos Decision*, Federalist Society Publication (Jan. 15, 2007). Copy supplied.

With M. Reed Hopper, *Rapanos v. United States*, 7 ENGAGE 64-68 (Oct. 2006). Copy supplied.

“Lawsuits to Block Tree-Cutting a Threat to Communities and the Nation’s Forests,” Inland Valley Daily Bulletin, Aug. 5, 2006. Copy supplied.

Samaritans: Good, Bad and Ugly: A Comparative Law Analysis, 11 ROGER WILLIAMS UNIV. L. REV. 77 (2005). Copy supplied.

Rollin', Rollin', Rollin' on the River: A Story of Drought, Treaty Interpretation, and Other Rio Grande Problems, 14 IND. INT'L & COMP. L. REV. 117 (2003). Copy supplied.

The Meaning of "Navigable Waters" and "Waters of the United States Following Rapanos v. United States (Working Paper, undated). Copy supplied.

Over the course of my career at Pacific Legal Foundation, I have written regularly for the Foundation's *Liberty Blog*, on average of several times per month. Copies supplied. Also, from 2007 to 2009, I maintained a personal blog on Typepad entitled *Omnia Omnibus*. Internet archival copies supplied. And I have occasionally commented on other blogs. A collection of those comments is supplied.

I recall writing Tweets for PLF's @TheCoastalWatch during the period of July 9-11, 2014, and may have also done so August 12-15, 2014. I know that I tweeted under that handle prior to July, 2014, but Twitter has records of the tweets only since that date. A copy of that Twitter feed is supplied. I also have a personal Twitter account, which I used briefly in 2013. A copy of my personal Twitter feed is supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Apr. 17, 2017. Witness, Natural Resources Committee of the California State Assembly, Sacramento, CA. My written submission is supplied. Video is available at <https://www.youtube.com/watch?v=RhTDgXVMqOO>.

Mar. 29, 2017. Petition to delist the Preble's meadow jumping mouse from the Endangered Species Act, U.S. Dep't of Interior, U.S. Fish & Wildlife Serv. Copy supplied.

Sept. 16, 2016. Comments on *Final Implementation Program for Agriculture*, Marin County Planning Comm'n. Copy supplied.

Aug. 3, 2016. 2d Petition to rescind 50 C.F.R. § 17.31, U.S. Dep't of Interior, U.S. Fish & Wildlife Serv. Copy supplied.

May 24, 2016. Witness, Senate Subcommittee on Fisheries, Water, and Wildlife, *Hearing on Erosion of Exemptions and Expansion of Federal Control—Implementation of the Definition of Waters of the United States*, Washington, D.C. My written testimony and responses to questions for the record are supplied. Video is available at <https://www.epw.senate.gov/public/index.cfm/2016/5/erosion-of-exemptions-and-expansion-of-federal-control-implementation-of-the-definition-of-waters-of-the-united-states>.

Mar. 15, 2016. Petition to rescind 50 C.F.R. § 17.31, U.S. Dep't of Interior, U.S. Fish & Wildlife Serv. Copy supplied.

June 9, 2015. Comment on *Petition to List the Mohave Shoulderband Snail Under the Endangered Species Act*, U.S. Fish & Wildlife Serv. Copy supplied.

Nov. 7, 2014. Petition to delist the Stephens' kangaroo rat from the Endangered Species Act, U.S. Dep't of Interior, U.S. Fish & Wildlife Serv. Copy supplied.

July 17, 2014. Comments on *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units*, U.S. EPA. Copy supplied.

July 3, 2014. Comments on *City of Ventura Local Coastal Program Amendment*, Cal. Coastal Comm'n. Copy supplied.

June 10, 2014. Petition to delist the coastal California gnatcatcher from the Endangered Species Act, U.S. Dep't of Interior, U.S. Fish & Wildlife Serv. Copy supplied.

Apr. 24, 2014. Petition to rescind termination of sea otter management zone, U.S. Dep't of Interior, U.S. Fish & Wildlife Serv. Copy supplied.

Dec. 31, 2013. Comments on *Draft Sea-Level Rise Policy Guidance*, Cal. Coastal Comm'n. Copy supplied.

Dec. 23, 2013. Comments on *Draft Strategic Plan*, U.S. EPA. Copy supplied.

Oct. 11, 2013. Comment on *Connectivity of Streams and Wetlands to Downstream Waters*, U.S. EPA, Science Advisory Bd. Copy supplied.

Aug. 1, 2013. Witness, House Natural Resources Committee, Hearing on *Transparency and Sound Science Gone Extinct?: The Impacts of the Obama Administration's Closed-Door Settlements on Endangered Species and People*, Washington, D.C. Excerpts from the hearing transcript and my written remarks

are supplied.

Aug. 1, 2012. Petition to delist the southern resident distinct population segment of orca whale from the Endangered Species Act, U.S. Dep't of Commerce, Nat'l Marine Fisheries Serv. Copy supplied.

Feb. 28, 2012. Witness, Senate and Congressional Western Caucuses, Bicameral Hearing on *Washington Barriers to Prosperity and Property Rights in the West*, Washington, D.C. My written remarks are supplied. Video is available at <https://www.youtube.com/watch?v=1CzYsXK-EgI> and <https://www.youtube.com/watch?v=2-zZXpFNDO0>.

Dec. 2011. Public Comment at monthly California Fish and Game Commission meeting, on proposed fish stocking regulatory changes. Video is available at <http://cal-span.org/unipage/index.php?site=cal-span&owner=CFG&date=2011-12-15>.

Jan. 11, 2011. Petition to rescind critical habitat for the Perdido Key Beach Mouse, U.S. Dep't of Interior, U.S. Fish & Wildlife Serv. Copy supplied.

Jan. 2011. Public Comment at monthly California Coastal Commission Meeting, Long Beach, California. Video is available at <https://www.youtube.com/watch?v=1H25LLRBdxQ>.

Oct. 11, 2011. Senate roundtable discussion on *Property Wrongs: A discussion with the victims of the U.S. government's assault on private property*, hosted by Senator Rand Paul. Written remarks supplied.

Feb. 23, 2009. Speaker, Joint Councils Water Well Meeting, Agua Dulce and Acton Town Councils, Acton, CA. A video excerpt is available at: <https://www.youtube.com/watch?v=qAvJgWZUDqM>.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

May 5, 2017: Speaker, Clean Water Act, Annual Friends Day, Duarte Nursery, Hughson, California. I gave remarks on the Clean Water Act's exemption for normal farming activities. I have no notes, transcript, or recording. The address of Duarte Nursery is 1555 Baldwin Road, Hughson, California 95326.

Apr. 21, 2017: Speaker, Panel on Takings Law, California State Bar—Real Property Section, Napa, California. Remarks and PowerPoint supplied.

Mar. 7, 2017: Speaker, The State of Property Rights and Individual Liberty, Sons in Retirement Branch 134, San Rafael, California. Remarks supplied.

Mar. 2, 2017: Speaker, Rural Property and Water Rights Forum, Agua Dulce Journal and Members of the Acton and Agua Dulce Town Councils, Acton, California. Video is available at <https://www.youtube.com/watch?v=K4KmeHVBsy0>.

Mar. 1, 2017: Speaker, The State of Property Rights and Individual Liberty: A View from the Courts, Sons In Retirement Branch 51, Los Altos, California. Remarks and PowerPoint supplied.

Nov. 17, 2016: Speaker, The California Coastal Act, Public Access, and Private Property Rights, delivered at the conference, “California’s Coastal Act: The Next 40 Years,” Berkeley, California. Remarks supplied.

Nov. 3, 2016: Speaker, An Address to the Distinguished Members of the San Mateo Rotary Club, San Mateo, California. Remarks supplied.

Sept. 8, 2016: Panelist, Constitutional Free Speech, The Avid Reader Bookstore and We the People of Davis, Davis, California. I spoke in a panel discussion on free speech and the Constitution, concentrating on corporate and commercial speech. I have no notes, transcript or recording. The address of The Avid Reader Bookstore is 617 Second Street, Davis, CA 95616.

Oct. 6, 2016: Speaker, Clean Water Act Litigation Update, Fairbanks Industry Update Forum, Fairbanks, Alaska. PowerPoint supplied.

Aug. 25, 2016: Speaker, Plumas County Republican Women’s Group, Blairsden, California. I spoke on environmental law and property rights. I have no notes, transcript or recording. I was unable to locate a mailing address for the Plumas County Republican Women’s Group.

Aug. 5, 2016: Presenter and Panelist, Affordable Housing Mandates and the Exactions Doctrine, 2016 ABA Annual Meeting, ABA State and Local Government Law Section, San Francisco, California. PowerPoint supplied.

May 5, 2016: Keynote Speaker and Panelist, Leading Land-Use Issues: Litigation, Fourth Annual West Coast Self Storage Owners Conference, California Self Storage Association, Napa, California. PowerPoint supplied.

Apr. 1, 2016: Panelist, Defining “Waters of the United States: A Litigious Task,”

ABA Section of Environment, Energy, and Resources Spring Meeting, Austin, Texas. A copy of the paper on which the discussion was based is supplied in response to Question 12a.

May 3, 2016: Speaker, The President's Judicial Legacy, Federalist Society Litigation Practice Group Podcast, available at <http://www.fed-soc.org/multimedia/detail/the-presidents-judicial-legacy-podcast>.

Feb. 19, 2016: Speaker, The Endangered Species Act: A Ninth Circuit Update, Family Farm Alliance Annual Meeting, Las Vegas, Nevada. PowerPoint and press coverage supplied.

Jan. 27, 2016: Speaker, Dixon Rotary Club, Dixon, California. I spoke about property rights. I have no notes, transcript, or recording. The address of the Dixon Rotary Club is P.O. Box 181, Dixon, CA 95620.

