

From: McDougall, Robert
Sent: Wednesday, September 11, 2019 5:11 PM
To: debra@debrahilstromlaw.com
Subject: RE: Vermont public records request

Dear Ms. Hilstrom:

I again write in response to your public records request dated September 4, 2019 and received by this office on that date. In that request you seek:

1. “The submissions made by the law firms listed above [Hagens Berman and Kanner & Whiteley LLC] whether submitted individually by a firm or jointly as a consortium of law firms, in response to the Request for Proposal for law firms to represent Vermont in PFAS litigation;” and
2. “All fee or retainer agreements between Vermont and the law firms listed above [Hagens Berman and Kanner & Whiteley LLC], whether individually by a firm or jointly as a consortium of law firms, relating to the engagement of the firms to represent Vermont in filed or potential PFAS litigation.”

On Monday, 9/9, via the e-mail below, the Attorney General’s Office provided the document responsive to your *second* request. With respect to your *first* request, this Office invoked its right to additional time to respond.

Today, attached to this e-mail are documents responsive to your *first* request. Please be advised that personal information contained in the attached documents has been withheld from disclosure pursuant to 1 V.S.A. § 317(c)(7). The withheld personal information includes the phone numbers and e-mail addresses of listed references.

To the extent that you feel this response is a denial of your request, you may appeal to the Deputy Attorney General, Joshua Diamond. Any appeal should be made in writing and sent to him at this address:


Deputy Attorney General Joshua R. Diamond
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Sincerely,

Rob McDougall

Robert F. McDougall
Assistant Attorney General
Chief, Environmental Protection Division

Office of the Attorney General
109 State Street
Montpelier, VT 05609
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**Joint Response of Hagens Berman Sobol Shapiro LLP and Baron & Budd, P.C. to
State of Vermont Office of the Attorney General Request for Proposal of Legal Services**

Submitted By

HAGENS BERMAN SOBOL SHAPIRO LLP

1301 Second Avenue, Suite 2000
Seattle, WA 98101

BARON & BUDD, P.C.

3102 Oak Lawn Ave. #1100
Dallas, TX 75219

May 8, 2019

Via email

Joshua R. Diamond
Deputy Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
joshua.diamond@vermont.gov

Re: Joint Response of Hagens Berman Sobol Shapiro LLP and Baron & Budd, P.C. to State of Vermont Office of the Attorney General Request for Proposal of Legal Services

Dear Deputy Attorney General Diamond:

Thank you for the opportunity to submit this joint response to the State of Vermont Office of the Attorney General's Request for Proposal of Legal Services in compliance with your fair and open process. The following information provided by Hagens Berman Sobol Shapiro LLP and Baron & Budd, P.C. responds to the specific questions posed in the RFP, and explains the collective background, experience and services our firms can provide to the State. Collectively our firms have over thirty years of experience practicing in environmental law, natural resource damages and complex litigation and are uniquely qualified to represent the State in this matter. We will be happy to provide you with any additional information you might need and to discuss further the needs of the State and our ability to meet those needs.

Our specific responses to the questions posed in the RFP are as follows:

1. A description of the firm's areas of expertise and experience, including experience with the matters identified above in this RFP.

Hagens Berman Sobol Shapiro LLP – Hagens Berman Sobol Shapiro LLP has a track record of winning complex cases against some of the largest companies in the world. The firm has always represented plaintiffs and victims, and initially became known for bringing major fraud and negligence cases, particularly large class actions. As the firm grew, it expanded its scope while staying true to its mission of taking on important cases that implicate the public interest. The firm represents plaintiffs seeking to remedy environmental contamination, as well as investors, consumers, inventors, workers, governments, whistleblowers and others. More recently the firm expanded its environmental practice by adding several established litigators, including Matt Pawa, Ben Krass, and Wes Kelman. Pawa and Krass represented the State of New Hampshire in *State v. Exxon Mobil Corp.*, 126 A.3d 266 (N.H. 2015), in which the State of New Hampshire won a verdict of \$236 million for MTBE contamination of the state's drinking water—which as far as we know is the only favorable jury verdict on a *parens patriae* product

liability claim for natural resource damages that has ever been obtained. This verdict was in addition to more than \$100 million in pre-trial settlements. As you know, Pawa, Krass and Kelman represented the State of Vermont for four years in its MTBE litigation against gasoline manufacturers prior to joining the Hagens Berman firm. Hagens Berman currently represents the State of Rhode Island in its statewide MTBE litigation. The court hearing the Rhode Island case recently denied in substantial part defendants' motion to dismiss that case, and the case is now into discovery. *Rhode Island v. Atl. Richfield Co.*, 357 F. Supp. 3d 129 (D.R.I. 2018). Hagens Berman recently has been retained by the New Jersey Departments of Law and Environmental Protection to pursue natural resource damages cases on behalf of NJDEP.

Hagens Berman believes that protecting and repairing our environment from damage caused by irresponsible and illegal use is some of the most rewarding work a law firm can do. Our firm has established an internationally recognized environmental litigation practice, including through representing homeowners exposed to arsenic and lead pollutants from ASARCO smelters, representing clients against Exxon Mobil affected by the Exxon *Valdez* oil spill, stopping Dole from degrading drinking water in Guatemala and fighting against a surge of dirty diesel cars illegally put on highways by the nation's largest automakers. In addition to the MTBE representation described above, the firm within the past few years filed climate change cases on behalf of New York City and King County (WA) against large producers of fossil fuels seeking abatement of sea level rise and other injuries. The scope of our practice is nationwide, and we have offices in nine cities across the United States, including Seattle, Berkeley, Boston, Chicago, Los Angeles, New York, Phoenix, and San Diego.

Hagens Berman has assisted governments in recovering billions of dollars in damages from corporate wrongdoers. Hagens Berman has a long history of successfully representing state attorneys general, including representing Vermont and 12 other states against the tobacco industry to obtain the largest recovery in litigation history—\$206 billion, *State of Washington, et al. v. Philip Morris, et al.* The firm understands the needs of elected officials and their obligation to impartially and zealously represent the interests of the public without taking excessive risks in litigation. Hagens Berman has represented the following exemplar public entity clients in addition to those described above:

GM IGNITION SWITCH LITIGATION

Arizona
Orange County District Attorney

STATE OPIOID LITIGATION

Arkansas
City of Seattle
Mississippi
Ohio

AVERAGE WHOLESALE PRICE LITIGATION

Arizona
Connecticut
Montana

Nevada

MCKESSON DRUG LITIGATION

Arizona

Connecticut

Montana

Oregon

Virginia

City of San Francisco

Arizona Health Authority

ZYPREXA

Connecticut

Minnesota

A list of Hagens Berman's public entity clients is attached as Exhibit A.

The majority of Hagens Berman's cases involve complex litigation with multiple defendants and multiple claims, and the firm litigates cases in both state and federal courts, and as part of multi-district litigations. Our experience in complex litigation is exemplified by our results in such cases, including the tobacco litigation described above in which we represented 13 states, including Vermont, and the following:

- Hagens Berman served as co-lead counsel in what was then the largest antitrust settlement in history – valued at \$27 billion, *Visa-Mastercard Antitrust Litigation*;
- Hagens Berman obtained the then-largest automotive settlement in history in a class action that recovered \$1.6 billion for vehicle owners, *Toyota Unintended Acceleration Litigation*;
- Hagens Berman was lead counsel in racketeering cases against McKesson for drug pricing fraud that settled for more than \$444 million on the eve of trials, *McKesson Drug Litigation*.

Baron & Budd, P.C. – Baron & Budd, P.C. has long believed in “Protecting What’s Right” for individuals and public entities. Four decades ago, the firm was one of the first to fight the manufacturers of asbestos products and became one of the country’s leading asbestos litigation firms. It quickly grew to be one of the largest plaintiffs’ firms in the United States. Baron & Budd was also a leader in environmental toxic tort cases. Beginning in the early 1980s and spanning 21 years, the firm represented hundreds of people in Arizona who suffered personal injuries as a result of contaminated drinking water. That case is widely considered among the most important pieces of litigation involving personal injuries caused by water pollution.

The firm’s work today grows from those deeply established roots in environmental and toxic tort cases. Our Environmental Litigation Group, led by Scott Summy, has represented hundreds of public entities across the United States whose water, soil, air, and precious natural resources are contaminated with chemicals including perfluorinated chemicals like PFOA and

PFOS, industrial compounds such as PCBs, PCE, and TCE, pesticides like atrazine and 1,2,3-TCP, and gasoline additives such as MTBE. Through litigation, the firm has recovered funds to remove these contaminants from natural resources, drinking water supplies, and property --- restoring those communities.

Over the last four decades, Baron & Budd expanded its practice to include pharmaceutical and medical device litigation, consumer protection and financial industry fraud litigation, securities litigation, antitrust cases, employment rights litigation, nursing home abuse cases, automobile recall litigation, and wildfire litigation. The firm has represented Attorneys General and states, governmental subdivisions (including municipalities, and school districts), public utilities, communities, as well as businesses and individuals. Baron & Budd, P.C. has represented over 400 governmental entities in various types of litigation. The attached spreadsheet (Exhibit B) identifies each entity, the type of litigation, and the years of representation.

The firm currently represents public entities whose drinking water supplies and other natural resources are contaminated with PFAS chemicals. Cases alleging harm caused by certain PFAS chemicals contained in aqueous film-forming foam (“AFFF”) used in firefighting have been consolidated in MDL 2873 in the District Court of South Carolina. Baron & Budd attorneys have been named as Co-Lead Counsel and to the Executive Committee for the MDL, and several serve on committees established for the litigation.

- 2. Please include the specific identity and experience of the individual attorney or attorneys who would be providing services under the contract. Applicants should present a team of attorneys that have significant experience in complex civil and environmental litigation. Full disclosure of all attorneys and staff who are not directly employed with the firm shall be disclosed. Attach copies of resumes of each member of the proposed team in your response to this RFP.**

The firms identify below the attorneys who would be providing services under the contract. In addition to the below biographies of our team, we have attached resumes for each team member as Exhibit C to our response.

Hagens Berman Sobol Shapiro LLP – Steve Berman, the managing partner of Hagens Berman and co-chair of the environmental practice group (Seattle, WA), and Matthew Pawa, a partner and co-chair of the Hagens Berman environmental practice group (Newton, MA), will be the lead attorneys for Hagens Berman on the potential engagement. The following Hagens Berman attorneys would work on the potential engagement as necessary: Barbara Mahoney, Partner (Seattle, WA), Benjamin Krass, Of Counsel (Newton, MA), Wesley Kelman, Of Counsel (Newton, MA), and Ted Wojcik, Associate (Seattle, WA).

Steve Berman – Steve Berman co-founded Hagens Berman in 1993 and is the firm’s managing partner. He represents consumers, investors and employees in large, complex litigation held in state and federal courts and has made environmental litigation a cornerstone of the firm’s mission statement. Steve represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon *Valdez*, securing a multi-million dollar

award. Under his leadership, the firm has represented an impoverished Alaskan village against some of the world's largest greenhouse gas offenders, filing suit against nine oil companies and 14 electric power companies. Steve has also prompted the firm to file environmental cases related to grass burning, commercial development at Grand Canyon National Park, and has also represented property owners in class-action litigation for property damage and environmental harm to the sensitive Puget Sound region, caused by a high-speed ferry operated by Washington State Ferries. Steve has pioneered pursuing car manufacturers who have been violating emissions standards, including: Mercedes BlueTEC vehicles, GM Chevy Cruze, Dodge Ram 2500, Dodge Ram 1500 and Jeep Cherokee. Steve and the firm's work in emissions-cheating investigations is often ahead of the EPA and government regulators. Berman's trial experience has earned him significant recognition and led The National Law Journal to name him one of the 100 most powerful lawyers in the nation, and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country. He is considered one of the nation's most successful class-action attorneys.

Matthew Pawa – As partner and co-chair of Hagens Berman's environmental practice group, Matt Pawa helps lead the firm's pioneering efforts against companies that have polluted the environment and harmed public health. Matt represented the state of New Hampshire for 13 years in a groundwater contamination case against the nation's largest oil companies, which resulted in more than \$100 million in pre-trial settlements and a \$236 million verdict against Exxon Mobil Corporation in 2013 – the largest verdict in New Hampshire history. He also represented the state of Vermont in its MTBE litigation. His groundbreaking approach to environmental law formed first-of-their-kind global warming cases. He has handled jury trials, bench trials and argued appeals in state and federal courts across the nation, and collaborated with state attorneys general and non-profit clients on a major global warming case that went to the U.S. Supreme Court.

Barbara Mahoney – Barbara Mahoney is a partner at Hagens Berman's Seattle office where she litigates complex class-action cases within multiple practice areas, including environmental litigation. Barbara is currently working on the firm's Cane Run Power Plant case representing Kentucky homeowners in a class-action lawsuit against Louisville Gas and Electric Company. The suit alleges that it illegally dumped waste from a coal-fired power plant onto neighboring property and homes, and seeks damages and injunctive relief ceasing activities that allow coal combustion byproducts to escape from the Cane Run site. She also has been involved heavily in the firm's governmental representation cases, including several lawsuits against McKesson Corporation relating to allegations that the company engaged in a scheme that raised the prices of more than 400 brand-name prescription drugs, resulting in two separate national class-action settlements for \$350 million and \$82 million. Ms. Mahoney is currently part of the firm's legal team appointed interim class counsel representing 2014-16 BMW i3 REX owners in a multi-state product defect case and as interim direct purchaser steering committee member in the *In Re: Generic Pharmaceuticals Pricing Antitrust*, multi-district litigation No. 2724 (E.D. Pa.).

Benjamin Krass – Benjamin Krass is Of Counsel at Hagens Berman's Newton, Massachusetts office and brings more than a decade of environmental law experience to the firm. He represented the state of New Hampshire from 2003-2016 in litigation against major oil companies for statewide contamination of the state's waters with the chemical and gasoline

additive MTBE. He participated in the three-month trial against ExxonMobil, including handling the direct examination of expert and state witnesses, which resulted in a \$236 million jury verdict against ExxonMobil. Benjamin also represented the state of Vermont in its MTBE litigation for over four years, and currently represents the State of Rhode Island in its statewide MTBE case.

Wesley Kelman – Wes Kelman is Of Counsel at Hagens Berman’s Newton, Massachusetts office, and has worked for many years to protect the environment, beginning at the Environmental Protection Agency as an attorney working on CERCLA matters and continuing in private practice. He worked on New Hampshire’s \$236 million recovery against ExxonMobil in the MTBE litigation, and on key early global warming cases on behalf of land trusts and an Alaskan village. Wes represented the state of Vermont in its MTBE litigation for over four years. He also has represented citizen groups in administrative litigation over air pollution permits for a major new power plant.

Ted Wojcik – Ted is a first-year associate at Hagens Berman. In his time at the firm, he has worked on cases involving mass environmental torts and a variety of class actions, including: several ongoing cases involving defective automobiles, including one against Bosch related to its role in the Volkswagen emissions cheating scandal, and another against General Motors based on its sale of vehicles with defective ignition switches; a case alleging the systematic overcharging of tenants for electricity against a real estate investment trust that recently settled for \$90 million; and an ongoing case against several online travel companies alleging systematic overcharges in conjunction with online booking. Before starting at Hagens Berman, Ted worked as a law clerk to Judge Mark Cohen of the Northern District of Georgia and Judge Marjorie Allard of the Alaska Court of Appeals.

Baron & Budd, P.C. – The following Baron & Budd attorneys would work on the potential engagement as necessary: Scott Summy, Celeste Evangelisti, Cary McDougal, Carla Burke Pickrel, Stephen Johnston, Cristina Sanchez, Irma MacLean, John Fiske, Jason Julius, Brett Land, and Staci Olsen. The lawyers identified above work in Baron & Budd’s Environmental Litigation Group. Led by Scott Summy, the Environmental Litigation Group represents public entities in litigation to recover costs of removing chemical contamination from public water supplies, governmental facilities, natural resources, and public property, and the costs of restoring valuable resources for public use. Over two decades, the Group has represented hundreds of governmental subdivisions, businesses, and individuals in claims arising from various types of contamination.

The Group currently represents the Town of Barnstable, Massachusetts and Emerald County Utilities Authority in PFAS litigation. Both of these public water suppliers allege that the use of AFFF firefighting foam contaminated their drinking water wells with PFOA and PFOS. These cases seek the costs of removing the PFAS chemicals from the drinking water supply.

The Group also represents the State of Washington, the District of Columbia, the City of Baltimore, the City of Chula Vista, the City of San Diego, the City of Long Beach, the City of San Jose, the City of Oakland, the City of Berkeley, the City of Portland, the Port of Portland,

the City of Spokane, and the City of Seattle in environmental and public nuisance actions against Monsanto Company for polluting America's waterways with polychlorinated biphenyls (PCBs). The litigation seeks damages for pollution of infrastructure as well as the restoration of natural resources compromised by the presence of PCBs.

The Group regularly represents public water providers (e.g., states, municipalities, water districts, utilities, and school districts) whose water is contaminated by intrusive chemicals. Through litigation, the Group seeks to recover the costs of restoring affected groundwater supplies and removal of chemicals from other natural resources as well as the costs to install and operate treatment facilities for drinking water wells. The firm also represents private well owners around the country whose wells are contaminated. That litigation has involved a variety of chemicals including PFOA, PFOS, GenX, MTBE, TCP, TCE, PCE, and PCBs.

For example, the Environmental Litigation Group has represented hundreds of public water providers in litigation arising from contamination of water supplies with MTBE, a gasoline additive. One set of cases consolidated the claims of approximately 150 water providers against major oil companies who decided to blend MTBE into gasoline knowing that it would likely contaminate water supplies. The Group represented the State of Vermont and currently represents the State of Rhode Island in MTBE litigation.

In similar litigation, the Group also represented all public water providers in the United States whose water was contaminated with atrazine, a common agricultural chemical used on corn and other crops. On behalf of these water providers, the Group brought claims against Syngenta, the company that makes atrazine and is aware that its normal use pollutes surface water supplies and causes drinking water contamination.

The Group has also played a major role in representing governmental entities in litigation arising from the Deepwater Horizon explosion and oil spill in the Gulf of Mexico.

In addition, the Group represents the County of Sonoma, the County of Napa, the County of Mendocino, the County of Santa Barbara, the City of Santa Barbara, Montecito Water District and other public entities in both Northern and Southern California in litigation against PG&E and SoCal Edison for damages resulting from the devastating wildfires of 2015 and 2017.

Each lawyer's qualifications and experience is discussed below.

Scott Summy – Mr. Summy has devoted his professional practice to environmental litigation for almost twenty years. In that time, he has represented many clients seeking to restore contaminated natural resources, remediate polluted release sites, and remove toxic substances from both public and private property. He is well-versed in both federal and state statutory and common-law causes of action and has litigated these types of cases under a variety of theories and laws. As the leader of the firm's Environmental Litigation Group, he brings his experience to bear in every case the Group litigates. An innovative thinker, Mr. Summy stays abreast of the emerging concerns over particular environmental issues and develops approaches to solve those issues for clients.

Although many MTBE cases have now been litigated, Mr. Summy was the first lawyer to try an MTBE case before a jury. In doing so, he began to think about environmental litigation in unorthodox ways, looking for theories that would focus liability on the parties that knowingly decided to prioritize profits over environmental health. In 2004, Baron & Budd filed suit in state courts in seventeen states on behalf of public water providers, including states, municipal subdivisions, and public utilities, to recover damages for contamination of their water supplies and other natural resources with the gasoline additive MTBE. Although most of the plaintiffs alleged common-law products liability, nuisance, trespass, and negligence claims, some also alleged state-specific statutory causes of action allowing recovery for releases of oil and oil-related chemicals. Those suits named as defendants all the oil refiners in the United States, more than two dozen corporate entities, who had decided to add MTBE to all gasoline sold in the country despite their knowledge that the addition of MTBE to gas would inevitably contaminate drinking water supplies. The refiners removed the cases to federal court, arguing that EPA regulations preempted the state court suits. After the defendants removed the cases to federal court, they were consolidated in MDL 1358 before the Honorable Shira Scheindlin in the Southern District of New York.

The court named Scott Summy as Co-Liaison Counsel for all plaintiffs and appointed him to the Plaintiffs' Steering Committee. In his leadership role, Mr. Summy also proved an effective negotiator: in 2008, the plaintiffs' group, which numbered close to 200, reached a settlement valued at approximately \$500 million. Baron & Budd has continued to file additional MTBE cases, which have settled following the same methodology. The firm currently represents the States of Rhode Island and represented Vermont in MTBE cases seeking restoration of water supplies and other contaminated resources.

Since 2008, Mr. Summy has settled MTBE cases for hundreds of public entity clients, amassing well over \$1 billion in recovery for affected communities. His innovative approach to environmental litigation has proved successful with respect to litigation arising from other types of chemical contamination, too --- from agricultural chemicals such as atrazine and TCP to industrial formulations like PCBs, PCE, TCE, PFOA, PFOS, and MTBE. Mr. Summy often takes leadership roles in complex cases. He served as Liaison Counsel and was appointed to the Plaintiff's Steering Committee for the national MTBE Multi-District Litigation; he was appointed to the Plaintiffs' Steering Committee and Executive Committee in the Gulf Oil Spill Multi-District Litigation in the Eastern District of Louisiana arising from the Deepwater Horizon Oil Spill in the Gulf of Mexico. Mr. Summy was recently appointed by the court as Co-Lead Counsel in the AFFF MDL pending in the District of South Carolina.

Scott Summy and the Environmental Litigation Group he leads at Baron & Budd originated the idea of pursuing Monsanto to recover the costs of remediating waterways impaired by PCBs. In 2015, Baron & Budd filed the first suit of its kind against the chemical giant for harm caused by PCBs. While the company has been a frequent target in litigation seeking damages for releases from its manufacturing facilities, Baron & Budd sued Monsanto for creating a public nuisance by selling PCBs when it knew that they could not be used without causing widespread environmental contamination. That first lawsuit, on behalf of the City of San Diego, was just the first of many others along the west coast. Baron & Budd restated its nuisance claims and added products liability counts against Monsanto in lawsuits filed for the

Cities of Berkeley, Long Beach, Oakland, San Jose, Portland, Seattle, Spokane, the Port of Portland, and the State of Washington. The unprecedented litigation seeks to shift the burden of PCB remediation away from governmental subdivisions and affected residents and onto Monsanto --- the company that maximized production of PCBs after it learned that environmental contamination was inevitable.

In addition, he is recognized as a formidable force on the national stage by both his peers and his adversaries, who respect Mr. Summy's reasonable and rational approach to litigation and the respect with which he treats all colleagues. His groundbreaking work for California communities affected by MTBE won Mr. Summy and his legal team the "Attorneys of the Year" award from California Lawyer in 2001. And Public Justice twice named Mr. Summy and his team as Finalists for the organization's Trial Lawyer of the Year Award — in 2009, for cases arising from MTBE contamination, and again in 2013, for cases arising from atrazine contamination. Mr. Summy was also included in The Best Lawyers in America (Woodward White, Inc., 2006-2015).

Celeste Evangelisti – Ms. Evangelisti has worked alongside Scott Summy since 1999 and played an instrumental role in developing the evidence of the oil refiners' liability in the MTBE litigation. Since then, she has similarly developed litigation against the manufacturers of other chemicals including Syngenta and Monsanto. She draws on her long experience with public entities seeking to remediate chemical contamination from public drinking water systems, water supplies, and other natural resources. For almost 20 years, she has litigated these cases under various state and federal laws and has appeared in numerous state and federal courts. She is instrumental in developing the liability evidence against each corporate defendant in all major litigation. In doing so, Ms. Evangelisti fights for discovery, creates elaborate timelines, assembles trial-ready exhibits, and shapes the stories that move juries and judges.

Cary McDougal – A well-respected trial lawyer, Cary McDougal has spent thirteen years representing individuals, businesses, and public entities in suits to remove contaminants from private property, public property, release sites, public water systems, water supplies, and other natural resources. In addition to managing the Group's staffing and employment needs, he immerses himself in all phases of litigation, from staffing document review to arguing motions and developing settlement strategies.

Carla Burke Pickrel – Ms. Pickrel has devoted her entire nineteen-year career to environmental and toxic tort cases. Since 2004, she has represented public entities and businesses seeking to restore contaminated natural resources, remediate polluted release sites, and remove toxic substances from both public and private property. One of the Group's thought leaders, she develops legal theories and concepts, and draws from her experience as an appellate lawyer. She is primarily responsible for briefing and arguing motions and appeals and has demonstrated her talents in all of the Environmental Litigation Group's cases.

Stephen Johnston – Stephen Johnston has dedicated his 21 year career to environmental litigation. He manages the firm's cases arising from the use of an agricultural chemical 1,2,3-trichloropropane, which has caused extensive contamination in farmlands and resulted in enormous cost to public entities in those areas. For the entities involved, Mr. Johnston has

recovered over \$200 million. He is also heavily involved in litigation arising from the Chemours chemical discharges to the Cape Fear River in North Carolina.

Cristina Sanchez – In her 13 years at the firm, Cristina Sanchez has represented public entities and businesses harmed by environmental contamination. She developed her skills by participating in discovery and depositions in the MTBE litigation, and she has since used those skills in litigation arising from TCP and PFOA/PFOS contamination. Since 2010, she has worked tirelessly on behalf of businesses and governmental entities impacted by the Deepwater Horizon Oil Spill in the Gulf of Mexico.

Jason Julius – Jason Julius’ practice focuses solely on environmental litigation, and he has spent his entire career litigating complex matters from both a plaintiff and defense perspective. He serves as a liaison between Baron & Budd and the firm’s PCB clients, and is responsible for assisting with all aspects of litigation, including pleadings, discovery, and motion practice.

Irma MacLean – Irma MacLean has extensive experience working with public entities who have natural resource damages and other claims. For many years, she has litigated oil spill cases, involving offshore spills that impacted the Pacific Coast and the Gulf of Mexico. In her work for the Deepwater Horizon spill cases, she worked alongside Scott Summy in developing scientific models useful for settlement negotiations. She is currently involved in the daily management of the State of Washington’s PCB lawsuit and serves as a liaison between the firm, the Attorney General, and the various state agencies and departments involved in discovery and document production.

John Fiske – John Fiske cared about “protecting what is right” long before joining Baron & Budd. His twelve-year career includes impressive legal victories in personal injury cases and demonstrates concern for local communities. For the last six years, he has litigated complex environmental contamination and toxic tort cases and currently represents populations suffering TCE contamination, public entities impacted by PCB contamination, governmental subdivisions overwhelmed by the opioid epidemic, and businesses and individuals devastated by wildfires.

Brett Land – Brett Land has proven himself to be a valuable member of the Baron & Budd team. His particular expertise is working with experts to develop the scientific evidence necessary to support the liability and damages aspects of cases.

Staci Olsen – Ms. Olsen is a twenty year attorney handling the management of electronic information, e-discovery, and document management. She oversees and is skilled in all phases of document management using state of the art programs for document procurement, analysis and production. Ms. Olsen oversees the management of a staff of attorneys who review and analyze voluminous documents in matters of complex litigation. She not only efficiently manages massive amounts of documents in multi-party complex litigation cases but works with and relieves the burden placed on public entity clients who have sizeable databases.

- 3. Identify whether your firm has been through significant developments in the past three years, such as a change in ownership or restructuring. Also, please identify whether you anticipate any significant changes within the next five (5) years.**

Hagens Berman Sobol Shapiro LLP – Hagens Berman has not been through significant developments, such as changes in ownership or restructuring, within the past three years. The firm notes, that as discussed above, in September, 2017, Hagens Berman expanded its environmental practice by adding several established litigators, including Matt Pawa, Ben Krass, and Wes Kelman. The firm does not anticipate any significant firm changes within the next five years.

Baron & Budd, P.C. – Baron & Budd has not been through significant developments, such as changes in ownership or restructuring, within the past three years, and does not anticipate any significant firm changes within the next five years.

- 4. An expression of willingness to work under the direction of and with the AGO on this matter.**

Hagens Berman and Baron & Budd have demonstrated their willingness to work with the AGO through their previous representation of the Vermont AGO in litigation arising from MTBE contamination of State resources. We are committed to minimizing the burden on AGO staff while soliciting substantive input from the AGO. Because the firms have worked with public entities for more than twenty years, our attorneys understand the demands of states, governmental subdivisions and agencies. The firms understand that the Attorney General's Office, at all times, will direct the litigation in all respects.

- 5. A description of the existence of any possible conflicts of interest, including any lawsuits and disputes where the firm represents interests adverse to the State of Vermont; a representation that the firm would have no significant conflicts of interest, for example, conflicts that would be difficult to waive or would raise questions about loyalty to the State of Vermont's interests; and a representation as to other clients the firm represents in the subject area of this RFP. In addition, applicants, including any equity owners of the firm, will identify whether they have previously made campaign contributions to the current Attorney General or otherwise registered lobbyists or lobbyist employers with the State of Vermont.**

Hagens Berman Sobol Shapiro LLP – Hagens Berman is not aware of any possible conflicts of interest. Hagens Berman does not currently represent any other clients involving PFAS contamination. Neither Hagens Berman nor its attorneys have made campaign contributions to the current Attorney General or otherwise registered lobbyists or lobbyist employers with the State of Vermont.

Baron & Budd, P.C. – Baron & Budd is aware of no potential conflicts of interest that would prevent the firm from representing the AGO in PFAS litigation.

Baron & Budd performs a formal conflict check before undertaking representation of any client. That review considers actual and potential conflicts that may exist between the prospective client and both the firm's present and past clients as well as the firm's attorneys. Baron & Budd performs these checks using a proprietary case management system called eCase. When a new matter is created in eCase for a potential client, a conflict check is required and prevents matters from reaching a "post contract" stage until the conflict check has been performed. The eCase check evaluates all relevant information known to the firm concerning individuals, entities, relationships, and Baron & Budd attorneys. eCase tracks the original requesting user, any person performing the search, and any person who updates conflict results. eCase generates a weekly and monthly report of conflict checks performed and the results of those checks. If any conflict, whether actual or potential, is found, the software prohibits further change to the potential client's electronic file until the conflict is resolved.

Should the conflict check process reveal an actual or potential conflict with the firm's representation of a particular client, the firm fully researches the facts and ethical rules to determine the scope of conflict and whether potential resolution is possible. The firm often consults with independent ethics counsel to review the conflict and the firm's proposed solution. Once Baron & Budd is satisfied that the representation may proceed, the firm's lawyers remain vigilant for potential conflicts that may arise during the course of representing a particular client.

Baron & Budd has performed no work and reached no conclusion for any former or current client that would cause Baron & Budd to be conflicted or disqualified as counsel in this matter. Although the firm does represent other public entities in PFAS litigation, their interests are aligned with those of Vermont. The firm has not taken, and does not anticipate taking, a position in those cases that would adversely impact Vermont.

Neither Baron & Budd nor its attorneys have made campaign contributions to the current Attorney General or otherwise registered lobbyists or lobbyist employers with the State of Vermont.

6. Please report any professional sanctions or other pending or threatened governmental or regulatory proceedings which would have an adverse impact on the firm or any member of the firm. Please also include an explanation and indicate the current status or disposition.

Hagens Berman Sobol Shapiro LLP – The Eastern District of Pennsylvania awarded sanctions against Hagens Berman in three thalidomide cases because the court thought the cases should have been dismissed as untenable by at least April of 2014. *See* <https://www.hbsslaw.com/cases/thalidomide>. A former partner was referred by the firm to state bars for potential disciplinary proceedings in connection with two of the thalidomide cases. One state bar dismissed the complaint against the former partner; other complaints remain pending. There are additional hearings scheduled in May, 2019 before the Eastern District of Pennsylvania concerning the conduct of the former partner, and the due diligence in filing the cases.

Baron & Budd, P.C. – None.

7. **Within the last five (5) years, has your firm, or a partner or attorney in your firm, been involved in litigation or other legal proceedings about legal services provided by your firm, partner, or attorney? If so, please provide an explanation and indicate the current status or disposition.**

Hagens Berman Sobol Shapiro LLP – Please see Hagens Berman’s response to question #6 above. In addition, Hagens Berman partner Matt Pawa has pending motions to quash or dismiss two legal proceedings by Exxon Mobil Corp. seeking discovery related to our climate change legal work. In one, a federal court has dismissed Exxon’s underlying federal case and Pawa’s motion to quash his third party subpoena is stayed pending Exxon’s appeal. *Exxon Mobil Corp. v. Schneiderman*, 316 F. Supp. 3d 679 (S.D.N.Y. 2018), *appeal pending*, No. 18-1170 (2d Cir.); *Exxon Mobil Corp. v. Schneiderman*, No. 1:16-cv-12504-WGY (D. Mass.). The state court matter is pending on appeal on the issue of personal jurisdiction. *City of San Francisco v. Exxon Mobil Corp.*, No. 02-18-00106-cv (Tex. Ct. App.). These are discovery matters; Exxon has not filed any claims against Pawa or Hagens Berman.

Baron & Budd, P.C. – Please see the attached Exhibit D.

8. **Please provide your proposed contingency fee arrangement including, but not limited to, allocation of expenses and costs. This proposal should also include information about your firm’s financial capacity to sustain complex and protracted litigation on a contingency fee basis.**

The firms propose the following contingency fee arrangement:

- 25% on any amount recovered up to \$100 million;
- 20% on any amount recovered over \$100 million up to \$300 million;
- 12% on any amount recovered over \$300 million.

Contingency fee percentages shall be computed on the basis of the State’s gross recovery, before deduction of costs and expenses. The contingent fee is calculated by multiplying the gross recovery by the fee percentage. There shall be no payments to the firms from a general fund of the State.

“Gross recovery” means the total recovery whether by settlement, arbitration award, court judgment following trial or appeal, or otherwise. “Gross recovery” shall include, without limitation, the following: (1) the then-present value of any monetary payments to be made to the State; and (2) the fair market value of any non-monetary property and services to be transferred and/or rendered for the benefit of the State; and (3) any attorneys’ fees recovered by the State as part of any cause of action that provides a basis for such an award. “Gross recovery” may come from any source, including, but not limited to, the adverse parties to the action and/or their insurance carriers and/or any third party, whether or not a party to the action.

No General Fund Payments. In no event will the State be required to pay legal fees out of any fund other than the monies recovered from defendants (or their insurers, agents, or other representatives) in this litigation.

Hagens Berman and Baron & Budd both have the financial capacity to sustain complex and protected litigation on a contingency fee basis and will self-fund any potential case.

9. Please provide the names and contact information of three (3) references, including at least one (1) governmental client.