Nov. 20, 2015: Speaker, California Cattlemen's Convention, Reno, Nevada. I spoke regarding Waters of the United States and the Clean Water Act. I have no notes, transcript or recording. The address of the California Cattlemen is 1221 H Street, Sacramento, California 95814.

Oct. 2015: Speaker, The New Clean Water Act E-Reporting Rule, BLR Webinar. PowerPoint and press coverage supplied.

Aug. 26, 2015: Webinar, The Clean Water Act Rule: What a New Definition of "Waters of the United States" Means for Your Operations, Enviro.BLR.com. A copy of the written materials and press coverage is supplied.

May 15, 2015: Speaker, Litigating Endangered Species Cases: The Property Owner's Perspective, American Law Institute. PowerPoint supplied. I do not recall the event location.

Mar. 31, 2015: Speaker, "Lessons from the Sage Grouse: Impacts of the Endangered Species Act on Local Land Use Planning," American Planning Association, Division of Planning and Law, Webcast. I spoke on reform of the Endangered Species Act. I have not notes, transcript or recording.

Nov. 19, 2014: Speaker, Presentation on Property Rights and Environmental Law, Colusa, California. I have no notes, transcript or recording. I do not recall the sponsor of this event.

Oct. 24, 2014: Guest Speaker, Are Community Facilities Districts Being Abused?, Annual Board Meeting, Contra Costa County Taxpayers Association, Pleasant Hill, California. I spoke about my representation of the Building Industry Association – Bay Area in its challenge to a City of San Ramon special tax. I have no notes, transcript or recording. The address of the Contra Costa

County Taxpayers Association is P.O. Box 27, Martinez, CA 94553.

Sept. 10, 2014: Guest Lecturer, UC Davis Law School, Davis, California. I spoke about property rights and environmental law before an environmental law class taught by Professor Richard Frank. I have no notes, transcript or recording. The address of UC Davis Law School is 400 Mrak Hall Drive, Davis, CA 95616.

May 2014: Speaker, Clean Water Act Case Law Update, CLE International, San Francisco, California. A copy of the paper on which the discussion was based is supplied in response to Question 12a.

Apr. 9, 2014: Speaker, Current Issues in Clean Water Act, Alaska Miners Association Biennial Conference, Fairbanks, Alaska. PowerPoint supplied, and a copy of the paper on which the discussion was based is supplied in response to Question 12a.

Mar. 19, 2014: Speaker, Rally on California's Worsening Water Crisis, Fresno City Council Chambers, Fresno, California. A video excerpt is available at <https://www.youtube.com/watch?v=pd6A2peT7-k>.

Jan. 10, 2014: Speaker, California Law and Land Use Policy Conference, Cox Castle Nicholson, Sacramento, California. I spoke on Endangered Species Act reform. I have no notes, transcript or recording. The address of Cox Castle Nicholson is 50 California Street, Suite 3200, San Francisco, CA 94111.

Approximately Dec. 2014: Speaker, The Endangered Species Act at 40: Time for a Change, CLE, Sacramento, California. PowerPoint supplied. I do not recall the name of the sponsor.

2014: Speaker, Environmental Law and the Takings Clause. PowerPoint supplied. I do not recall the exact date, sponsor or location for the event for which this PowerPoint was prepared.

2014: Speaker, Property Rights and Environmental Law, CHM Annual Shareholders Meeting, Colusa, California. PowerPoint supplied.

Nov. 7, 2013: Speaker, Annual Dinner of the Yolo County Landowners Association, Woodland, California. I do not recall the precise content of my remarks, but I believe that they pertained to groundwater regulation, the public trust doctrine, and the Endangered Species Act. The address of the Yolo County Landowners Association is P.O. Box 147, Woodland, CA 95776.

Oct. 27, 2013: Panelist, The Endangered Species Act at 40: A Look Back and Ahead, State Bar of California—Environmental Section, Yosemite, California. I have no notes, transcript or recording. The address for the California State Bar is 180 Howard Street, San Francisco, CA 94105.

Oct. 4, 2013: Speaker, The Endangered Species Act at 40 Conference, UC Davis School of Law, Davis, California. Video is available at <https://www.youtube.com/watch?v=BO2dXgs30os>.

Sept. 27, 2013: Speaker, Spokane Chapter of the Citizens Alliance for Property Rights, Spokane, Washington. My remarks addressed then-recent PLF legal victories. I have no notes, transcript or recording. I do not have the address for the Alliance.

Fall 2013: Guest Lecturer, Standing, McGeorge Law School, Sacramento, California. I spoke on California standing doctrine for a state constitutional law class. I have no notes, transcript or recording. The address for McGeorge Law School is 3200 Fifth Avenue, Sacramento, CA 95817.

May 31, 2013: Speaker, Remarks before a meeting of the Sacramento Valley Landowners Association, Maxwell, California. I spoke on the role of government in environmental regulation. I have no notes, transcript or recording, but press coverage is supplied. The address of the Sacramento Valley Landowners Association is 25335 Ohio Avenue, Corning, CA 96021.

Feb. 22, 2013: Speaker, "Beyond Jurisdiction: What *Sackett v. EPA* Portends for Wetlands Regulation and Enforcement," Changing Face of Water Rights Conference, State Bar of Texas, San Antonio, Texas. A copy of the paper on which the discussion was based is supplied in response to Question 12a.

Jan. 9, 2013: Speaker, Federalist Society SCOTUScast on *L.A. County Flood Control District v. Natural Resources Defense Council*, available at <http://www.fed-soc.org/multimedia/detail/la-county-flood-control-district-v-natural-resources-defense-council-post-decision-scotuscast>.

2013: Speaker, Updates from the Judicial Front, Spokane Citizen's Alliance for Property Rights, Spokane, Washington. PowerPoint supplied.

Dec. 7, 2012: Speaker, Federalist Society Post-Argument SCOTUScast on *L.A. County Flood Control District v. Natural Resources Defense Council*. Audio is available at <http://www.fed-soc.org/multimedia/detail/los-angeles-county-flood-control-district-v-natural-resources-defense-council-post-argument-scotuscast>.

Nov. 27, 2012: Speaker, Colusa Rotary Club, Colusa, California. I spoke on property rights and the Endangered Species Act. I have no notes, transcript or recording. I have been unable to locate an address for the Colusa Rotary Club.

Nov. 14, 2012. Speaker, The Reach of Agency Authority: *Sackett v. EPA*, Federalist Society Podcast. Audio is available at <http://www.fed-soc.org/multimedia/detail/the-reach-of-agency-authority-sackett-v-epa-podcast>.

Nov. 2012: Speaker, Takings and Vested Rights, California Building Industry Association, Ojai, California. A copy of the paper on which the discussion was based is supplied in response to Question 12a.

Oct. 19, 2012: Speaker, Clean Water Act, Licensed Foresters Association. I do not recall the location of the event, nor do I recall the substance of my remarks, although they likely concerned the Clean Water Act. I have no notes, transcript or recording. The address of the Licensed Foresters Association is 2149 Carson Mesa Road, Acton, CA 93510.

Oct. 10-12, 2012: Speaker, ABA Section of Environment, Energy, and Resources Fall Meeting, Austin, Texas. A copy of the paper on which the discussion was based is supplied in response to Question 12a, and press coverage is supplied.

Sept. 18, 2012: Speaker, Annual Constitution Day Conference, Cato Institute, Washington, D.C. Video is available at <https://www.c-span.org/video/?308247-2/supreme-court-term-review-property-rights>.

Sept. 2012: Speaker, Current Issues in Land Use Regulation: Overview of California Land Use, American Law Institute, Webinar. I have no notes, transcript or recording. The address of the American Law Institute is 4025 Chestnut Street, Philadelphia, PA 19104.

July 27, 2012: Speaker, Annual Summer Conference, National Cattlemen's Beef Association, Denver, Colorado. I do not recall precisely the content of my remarks but I believe it concerned recent Clean Water Act case law concerning the scope of that Act. I have no notes, transcript or recording. The address of the National Cattlemen's Beef Association is 9110 East Nichols Avenue, Suite 300, Centennial, CO 80112.

Fall 2012: Speaker, Kansas Bar Association CLE. I do not recall precisely the content of my remarks but I believe it concerned recent Clean Water Act case law concerning the scope of that Act. I have no notes, transcript or recording. The address of the Kansas Bar Association is 1200 SW Harrison Street, Topeka, KS 66612.

June 26, 2012: Speaker, Nob Hill Republican Women Federated, San Francisco, California. I spoke about *Sackett v. EPA*. I have no notes, transcript or recording. The address of California Republican Women Federated is 770 L Street, Suite 950, Sacramento, CA 95814.

June 18, 2012: Speaker, Idaho Water Users Association, Sun Valley, Idaho. I spoke about *Sackett v. EPA*. I have no notes, transcript or recording. The address of Idaho Water Users Association is 1010 W Jefferson St # 101, Boise, ID 83702.

June 14, 2012: Speaker, Mendocino County Farm Bureau, Ukiah, California. I spoke about the Pacific Legal Foundation generally. I have no notes, transcript or recording. The address of the Mendocino County Farm Bureau is 303-C Talmage Rd, Ukiah, CA 95482.

May 31, 2012: Speaker, "*Sackett v. EPA: Compliance orders and the right of Judicial Review*," Wyoming Cattle Industry Convention & Trade Show, Wyoming Stock Growers Association, Jackson, Wyoming. I spoke about *Sackett v. EPA*. I have no notes, transcript or recording. The address of the Wyoming Stock Growers Association is P.O. Box 206, Cheyenne, WY 82003.

May 10, 2012: Panelist, *Sackett v. EPA*, American Law Institute CLE, telephonic conference. I spoke about *Sackett v. EPA*. Slides and press coverage supplied.

Apr. 26, 2012: Speaker, "Beyond Jurisdiction," SUNY Buffalo Law School, video conference. A copy of the paper on which the discussion was based is supplied in response to Question 12a.

Apr. 26, 2012: Speaker, CLE on *Sackett v. EPA*, Seattle, Washington. I spoke on my involvement in the case and its significance. I have no notes, transcript or recording. I do not recall the sponsor for the CLE.

Apr. 26, 2012: Speaker, *Sackett v. EPA*, Seattle Federalist Society, Seattle, WA. I spoke on my involvement in the case and its significance. I have no notes, transcript or recording. The address of the Seattle Federalist Society is c/o Joel Ard, Foster Pepper PLLC, 1111 Third Avenue, Suite 3000, Seattle, WA 98101.

Apr. 24, 2012: Speaker, *Sackett v. EPA*, Ancient and Honorable Artillery Company, Boston, Massachusetts. I spoke on my involvement in the case and its significance. I have no notes, transcript or recording. The address of the Ancient and Honorable Artillery Company is Armory, Faneuil Hall, Boston, MA 02109.

Apr. 11, 2012: Speaker, *Sackett v. EPA: New Rules on Judicial Review of Federal Enforcement Actions*, ABA Section of Environment, Energy, and Resources, Teleconference. I have no notes, transcript or recording. The address of the ABA is 321 North Clark Street, Chicago, IL 60654.

Mar. 29, 2012: Speaker, *Sackett v. EPA*, American Agri-Women Mid-Year Conference, Nebraska City, Nebraska. I spoke on my involvement in the case and its significance. I have no notes, transcript or recording. The address of the American Agri-Women is 142 Oak Circle, Colchester, VT 05446.

Feb. 23, 2012: Speaker, *Sackett v. EPA: When May a Landowner Take EPA to Court*, Federalist Society Environmental Law and Property Rights Litigation Group Podcast. Audio is available at <http://www.fed-soc.org/multimedia/detail/sackett-v-epa-when-may-a-landowner-take-the-epa-to->

court-podcast.

Feb. 21, 2012: Speaker, *Sackett v. U.S. Environmental Protection Agency*, ABA Section of Environment, Energy, and Resources, Teleconference. I have no notes, transcript or recording. The address of the ABA is 321 North Clark Street, Chicago, IL 60654.

Feb. 14, 2012: Speaker, *Sackett v. EPA*, The Biz Meeting, California Small Business Coalition, Sacramento, California. I spoke on my involvement in the case and its significance. I have no notes, transcript or recording. I have been unable to locate the address of California Small Business Coalition.

Jan. 12, 2012: Speaker, Peter Schiff Podcast. Audio is available at http://content.blubrry.com/schiffradio/pa_20120112_high.mp3.

Jan. 9, 2012: Speaker, Post-Argument Discussion of *Sackett v. EPA*, Georgetown University Law Center, Washington, D.C. Video is available at <http://apps.law.georgetown.edu/webcasts/eventDetail.cfm?eventID=1617>.

Jan. 2012: Speaker, Scribecast, Heritage Foundation. Audio is available at https://thf_media.s3.amazonaws.com/2012/mp3/Scribecast-01-06-12.mp3.

2012: Speaker, *Sackett v. EPA*, Fairbanks Industry Update Forum. PowerPoint supplied.

Approximately 2012: Speaker, Endangered Species Act: Recent Developments. I no longer recall the exact date, sponsor, or location for this event. PowerPoint supplied.

Approximately 2012: Speaker, Current Issues in Takings. I no longer recall the exact date, sponsor, or location for this event. PowerPoint supplied, and a copy of the paper on which the discussion was based is supplied in response to Question 12a.

Approximately 2012: Speaker, Current Issues in Takings and Vested Rights. I no longer recall the exact date, sponsor, or location for this event. PowerPoint, and a copy of the paper on which the discussion was based is supplied in response to Question 12a.

Dec. 8, 2011: Speaker, CLE Presentation, Sacramento, California. I spoke on water rights and takings law. I have no notes, transcript or recording. I do not recall the sponsor of the event.

Nov. 6, 2011: Speaker, Riverside County Farm Bureau Annual Dinner Meeting, Murrieta, California. My remarks addressed various Clean Water Act and Endangered Species Act issues. I have no notes, transcript or recording, although

a Farm Bureau newsletter summarizing my presentation is supplied. The address of the Riverside County Farm Bureau is 21160 Box Springs Road #102, Moreno Valley, CA 92557.

Sept. 28, 2011: Speaker, UC Davis Law School Fall 2011 Speakers' Series. I spoke on *Sackett v. EPA*. I have no notes, transcript or recording. The address of UC Davis School of Law is 400 Mrak Hall Drive, Davis, CA 95616.

Apr. 14, 2011: Presenter, Coastal Land Rights, Pacific Legal Foundation, Santa Barbara, California. A video excerpt is available at <http://apps.law.georgetown.edu/webcasts/eventDetail.cfm?eventID=1617>.

Mar. 18, 2011: Speaker, MCLE on the Public Trust, Natural Resources Subsection of the California State Bar's Real Property Section, Sacramento, California. I spoke on the history of the public trust doctrine and the takings implications of its expansion to groundwater. I have no notes, transcript or recording. The address of California State Bar is 180 Howard Street, San Francisco, CA 94105.

Sept. 21, 2010: Speaker, Malibu Realtors Association, Malibu, California. I spoke on water regulation issues. I have no notes, transcript or recording. The address of the Malibu Realtors Association is 23805 Stuart Ranch Road, Suite 140, Malibu, CA 90265.

Aug. 27, 2010: Speaker, "Water! The Next Oil?", Family Farm, Woodside, Redwood City, California. I spoke on the California water crisis and the Delta smelt. I have no notes, transcript or recording. The address of the Family Farm is 1400 Portola Road, Woodside, CA 94062.

June 14, 2010: Speaker, "Fish, Farmers and the Constitution: Are the feds' water pumping cutbacks to help the Delta smelt unconstitutional?", Sacramento Chapter of the Federalist Society, Sacramento, California. Video is available at <https://www.youtube.com/watch?v=AU9Wk7P0zSA>.

Apr. 17, 2010: Speaker, Sunbird Conservatives, Fresno, California. I spoke on water regulation issues. I have no notes, transcript or recording. I do not have an address for the Sunbird Conservatives.

Mar. 17, 2010: Speaker, IBA West Agribusiness Conference, Sacramento, California. I spoke on water and smelt litigation. PowerPoint supplied. The address of IBA West, now known as the Independent Insurance Agents and Brokers of California, is 7041 Koll Center Parkway #290, Pleasanton, CA 94566.

Feb. 17, 2010: Speaker, U.S. Pistachio Industry Annual Conference, Western Pistachio Association, Santa Barbara, California. PowerPoint supplied.

Nov. 21, 2009: Speaker, Farmlands Forum, Capitol West Steps, Sacramento, California. I spoke on California's water crisis and legal rulings affecting farmers. I have no notes, transcript or recording. I do not recall the sponsor of this event.

Oct. 29, 2009: Speaker, California Regulation, Coalition of Labor, Agriculture and Business, Santa Maria, California. I spoke concerning a variety of California over-regulation matters. I have no notes, transcript or recording, but press coverage is supplied. The address of the Coalition of Labor, Agriculture and Business is P.O. Box 7523, Santa Maria, CA 93456.

2009: Presenter, Annual Convention, National Cattlemen's Beef Association, Denver, Colorado. PowerPoint supplied.

Nov. 8, 2007: Guest Lecturer, Endangered Species Act, UC Berkeley School of Law, Berkeley, California. I gave a guest lecture on the Endangered Species Act. I have no notes, transcript or recording. The address of UC Berkeley School of Law is Boalt Hall, Berkeley, CA 94720.

May 16, 2007: Speaker, American Property Coalition, Minneapolis, Minnesota. I spoke on the delisting of the bald eagle. I have no notes, transcript or recording. The address of the American Property Coalition is 48 East Golden Lake Road, Circle Pines, MN 55014.

May 14, 2007: Speaker, El Dorado West Republican Women Federated, Cameron Park, California. I spoke on property rights and Pacific Legal Foundation cases. I have no notes, transcript or recording. I do not have the address of the El Dorado West Republican Women Federated.

Apr. 2, 2007: Speaker, Property Rights and PLF Cases, California Republican Assembly, Placerville, California. I spoke on property rights and Pacific Legal Foundation cases. I have no notes, transcript or recording. The address of the California Republican Assembly's Membership Secretary is 4704 Cleary Circle, Elk Grove, CA 95757.

Mar. 16, 2007: Speaker, "Continuing the Fight for Liberty in the Courts," California Federated Republican Women Northern Division Spring Conference, Eureka, California. I spoke on PLF property rights cases. I have no notes, transcript or recording. The address of the CFRW Northern Division is P.O. Box 3563, Eureka, CA 95502.

Nov. 6, 2006: Speaker, Property Rights and Environmental Regulation: Can the Two Be Reconciled," Birnam Wood Country Club, Montecito, California. Remarks supplied.

Approximately 2006: Speaker, Property Rights and Environmental Regulation,

Cape Cod Cranberry Growers Association, Carver, Massachusetts. Notes supplied.

Date unknown: Speaker, PLF Cases, California Federation of Republican Women, Northern Division, Eureka, California. Notes supplied.

Pacific Legal Foundation Podcasts and Videos

Pacific Legal Foundation posts videos on case updates or legal developments as they occur. Below are titles and links to podcasts and videos in which I provide remarks.

Apr. 5, 2017. Credible Environmental Protection Requires Honest Listing Policies, available at <https://www.pacificlegal.org/4-5-17-Podcast>.