Hagens Berman Sobol Shapiro LLP provides the following references:

State of New Hampshire MTBE Litigation:
K. Allen Brooks, Sr. Asst. Attorney General
Chief, Environmental Protection Bureau
N.H. Dept. of Justice
33 Capitol Street, Concord NH 03301
[REDACTED]

New York City Climate Change Litigation:
Susan E. Amron, General Counsel,
New York City Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271
[REDACTED]

State of Rhode Island MTBE Litigation:
Neil F.X. Kelly, Deputy Chief, Civil Division
Assistant Attorney General
The State of Rhode Island
Office of the Attorney General
150 South Main Street, Providence RI 02903
[REDACTED]

Baron & Budd, P.C. provides the following references:

State of Rhode Island – Attorney General
Neil F.X. Kelly, Deputy Chief of the Civil Division
[REDACTED]

State of Mississippi – Attorney General
Jim Hood
[REDACTED]

California Water Service Company
Lynn P. McGhee, Vice President and General Counsel
[REDACTED]



EXHIBIT A

Hagens Berman Sobol Shapiro LLP Public Entity Clients

Client	Case	Dates	Nature of Work Performed
local businesses, fisherman	Exxon Valdez	1989	Hagens Berman represented various classes of claimants, including fisherman and businesses located in Prince William Sound and other impacted areas, who were damaged by one of the worst oil spills in United States history. A \$5 billion judgment was awarded by a federal jury, and a \$98 million settlement was achieved with Alyeska, the oil company consortium that owned the output of the pipeline.
King County, WA	Climate Change	2018-present	Hagens Berman represents King County, Wash. in a lawsuit filed against BP p.l.c., Chevron Corp., ConocoPhillips, Exxon Mobil Corp. and Royal Dutch Shell plc alleging that the Big Oil giants are responsible for the county's costs of protecting its more than 2 million residents from global warming-induced harm to the local economy, infrastructure and the safety and welfare of its residents.
City of New York	Climate Change	2018-present	Hagens Berman represents the City of New York in a lawsuit filed against BP p.l.c., Chevron Corp., ConocoPhillips, Exxon Mobil Corp. and Royal Dutch Shell plc alleging that the Big Oil giants are responsible for the city's costs of protecting its more than 8.5 million residents from global warming-induced sea level rise, including expenses to construct seawalls and other coastal barriers, and heat-related hazards that threaten the health, safety and welfare of its residents.

Hagens Berman Sobol Shapiro LLP Public Entity Clients

Client	Case	Dates	Nature of Work Performed
Kivalina	Kivalina Global Warming Litigation	2008-2013	A tiny impoverished Alaskan village of Inupiat Eskimos took action against some of the world's largest greenhouse gas offenders, claiming that contributions to global warming were leading to the destruction of their village and causing erosion to the land that would eventually put the entire community under water. Hagens Berman, along with five law firms and two non-profit legal organizations, filed a suit against nine oil companies and 14 electric power companies that emit large quantities of greenhouse gases into the atmosphere. The lawsuit alleged their actions resulted in the destruction of protective ice, exposing the village to severe storms that destroy the ground the village stands on. Relocating the village of Kivalina could cost between \$95 and \$400 million, an expense the community cannot afford.
California	Opioids	2014-present	Hagens Berman was hired to assist governmental entities in a case against pharmaceutical manufacturers charging that the companies deceived physicians and consumers about the dangers of prescription painkillers.
City of Seattle	Opioids	2017-present	
Ohio	Opioids	2017-present	
Mississippi	Opioids	2015-present	
Arkansas	Opioids	2018-present	
Louisiana	Opioids	2017-present	
Orange County	Opioids	2014-present	
Salt Lake County	Opioids	2018-present	
Hillsborough County, FL	Opioids	2018-present	
Arizona Attorney General	General Motors	2014-2015	Hagens Berman assisted the Arizona Attorney General in its law enforcement action versus General Motors, claiming that the automaker had defrauded the state's consumers of an estimated \$3 billion.
California	General Motors	2014-2015	Hagens Berman joined the district attorney of Orange County, California in a consumer protection lawsuit against General Motors, claiming that the automaker has deliberately endangered motorists and the public by intentionally concealing serious safety defects to avoid the cost of recall and replacement.

Hagens Berman Sobol Shapiro LLP Public Entity Clients

Client	Case	Dates	Nature of Work Performed
Oregon, City of San Francisco, San Francisco County (that sued on behalf of the state of California), Utah, class action of counties and local governments, Virginia, Connecticut	McKesson AWP	2008-2012	Hagens Berman represented cities, counties and municipalities that alleged they overpaid for medications because McKesson Corporation engaged in a scheme to fraudulently inflate the price of more than 400 brand-name prescription drugs.
Oregon Virginia Utah Montana Mississippi Connecticut	Pharma AWP	2006-2012	Hagens Berman attorneys Steve Berman and Tom Sobol were lead counsel against 11 pharmaceutical companies, including Abbott Laboratories and Watson Pharmaceuticals, resulting in multiple settlements between 2006 and 2012. Defendants agreed to pay \$125 million in a nationwide settlement for intentionally inflating reports of the average wholesale prices (AWP) on certain prescription medications.
Washington Arizona Illinois Indiana New York Alaska Idaho Ohio Oregon Nevada Montana Vermont Rhode Island	Tobacco	1998	Steve Berman served as special assistant attorney general in prosecuting major actions against the tobacco industry. In November 1998, the initial proposed settlement led to a multi-state settlement requiring the tobacco companies to pay the states \$206 billion – the largest civil settlement in history – and to submit to broad advertising and marketing restrictions.
California Florida Georgia Hawaii Kentucky Maine	E-books	2014	Hagens Berman represented purchasers of e-books in 19 states and four U.S. territories, with the balance of the states represented by their respective attorneys general, in a class-action lawsuit against the nation's largest five publishing companies: Penguin Group (USA) Inc.; Hachette Book Group Inc.; HarperCollins Publishers LLC; Simon & Schuster Inc.; and Holtzbrinck Publishers, LLC, d/b/a Macmillan and Apple Inc. The suit alleged that the

Hagens Berman Sobol Shapiro LLP Public Entity Clients

Client	Case	Dates	Nature of Work Performed
Mississippi Montana Nevada New Hampshire New Jersey North Carolina Oklahoma Oregon Rhode Island South Carolina Washington Wyoming Guam US Virgin Islands America Samoa Northern Mariana Islands			companies colluded to artificially raise the price of e-books. Purchasers of e-books represented by the firm received \$62 million of a \$166 million partial settlement in the price-fixing litigation, and the firm's continued fight against Apple, which was decided by the Supreme Court, secured an additional \$400 million in settlements, repaying consumers twice their losses.
City of Newark, New Jersey	In re Liquid Aluminum Sulfate Antitrust Litigation	2015-Present	Hagens Berman represents the City of Newark, New Jersey in connection with a price-fixing litigation pending in New Jersey federal court. The case remains ongoing.
County of Hudson, New Jersey	In FieldTurf Marketing and Sales Practices Litigation	2017-present	Hagens Berman represents the County in connection with its purchase of defective artificial turf fields. The case remains ongoing.

EXHIBIT B

State	Public Sector Client	Chemical Related Litigation	Non-Chemical Related Litigation	Year Representation Commenced	Year Representation Concluded
AL	Baldwin County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Bibb County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Bullock County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Cherokee County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Chilton County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Clanton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Cullman		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Decatur		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Demopolis		Pharmaceutical Fraud and RICO - Opioids	2018	Present

AL	City of Enterprise		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Eufaula		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Fort Payne		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	City of Guin		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Hamilton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Hartselle		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Marion		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Mobile		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	City of Moulton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Opp		Pharmaceutical Fraud and RICO - Opioids	2017	Present

AL	City of Ozark		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	City of Phenix City		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	City of Selma		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	City of Troy		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	City of Union Springs		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	Coffee County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	Conecuh County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Cullman County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	Dallas County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Etowah/Gadsden		Pharmaceutical Fraud and RICO - Opioids	2017	Present

AL	Greene County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Lawrence County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Lowndes County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Madison County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Marengo County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Mobile County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Morgan County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	Pike County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Sumter County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
AL	Tallapoosa County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

AL	Town of Double Springs		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Tuscaloosa County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Washington County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
AL	Wilcox County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	California Water Service Company	MTBE		2005	2012
CA	California-American Water Company	MTBE		2004	2010
CA	Citrus Heights Water District	MTBE		2004	2009
CA	City of Pomona	MTBE		2008	2013
CA	City of Riverside	MTBE		2004	2011
CA	City of Santa Barbara	MTBE		2010	2011
CA	City of Santa Monica	MTBE		2000	2004
CA	Del Paso Manor Water District	MTBE		2004	2009
CA	Fair Oaks Water District	MTBE		2004	2009
CA	Florin Resource Conservation District	MTBE		2005	2009
CA	Fruitridge Vista Water Company	MTBE		2005	2011
CA	M & P Silver Family Partners II, et al.	MTBE		2003	2010
CA	Quincy Community Services District	MTBE		2004	2011
CA	Rio Linda Elverta Community Water District	MTBE		2004	2009
CA	Riverview Water District	MTBE		2005	2011
CA	Yosemite Spring Park Utility Co, Inc.	MTBE		2008	2012
CA	City of Santa Barbara	Oil Spill		2015	2017
CA	City of Berkeley	PCB		2015	Present
CA	City of Chula Vista	PCB		2017	Present
CA	City of Long Beach	PCB		2015	Present

CA	City of Oakland	PCB		2015	Present
CA	City of San Diego	PCB		2015	Present
CA	City of San Jose	PCB		2014	Present
CA	California Water Service Company	PCE		2008	2015
CA	City of Sunnyvale	PCE		2008	2012
CA	California Water Service Company	TCP		2008	Present
CA	City of Bakersfield	TCP		2005	Present
CA	City of Delano	TCP		2006	2015
CA	City of Livingston	TCP		2005	2011
CA	City of Oceanside	TCP		2005	2010
CA	City of Shafter	TCP		2006	2012
CA	City of Wasco	TCP		2006	2013
CA	Lamont PUD	TCP		2007	2014
CA	Montara Water & Sanitary District	TCP		2005	Present
CA	Sunny Slope	TCP		2010	Present
CA	City of Anaheim		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Buena Park		Deceptive Trade Practices - online hotel booking companies	2009	2016
CA	City of Carson		Deceptive Trade Practices - online hotel booking companies	2008	2016

CA	City of Cypress		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of Dana Point		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Eureka		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Fresno		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of Garden Grove		Deceptive Trade Practices - online hotel booking companies	2009	2016
CA	City of Huntington Beach		Deceptive Trade Practices - online hotel booking companies	2009	2016

CA	City of Irvine		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of La Palma		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Laguna Beach		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of Laguna Hills		Deceptive Trade Practices - online hotel booking companies	2009	2016
CA	City of LaQuinta		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Long Beach		Deceptive Trade Practices - online hotel booking companies	2008	2016

CA	City of Los Angeles		Deceptive Trade Practices - online hotel booking companies	2004	Present
CA	City of Manhattan Beach		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Martinez		Deceptive Trade Practices - online hotel booking companies	2009	2016
CA	City of Napa		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of Newport Beach		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of Ojai		Deceptive Trade Practices - online hotel booking companies	2007	2016

CA	City of Orange		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of Palm Springs		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Palmdale		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Riverside		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Sacramento		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of San Bruno		Deceptive Trade Practices - online hotel booking companies	2009	2016

CA	City of San Marcos		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Santa Monica		Deceptive Trade Practices - online hotel booking companies	2009	2016
CA	City of Santa Rosa		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of South Lake Tahoe		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	City of Sunnyvale		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of Twentynine Palms		Deceptive Trade Practices - online hotel booking companies	2008	2016

CA	City of Walnut Creek		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	City of West Hollywood		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	County of Monterey		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	Town of Corte Madera		Deceptive Trade Practices - online hotel booking companies	2007	2016
CA	Town of Truckee		Deceptive Trade Practices - online hotel booking companies	2008	2016
CA	Amador County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Butte County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

CA	Calaveras County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Contra Costa County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Del Norte County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	El Dorado County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Fresno County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Glenn County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Imperial County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Inyo County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Lake County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Lassen County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

CA	Madera County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Mariposa County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Mendocino County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Merced County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Modoc County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Mono County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Monterey County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Nevada County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Placer County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Plumas County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

CA	Sacramento County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	San Benito County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	San Diego County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Shasta County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Siskiyou County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Sutter County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Tehama County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Trinity County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Tuolumne County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Yuba County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
CA	Calaveras County		Wildfire	2018	Present
CA	Calaveras County Water District		Wildfire	2018	Present

CA	Carpinteria-Summerland Fire Protection District		Wildfire	2018	Present
CA	City of San Bruno		Wildfire	2018	Present
CA	City of San Buenaventura		Wildfire	2018	Present
CA	City of San Rosa		Wildfire	2018	Present
CA	City of Santa Barbara		Wildfire	2018	Present
CA	Ebbetts Pass Fire District		Wildfire	2018	Present
CA	Mendocino County		Wildfire	2018	Present
CA	Montecito Fire Protection District		Wildfire	2018	Present
CA	Montecito Water District		Wildfire	2018	Present
CA	Napa County		Wildfire	2018	Present
CA	San Andreas Fire District		Wildfire	2018	Present
CA	Santa Barbara County		Wildfire	2018	Present
CA	Sonoma County		Wildfire	2018	Present
CA	Ventura County		Wildfire	2018	Present
CA	West Point Fire District		Wildfire	2018	Present
CA	Yuba County		Wildfire	2018	Present
CT	Town of East Hampton	MTBE		2003	2010
CT	United Water Connecticut, Inc.	MTBE		2004	2010
CT	City of Hartford	PCB		2014	Present
FL	Escambia County Utility Authority aka Emerald Coast Utility Authority	MTBE		2003	2009
FL	City of Anna Maria	Oil Spill		2012	2015
FL	City of Bristol	Oil Spill		2012	2015
FL	City of Cedar Key	Oil Spill		2011	2015
FL	City of Holmes Beach	Oil Spill		2013	2015
FL	City of Marathon	Oil Spill		2011	2015
FL	City of Monticello	Oil Spill		2011	2015
FL	City of Niceville	Oil Spill		2014	2015
FL	City of Palmetto	Oil Spill		2012	2015
FL	City of Pensacola	Oil Spill		2011	2015
FL	City of St. Marks	Oil Spill		2013	2015
FL	City of Tallahassee	Oil Spill		2011	2015

FL	Collier County	Oil Spill		2012	2015
FL	Escambia County	Oil Spill		2012	2015
FL	Jackson County	Oil Spill		2011	2015
FL	Jefferson County	Oil Spill		2011	2015
FL	Lee County	Oil Spill		2012	2015
FL	Leon County	Oil Spill		2012	2015
FL	Manatee County	Oil Spill		2012	2015
FL	Monroe County	Oil Spill		2013	2015
FL	Okaloosa Gas District	Oil Spill		2012	Present
FL	Pensacola Downtown Improvement Board	Oil Spill		2014	2015
FL	Santa Rosa County	Oil Spill		2012	2015
FL	School Board of Calhoun County	Oil Spill		2011	2015
FL	School Board of Escambia County	Oil Spill		2012	2015
FL	School Board of Jefferson County	Oil Spill		2011	2015
FL	School Board of Leon County	Oil Spill		2011	2015
FL	School Board of Martin County	Oil Spill		2011	2015
FL	School Board of Miami-Dade County	Oil Spill		2011	2015
FL	School Board of Monroe County	Oil Spill		2011	2015
FL	School Board of Palm Beach County	Oil Spill		2011	2015
FL	School Board of Polk County	Oil Spill		2011	2015
FL	School Board of Santa Rosa County	Oil Spill		2012	2015
FL	School Board of Volusia County	Oil Spill		2011	2015
FL	School Board of Wakulla County	Oil Spill		2011	2015
FL	Town of White Springs	Oil Spill		2012	2015
FL	Village of Islamorada	Oil Spill		2013	2015
FL	Wakulla County	Oil Spill		2012	2015
FL	Emerald Coast Utilities Authority f/k/a Escambia County Utilities Authority	PFOA		2009	2011
FL	Emerald Coast Utilities Authority	PFOA/PFOS		2018	Present
FL	Bay County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

FL	Calhoun County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
FL	City of Bradenton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	City of Miami Gardens		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	City of New Port Richey		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	City of North Miami		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	City of Palm Bay		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	City of Panama City		Pharmaceutical Fraud and RICO - Opioids	2017	Present
FL	City of Pensacola		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	City of Pinellas Park		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	City of St. Petersburg		Pharmaceutical Fraud and RICO - Opioids	2018	Present

FL	City of Tallahassee		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Escambia County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Gulf County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Holmes County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Jackson County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Leon County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Miami-Dade County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Pasco County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Pinellas County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
FL	Santa Rosa County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

FL	Volusia County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	Bartow County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	City of Albany		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	City of Augusta		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	City of Columbus		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	Laurens County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	Lee County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	Monroe County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	Polk County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
GA	Union County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

GA	Wilkinson County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
HI	State of Hawaii		Payment Protection Plan	2012	2014
HI	State of Hawaii		Pharmaceutical Fraud - Plavix	2014	Present
IA	Iowa American Water	Alum		2016	Present
IA	Chariton Municipal Water Works	Atrazine		2010	2013
IA	Creston Water Supply	Atrazine		2010	2013
IA	Gladbrook Water Supply	Atrazine		2011	2013
IA	Iowa American Water Company	Atrazine		2009	2013
IA	City of Galva	MTBE		2004	2009
IA	City of Ida Grove	MTBE		2004	2009
IA	City of Manning	MTBE		2013	2014
IA	City of Sioux City	MTBE		2004	2009
IL	Illinois American Water	Alum		2016	Present
IL	City of Carlinville	Atrazine		2009	2013
IL	City of Fairfield	Atrazine		2009	2013
IL	City of Flora	Atrazine		2009	2013
IL	City of Gillespie	Atrazine		2010	2013
IL	City of Greenville	Atrazine		2008	2013
IL	City of Hillsboro	Atrazine		2009	2013
IL	City of Litchfield	Atrazine		2010	2013
IL	City of Mattoon	Atrazine		2009	2013
IL	City of Mount Olive	Atrazine		2010	2013
IL	Holiday Shores Sanitary District	Atrazine		2004	2013
IL	Illinois American Water Company	Atrazine		2009	2013
IL	Village of Coulterville	Atrazine		2009	2013
IL	Village of Evansville	Atrazine		2010	2013
IL	Village of Farina	Atrazine		2010	2013
IL	City of Nokomis	MTBE		2010	2014

IL	Village of Bethalto	MTBE		2010	2014
IL	Village of East Alton	MTBE		2002	2008
IL	Village of Island Lake	MTBE		2004	2009
IL	Village of Roanoke	MTBE		2008	2014
IL	Alexander County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Bond County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Calhoun County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Christian County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	City of Granite City		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	City of Metropolis		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	City of Rockford		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Coles County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Edwards County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

IL	Effingham County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Gallatin County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Hamilton County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Hardin County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Jasper County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Jefferson County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Jersey County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Johnson County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Lawrence County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Lee County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

IL	Livingston County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Marion County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Massac County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Pulaski County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Saline County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Schuyler County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Shelby County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Union County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Wabash County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Washington County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

IL	White County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IL	Williamson County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IL	Winnebago County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	Indiana American Water	Alum		2016	Present
IN	City of Jasper	Atrazine		2010	2013
IN	Indiana American Water Company	Atrazine		2010	2013
IN	City of Rockport	MTBE		2003	2009
IN	City of South Bend	MTBE		2004	2009
IN	North Newton School	MTBE		2004	2009
IN	Town of Campbellsburg	MTBE		2004	2009
IN	Town of Kouts	MTBE		2009	2011
IN	Town of Mishawaka	MTBE		2004	2009
IN	City of Beech Grove		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Evansville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Fishers		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Fort Wayne		Pharmaceutical Fraud and RICO - Opioids	2018	Present

IN	City of Greenwood		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	City of Hartford		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Huntington		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Jasper		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Jeffersonville		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	City of Kokomo		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	City of Lawrence		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Martinsville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Montpelier		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Muncie		Pharmaceutical Fraud and RICO - Opioids	2017	Present

IN	City of New Albany		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	City of Noblesville		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	City of Peru		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Seymour		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Shelbyville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of South Bend		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Terre Haute		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	City of Westfield		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	Harrison County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	Howard County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

IN	Jackson County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	Tippecanoe County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	Town of Atlanta		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	Town of Brownstown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	Town of Chandler		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	Town of Sheridan		Pharmaceutical Fraud and RICO - Opioids	2017	Present
IN	Town of Zionsville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
IN	Vigo County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KS	City of Carbondale	Atrazine		2009	2013
KS	City of Dodge City	Atrazine		2009	2013
KS	City of Hillsboro	Atrazine		2009	2013
KS	City of Marion	Atrazine		2009	2013
KS	City of Oswego	Atrazine		2009	2013
KS	City of Plains	Atrazine		2009	2013
KS	Miami County RWD 2	Atrazine		2009	2013
KS	Chisholm Creek Utility Authority	MTBE		2004	2009

KS	City of Bel Aire	MTBE		2004	2009
KS	City of Park City	MTBE		2004	2009
KS	Dodge City	MTBE		2004	2009
KS	Cherokee County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KS	Cowley County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KS	Pratt County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KS	Sedgwick County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KY	Kentucky American Water	Alum		2016	Present
KY	State of Kentucky		Pharmaceutical Fraud - Avandia	2012	2013
KY	Allen County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Anderson County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Bell County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Boone County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

KY	Boyd County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Boyle County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Bracken County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Bullitt County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Campbell County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Carlisle County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Carter County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KY	Christian County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	City of Lexington		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	City of Louisville/ Jefferson Metro Government		Pharmaceutical Fraud and RICO - Opioids	2017	Present

KY	Clark County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Clay County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Cumberland County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Elliott County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KY	Fleming County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Franklin County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Garrard County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Greenup County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Harlan County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Henderson County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

KY	Henry County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Hopkins County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Jessamine County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Kenton County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Knox County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Laurel County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Leslie County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Letcher County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KY	Lincoln County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Madison County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

KY	Marshall County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Martin County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KY	Montgomery County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KY	Nicholas County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Oldham County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Pendleton County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Perry County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Powell County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
KY	Pulaski County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Rowan County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

KY	Scott County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Shelby County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Spencer County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Union County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Wayne County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Whitley County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
KY	Woodford County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
LA	City of Breaux Bridge	MTBE		2015	2016
LA	City of Marksville	MTBE		2004	2010
LA	Town of Rayville	MTBE		2004	2010
LA	Grant Parish School Board	PCB		2016	2017
LA	City of Saint Martinville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
LA	East Baton Rouge Parish/Baton Rouge		Pharmaceutical Fraud and RICO - Opioids	2018	Present

LA	St. John Parish		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Brewster Water Department	MTBE		2013	2014
MA	Bridgewater Water Department	MTBE		2010	2014
MA	Brimfield Housing Authority (Brimfield, MA)	MTBE		2004	2009
MA	Centerville-Osterville-Marsons Mills Water Department	MTBE		2004	2009
MA	Chelmsford Water District	MTBE		2004	2009
MA	City of Brockton	MTBE		2004	2010
MA	City of Lawrence	MTBE		2006	2009
MA	City of Lowell	MTBE		2004	2009
MA	City of Methuen	MTBE		2004	2010
MA	City of Peabody	MTBE		2004	2010
MA	Cotuit Fire District Water Department (Cotuit, MA)	MTBE		2004	2010
MA	Dedham Westwood Water District	MTBE		2004	2010
MA	Dennis Water District	MTBE		2006	2009
MA	East Chelmsford Water District	MTBE		2004	2010
MA	Harborside Village	MTBE		2013	2014
MA	Hillcrest Water District (Leicester, MA)	MTBE		2004	2009
MA	Hopkinton Water Department	MTBE		2013	2014
MA	Leicester Water Supply District (Leicester, MA)	MTBE		2004	2010
MA	Lunenburg Water District	MTBE		2006	2009
MA	Massasoit Hills Trailer Park, Inc.	MTBE		2004	2010
MA	Newburyport Water Department	MTBE		2013	2014
MA	North Chelmsford Water District	MTBE		2004	2010
MA	North Raynham Water District	MTBE		2004	2010
MA	Raynham Center Water District	MTBE		2006	2009
MA	RPI Blueberry Estates	MTBE		2013	2014
MA	Russell Water Department	MTBE		2011	2014
MA	Sandwich Water District	MTBE		2004	2010

MA	Sudbury Water District	MTBE		2004	2010
MA	Town of Avon	MTBE		2004	2010
MA	Town of Barnstable	MTBE		2006	2009
MA	Town of Bedford	MTBE		2004	2010
MA	Town of Bellingham	MTBE		2004	2010
MA	Town of Billerica	MTBE		2005	2009
MA	Town of Burlington	MTBE		2006	2009
MA	Town of Charlton	MTBE		2004	2010
MA	Town of Danvers	MTBE		2004	2009
MA	Town of Douglas	MTBE		2006	2009
MA	Town of Dover	MTBE		2004	2010
MA	Town of Dudley	MTBE		2004	2010
MA	Town of Duxbury	MTBE		2003	2010
MA	Town of East Bridgewater	MTBE		2004	2010
MA	Town of East Brookfield	MTBE		2004	2010
MA	Town of Easton	MTBE		2004	2010
MA	Town of Edgartown	MTBE		2004	2010
MA	Town of Halifax	MTBE		2004	2010
MA	Town of Hanover	MTBE		2004	2010
MA	Town of Hanson	MTBE		2004	2010
MA	Town of Holden	MTBE		2008	2009
MA	Town of Holliston	MTBE		2004	2010
MA	Town of Hudson	MTBE		2004	2010
MA	Town of Lakeville	MTBE		2007	2009
MA	Town of Marshfield	MTBE		2006	2009
MA	Town of Merrimac	MTBE		2004	2010
MA	Town of Middleborough	MTBE		2006	2009
MA	Town of Millis	MTBE		2004	2010
MA	Town of Monson	MTBE		2004	2010
MA	Town of Norfolk	MTBE		2004	2010
MA	Town of North Attleborough	MTBE		2004	2010
MA	Town of North Reading	MTBE		2004	2010

MA	Town of Norwell	MTBE		2004	2010
MA	Town of Orange	MTBE		2006	2009
MA	Town of Pembroke	MTBE		2004	2010
MA	Town of Provincetown	MTBE		2006	2009
MA	Town of Reading	MTBE		2004	2010
MA	Town of Salisbury	MTBE		2004	2010
MA	Town of Scituate	MTBE		2006	2009
MA	Town of Spencer	MTBE		2004	2010
MA	Town of Sterling	MTBE		2006	2009
MA	Town of Stoughton	MTBE		2004	2010
MA	Town of Tewksbury	MTBE		2004	2010
MA	Town of Townsend	MTBE		2006	2009
MA	Town of Tyngsboro	MTBE		2004	2010
MA	Town of Uxbridge	MTBE		2006	2009
MA	Town of Ware	MTBE		2004	2010
MA	Town of Wayland	MTBE		2004	2010
MA	Town of Webster	MTBE		2006	2009
MA	Town of West Bridgewater	MTBE		2004	2010
MA	Town of West Brookfield	MTBE		2004	2010
MA	Town of Weymouth	MTBE		2004	2010
MA	Town of Wilmington	MTBE		2004	2010
MA	Town of Yarmouth	MTBE		2004	2010
MA	Water Supply District of Acton	MTBE		2004	2010
MA	Town of Westport	PCB		2016	2018
MA	Town of Barnstable	PFOA/PFOS		2016	Present
MA	City of Agawam		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Amesbury		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	City of Brockton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Chelsea		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Easthampton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Everett		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Greenfield		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Holyoke		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Leominster		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Lowell		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Lynn		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Malden		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	City of Melrose		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Methuen		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MA	City of Newburyport		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of North Adams		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Northampton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Peabody		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Pittsfield		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MA	City of Revere		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	City of Woburn		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MA	Town Millbury		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Acushnet		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Aquinnah		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Athol		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Auburn		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Barnstable		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Belchertown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Beverly		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Billerica		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Brewster		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Bridgewater		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Brookline		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Carver		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Charlton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Chelmsford		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Clarksburg		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Danvers		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Dedham		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Douglas		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Dudley		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of East Bridgewater		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Eastham		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Falmouth		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Franklin		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Freetown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Georgetown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Grafton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Hanson		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Holliston		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Hopedale		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Kingston		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Lakeville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Leicester		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Leverett		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Longmeadow		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Ludlow		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Lunenburg		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Lunenburg		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Marblehead		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Marshfield		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Mashpee		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Mattapoisett		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Middleborough		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Milford		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Nantucket		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of North Andover		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of North Attleborough		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of North Reading		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Northbridge		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Norton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Norwell		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Norwood		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Palmer		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Pembroke		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Plainville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Plymouth		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Rehoboth		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Rockland		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Salisbury		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Sandwich		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Seekonk		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Sheffield		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Shirley		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Somerset		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of South Hadley		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Southbridge		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Spencer		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Stoneham		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Stoughton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Sturbridge		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Sudbury		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Sutton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Swampscott		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Templeton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Tewksbury		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Truro		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Tyngsborough		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Upton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Walpole		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Ware		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Warren		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Watertown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of West Boylston		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of West Bridgewater		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of West Springfield		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of West Tisbury		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Westborough		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Westford		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Williamsburg		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Wilmington		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MA	Town of Winchendon		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MA	Town of Winthrop		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MD	City of Aberdeen	MTBE		2010	Present
MD	City of Salisbury	MTBE		2010	Present
MD	City of Taneytown	MTBE		2010	Present
MD	Commissioners of Sharptown	MTBE		2010	Present
MD	County Commissioners of Worcester County	MTBE		2009	Present
MD	Mayor and Council of Berlin	MTBE		2009	Present
MD	Town of Chestertown	MTBE		2009	Present
MD	State of Maryland		Pharmaceutical Fraud - Avandia	2012	2013
MD	Allegany County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MD	Cecil County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MD	City of Cumberland		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MD	City of Frostburg		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MD	City of Hagerstown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MD	St. Mary's County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MD	Washington County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	Branch County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	Canton Township		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	City of Livonia		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	City of Romulus		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	City of Wayne		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	Clinton Township		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	Eaton County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	Huron Township		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	Muskegon County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MI	Northville Township		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MI	Van Buren Township		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Missouri American Water	Alum		2016	Present
MO	City of Cameron	Atrazine		2009	2013
MO	City of Concordia	Atrazine		2010	2013
MO	City of Maryville	Atrazine		2010	2013
MO	City of Vandalia	Atrazine		2010	2013
MO	Missouri American Water Company	Atrazine		2009	2013
MO	City of Kennett	MTBE		2010	2014
MO	City of Pattonsburg	MTBE		2010	2014
MO	City of Portageville	MTBE		2013	2014
MO	Mound City	MTBE		2010	2014
MO	Cole County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Gasconade		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Gasconade County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Lewis County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Maries County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MO	Miller County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Montgomery County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Osage County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Ozark County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Phelps County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Pulaski County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Reynolds County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Ripley County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Shelby County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MO	Warren County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MO	Webster County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	State of Mississippi		Payment Protection Plan	2012	2015
MS	State of Mississippi		Pharmaceutical Fraud - Avandia	2011	2013
MS	State of Mississippi		Pharmaceutical Fraud - Granuflo	2014	Present
MS	State of Mississippi		Pharmaceutical Fraud - multiple drugs	2017	Present
MS	Amite County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Benton County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	City of Amory		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	City of Charleston		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	City of Columbia		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	City of Greenwood		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MS	City of Hattiesburg		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	City of Iuka		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	City of Laurel		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	City of Meridian		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	City of New Albany		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	City of Wiggins		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	County of Adams		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Forrest County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Holmes County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Itawamba County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MS	Jefferson County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Jefferson Davis County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Lafayette		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Laurel City		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Lawrence County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Leake County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Leflore		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Lincoln County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Marion County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Marshall County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

MS	Monroe County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Neshoba County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Newton County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Perry County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Prentiss County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Stone County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
MS	Tallahatchie County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Tippah County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Union County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MS	Walthall County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
MT	State of Montana	MTBE		2016	Present

Native American Tribe	Blackfeet Tribe		Pharmaceutical Fraud and RICO - Opioids	2018	Present
Native American Tribe	Eastern Band of Cherokee Indians Tribe		Pharmaceutical Fraud and RICO - Opioids	2017	Present
Native American Tribe	Lower Brule/Sioux Tribe		Pharmaceutical Fraud and RICO - Opioids	2018	Present
Native American Tribe	Oneida Nation		Pharmaceutical Fraud and RICO - Opioids	2018	Present
Native American Tribe	Red Lake Band of Chippewa Tribe		Pharmaceutical Fraud and RICO - Opioids	2017	Present
Native American Tribe	Seneca Nation Tribe		Pharmaceutical Fraud and RICO - Opioids	2017	Present
Native American Tribe	Tule River Tribe		Pharmaceutical Fraud and RICO - Opioids	2018	Present
Native American Tribe	White Earth Tribe		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Brunswick County	GenX		2017	Present
NC	Lower Cape Fear Water & Sewer Authority	GenX		2017	Present
NC	Town of Wrightsville Beach	GenX		2017	Present
NC	Alamance County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

NC	Alleghany County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Ashe County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Beaufort County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Brunswick County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Buncombe County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Burke County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Caldwell County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Carteret County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Caswell County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Catawba County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

NC	Cherokee County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Chowan County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	City of Fayetteville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	City of Henderson		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	City of Jacksonville		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	City of Wilmington		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	City of Winston-Salem		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Columbus County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Craven County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Cumberland County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

NC	Currituck County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Dare County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Davie County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Forsyth County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Gaston County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Greene County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Halifax County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Lenoir County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Lincoln County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Madison County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

NC	Martin County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	McDowell County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Moore County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	New Hanover County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Onslow County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Orange County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Pasquotank County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Person County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Pitt County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Polk County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

NC	Randolph County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Richmond County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Rockingham County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Rowan County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Rutherford County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Stokes County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Surry County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Tyrrell County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Vance County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Warren County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

NC	Watauga County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Wayne County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Wilkes County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NC	Yadkin County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
NC	Yancey County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NE	City of Lincoln	Clopyralid		2005	2011
NE	Douglas County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NE	Sarpy County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NH	City of Franklin		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NH	City of Laconia		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NH	Town of Derry		Pharmaceutical Fraud and RICO - Opioids	2018	Present

NH	Town of Londonderry		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NJ	New Jersey American Water Company, Inc.	Alum		2016	Present
NJ	Borough of Penns Grove	MTBE		2004	2010
NJ	City of Bridgeton	MTBE		2004	2010
NJ	City of Camden	MTBE		2004	2010
NJ	City of Gloucester City	MTBE		2004	2010
NJ	City of Vineland	MTBE		2005	2010
NJ	Elizabethtown Water Company	MTBE		2004	2010
NJ	Little Egg Harbor Township	MTBE		2004	2010
NJ	Mount Holly Water Company	MTBE		2004	2010
NJ	Mount Laurel Municipal Utilities Authority	MTBE		2004	2010
NJ	New Jersey American Water Company, Inc.	MTBE		2004	2010
NJ	Penns Grove Water Supply Company, Inc.	MTBE		2004	2010
NJ	Point Pleasant	MTBE		2004	2010
NJ	Southeast Morris County Municipal Utilities Authority	MTBE		2004	2010
NJ	Township of Montclair	MTBE		2004	2010
NJ	Township of Winslow	MTBE		2004	2010
NJ	United Water Arlington Hills, Inc.	MTBE		2004	2010
NJ	United Water Hampton, Inc.	MTBE		2004	2010
NJ	United Water New Jersey, Inc.	MTBE		2004	2010
NJ	United Water Toms River, Inc.	MTBE		2204	2010
NJ	United Water Vernon Hills, Inc.	MTBE		2004	2010
NM	State of New Mexico	MTBE		2006	2009
NM	State of New Mexico		Pharmaceutical Fraud - Avandia	2012	2013
NM	State of New Mexico		Pharmaceutical Fraud - multiple drugs	2016	2018

NM	State of New Mexico		Pharmaceutical Fraud - Plavix	2016	Present
NM	Doña Ana County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NM	Otero County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NM	State of New Mexico		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NM	Taos County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NV	Nye County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
NY	Franklin Square Water District	MTBE		2003	2010
NY	Great Neck North	MTBE		2003	2010
NY	Hicksville Water District	MTBE		2004	2010
NY	Jericho Water District	MTBE		2008	2009
NY	Long Island Water Corporation	MTBE		2003	2010
NY	Nassau County	MTBE		2004	2010
NY	Port Washington Water District	MTBE		2003	2010
NY	Roslyn Water District	MTBE		2004	2010
NY	Suffolk County	MTBE		2003	2010
NY	Suffolk County Water Authority	MTBE		2003	2010
NY	Town of Wappinger	MTBE		2004	2010
NY	United Water New York, Inc.	MTBE		2003	2010
NY	Village of Pawling	MTBE		2004	2010
NY	Village of Sands Point	MTBE		2004	2010
NY	Western Nassau Water Authority	MTBE		2004	2010

OH	City of Akron	Alum		2018	Present
OH	City of Upper Sandusky	Atrazine		2010	2013
OH	Ohio American Water Company	Atrazine		2009	2013
OH	Village of Monroeville	Atrazine		2010	2013
OH	Village of Ottawa	Atrazine		2010	2013
OH	Adams County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Ashland County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Athens County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Auglaize County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Belmont County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Brown County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Carroll County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Champaign County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	City of Ashland		Pharmaceutical Fraud and RICO - Opioids	2018	Present

OH	City of Cincinnati		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	City of Cleveland		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	City of Hamilton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	City of Ironton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	City of Lebanon		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	City of Portsmouth		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Clermont County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Columbiana County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Coshocton County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Crawford County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

OH	Darke County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Delaware County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Erie County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Fairfield County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Franklin County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Gallia County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Geauga County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Guernsey County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Hamilton County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Hocking County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

OH	Huron County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Jackson County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Knox County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Lawrence County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Licking County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Logan County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Marion County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Mercer County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Monroe County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Morrow County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

OH	Muskingum County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Ottawa County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Perry County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Pike County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Ross County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Scioto County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Seneca County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Shelby County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Vinton County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
OH	Wayne County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

OH	Williams County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OH	Wyandot County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
OR	City of Portland	PCB		2016	Present
OR	Port of Portland	PCB		2015	Present
OR	City of Portland		Pharmaceutical Fraud and RICO - Opioids	2018	Present
PA	Pennsylvania American Water	Alum		2016	Present
PA	Coraopolis Water & Sewer Authority	MTBE		2010	2014
PA	Northhampton/Bucks County Municipal Authority	MTBE		2004	2010
PA	City of Nanticoke		Pharmaceutical Fraud and RICO - Opioids	2018	Present
PA	City of Wilkes-Barre		Pharmaceutical Fraud and RICO - Opioids	2018	Present
PA	Columbia County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
PA	Indiana County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
PA	Luzerne County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

PA	Plains Township		Pharmaceutical Fraud and RICO - Opioids	2018	Present
PA	Wyoming County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Harrisville Fire District	MTBE		2011	2014
RI	State of Rhode Island	MTBE		2015	Present
RI	Town of North Kingston	MTBE		2011	2014
RI	City of Central Falls		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	City of Cranston		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	City of East Providence		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	City of Newport		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	City of Pawtucket		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	City of Warwick		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Barrington		Pharmaceutical Fraud and RICO - Opioids	2018	Present

RI	Town of Bristol		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Burrillville		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Charlestown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Coventry		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Cumberland		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of East Greenwich		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Foster		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Glocester		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Hopkinton		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Jamestown		Pharmaceutical Fraud and RICO - Opioids	2018	Present

RI	Town of Johnston		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Middletown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Narragansett		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of North Kingstown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of North Providence		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Richmond		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of Smithfield		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of South Kingstown		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of West Greenwich		Pharmaceutical Fraud and RICO - Opioids	2018	Present
RI	Town of West Warwick		Pharmaceutical Fraud and RICO - Opioids	2018	Present

RI	Town of Westerly		Pharmaceutical Fraud and RICO - Opioids	2018	Present
SC	State of South Carolina		Pharmaceutical Fraud - Avandia	2012	2013
TN	Campbell County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	City of Lexington		Pharmaceutical Fraud and RICO - Opioids	2017	Present
TN	Crockett County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	Fentress County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
TN	Greene County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
TN	Hamblen County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	Hancock County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
TN	Hawkins County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	Haywood County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

TN	Henderson County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
TN	Johnson County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
TN	Madison County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	Montgomery County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	Overton County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	Pickett County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TN	Williamson County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
TX	City of San Antonio		Deceptive Trade Practices - online hotel booking companies	2006	Present
TX	Barbers Hill ISD		Hurricane - related Litigation	2009	2011
TX	City of Pasadena		Hurricane - related Litigation	2009	2014
TX	La Porte ISD		Hurricane - related Litigation	2009	2012

UT	State of Utah		Pharmaceutical Fraud - Avandia	2012	2013
UT	Carbon County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
UT	Utah County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
VA	Virginia American Water	Alum		2016	Present
VA	Buchanan County School Board	MTBE		2004	2010
VA	Greensville County Water & Sewer Authority	MTBE		2004	2010
VA	Patrick County School Board	MTBE		2004	2010
VA	City of Virginia Beach		Pharmaceutical Fraud and RICO - Opioids	2018	Present
VA	Scott County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
VT	Craftsbury Fire District #2	MTBE		2004	2010
VT	State of Vermont	MTBE		2014	Present
VT	Town of Hartland	MTBE		2004	2010
VT	Town of Hinesburg	MTBE		2013	2014
WA	City of Spokane	Clopyralid		2005	2011
WA	City of Seattle	PCB		2016	Present
WA	City of Spokane	PCB		2015	Present
WA	State of Washington	PCB		2016	Present
WI	Freedom Sanitary Water District	MTBE		2006	2008
WI	Town of Freedom	MTBE		2006	2009
WI	Dane County		Pharmaceutical Fraud and RICO - Opioids	2018	Present

WI	Milwaukee County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
WI	Walworth County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
WI	Waukesha County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
WV	Town of Matoaka	MTBE		2004	2010
WV	State of West Virginia		Payment Protection Plan	2011	2013
WV	State of West Virginia		Pharmaceutical Fraud - Avandia	2011	2014
WV	Boone County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
WV	Cabell County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
WV	City of Vienna		Pharmaceutical Fraud and RICO - Opioids	2018	Present
WV	Fayette County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
WV	Greenbrier County		Pharmaceutical Fraud and RICO - Opioids	2018	Present
WV	Kanawha County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

WV	Logan County		Pharmaceutical Fraud and RICO - Opioids	2017	Present
WV	Wayne County		Pharmaceutical Fraud and RICO - Opioids	2017	Present

EXHIBIT C

**HAGENS BERMAN
SOBOL SHAPIRO LLP**



Steve W. Berman

Managing Partner
Seattle

206-623-7292 phone
206-623-0594 fax
steve@hbsslaw.com

YEARS OF EXPERIENCE:

37

YEARS OF EXPERIENCE IN
COMPLEX ENVIRONMENTAL
LITIGATION

29

PRACTICE AREAS:

Environmental Litigation
Antitrust Litigation
Consumer Rights
Governmental Representation
Investor Fraud
Intellectual Property
Patent Litigation
Qui Tam
Securities
Whistleblower Litigation
Automotive Litigation
Civil & Human Rights Litigation
Emissions Litigation
Sexual Abuse & Harassment
Sports Litigation

CASES TRIED ACROSS ALL

PRACTICE AREAS

25

BAR ADMISSIONS:

Washington (1982)
Illinois (1980)

COURT ADMISSIONS:

Supreme Court of Illinois (1980)
US Supreme Court (1986)
Supreme Court of Washington

Served as co-lead counsel for the [largest settlement in world history](#) against Big Tobacco, and at the time the [largest automotive, antitrust, ERISA and securities settlements in U.S. history](#).

Steve Berman represents consumers, investors and employees in large, complex litigation held in state and federal courts. Steve's trial experience has earned him significant recognition and led The National Law Journal to name him one of the [100 most powerful lawyers in the nation](#), and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country. Steve was named an MVP of the Year by Law360 in 2016 and 2017 for his class-action litigation and received the [2017 Plaintiffs' Trailblazer award](#). He was recognized for the third year in a row as an Elite Trial Lawyer by The National Law Journal.

Steve co-founded Hagens Berman in 1993 after his prior firm refused to represent several young children who consumed fast food contaminated with E. coli—Steve knew he had to help. In that case, Steve proved that the poisoning was the result of [Jack in the Box's cost cutting](#) measures along with gross negligence. He was further inspired to build a firm that vociferously fought for the rights of those unable to fight for themselves. Berman's innovative approach, tenacious conviction and impeccable track record have earned him an excellent reputation and numerous historic legal victories. He is considered one of the nation's most successful class-action attorneys, and has been praised for securing record-breaking settlements and tangible benefits for class members. Steve is particularly known for his tenacity in forging consumer settlements that return a high percentage of recovery to class members.

[Video Interviews of Steve W. Berman »](#)
[Print & Online Feature Interviews »](#)

CURRENT ROLE

- Managing Partner, Hagens Berman Sobol Shapiro LLP

CAREER HIGHLIGHTS

- [State Tobacco Litigation](#) - \$206 billion
Special assistant attorney general for the states of Washington, Arizona, Illinois, Indiana, New York, Alaska, Idaho, Ohio, Oregon, Nevada, Montana, Vermont and Rhode Island in prosecuting major actions against the tobacco industry. In November 1998, the initial proposed settlement led to a multi-state settlement requiring the tobacco companies to pay the states \$206 billion and to submit to broad advertising and marketing restrictions – the largest civil settlement in history.
- [Visa MasterCard ATM Antitrust Litigation](#) - \$27 billion
Co-lead counsel in what was then the largest antitrust settlement in history: a class-action lawsuit alleging that Visa and MasterCard, together with Bank of America, JP Morgan Chase and Wells Fargo, violated federal antitrust laws by establishing uniform agreements with U.S. banks, preventing ATM operators from setting ATM access fees

(1982)
USDC, Northern District of Illinois
(1983)
USDC, Western District of
Washington (1982)
US Court of Appeals, 1st Circuit
(2007)
US Court of Appeals, 2nd Circuit
(2013)
US Court of Appeals, 3rd Circuit
(1983)
US Court of Appeals, 5th Circuit
(2018)
US Court of Appeals, 6th Circuit
(2015)
US Court of Appeals, 7th Circuit
(2006)
US Court of Appeals, 8th Circuit
(1996)
US Court of Appeals, 9th Circuit
(1982)
US Court of Appeals, 10th Circuit
(2001)
US Court of Appeals, 11th Circuit
(2014)
US Court of Appeals, Federal
Circuit (2012)
USDC, Eastern District of
Washington (1995)
USDC, Central District of Illinois
(1995)
USDC, District of Colorado (1997)
US Court of Federal Claims (2013)
US Court of Appeals, DC Circuit
(2014)
USDC, Eastern District of
Michigan (2016)

EDUCATION:

University of Chicago Law School,
J.D., 1980

University of Michigan, B.A., 1976

below the level of the fees charged on Visa's and MasterCard's networks.

- [Toyota Sudden, Unintended Acceleration](#) - \$1.6 billion
Hagens Berman was co-lead counsel in this massive MDL alleging that Toyota vehicles contained a defect causing sudden, unintended acceleration (SUA). It was the largest automotive settlement in history at the time, valued at up to \$1.6 billion. The firm did not initially seek to lead the litigation, but was sought out by the judge for its wealth of experience in managing very complex class-action MDLs. Hagens Berman and managing partner Steve Berman agreed to take on the role of co-lead counsel for the economic loss class and head the plaintiffs' steering committee.
- [Washington Public Power Supply System \(WPPSS\)](#) - \$700 million settlement
Represented bondholders and the bondholder trustee in a class-action lawsuit stemming from the failure of two WPPSS nuclear projects. The case was one of the most complex and lengthy securities fraud cases ever filed. The default was one of the largest municipal bond defaults in history. After years of litigation, plaintiffs were awarded a \$700 million settlement agreement brought against more than 200 defendants.
- [E-books Antitrust Litigation](#) - \$560 million settlement
Fought against Apple and five of the nation's top publishers for colluding to raise the price of e-books, resulting in recovery equal to twice consumers' actual damages. The firm recovered an initial settlement of more than \$160 million with defendant publishing companies in conjunction with several states attorneys general. Steve then led the firm to pursue Apple for its involvement in the e-book price hike. Apple took the case to the Supreme Court, where it was ruled that Apple had conspired to raise prices, and the firm achieved an additional \$450 million settlement for consumers.
- [Enron Pension Protection Litigation](#) - \$250 million settlement
Led the class-action litigation on behalf of Enron employees and retirees alleging that Enron leadership, including CEO Ken Lay, had a responsibility to protect the interests of those invested in the 401(k) program, an obligation they abrogated. The court selected Steve to co-lead the case against Enron and the other defendants.
- [Charles Schwab Securities Litigation](#) - \$235 million settlement
Led the firm to file the first class-action lawsuit against Charles Schwab on Mar. 18, 2008, alleging that Schwab deceived investors about the underlying risk in its Schwab YieldPlus Funds Investor Shares and Schwab YieldPlus Funds Select Shares.
- [JP Morgan Madoff Lawsuit](#) - \$218 million settlement
Represented Bernard L. Madoff investors in a suit filed against JPMorgan Chase Bank, one of the largest banks in the world.
- [Boeing Securities Litigation](#) - \$92.5 million settlement
Represented a class of tens of thousands of shareholders

against Boeing, culminating in a proposed settlement that was the second-largest awarded in the Northwest.

- [NCAA Concussions](#) - \$75 million settlement, and 50-year medical monitoring fund
Led the firm's pioneering NCAA concussions suit that culminated in a proposed settlement that will provide a 50-year medical-monitoring program for student-athletes to screen for and track head injuries; make sweeping changes to the NCAA's approach to concussion treatment and prevention; and establish a \$5 million fund for concussion research, preliminarily approved by the court.
- [US Youth Soccer Settlement](#) - Revolutionary settlement that changed U.S. Soccer regulations and brought sweeping safety measures to the game. Steve spearheaded a lawsuit against soccer-governing bodies, achieving a settlement that ended heading of the ball for U.S. Soccer's youngest players and greatly diminished risk of concussions and traumatic brain injuries. Additionally, the settlement highlights the importance of on-staff medical personnel at youth tournaments, as well as ongoing concussion education for coaches.

RECENT CASES

- [Emissions Litigation](#)
Steve has pioneered pursuing car manufacturers who have been violating emissions standards, including: [Mercedes BlueTEC](#) vehicles, [GM Chevy Cruze](#), [Dodge Ram 2500 and 3500 trucks](#), [Dodge Ram 1500](#) and [Jeep Cherokee EcoDiesel](#) vehicles, [Chevy Silverado](#), [GMC Sierra](#) as well as other models made by [Ford](#), [Audi](#) and [BMW](#). Steve and the firm's unmatched work in emissions-cheating investigations is often ahead of the EPA and government regulators.
- [General Motors Ignition Switch Defect Litigation](#)
Steve serves as lead counsel seeking to obtain compensation for the millions of GM car owners who overpaid for cars that had hidden safety defects.
- [NCAA Grant in Aid Scholarships - \\$208 million](#)
Served as co-lead counsel in the Alston case that successfully challenged the NCAA's limitations on the benefits student-athletes can receive as part of a scholarship, culminating in a \$208 million settlement. The recovery amounts to 100 percent of single damages in an exceptional result in an antitrust case. Steve will co-lead a trial this year on the injunctive aspect of the case that could result in a change of NCAA rules limiting the financial treatment of athletes. The trial may change the landscape for how NCAA football and basketball players are compensated.
- Climate Change – [New York City](#), [King County](#).
Steve has always been a fighter for the rights of the environment. In 2018, he began the firm's latest endeavor to combat global climate change. Steve filed climate change cases on behalf of New York City and King County, WA against the world's largest producers of oil: BP, Chevron Corp., Exxon Mobil Corp., Royal Dutch Shell plc and

ConocoPhillips. The cases seek to hold the Big Oil titans accountable for their brazen impact on global warming-induced sea level rise and related expenses to protect the City and County and their millions of residents.

- **Opioids - [Orange County and Santa Clara County, Seattle](#)**
Steve has been retained by various municipalities, including the states of Ohio, Mississippi and Arkansas, Orange County, as well as the city of Seattle to serve as trial counsel in a recently filed state suit against five manufacturers of opioids seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.
- **[Antitrust Litigation](#)**
Corporate fraud has many faces, and Steve has taken on some of the largest perpetrators through antitrust law. Steve serves as co-lead counsel in [Visa MasterCard ATM](#), [Batteries](#), [Optical Disc Drives](#) and is in the leadership of a class-action lawsuit against [Qualcomm](#) for orchestrating a monopoly that led to purchasers paying significantly more for mobile devices. He serves as interim class counsel in a case against [Tyson, Purdue and other chicken producers](#) for conspiring to stabilize prices by reducing chicken production. Most recently, Steve filed a proposed class-action lawsuit against the world's largest manufacturers of [Dynamic Random Access Memory \(DRAM\)](#) for cornering the market and driving up DRAM prices.
- **[Consumer Protection](#)**
Steve is a leader in protecting millions of consumers in large-scale cases that challenge unfair, deceptive and fraudulent practices. He leads a class action on behalf of owners of Ford vehicles equipped with [MyFord Touch](#), an in-car entertainment system, who claim the system is flawed, putting drivers at risk of an accident while causing economic hardship. Steve recently filed a class-action lawsuit against [Facebook](#) for allowing personal data to be harvested for psychographic profiling.

RECENT SUCCESS

- **[Volkswagen Franchise Dealerships](#)** - \$1.6 billion
Lead counsel for VW franchise dealers suit, in which a settlement of \$1.6 billion has received final approval, and represents a substantial recovery for the class.
- **[Stericycle Sterisafe Contract Litigation](#)** – \$295 million
Hagens Berman's team, led by Steve Berman, filed a class-action lawsuit against Stericycle, a massive medical waste disposal company and achieved a sizable settlement for hundreds of thousands of its small business customers.
- **[Dairy Price-Fixing](#)** – \$52 million
This antitrust suit's filing unearthed a massive collusion between the biggest dairy producers in the country, responsible for almost 70 percent of the nation's milk. Not only was the price of milk artificially

inflated, but this scheme ultimately also cost 500,000 young cows their lives.

RECOGNITION

- 2018 State Executive Committee member, The National Trial Lawyers
- 2018 Top Attorney of the Year, International Association of Top Professionals
- 2018 Honoree for Outstanding Antitrust Litigation Achievement in Private Law Practice, American Antitrust Institute
- 2018, 2016 Practice Group of the Year (Automotive), Law360
- 2016 & 2018 Class Action MVP of the Year, Law360
- 2017 Plaintiffs' Trailblazer, The National Law Journal
- 2017 Class Actions (Plaintiff) Law Firm of the Year in California, Global Law Experts
- 2003-2017 Washington Super Lawyers
- 2014-2016 Elite Trial Lawyers, The National Law Journal
- 2014-2015 Lawdragon 500 Leading Lawyers in America
- 2014 Finalist for Trial Lawyer of the Year, Public Justice
- 2013 One of the 100 most influential attorneys in America, The National Law Journal
- 2000 Most powerful lawyer in the state of Washington, The National Law Journal
- One of the top 10 plaintiffs' firms in the country, The National Law Journal

[View all Awards and Recognition »](#)

OTHER NOTABLE CASES

- [VW Emissions Litigation](#) - \$14.7 billion settlement
Steve served as a member of the Plaintiffs Steering Committee representing owners of Volkswagen CleanDiesel vehicles that were installed with emissions-cheating software.
- [McKesson Drug Class Litigation](#) - \$350 million settlement
Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and relief for third-party payers and insurers. His discovery of the McKesson scheme led to follow up lawsuits by governmental entities and recovery in total of over \$600 million.
- [Average Wholesale Price Litigation](#) - \$338 million settlement
Steve served as lead trial counsel, securing trial verdicts against three drug companies that paved the way for settlement.
- [DRAM Memory Antitrust](#) - \$345 million settlement
Forged a class-action suit against leading DRAM (Dynamic Random Access Memory) manufacturers, claiming the companies secretly agreed to reduce the supply of DRAM in order to artificially raise prices.

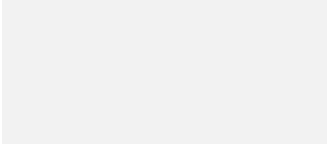
- [Hyundai / Kia Fuel Efficiency](#) - \$255 million settlement
Led the firm's aggressive fight against Hyundai and Kia on behalf of defrauded consumers who alleged the automakers had misrepresented fuel economies in vehicles, securing what was believed to then be the second-largest automotive settlement in history.
- [Bextra/Celebrex Marketing and Products Liability Litigation](#) - \$89 million settlement
Served as court-appointed member of the Plaintiffs Steering Committee and represented nationwide consumers and third party payers who paid for Celebrex and Bextra. The firm was praised by the court for its "unstinting" efforts on behalf of the class.
- [McKesson Governmental Entity Class Litigation](#) - \$82 million settlement
Steve was lead counsel for a nationwide class of local governments that resulted in a settlement for drug price-fixing claims.
- [NCAA/Electronic Arts Name and Likeness](#) - \$60 million settlement
Represented current and former student-athletes against the NCAA and Electronic Arts concerning illegal use of college football and basketball players' names and likenesses in video games without permission or consent from the players.
- State and Governmental Drug Litigation
Steve served as outside counsel for the state of New York for its Vioxx claims, several states for AWP claims and several states for claims against McKesson. In each representation, Steve recovered far more than the states in the NAAG multi-state settlements.
- Exxon Mobil Oil Spill
Steve represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multi-million dollar award).
- [Lumber Liquidators Flooring](#)
Steve was court-appointed co-lead counsel in litigation against Lumber Liquidators representing consumers who unknowingly purchased flooring tainted with toxic levels of cancer-causing formaldehyde. The consumer settlement was confidential.

PRESENTATIONS

- Steve is a frequent public speaker and has been a [guest lecturer at Stanford University](#), University of Washington, University of Michigan and Seattle University Law School.

PERSONAL INSIGHT

Steve was a high school and college soccer player and coach. Now that his daughter's soccer skills exceed his, he is relegated to being a certified soccer referee and spends weekends being yelled at by parents, players and coaches. Steve is also an avid cyclist and is heavily involved in working with young riders



on the international [Hagens Berman Axeon](#) cycling team and the [Hagens Berman | Supermint Pro Cycling](#) women's team.



Matthew F. Pawa

Partner, Co-Chair of
Environmental Practice Group
Boston, Newton Centre

617-641-9550 phone
617-641-9551 fax
mattp@hbsslaw.com

YEARS OF EXPERIENCE:

24

PRACTICE AREAS:

Environmental

BAR ADMISSIONS:

Massachusetts (2001)
Vermont (1996)
Pennsylvania (1994, inactive)
District of Columbia (1996)

COURT ADMISSIONS:

Supreme Court of the United States (2000)
First (2004), Second (2004), Third (2009), Fourth (2000), Fifth (1998, inactive), Ninth (2009) and D.C. (2000) Circuit Courts of Appeals
U.S. District Courts for the District of Washington D.C. (2000, provisional), District of Massachusetts (2004), Eastern District of Pennsylvania (1995, inactive), Southern District of New York (2004) and the District of Vermont (1996)

CLERKSHIPS:

Honorable Norma L. Shapiro,
Eastern District of Pennsylvania,
1994-95

EDUCATION:

Mr. Pawa represented the state of New Hampshire for 13 years in a groundwater contamination case against the nation's largest oil companies, which resulted in more than \$100 million in pre-trial settlements and a \$236 million verdict against Exxon Mobil Corporation in 2013 – the largest verdict in New Hampshire history.

CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro LLP
- Co-Chair of the firm's environmental practice

EXPERIENCE

- Mr. Pawa has worked on environmental litigation involving damage to natural resources for 17 years and has tried over a dozen cases.
- Filed climate change cases on behalf of New York City, and King County (WA) against major producers of fossil fuels. He has represented the states of Rhode Island and Vermont in MTBE groundwater contamination litigation against major gasoline manufacturers and suppliers.
- Prior to joining Hagens Berman, Mr. Pawa was the president of Pawa Law Group P.C. where he was the founder and leader of the litigation firm specializing in major environmental cases. He handled jury trials, bench trials and argued appeals in state and federal courts in Massachusetts and across the nation, and collaborated with state attorneys general and non-profit clients on a major global warming case that went to the U.S. Supreme Court. Mr. Pawa forged the small law firm into a nationally known entity with a reputation for successfully litigating against some of the country's largest corporations.
- Attorney, Cohen, Milstein, Hausfeld & Toll PLLC – Mr. Pawa litigated class action and individual antitrust, environmental and consumer cases.
- Attorney, Crowell & Moring LLP – Litigated insurance coverage actions and drafted Supreme Court *amicus* brief on behalf of American Bar Association.
- Deputy State's Attorney, Chittenden County State's Attorney Office. Prosecuted felony and misdemeanor cases, successfully defended emergency appeal to Vermont Supreme Court on novel issue.

LEGAL ACTIVITIES

- Board of Trustees, Center for International Environmental Law
- American Bar Association
- Massachusetts Bar Association

University of Pennsylvania Law School, J.D., *cum laude*, 1993
(associate editor, Law Review)

Cornell University, B.S. with distinction, Natural Resources, 1987

- American Association for Justice
- Massachusetts Academy of Trial Attorneys
- Boston Bar Association
- Adjunct Professor of Law, Boston College Law School, Climate Change Law and Policy Seminar (2007)

RECOGNITION

- 2013 Massachusetts Lawyer of the Year, in recognition of New Hampshire MTBE case
- 2011 American Lung Association Healthy Air Ambassador Award
- 2009 Certificate of Recognition for Best Papers, American Bar Association Section of Environment, Energy and Resources, 38th Annual Conference on Environmental Law
- 1993 Scribes Notes and Comments Award - national award for clarity, force and style in law review note or comment. Selected from among submissions by law reviews nationwide.
- 1993 University of Pennsylvania's Fred G. Leebron Prize for excellence in constitutional law writing.

NOTABLE CASES

- *State of New Hampshire v. Exxon Mobil Corp.*, 126 A.3d 266 (N.H. 2015) Upholding \$236 million jury verdict following three-month trial against petroleum company for polluting state's groundwater.
- *Connecticut v. American Electric Power Co.*, 582 F.3d 309 (2d Cir. 2009) Reinstating global warming tort case filed by states and land trusts, *rev'd on other grounds*, 131 S. Ct. 2527 (2011).
- *State v. Hess Corp.*, 161 N.H. 426 (2011) Holding that, under *parens patriae* doctrine, a state suing a polluter for groundwater contamination may recover as damages the cost of treating private well contamination.
- *Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd.*, 457 Mass. 663 (Mass. 2010) Upholding state environmental permits for Cape Wind.
- *New Hampshire v. N. Atlantic Refining, Ltd.*, 999 A.2d 396 (N.H. 2010) Upholding personal jurisdiction over oil company in MTBE litigation.
- *New Hampshire v. Hess Corp.*, 982 A.2d 388 (N.H. 2009) Affirming proper service of process on two oil company defendants in MTBE litigation.
- *In re Inquest Proceedings*, 676 A.2d 790 (Vt. 1996) Rejecting claim of parent-child privilege and compelling parental testimony in rape case.

PUBLICATIONS

- "This Town Ain't Big Enough for the Two of Us: Interstate Pollution and Federalism under *Milwaukee I* and *Milwaukee II*," American Bar

Association Section of Environment, Energy and Resources, 38th Annual Conference on Environmental Law, Keystone, Colorado (March 2009) (presented paper)

- “Saving Detroit - From Itself,” *Boston Globe* Op Ed (Sunday lead opinion piece) (Nov. 17, 2008)
- “Global Warming Litigation Heats Up,” *Trial Magazine* (April, 2008 cover story)
- “Global Warming: The Ultimate Public Nuisance,” in *Creative Common Law Strategies for Protecting the Environment* (Clifford Rechtschaffen et al., eds., Environmental Law Institute 2007)
- “Behind the Curve: The National Media’s Reporting on Global Warming,” 33 B.C. ENVTL. AFF. L. REV. 485 (2006) (with co-author Benjamin A. Krass)
- “Global Warming as a Public Nuisance: Connecticut v. American Electric Power,” 41 FORDHAM ENVTL. L. REV. 407 (2005) (with co-author Benjamin A. Krass)
- “When the Supreme Court Restricts Constitutional Rights, Can Congress Save Us?,” 141 U. PA. L. REV. 1029 (1993)

PRESENTATIONS

- Keynote speaker, Boston College Law School’s first annual Green Week (2010)
- Keynote speaker, Public Interest Environmental Law Conference at the University of Oregon Law School (2009)

PERSONAL INSIGHT

Matt is a triathlete and also enjoys sailing, hiking, camping and river rafting.



Barbara Mahoney

Partner
Seattle

206-623-7292 phone
206-268-9308 direct
206-623-0594 fax
barbaram@hbsslaw.com

YEARS OF EXPERIENCE:

16

PRACTICE AREAS:

Consumer Rights
Civil RICO
Environmental Litigation
Intellectual Property
State False Claims

INDUSTRY EXPERIENCE:

Pharmaceutical Industry
Class Action Litigation

BAR ADMISSIONS:

Washington

COURT ADMISSIONS:

U.S. District Court, Western
District of Washington
U.S. District Court, Eastern
District of Washington
Ninth Circuit Court of Appeals

EDUCATION:

University of Washington, J.D.,
2001

Universität Freiburg, Ph.D.,
Philosophy, *magna cum laude*,
1993

Ms. Mahoney received her doctorate in philosophy from the Universität Freiburg (Germany), where she graduated *magna cum laude*.

CURRENT ROLE

- Partner, Hagens Berman Sobol Shapiro LLP
- Focuses primarily on national and state class actions and environmental litigation
- Currently part of the firm's legal team as interim class counsel, representing 2014-16 BMW i3 REX owners in a class action regarding a defect in the range extender that causes the cars to suddenly reduce speed and power without warning when transitioning from pure battery mode to the range extender.
- Currently part of the firm's legal team representing a multi-state class of consumers against Dometic Corporation who purchased defective gas absorption refrigerators with cooling systems, putting consumers at risk of toxic gas leaks and deadly fires that can spontaneously ignite in RVs and boats.
- Extensively involved in several lawsuits against McKesson Corporation relating to allegations that the company engaged in a scheme that raised the prices of more than 400 brand-name prescription drugs. That litigation has resulted in two separate national class-action settlements for \$350 million and \$82 million. In related litigation, Ms. Mahoney represented the commonwealth of Virginia, and the states of Connecticut, Arizona, Oregon, Utah and Montana in their individual cases against McKesson.
- Extensively involved in *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, in which the firm has been appointed as interim direct purchaser steering committee member, on behalf of putative class of direct purchasers in multidistrict litigation alleging that generic drug manufacturers engaged in price fixing.
- Represents Kentucky homeowners in a putative class action against Louisville Gas & Electricity to recover the cost of removing coal ash and dust from their homes.
- Previously, she was involved in pioneering litigation against oil and energy companies on behalf of the village and tribe of Kivalina (Alaska) to recover the cost of extensive damage to the village caused by global warming.

EXPERIENCE

- Worked in several areas of commercial litigation, including unlawful competition, antitrust, securities, trademark, CERCLA, RICO, FLSA as well as federal aviation and maritime law
- Associate, Calfo Harrigan Leyh & Eakes LLP (formerly Danielson Harrigan Leyh & Tollefson)
- Law Clerk, Justice Sanders, Washington Supreme Court

- Law Clerk, Judge Sandra Brown Armstrong, U.S. District Court, N.D. California

LEGAL ACTIVITIES

- Downtown Neighborhood Legal Clinic
- Q Law
- Cooperating Attorney with American Civil Liberties Union of Washington

RECOGNITION

- Rising Star, Washington Law & Politics, 2005

NOTABLE CASES

- *New England Carpenters v. First DataBank* (\$350 million class-action settlement)
- *Douglas County v. McKesson* (\$82 million class-action settlement)

LANGUAGES

- Fluent in German
- Reads Swedish and French

PERSONAL INSIGHT

Ms. Mahoney lives in West Seattle with her partner and is very active in local athletic organizations. She is a former board member of Rain City Soccer, where she also organized a summer-long program on basic skills. She is also active in Seattle Frontrunners, a masters track club. She enjoys reading, running, soccer and studying foreign languages.