Mar. 2017. Damien Schiff, PLF Senior Attorney, available at https://www.youtube.com/watch?v=A653_UQphW8.

Feb. 22, 2017. PLF Challenges “Endangered” Listing of Gray Wolf, available at <https://www.pacificlegal.org/2-22-17-Podcast>.

Oct. 26, 2016. California Claim Jumps the Rights of Miners on Federal Land, available at <https://www.pacificlegal.org/10-26-16-podcast>.

Oct. 2016. Previewing the Upcoming Supreme Court Term, available at <https://soundcloud.com/courting-liberty/previewing-the-upcoming-supreme-court-term>.

Sept. 21, 2016. PLF Challenges Feds’ Politicization Of Workplace Safety Inspections, available at <https://www.pacificlegal.org/9-21-16-Podcast>.

July 2016. California Farm Family Wages Litigation Fight for Accountability in Government, available at <https://soundcloud.com/courting-liberty/california-farm-family-wages-litigation-fight-for-accountability-in-government>.

June 2016. PLF Wins Second U.S. Supreme Court Case in a Week, available at <https://soundcloud.com/courting-liberty/plf-wins-second-us-supreme-court-case-in-a-week>.

May 2016. The Feds Play Fast and Loose with what Constitutes a Wetland, available at <https://soundcloud.com/courting-liberty/the-fed-plays-fast-and-loose-with-what-constitutes-a-wetlands>.

Mar. 23, 2016. Big Changes within the California Coastal Commission, available at <http://blog.pacificlegal.org/big-changes-within-the-california-coastal-commission-on-courting-liberty/>.

Jan. 13, 2016. California's gray wolf listing takes a bite out of common sense, available at <http://blog.pacificlegal.org/californias-gray-wolf-listing-takes-a-bite-out-of-common-sense-on-courting-liberty/>.

2016. Manatee Victory, available at <https://www.youtube.com/watch?v=4Mwg4rZy1ag>.

2016. Kent Recycling U.S. Supreme Court Victory Reaction, available at <https://www.youtube.com/watch?v=Lx8EpTx27LU>.

2016. PLF's Laws of Nature, available at <https://www.youtube.com/watch?v=W7OSc2LRm2k>.

Dec. 16, 2015. PLF Brings Its Ninth Case to Supreme Court, available at <http://pacificlegal.libsyn.com/plf-brings-its-9th-case-to-supreme-court>.

Oct. 1, 2014. PLFAppeals to U.S. Supreme Court over Delta Smelt "Biop," available at https://secure-hwcdn.libsyn.com/p/6/9/a/69a546fd39804bb4/10114_smelt_pod.mp3?c_id=7673479&expiration=1492106589&hwt=ea80c6c00aece9a422bb715b1f409e18.

Jan. 22, 2014. ESA's 40th Anniversary: Time for Reform, available at <http://pacificlegal.libsyn.com/esa-s-40th-anniversary-time-for-reform>.

2014. PLF seeks Supreme Court review of the Delta smelt decision, available at <https://www.youtube.com/watch?v=-x25OoMNTHw>.

Dec. 18, 2013. PLF's most important cases for 2013, available at <http://pacificlegal.libsyn.com/plf-s-most-important-cases-for-2013>.

Sept. 19, 2013. Overbearing Endangered Species Act, available at <https://www.pacificlegal.org/sow/overbearing-endangered-species-act>.

Aug. 7, 2013. PLF sues over "stack and pack" housing mandate for Bay Area, available at <https://www.pacificlegal.org/sentry/PLF-sues-over-stack-and-pack-housing-mandate-for-Bay-Area>.

Feb. 20, 2013. Coastal Commission unconstitutionally undermines Marshall Tavern renovation, available at <http://pacificlegal.libsyn.com/coastal-commission-unconstitutionally-undermines-marshall-tavern-renovation>.

Jan. 16, 2013. The ESA at 40, available at <http://pacificlegal.libsyn.com/the-esa-at-40>.

Aug. 8, 2012. Feds' Whale Tale Hurts Farmers and the Economy, available at

<https://www.pacificlegal.org/sentry/Feds-whale-tale-hurts-farmers-and-the-economy>.

2012. *Sackett*: A PLF Victory for Freedom, available at <https://www.youtube.com/watch?v=ae11BgfaHIU>.

2012. Defending access to water against environmental extremism, available at <https://www.youtube.com/watch?v=CC5eBIEHCSM>.

2012. One step closer to beetle delisting, available at https://www.youtube.com/watch?v=O3xO_0HfeLw.

2012. Setting the record straight on delisting the killer whale, available at <https://www.youtube.com/watch?v=Y6LDgBvWcLQ>.

2012. *Sackett*: A Supreme Case for Liberty, available at https://www.youtube.com/watch?v=D_wsYrRslUw.

2012. *Sackett v. EPA*: How One Couple's Battle against the Feds Might Protect Your Land, available at <https://www.youtube.com/watch?v=40iHXAOjJ3U>.

2011. Court hears PLF's "Balloon Track" property rights case, available at <https://www.youtube.com/watch?v=twWgkh9w4-o>.

2011. An update: Big Trouble in Idaho, available at <https://www.youtube.com/watch?v=2IrTh74HuGE>.

2011. There's something fishy about these regulations, available at <https://www.youtube.com/watch?v=0glV7J4Mz2s>.

2011. The Sacketts: Last Chance for Justice, available at <https://www.youtube.com/watch?v=Px0y4Y-ka2A>.

2011. Small timber company topples EPA!, available at <https://www.youtube.com/watch?v=ynjkSLEdCAg>.

2010. Ninth Circuit overturns "drastic" alfalfa ruling, available at <https://www.youtube.com/watch?v=uG3g7yi0qew>.

2010. PLF petitions for removal of CA gnatcatcher from ESA list, available at <https://www.youtube.com/watch?v=HfBUHIIbZ9o>.

2010. Big Trouble in Idaho, available at https://www.youtube.com/watch?v=wYf2qSW_yRk.

2010. Kangaroo rat could get kicked off the endangered species list, available at

<https://www.youtube.com/watch?v=gAKUtwdPeVA>.

2010. PLF applauds Delta smelt ruling, available at <https://www.youtube.com/watch?v=0Trd8Tif-pk>.

2010. Throughout the West, a Flood of Attacks on Water Rights, available at <https://www.youtube.com/watch?v=gAlradHpqn4>.

2010. PLF defeats feds' "wetlands" power grab, available at <https://www.youtube.com/watch?v=N-T7WQl6cQg>.

2010. June 14th Debate Over PLF's Delta Smelt Lawsuit, available at <https://www.youtube.com/watch?v=W9sXOOa-w5c>.

2010. Fighting for justice for federal water contract holders, available at <https://www.youtube.com/watch?v=Saxl7-XNSXM>.

2010. A Follow Up to the Eureka "Balloon Track" case, available at <https://www.youtube.com/watch?v=BqqCz5Jh8G0>.

2009. Coastal Commission Tries to Dash another American Dream, available at <https://www.youtube.com/watch?v=C0mV5GXLICY>.

2007. The Bald Eagle: Flying Free from the ESA, available at https://www.youtube.com/watch?v=zY_JTBr-93g.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Unless otherwise specifically noted, copies or transcripts of the interviews listed below are supplied.

Apr. 28, 2017. "Illegal, Union-Boosting OSHA Rule Is Canceled after Suit by PLF and NFIB," Pacific Legal Foundation press release.

Mar. 30, 2017. "Federal protections Upheld for Utah prairie dog," BNA Daily Environment Report.

Mar. 30, 2017. "PLF and Property Rights Groups Petition Feds for Preble's Mouse Delisting," Pacific Legal Foundation press release.

Mar. 29, 2017. "In prairie-dog case, appeals court backs federal power on endangered species," Wall Street Journal Online.

Mar. 26, 2017. "City Threatens: Oppose Tax Hike, Lose Police Protection," World News Daily.

Mar. 17, 2017. "Meddlesome," Western Livestock Journal.

Mar. 16, 2017. "EPIC intervenes in gray wolf lawsuit," Eureka Times Standard.

Mar. 14, 2017. "Environmentalists seek to defend protections for wolves in California," Reuters.

Feb. 22, 2017. "Californians sue to remove gray wolf from state's endangered species list," States News Service.

Feb. 13, 2017. "Obama quietly rewrote rule to give labor more access to nonunion workplaces," Washington Examiner.

Feb. 7, 2017. "Alaska Sen. Sullivan takes new shot at breaking up the 9th Circuit court," Alaska Dispatch News.

Feb. 6, 2017. Interview on *Zeb at the Ranch*. I have asked the show for the audio file.

Feb. 3, 2017. "California Ranchers Fight Gray Wolf Protections," Courthouse News Service.

Feb. 1, 2017. "Suit aims at ESA, wolves," Redding Record Searchlight.

Jan. 31, 2017. "Cattlemen Challenge Fish and Game Commission's Illegal Listing of Gray Wolves," California Cattlemen's Association.

Jan. 31, 2017. "Farm groups sue California over gray wolf's endangered listing," Capital Press.

Jan. 31, 2017. "Lawsuit claims wolves aren't an endangered species," Record Searchlight.

Jan. 31, 2017. "PLF, Famers, Ranchers Challenge State's 'Endangered' Listing of Gray Wolf," Pacific Legal Foundation press release.

Jan. 28, 2017. "PLF Attorney Reports Duarte Appeals Court Decision—Once Again," California Ag Today.

Jan. 13, 2017. "Building-industry association mulls appeal to Supreme Court on special district taxes," Northern California Record.

Jan. 10, 2017. "'Mello-Roos' tax ruling to stand," East Bay Times.