Benjamin A. Krass

Of Counsel

Boston, Newton Centre

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617-641-9551 fax

benk@hbsslaw.com

YEARS OF EXPERIENCE:

16

PRACTICE AREAS:

Environmental Litigation

Products Liability

BAR ADMISSIONS:

Massachusetts (2004)

COURT ADMISSIONS:

U.S. District Court, District of
Massachusetts (2004)

U.S. District Court, District of
Vermont (2006)

EDUCATION:

Boston College Law School, J.D.,
2003

Honors: Managing Editor, Boston
College Environmental Affairs
Law Review; Boston College
Environmental Law Society
Certificate in Environmental and
Land Use Law; Adjunct Lecturer,
Environmental Law, Boston
College Political Science
Department (Spring 2003)

Universidad de Oviedo, 1999-
2000, William J. Fulbright
scholarship

Canisius College, B.A., *summa
cum laude*, 1999

Ben positions his clients to succeed by his experience bringing environmental cases for more than a decade, the close relationships he builds with his clients and his attention to every aspect of a client's case.

CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro LLP

RECENT SUCCESS

- Represented the state of New Hampshire from 2003-2016 in litigation against major oil companies for statewide contamination of the state's waters with the chemical and gasoline additive MTBE.
- Helped obtain settlements of \$136 million from approximately a dozen defendants prior to or at the commencement of trial and participated in the three-month trial against ExxonMobil which resulted in a \$236 million jury verdict against ExxonMobil. The jury verdict was affirmed on appeal by the New Hampshire Supreme Court. *New Hampshire v. Exxon Mobil Corp.*, 126 A.3d 266 (N.H. 2015), cert. denied, 136 S. Ct. 2009 (2016).

EXPERIENCE

- Has worked on environmental litigation involving damage to natural resources for 16 years and has assisted in trying two cases as described below.
- He represented the state of Vermont for four years in MTBE groundwater contamination litigation against major gasoline manufacturers and suppliers. He also represents the state of Rhode Island in ongoing MTBE groundwater contamination litigation.
- Filed climate change cases on behalf of New York City, and King County (WA) against major producers of fossil fuels.
- Prior to joining Hagens Berman, Mr. Krass was a Partner at Pawa Law Group where he gained extensive experience representing the states of New Hampshire, Rhode Island and Vermont in MTBE litigation.
- Litigated nearly every aspect of the New Hampshire MTBE case for over a decade and participated in the three-month trial against ExxonMobil, including by handling the examination of expert and state witnesses.
- Involved in all of his prior firm's other major environmental cases, including *American Elec. Power Co. v. Connecticut*, 131 S. Ct. 2527 (2011), *Native Village of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849 (9th Cir. 2012), and *Green Mt. Chrysler Plymouth Dodge Jeep v. Crombie*, 508 F. Supp. 2d 295 (D. Vt. 2007). Played a significant role in preparing evidence and cross examination in the multi-week Crombie trial.

ACTIVITIES

- President, Board of Directors, Transportation Children's Center (2016-2017)

NOTABLE DECISIONS

- State of New Hampshire v. Exxon Mobil Corp., 126 A.3d 266 (N.H. 2015) (upholding \$236 million jury verdict following three-month trial against petroleum company for polluting state's groundwater)
- Connecticut v. American Electric Power Co., 582 F.3d 309 (2d Cir. 2009) (reinstating global warming tort case filed by states and land trusts), rev'd on other grounds, 131 S. Ct. 2527 (2011)
- State v. Hess Corp., 161 N.H. 426 (2011) (holding that, under *parens patriae* doctrine, a state suing a polluter for groundwater contamination may recover as damages the cost of treating private well contamination)
- New Hampshire v. N. Atlantic Refining, Ltd., 999 A.2d 396 (N.H. 2010) (upholding personal jurisdiction over oil company in MTBE litigation); New Hampshire v. Hess Corp., 982 A.2d 388 (N.H. 2009) (affirming proper service of process on two oil company defendants in MTBE litigation)

PUBLICATIONS

- "Behind the Curve: The National Media's Reporting on Global Warming," 33 B.C. Envtl. Aff. L. Rev. 485 (2006)
- "Global Warming As A Public Nuisance: Connecticut v. American Electric Power," 16 Fordham Envtl. L. Rev. 407 (2005)
- "Comment: Combating Urban Sprawl in Massachusetts: Reforming the Zoning Act through Legal Challenges," 30 B.C. Envtl. Aff. L. Rev. 605 (2003)

LANGUAGES

- Spanish

PERSONAL INSIGHT

Ben is a competitive runner and enjoys winter mountaineering, backpacking, gardening and spending time with his family.



Wesley Kelman

Of Counsel
Boston, Newton Centre

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YEARS OF EXPERIENCE:

16

PRACTICE AREAS:

Commercial Litigation
Environmental Litigation
Mass Torts

BAR ADMISSIONS:

Massachusetts (2002)
New York (2003)

COURT ADMISSIONS:

U.S. District Court, Southern
District of New York (2011)
U.S. District Court of
Massachusetts (2003)

CLERKSHIPS:

Hon. Warren W. Matthews,
Alaska Supreme Court,
Anchorage, AK
2004-05

Hon. Jon O. Newman, U.S.
Court of Appeals, Second
Circuit, Hartford, CT
2000-2001

EDUCATION:

Yale Law School, J.D., 2000,
Yale Law Journal

University of Chicago, A.B.,
History, Phi Beta Kappa, 1993

Wes has worked for many years to protect the environment, beginning at the EPA and continuing in private practice. He worked on key early global warming cases, and on New Hampshire's \$236 million recovery against ExxonMobil in a groundwater contamination case.

CURRENT ROLE

- Of Counsel, Hagens Berman Sobol Shapiro LLP

EXPERIENCE

- Specializes in complex environmental litigation, tort law, and cleanup sites. He has worked on natural resource damage-type litigation for more than seven years. Participated in several trials, evidentiary hearings and an arbitration. For example, acted as lead counsel for a citizens' group at an evidentiary hearing on an air permit issued to a cement plant in Western Massachusetts, with multiple live witnesses and numerous exhibits. The challenge by the citizens' group was sustained *in toto*.
- Filed climate change cases on behalf of New York City, and King County (WA) against major producers of fossil fuels. He also represented the state of Vermont for four years in MTBE groundwater contamination litigation against major gasoline manufacturers and suppliers.
- Prior to joining Hagens Berman, Mr. Kelman practiced environmental law at Pawa Law Group where his clients included:
 - The states of New Hampshire and Vermont in statewide MTBE groundwater contamination claims against major oil companies
 - Trusts and an Alaskan native village in global warming claims
 - Citizen groups including administrative litigation over air pollution permits involving a challenge to a major new power plant
- Drafted papers submitted to state and federal appellate courts and helped other attorneys at Pawa Law Group try several cases to verdict.
- Worked at the Environmental Protection Agency, Region 1, Boston, MA as enforcement counsel. He negotiated consent decrees under which private parties performed cleanups and brought enforcement actions against regulated parties. He was employee of the year for the Superfund section of the regional office, and won a "ROD of the Year" EPA national award for papers documenting EPA's clean-up decision for the Sudbury River in Massachusetts.
- Cleary, Gottlieb, Steen & Hamilton, Associate. In the wake of Argentina's financial crisis of 2001, Mr. Kelman was part of a small group of lawyers defending the Republic of Argentina against claims by holders of Argentina's sovereign debt.



NOTABLE CASES

Wes has worked on key early global warming cases and on behalf of state attorneys general who have sued for damage to statewide groundwater supplies, including a \$236 million recovery against ExxonMobil for the state of New Hampshire.

PERSONAL INSIGHT

Wes loves to ride his bicycle and commutes on it through all four seasons.



Ted Wojcik

Associate
Seattle

206-623-7292 main
206-268-9329 direct
206-623-0594 fax

YEARS OF EXPERIENCE:

3

PRACTICE AREAS:

Environmental Litigation

BAR ADMISSIONS:

Georgia

CLERKSHIPS:

Judge Mark H. Cohen, U.S. District
Court for the Northern District of
Georgia, Atlanta, GA, 2016-2018

Judge Marjorie Allard, Alaska
Court of Appeals, Anchorage, AK,
2015-2016

EDUCATION:

Yale Law School, J.D., 2015
Dartmouth College, A.B.,
2011, *magna cum laude*

Ted is devoted to working on behalf of those harmed by corporate misconduct, and has experience advocating for individuals in several contexts.

CURRENT ROLE

- Associate, Hagens Berman Sobol Shapiro LLP

EXPERIENCE

- Prior to joining Hagens Berman, Ted served as a clerk to U.S. District Judge Mark H. Cohen, and prior to that, for Judge Marjorie Allard in the Alaska Court of Appeals.
- During law school, Ted interned for the Alaska Public Defender Agency in Palmer, Alaska, and the New Orleans City Attorney's Office. He also worked as a student attorney in the landlord/tenant and immigration legal services clinics, and was an editor for the Yale Law Journal.
- Before law school, Ted worked for a year as a high school teacher in the Marshall Islands.

PERSONAL INSIGHT

A Maine native and recent Seattle transplant, Ted is working hard to master the intricacies of composting and to remember that the ocean lies to the west now, not the east.

BARON & BUDD, P.C.

SCOTT SUMMY
“THE WATER LAWYER”

Summy’s Practice

Scott Summy is a shareholder at Baron & Budd, one of the largest and oldest firms in the United States that specializes in environmental litigation. Mr. Summy heads up the firm’s Environmental Litigation Group, which litigates complex environmental contamination cases all over the country. The Group represents public entities in litigation to recover costs of removing chemical contamination from public water supplies, governmental facilities, natural resources, and public property. Through this type of litigation, the Group seeks to shift the costs of remediation to the chemical manufacturers and suppliers responsible for the contamination --- and away from public entities and taxpayers.

PCBs

The Group filed a lawsuit against the Monsanto Company and its corporate successors on behalf of a public school district in Massachusetts. The lawsuit alleges that Monsanto knew about the dangers of PCBs as early as the 1930s but failed to warn people of the severe dangers associated with PCBs and their use in common building materials. The litigation seeks to require Monsanto to pay for removing PCB-containing materials from the contaminated schools. The group also represents the City of Hartford/Hartford Board of Education in Connecticut whose schools have been contaminated with PCBs.

The Group also filed a lawsuit on behalf of the City of San Diego to restore the health and quality of San Diego Bay and to preserve this valuable waterway for all future uses. The City is a trustee of the Bay and is charged with protecting the Bay for the public benefit. After the State Water Resources Control Board detected toxic contaminants known as PCBs in the water and sediments of the Bay, the City committed to remove these chemicals from this important natural resource. To recover the costs associated with these efforts, the City filed a lawsuit against Monsanto Company and its corporate successors.

The Group has filed lawsuits on behalf of the Cities of Berkeley, Long Beach, Oakland, Portland, San Jose, Seattle and Spokane as well as the Port of Portland and the State of Washington due to PCB contamination.

Water Contamination

Mr. Summy regularly represents public water providers (e.g., municipalities, water districts, utilities, and school districts) whose water is contaminated by intrusive chemicals. On behalf of these clients, Mr. Summy seeks cost recovery for treatment facilities, operation and maintenance costs, out-of-pocket expenses, and administrative costs. Mr. Summy also represents private well owners around the country whose wells are contaminated.

The Environmental Litigation Group has represented hundreds of public water providers in litigation arising from contamination of water supplies with MTBE, a gasoline additive. Mr. Summy has recovered over a billion dollars against major oil companies who decided to blend MTBE into gasoline knowing that it would likely contaminate water supplies. In one set of cases, involving approximately 150 water providers, Mr. Summy negotiated settlements totaling

over \$450 million. Mr. Summy continues to file new MTBE cases across the country and currently represents the State of Vermont, the State of Rhode Island and a number of municipalities in new MTBE litigation.

Mr. Summy also represented all public water providers in the United States whose water was contaminated with atrazine, a common agricultural chemical used on corn and other crops. On behalf of these water providers, the Group brought claims against Syngenta, the company that makes atrazine and is aware that its normal use causes drinking water contamination. Mr. Summy negotiated a settlement awarding \$105 million to over 2,000 water providers.

The Group also represents public water providers and other public entities in litigation involving other chemicals that contaminate water supplies and property including TCP, TCE, PCE, and PCBs.

California Wildfires

Mr. Summy and the Group have teamed up with The Singleton Law Firm; Dixon, Diab & Chambers; Thornsnes Bartolotta McGuire LLP; and Terry Singleton to form the California Fire Lawyers (“CFL”). CFL has been retained by hundreds of individuals and businesses who have sustained significant losses due to the 2017 wildfires and related mudslides in California. In addition, the team represents the following municipalities for losses incurred by the wildfires and mudslides: Sonoma County, Napa County Mendocino County, Santa Barbara County, City of Santa Barbara, the Montecito Water District, Lake County, Ventura County, City of Ventura and Fire Protection Districts. Mr. Summy serves as an Interim Co-Chair of the American Association for Justice Wildfire Litigation Group.

PFAS

Mr. Summy and the Group are currently seeking relief on behalf of public water providers and individuals against E. I. du Pont de Nemours and The Chemours Company for decades-long contamination of the Cape Fear River, along with the air and groundwater near the Fayetteville, North Carolina, plant, from Gen-X compounds and dozens of other per- and polyfluoroalkyl substances in the PFAS chemical family. For 35 years DuPont and Chemours have contaminated the river and over a hundred private wells around the plant. Mr. Summy and the Group represent Brunswick County, the Town of Wrightsville Beach, and the Lower Cape Fear Water & Sewer Authority as they seek to recover the costs of removing all PFAS chemicals before the water is distributed to the public. The Group also represents the owners of most of the private wells around the plant that have been contaminated and is seeking damages for well filtration, all costs associated with filtration and property damage. This case is of national significance as focus has shifted to the prevalence of PFAS chemicals around the country.

Gulf Oil Spill

Mr. Summy’s experience with environmental litigation led to a leadership role in the litigation arising from the Deepwater Horizon explosion and oil spill in the Gulf of Mexico. In 2010, he was appointed to the Plaintiffs’ Steering Committee and Plaintiffs’ Executive Committee in the Gulf Oil Spill Multi-District Litigation in the Eastern District of Louisiana. In that capacity, he played a critical role in negotiating a settlement and claim procedure for the tens of thousands of individuals, businesses, and governmental entities injured by the oil spill. Mr.

Summy and the Group also represent hundreds of businesses with claims against BP and have recovered in excess of \$100 million on behalf of these clients. Mr. Summy also represents a number of public entities who have sustained loss of tax revenue due to the oil spill. Mr. Summy assisted these public entities in recovering significant losses due to the oil spill.

Santa Barbara Oil Spill

Mr. Summy currently represents Santa Barbara County to pursue their legal rights against Plains All-American Pipeline. Their pipeline ruptured spilling oil in the vicinity of Santa Barbara. Mr. Summy successfully represented the City of Santa Barbara against the same entity.

TCE – Ametek Facility Discharge

Mr. Summy and the Group have filed lawsuits on behalf of individuals and property owners who have been affected by a plume of chemicals, including TCE, emanating from the Ametek facility in El Cajon, California. This plume has been described as the largest TCE plume in the State of California and threatens the groundwater in the area.

Coal Ash – Duke Energy

Mr. Summy and the Group have been retained by residents living nearby Duke Energy Coal Ash ponds. Chemicals have leaked from these ponds and contaminated drinking water wells with hexavalent chromium and other dangerous chemicals.

Top Awards

The Group's important work for public water providers has been recognized by the legal community on a number of occasions. His groundbreaking work for California communities affected by MTBE won Mr. Summy and his legal team the "Attorneys of the Year" award from California Lawyer in 2001. And Public Justice twice named Mr. Summy and his team as Finalists for the organization's Trial Lawyer of the Year Award --- in 2009, for cases arising from MTBE contamination, and again in 2013, for cases arising from atrazine contamination. Mr. Summy was also included in The Best Lawyers in America 2006-2018 editions.

Mr. Summy is licensed to practice law in Texas, North Carolina and New York. He is AV-rated by Martindale Hubbell.

Clean Water:

Mr. Summy has obtained settlements for his clients in excess of \$1 billion. These results have helped provide clean drinking water and a cleaner environment to millions of Americans.

Environmental Cases Handled By Summy

1. **In Re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010, MDL 2179**

Summy currently represents over 1,000 commercial businesses and individuals impacted by the spill. Summy has also spent substantial time in New Orleans in 2010 and 2011 fulfilling his roles on the EC and PSC. Summy also Co-Chairs the Science Group of the PSC which is responsible for developing evidence and hiring experts to determine the full impact of the spill, including Gulf seafood and the coastline. Summy is also involved in the discovery aspect of the case and has taken depositions in the United States and London, England.

Results: To date, PSC has secured an uncapped settlement fund to benefit many businesses and individuals impacted by the spill. (BP values this initial settlement at \$7.8 billion.) Remainder of case is currently set for trial in January 2013.

2. **MTBE and TBA Multi-District Litigation ("MDL 1358") and Individual Actions**
[First MDL Settlement]

Summy currently represents or has represented over 200 public water providers including municipalities, water districts and utilities, and school districts across the country against the Major Oil Companies who made the decision to add MTBE to gasoline. Summy's clients have experienced MTBE and/or TBA contamination to their wells and seek damages/cost recovery to treat the contaminant(s). The clients represented by Summy are:

California: California-American Water Company, California Water Service Company, Citrus Heights Water District, City of Riverside, Del Paso Manor Water District, Fair Oaks Water District, Florin Resource Conservation District, M & P Silver Family Partners II, et al., Fruitridge Vista Water Company, Quincy Community Services District, Rio Linda Elverta Community Water District, Riverview Water District, Yosemite Spring Park Utility Co, Inc.

Connecticut: Town of East Hampton, American Distilling and Mfg. Co. Inc., Our Lady of the Rosary Chapel, United Water Connecticut, Inc.

Florida: Emerald Coast Utilities Authority f/k/a Escambia County Utilities Authority

Illinois: City of Island Lake, Village of East Alton

Indiana: Town of Campbellsburg, Town of Mishawaka, North Newton School, City of Rockport, City of South Bend

Iowa: City of Galva, City of Ida Grove, City of Sioux City

Kansas: City of Bel Aire, Chisholm Creek Utility Authority, Dodge City, City of Park City

Louisiana: City of Marksville, Town of Rayville

Massachusetts: Brimfield Housing Authority (Brimfield, MA), Centerville-Osterville-Marsons Mills Water Department, Chelmsford Water District (Chelmsford, MA), Dedham Westwood Water District, City of Brockton, City of Lowell, City of Methuen, City of Peabody, Cotuit Fire District Water Department (Cotuit, MA), East Chelmsford

Water District (Chelsford, MA), Hillcrest Water District (Leicester, MA), Leicester Water Supply District (Leicester, MA), Massasoit Hills Trailer Park, Inc., North Chelmsford Water District (Chelsford, MA), North Raynham Water District, Sandwich Water District, Sudbury Water District, Town of Avon, Town of Bedford, Town of Bellingham, Town of Billerica, Anawan Associates Realty, LLC, Town of Barnstable, Dennis Water District, Lunenburg Water District, Raynham Center Water District, Town of Douglas, Town of Marshfield, Town of Orange, Town of Provincetown, Town of Scituate, Town of Sterling, Town of Charlton, Town of Danvers, Town of Dover, Town of Dudley, Town of Duxbury, Town of East Bridgewater, Town of East Brookfield, Town of Easton, Town of Edgartown, Town of Halifax, Town of Hanover, Town of Hanson, Town of Holliston, Town of Hudson, Town of Merrimac, Town of Millis, Town of Monson, Town of Norfolk, Town of North Attleborough, Town of North Reading, Town of Norwell, Town of Pembroke, Town of Reading, Town of Spencer, Town of Stoughton, Town of Tewksbury, Town of Tyngsboro, Town of Ware, Town of Wayland, Town of West Bridgewater, Town of West Brookfield, Town of Weymouth, Town of Wilmington, Town of Yarmouth, United Methodist Church (Wellfleet, MA), Water Supply District of Acton, Westport Federal Credit Union, Westview Farm, Inc. (Monson, MA), Town of Middleborough, City of Lawrence, Town of Burlington, Town of Townsend, Town of Uxbridge, Town of Webster, Town of Lakeville, Indian Hills Realty, Town of Holden.

New Jersey: Borough of Penns Grove, City of Bridgeton, City of Camden, City of Gloucester City, Township of Winslow, City of Vineland, Elizabethtown Water Company, Little Egg Harbor Township, Mount Holly Water Company, Mount Laurel Municipal Utilities Authority, New Jersey American Water Company, Inc., Penns Grove Water Supply Company, Inc., Point Pleasant, Southeast Morris County Municipal Utilities Authority, Township of Montclair, United Water Arlington Hills, Inc., United Water Hampton, Inc., United Water New Jersey, Inc., United Water Toms River, Inc., United Water Vernon Hills, Inc.

New Mexico: People of the State of New Mexico Through the Office of the Attorney General

New York: Franklin Square Water District, Great Neck North, Hicksville Water District, Jericho Water District, Long Island Water Corporation, Nassau County, Port Washington Water District, Roslyn Water District, Suffolk County, Suffolk County Water Authority, Town of Wappinger, United Water New York, Inc., Village of Pawling, Village of Sands Point, Western Nassau Water Authority

Pennsylvania: Northampton/Bucks County Municipal Authority

Vermont: Craftsbury Fire District #2, Town of Hartland

Virginia: Buchanan County School Board, Greensville County Water & Sewer Authority, Patrick County School Board

West Virginia: Town of Matoaka

Wisconsin: Town of Freedom, Freedom Sanitary Water District, Capital Credit Union,

Coffey Insurance Services, St. Nicholas Parish, Brenda Abrahamson, et al. (private well owners)

Result: To date, settlements with Oil Company Defendants total over \$450 million and an agreement by 70% of the Major Oil Companies to pay for the treatment of new wells that become contaminated with MTBE and certain preconditions for the next 30 years. The well protection provided by the settlement protects over 3600 wells serving millions of Americans.

Notables:

1. Summy was aligned with the New Mexico Attorney General's office representing the State of New Mexico in their statewide MTBE case.
2. Many of the MTBE/TBA cases have been consolidated in a Multidistrict Litigation in New York before the Honorable Shira A. Scheindlin. Mr. Summy has been designated as co-lead counsel by Order of the Court for the plaintiffs in In re: MTBE, MDL 1358. Summy is a member of the Plaintiffs' Steering Committee and also serves as Treasurer for this Committee.
3. The total value of partial settlements reached to date is in excess of a half a billion dollars - the largest settlement in the history of MTBE litigation in the United States.

3. **MTBE and TBA Multi-District Litigation ("MDL 1358") and Individual Actions**
[Second MDL Settlement]

Plaintiffs: City of Pomona, California; City of Santa Barbara, California; Village of Bethalto, Illinois; City of Nokomis, Illinois; Village of Roanoke, Illinois; Town of Kouts, Indiana; Bridgewater Water Department, Massachusetts; Russell Water Department, Massachusetts; Mayor and Council of Berlin, Maryland; City of Aberdeen, Maryland; Town of Chestertown, Maryland; City of Salisbury, Maryland; Commissioners of Sharptown, Maryland; City of Taneytown, Maryland; County Commissioners of Worcester County, Maryland; City of Kennett, Missouri; Mound City, Missouri; City of Pattonsburg, Missouri; Coraopolis Water & Sewer Authority, Pennsylvania; Harrisville Fire District, Rhode Island; Town of Kingston, Rhode Island

Result: Settled for \$19,471,486.86

4. **MTBE and TBA Multi-District Litigation ("MDL 1358") and Individual Actions**
[Third MDL Settlement]

Plaintiffs: City of Manning, Iowa; RPI Blueberry Estates, Massachusetts; Brewster Water Department, Massachusetts; Harborside Village, Massachusetts; Holy Virgin Mary Spiritual Vinyard (St. Mark Coptic Orthodox Church), Massachusetts; Hopkinton Water Department, Massachusetts; RIGR,

Massachusetts, Newburyport Water Department, Massachusetts; rEVO Biologics, Inc., Massachusetts; City of Portageville, Missouri; Town of Hinesburg, Vermont

Result: Settled for \$4,300,000

5. ***Hurshel L. Ashcraft, et al. v. Conoco, Inc., et al.***
(North Carolina) (1997)
Plaintiffs: 178 Residents of 2 Mobile Home Parks
Wells: 2 groundwater wells
Contaminants: Benzene and MTBE
Result: Tried to a jury in 1997. Settled when jury was out determining how much to award in punitive damages. Reportedly settled for \$36 Million.
Notables: First MTBE case ever tried to a jury in the United States. Largest settlement in North Carolina history at that time.

6. ***Alley, et al. v. Conoco, Inc., et al.***
(North Carolina) (1998)
Plaintiffs: 82 Residents of 2 Mobile Home Parks
Wells: 2 groundwater wells
Contaminants: Benzene and MTBE
Result: Settlement for \$6.85 Million

7. ***Barbara Fulcher, et al. v. Trinity American Corporation***
(North Carolina) (1998)
Plaintiffs: 3 families
Wells: 3 residential groundwater wells
Contaminants: Diesel fuel, chromium/chromate, chlorinated solvents, toluene
Result: Settled for \$900,000.00

8. ***Communities for a Better Environment v. Unocal, et al.***
(California) (2001)
Plaintiff: Communities for a Better Environment
Wells: Injunctive relief action brought to protect groundwater wells, public and private, across the State of California
Contaminants: MTBE
Result: After a partial bench trial, Defendants, Major Oil Companies, entered into settlement agreements, injunctive orders and judgments to change their business practices regarding MTBE. They agreed to provide warnings and incorporate state agency directives on cleanup to a legal judgment making delays contemptible. The settlement involved over 1000 sites and was valued at approximately \$200 Million.
Notables: The CBE legal team headed by Summy received the California Lawyer Attorneys of the Year (CLAY) Award for Environmental Law.

9. ***City of Santa Monica v. Shell Oil Company, et al.***
(California) (2003)

Plaintiffs: City of Santa Monica and Southern California Water Company
Wells: 5 public groundwater wells extracting from the Charnock Basin
Contaminants: MTBE and TBA
Result: Settlement valued by the Court at \$315.5 Million.
Notables: The settlement obtained for the City and Water Company requires the Defendants to pay for the design, construction, operation and maintenance of the filtration system until all wells are clean. Additionally, the Defendants paid the City approximately \$120 Million in cash. This allows the City to pay for its attorneys without going out of pocket.

10. ***Kimberly Kirkman, et al. v. ExxonMobil, et al.***

(Pennsylvania) (2003)

Plaintiffs: 7 Plaintiffs
Wells: 1 commercial groundwater well and 3 residential groundwater wells
Contaminants: MTBE
Result: Settled for \$670,000 cash. In addition, 2 plaintiffs obtained hook-up to public water and 4 plaintiffs obtained a Value Assurance Program to assist Plaintiffs in selling their homes

11. ***Salah Bichmaf, et al. v. ExxonMobil Corporation***

(New Jersey) (2003)

Plaintiffs: 8 Families
Wells: 5 groundwater wells
Contaminants: MTBE and Benzene
Result: Confidential settlement.
Residents also hooked up to public water

12. ***Theodore Holten, et al. v. Chevron, U.S.A., Inc., et al***

(New Jersey) (2004)

Plaintiffs: Approximately 45 Private Residences
Wells: Approximately 45 Residential groundwater wells
Contaminants: MTBE, Benzene and TBA
Result: Settlement for \$2.6 Million

13. ***Communities for a Better Environment, et al. v. Tosco, et al.***

(California) (2006)

Plaintiffs: Communities for a Better Environment and Nicole McAdam
Wells: Acting as private Attorney General brought action under Prop 65 to protect groundwater, public and private groundwater wells throughout the State of California
Contaminants: Benzene and Toluene
Result: Settlements with defendants include injunctive relief, penalties, attorneys' fees and costs. The settlements have been valued in excess of \$100 Million.
Notables: This is the largest Prop 65 settlement to date in the state of California.

14. ***Village of East Alton v. Premcor Refining Group Inc. f/k/a Clark Refining & Marketing Inc.***
(Illinois)
Plaintiffs: Village of East Alton
Wells: 2 groundwater wells
Contaminants: MTBE and TBA
Result: Settlement over \$8 Million.

15. ***Francis Misukonis, et al. v. Atlantic Richfield Company, et al.***
(Illinois)
Plaintiffs: Private well owners
Results: Injunctive relief and attorneys' fees

16. ***Thomas G. Browning, et al. v. Explorer Pipeline Company, et al.***
(Texas) (2005)
Plaintiffs: Approximately 19 private residents requesting recovery for property damage
Results: Settlement over \$1.5 Million

17. ***Fruitridge Vista Water Company v. ExxonMobil, et al.***
(California)
Plaintiff: Fruitridge Vista Water Company
Wells: 4 Groundwater Wells
Results: Settlement over \$2.4 Million

18. ***Howard Graham, et al v. Shell Oil Company, et al.***
(Illinois)
Plaintiffs: Private well owners
Results: Injunctive relief and attorneys' fees

Other Toxic Tort Cases Handled by Summy

1. ***Charlene LaVerene Mercurio, et al. v. Alcoa, Inc., et al.***
(Illinois)
Plaintiffs: Residents of the town of Rosiclare, Illinois
Contaminants: Lead and other heavy metals
Results: Confidential Settlement

2. ***Sandra Sue Fullen, et al. v. Philips Electronics North America, et al.***
(West Virginia)
Plaintiffs: Former employees of the Fairmont, West Virginia Philips plant
Contaminants: Mercury
Results: Confidential Settlement

3. ***Lori Lynn Moss and Randy Moss, et al., v. Venoco, Inc., et al.***
(California)

Plaintiffs: Former students, and others in the community, who were exposed to toxic materials near Beverly Hills High School
Results: Settled for \$30,000,000

TCP

Summy currently represents several public water providers in California whose wells have been contaminated by TCP. These water providers are:

California Water Services
City of Bakersfield
City of Delano
City of Livingston
City of Oceanside
City of Shafter
City of Wasco
Lamont Public Utility District
Montara Water & Sanitary District
Sunny Slope Water Company

Results: *City of Livingston* settled in 2011
City of Oceanside settled in 2011
City of Shafter settled in 2012
City of Wasco settled in 2013
Lamont Public Utility District settled in 2014
City of Delano settled in 2015
City of Bakersfield settled in 2017
California Water District settled in 2017

PCE

Summy represented California Water Services, City of Sunnyvale in California and Suffolk County Water Authority in New York due to the fact that their wells were contaminated by PCE.

Atrazine

Summy represented several water providers in the mid-west whose water supply was contaminated by atrazine. These water providers include:

Illinois: Illinois-American Water Company, City of Carlinville, City of Coulterville, City of Fairfield, City of Flora, City of Gillespie, City of Greenville, City of Hillsboro, City of Litchfield, City of Mount Olive, Holiday Shores Sanitary District, City of Mattoon, Village of Evansville, Village of Farina

Indiana: Indiana-American Water Company, City of Jasper

Iowa: Iowa-American Water Company, Chariton Municipal Water Works, Creston Municipal Utilities, City of Gladbrook

Kansas: City of Carbondale, City of Dodge City, City of Hillsboro, City of Marion, City of Oswego, City of Plains, Rural Water District No. 2 of Miami County

Missouri: Missouri-American Water Company, City of Cameron, City of Concordia, City of Vandalia, City of Maryville

Ohio: Ohio-American Water Company, City of Upper Sandusky, Village of Monroeville, Village of Ottawa

Results: Class Action Settlement \$105,000,000

Notables: In May, 2012, Summy was appointed as Class Counsel for the Atrazine Settlement Class by Judge J. Phil Gilbert.

Gulf Oil Spill

Summy was part of a group who represented several public entities who were affected by the Gulf Oil Spill. Those entities include: City of Anna Maria, City of Bristol, City of Cedar Key, City of Holmes Beach, City of Marathon, City of Monticello, City of Niceville, City of Palmetto, City of Pensacola, City of St. Marks, City of Tallahassee, Collier County, Escambia County, Jackson County, Jefferson County, Lee County, Leon County, Manatee County, Monroe County, Okaloosa Gas District, Pensacola Downtown Improvement Board, Santa Rosa County, School Board of Calhoun County, School Board of Escambia County, School Board of Jefferson County, School Board of Leon County, School Board of Martin County, School Board of Miami-Dade County, School Board of Monroe County, School Board of Palm Beach County, School Board of Polk County, School Board of Santa Rosa County, School Board of Volusia County, School Board of Wakulla County, Town of White Springs, Village of Islamorada, and Wakulla County.

Summy's Memberships and Affiliations

Summy is actively involved in organizations that are important to his clients, public and private well owners. Summy was also selected in 2003 to become a member of the Board of Directors for the nationally acclaimed Western Environmental Law Center. Organizations in which Summy actively participates are as follows:

Water

American Water Works Association (AWWA)
Association of Metropolitan Water Agencies (AMWA)
National Association of Water Companies (NAWC)
Association of California Water Agencies (ACWA)
American Ground Water Trust

Environmental

Western Environmental Law Center - Advisory Council (2003 – 2005)

Legal

American Association for Justice (Co-Chair Gulf Coast Oil Spill Litigation Section;
Environmental Law Section; Interim Co-Chair – Wildfire Litigation Group)
State Bar of Texas
Public Justice - Board of Directors (2008 – 2011)
Environmental Law Section - State Bar of Texas
State Bar of North Carolina
International Municipal Lawyers Association (IMLA)
Fellow of Dallas Bar Association
Texas Trial Lawyers Association
State Bar of New York
Mass Tort Trial Lawyers Association
The National Trial Lawyers: Top 100 Trial Lawyers
National Academy of Jurisprudence
Fellow of the American Bar Foundation

Charitable

1. Mr. Summy is the founder and President of Supreme Court Youth Organization (“SC”). SC is an organization which supports youth basketball teams as they compete nationally. It provides assistance to underprivileged kids that could not otherwise afford to participate. It also established and supports SASO (“Scholars and Athletes Serving Others”), which is a service organization of young men and their mothers who devote substantial service time to charitable events.
2. Mr. Summy is also a member of the Advisory Board of Pro Players Foundation. The Pro Players Foundation combines the time and talents of numerous professional athletes and business and community leaders to assist disadvantaged youth in North Texas.

Presentations

Summy regularly presents at both legal and environmental seminars. Of note, in 2003 Summy was invited to present at a seminar to discuss American Indian Tribal Concerns regarding Perchlorate contamination in the Colorado River. Summy’s presentations include the following:

Mealey’s Emerging Toxic Torts, “UST and MTBE Litigation Conference” (Co-Chairman, November 15, 1999).

Mealey’s Toxic Tort Conference: Plaintiff, Defense and Expert Perspectives (April 17-18, 2000).

Mealey’s MTBE Conference (May 11-12, 2000).

American Bar Association Section of Environment, Energy, and Resources 30th Annual Conference on Environmental Law (March 8-11, 2001).

Mealey’s MTBE Litigation Conference 2001 (May 10-11, 2001).

Mealey's MTBE & USTs Litigation Conference (Co-Chairman, November 4-5, 2002).

United States Composting Council 11th Annual Conference (January 28-30, 2003).

Tribal Concerns - Perchlorate Contamination Conference, "How Do We Pay The Costs of Restoration?" (September 10, 2003).

International Municipal Lawyers Association, "Protecting Your Drinking Water: MTBE Detects? The Solution to MTBE Pollution" (October 12 - 15, 2003).

United States Composting Council 12th Annual Conference (January 25-28, 2004).

Investigation and Remediation of Dry Cleaner Release Sites - Groundwater Resources Assn., "PCE - The Groundwater Contamination Problem: Who Should Pay to Clean Their Waste From Our Water?", Sacramento, CA (April 7, 2004).

American Ground Water Trust, "Perchlorate in America's Ground Water" (May 3, 2004).

2004 NGWA Groundwater and Environmental Law Conference, "The 2003 Federal Energy Bill and MTBE Liability Protection: If You Fail in Court You Can Win in Congress" (May 5-6, 2004).

"Expert Witnesses," Guest Lecturer, Saint Louis University Law School (September 25, 2004).

International Municipal Lawyers Association, "Emerging Contaminants," (October 5, 2004).

California Nevada Section - American Water Works Association, "Perchlorate - The Blast That Lasts," (October 13, 2004)

2004 Page Keeton Civil Trial Conference, "Representing Water Providers in Environmental Litigation," (October 28, 2004)

2004 Mealey's MTBE and USTs Litigation Conference, "Lessons Learned in the Settlement and/or Trial of MTBE Cases," (December 7, 2004)

2005 National Ground Water Association Ground Water Summit, "Emerging Contaminants, MTBE and Their Impact on America's Water Supply," (April 18, 2005)

Ohio Section - AWWA Conference, "Atrazine Litigation: Recovering the Costs of Treatment," (September 21, 2005)

2005 International Municipal Lawyers Association Annual Conference, "Representing Public Water Providers in Water Contamination Cases," (September 26, 2005)

Ohio Section - AWWA - 9th Annual Safe Drinking Water Act Seminar, "Atrazine Litigation: Recovering the Costs of Treatment," (November 17, 2005)

360 Advocacy Institute - Gulf Coast Disaster: Representing the Plaintiffs - Individuals to Institutions, "Back to the Future - Limitations of Shipowners' Liability Act of 1851 (46 U.S.C. § 30505)," (May 20-21, 2010)

HB Litigation Conferences - Oil in the Gulf: Litigation & Insurance Litigation Coverage Conference, "National Survey of Cases Filed to Date & Coordinating State and Federal Cases," (June 24-25, 2010)

Mass Torts Seminar - Deepwater Horizon/BP Spill, Status of MDL, April 20th Deadline and Status of Scientific Experts (April 13-15, 2011)

"BP Oil Spill Litigation Update," Energy Accounting and Technology Conference, University of New Orleans, May 15, 2012

ABA Section of Environment, Energy, and Resources, 21st Fall Conference, Water, Wind, Waste, and More: Navigating New Tides in Environment, Energy and Resource Regulation "Low Dose Litigation 'The Plaintiff's Perspective,'" (October 9-12, 2013)

360 Advocacy, Damages: Go Big, Always Go Big, "Many Ways to Go Big – A Different Perspective on Environmental Cases." (June 12-14, 2016)

California Coast Chapter of ABOTA: "Wildfire Litigation Spreads to Mass Tort" (February 21, 2018)

Publications

Summy has published articles regarding the legal aspects of handling cases involving chemicals that impact his clients. In 2003, Summy's MTBE water clients were placed at tremendous risk when the "MTBE Liability Waiver" provision was added to the proposed Energy Bill coming out of the Legislature's Conference Committee. The MTBE Liability Waiver would have stripped Summy's MTBE water clients of their rights to pursue the major oil companies under a products liability cause of action. Summy attempted to assist his clients by criticizing the controversial provision. These are cited as follows:

"MTBE Immunity Provision A Bad Idea," Texas Lawyer, October 13, 2003

"'Fuel Safe Harbor' Provision Grants Immunity to MTBE Manufacturers," New Jersey Law Journal, Vol. CLXXIV - No. 3 - Index 237, October 20, 2003

"Cities May Lose Rights to Pursue Oil Companies for MTBE Contamination," New Jersey Conference of Mayors, February, 2004

One article authored by Summy was picked up by legal journals and mainstream publications in 124 instances in 15 states with a readership total of 4,434,256. This article was entitled, "Should the Public Pay for the Oil Industry's Mistake?"

Summy also co-authored an article entitled, "The Texas Residential Construction Liability Act: Framework for Change." It appeared in the Texas Tech Law Review, 27 Texas Tech Law Review 1 - 31 (1996).

“Managing Claims Arising From the Gulf Coast Oil Spill: Multidistrict Litigation v. the \$20 Billion Fund,” in TXLR, Vol. 25, # 26, July 8, 2010

“The Legal Challenges and Ramifications of Gulf Oil Spill,” Aspatore Special Report - Understanding the BP Oil Spill and Resulting Litigation - An In-Depth Look at the History of Oil Pollution and the Impact of the Gulf Oil Coast Disaster, 2010; Also appeared in West’s 2010 Gulf Coast Oil Disaster - Litigation and Liability, October 2010.

“Poison In The Well,” American Association of Justice – Trial Magazine, August 2016. Co-authored with John Fiske and Carla Burke Pickrel.

“Unnatural Disasters,” American Association of Justice – Trial Magazine, January 2019. Co-authored with John Fiske.

Testimony Before Legislative Bodies

Summy testified before the Texas House Civil Practice and Remedies Subcommittee in opposition to HB 1927 designed to provide immunity to manufacturers of gasoline additives.

Awards

Summy has been recognized for his accomplishments in the legal arena by his peers on a number of occasions.

1. California Lawyer Attorneys of the Year (CLAY) Award for Environmental Law (2001)
2. Selected by D Magazine as one of the “Best Lawyers in Dallas” (2003)
3. Selected by Texas Monthly as a “Texas Super Lawyer” (2003)
4. Selected by D Magazine as one of the “Best Lawyers Under 40 in Dallas” (2004)
5. Selected by Texas Monthly as a “Texas Super Lawyer” (2004)
6. Selected by D Magazine as one of the “Best Lawyers in Dallas” (2005)
7. Selected by Texas Monthly as a “Texas Super Lawyer” (2005)
8. Selected to be included in The Best Lawyers in America 2006 edition
9. Selected by D Magazine as one of the “Best Lawyers in Dallas” (2006)
10. Selected by Texas Monthly as a “Texas Super Lawyer” (2006)
11. Selected by Texas Monthly as a “Texas Super Lawyer” (2007)
12. Selected to be included in The Best Lawyers in America 2007 edition
13. Selected as one of “The American Trial Lawyers Association’s Top 100 Trial Lawyers for Texas - 2008”
14. Selected by D Magazine as one of the “Best Lawyers in Dallas” (2008)
15. Selected by Texas Monthly as a “Texas Super Lawyer” (2008)
16. Selected to be included in The Best Lawyers in America 2008 edition
17. Selected to be included in The Best Lawyers in America 2009 edition
18. Selected to be included in Lawdragon, 500 Leading Attorneys in the US 2009 edition
19. Selected by Super Lawyers, to be included in Super Lawyers Corporate Counsel Edition (2009)

20. Selected as one of “The American Trial Lawyers Association’s Top 100 Trial Lawyers for Texas - 2008-2009”
21. Finalist – Public Justice Trial Lawyer of the Year (2009)
22. Selected by Texas Monthly as a “Texas Super Lawyer” (2009)
23. Selected to be included in The Best Lawyers in America 2010 edition
24. Selected by Super Lawyers, to be included in Super Lawyers Corporate Counsel Edition (2010)
25. Selected by Texas Monthly as a “Texas Super Lawyer” (2010)
26. Selected by Texas Monthly to be included in “Super Lawyers Business Edition” (inaugural publication)
27. Selected to be included in The Best Lawyers in America 2011 edition
28. Selected by Texas Monthly as a “Texas Super Lawyer” (2011)
29. Selected to be included in The Best Lawyers in America 2012 edition
30. Selected by Texas Monthly to be included in “Super Lawyers Business Edition” (2012)
31. Selected by Texas Monthly as a “Texas Super Lawyer” (2012)
32. Recognized as a “highly recommended” attorney in Baron & Budd’s selection to the Legal 500 List (2012)
33. Selected by Benchmark Litigation, *the Guide to America’s Leading Litigation Firms and Attorneys*, as a Leading Plaintiffs Star in Texas (2012)
34. Selected to be included in The Best Lawyers in America 2013 edition
35. Selected to be included as a 2013 Top Rated Lawyer in Energy, Environmental, & Natural Resources in the April issue or *The American Lawyer & Corporate Counsel* magazine.
36. Finalist – Public Justice Trial Lawyer of the Year (2013)
37. Selected to be included in The Best Lawyers in America 2014 edition
38. Selected by Texas Monthly as a “Texas Super Lawyer” (2013)
39. Selected by Benchmark Litigation as a “Local Litigation Star” in Texas 2014 edition
40. Selected to be included in The Best Lawyers in America 21st edition (2015)
41. Selected to be included in The Best Lawyers in America 22nd edition (2016); This is the 10th year in a row.
42. Selected as Lawyer of the Year in Mass Torts Litigation by Best Lawyers (2016)
43. Tarleton State University - 2016 Legacy Award Winner – Civil and Integrity Award
44. America’s Top 100 Attorneys – Lifetime Achievement
45. Selected as one of the Premier 100 Trial Attorneys for The National Academy of Jurisprudence (2016)
46. Selected to be included in The Best Lawyers in America 23rd edition (2017)
47. Winner of the Burton Award for “Poisoning the Well.” Appeared in August 2016 issue of *Trial Magazine*.
48. Selected as one of the “Premier 20 Over 20” trial attorneys for Texas for The National Academy of Jurisprudence (2017)
49. Recognized as a “recommended” attorney in Baron & Budd’s selection to the Legal 500 List (2017)
50. Selected to be included in The Best Lawyers in America 24th edition (2018)
51. Selected to be named to the National Law Journal’s Plaintiff’s Lawyers Trailblazer List

52. America's Top 100 High Stakes Litigators (2018)
53. Selected to be included in the National Trial Lawyer - Top 10 Environmental Trial Lawyers Association (2018)
54. Selected to be included in The Best Lawyers in America 25th edition (2019)
55. Selected by D Magazine as one of the "Best Lawyers in Dallas" (2019)

Educational Background

Texas Tech University School of Law, J.D. 1990
Phi Delta Phi
Board of Barristers
John Marshall Moot Court Team
National Moot Court Team
Recipient: American Jurisprudence Award for Appellate Advocacy
Tarleton State University, B.A. 1986 (cum laude)

Admitted to Practice in the Following Courts

Summy is frequently allowed to practice in states all over the country by applying for admission "pro hac vice." This allows Summy to handle individual water cases in numerous states. Summy is licensed in the following states and courts:

Supreme Court of Texas
All State Courts in Texas
Federal Eastern District of Texas
Federal Northern District of Texas
Federal Southern District of Texas
Federal Western District of Texas
Fifth Circuit Court of Appeals
Supreme Court of North Carolina
All State Courts in North Carolina
All State Courts in New York
Federal Northern District of Indiana
Federal Southern District of Illinois
Superior Court of the State of California, County of Contra Costa

Summy is also AV Preeminent rated by Martindale-Hubble.

Reported Cases:

1. 1998 WL 404491 (E.D.N.C.), *Hurshel L. Ashcraft, et al., Plaintiffs, v. Conoco, Inc., et al., Defendants*, No. 7:95-CV-187-BR(3), United States District Court, E.D.N.C.
2. 218 F.3d 282, *Hurshel L. Ashcraft, et al., Plaintiffs, v. Conoco, Inc., et al., Defendants*, No. 7:95-CV-187-BR(3), United States District Court, E.D.N.C.

3. 218 F.3d 288, *Hurshel L. Ashcraft, et al., Plaintiffs, v. Conoco, Inc., et al., Defendants*, No. 7:95-CV-187-BR(3), United States District Court, E.D.N.C.
4. 2000 WL 1679502 (D. Virgin Islands), *Josephat Henry (Harvey), et. al v. St. Croix Alumina, LLC., et al.*, No. Civ. 1999-0036, District Court of the Virgin Islands, Division of St. Croix, Appellate Division.
5. 864 S.W.2d 648, *The Hartford Insurance Company, Appellant v. Commerce & Industry Insurance Company, Appellee*, No. 01-92-01166-CV, Court of Appeals of Texas, Houston (1st Dist.).
6. 852 S.W.2d 37, *The Sherwin-Williams Company, Appellant v. Trinity Contractors, Inc., Appellee*, No. 10-92-251-CV, Court of Appeals of Texas, Waco
7. 578 F.Supp.2d 519, *In re Methyl Tertiary Butyl Ether (MTBE) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y. 2008)
8. 2008 WL 2944653, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jul 30, 2008)
9. 2008 WL 2566551, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jun 26, 2008)
10. 2008 WL 2511038, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jun 18, 2008)
11. 2008 WL 2388911, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jun 12, 2008)
12. 2008 WL 2882543, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jun 4, 2008)
13. 2008 WL 2047611, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., May 13, 2008)
14. 2008 WL 1991113, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., May 7, 2008)
15. 2008 WL 1971538, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., May 7, 2008)

16. 2008 WL 1971547, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., May 7, 2008)
17. 559 F.Supp.2d 424, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2008)
18. 522 F.Supp. 2d 569, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Nov 7, 2007)
19. 517 F.Supp.2d. 662, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Sep 20, 2007)
20. 510 F.Supp.2d. 299, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Sep 17, 2007)
21. 2007 WL 1791258, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jun 15, 2007)
22. 2007 WL 1601491, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jun 4, 2007)
23. 476 F.Supp.2d 275, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jan 8, 2007)
24. 2006 WL 1997471, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jul 18, 2006)
25. 2006 WL 1004725, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Apr 17, 2006)
26. 458 F.Supp.2d 149, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2006)
27. 447 F.Supp.2d 289, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2006)
28. 438 F.Supp.2d 291, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2006)
29. 457 F.Supp.2d 324, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2006)

30. 457 F.Supp.2d 298, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2006), *motion for reconsideration denied*, 2006 WL 1816308 (June 26, 2006)
31. 415 F.Supp.2d 261, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2005)
32. 402 F.Supp.2d 434, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., May 31, 2005)
33. 399 F.Supp.2d 325, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2005)
34. 399 F.Supp.2d 320, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jul 26, 2005)
35. 2005 WL 1529594, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., June 28, 2005)
36. 2005 WL 1500893, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., June 24, 2005)
37. 399 F.Supp.2d 242, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2005)
38. 233 F.R.D. 133, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2005)
39. 379 F.Supp.2d 348, 364, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2005)
40. 2005 WL 106936, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jan 18, 2005)
41. 2005 WL 39918, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Jan 6, 2005)
42. 364 F.Supp.2d 329, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2004)
43. 341 F.Supp.2d 386, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2004)
44. 341 F.Supp.2d 351, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2004)

45. 209 F.R.D. 323, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., 2002)(“*MTBE I*”)
46. 2002 WL 32361003, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., May 23, 2002) (“*MTBE I*”)
47. 174 F.Supp.2d 4, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. M 21-88, MDL 1358 United States District Court, (S.D.N.Y., Oct 16, 2001) (“*MTBE I*”)
48. 175 F.Supp.2d 593, *In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation*, No. 00-Civ. 1898(BS) United States District Court, (S.D.N.Y., 2001)(“*MTBE I*”)
49. 144 Cal. App.4th 689, *D.J. Nelson, as Trustee, etc. v. The Superior Court*, No. C052420, Court of Appeal, Third District, California, (Nov 6, 2006)
50. *City of Greenville v. Syngenta Crop Prot., Inc.*, 2012 U.S. Dist. LEXIS 151819 (S.D. Ill. Oct. 23, 2012) (granting motion for final approval of settlement and award of attorney’s fees and expenses)
51. *City of Greenville v. Syngenta Crop Prot., Inc.*, 2012 U.S. Dist. LEXIS 74305 (S.D. Ill. May 30, 2012) (granting motion for preliminary approval)
52. *City of Greenville v. Syngenta Crop Prot., Inc.*, 830 F. Supp. 2d 550, 565 (S.D. Ill. 2011) (denying Syngenta AG’s motion to dismiss for lack of personal jurisdiction)
53. *City of Greenville v. Syngenta Crop Prot., Inc.*, 756 F. Supp. 2d 1001, 1004 (S.D. Ill. 2010) (denying Syngenta’s motion to dismiss under Federal Rule of Civil Procedure 12(b)(6))

How to Reach Summy

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CELESTE A. EVANGELISTI

PROFESSIONAL OVERVIEW

Twenty years litigating complex environmental contamination and toxic tort cases, with a focus on representation of public entities including states, municipalities, public water providers, school boards, and other governmental entities, who seek to recover costs for environmental clean-up, restoration of water supplies, natural resource damages, and any other costs associated with the contamination.

Since 2014, has been litigating against Monsanto for clean-up costs to address the PCB contamination resulting from Monsanto's decision to continue to market and promote PCB, despite knowledge it had become a toxic and ubiquitous environmental contaminant.

A well-known figure in national litigation arising from contamination caused by the gasoline additive Methyl tertiary-butyl ether (MTBE), having been among the first lawyers to litigate cases against the entire oil industry, beginning in 1999. These cases involved various legal claims applying approximately twenty different states' laws against more than two dozen defendants including some of the largest corporations in the world – ExxonMobil, Shell Oil Company, etc. Also involved in litigation involving PCE, TCE and Atrazine against multi-national giant Syngenta.

Instrumental in working up and establishing the general liability case against defendants, but involved in all aspects of litigation, including overall case strategy, discovery and experts. Has been on the trial team for two jury trials and two bench trials.

Licensed to practice law in Texas (1995), California (2003) and New York (2004), and AV-rated by Martindale Hubbell.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Shareholder, Environmental Litigation Group, 2006-present
Associate, Water Contamination Practice Group, 2002-2006

Cooper & Scully, P.C.

Associate, exclusive work on environmental toxic torts with Scott Summy, 1999-2002

Strasburger & Price, LLP

Associate, Product Liability Group, 1995-1999

EDUCATION

Cornell University School of Law (J.D. 1995)

State University of New York at Binghamton (B.A. Mathematics, 1992)

PROFESSIONAL AWARDS & ASSOCIATIONS

Top 100 Civil Plaintiff Trial Lawyers (National Trial Lawyers, 2017)

Finalist, Public Justice Trial Lawyer of the Year Award (2013)

Finalist, Public Justice Trial Lawyer of the Year Award (2009)

Texas Super Lawyer (Thompson Reuters, 2003-2005)

Daily Journal Corp.'s California Lawyer Attorneys of the Year (CLAY) Award for Environmental Law (2001 - member of legal team/awardee)

American Association for Justice – Environmental Law Section

Public Justice

Dallas Trial Lawyers Association

Not certified by the Texas Board of Legal Specialization

CARY MCDUGAL

Summary

Mr. McDougal is a shareholder in the law firm of Baron & Budd, P.C., one of the largest and oldest firms in the country, specializing in environmental litigation. Mr. McDougal has been lead attorney in over 60 jury trials in state and federal court. He has tried cases both as plaintiff and defense counsel involving such diverse areas of the law as premises liability, product liability, general personal injury, medical malpractice, insurance litigation, and environmental litigation.

The first 14 years of his legal career, Mr. McDougal handled the defense of matters involving complex litigation throughout Texas and Oklahoma as a partner at two Dallas firms. He focused his practice on civil litigation, and he managed and tried all litigation for several North Texas health care agencies. He co-founded the law firm Aldous & McDougal, which gained recognition for its trial successes on behalf of plaintiffs in medical malpractice, contractual disputes, and other matters. Mr. McDougal joined Baron & Budd, P.C. in 2005.

A shareholder and manager of Baron & Budd's groundwater contamination litigation practice, Mr. McDougal currently represents a number of public entities and water providers across the country that are seeking clean-up costs for the contamination of their water supplies, restoration costs for damaged natural resources, and additional damages for negative impacts to their property. His cases involve chemical contaminants such as PCBs, PFOA/PFOS, GenX, TCP, TCE, PCE, and Dioxin.

Mr. McDougal has been inducted into the prestigious American Board of Trial Advocates (ABOTA), a recognition by his peers for his jury trial experience, commitment to the jury process, and ethics. He also holds the top rating from the Martindale-Hubbell Law Directory and was named a "Texas Super Lawyer" by Law & Politics Media and Texas Monthly magazine.

Professional Background

BARON & BUDD, P.C., Shareholder, 2005 - present

- Environmental Contamination Litigation practice including a variety of chemical exposures such as MTBE, dioxin, atrazine, TCE, TCP, PCE and others
- Manages firm's Water Contamination Section
- Manages and developed mass toxic tort cases in multiple states
- Manages team designated as co-lead counsel on MTBE Multi-District Litigation ("MDL 1358")

ALDOUS & MCDUGAL, Partner & Co-Founder, 2003 - 2005

- Lead counsel in complex litigation areas including catastrophic personal injury cases, product liability, general personal injury, and professional liability in Texas State and Federal Courts

COOPER & SCULLY, P.C., Partner, 1991 - 2003

- Lead counsel handling the defense of matters of complex civil litigation including

products liability, personal injury, first party insurance litigation, medical malpractice in Texas and Oklahoma State and Federal Courts, primary lead counsel for health care agencies, providers and organizations, and insurance companies

Educational Background

University of Texas School of Law (J.D. 1988)

University of Texas at Austin LBJ School of Public Affairs (M.P.A. 1988)

Academic emphasis: legislative affairs, federal/state regulatory processes

Baylor University (B.A. 1984)

Admissions

State Bar of Texas

United States District Court for the Western, Eastern, and Northern Districts of Texas

United States District Court for the Southern District of New York

United States District Court for the Eastern District of Kentucky

United States District Court for the Northern District of West Virginia

Pro Hac Admissions: California, Florida, Kansas, Missouri, Illinois, Indiana, Ohio, West Virginia

Memberships, Affiliations and Honors

American Bar Association

American Board of Trial Advocates (ABOTA)

Dallas Bar Association

State Bar of Texas

Texas Trial Lawyers Association

American Association for Justice

American Water Works Association (AWWA)

Martindale-Hubbell, AV rating

American Association for Justice Trial Lawyer of the Year, 2013 finalist

Texas Monthly "Super Lawyer"

2013 Top Rated Lawyers in Mass Torts, *The American Lawyer* and *Corporate Counsel*

CARLA BURKE PICKREL

PROFESSIONAL OVERVIEW

Nineteen years litigation experience in complex environmental contamination and toxic tort cases.

Represents public entities including states, municipalities, public water providers, school boards, and other governmental subdivisions to recover costs of remediation, treatment, disposal, and damages for loss of property, natural resources, and other losses.

Extensive experience litigating complex cases involving multiple legal theories and/or various states' laws in suits against numerous defendants. In the MTBE litigation, stated various causes of action under approximately twenty states' laws against over 20 national oil refiners. Regularly litigates against large, multinational corporations including ExxonMobil, Syngenta, Monsanto, Dow, and DuPont.

Proficiency with briefing and arguing substantive motions in litigation concerning various chemicals including PCBs, MTBE, atrazine, PFAS, TCE, PCE, 1,2,3-TCP, and others.

Develops cutting-edge legal arguments supporting imposing liability under theories of nuisance, negligence, products liability, and various environmental statutes in environmental cases.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Shareholder, Environmental Litigation Group, 2008-present

Associate, Water Contamination Practice Group, 2004-2007

Associate, Appellate Department, 2000-2004

Contract Writer, Appellate Department 1999-2000

Southern Methodist University School of Law

Adjunct Clinical Instructor, Civil Clinic, 2001-02

Law Office of Frank L. Branson

Law Clerk, 1997-98

EDUCATION

Southern Methodist University (J.D. 1999; M.A. 1994; B.A. 1991)

BAR & COURT ADMISSIONS

State of Texas
State of New York
State of Washington
United States Court of Appeals for the Fifth Circuit
Supreme Court of the United States of America

PROFESSIONAL AWARDS & ASSOCIATIONS

National Trial Lawyers: Top 100, 2018, 2019
Finalist, Public Justice Trial Lawyer of the Year Award, 2013
Finalist, Public Justice Trial Lawyer of the Year Award, 2009
Law & Politics Media's List of "*Texas Rising Stars*," 2006

REPRESENTATIVE REPORTED CASES

Rhode Island v. Atlantic Richfield Company, --- F.3d ---, 2018 WL 6505394 (D.R.I. 2018) (slip opinion)

State of Washington v. Monsanto Co., 274 F.Supp.3d 1125 (W.D.Wa. 2017)

City of San Diego v. Monsanto Co., 2017 WL 5632052, at *11 (S.D.Cal. 2017)

City of Portland v. Monsanto Co., 2017 WL 4236583 (D.Or. Sept. 22 2017) (slip opinion)

Port of Portland v. Monsanto Co., 2017 WL 4236561 (D.Or. Sept. 22 2017) (slip opinion)

City of San Jose v. Monsanto Co., 231 F.Supp.3d 357 (N.D.Cal. 2017)

City of Seattle v. Monsanto Co., 237 F.Supp.3d 1096, 1100 (W.D.Wa. 2017)

City of Spokane v. Monsanto Co., 2016 WL 6275164 (E.D.Wa. 2016)

State v. Atlantic Richfield Co., 2016 VT 61, ¶ 1, 2016 WL 3031662 (Vt. 2016)

Trujillo v. Ametek, Inc., 2015 WL 7313408 (S.D.Cal. 2015)

Greenfield MHP Associates, L.P. v. Ametek, Inc., 145 F.Supp.3d 1000, 1003 (S.D.Cal. 2015)

Town of Westport v. Monsanto Co., 2015 WL 1321466 (D.Mass. 2015) (slip opinion)

Suffolk County Water Authority v. Dow Chemical Co., 121 A.D.3d 50 (N.Y.A.D. 2 Dept. 2014)

City of Greenville v. Syngenta Crop Protection, Inc., 904 F.Supp.2d 902, 903 (S.D.Ill. 2012)

Emerald Coast Utils. Auth. v. 3M Co., 746 F.Supp.2d 1216 (N.D.Fla. 2010)

Nelson v. Exxon Mobil Corp., 102 Cal.Rptr.3d 311 (Cal.App. 3 Dist. Nov 20, 2009)

In re Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation, (S.D.N.Y. 2006) (numerous opinions). *See, e.g.*, 457 F.Supp.2d 324 (S.D.N.Y. Jun 23, 2006), 438 F.Supp.2d 291 (S.D.N.Y. Jun 23, 2006), 415 F.Supp.2d 261 (S.D.N.Y. Nov 09, 2005), 2005 WL 39918 (S.D.N.Y. Jan 06, 2005)

Lawson v. Dallas Co., 286 F.3d 257 (5th Cir. 2002)

Caudillo ex rel. Caudillo v. Lubbock Independent School Dist., 331 F.Supp.2d 550 (N.D.Tex. 2004)

Norfolk Southern Railway Co. v. Bailey, 92 S.W. 3d 577 (Tex.App.– Austin 2002)

PRESENTATIONS

Panelist, “Water Contamination,” Harris Martin MDL Conference: The Significance of Proposed Rule Changes in MDL Procedures & Valsartan Agenda, 2019.

Speaker, “How to Deal with Other Contaminants in Drinking Water,” Harris Martin Water Contamination Litigation Conference, 2018.

Panelist, “Best Legal Claims and Defenses,” Harris Martin Lumber Liquidators Flooring Litigation Conference, May 27, 2015.

Panelist, “Scientific Evidence in Environmental and Toxic Torts Litigation,” Mason Judicial Education Program Conference on Environmental Economics, Law, and Litigation, November 19, 2013.

Panelist, “Scientific Evidence in Environmental and Toxic Torts Litigation,” Mason Judicial Education Program Conference on Environmental Economics, Law, and Litigation, March 2, 2013.

Panelist, “Setting the Bar for ‘Injury’ in Environmental Exposure Cases: How Low Can It Go?” Environmental Law Institute Seminar, 2012

Panelist, “Emerging Issues Regarding Toxins Affecting Water,” American Association for Justice Annual Convention, 2010

Speaker, “Water Contamination: What Lies Beneath,” Harris Martin Oil Spill Litigation Conference, 2010

Speaker, Mealey’s MTBE Litigation Conference, 2007

Speaker, Mealey's MTBE Litigation Conference, 2006

Panelist, "Are There Synergistic Effects Between Toxic Tort Suits and Environmental Regulations?" Environmental Law Institute, 2006

Speaker, "Update on MTBE Litigation," Energy Litigation Conference, 2005

Co-Presenter, "Premises Liability Cases: What Does the Future Hold?" Andrews Asbestos Litigation Conference, 2003

Co-Presenter, "Texas Supreme Court Update," Dallas Court of Appeals Seminar, 2000

PUBLICATIONS

Co-Author, "Toxic Torts and Mass Torts," 57 SMU Law Review 1267 (2004)

Contributor, "Toxic Torts and Mass Torts," 56 SMU Law Review 2053 (2003)

Contributor, "Toxic Torts and Mass Torts," 55 SMU Law Review 1375 (2002)

Co-Author, "Applying Texas Premises Liability Law to Asbestos Cases," COLUMNS, September 2001

Not certified by the Texas Board of Legal Specialization

STEPHEN JOHNSTON

PROFESSIONAL OVERVIEW

Twenty-one years litigation experience representing public entities, public water providers, and individuals seeking to recover damages for remediation, restoration of natural resources and other costs associated with chemical contamination in complex environmental contamination and toxic tort cases.

Extensive experience with all phases of discovery including depositions, motion practice, and hearings in litigation concerning various chemical contaminants including MTBE, 1,2,3-trichloropropane, atrazine, and PFAS. Manages and litigates all phases of cases on behalf of public entities arising from the use of a pesticide containing 1,2,3-trichloropropane. Is also litigating claims on behalf of public entities and individuals against the DuPont/Chemours Fayetteville Works facility that discharged various PFAS chemicals into the surrounding environment and the Cape Fear River in North Carolina.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Shareholder, Environmental Litigation Group, 2009-present

Associate, Water Contamination Practice Group, 2004-2008

Associate, Asbestos Litigation Group, 1997-2003

EDUCATION

Texas Tech University School of Law (J.D., cum laude, 1996)

Texas A&M University (B.S., cum laude, 1993)

BAR & COURT ADMISSIONS

State of Texas (1996)

United States District Court, Southern District of Illinois

PROFESSIONAL AWARDS & ASSOCIATIONS

Law & Politics Media's List of "*Texas Rising Stars*," 2006

American Association for Justice

Public Justice

Dallas Trial Lawyers Association

M. CRISTINA SANCHEZ

PROFESSIONAL OVERVIEW

Thirteen years litigation experience in complex environmental contamination and toxic tort cases. Additional litigation experience involving class actions, multidistrict litigation, personal injury, and nursing home litigation.

Leads the Group's work with businesses, governmental entities, and individuals impacted by the Deepwater Horizon Oil Spill in the Gulf of Mexico in 2010. Handles all aspects of claims, including briefing appeals and settlement negotiations. Represents a variety of businesses, including a number of complex publicly-traded companies.

Experience litigating complex cases on behalf of municipalities, public water providers, and private property owners seeking solutions for polluted drinking water supplies arising from MTBE, TCP, PFAS, and PCE contamination.

Extensive experience with all aspects of discovery in complex litigation. Frequently litigates against large global corporations including, BP plc, ExxonMobil, Shell, Dow, and Dupont. Experience against large pharmaceutical companies, including MDL 1203 In Re: Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Of Counsel, Environmental Litigation Group, 2017-present
Associate, Water Contamination Practice Group, 2005-2016

Law Firm of Ginsberg & Associates

Associate, 2003- March 2005

EDUCATION

Southern Methodist University Dedman School of Law (J.D. 2003)

University of Southern Mississippi (B.S. 1997)

Major in Biology, Minor in Chemistry

BAR & COURT ADMISSIONS

State of Texas

United States District Court, Northern District of Texas

United States Court of Appeals for the Fifth Circuit

PROFESSIONAL AWARDS & ASSOCIATIONS

Super Lawyers Magazine, *Texas Rising Stars*, 2012, 2013, 2014
American Association for Justice

PRESENTATIONS

Panelist, “Where to Draw the Line: When Can the Government Hire Private Lawyers,”
ABA Environmental, Mass Torts & Products Liability Committees Joint CLE Seminar,
January 2012.

LANGUAGES

Spanish

Not certified by the Texas Board of Legal Specialization

JASON JULIUS

PROFESSIONAL OVERVIEW

Eleven years experience representing public entities, communities, and individuals seeking to recover costs of remediation, restoration of natural resources, treatment of water supplies, and any other expenses associated with removing contamination.

Legal research of issues arising in environmental contamination litigation involving TCE, PCBs, and other contaminants.

Experience in drafting complaints and motions in environmental contamination litigation.

Experience in discovery, including written discovery, depositions, motion practice, and oral argument in complex discovery involving multiple defendants.

General litigation experience, including working with public entity and individual clients in all phases of discovery, mediation, settlement and trial.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Associate, Environmental Litigation Group, 2017-present

Green, Bryant & French, LLP

Associate, Plaintiffs Personal Injury Litigation, 2012-2017

Lincoln, Gustafson & Cercos

Associate, Insurance Defense Litigation, 2007-2012

EDUCATION

California Western School of Law (J.D. 2007, Cum Laude)

California Polytechnic State University San Luis Obispo (B.S. 2002)

BAR & COURT ADMISSIONS

State of California

IRMA ESPINO MACLEAN

PROFESSIONAL OVERVIEW

Eleven years of litigation experience in complex environmental contamination and toxic tort cases.

As a member of the Environmental Litigation Group, Ms. Espino MacLean represents private and public entities in litigation to recover costs of removing chemical contaminants from public water supplies, governmental facilities, natural resources and public property. In this role, Ms. Espino MacLean is a tenacious advocate for clients impacted by environmental disasters and chemical contamination.

In addition to public entities, Ms. Espino MacLean represents a variety of private clients including real estate developers and small businesses, as well as publicly traded companies and others whose businesses and multimillion dollar investments suffered damage due to environmental contamination.

She has extensive experience in mass torts, multi-district litigation and class-action proceedings with multiple defendants. Representative cases include: *In re Deepwater Horizon* MDL 2179 (Louisiana), *In re Aluminum Sulfate Litigation* MDL 2187 (New Jersey).