Jan. 9, 2017. "Court ruling favoring 'Mello-Roos' tax will stand," East Bay Times.

Oct. 25, 2016. "Climate-change ruling for Arctic seals has ramifications across U.S., California," Sacramento Bee.

Sept. 27, 2016. Interview on *Zeb at the Ranch*. Audio is available at <https://soundcloud.com/pacific-legal-foundation/plf-on-zeb-bell-9-27-16>.

Sept. 26, 2016. Interview on *Radio Real Estate*. Audio is available at <https://soundcloud.com/pacific-legal-foundation/plf-on-radio-real-estate-9-26-16>.

Sept. 15, 2016. "National Federation of Independent Business: OSHA 'Walkaround' Rule Threatens Small Businesses," Bloomberg BNA.

Sept. 14, 2016. "OSHA walkaround rule threatens small businesses," States News Service.

Sept. 8, 2016. "OSHA Rule Unfairly Gives Unions Access, Businesses Say," Law360.

Sept. 8, 2016. "NFIB and PLF Sue OSHA for Foisting Union Activists on Businesses," Pacific Legal Foundation press release.

Aug. 31, 2016. "Bird kept on list of threatened animals," Riverside Press-Enterprise.

Aug. 22, 2016. "Couple billed \$40,000 for wanting to create a building site," WorldNetDaily.

Aug. 20, 2016. "Marin couple sue county over affordable housing fee on parcel split," Marin Independent Journal.

Aug. 17, 2016. "PLF Challenges Marin County's 'Extortionate' Affordable Housing Fee," Pacific Legal Foundation press release.

Aug. 8, 2016. "Threatened species policy challenged," Capital Press.

Aug. 8, 2016. "Sierra Club puts focus on halting projects," San Diego Union-Tribune.

Aug. 2, 2016. "PLF Attorney Reports Duarte Appeals Court Decision—Once Again," California Ag Today.

Aug. 1, 2016. "Annual 2016 Solutions to San Francisco Housing Crunch to Be

Examined,” NewsRoom.

July 20, 2016. Interview on *The Current Word with Kathleen Banfield*. Audio is available at <https://soundcloud.com/pacific-legal-foundation/plf-on-the-current-word-with-kathleen-banfield>.

July 3, 2016. “Appeals court concerned for the habitat of endangered frog,” Legal Monitor Worldwide.

May 26, 2016. “WOTUS Expansion Moves,” News Bites.

May 25, 2016. “GOP, Industries Ramp Up Concerns Over EPA ‘Waters’ Rule,” InsideEPA Daily Briefing.

May 25, 2016. “Farm rep: federal water rule ‘a disaster,’” Lewiston Morning Tribune.

May 6, 2016. “PLF Seeks High Court Review of Green Sturgeon Habitat Designation,” Pacific Legal Foundation press release.

May 5, 2016. “High Court Urged To Hear Sturgeon Critical Habitat Case,” Law360.

May 4, 2016. “Alaska company seeks ruling that permafrost can’t be wetland,” AP.

May 3, 2016. “Army Corps sued for massive, illegal permafrost land grab in Alaska,” Pacific Legal Foundation press release.

Apr. 5, 2016. Interview on *Lou Desmond & Co*. Audio is available at <https://soundcloud.com/pacific-legal-foundation/plf-on-lou-desmond-and-company-4-5-16>.

Feb. 26, 2016. “Circuit Court rules it has jurisdiction on WOTUS,” Western Livestock Journal.

Feb. 18, 2016. “Scalia was Supreme Court’s Leader on Limiting Environmental Regulation,” High Country News.

Feb. 17, 2016. “Murkowski: Obama’s Supreme Court nominee should get a Senate hearing,” Alaska Dispatch.

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Nov. 29, 2007. "Salmon: Court affirms Calif. listing for coho," Land Letter.

Nov. 5, 2007. KGO Radio AM-810, San Francisco. I have no notes, transcript or recording.

Sept. 15, 2007. "U.S. is sued over 'critical habitat' status of 500 miles of waterways," Arizona Republic.

Sept. 13, 2007. "Cattle growers, counties sue over habitat designation," AP.

Sept. 8, 2007. "Endangered species: The overcrowded ark," The Economist.

Aug. 1, 2007. "Rare species protection limited by U.S. Supreme Court ruling," California Planning & Development Report.

July 21, 2007. "Taxation Argument," The Mercury.

June 29, 2007. "Soaring population gets bald eagle off threatened-species list," The Post and Courier.

June 29, 2007. "No longer endangered, bald eagle may face new threats," Gannett News Service.

June 29, 2007. "Rat may soon take up less space," San Bernardino Sun.

June 28, 2007. "With full recovery comes removal of U.S. protection," Duluth News-Tribune.

June 28, 2007. The News Hour with Jim Lehrer.

June 28, 2007. "Flying high again no longer," St. Louis Post-Dispatch.

June 28, 2007. "Bald Eagle Leaves Endangered Species List," NPR Capital Public Radio. Hard copy and audio supplied.

June 28, 2007. "Bald eagles win survival battle," Miami Herald.

June 28, 2007. "Bald eagle officially makes a comeback," Idaho Statesman.

June 28, 2007. "Bald eagle set to lose 'threatened' tag," Christian Science

Monitor.

June 28, 2007. "US keeps eagle eye on national bird," BBC News.

June 28, 2007. "Bald eagles soaring," AP.

June 27, 2007. "Bald eagle expected to fly off ESA list this week," Pacific Legal Foundation press release.

June 26, 2007. "Do eagles still need protection?", St. Cloud Times.

June 26, 2007. Radio appearance with Bruce Ross on KJPR 1330 AM in Redding, California. I have no notes, transcript or recording.

June 25, 2007. "Supreme Court's rulings confirm winning majority," McClatchy Newspapers.

June 24, 2007. "Flying free again," San Diego Union-Tribune.

June 19, 2007. "Government seeks to cut animal's habitat," San Bernardino County Sun.

June 13, 2007. Fox News Channel, San Francisco. I have no notes, transcript or recording.

June 4, 2007. "Despite imminent bald eagle delisting, feds' proposed new eagle rule burdens land use too much," Pacific Legal Foundation press release.

June 2, 2007. "Bald eagles won't soar without federal protection," Duluth News-Tribune.

June 2, 2007. "Government's water authority murky despite Supreme Court ruling," AP.

June 2, 2007. "Little fish, big conflict," San Jose Mercury News.

Apr. 18, 2007. "Lawsuit challenges protection for salmon across West," AP.

Apr. 18, 2007. Interview on KEZI Channel 9 –ABC TV, Coos Bay, Oregon. I have no notes, transcript or recording.

Apr. 16, 2007. "Justices to ponder imperiled species," The National Law Journal.

Mar. 29, 2007. "Don't undermine endangered species law, Dicks warns," Seattle Times.

Mar. 28, 2007. "U.S. Proposals Would Weaken Endangered Species Act," NPR.

Mar. 28, 2007. "Species Act changes in works," LA Times.

Feb. 18, 2007. "Let eagles fly off the list," Marysville Appeal-Democrat.

Feb. 10, 2007. "Bald eagle flies out of peril," McClatchy Papers.

Feb. 9, 2007. "New bald eagle deadline OK'd," Sacramento Bee.

Feb. 8, 2007. Interview on Minnesota NPR. A print version is supplied.

Feb. 8, 2007. "Judge delays decision on taking bald eagle off endangered list," Duluth News Tribune.

Feb. 2, 2007. "Eagle could fly free of endangered species list," Augusta Chronicle.

Feb. 1, 2007. "Bald Eagle Flies Out Of Peril," Sacramento Bee.

Jan. 28, 2007. "Bald eagle set to lose endangered status," Stockton Record.

Jan. 19, 2007. "Disagreement could keep pelican on endangered list," San Diego Union-Tribune.

Jan. 19, 2007. "Man may sue over bald eagles again," St. Cloud Times.

Jan. 16, 2007. "Bald eagle's 'threatened' status ends in February," Argus Leader.

Jan. 12, 2007. "Pacific fisher incites S. Valley sawmill to sue," Fresno Bee.

Jan. 12, 2007. "Terra Bella sawmill files suit against federal government, Porterville Recorder.

Dec. 25, 2006. "Bald Eagle to Be Taken Off Endangered List," Washington Post.

Dec. 6, 2006. "Lawsuit still has SPI wood in logjam," The Union Democrat.

Nov. 14, 2006. "Klamath farmers appeal court-ordered increase in water for salmon," AP.

Nov. 1, 2006. "Minnesota nest could swing bald eagles' status," Minneapolis Star Tribune.

Aug. 16, 2006. "Judge orders bald eagle off list," Bismarck Tribune.

Aug. 12, 2006. "Developer: Eagle does not need protection," St. Cloud Times.

Aug. 11, 2006. "Judge orders bald eagle removed from endangered list,"
Minneapolis Star Tribune.

Aug. 11, 2006. "Federal agency working to remove bald eagle from endangered
list," AP.

July 14, 2006. "Ranchers sue over owl habitats," The Salt Lake Tribune.

July 14, 2006. "Lawsuit protests owl-habitat designation," Desert Morning News.

July 13, 2006. "Ariz. ranchers file suit over Mexican spotted owl habitat," E&E
News.

Nov. 3, 2005. "Lawsuit wants bald eagle taken off 'endangered' list,"
Washington Times.

Nov. 2, 2005. "Bald eagle can go it alone," Sacramento Bee.

Nov. 2, 2005. "NorCal legal group sues government over bald eagle protections,"
AP.

Nov. 1, 2005. "Conservative law firm sues to force bald eagle's delisting," E&E
News.

Nov. 1, 2005. "PLF Files Lawsuit to Compel Government to Act on Its Promise
to Remove the Bald Eagle from Endangered Species List," Pacific Legal
Foundation press release.