Proficiency in damage assessment. Creativity in damage assessments and problem-solving has been an asset to her clients in helping to achieve satisfactory resolution of their cases. Ms. Espino MacLean has experience in state, federal, and administrative damage assessments for natural resource including: ecological and environmental damages, including developing full ecosystem damage impact models and alternative damage models to capture impacts to natural resources including tax revenue models, recreational impact models, brand damage, and traditional trespass impact models. Representative cases include: *State of Washington v Monsanto* (King County, Washington, pending), *County of Santa Barbara v. Plains Pipeline* (C.D. California, pending), *City of Santa Barbara – damages suffered as a result of Refugio Oil Spill* (settled via pre-litigation mediation), *In re Deepwater Horizon MDL 2179* (MDL - Science & Experts committee; private litigants; and government entities - natural resource damage impact, revenue, and other damages under state and federal law).

Proficiency in best practices in discovery (Sedona Conference Principles) including large-scale/complex discovery and e-discovery. Proficiency in large-scale legal holds and preservation.

COURT ADMISSIONS

State of Georgia

United States Court of Appeals for the Eleventh Circuit

United States District Court for the Northern District of Georgia

United States District Court for the Eastern District of Louisiana

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Of Counsel, Environmental Litigation Group, 2015-present

Associate, Environmental Litigation Group, 2010-2015

Wiggins Law Group

Associate, Litigation, 2007-2010

Baron & Budd, P.C.

Project Manager, Pharmaceutical Litigation Department 2002-2004

EDUCATION

University of Miami School of Law (J.D. 2007, *cum laude*)

University of Texas at Austin (B.A. Economics 2002, *high honors*)

The National Committee on Accreditation of the Federation of Law Societies of Canada
(Certificate of Qualification 2014)

PROFESSIONAL ASSOCIATIONS

American Bar Association, Member

Georgia Bar Association, Young Lawyers Division Board of Directors (2010-2011),
Environmental Law Section (2015-present)

Georgia Bar Association of Women Lawyers, Board of Directors, Communications Chair (2009-
2011)

Canadian Bar Association, Member (articling)

PUBLICATIONS

Co-Author, "Developments in Administrative Law and Regulatory Practice," American Bar Association, (2007, 2008 and 2009).

Author, "Overview of Civil Liability in Georgia," Hispanic American Commission on Economic Development (HACED) (2008-2009).

JOHN FISKE

PROFESSIONAL OVERVIEW

Co-Lead Counsel for over 60 public entities, including natural resource damages claims, for major Counties, Ports, Cities, and State Attorneys General. Appointed Special Assistant Attorney General to the State of Washington. Surface water, groundwater, stormwater, and wastewater experience, including Human Health Risk Assessment and toxic bioaccumulation experience. Extensive understanding of NPDES, Clean Water Act, Water Quality Standards as expressed through sediment, water, and fish assay data.

PCB Litigation Experience

Co-Lead Counsel for the State of Washington, City of Seattle, City of Spokane, City of Portland, Port of Portland, City of San Jose, City of Oakland, City of Berkeley, City and Port of Long Beach, City of San Diego, and City of Chula Vista.

Lead Counsel, Oral Argument defeating Monsanto's Motions to Dismiss in City of Portland, Port of Portland, City of Oakland, City of Berkeley, City of San Jose, and City of San Diego cases.

Over eleven years litigation experience, including complex environmental contamination and toxic tort cases involving multiple defendants and extensive discovery; broad range of national litigation and mass tort experience.

Court Appointed Co-Lead Counsel for all Public Entities in wildfire natural resource damages claims for counties, cities, water districts, fire districts, and other Open Space and special districts.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Shareholder, Environmental Litigation Group, 2016-present (San Diego, California)

Gomez Trial Attorneys

Managing Attorney, Complex & Environmental Litigation, 2013- 2016 (San Diego, California)

BarryFiske LLP

Partner, 2011 -2013 (San Diego, CA)

Hosey & Bahrambeygui, LLP

Associate, 2010 – 2011 (San Diego, CA)

Wertz McDade Wallace Moot & Brower, APC

Associate, 2006-2010 (San Diego, CA)

EDUCATION

California Western School of Law (J.D., 2006, Law Review, Dean's List, Full Ride Trustee Scholar, *Cum Laude*)

San Diego State University (B.A., 2004, Political Science, minor Philosophy, *Cum Laude*, *Phi Beta Kappa*)

BAR & COURT ADMISSIONS

State of California (2007)

California State Bar

United States District Court for the Northern District of California

United States District Court for the Southern District of California

United States District Court for the Eastern District of California

United States District Court for the Central District of California

United States Court of Appeals for the Ninth Circuit

United States District Court for the Western and Eastern Districts of Washington

United States District Court for the District of Oregon

United States District Court for the District of Massachusetts

United States District Court for the Northern District of Indiana

United States District Court for the Northern District of Illinois

United States District Court for the Northern District of Texas

United States District Court for the Eastern District of Pennsylvania

PROFESSIONAL AWARDS & ASSOCIATIONS

2018 "Super Lawyers," *Thomson Reuters*;

2017 "The Burton Awards- Law360 Distinguished Legal Writing Awards- Law Firm," *Poison in the Well*, [Trial Magazine](#), American Association for Justice, August 2016;

2017 "Top 40 Under 40 Civil Plaintiff Trial Lawyers" *National Trial Lawyers*;

2017 "Super Lawyers," *Thomson Reuters*;

2016 "Super Lawyers," *Thomson Reuters*;

2015 "Super Lawyers," *Thomson Reuters*;

2013 "Top 40 Under 40," *SD Metro Magazine*;

2012 "Top Influential," *San Diego Daily Transcript*;

2009 "Top Young Attorney," *The Daily Transcript*;

2007 "50 People to Watch," *San Diego Magazine*.

BRETT LAND

PROFESSIONAL OVERVIEW

Four years litigation experience in complex environmental contamination and toxic tort cases involving multiple defendants and extensive discovery.

Experience includes briefing and arguing both discovery and substantive motions, conducting and defending depositions, and working with scientists to develop expert reports relating to PCBs and PFASs, among other contaminants.

Works with state and other governmental entities to develop strategies for recovering money to compensate for damages to natural resources and other costs.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.

Associate, Environmental Litigation Group, 2014-present (Dallas, Texas)

Summer Associate, Environmental Litigation Group, 2012-2013

Jackson Walker LLP

Summer Associate, 2013

EDUCATION

Emory University School of Law (J.D. 2014 *with honors*)

Baylor University (B.A. 2011)

BAR & COURT ADMISSIONS

State of Texas (2014)

State of Washington (2018)

United States District Court, Northern District of Texas

United States District Court, Western District of Washington

PROFESSIONAL AWARDS & ASSOCIATIONS

The National Trial Lawyers' Top 40 Under 40 Civil Plaintiff Trial Lawyers

American Association for Justice

Texas Trial Lawyers Association

Public Justice

*Not certified by the Texas Board of Legal Specialization

STACI J. OLSEN

PROFESSIONAL OVERVIEW

Eight years of experience in complex environmental litigation.

Specializes in the management of electronic information, e-discovery, document management, document review, and training of staff and attorneys to best use electronic resources. Oversees every phase of document management from intake of documents, scanning, coding, searching, bates stamping, substantive review, production, creation of privilege logs, and identification/development of trial exhibits.

Project management of substantive review of client, defendant and third party subpoena documents for creation of damages models including all records of expenses and costs associated with contamination, assessments of impacts to natural resources, and any other evidence necessary for damages calculations.

Manages in-house electronic discovery and document review team. Works with litigation teams to develop keyword searches, issue tags, redaction of PII and privileged information, and development of privileged names and interesting facts for use in litigation.

Assists public entities with document preservation and tracking, data mapping, document location and storage, custodian interviews, document production, and compliance with public records requests. Assists in negotiation of ESI Protocol to be used in the litigation.

Specifically structures tasks to relieve the litigation burden placed on public entities, agencies, and public employees.

PROFESSIONAL EXPERIENCE

Baron & Budd, P.C.
Senior Counsel of Electronic Discovery, Environmental Litigation Group, 2016-
present
Attorney, Environmental Litigation Group, 2010-2016

EDUCATION

Baylor University School of Law (J.D. 1996)
Angelo State University (B.A. 1991)

BAR & COURT ADMISSIONS

State of Texas

*Not certified by the Texas Board of Legal Specialization

EXHIBIT D

Exhibit D

7. Litigation about Legal Services

Claim Date	Status	Monetary Award/Payment	Description/Resolution
2012	Closed	None	Expert A sued Lawyer A for unpaid fees. Lawyer A sued Baron & Budd as a third party defendant, arguing that any fees it owed were payable by Baron & Budd. The Court granted summary judgment, dismissing all claims against Baron & Budd.
2011	Closed	Confidential settlement.	Claim made that LeBlanc & Waddell, a firm acquired by Baron & Budd mishandled his asbestos case. Claimant was pro se. The matter was resolved by agreement and all claims were dismissed.
2011	Closed.	None.	A client's estate alleged that Baron & Budd did not fully prosecute the decedent's asbestos claims and did not produce a copy of the file upon the Estate's request. The firm properly handled all claims and provided a copy of the file to the Estate. Plaintiffs voluntarily dismissed all claims against the Firm.
2011	Closed.	Confidential settlement.	Claimants alleged that settlements from their asbestos claims, sent to their probate attorney, were stolen by a paralegal in the probate attorney's office. They alleged that Baron & Budd bore responsibility for the subsequent theft by the probate firm's paralegal. Baron & Budd acted properly in all ways and bears no legal responsibility for the probate attorney's staff actions. The matter was resolved by agreement and all claims were dismissed.
2011	Closed.	None.	Claimant alleged that proceeds of decedent's lawsuit were improperly disbursed. Client's wife was the duly appointed representative of the estate, to whom Baron & Budd distributed funds. The firm maintains that it acted properly. The court granted summary judgment in the firm's favor, dismissing all claims.

Claim Date	Status	Monetary Award/Payment	Description/Resolution
2009	Closed.	None.	Claimant alleged that a former Baron & Budd partner referred claimant to an attorney, who mishandled his case. Baron & Budd's Motion for Summary Judgment was granted. Claimant appealed and lost his Appeal and Motion for Reconsideration. All claims against Baron & Budd were dismissed on Summary Judgment and affirmed on appeal.
2009	Closed.	Confidential settlement.	Plaintiff received a referral from Baron & Budd for a probate attorney. The executrix of the estate absconded with the funds. The probate attorney's insurance wasn't sufficient to cover the deficit. Plaintiff alleged that Baron & Budd had acted negligently. The matter was resolved by agreement and all claims were dismissed.

**Response of Kanner & Whiteley, LLC
(Jointly with Hagens Berman Sobol Shapiro LLP)
to State of Vermont Office of the Attorney General Request
for Proposal of Legal Services**

Submitted By

**KANNER & WHITELEY, LLC
701 Camp Street
New Orleans, LA**

June 5, 2019

Joshua R. Diamond
Deputy Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
Joshua.Diamond@vermont.gov

Re: Response of Kanner & Whiteley, LLC (Jointly with Hagens Berman Sobol Shapiro LLP) to State of Vermont Office of the Attorney General Request for Proposal of Legal Services

Dear Deputy Attorney General Diamond:

Thank you for the opportunity to submit this response to the State of Vermont Office of the Attorney General's Request for Proposal of Legal Services. The following information provided by Kanner & Whiteley, LLC responds to the specific questions posed in the RFP and supplements the information previously provided by Hagens Berman Sobol Shapiro LLP, who would be our partner in this representation.

With more than thirty-seven years of experience practicing environmental law, natural resource damages, and complex litigation, Kanner & Whiteley has the experience and expertise to successfully advocate on behalf of the State of Vermont in any complex matter and is particularly positioned to provide outside legal services for the State in connection with the PFAS contamination. The firm has an unmatched record in natural resource damage litigation, having obtained for its clients two of the largest natural resource damage recoveries in United States history. The firm is intimately familiar with the issues associated with PFAS and related litigation, as it currently represents the State of New Mexico in an action brought against the United States and the U.S. Department of the Air Force.

Allan Kanner, the founding member of the firm, is also familiar with PFAS litigation through his work as an expert witness in the Minnesota natural resource damage case against PFAS-manufacturer 3M Company, putative trial counsel in a case settled as part of the DuPont settlement in the Southern District of Ohio PFAS MDL, and as the author of an article on PFAS developments.

Given the firm's expertise in these areas, as well as the firm's experience in representing government clients, Kanner & Whiteley, together with Hagens Berman Sobol Shapiro LLP, will provide first-rate services throughout the course of the representation of the State in this matter. We are happy to provide you with any additional information that you may need. We look forward to discussing this matter with you further.

Kanner & Whiteley's specific responses to the questions posed in the RFP are as follows:

1. A description of the firm’s areas of expertise and experience, including experience with the matters identified above in this RFP.

Kanner & Whiteley, LLC, founded in 1981, is a national firm, based in New Orleans, Louisiana, with one of the most sophisticated and respected complex litigation practices in the United States. For more than thirty-eight years, the firm has excelled in litigating environmental cases on behalf of both private parties and government entities. While its cases encompass a wide array of substantive law, the firm is a recognized leader in the field of environmental law, with specialized expertise in litigating novel natural resource damage cases on behalf of government agencies. The firm is known for its persistence, preparation, personal attention to detail, and its strategic thinking, all of which have allowed it to effectively and efficiently serve its clients. Kanner & Whiteley takes great pride in the leadership role it plays in many of this country’s major cases, including those resulting in landmark decisions and precedent-setting rulings.

The firm has obtained for its clients two of the largest natural resource damage recoveries in United States history, including a \$225 million recovery for the State of New Jersey against Exxon Mobil Corp. related to chronic contamination at two refineries within the state as well as a \$6.8 billion natural resource damage recovery for the State of Louisiana against BP related to the *Deepwater Horizon* oil spill in the Gulf of Mexico.

Kanner & Whiteley currently serves as outside counsel to the State of New Mexico in *State of New Mexico et al. v. The United States et al.*, No. 6:19-cv-00178, a suit against the United States and the U.S. Department of the Air Force seeking an order requiring the Air Force to clean up extensive PFAS contamination at the Cannon Air Force Base near Clovis, New Mexico and the Holloman Air Force Base near Alamogordo, New Mexico. A copy of the Complaint filed by the State of New Mexico is attached to this response as **Exhibit A**.

In addition to cases in which Kanner & Whiteley has represented state attorneys general or state agencies, the firm also has experience and success representing public entities on other levels including school boards, counties, and municipalities in a variety of litigation. This experience gives the firm a direct understanding of the complexities faced by public entities such as the State of Vermont and the challenges they face to balance various interests while protecting their citizens and the public fisc. Examples of Kanner & Whiteley’s public entity clients include the following:

- **State of Louisiana (2010-2015)**

Kanner & Whiteley was retained by Louisiana Attorney General James D. “Buddy” Caldwell as Special Counsel to assist the State of Louisiana with its claims resulting from the 2010 *Deepwater Horizon* oil spill in the Gulf of Mexico, including the State’s claims to recover economic losses, response costs, and natural resource damages. The firm was retained by the Attorney General immediately after the spill to counsel the State in its efforts to stop the spill, mitigate, and recover available damages.

Throughout the litigation, Kanner & Whiteley successfully managed the production of millions of pages of documents from numerous state agencies; coordinated efforts among the United States and the Gulf states to develop an estimate of damages and implement early restoration projects; and litigated three phases of trial to determine allocation of liability and the appropriate amount of civil penalties. Ultimately, Kanner & Whiteley participated in the negotiation of the \$18.7 billion global settlement agreement that resolved all remaining claims against BP Exploration and Production, Inc. brought by the United States, Louisiana, the rest of the Gulf States, and a majority of local government entities in those states. Kanner & Whiteley worked to help secure the recovery of more than \$8.8 billion in both environmental and economic damages resulting from the disaster for the State of Louisiana.

Kanner & Whiteley has also represented the State of Louisiana in a number of Medicaid fraud and unfair trade practices cases. Kanner & Whiteley actively litigated the Avandia case on behalf of the State of Louisiana, taking full fact discovery, preparing expert reports, and meeting a very aggressive trial schedule. Subsequently, Kanner & Whiteley represented the State of Louisiana against GlaxoSmithKline (“GSK”) in the Multi-Drug Litigation involving many GSK products. Both of these cases were settled in 2013, resulting in a landmark settlement for Louisiana in the amount of \$42 million. *See State of Louisiana v. GlaxoSmithKline et al.*, Civ. Act. No. 599353, Div. D (19th JDC, East Baton Rouge Parish, LA) (Avandia). In 2014, Kanner & Whiteley, on behalf of the State of Louisiana, secured a \$9.5 million settlement to resolve the State’s claims against Abbott Laboratories involving the off-label promotion and marketing of the drug Depakote. *State of Louisiana v. Abbott Laboratories, Inc., et al.*, Civ. Act. No. 620978, Div. D (19th JDC, East Baton Rouge Parish, LA) (Depakote).

- **State of New Mexico (2016-present)**

The New Mexico Attorney General retained Kanner & Whiteley to represent the State in a recently filed suit against the United States and the U.S. Department of the Air Force seeking an order requiring the Air Force to clean up the extensive contamination at the Cannon Air Force Base near Clovis, New Mexico and the Holloman Air Force Base near Alamogordo, New Mexico. Defendants’ contamination and pollution of the environment at Cannon and Holloman with PFAS has created an imminent and substantial endangerment to human health and the environment in violation of the New Mexico Hazardous Waste Act. The case is *State of New Mexico et al. v. The United States et al.*, case number 6:19-cv-00178, in the U.S. District Court for the District of New Mexico.

Kanner & Whiteley also represents the State of New Mexico in its investigation of and litigation against Dollar General related to its marketing and sale of obsolete motor oil to New Mexico consumers. The State filed an enforcement action against Dollar General for violations of New Mexico’s Unfair Practices Act, New Mexico’s False Advertising Act, and common law nuisance, seeking civil penalties, declaratory and injunctive relief, restitution, and attorneys’ fees and costs. The State’s enforcement action was originally filed in the First Judicial District Court, Santa Fe County, New Mexico. Dollar General removed the action to federal court and successfully had it transferred to and consolidated with the consumer class actions in MDL No. 2709 pending in the Western District of Missouri. Dollar General also filed a lawsuit against the Attorney General related to its enforcement action. Kanner & Whiteley successfully moved to

dismiss this action. The State's motion to remand its enforcement action was also granted and the case is now being litigated in state court. *State of New Mexico, ex rel. Hector Balderas, Attorney General v. Dolgencorp, LLC (d/b/a Dollar General Corporation)*.

- **State of Mississippi (2016-present)**

The Mississippi Attorney General retained Kanner & Whiteley to assist in the State's investigation of Dollar General's marketing and sale of obsolete motor oil in Mississippi. The State filed an enforcement action against Dollar General for violations of the Mississippi Consumer Protection Act and public nuisance in Chancery Court of the First Judicial District of Hinds County, Mississippi. Mississippi seeks civil penalties, declaratory and injunctive relief, disgorgement of profits resulting from the unlawful conduct, and attorneys' fees and costs. Dollar General removed this action to the Southern District of Mississippi and the case was transferred to and consolidated with the consumer class actions in MDL No. 2709. The State's motion to remand is currently pending before Judge Fenner in the MDL. *State of Mississippi v. Dolgencorp, LLC (d/b/a Dollar General Corporation)*, No. 4:17-cv-00832-GAF (W.D. Mo.).

- **State of New Jersey (2002-present)**

Since 2002, Kanner & Whiteley has acted as Special Counsel to the New Jersey Attorney General and the New Jersey Department of Environmental Protection both to develop New Jersey's comprehensive natural resource damages program and litigate these claims against industry defendants unwilling to amicably resolve their natural resource damage liability with the Department. Initially, the firm was retained to work with former Commissioner Bradley Campbell and former Attorney General David Samson to review and prioritize the State's viable NRD claims and prepare legal theories and factual information to enable enforcement of the State's claims. The firm worked extensively with the New Jersey Division of Law, the Department of Environmental Protection and a number of experts to develop the State's natural resource damage program which included the review and evaluation of hundreds of case files for possible prosecution and/or settlement opportunities.

Kanner & Whiteley began litigating the leading case in New Jersey's natural resource damage program in 2004 against ExxonMobil for injuries at two of ExxonMobil's former refinery sites in the State. In a 2007 opinion in that case, the Appellate Division found in favor of the State on appeal from a partial summary judgment ruling (under the New Jersey Spill Act), finding that damages for loss of use and services of the State's natural resources are available to the State in addition to primary restoration. *N.J. Dep't of Env't'l Prot. v. Exxon Mobil Corp.*, 393 N.J. Super. 388 (App. Div. 2007). Thereafter, Kanner & Whiteley tried the issue of damages on behalf of the State from January 2014 through September 2014 before the Honorable Judge Michael Hogan in Burlington County, New Jersey. Throughout the course of the 66-day trial—during which 25 witnesses were called, 13 of those being experts—Kanner & Whiteley's small team of attorneys opposed a substantially larger defense team. Following the completion of post-trial briefing, the parties reached an agreement to resolve ExxonMobil's NRD liabilities at the sites, and others across the State, for \$225 million, the largest NRD recovery in the State's history. The settlement was approved by the trial court, finding that the result was fair, reasonable, and in the public interest and was subsequently upheld on appeal.

In the context of approving attorneys' fees and costs, Judge Hogan discussed Kanner & Whiteley's efforts in the case and its work with the State. Judge Hogan wrote:

[T]he court by necessity has also become very familiar with the history and previous rulings of this eleven year old case. There can be no question that this case raised complex and novel issues of law, including the application of the controversial Habitat Equivalency Analysis methodology. The Firm was required to undertake a sixty-six day trial before Exxon became motivated to reach a settlement with the State while awaiting the court's decision on the merits. Even the fundamental and difficult question of whether there was a cause of action under the Spill Act for NRD (loss of use) made its way to the Appellate Division on an interlocutory basis as well as statute of limitation issues. The Firm provided the legal services to be successful on those trips to the Appellate Division. Altogether there were three rulings of the Appellate Division litigated by the State under the guidance of Mr. Kanner and his Firm.

* * *

[T]he high difficulty of conducting discovery and defending the State's prerogatives from a more-than-able adversary demonstrates to this court a high level of competence and skill. There were many novel and untested questions that the Firm had to address at various stages of the proceedings, such as expert evidence questions, loss of use over time damages under the Spill Act, retroactivity of the Spill Act, the role of physical improvements, the application of the Public Trust Doctrine over private uplands, and the applicability of Habitat Equivalency Analysis methodology in NRD litigation, to name a few of the issues that required experienced, motivated, and highly skilled counsel.

Letter Opinion, *N.J. Dep't of Env'tl. Prot. v. Exxon Mobil Corp.*, Case No. UNN-L-3026-04 (Law Div. Aug. 25, 2015), at 4-5. Judge Hogan described additional observations from the two years spent overseeing the case and ultimately the trial:

The Firm was up against a determined adversary who created a daunting ten year defense that a less experienced, less determined, or less skilled effort would not have been able to timely, professionally, and, for the most part, successfully meet the challenge.

Id. (footnotes omitted). Judge Hogan's opinion is attached to this response as **Exhibit B**.

During many of the same years that Kanner & Whiteley litigated the claims against ExxonMobil, the firm also pursued litigation on behalf the State of New Jersey against a number of other corporate defendants, also for compensation for damage to or destruction of natural resources of the State. Kanner & Whiteley continues to represent the State of New Jersey on a number of natural resource damage cases.

On August 1, 2018, Kanner & Whiteley filed suit on behalf of the State of New Jersey against Hess Corporation and Buckeye Partners seeking compensation for the lost use and value of resources injured as a result of discharges at the former Hess refinery in Woodbridge, New Jersey. *See N.J. Dep't of Env'tl. Prot. v. Hess Corp., f/k/a Amerada Hess Corp. & Buckeye Partners, L.P.*, Superior Court, Middlesex County, No. MID-L-004579-18.

On March 7, 2019, Kanner & Whiteley filed suit on behalf of the State of New Jersey against ExxonMobil Corp. seeking natural resource damages and restoration for years of injuries caused by PCBs and other contaminants dumped by the company beginning in the 1950s into the wetlands and tidal embayment at the company's property known as the "Lail Site" in Gloucester County, New Jersey. The case is *N.J. Dep't of Env'tl. Prot. v. Exxon Mobil Corp.*, Superior Court, Gloucester County, No. GLO-L-000297-19.

- **City and County Governments Represented in Context of Opioid Litigation**

Kanner & Whiteley currently represents local governments in Pennsylvania and New Jersey in their respective opioid litigations seeking to recover the extensive damages they have incurred as a result of the defendants' illegal actions that led to the opioid epidemic. These damages include prescription drug coverage and addiction hospitalization and treatments under self-insured health care programs and workers compensation, as well as emergency services, human services, and other community expenses to deal with the secondary effects of the opioid epidemic. The firm represents the following county governments in currently pending litigation:

- **Monmouth County, New Jersey (2017-present)**—*Monmouth County v. Purdue Pharma L.P., et al.*, MID L-003010-18 (N.J. Super. Ct. Law Div.);
- **Northampton County, Pennsylvania (2018-present)**—*Northampton County, Pennsylvania v. Purdue Pharma L.P., et al.*, C48-CV-201-11557 (Delaware County Ct. C.P.); and
- **Union County, New Jersey (2017-present)**- *Union County v. Purdue Pharma L.P., et al.*, UNN L-004319-18 (N.J. Super Ct. Law Div.).

Kanner & Whiteley has also been retained by the following local government entities, which have matters that are in the pre-suit investigation and damage assessment phase:

- **Cumberland County, New Jersey (2017-present); and**
- **City of Vineland, New Jersey (2017-present).**

Kanner & Whiteley has also served as court-appointed Plaintiffs' Lead Counsel or Class Counsel in state and federal coordinated, multi-district, and complex litigation throughout the United States. With co-counsel, the firm has represented clients in hundreds of class and group actions, including some of the most important civil cases litigated in the United States over the last thirty years. Examples of cases in which the firm has served as lead counsel representing private parties include:

- *Press, et al., v. Louisiana Citizens Fair Plan Property Insurance Corporation*, No. 06-5530 (Civil District Court, Orleans Parish, La.) (\$23 million class action settlement on behalf of insureds in Louisiana concerning the failure to properly pay general contractor's overhead and profit as part of property damage claims following Hurricanes Katrina and Rita) (Final approval granted on Nov. 18, 2010);
- *Shaffer v. Continental Casualty, et al.*, No. CV06-2335 (C.D. Cal 1/26/07) (Klausner, J.)(Certification of class of Long Term Care policyholders), (Gutierrez, J.)(Denial of Motion for Summary Judgment (April 12, 2007), (Gutierrez, J.)(Final approval of multi-million dollar national class action settlement granted on 6/11/08);
- *Waxler v. Trinity Marine Products, Inc. et al.*, No. 49-741 (25th Judicial District Court, Parish of Plaquemines, La.) (\$18 million class action settlement against barge manufacturer for defective interior coating of barges; final approval granted on Nov. 29, 2007);
- *Lemmings v. Second Chance Body Armor, et al.*, No. CJ-2004-64 (Mayes County District Court, OK) (Feb. 19, 2005) (Goodpaster, J.) (certifying national class of purchasers and users of defective bullet proof vests), (Sept. 2005) (final approval of \$29 million national class settlement);
- *Milkman v. American Travellers Life Insurance Co.*, No. 3775, (Ct. Common Pleas, First Judicial District, June Term 2000) (April 1, 2002) (Multi-million dollar national class settlement on behalf of Long Term Care and Home Health Care policyholders; final approval granted April 1, 2002);
- *Talalai v. Cooper Tire & Rubber Co.*, MID-L-8839-OOMT, Mass Tort 259, (Law Div. Middlesex Cty.) (Multi-million dollar national class settlement on behalf of Cooper Tire purchasers for consumer fraud and products liability; final approval granted on Sept. 13, 2002);
- *In re Synthroid Marketing Litigation*, MDL 1182, 264 F.3d 712 (7th Cir. 2001) (\$89 million nationwide class action settlement for consumer fraud granted final approval and affirmed on appeal);
- *Jorgenson, et al. v. Agway, Inc.*, Civ. No. A3-00-59 (D.N.D. 2002) (\$3.2 million settlement on behalf of sunflower growers for consumer fraud and products liability);

- *Bonilla v. Trebol Motors*, No. 92-1795 (D.P.R.) (\$129.5 million class action verdict affirmed in part and reversed in part on appeal; settled as to all parties);
- *Hanson v. Acceleration Life Ins. Co.*, Civ. No. 3:97-152 (D.N.D. 1999) (\$14.7 million settlement on behalf of Long Term Care policyholders);
- *Wallace v. American Agrisurance*, No. LR-C-99-669 (E.D.AR) (Multi-million dollar settlement on behalf of rice growers holding CRC Plus policies);
- *Thomas v. Schwab*, No. 66,700 (10th Jud. Dist. Ct., Natchitoches, LA) *aff'd*, 683 So.2d 734 (La. App. 3rd Cir. 1996) (Certification of national class action);
- *Dumont v. Charles Schwab & Co. Inc.*, Civ. Act. No. 99-2840 c/w 99-2841 (Settlement of certified national class of Schwab customers July 21, 2000, 2000 WL 1023231);
- *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140 (8th Cir. 1999) (settlement of certified pollution property class action affirmed on appeal);
- *Tompkins v. BASF*, No. 96-59 (Traill County, N.D.) (Multi-million dollar settlement on behalf of agricultural product purchasers); and
- *Clark v. Household Finance Corp.*, No. 97-2-22420 (King County, WA, Dec. 29, 1997) (Certification and settlement of statewide class for defrauded employees).

Kanner & Whiteley has an excellent trial and appellate reputation. We have substantial jury trial experience with a number of multi-million-dollar verdicts, including three successful class action trials. We have successfully litigated, environmental, toxic tort, consumer privacy, antitrust, fiduciary duty, civil RICO, commercial, and other individual and class cases.

For additional information regarding Kanner & Whiteley's experience, see the firm's resume, attached to this response as **Exhibit C**.

- 2. Please include the specific identity and experience of the individual attorney or attorneys who would be providing services under the contract. Applicants should present a team of attorneys that have significant experience in complex civil and environmental litigation. Full disclosure of all attorneys and staff who are not directly employed with the firm shall be disclosed. Attach copies of resumes of each member of the proposed team in your response to this RFP.**

The attorneys listed below would provide the services described in this RFP. Each attorney is a member in good standing in each jurisdiction in which they are licensed. In addition to the information provided below, the resumes of these team members are included as **Exhibit D** to this response.

ALLAN KANNER (B.A., University of Pennsylvania; J.D., Harvard Law School) is the President and Founding Member of Kanner & Whiteley. Mr. Kanner has a wealth of experience litigating complex class action lawsuits and practices in the areas of natural resource damages, products liability, environmental, toxic tort, commercial litigation, and consumer fraud. Law 360 recently profiled Mr. Kanner as a “Titan of the Plaintiffs Bar.” *Chambers USA* has ranked Mr. Kanner as a Band 1 environmental lawyer, its highest ranking, stating that “Allan Kanner of Kanner & Whiteley enjoys a ‘sterling reputation’ for plaintiff-side representation in toxic tort trials” (2009); that “[b]y reputation and work product, he is one of the top practitioners” (2015); that Mr. Kanner “offers considerable expertise in bringing class action claims and acting for public sector institutions in natural resource damage disputes” (2018); and that “Allan Kanner is highly commended for his ‘top-notch’ environmental litigation work. He is a preeminent environmental plaintiffs litigator with excellent experience handling major environmental and consumer fraud disputes. His expertise extends into class action claims and the representation of public bodies in environmental damages disputes” (2019).

In addition to his trial practice, Mr. Kanner has also served the legal profession as an Adjunct Professor at Tulane Law School (1990-2008), a Visiting Lecturer in Law at the University of California, Berkeley (Spring 2004), at Yale Law School (Fall 2002), Visiting Senior Lecturer at Duke University (Fall 2000) (Spring 2004), and Visiting Professor at the University of Texas Law School (Spring 2001). Mr. Kanner is a frequent lecturer and speaker on a variety of topics, and is the author of ENVIRONMENTAL AND TOXIC TORT TRIALS (Lexis-Nexis) (2d. ed.), as well as over sixty articles in the diverse fields of torts, trial practice, civil discovery, civil RICO, natural resource damages, environmental law, toxic torts, class actions, and business and consumer fraud. During 1998 and 1999, Mr. Kanner was one of the principal authors of the LOUISIANA JUDGES’ COMPLEX LITIGATION BENCH BOOK, and he has also been an instructor at the Louisiana Judicial College. After graduating from Harvard Law School, he clerked for the late Judge Robert S. Vance of the U.S. Court of Appeals, Fifth Circuit. He has successfully handled novel and complex matters throughout the United States.

Mr. Kanner has taught and written extensively in his areas of expertise. Many of his articles have been relied upon by courts and legal scholars. Mr. Kanner’s publications often discuss topics related to natural resource damage litigation and other legal issues unique to natural resource trustees. Mr. Kanner has recently published an article related to PFAS litigation, entitled *Emerging Trends In Perflourinated Chemical Regulation And Litigation*, ABA Environmental and Energy Litigation News Letter (August 28, 2017), which is attached to this response as **Exhibit E**. He has also authored numerous natural resource damage articles, including *The Public Trust Doctrine, Parens Patriae, And The Attorney General As The Guardian of the State’s Natural Resources*, 16 DUKE ENVTL. L. & POL’Y F. 57 (Fall 2005)

Mr. Kanner is the past President of the Louisiana Association of Justice (“LAJ”) (2008-2009) and is on the American Association of Justice Board of Governors. In the wake of Hurricanes Katrina and Rita, he founded and headed the LAJ insurance section to encourage cooperation and information sharing among attorneys representing insureds against their carriers. Mr. Kanner is licensed to practice in the following courts: State of Louisiana; State of New Jersey; State of California; State of Oklahoma; State of New York; Commonwealth of Pennsylvania; District of Columbia; and the State of Texas.

ELIZABETH B. PETERSEN (B.A., University of California at Berkeley; J.D., Tulane University School of Law, Certificate of Environmental Law), Member, joined Kanner & Whiteley in 1996. Ms. Petersen practices in the fields of environmental law, complex litigation, and class actions, including consumer fraud and environmental property damage litigation. Ms. Petersen is a member of the litigation team for the State of New Jersey in its natural resource damage cases. Ms. Petersen also represented the State of Louisiana in the *Deepwater Horizon* litigation. Prior to joining Kanner & Whiteley, she practiced in the areas of civil and maritime litigation. Ms. Petersen is admitted to practice before the United States District Courts for the Eastern and Western Districts of Louisiana, and Louisiana State Courts.

CYNTHIA ST. AMANT (B.S., Louisiana Tech University; J.D., Paul M. Hebert Law Center at Louisiana State University), Member, joined Kanner & Whiteley in 1998 where she practices general, civil, commercial, consumer fraud, class action and environmental law. Before joining Kanner & Whiteley, she worked at the Louisiana Supreme Court, clerking for Justices Lemmon and Bleich and served as a staff attorney in the Court's Civil Staff Division. Ms. St. Amant is a member of both the Louisiana and Texas bars and is admitted to practice before Louisiana State and Federal Courts, Texas State Courts, and the Fifth Circuit Court of Appeal. She graduated with a Bachelor of Science degree in Business Administration from Louisiana Tech University in 1993. In 1996, she obtained a Juris Doctor degree from the Paul M. Hebert Law Center at Louisiana State University.

ALLISON BROUK (B.A., Tulane University; J.D., Tulane University School of Law, Certificate of Environmental Law), Senior Associate, joined Kanner & Whiteley in 2011. Ms. Brouk is a member of the team handling litigation on behalf of the State of New Jersey to recover damages to its natural resources against various defendants, including the case against ExxonMobil Corp., which, following a 66-day trial, resulted in a \$225 million settlement, the largest natural resource damage settlement in the history of the State. Ms. Brouk also serves as Special Counsel to the New Mexico Attorney General in the State's litigation against the United States related to PFAS contamination at the Cannon Air Force Base and Holloman Air Force Base, as well as the State's litigation against Dollar General regarding its deceptive marketing and sales practices related to its sale of obsolete motor oil. Ms. Brouk was also part of the Kanner & Whiteley litigation team that represented the State of Louisiana in its claim related to the *Deepwater Horizon* oil spill, the largest environmental disaster ever to occur in the Gulf of Mexico. Ms. Brouk has also litigated on behalf of private property owners for damage suffered by pollution. She is also involved in landmark litigation relating to oil companies' failures to follow the best practices required under federal law in armoring facilities against risks associated with climate change that threaten the companies' facilities and surrounding communities, in addition to other violations of their Clean Water Act permits.

Ms. Brouk graduated magna cum laude from Tulane University Law School, where she received a Certificate in Environmental Law. While in law school, Ms. Brouk practiced as a student attorney for the Tulane Environmental Law Clinic, was Editor in Chief of the Tulane Environmental Law Journal, and was a member of the Tulane Moot Court Board. Ms. Brouk also served as a judicial intern for U.S. District Judge Stanwood R. Duval, Jr. in the Eastern District of Louisiana.

- 3. Identify whether your firm has been through significant developments in the past three years, such as a change in ownership or restructuring. Also, please identify whether you anticipate any significant changes within the next five (5) years.**

There have been no material developments in the firm's organization over the past three years, and no material developments are expected in the next five years, except for hiring needs associated with the firm's cases.

- 4. An expression of willingness to work under the direction of and with the AGO on this matter.**

Kanner & Whiteley is willing to work with the AGO on this matter, and has demonstrated that it can successfully do so through its partnerships with state attorneys general over the course of seventeen years. The firm understands that the Attorney General's Office, at all times, will direct the litigation in all respects, and plans to maintain responsive and constant communication with the State to report on progress in the litigation.

- 5. A description of the existence of any possible conflicts of interest, including any lawsuits and disputes where the firm represents interests adverse to the State of Vermont; a representation that the firm would have no significant conflicts of interest, for example, conflicts that would be difficult to waive or would raise questions about loyalty to the State of Vermont's interests; and a representation as to other clients the firm represents in the subject area of this RFP. In addition, applicants, including any equity owners of the firm, will identify whether they have previously made campaign contributions to the current Attorney General or otherwise registered lobbyists or lobbyist employers with the State of Vermont.**

Kanner & Whiteley is not involved in any material arrangements, relationships, or associations that would cause a conflict that would prevent the firm from representing the State in PFAS litigation. Kanner & Whiteley does represent the State of New Mexico in a PFAS-related matter, but that arrangement would not in any way affect the firm's loyalty to the State of Vermont's interests, as it involves New Mexico-specific sites and wholly different defendants than the instant matter and as such, the interests of the states in the independent lawsuits are not conflicting and the arguments asserted by the firm on behalf of New Mexico would not adversely affect the State of Vermont.

Neither Kanner & Whiteley nor its attorneys have made campaign contributions to the current Attorney General or otherwise registered lobbyists or lobbyist employers with the State of Vermont.

- 6. Please report any professional sanctions or other pending or threatened governmental or regulatory proceedings which would have an adverse impact on the firm or any member of the firm. Please also include an explanation and indicate the current status or disposition.**

There have been no complaints nor adverse determinations against Kanner & Whiteley or any of its employees with respect to actions, proceedings, claims, or complaints of any kind under any local, State or Federal laws, regulations, court rules, or Rules of Professional Conduct, including malpractice, criminal, or SEC investigations.

7. Within the last five (5) years, has your firm, or a partner or attorney in your firm, been involved in litigation or other legal proceedings about legal services provided by your firm, partner, or attorney? If so, please provide an explanation and indicate the current status or disposition.

There have been no indictments, convictions, or civil offenses arising directly or indirectly from the conduct of business by Kanner & Whiteley or any of its employees in the last five years. There have been no ethics complaints against the Kanner & Whiteley or any attorney in the firm within the last five years.

8. Please provide your proposed contingency fee arrangement including, but not limited to, allocation of expenses and costs. This proposal should also include information about your firm's financial capacity to sustain complex and protracted litigation on a contingency fee basis.

Kanner & Whiteley joins Hagens Berman Sobol Shapiro LLP in its proposed fee arrangement. The firms propose the following contingency fee arrangement:

- 25% on any amount recovered up to \$100 million;
- 20% on any amount recovered over \$100 million up to \$300 million;
- 12% on any amount recovered over \$300 million.

Contingency fee percentages shall be computed on the basis of the State's gross recovery, before deduction of costs and expenses. The contingent fee is calculated by multiplying the gross recovery by the fee percentage. There shall be no payments to the firms from a general fund of the State.

“Gross recovery” means the total recovery whether by settlement, arbitration award, court judgment following trial or appeal, or otherwise. “Gross recovery” shall include, without limitation, the following: (1) the then-present value of any monetary payments to be made to the State; and (2) the fair market value of any non-monetary property and services to be transferred and/or rendered for the benefit of the State; and (3) any attorneys' fees recovered by the State as part of any cause of action that provides a basis for such an award. “Gross recovery” may come from any source, including, but not limited to, the adverse parties to the action and/or their insurance carriers and/or any third party, whether or not a party to the action.

No General Fund Payments. In no event will the State be required to pay legal fees out of any fund other than the monies recovered from defendants (or their insurers, agents, or other representatives) in this litigation.

9. Please provide the names and contact information of three (3) references, including at least one (1) governmental client.

Kanner & Whiteley provides the following references:

New Jersey NRD Litigation:

Richard Engel
Deputy Attorney General
R.J. Hughes Justice Complex
25 Market St., PO Box 093
7th Floor, West Wing
Trenton, NJ 08625-0093
Phone: [REDACTED]
Email: [REDACTED]

Louisiana Deepwater Horizon Oil Spill Litigation:

Megan K. Terrell
Legal Advisor
Coastal Activities, Environment & Natural Resources
Office of the Louisiana Governor
900 N. Third Street
State Capitol Building- 4th Floor
Baton Rouge, LA 70802
Email: [REDACTED]

CLF Climate Change Adaptation Litigation/ New Jersey NRD Litigation:

Bradley M. Campbell
President, Conservation Law Foundation¹
62 Summers Street
Boston, MA 02110
Phone: [REDACTED]
Email: [REDACTED]

¹ Bradley Campbell is the President of the Conservation Law Foundation as well as the former New Jersey Department of Environmental Protection Commissioner and has worked closely with the firm in both the context of current CLF litigation as well as the work performed for New Jersey's natural resource damage program.

EXHIBIT “A”

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

	§	
STATE OF NEW MEXICO, <i>ex rel.</i> HECTOR BALDERAS, Attorney General, and the NEW MEXICO ENVIRONMENT DEPARTMENT,	§	Case No. _____
	§	
Plaintiffs,	§	Complaint
	§	
v.	§	
	§	
THE UNITED STATES and THE UNITED STATES DEPARTMENT OF THE AIR FORCE,	§	
	§	
Defendants.	§	
	§	

THE STATE OF NEW MEXICO, by and through New Mexico Attorney General Hector H. Balderas, and the New Mexico Environment Department (collectively, “Plaintiffs” or the “State”), file this Complaint against the above-named Defendants and in support thereof allege as follows:

INTRODUCTION AND STATEMENT OF THE CASE

1. This is a civil action by the State against Defendants United States and the U.S. Department of the Air Force (collectively, “Defendants”) brought pursuant to the New Mexico Hazardous Waste Act, NMSA 1978, § 74-4-1 to -14.¹

2. This action arises from the improper disposal of and failure to contain or address contaminants and hazardous wastes at Cannon Air Force Base (“Cannon”), located approximately

¹ Concurrent with the filing of this Complaint, Plaintiffs have issued a notice to Defendants under the Resource Conservation and Recovery Act (“RCRA”) of their intent to bring a claim to remedy the imminent and substantial endangerment created by the conduct of Defendants described herein, and reserves the right to seek any additional remedies that may be available under the law, including but not limited to a claim for natural resource damages pursuant to Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) §107(a)(4), 42 U.S.C. § 9607(a)(4).

seven miles southwest of Clovis, New Mexico and above the Ogallala Aquifer, and Holloman Air Force Base (“Holloman”), located in the Tularosa Basin between the Sacramento and San Andreas mountain ranges ten miles west of Alamogordo, New Mexico, by Defendants, resulting in contamination and pollution of the environment, including public and private water sources both on- and off-site, with per- and polyfluoroalkyl substances (“PFAS”), also known as fluorochemicals, such as perfluorooctanoic acid (“PFOA”) and perfluorooctanesulfonic acid (“PFOS”), and other known or suspected toxic compounds.

3. Defendants’ discharges and the resulting contamination at Cannon and Holloman have created an imminent and substantial endangerment to human health and the environment.

4. As a result of this ongoing and persistent contamination and pollution, the State seeks declaratory and injunctive relief, and reimbursement of past and future costs incurred by the State associated with these environmental and public health risks and injuries at Cannon and Holloman.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331.

6. This Court has the authority to grant declaratory relief, 28 U.S.C. § 2201, as well as further relief requested in this Complaint, including injunctive relief, 28 U.S.C. § 2202.

7. This Court has personal jurisdiction over Defendants as they conduct sufficient business with sufficient minimum contacts in the State, and/or intentionally subjected themselves to this jurisdiction through the commission of tortious activity within the State.

8. Venue is proper in the United States District Court for the District of New Mexico pursuant to 28 U.S.C. § 1391, because the acts described in this Complaint occurred in this judicial district.

PARTIES

Plaintiffs

9. Plaintiff, the New Mexico Environment Department (“NMED”) is a state executive agency pursuant to the Department of Environment Act, NMSA 1978, §§ 9-7A-1 to -15. NMED is charged with the administration and enforcement of the New Mexico Hazardous Waste Act (“HWA”) and the Hazardous Waste Management Regulations, 20.4.1-20.4.5 NMAC, and has authority to bring this lawsuit. NMSA 1978, § 74-1-6(A); NMSA 1978, § 74-4-13(A).

10. New Mexico Attorney General Hector Balderas, is the “attorney for the State of New Mexico,” *State ex rel. Norvell v. Credit Bureau of Albuquerque, Inc.*, 1973-NMSC-087, ¶ 5, 85 N.M. 521, and his office is recognized in Article V, Section 1 of the New Mexico Constitution. The New Mexico Legislature has authorized the Attorney General to prosecute and defend, in any court, civil actions in which the State is a party, when, in his judgment, the interest of the State requires such an action. NMSA 1978, § 8-5-2; *State ex rel. Attorney Gen. v. Reese*, 1967-NMSC-172, ¶ 14, 78 N.M. 241, 245, 430 P.2d 399.

11. Plaintiffs bring these claims, in part, pursuant to their authority to guard against adverse environmental and health impacts and risks associated with contamination such as that which is present at Cannon and Holloman.

12. Under Article XX, Section 21 of the New Mexico Constitution, “protection of the state’s beautiful and healthful environment is . . . declared to be of fundamental importance to the public interest, health, safety and the general welfare.” This provision “recognizes that a public trust duty exists for the protection of New Mexico’s natural resources . . . for the benefit of the people of this state.” *Sanders-Reed ex rel. Sanders-Reed v. Martinez*, 350 P.3d 1221, 1225 (N.M. Ct. App. 2015).

Defendants

13. Defendant is the United States of America, including all federal government agencies and departments responsible for the acts alleged in this Complaint.

14. The Department of the Air Force is one of three military departments of the U.S. Department of Defense and is responsible for the administration and operation of the United States Air Force. The Department of the Air Force is and was at all times relevant to this Complaint the owner and operator of Cannon and Holloman.

GENERAL FACTUAL ALLEGATIONS

A. PFAS Background

15. PFAS comprise a family of approximately 3,500 manmade chemicals not found in nature that have been in use since the 1940s. The backbone of a PFAS chemical is a chain of carbon atoms, which may be fully (per) or partly (poly) fluorinated.

16. Due to their ability to repel heat, oil, stains, grease, and water, PFAS are found in a wide array of industrial and consumer products. Companies used PFAS to make, among other things, carpet, clothing, stain-resistant fabrics for furniture, paper packaging for food, and other materials such as cookware that are resistant to water, grease, or stains.

17. The two most recognized members of the PFAS family are PFOS and PFOA, which are long, eight-chain PFAS. PFOS and PFOA easily dissolve in water and thus they are mobile and readily spread in the environment. They are also persistent. PFOS and PFOA have degradation periods of years, decades, or longer under natural conditions and have a half-life in the human body of two to nine years.

18. PFOA and PFOS also readily contaminate soils and leach from soil into groundwater, where they can travel significant distances.

19. PFOS and PFOA are strong, stable, bioaccumulative, and biomagnifying, meaning that they resist degradation due to light, water, and biological processes and tend to accumulate in organisms up the food chain.

20. Further, PFOS and PFOA are toxic, meaning that they pose significant threats to public health and the environment. Exposure to PFOS and PFOA presents health risks even when PFOS and PFOA are ingested at seemingly low levels.

21. PFOS and PFOA exposure is associated with a variety of illnesses, including increased risk in humans of testicular cancer, kidney cancer, thyroid cancer, high cholesterol, ulcerative colitis, and pregnancy-induced hypertension, as well as other conditions. The chemicals are particularly dangerous for pregnant woman and young children.

22. Toxicology studies show that PFOS and PFOA are readily absorbed after oral exposure and are relatively stable once ingested so that they accumulate in individual organs for significant periods of time, primarily the serum, kidney, and liver.

23. Studies further found that individuals with occupational exposure to PFOA run higher risks of bladder and kidney cancer.

24. In studies involving laboratory animals, PFOA and PFOS exposure increased the risk of tumors, changed hormone levels, and affected the function of the liver, thyroid, pancreas, and the immune system.

25. The adverse effects associated with both PFOS and PFOA are additive when both chemicals are present, meaning that their individual adverse effects are cumulative.

26. However, injuries are not sudden and can arise months or years after exposure to PFOS and/or PFOA.

27. PFAS were formally identified as “emerging contaminants” by the U.S. Environmental Protection Agency (“EPA”) in 2014. This term describes contaminants about which the scientific community, regulatory agencies, and the public have an evolving awareness regarding their movements in the environment and effects on public health. PFAS, like other emerging contaminants, are the focus of active research and study, which means new information is released periodically regarding the effects on the environment and human health as a result of exposure to the chemicals.

28. Six PFAS were included by the EPA in the Third Unregulated Contaminant Monitoring Rule per the 1996 Safe Drinking Water Act Amendments in May 2012. Monitoring of these substances was required between 2013 and 2015 to provide a basis for future regulatory action to protect public health.

29. According to the EPA, PFOA and PFOS pose potential adverse effects for the environment and human health. *See, e.g., U.S. EPA, Technical Fact Sheet—Perfluorooctane Sulfonate (PFOS) and Perfluorooctanoic Acid (PFOA)* (Nov. 2017), available at https://www.epa.gov/sites/production/files/2017-12/documents/ffrrofactsheet_contaminants_pfos_pfoa_11-20-17_508_0.pdf.

30. In January 2009, EPA established a drinking water Provisional Health Advisory (“HA”) level for PFOA and PFOS—two of the PFC compounds about which we have the most toxicological data. EPA set the Provisional HA level at 0.4 parts per billion (“ppb”) for PFOA and 0.2 ppb for PFOS.

31. In 2016, following additional study, the EPA lowered the HA for PFOS and PFOA. EPA established the HA levels for PFOS and PFOA at 70 parts per trillion (“ppt”), or 0.07 micrograms per liter (“µg/L”). In addition, EPA, in issuing its 2016 HAs, directs that when both

PFOA and PFOS are found in drinking water, the *combined* concentrations of PFOA and PFOS should be compared with the 70 ppt HA.

32. In 2018, the Agency for Toxic Substances and Disease Registry (“ATSDR”) released an updated Toxicological Profile for PFAS that revised its minimal risk levels (“MRLs”) for PFOA and PFOS. An MRL is the estimated amount of a chemical a person can eat, drink, or breathe each day without a detectable risk to health. The intermediate oral (15 to 364 days) MRL for PFOA was revised from the previous level of 2×10^{-5} (0.00002) mg/kg/day to 3×10^{-6} (0.000003) mg/kg/day and for PFOS was revised from the previous level of 3×10^{-5} (0.00003) mg/kg/day to 2×10^{-6} (0.000002) mg/kg/day. These new MRLs were lowered because they now take into consideration immune system effects; the former thresholds were based only developmental health effects.

33. The EPA acknowledges that the studies associated with PFAS are ongoing and that based upon additional information, the HAs may be adjusted.

34. Additionally, at least four states, Vermont, California, Minnesota, and New Jersey, have adopted limits or health guidelines on PFAS that are lower than the current EPA HAs.

35. As of July 2018, the New Mexico Water Quality Control Commission voted to add PFOA and PFOS to the list of toxic pollutants the State regulates “at a risk-based level” of 70 ppt, matching the federal level. *See* 20.6.2.3103.A(2) and 20.6.2.7.T(2)(s) NMAC. New Mexico’s Hazardous Waste Bureau, with the Ground Water Quality Bureau, developed the NMED Risk Assessment Guidance for Site Investigation and Remediation, which helps to determine if a site is contaminated to a point that warrants further investigation or action. The associated screening levels and soil screening levels were developed based on the standards found in 20.6.2.3103

NMAC. The Hazardous Waste Bureau uses those screening levels in its administration of the HWA and the Hazardous Waste Management Regulations.

36. Additional PFAS for which there are currently less scientific information include: Perfluorohexane sulfonic acid (“PFHxS”); Perfluorooctane sulfonamide (“PFOSA”); Perfluorononanoate acid (“PFNA”); Perfluorododecanoic acid (“PFDoA”); and Perfluorobutanesulfonic acid (“PFBS”).

37. While more studies have been conducted and thus more is known regarding PFOS and PFOA, all PFAS have generally demonstrated similar characteristics to PFOS and PFOA.

38. By 2015, PFOA was voluntarily phased out of production by the major manufacturers. However early studies of the replacement PFAS indicate they are nearly as harmful. There are still some applications of traditional PFOA and PFOS and the chemicals are persistent in pre-existing products made prior to the phaseout.

B. PFAS in AFFF Used at Bases

39. In the 1960s, 3M Company and the U.S. Navy developed “aqueous film-foaming foam” (“AFFF”), a firefighting foam containing PFOS and PFOA. AFFF concentrate contains fluorochemicals used to meet required performance standards for fire extinguishing agents.

40. In the 1970s, military sites, civilian airports, and firefighting training centers began using AFFF worldwide.

41. The United States Air Force began purchasing and using AFFF-containing PFAS for firefighting training activities and petroleum fire extinguishment in 1970.

42. AFFF was primarily used on Air Force installations at fire training areas, but may have also been used, stored, or released from hangar fire suppression systems, at firefighting

equipment testing and maintenance areas, and during emergency response actions for fuel spills and mishaps.

43. A 1980s study by the U.S. Navy found that AFFF has “adverse effects environmentally” and kills aquatic life.

44. As early as 2011, the U.S. Department of Defense acknowledged that there was a PFAS crisis among its facilities. An internal study identified 594 military sites that were likely to have contaminated groundwater, although it was noted that this number may underestimate the problem by not including AFFF spills, pipeline leaks, or aircraft hangar fire suppression systems.

45. In March 2018, the military acknowledged that PFAS were present at 121 military sites and suspected at hundreds of others. At least 564 drinking water supplies in communities near military sites have PFAS levels that exceed EPA’s HA.

46. The USAF is working to replace its current inventory of AFFF with more formations based on shorter carbon chains, such as Phos-Chek, a six-carbon chain (“C6”) based foam that does not contain PFOS.

47. C6 PFAS are the most prominent replacements for traditional eight-carbon chain PFAS as they are thought to degrade faster. DuPont, one of the major consumers and producers of PFOA, has a spinoff company, Chemours, that manufactures the most well-known C6 product known as GenX.

48. C6 products are still PFAS and presents similar health and environmental concerns to longer-chain PFAS. In May 2015, 200 scientists signed the Madrid Statement, “which expresses concern about the production of all fluorochemicals, or PFAS, including those that have replaced PFOA. PFOA and its replacements are suspected to belong to a large class of artificial compounds called endocrine-disrupting chemicals; these compounds, which include chemicals used in the

production of pesticides, plastics, and gasoline, interfere with human reproduction and metabolism and cause cancer, thyroid problems and nervous system disorders.” A. Blum et al., *The Madrid Statement on Poly-and Perfluoroalkyl Substances (PFASs)*, ENVIRON. HEALTH PERSPECT. 123:A107–A111 (2015), available at <http://dx.doi.org/10.1289/ehp.1509934>.

49. To the extent the Air Force intends to utilize this alternative, its use must similarly be compliant with applicable statutes and common laws that are protective of human health and the environment.

C. PFAS Contamination at New Mexico Air Force Bases

Cannon Air Force Base

50. Cannon is located in eastern New Mexico, near the city of Clovis. Cannon encompasses approximately 3,789 acres of land owned by the United States and hosts a population of roughly 7,800 people.

51. Clovis, New Mexico is a city with a population of approximately 39,000 that relies upon the Ogallala Aquifer for its potable water.

52. Cannon includes two perpendicular active runways in the central and southwest portions; maintenance, support, and operational facilities west of the central runway/flightline; supplemental hangars and apron areas in the south-central region; a wastewater treatment plant to the east; and a golf course and residential and service facilities in the northwest portion.

53. Adjacent land to Cannon includes mixed-use land utilized as residential, agricultural, and farmland to the north; agricultural and farmland to the east and south; and agricultural and open grassland to the west.

54. Cannon is an active military installation that currently houses the 27th Special Operation Wing, which conducts sensitive special missions including close air support, unmanned aerial vehicle operations, and non-standard aviation in response to the Secretary of Defense.

55. Cannon was developed in 1929 when Portair Field was established as a civilian passenger terminal. The Army Air Corps acquired control of the facility in 1942, and it became known as the Clovis Army Air Base. Clovis Army Air Base operated as an installation for aviation, bombing, and gunnery training until 1947 when the facility was deactivated. The Base was reactivated as Clovis Air Force Base in 1951 and became a permanent military installation in June 1957, when it was renamed Cannon Air Force Base.

56. Defendants have used AFFF at Cannon for more than fifty years in training and actual firefighting events at the base. During routine training exercises, AFFF was sprayed directly on the ground and/or tarmac at several fire training areas, allowing PFOA and PFOS to travel to the surrounding groundwater, causing contamination on and offsite. PFAS remains at very high concentrations in groundwater both on and off the base.

57. In addition to routine training for personnel, additional releases of PFAS-containing AFFF have occurred at Cannon through testing of the equipment, false alarms, equipment malfunctions, and other incidental releases in the hangars, fire stations, and other locations. Once the AFFF-containing PFAS was released into the environment, the contamination migrated off-site.

58. On July 26, 2017, Defendants provided NMED with a “*Site Inspection of Aqueous Film Forming Foam (AFFF) Release Areas Environmental Programs Worldwide Installation-Specific Work Plan*” for Cannon (“Cannon SI Work Plan”). The provision of this report to NMED was described “as a courtesy” in a July 27, 2017 letter to NMED.

59. The purpose of the Cannon SI Work Plan was to identify locations where PFAS may have been used and released into the environment and to provide an initial assessment of possible migration pathways and receptors of potential contamination.

60. The Cannon SI Work Plan identified thirteen AFFF release areas that were recommended for site investigation, although it did not preclude the presence of PFAS contamination at other areas throughout the site. The following areas are known to have confirmed releases of AFFF:

- a. **Former Fire Training Area (“FTA”) No. 2**—Former FTA No. 2 is located in the southeast corner of Cannon, approximately 1,000 feet south of the active FTA, and was used for fire training exercises from approximately 1968 to 1974. The area includes two round depressions in the land surface, each measuring approximately 100 feet in diameter. Fire training exercises were conducted twice per quarter using approximately 300 gallons of the unused jet propellant JP-4. No specific AFFF use was reported at Former FTA No. 2; however, since the FTA operated after initial use of AFFF at the base, it is likely that AFFF was used at this location.
- b. **Former FTA No. 3**—Former FTA No. 3 is located in the southeast corner of the base, approximately 800 feet southeast of the active FTA, and was used concurrently with FTA No. 2 between approximately 1968 and 1972. Training exercises were conducted twice per quarter in an unlined, half-moon shaped area approximately 100 feet in length. No specific use of AFFF at Former FTA No. 2 was recorded; however, since the FTA operated after initial use of AFFF at the base, it is likely that AFFF was used at this location.
- c. **Former FTA No. 4**—Former FTA No. 4 was used from 1974 through 1995 for fire training exercises. Training activities were conducted twice per quarter, during which an unknown volume of AFFF was used. FTA No. 4 consisted of an unlined circular area approximately 400 feet in diameter with a mock aircraft located in the center. Prior to 1985, the jet propellant JP-4 and AFFF runoff generated during fire training exercises collected in an unlined pit. The pit was backfilled in 1985 and a new, lined pit with an oil/water separator was installed to handle collected runoff. The oil/water separator was subsequently removed in 1996.
- d. **Hangar 119**—General storage warehouse hangar located in the west central portion of the base, west of the flight apron, with three accidental AFFF releases. The first incident occurred in September 2006 when approximately 60 gallons of AFFF discharged into a storm drain after the AFFF system was accidentally activated, possibly due to a corroded valve. The second incident occurred in September 2012 when a “significant amount” of AFFF was discharged into bay number one and flowed onto asphalt on the north side of the structure between Hangar 119 and Building 102. Incident reports indicate that a “huge

amount” of AFFF entered a storm drain while the rest was left to evaporate. The third incident occurred in July 2013 when an unknown quantity of AFFF was discharged onto the concrete flight ramp outside of the bays, which convey liquid directly to the South Playa Lake. Due to the large quantity of AFFF released at Hangar 119, there is the potential that AFFF migrated to grassy areas to the south and southwest of the structure.

- e. **Hangar 133**—Small aircraft hangar located in the west central portion of the base, immediately south of Hangar 119, with two additional AFFF releases. Several hundred gallons of AFFF were released during a scheduled rinsing of the hangar fire system in December 2000 and entered a nearby storm drain. Approximately 200 gallons of AFFF were released into a hangar bay following a power outage in July 2001. Most of the AFFF entered a floor trench and was routed to the wastewater treatment plan (“WWTP”); however, AFFF that did not enter the floor trench was washed into nearby infield soil and allowed to evaporate.
- f. **Former Sewage Lagoon**—The former sewage lagoons consisted of two unlined surface impoundments that were used from 1966 to 1998 and received sanitary and industrial waste from base facilities prior to the construction of the WWTP. The former sewage lagoons would have received any AFFF that entered the sanitary sewer system from 1966 to 1998. Documented releases of AFFF to the sanitary system from Hangars 199 and 208 were reported prior to and during 1998. As such, there is evidence that AFFF was released to the environment at the former sewage lagoons.
- g. **North Playa Lake Outfall**—North Playa Lake, located southeast of the WWTP, received all Cannon sanitary and industrial wastewater from 1943 to 1966. Currently, all treated effluent from the WWTP is released primarily to North Playa Lake with a portion also released to the golf course for irrigation. Since there is no accepted wastewater treatment process for PFAS, any wastewater collected at the WWTP containing PFAS would be passed on to North Playa Lake.
- h. **South Playa Lake Outfall**—South Playa Lake is located in the southwestern portion of Cannon and serves as the base’s primary stormwater collection point. The lake has received stormwater runoff from portions of the flightline area since 1943. Solvents, fuels, oils, greases, and AFFF are all potential contaminants that would have discharged to the lake from the flightline area. Documented releases of AFFF in the hangars resulted in AFFF entering storm drains with liquid being subsequently routed to South Playa Lake.
- i. **Hangar 109**—Parking and general maintenance hangar located in the west central portion of Cannon, with two accidental AFFF releases. The first release occurred in December 1999 when an office fire activated the AFFF fire suppression system, releasing approximately 500 gallons of AFFF in the hangar bay that reportedly entered the floor trench and was routed to the WWTP. No AFFF was reportedly released outside the hangar in 1999. A second release of approximately twenty-five gallons of AFFF solution occurred in 2016. Installation personnel identified that AFFF was released outside the hangar and was allowed to evaporate west and southwest of the hangar.

- j. **Active FTA**—Active FTA located in the southeast portion of Cannon, immediately northwest of FT-07, FT-08, and FTA-4. The FTA became operational in 1997 and consists of a circular lined burn pit with a mockup of a large aircraft, a propane fuel tank, a control panel, and a lined evaporation pond. Fire training exercises are conducted at the active FTA approximately monthly using water or AFFF. The fire department also conducts annual vehicle foam checks at the FTA. Liquids discharged into the lined burn pit, including water and AFFF, drain to the lined evaporation pond located approximately 300 feet southwest of the pit and are left to evaporate. The liner of the evaporation pit has required repairs in the past, and breaches in the liner have allowed AFFF to infiltrate the soils beneath the liner. Additionally storms in May 2015 resulted in significant flash flooding across Cannon, which likely resulted in any residual AFFF located in the evaporation basin to overflow and be released in the surrounding environment.
- k. **Landfill #4**—Closed landfill covering approximately 7 acres in the east central portion of Cannon that was only operational for one year between 1967 and 1968. The landfill received domestic and industrial wastes including solvents, paints, thinners, and waste oils. Disposal activities consisted of placing waste material into a trench, burning the accumulated waste, and then covering the burned material with soil. Due to the period of operation, AFFF would not have been included in landfilled refuse; however, the landfill cover was revegetated and used water from North Playa Lake, located immediately south of Landfill #4, which receives treated effluents from the WWTP.
- l. **Perimeter Road Fuel Spill**—A fuel tanker truck overturned while traveling along Perimeter Road in the southeast corner of the base. All fuel from the tanker was released on the southeast side of the road. The fire department responded with crash trucks and reportedly sprayed AFFF on the fuel spill. The response was conducted over several days with multiple fire trucks discharging the entire supply of AFFF on the release. Contaminated soils were excavated, but the excavation depth is unknown.
- m. **Flightline Crash Areas**—Three aircraft crashes have occurred along the flightline where the fire department responded with the use of AFFF. Two incidents involving F-16 aircraft were identified at the southern end of the flightline, and a third incident involving an F-111 aircraft occurred at the north end of the flightline. No information regarding the amount of AFFF released is known at this time.
- n. **Whispering Winds Golf Course Outfall**—The base golf course began receiving a portion of treated effluent from the WWTP to fill ponds and irrigate the greens in approximately 2002. The golf course is irrigated five nights per week for approximately four hours using a sprinkler system. Any wastewater collected at the WWTP containing AFFF therefore could be released at the golf course.
- o. **Hangar 204**—Hangar 204 was identified as an area for additional investigation due to the release of AFFF outside the structure; however, it was determined during a scoping visit that based on surface topography surrounding the hangar, any AFFF released from hangar doors would drain directly to storm drains in the apron or would evaporate on the concrete apron. Any AFFF that entered the storm drain would have been routed to South Playa

Lake. Infiltration of AFFF into soils in the vicinity of Hangar 204 was thus thought to be unlikely and, therefore, it was removed from further investigation.

61. In August 2018, Cannon submitted a “*Final Site Investigation Report, Investigation of Aqueous Film Foaming Foam Cannon Air Force Base, New Mexico*” to NMED (“Cannon SI Report”). As stated in the Cannon SI Report, exceedances of the EPA’s HA of 70 ppt for groundwater were detected in six of the eighteen environmental restoration program monitoring wells at the base.

62. Fourteen AFFF release areas at Cannon were analyzed for PFAS contamination in the soil and groundwater. PFOS and PFOA concentrations in soil and sediment were compared against the regional screening level (RSL) of 0.126 mg/kg. Groundwater concentrations for PFOA and PFOS, or PFOA and PFOS combined, were compared against the EPA’s HA of 70 ppt.

63. At Former FTA No. 3, PFOS was detected above the RSL in the surface sample at 0.24 mg/kg, nearly twice the RSL.

64. At Former FTA No. 4., PFOS was detected above the RSL in the surface soil samples at each of the three locations with the highest detected concentration being 0.61 mg/kg, nearly five times the RSL.

65. At Hangars 119 and 113, PFOS was detected above the RSL at each location with the highest detected concentration being 0.42 mg/kg, more than three times the RSL.

66. At the Former Sewage Lagoons, PFOS was detected above the RSL at two subsurface sample sites with the highest detected concentration being 0.29 mg/kg, more than twice the RSL.

67. At the North Playa Lake Outfall, PFOS and PFOA combined were detected above the HA values at both surface water sample sites, with the highest detected combined value being 0.123 µg/L, nearly two times the HA.

68. At Hangar 109, PFOS was detected above the RSL at a maximum concentration of 0.23 mg/kg, nearly twice the RSL.

69. At the Active FTA, PFOS was detected above the RSL at a surface soil location at a concentration of 1.1 mg/kg, more than eight times the RSL, the highest of all soil samples on the base.