I have appeared regularly on Libertarian Counterpoint on Sacramento Cable
Access TV. Video is available for the following appearances:

May 26, 2016 (#1296), available at

https://www.youtube.com/watch?v=DY_Qrspu6RE;

May 19, 2016 (#1295), available at

<https://www.youtube.com/watch?v=oUee6blx1EU;>

Jan. 14, 2016 (#1277), available at

<https://www.youtube.com/watch?v=L9sxXfMkvzE&list=PLhXm-UB9Cm8uopgA8TAKS9snJDaPffGu&index=63;>

Jan. 7, 2016 (#1276), available at

<https://www.youtube.com/watch?v=KINBd-11rdY&list=PLhXm-UB9Cm8uopgA8TAKS9snJDaPffGu&index=64;>

May 14, 2015 (#1240), available at

<https://www.youtube.com/watch?v=q4Q9fMs0bhc;>

May 7, 2015 (#1239), available at

<https://www.youtube.com/watch?v=tcmPKWq909Q;>

Dec. 12, 2013 (#1166), available at <https://www.youtube.com/watch?v=H8yN-azLg6g>;
Dec. 5, 2013 (#1165), available at <https://www.youtube.com/watch?v=Dg8LYzGzZ8o>;
Jan. 26, 2012 (#1068), available at <https://www.youtube.com/watch?v=FKIMENDBmBs>;
Jan. 19, 2012 (#1067), available at <https://www.youtube.com/watch?v=fGFFheeDoVc>;
Aug. 11, 2011 (#1044), available at <https://www.youtube.com/watch?v=cQbBuAYIov4>;
Aug. 4, 2011 (#1043), available at https://www.youtube.com/watch?v=Cep_1MQeFlk;
Apr. 14, 2011 (#1028), available at <https://www.youtube.com/watch?v=lgsSIKRNjwQ>;
Apr. 7, 2011 (#1027), available at <https://www.youtube.com/watch?v=hyNm8SDBbsc>;
Dec. 30, 2010 (#1013), available at https://www.youtube.com/watch?v=OPdoI3f_OKE;
Dec. 23, 2010 (#1012), available at <https://www.youtube.com/watch?v=pW-2b3Za9BE>;
Dec. 16, 2010 (#1011), available at <https://www.youtube.com/watch?v=SMOmX9ObWmE>;
Aug. 13, 2009 (#941), available at <https://www.youtube.com/watch?v=e4PwRhUxFeY>;
Aug. 6, 2009 (#940), available at <https://www.youtube.com/watch?v=IVtNGA-XRvQ>.

I have no notes, transcripts, or recordings for appearances made on the following dates: May 31, 2007; May 24, 2007; and May 17, 2007.

I have appeared four times on California Ag Today. The audio for these shows is available at <https://californiaagtoday.com/?s=damien+schiff&kind=broadcasts>.

I have appeared three times on the Tom Brown Show. The audio for the three shows is available at <http://www.tombrownsnow.com/tag/damien-schiff/>.

I have appeared regularly on the Andy Caldwell. Audio is available for the following appearances:

Mar. 24, 2016, available at <https://soundcloud.com/pacific-legal-foundation/plf-on-andy-caldwell-3-24-16>;

Apr. 14, 2016, available at <https://soundcloud.com/pacific-legal-foundation/plf-on-andy-caldwell-4-14-16>;

May 26, 2016, available at <https://soundcloud.com/pacific-legal-foundation/plf-on-andy-caldwell-5-26-16>;

June 9, 2016, available at <https://soundcloud.com/pacific-legal-foundation/plf-on-andy-caldwell-6-9-16>;

Sept. 22, 2016, available at <https://soundcloud.com/pacific-legal-foundation/plf-on-andy-caldwell-9-22-16>;

Dec. 15, 2016, available at <https://soundcloud.com/pacific-legal-foundation/plf-on-andy-caldwell-12-15-16>.

I appeared on earlier programs, but I have no notes, transcripts or recordings for those.

I also have been quoted in three TV soundbites by PacSat. I recall that one of the interviews (from approximately August 1, 2008) pertained to the listing of the polar bear under the Endangered Species Act. I have no notes, transcripts or recordings.

Also, I appeared a few times on *California's Small Biz Talk Radio with Mark Montgomery*, Talk 650 am KSTE, probably between 2010 and 2011. It is my understanding that the show went off the air in approximately 2012. I have no notes, transcripts or recordings of the interviews, although I recall that I spoke about PLF's work in environmental regulation and property rights.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have never served in any judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

- i. Of these, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys

who played a significant role in the case.

- e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices,

including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held any offices in or rendered services to any political party or election committee. I have not held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to Judge Victor Wolski of the U.S. Court of Federal Claims, from August 2004 to August 2005.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

2005-2017
Pacific Legal Foundation
930 G Street
Sacramento, CA 95814
Staff Attorney (2005-2011)
Senior Staff Attorney (2011-2012)
Principal Attorney (2012-2014, 2015-2017)
Senior Attorney (2017-present)

2015
Alston & Bird LLP
1115 Eleventh Street
Sacramento, CA 95814
Counsel

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

The vast majority of my law practice has been in public interest litigation in state and federal courts throughout the country. In 2005, I became an attorney with Pacific Legal Foundation, the nation's oldest public interest legal organization that fights for private property rights, limited government, and individual liberty. During my tenure at PLF, I have practiced in state and federal courts throughout the country, representing parties directly as well as filing amicus curiae briefs. Most of my cases have concerned federal and state environmental and land-use laws, most prominently matters arising under the federal Endangered Species Act and Clean Water Act. For about nine months in 2015, I was a counsel with Alston & Bird. In that capacity, I continued much of the type of environmental and land-use work that I had done at PLF. In the fall of 2015, I returned to PLF, where I remain today.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

As noted above, PLF is a public interest legal organization, and therefore charges no attorney fees to its clients. Accordingly, all of my clients at PLF have been persons or entities that either could not afford private legal counsel or, if they could, had no financial incentive to litigate (usually because the cost of typical private counsel would exceed the value of the matter to be litigated). Accordingly, I have represented many individual landowners, as well as trade associations and other non-profit entities. While I was at Alston & Bird, my clients naturally had more resources, but their profiles were similar—namely, landowners or other entities with environmental and related disputes against various government agencies.

- c. Describe the percentage of your practice that has been in litigation and whether

you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Save for my brief time in private practice and as a law clerk, nearly all of my legal work has been in some form of litigation. Over the course of my career, I have made approximately 50 appearances in court, of varying degrees of significance (from case management hearings to oral arguments). About half of my work has been in appellate matters (merits briefing and amicus briefs).

i. Indicate the percentage of your practice in:

1. federal courts: 75%
2. state courts of record: 23%
3. other courts: 1%
4. administrative agencies: 1%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 100%
2. criminal proceedings: 0%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have never participated in a trial (save for having served once as a jury foreman in a state law civil matter), but I have litigated several dozen cases to final judgment in state and federal trial courts.

i. What percentage of these trials were:

1. jury: ___%
2. non-jury: ___%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have argued one case before the Supreme Court, and have drafted or participated in many petitions for certiorari, as well as merits and cert petition amicus briefs.

Cases argued and briefed

Sackett v. EPA, 132 S. Ct. 1367 (2012) (transcript, 2012 WL 38639; petitioners' brief on the merits, 2011 WL 4500687; petitioners' reply brief, 2011 WL 6468681; petitioners' objection to motion for leave to file brief as amici curiae, 2011 WL 8968358; petition for writ of certiorari, 2011 WL 688727; reply to

opposition to petition for writ of certiorari, 2011 WL 2213703)

Cases briefed on petition for certiorari

Morrison v. United States, No. 06-749, cert. denied, 549 U.S. 1265 (2007) (petition for writ of certiorari, 2006 WL 3449025; reply to opposition to petition for writ of certiorari, 2007 WL 541665)

Johnson v. United States, No. 07-09, cert. denied, 552 U.S. 948 (2007) (petition for writ of certiorari, 2007 WL 1946490; reply to opposition to petition for writ of certiorari, 2007 WL 2726059)

Fairbanks North Star Borough v. United States Army Corps of Engineers, No. 08-1052, cert. denied, 557 U.S. 919 (2009) (petition for writ of certiorari, 2009 WL 788658; reply to opposition to petition for writ of certiorari, 2009 WL 1526925)

Action Apartment Association v. City of Santa Monica, No. 08-1139, cert. denied, 556 U.S. 1237 (2009) (petition for writ of certiorari, 2009 WL 663951; reply to opposition to petition for writ of certiorari, 2009 WL 1030516)

Home Builders Association of Northern California v. United States Fish & Wildlife Service, No. 10-605, cert. denied, 562 U.S. 1217 (2011) (petition for writ of certiorari, 2010 WL 4382009; reply to opposition to petition for writ of certiorari, 2011 WL 141210)

Stewart & Jasper Orchards v. Jewell, No. 14-377, cert. denied, 135 S. Ct. 948 (2015) (petition for writ of certiorari, 2014 WL 4948941; reply to oppositions to petition for writ of certiorari, 2014 WL 7242819)

Building Industry Association — Bay Area v. United States Department of Commerce, No. 15-1350, cert. denied, 137 S. Ct. 328 (2016) (petition for writ of certiorari, 2016 WL 2605543; reply in support of petition for writ of certiorari, 2016 WL 4437625)

Amicus briefs on the merits

Summers v. Earth Island Institute, 555 U.S. 488 (2009) (brief amicus curiae of Pacific Legal Foundation in support of neither party, 2008 WL 1757583)

Citizens United v. Federal Election Commission, 558 U.S. 310 (2010) (co-author of brief amicus curiae of Pacific Legal Foundation in support of appellant on supplemental question, 2009 WL 2349017)

Monsanto Co. v. Geerston Seed Farms, 561 U.S. 139 (2010) (brief amicus curiae of Pacific Legal Foundation in support of petitioners, 2010 WL 1513027)

American Electric Power Co. v. Connecticut, 564 U.S. 410 (2011) (co-author of brief amicus curiae of Pacific Legal Foundation in support of petitioners, 2011 WL 465742)

Amicus briefs in support of certiorari

Baccarat Fremont Developers, LLC v. United States Army Corps of Engineers, No. 06-619, cert. denied, 549 U.S. 1206 (2007) (brief amicus curiae of Pacific Legal Foundation in support of the petition, 2007 WL 43600)

Detroit v. Int'l Bridge Co. v. United States, No. 06-639, cert. denied, 549 U.S. 1278 (2007) (co-author of brief amicus curiae of Pacific Legal Foundation, National Taxpayers Association, and New England Legal Foundation in support of petitioner, 2007 WL 432472)

Chemtura Canada, Co. v. United States, Nos. 06-853 & 06-1014, cert. denied, 550 U.S. 903 (2007) (brief amicus curiae of Pacific Legal Foundation in support of petitioner, 2007 WL 868963)

National Association of Home Builders v. Defenders of Wildlife, 549 U.S. 1105 (2007) (brief amicus curiae of Pacific Legal Foundation in support of petitioners, 2007 WL 542419)

United States v. McWane, Inc., No. 08-223, cert. denied, 555 U.S. 1045 (2008) (co-author of brief amicus curiae of Pacific Legal Foundation in support of petitioner, 2008 WL 4325540)

Grant County Black Sands Irrigation District v. U.S. Bureau of Reclamation, No. 10-116, cert. denied, 562 U.S. 1134 (2011) (brief amicus curiae of San Luis & Delta-Mendota Water Authority et al. in support of petitioners, 2010 WL 3355807)

American Electric Power Co. v. Connecticut, 564 U.S. 410 (2011) (co-author of brief amicus curiae of Pacific Legal Foundation in support of petitioners, 2010 WL 3484207)

Tuck-It-Away, Inc. v. New York State Urban Development Corp., No. 10-402, cert. denied, 562 U.S. 1108 (2010) (brief amicus curiae of Pacific Legal Foundation in support of petition for writ of certiorari, 2010 WL 4232633)

The New 49'ers, Inc. v. Karuk Tribe of California, No. 12-289, cert. denied, 133 S. Ct. 1579 (2013) (motion for leave to file brief amicus curiae and brief amicus curiae of Eastern Oregon Mining Association, Waldo Mining District, and Pacific Legal Foundation in support of petitioners, 2012 WL 4803202)

Supreme Court briefs on which my name appears but in which my involvement was limited to minor editing and review

Charles A. Pratt Construction Co. v. California Coastal Commission, No. 08-668, cert. denied, 555 U.S. 1171 (2009) (brief amicus curiae of Pacific Legal Foundation in support of petitioner, 2008 WL 5370529)

Stewart & Jasper Orchards v. Salazar, No. 10-1551, cert. denied, 565 U.S. 1009 (2011) (petition for writ of certiorari, 2011 WL 2532943; reply to opposition to petition for writ of certiorari, 2011 WL 4594296)

Alto Eldorado Partnership v. County of Santa Fe, No. 11-50, cert. denied, 565 U.S. 880 (2011) (petition for writ of certiorari, 2011 WL 2705218; reply in support of petition for writ of certiorari, 2011 WL 3750712)

Safari Club International v. Jewell, No. 13-142, cert. denied, (2013) (petition for writ of certiorari, 2013 WL 3946097)

Decker v. Northwest Environmental Defense Center, 133 S. Ct. 1326 (2013) (brief amicus curiae of Alabama Forestry Association et al. in support of petitioners, 2011 WL 4941017 (petition) & 2012 U.S. S. Ct. Briefs LEXIS 3652 (merits))

Rocky Mountain Farmers Union v. Corey, Nos. 13-1148, 13-1149, cert. denied, 134 S. Ct. 2875 (2014) (brief amicus curiae of Pacific Legal Foundation in support of petitioners, 2014 WL 1571912)

Drakes Bay Oyster Co. v. Jewell, No. 13-1244, cert. denied, 134 S. Ct. 2877 (2014) (brief amicus curiae of Pacific Legal Foundation and California Cattlemen's Association in support of petitioners, 2014 WL 2089970)

Yates v. United States, 135 S. Ct. 1074 (2015) (brief amicus curiae of Pacific Legal Foundation et al. in support of petitioner, 2014 WL 3364865)

Sturgeon v. Masica, 136 S. Ct. 1061 (2016) (brief amicus curiae of Pacific Legal Foundation et al. in support of petitioner, 2015 WL 7450411)

Foster v. Vilsack, No. 15-186, cert. denied, 137 S. Ct. 620 (2017) (petition for writ of certiorari, 2016 WL 4254313; reply to opposition to petition for writ of certiorari, 2016 WL 7406711)

Bennie, Jr. v. Munn, No. 16-452, cert. denied, 137 S. Ct. 812 (2017) (petition for writ of certiorari, 2016 WL 5845515; opposition to conditional cross-petition for writ of certiorari, 2016 WL 7174589; reply to oppositions to petition for writ of certiorari, 2016 WL 7385042)

Rinehart v. California, No. 16-970 (petition for writ of certiorari, 2017 WL 491214; reply to opposition to petition for writ of certiorari, 2017 WL 1422442)

Bldg. Indus. Ass'n — Bay Area v. City of San Ramon, No. 16-1164 (petition for writ of certiorari, 2017 WL 1149733; reply to opposition to petition for writ of certiorari, copy supplied)

American Municipal Power, Inc. v. EPA, No. 16-1168 (brief amicus curiae of Pacific Legal Foundation in support of petitioner, 2017 WL 1532832)

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

(1) *Sackett v. EPA*, 132 S. Ct. 1367 (2012)

I represented as lead counsel Mike and Chantell Sackett, from trial court litigation (2008) in the District of Idaho (Lodge, J.), through the Ninth Circuit 2008-2010 (panel Beezer, Gould, Tallman, C.J.J.), and ultimately to the U.S. Supreme Court (2011-2012). The case concerned a compliance order that the federal Environmental Protection Agency had issued my clients. The Clean Water Act authorizes EPA to issue such orders whenever the agency believes that the Act has been violated. The agency contended that the Sacketts had violated the Act by commencing the building of their family home on an undeveloped residential lot within an existing residential subdivision. In the agency's view, the Sacketts had thereby discharged pollutants into navigable waters without a permit. The Sacketts sued to overturn the order, arguing that their property contained no "navigable waters" within the meaning of the Clean Water Act. The district court dismissed and the Ninth Circuit affirmed, holding that compliance orders are not subject to judicial review under the Administrative Procedure Act. The U.S. Supreme Court granted certiorari and reversed, holding unanimously that the Sacketts' compliance order was immediately reviewable. As the Sacketts' lead attorney, I drafted all of the substantive litigation documents from the district court through the Supreme Court, and conducted all oral arguments.

Co-counsel

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(2) *Board of Mississippi Levee Commissioners v. EPA*, 674 F.3d 409 (5th Cir. 2012)

I represented the Board of Mississippi Levee Commissioners in a challenge to EPA's decision to veto the Yazoo Backwater Area Pumps Project. Among other things, the Clean Water Act regulates the discharge of dredged or fill material into the waters of the United States. The Levee Board, in conjunction with the Army Corps, had for some time planned a flood control project for the lower Mississippi Delta that would alleviate the backwater flooding caused when existing flood control outlets were closed because of a rising Mississippi River. The project would involve the discharge of regulated pollutants, and hence the Corps needed to comply with the Clean Water Act, in particular the guidelines promulgated by EPA. Although typically the Corps has final say over the discharge or dredged or fill material, the Act provided EPA a "veto" power to forbid such discharge under certain limited circumstances. The Corps may overturn such a veto, but only by complying with several specific requirements, including the submission of a final environmental impact statement concerning the proposed project to Congress. In 2008, EPA vetoed the project. I was retained by the Board to challenge that veto. I was lead counsel (2009-2011) for the Levee Board in the Northern District of Mississippi (Aycok, J.), as well as in the Fifth Circuit (2011-2012). The trial court rejected the Levee Board's challenge, and the Fifth Circuit (King, Wiener, and Haynes, C.J.J.) affirmed, holding that the record was inadequate to support our argument that the Corps had complied with the Clean Water Act's veto exemption provisions. As the Board's lead attorney, I drafted all of

the substantive litigation documents from the district court through the Supreme Court, and gave oral argument on appeal (no hearings were held in the district court).

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(3) *Home Builders Ass'n of N. Cal. v. U.S. Fish & Wildlife Serv.*, 616 F.3d 983 (9th Cir. 2010)

I represented the Home Builders from the trial court (2005-2006) through the Ninth

Circuit (2007-2010) and an unsuccessful petition for writ of certiorari in the Supreme Court. The case concerned the “critical habitat” designation for 15 vernal pool species. Under the Endangered Species Act, the Service is required to designate such critical habitat for listed species. The Service designated about one million acres in California as critical habitat for the aforementioned vernal pool species. We challenged the designation as overbroad. The district court (Shubb, J.) ruled against us, and the Ninth Circuit (Rymer and Fisher, C.J.J., and Pallmeyer, J., sitting by designation) affirmed, holding that the Service’s designation, as well as the accompanying economic impact analysis, were sufficiently precise. As the Home Builders’ lead counsel, I drafted all of the substantive litigation documents from the district court through the Supreme Court, and conducted all oral arguments.

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(4) *Barnum Timber Co. v. EPA*, 633 F.3d 894 (9th Cir. 2011)

I represented Barnum Timber from the trial court (2008) through the Ninth Circuit (2008-2010) in a challenge to EPA’s designation of a waterbody running through Barnum’s timberland as “impaired” under the Clean Water Act. The Clean Water Act requires the states to develop lists of all waterbodies within their jurisdictions that do not meet applicable water quality standards. Such waters are “impaired.” EPA’s job is to review and to approve or reject proposed impairment designations. Typically, an impairment designation triggers a substantial suite of state-based water

quality regulation. Beginning in the 1990s, EPA had designated Redwood Creek, a stream running through Barnum's northern California timberlands, as impaired. As a consequence of that impairment designation, Barnum was substantially restricted in the productive use of its timberlands, and therefore challenged the data underlying the designation. The district court dismissed the case, holding that Barnum lacked standing because EPA's impairment designation did not directly regulate Barnum's property. On appeal, the Ninth Circuit (Bybee and Rinehart, C.J.J., Gwin, J., sitting by designation, dissenting) reversed, holding that Barnum did have standing because it had submitted adequate evidence showing that the diminution in value of its timberlands was fairly traceable to EPA's impairment designation. As Barnum's lead attorney, I drafted all of the substantive litigation documents from the district court through the Ninth Circuit, and conducted all oral arguments.

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(5) *Fairbanks North Star Borough v. U.S. Army Corps of Eng'rs*, 543 F.3d 586 (9th Cir. 2008)

I represented Fairbanks in district court (2006-2007) and on appeal (2007-2008), and in an unsuccessful cert petition, with respect to the borough's challenge to the Corps' assertion of Clean Water Act jurisdiction over a parcel of land it owned. The borough wished to develop a playground on land it owned, but the Corps determined that the site contained wetlands subject to federal regulation and, consequently, any playground project would require a Clean Water Act permit. Objecting to the need for a permit, Fairbanks brought suit to challenge the Corps' assertion of statutory authority in the form of a "jurisdictional determination" issued by the agency. The district court (Beistline, J., D. Alaska.) dismissed on the grounds that a jurisdictional determination is not final agency action subject to suit under the Administrative Procedure Act. On appeal, the Ninth Circuit (D.W. Nelson, Tashima, and Fisher, C.J.J.) affirmed, ruling that a jurisdictional determination does not have legal consequences and therefore is not a final agency action. As the Borough's lead attorney, I drafted all of the substantive litigation documents (excluding the

complaint) from the district court through the Supreme Court, and gave oral argument on appeal (no hearings were held in the district court).

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(6) *Citizens for a Better Eureka v. Cal. Coastal Comm'n*, 127 Cal. Rptr. 3d 602
(2011)

I represented the Citizens in California trial court (2009-2010), on appeal (2010-2011), and on an unsuccessful petition for review, in their challenge to the California Coastal Commission's assertion of jurisdiction over a clean-up project in Eureka, California. The California Coastal Act regulates most development activity along the state's coast. The Act contains limited exceptions to its general requirement that a permit be obtained prior to commencing most types of development. One of those exceptions is when the activity is required as part of a nuisance abatement. Our client was a citizens group that wanted to see cleaned up a particularly blighted property in downtown Eureka. Although a clean-up plan had been approved locally, the Coastal Commission intervened to assert that it also had to approve the clean-up plan. The owner of the property could not afford to seek a coastal development permit; hence, the Commission's assertion of jurisdiction would nullify the project. We brought suit challenging the Commission's authority, arguing that the agency had no authority over the clean-up because the project was required as a response to the city's nuisance abatement order. The trial court (Feeny, J.) ruled against us, and the First District Court of Appeal (Marchiano, P.J., and Margulies and Banke, J.J.) affirmed, holding that the Coastal Act's nuisance abatement exception does not apply to projects that go

beyond what is strictly necessary to abate the nuisance. As the Citizens' lead attorney, I drafted all of the substantive litigation documents from the superior court through the court of appeal and on petition to the state supreme court, and conducted all oral arguments.

Co-counsel

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(7) *Cal. Forestry Ass'n v. Cal. Fish & Game Comm'n*, 68 Cal. Rptr. 3d 391 (2007)

I represented the Association and other industry and business groups in a challenge to the Commission's decision to list two populations of salmon under the California Endangered Species Act. That Act provides that the Commission may protect endangered and threatened native "species" and "subspecies." Here, the Commission chose to protect two populations of salmon as "evolutionarily significant units"—in other words, populations smaller than a species or subspecies. The Association sued in state court, arguing that the listings were without statutory authority on a number of grounds, including that the state's Endangered Species Act—unlike its federal analogue—provides no authority to protect populations other than as entire species and subspecies. The distinction was significant because neither species of which each of the listed salmon populations was a part would have been considered endangered or threatened with extinction, when viewed on a species-wide basis. I took over for the appeal (2006-2007). The Third Appellate District (Robie, J., Raye, Acting P.J., and Butz, J.) ruled against us, deferring to the Commission's expertise in wildlife management and the agency's interpretation of the supposedly ambiguous statutory text. As the appellants' lead attorney, I drafted all of the substantive litigation documents in the court of appeal and on petition to the state supreme court, and gave oral argument on appeal.

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(8) *Marsh v. Cal. Coastal Comm'n*, No. D055094, 2010 WL 302890 (Cal. Ct. App. Jan. 27, 2010)

I represented Dr. Marsh on appeal in her challenge to the Coastal Commission's denial of a permit to subdivide a four-acre parcel in San Diego County. Generally, a division of land within the coastal zone requires Coastal Act approval. Under the provisions of the County's 1985 local coastal program, Dr. Marsh was entitled to split her existing parcel into two new parcels. But the Commission argued that the 1985 program was inapplicable, and that under the agency's de novo application of the Coastal Act itself, such a lot split would be impermissible. We challenged the Commission's position on appeal, following an unsuccessful trial court litigation brought by other counsel. The Fourth District Court of Appeal (Haller, McConnell, and Aaron, J.J.) held that, because the County's 1985 program had not been effectively certified by the Coastal Commission and therefore was not applicable, the Commission's denial of the lot split was permissible. As Dr. Marsh's lead appellate attorney, I drafted all briefing in the court of appeal and on petition to the state supreme court, and gave oral argument in the court of appeal.

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(9) *Mercer, Fraser Co. v. County of Humboldt, et al.*, No. C 08-4098, 2008 WL 4344523 (N.D. Cal. Sept. 22, 2008)

In 2008, I represented the plaintiff road construction company and O & M Industries, a Eureka steel fabricator, in a challenge to Measure T, a county campaign finance initiative. Measure T precluded non-local corporate entities from making campaign contributions and expenditures in county elections, but exempted incorporated unions from the ban. The district court (Illston, D.J.) granted the motion for preliminary injunction, finding that the plaintiffs were likely to succeed on their First Amendment and Equal Protection claims. The County subsequently settled. As lead counsel for the plaintiffs, I substantially drafted all trial court documents and gave oral argument on the TRO and preliminary injunction motions.

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(10) *Great Northwest, Inc. v. U.S. Army Corps of Eng'rs*, No. 4:09-cv-0029, 2010 WL 9499372 (D. Ala. June 8, 2010), *reconsideration denied*, 2010 WL 9499071 (D. Ala. July 20, 2010)

I represented the plaintiff gravel company in a successful challenge to the Army Corps' assertion of Clean Water Act authority over wetlands on the company's Fairbanks, Alaska property. The Corps' Clean Water Act regulations provide that the agency has permitting authority over wetlands adjacent to other regulated waters, with the exception that the agency will not assert jurisdiction over wetlands adjacent to other wetlands. The district court (Beistline, D.J.) accepted our argument that Great Northwest's wetlands were adjacent to other wetlands because they were separated by a road and a railroad berm, and therefore could not be considered adjacent to the nearby Tanana River. As lead counsel for Great Northwest, I drafted all substantive documents in the trial court. No hearings were held.

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18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Because of the precedent-creating focus of my public interest practice, nearly all of the matters I have been involved in have progressed to litigation, or were already in litigation by the time I became involved.

In addition to litigation, I regularly give media interviews, write law review articles and newspaper editorials, and present on environmental law and property rights to bar conferences, trade associations, and similar organizations.

Other than my April 2017 letter and testimony regarding the California Coastal Commission, I have not performed lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no such plans.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I do not anticipate any encountering any conflicts of interests based on family, personal, or business relationships.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed as judge for the U.S. Court of Federal Claims, I would resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all applicable policies and procedures of the United States Courts generally and of the Court of Federal Claims in particular. I also would engage in prompt and immediate review of the parties, their affiliates, and the issues presented by any matter assigned to me so that I could make a prompt, informed decision regarding the need for recusal.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Every case that I have litigated at Pacific Legal Foundation has been pro bono. Thus, the vast majority of my legal career has been devoted to representing litigants free of charge to vindicate their constitutional and other rights.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On February 6, 2017, I contacted an official with the White House Counsel's Office to express my interest in serving on the Court of Federal Claims. That same day, I provided a copy of my resume and, on the following day, an updated version of the same along with a case list highlighting my major brief-writing and oral arguments. Approximately one or two days later, I spoke by telephone with the same official from the White House Counsel's Office regarding my interest in the position. On February 17, 2017, I interviewed with several officials from the White House Counsel's Office in Washington, D.C. On March 8, 2017, I was contacted by the White House Counsel's Office to inform me that I had been selected as a preliminary candidate for an opening on the Court of Federal Claims. Since March 13, 2017, I have been in contact with officials from the Office of Legal Policy at the Department of Justice regarding nomination forms.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.