70. Two locations, Landfill #4 and Flightline Aircraft Crashes, were presented in the Basewide Groundwater Sampling. PFOS was detected basewide above the HA at five sample sites with a maximum detected concentration of 24 µg/L, 342 times the HA. PFOA was detected above the HA at four sample sites with a maximum detected concentration of 3.1 µg/L, forty-four times the HA. PFOS and PFOA combined exceeded the HA at six sample sites with the maximum concentration of 26.2 µg/L, 374 times the HA.

71. Notably, because these compounds are persistent and bioaccumulative, any detectable amount that can be ingested, regardless of whether or not it exceeds the HA or RSLs, will add to the lifetime concentration of PFAS in any given individual.

72. NMED learned in late 2018 that following a preliminary assessment in 2015 and a scoping visit in in 2016, the Air Force collected samples at four of its public supply wells in 2016, at fourteen potential PFAS release sites in 2017, and at off-base private water supply wells in 2018. The Air Force test results documented high concentrations of PFAS compounds in both on- and off-base groundwater. Sampling has detected PFAS in some off-base wells, which provide drinking water and livestock and irrigation water to local dairies, including the Highland Dairy, half of a mile south and slightly east of Cannon. Air Force sampling showed a maximum of 539 ppt for PFOA in the Highland Dairy well (7.7 times the EPA HA), and Highland Dairy's own

sampling showed 2,920 PFOA (nearly 42 times the HA), with a total PFOS/PFOA of 14,320 ppt in an irrigation well (more than 204 times the HA).

73. The Air Force itself has determined that the “presence [of PFOS and PFOA at Cannon] in drinking water at levels above the EPA [HAs] poses an imminent and substantial danger to public health or welfare,” and notified NMED of this determination via letter on January 10, 2019.

74. On September 26, 2018 NMED sent a letter confirming that a teleconference with the Air Force on August 13, 2018, in which the State noted that the detection of PFAS compounds in groundwater exceeding the HA counted as “a notifiable discharge even if the specific date, sources and volumes of the discharge are not yet known.” The Air Force provided a formal notice of the discharge event to NMED on August 14, 2018.

75. NMED advised that the Cannon SI Report that was submitted August 27, 2018 would count as an Interim Corrective Action report subject to several conditions as well as additional corrective actions.

76. The Air Force responded to NMED’s September 26 letter on October 26, 2018, and declined to make the revisions requested by NMED.

Holloman Air Force Base

77. Holloman is located in Otero County near the city of Alamogordo. The base covers approximately 59,800 acres and hosts a population of roughly 21,000.

78. Alamogordo, New Mexico is a city with a population of approximately 31,000 people who rely partially upon groundwater in the Tularosa Basin for potable water.

79. Holloman, formerly known as Alamogordo Army Air Field, was initiated as a wartime temporary facility in 1942. In March 1947, after a brief inactivation at the end of World

War II, the installation was transferred to the Air Material Command with the mission of providing facilities and testing of pilotless aircraft, guided missiles, and allied equipment in support of the Air Material Command Research and Development Program. The base was renamed Holloman Air Force Base in 1948.

80. Holloman is currently home of the 49th wing of the Air Combat Command, 96th Test Group, 54th Fighter Group, and the German Air Force Flying Training Center. Operations at Holloman include missile testing, aircraft and pilot training, operational equipment and systems testing, and aircraft maintenance and storage.

81. In 2015, the “*Final Preliminary Assessment Report for Perfluorinated Compounds at Holloman Air Force Base, Alamogordo, New Mexico*” identified thirty-one potential PFAS release areas at Holloman. The Preliminary Assessment was provided to NMED as part of the EPA’s Health Advisory proceedings.

82. In November 2018, Defendants released the “*Final Site Inspection of Aqueous Film Forming Foam (AFFF) Release Areas Environmental Programs Worldwide*” for Holloman. (“Holloman SI Report”).

83. The Holloman SI Report detailed five AFFF release areas, but did not rule out the possibility that releases had occurred elsewhere at the site:

- a. **Former FTA**—Fire training activities were conducted generally at the Former FTA since 1942, although the exact dates of fire training in this area is unknown. Fire training was conducted in two unlined burn pit areas within the Former FTA. The volume of AFFF used during each training exercise is unknown. Fire training activities continued at this location until 1990 when training exercises were moved to the current FTA.
- b. **Sewage Lagoon Area Outfall**—Prior to construction of a WWTP in 1996, wastewater from Holloman was discharged directly into the sewage lagoon area that was comprised of seven unlined lagoons. Approximately 1.2 million gallons of domestic and industrial wastewater were discharged into the sewage lagoon daily.

- c. **Apache Mesa Golf Course Outfall**—In 2011, the golf course began receiving a portion of the effluent from the WWTP to fill two golf course ponds and irrigate greens. Releases of AFFF from within the industrial shops and Holloman would be routed through the WWTP and eventually lead to the water holding tank at the Apache Mesa Golf Course.
- d. **Lake Holloman Outfalls**—Wastewater from Holloman was discharged directly into the sewage lagoon area and eventually to Lake Holloman prior to construction of the WWTP in 1996.
- e. **Evaporation Pond No. 2**—The evaporation basin was installed in 1991 and currently collects all discharges containing AFFF, routed through hangar bay floor drains from hangars located in the western ramp area of the West Hangar Group. The Holloman Fire Department uses this basin for monthly AFFF tests and firehose washouts. AFFF is reportedly sprayed from vehicles into the pond until a consistent flow pattern is established.

84. The Former FTA (FT-31), the Sewage Lagoon Area Outfall, the Apache Mesa Golf Course Outfall, the Lake Holloman Outfalls, and Evaporation Pond No. 2 release areas were analyzed for PFAS contamination in the soil, sediment, surface water, and groundwater. PFOS and PFOA concentrations in soil and sediment were compared against the RSL of 0.126 mg/kg. Groundwater concentrations for PFOA and PFOS, or PFOA and PFOS combined were compared against the EPA HA of 70 ppt.

85. Six surface soil samples, including one duplicate, and six subsurface soil samples, including one duplicate, from a total of five locations, were taken and analyzed for PFAS at the Former FTA (FT-31). The soils were analyzed for PFOA and PFOS, with each being detected at each sample site. PFOS was detected above the RSL more than half the time with the highest concentration exceeding the 0.126 mg/kg RSL at 1.13 mg/kg, nearly nine times the limit. At the three groundwater sample sites at FT-31, PFOS, PFOA, and PFOA and PFOS combined were detected well above the EPA HA of 0.07 µg/L, with the highest concentrations being 48.4 µg/L (691 times the HA), 254 µg/L (3,628 times the HA), and 302.4 µg/L (4,314 times the HA), respectively.

86. At the Sewage Lagoon Area Outfall, groundwater results at three locations revealed PFOS, PFOA, and PFOS and PFOA combined all exceeding EPA's HA. The surface water sample also revealed PFOS, PFOA, and combined concentrations exceeding the HA.

87. One groundwater, two sediment, two surface water, and two effluent samples were taken at the Apache Mesa Golf Course Outfall. PFOA and PFOS combined were detected above the HA in the groundwater sample with a maximum concentration of 0.1371 $\mu\text{g/L}$, nearly twice the HA. PFOS, PFOA, and PFOS and PFOA combined exceeded the HA at both of the surface water sample locations, with the highest concentration of 1.317 $\mu\text{g/L}$. Likewise, PFOS, PFOA, and the two combined exceeded the HA in both of the effluent samples with the highest concentration of 0.995 $\mu\text{g/L}$, fourteen times the HA.

88. Sediment and surface water samples were taken at Lake Holloman Outfalls. PFOS was detected in sediment above the RSL at 0.519 mg/kg, four times the RSL. The surface water samples each had concentrations of PFOS, PFOA, and PFOS and PFOA combined that exceed the EPA HA, with the maximum concentration of PFOS and PFOA combined at 3.188 $\mu\text{g/L}$, forty-five times the HA.

89. Finally, soil and groundwater were analyzed at Evaporation Pond No. 2. PFOS was detected above the RSL at the surface and subsurface intervals for each of the soil samples with a maximum concentration of 5.71 mg/kg, the highest of all soil samples for Holloman and forty-five times the RSL. PFOA was also detected above the RSL at the surface level for each sample. PFOS, PFOA, and PFOS and PFOA combined were detected above the HA in the groundwater sample with a maximum PFOS and PFOA combined concentration of 1066.6 $\mu\text{g/L}$, more than 15,000 times the HA and the highest of all groundwater samples at the base.

90. Sampling at both Cannon and Holloman is ongoing in an effort to more fully characterize the extent of the groundwater contamination plumes and their migration outside of the site boundaries.

STATUTORY AND REGULATORY BACKGROUND

91. Congress enacted the Resource Conservation and Recovery Act (“RCRA”) in 1976 in response to “a rising tide of scrap, discarded, and waste materials” that had become a matter of national concern. 42 U.S.C. § 6901(a)(2), (4) (1984). In enacting RCRA, Congress declared it a national policy “that, where feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment.” 42 U.S.C. § 6902(b).

92. Congress recognized, however, that the “collection of and disposal of solid wastes should continue to be primarily the function of the State, regional, and local agencies. . . .” 42 U.S.C. § 6901(a)(4). Thus, RCRA allows any state to administer and enforce a hazardous waste program subject to authorization from the EPA. 42 U.S.C. § 6926(b).

93. RCRA includes a clear and unambiguous waiver of sovereign immunity:

Each [federal entity] engaged in [disposal or management of hazardous waste] shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal and management in the same manner, and to the same extent, as any person is subject to such requirements. . . . The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine . . .).

42 U.S.C. § 6961.

94. EPA authorized New Mexico's state program pursuant to RCRA in 1985, 40 C.F.R. § 272.1601(a), and delegated to New Mexico "primary responsibility for enforcing its hazardous waste management program." 40 C.F.R. § 272.1601(b). New Mexico's HWA and regulations promulgated pursuant to it are incorporated by reference into RCRA. 40 C.F.R. § 272.1601(c)(1).

95. The purpose of New Mexico's HWA is to "ensure the maintenance of the quality of the state's environment; to confer optimum health, safety, comfort and economic and social well-being on its inhabitants; and to protect the proper utilization of its lands." § 74-4-2.

96. Pursuant to the HWA, NMED is authorized to issue permits, § 74-4-4.2(C), and must deny them if an applicant has made a material misrepresentation or has violated any provision of the HWA, among other reasons. § 74-4-4.2(D).

97. NMED may bring suit in the appropriate district court to immediately restrain any person, including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed to or is contributing to the past or current handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste or the condition or maintenance of a storage tank that may present an imminent and substantial endangerment to health or the environment. § 74-4-13.

98. The HWA § 74-4-3(K) defines "hazardous waste" as:

[A]ny solid waste or combination of solid wastes that because of their quantity, concentration or physical, chemical or infectious characteristics may:

- (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported,

disposed of or otherwise managed. 'Hazardous waste' does not include any of the following, until the board determines that they are subject to Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.: drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas or geothermal energy; fly ash waste; bottom ash waste; slag waste; flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore; or cement kiln dust waste.

99. New Mexico's Legislature has granted wide latitude to its environmental programs in order to ensure protection of its natural resources. New Mexico's Environmental Protection Regulations and the rulemaking procedures thereunder are to be "liberally construed to carry out their purpose." 20.1.1.108 NMAC.

CAUSE OF ACTION

First Cause of Action: Violation of the New Mexico Hazardous Waste Act

100. All allegations above are incorporated herein as if specifically set forth at length.
101. Defendants are a "person" under NMSA § 74-4-3(M).
102. PFAS, as described herein, are discarded materials and each is a "solid waste" as defined under the HWA, NMSA § 74-4-3(O), and a "hazardous waste" as defined under NMSA § 74-4-3(K).
103. As a result of the releases of PFAS and other hazardous wastes at Cannon and Holloman as described herein, Defendants have contributed to and will continue to contribute to the past and present handling, storage, treatment, transportation, and/or disposal of solid or hazardous waste which has or may present an imminent and substantial endangerment to health and/or the environment in violation of the HWA, § 74-4-13.

104. Conditions at Cannon and Holloman, as described herein, have presented or may present an imminent and substantial endangerment to health and/or the environment via continued migration of contamination in groundwater and/or drinking water at and around the Bases. In addition to natural resources throughout the environment, members of the public and those living in or visiting surrounding areas are or will be directly exposed to contaminants through all pathways of migration.

105. Although Defendants have acknowledged that the presence of PFOA and PFOS presents an imminent and substantial danger at Cannon, Defendants have declined to take remedial action required under the law.

106. By reason of the foregoing acts and omissions of Defendants, the State is entitled to an order for such relief as may be necessary to remedy the results of Defendants' conduct. Such relief includes but is not limited to injunctive relief compelling Defendants to take all steps necessary to achieve permanent and consistent compliance with the HWA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the State of New Mexico, respectfully requests that the Court enter judgment in its favor and against Defendants by granting relief as follows:

- a. An order declaring that Defendants' conduct violated the HWA;
- b. Immediate injunctive relief requiring the abatement of ongoing violations of the HWA, abatement of the conditions creating an imminent and substantial endangerment, and to fund any costs associated with each compliance whether incurred by the State or third parties performing abatement;
- c. A permanent injunction directing Defendants to take all steps necessary to achieve permanent and consistent compliance with HWA;
- d. All available civil penalties under applicable statutes;

- e. The payment for past costs incurred by the State and not yet reimbursed by the Defendants in connection with its oversight and efforts to obtain compliance with the HWA in this matter;
- f. A declaratory judgment providing the State with a mechanism for reimbursement of future costs incurred by the State in connection with its oversight and efforts to monitor compliance with the HWA in this matter;
- g. A judgment awarding the State costs and reasonable attorneys' fees incurred in prosecuting this action, together with prejudgment interest, to the full extent permitted by law; and
- h. A judgment awarding the State such other relief as may be necessary, just, or appropriate under the circumstances.

Dated: March 4, 2019

Respectfully submitted:

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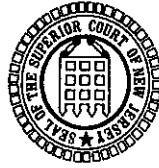
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EXHIBIT “B”

**SUPERIOR COURT OF NEW JERSEY
BURLINGTON VICINAGE**

CHAMBERS OF
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Letter Opinion – Not for Publication
Without Approval of the Committee on Opinions

Re: Motion to Approve Attorneys Fees and Costs
New Jersey Department of Environmental Protection v. Exxon Mobil Corp.,
Docket No. UNN-L-3026-04, consolidated with Docket No. UNN-L-1650-05

Dear Counsel:

The firm of Kanner and Whiteley, L.L.C. (the “Firm” or “Kanner Firm”), with the support of the State of New Jersey (“State”), has applied for the approval of its contingent fee pursuant to N.J. Ct. R. 1:21-7. This rule, in relevant part, provides:

(c) In any matter where a client’s claim for damages is based upon the alleged tortious conduct of another . . . an attorney shall not contract for, charge, or collect a contingent fee in excess of the following limits:

- (1) 33 1/3% on the first \$ 750,000 recovered;
- (2) 30% on the next \$750,000 recovered;
- (3) 25% on the next \$750,000 recovered;
- (4) 20% on the next \$750,000 recovered;

(5) on all amounts recovered in excess of the above application for reasonable fee in accordance with the provisions of paragraph (f) hereof;

...

(f) If at the conclusion of a matter an attorney considers the fee permitted by paragraph (c) to be inadequate, an application on the written notice to the client may be made to the Assignment Judge or the designee of the Assignment Judge for the hearing and determining of a reasonable fee in light of all the circumstances. This rule shall not preclude the exercise of a client's existing right to a court review of the reasonableness of an attorney's fee.

(emphasis added). In this matter, the State is not questioning the reasonableness of the Firm's fee; rather it is supporting the fee in all respects as reasonable and in accordance with the State's special counsel agreement ("SCA").

The underlying legal services upon which this fee application is based are the services and costs provided by the Firm related to New Jersey Department of Environmental Protection v. Exxon Mobil Corp., Docket No. UNN-L-3026-04, consolidated with Docket No. UNN-L-1650-05. The Firm's client, the State of New Jersey, is to receive a lump sum payment from ExxonMobil ("Exxon") of \$225 million as settlement for the State's natural resource damage claims at the Bayway and Bayonne refinery sites as part of a global settlement. The settlement includes claims and certain potential claims at other Exxon sites in New Jersey.¹ The settlement, which the court has previously found to be fair and reasonable and in the public interest, is the largest settlement in New Jersey's environmental jurisprudence to date, according to the Firm and the State.

Under R. 1:21-7(c), the maximum fee recoverable after credit for cost and expenses would be \$812,500. The Firm is seeking \$44,397,633.41 in contingent fees plus \$5,699,332.93 in costs, which would be paid from the gross recovery of 224,000,000.² This fee request is extraordinary, and as such, it is consistent with most other facets of the Exxon matter.

As noted above, the rule requires that the application be submitted to the Assignment Judge or the Assignment Judge's designee. For this application, the Union County Assignment Judge, Hon. Karen Cassidy, has authorized the court herein to consider the fee application. Paragraph Fourteen of the approved consent judgment provides that Exxon and the State shall be responsible for their respective fees and costs. Therefore this fee application is not a fee-shifting application.

On July 9, 2003, the State and the Firm entered into a contingent fee agreement to pursue a natural resources damages lawsuit against Exxon. The litigation commenced with the filing of

¹ A more detailed discussion of the case background and settlement terms is found in previous court decisions and most recently in the courts approval of the consent judgment that settles the case.

² The actual settlement is \$225 million, but the \$1 million recovered for the Paulsboro litigation is not an action in which the Firm participated, thus they seek no fee or costs.

the initial complaints on August 18, 2004. The original SCA provided in relevant part that for cases where settlement occurs after commencement of a trial the contingent fee would be 25% of the first \$10,000,000 recovered; 22.5% of the next \$15,000,000 recovered; and 20% of any amount recovered over \$25,000,000. For cases assigned to the firm where there is a settlement before a suit is instituted, the fee is 15% of the first \$10,000,000 recovered. All of these sums were net after deduction for costs.

The SCA was subsequently modified to come into compliance with a lawsuit and order of Superior Court entered subsequent to the contingent fee agreement. This suit challenged the authority of the Attorney General to enter into such a contingent fee agreement with a special counsel. N.J. Soc. for Envtl. & Econ. Dev. v. Campbell, Docket. No. MER-L-343-04 (N.J. Super. Ct. Law. Div. June 17, 2004) (Sabatino, J.S.C.). The outcome of that case provided that the contingent fee agreement was permissible, but special counsel had to follow the procedure and limitations set forth in R. 1:21-7. Thereafter, by confirming letter from the Attorney General on June 28, 2004, the contingent fee agreement was amended to come into in compliance with the Rule as per the court order.

According to Mr. Kanner's certification, for a considerable period of time prior to entering the SCA, the Firm worked with the Attorney General's Office and the Department of Environmental Protection to assist these offices in the development of its Natural Resource Damage Program. This process involved substantial investigation work, including file review, as well as out-of-pocket costs by the Firm. This extensive general work in support of the NRD program is referred to by Mr. Kanner in his certification as the "Mining Process."³ These services to the State were performed by the Firm at no cost to the State. According to Mr. Kanner, "Kanner and Whiteley bore the costs of this process and expended considerable time and effort in the furtherance of the Department's NRD program, while receiving no compensation. Instead, the thinking at the time was that the Firm would be subsequently retained as Special Counsel to litigate numerous NRD cases on behalf of the Department."⁴

While the Firm's brief and Mr. Kanner's certification show great effort prior to the SCA, the court finds no basis for considering fees and costs based on those services as part of this application. Such services are certainly a good example of the "no stone left unturned" approach to the Firm's NRD efforts. However, the expectation of the Firm as stated by Mr. Kanner was that their gratis pre-SCA services would be rewarded with being named special counsel for litigation with the opportunity to earn a fee under a subsequent formal agreement.⁵ That expectation was met. While no doubt these pre-SCA services were valuable to the State, under the terms of the arrangement as determined by the Attorney General at that time and accepted by the Firm, those efforts were essentially a form of business development, rewarded by obtaining a litigation retainer agreement from the State.

The SCA does not provide for compensation or costs for services rendered retroactively or prior to its entry. The provision 9(i) of the retainer agreement is prospective in nature and provides no language to suggest it was to be applied retroactively. As former Attorney General

³ Kanner Certification, Pg. 6, ¶ 10.

⁴ Kanner Certification, Pg. 7, ¶ 13.

⁵ Ibid.

Samson made clear in the earlier retaining letter of May 31, 2002, executed by Mr. Kanner, the Firm “was authorized to investigate these prospective claims completely at your own expense” and that “this engagement is without fee.” Therefore, the court concludes that the examination of the reasonableness of the fee application under the court rule is limited to the contingent fee earned under the four corners of the July 9, 2003 agreement only.

R. 1:27-7(f) requires that the fee review must be based on a finding that the fees are “reasonable in light of all the circumstances.” To make that determination, courts review the relevant factors under the Rules of Professional Conduct (“R.P.C.”), and more specifically R.P.C. 1.5. Ehrlich v. Kids of North Jersey, 338 N.J. Super. 442 (App. Div. 2001). In considering these factors it should be noted that the sheer size of the application for \$50 million in fees and costs dwarfs the New Jersey caselaw precedents. Even applying those precedents that demonstrate a reasonableness finding in more modest fee applications, when the fee is of such a magnitude a court should also consider whether a contingent fee reaches such a tipping point that what is reasonable becomes an unearned windfall, even if the percentages of recovery are agreed upon by the client.

Below the court examines the factors under R.P.C. 1.5.

R.P.C. 1.5(a)(1) – The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal series properly.

The court has been responsible for this case since the spring 2013, but the court by necessity has also become very familiar with the history and previous rulings of this eleven year old case. There can be no question that this case raised complex and novel issues of law, including the application of the controversial Habitat Equivalency Analysis methodology. The Firm was required to undertake a sixty-six day trial before Exxon became motivated to reach a settlement with the State while awaiting the court’s decision on the merits. Even the fundamental and difficult question of whether there was a cause of action under the Spill Act for NRD (loss of use) made its way to the Appellate Division on an interlocutory basis as well as statute of limitation issues. The Firm provided the legal services to be successful on those trips to the Appellate Division. Altogether there were three rulings of the Appellate Division litigated by the State under the guidance of Mr. Kanner and his Firm.⁶

The Firm has labored in the high weeds of this litigation for eleven years, and during that time it received no compensation or reimbursement, as agreed. However, during that extensive time period the Firm still had to expend money for salaries and firm overhead associated with this case. Mr. Kanner has certified that 40,000 legal service hours of non-compensated time and \$5 million in costs were advanced by the firm over the eleven years.⁷ These legal services included, in addition to other efforts, three interlocutory appeals, retention of multiple experts, depositions and extensive and difficult discovery practice culminating in a sixty-six day trial. Following the trial there was extensive post-trial briefing as well as the services related to the

⁶ Two published and one unpublished decisions.

⁷ The court has rounded the numbers for discussion purposes.

final settlement approval. This included another trip to the Appellate Division to fend off a challenge by a group of environmental organizations seeking intervention.⁸

Likewise the high difficulty of conducting discovery and defending the State's prerogatives from a more-than-able adversary demonstrates to this court a high level of competence and skill. There were many novel and untested questions that the Firm had to address at various stages of the proceedings, such as expert evidence questions, loss of use over time damages under the Spill Act, retroactivity of the Spill Act, the role of physical improvements, the application of the Public Trust Doctrine over private uplands, and the applicability of Habitat Equivalency Analysis methodology in NRD litigation, to name a few of the issues that required experienced, motivated, and highly skilled counsel.

The Firm was up against a determined adversary who created a daunting ten year defense that a less experienced, less determined, or less skilled effort would not have been able to timely, professionally, and, for the most part, successfully meet the challenge.

R.P.C 1.5(a)(2) – The likelihood, if apparent to the client that the acceptance of particular employment would preclude other employment by the lawyer.

Natural resource damages, are a relatively unsettled form of damage that are not based so much on tortious activity but based on an expert's opinion of how much money it takes to restore injured natural resources over time, and how much money is needed to compensate for the loss of use of the natural resource over time. These conclusions are by no means determinable by a simple, scientifically objective test. In this case the alleged time period for the damage is as much as a hundred years. Litigating natural resource damages is a complex and time intensive undertaking, involving a close and confident relationship between the Attorney General, the DEP and the Firm. The court was able to observe that this was true during the trial.

The Kanner Firm is, under any definition, a small law firm. It is dwarfed by the firms that it opposed in this case. Yet by having the focus of those attorneys assigned to the case devote the majority of their time to their client's efforts, they undoubtedly were precluded from taking on numerous new clients particularly because of their limited size. The Attorney General's Office, having worked with the firm for over a year on a non-compensation basis before formally retaining the firm, was most certainly well aware of the limitations their retainer agreement and subsequent litigation would place on the economics of the firm and it is no doubt a reason for their support of the Firm's application.

R.P.C. 1.5(a)(3) – The fee customarily charged in the locality for similar legal services.

Because of the size of the fee in this case and its contingent basis there are no state court parallels for such attorney fee amounts in this locality, which for purposes of this determination the court considers to be the entire State of New Jersey. The DEP is a state-wide agency that has been involved historically in many lawsuits in state and federal courts regarding their efforts in

⁸ As provided in the Firm's brief, "Written and documentary discovery was also expansive involving approximately 70 expert and fact depositions and over a million pages of document reviewed by the parties and selected for duplication in discovery. Exhibits used at trial totaled over 380,000 pages." Brief in Support of Motion, 12.

protection of the environment under many statutes and their related regulations. While there are no cases with the same or similar fee determinations in New Jersey environmental jurisprudence, as the Firm has cited in its brief, there are numerous cases which provided fee awards that are similar to the percentages sought in this case, even though the ultimate dollar award may be far less. In New Jersey Department of Environmental Protection v. ISP Environmental Services, Docket No. UNN-L-2271-07 (N.J. Super. Ct. Law Div.), for example, a case in which the DEP was represented by the Kanner Firm, the Superior Court found that a percentage of 24% of the net recovery was reasonable. Of note to this court, is that the settlement in the example was arrived before trial, unlike the instant case where there was a complex and lengthy trial was completed.

The overall fee percentage the Firm seeks in this case, after having conducted a lengthy trial is approximately 20.4% of the net recovery after taking into consideration the contingent fee rule and applying the agreed-upon fee schedule in the SCA. The Attorney General has supplied a list of numerous contingent fee agreements it has with special environmental counsel that provides for a range of similar percentages. The court concludes this factor is satisfied because there is ample basis to conclude that an overall 20.4% recovery rate in such a novel, complex, and nearly on-of-a kind environmental case is within the range of percentages for contingent fee agreements that is customary for the New Jersey locality.

R.P.C. 1.5(a)(4) – The amount involved and the results obtained.

In the underlying case, New Jersey sought \$8.9 billion. The settlement with Exxon recovered \$225 million. Many public comments opposing the settlement were based on objections to the facially apparent disparity. Relying on this fact alone to argue that the settlement figure was not a substantive outcome oversimplifies the issues that were at stake. Obviously, the Firm and New Jersey believe that this settlement was a successful outcome, and the court has determined it to be fair, reasonable, and in the public interest.

The trial evidence demonstrated that the DEP's NRD strategy from the beginning in 2003 was to bring responsible parties to the table to reach compromise and settlement. Policy Directive 2003-07 (PEX 0544) demonstrated that and former Commissioner Campbell and John Sacco of the DEP testified to that point as well. In trial, the evidence also demonstrated the fact the DEP was mostly successful in this strategy with New Jersey industries. However, Exxon did not take the State's settlement bait. Exxon was for eleven years an exception to the many companies who chose to compromise with the DEP on NRD issues. Exxon exercised its rights and refused to settle and thus forced the hand of the DEP and its counsel to expend ten years of effort and to try the case to its conclusion.

Only after this marathon of a trial and before the court issued its merits trial decision, did the efforts of the State through the representation by the Firm cause Exxon to change course and negotiate a settlement that has been determined to be in the best interest of the public. While the stated goal of the DEP was to recover \$8.9 billion, as the trial evidence clearly showed and the subsequent certifications of the Attorney General Hoffman and Commissioner Martin demonstrated, the goal was a litigation goal which had great risk of not being fully achieved. When placed in the context of the settlement efforts over the years through different

administrations, the amount of the settlement was certainly in line with the settlement strategy that the trial evidence showed was a vital component of the NRD program during the pendency of this litigation.

Having presided over the trial and reviewed all the testimony and evidence, the court believes that while its trial decision findings may have led to a different conclusion, the recovery of \$225 million is a success for the citizens of New Jersey. This result as well does justice to the Spill Act. By the State and Exxon trying the case, both sides got to see the hand of cards that each side held and, thus, for the first time were in a position to judge for themselves the risks of continuing to play the high stakes gamble. Faced with the trial evidence, the parties found the common ground that had eluded them for 11 years.

In a less complex case, where there was no trial, and the matter was settled without the extraordinary efforts of the Firm and the Attorney General's Office, a good argument could be made that such a fee as the Firm claims here, even if agreed to by the State, would fall into unearned windfall territory when judged against the outcome. But that situation does not exist here. The court finds the fees are in line with the results achieved and otherwise satisfy this factor.

R.P.C. 1.5 (a) (5) – The time limitations imposed by the client or circumstances.

This fact is not relevant to this fee application. There were not any time limitations imposed on the Firm by either the Attorney General, the DEP, or the courts.

R.P.C. 1.5 (a) (6) – The nature and length of the professional relationship with the client.

The professional relationship between the Firm and the State has been ongoing, wherein the State has authorized broad responsibilities over many years, demonstrating a strong trust and respect between the Firm and the Attorney General's Office and the DEP. In addition, while the Attorney General and the Firm have been jointly representing the State, the relationship between them has been apparently seamless as they have pursued the litigation to date.

Beginning in May 2002, the parties formalized an initial representation wherein the Firm was retained, but without cost to the State to help with the development of the DEP's natural resource program. As stated by Mr. Kanner in his certification, "the firm worked for over a year to investigate and assess potential NRD claims, working closely with the DOL and the Department's Office of Natural Resource Restoration (ONRR) and the Bureau of Site Remediation to evaluate hundreds of sites and hazardous discharges throughout the State."⁹ This initial effort was gratis by the Firm, who were expecting to be retained, and indeed were on July 9, 2003, to begin the litigation that the Attorney General would subsequently authorize.

Over several administrations and multiple Attorneys General and DEP Commissioners, the Firm has represented the State in other cases in addition to Exxon. The court is satisfied that this factor favors the application. This long-term relationship has provided the State with a

⁹ Kanner Certification, Pg. 4, Item 5.

consistent legal strategy, which is in substantial part responsible for the ultimate settlement outcome in this matter.

R.P.C. 1.5 (a)(7) – The experience, reputation, and ability of the lawyer or lawyers performing the services.

Based upon the exhibits that accompanied the application, the Firm, whose home base is New Orleans, Louisiana, is a well-known environmental firm not only in their home state but in many other jurisdictions around the United States. The Firm or its predecessors has been in existence for thirty-four years. The Firm most recently also represents the State of Louisiana in its environmental claims involving the 2010 BP oil spill. Mr. Kanner himself, has authored academic articles on complex environmental issues as well as having taught on an adjunct basis at nationally known universities. Undoubtedly, former Commissioner Campbell held the firm in high regard because of its reputation when he initiated the relationship between the DEP and the Firm. From the early 2000s onward, succeeding commissioners and attorneys general continued to recognize the abilities, experience, and reputation of the Firm by continuing and building on their relationship.

R.P.C. 1.5 (a)(8) – Whether the fee is fixed or contingent.

The fees sought in this case are contingent on a successful recovery. Contingent fee agreements serve a broad purpose, permitting greater access to our court system for those with claims, but without the financial means to legally pursue such claims. In the areas of litigation where they are permitted they also serve to level the playing field between a deep-pocketed defendant and a client of limited means. Such fee arrangements permit a law firm to assess the risk, and then to take on such a client, and the firm is rewarded for its risk by receiving a fee from the recovery that most likely would exceed what it would have received on an hourly basis, win or lose. Most importantly, if the law firm is not successful in recovery, the client pays no fee for the services. Another benefit of a contingent fee is to potentially weed out frivolous claims. Before taking on such a contingency, the law firm will surely satisfy itself that the dispute risks and unknowns are worth the pursuit of a legitimate claim with genuine recovery potential.

In the public sector, where claims by the State involve complex legal and scientific environmental claims, a contingent fee arrangement, such as in this case, also plays another positive role. Such a fee arrangement allows for the State to husband its resources, and to pursue such complex litigation without the added and extensive costs of paying an experienced law firm by the hour to pursue a case, win or lose. In addition it allows the State to retain law firms that have a special legal expertise and experience that the Attorney General's office might not possess. From a law firm's perspective, they have to decide the legitimacy of the claims and conclude that there is merit sufficient to support taking the risk of exposing its firm resources that could lead to no recovery in the worst case after the expenditure of much time, effort, and expense. It is in this context that the State and the Firm entered into its contingent fee agreement.

There is an inherent risk in any contingent fee agreement, and in the instant case the risk was more significant than the average. To be successful, the Firm would have to litigate many issues that were novel and the outcome was uncertain even before the exposure to the risks

associated with an extensive and prolonged trial. This holds true for the risks of an adverse outcome on appeal.

One of the most important risks was to establish that, as a matter of law, compensatory damages for loss of use of adversely affected natural resources were recoverable under the Spill Act. This issue was overcome by the Firm when the Appellate Division held “‘loss of use’, is a means of measuring the reduction of services provided by a polluted natural resource and establishing a value for its replacement” and “we find that the DEP’s claim for ‘compensatory restoration’ – loss of use damages – is consistent with the Spill Act’s express terms, is harmonious with legislative intent, and is in keeping with the legislative directives articulated in the Act’s recent amendments.” N.J. Dep’t of Env’tl. Prot. v. Exxon Mobil Corp., 393 N.J. Super. 388, 393, 410 (App. Div. 2007).

It is this “loss of use” holding that is probably the most important ruling in the case’s long history because of its far-ranging precedent, now preserved because of the approved settlement. This important precedent will benefit the public in providing legal support for DEP negotiations with potentially responsible parties in future cases for NRD brought or contemplated by the State. There were many other risks that the Firm and its client faced as well. Those additional risks are set forth in much detail in the court’s decision to approve the settlement and need not be repeated here.

The retainer agreement between the Firm and the State was a comprehensive and detailed agreement. In addition to the recovery schedule, the agreement provided that if there is no recovery, there is no fee to be paid to the Firm, and “the repayment of costs is contingent upon a recovery being obtained. If no recovery is made the State owes nothing for costs.”¹⁰

The agreement also gives the Attorney General an independent right to reduce the calculated fee if he determines the fee is unreasonable, using many of the factors found under R.P.C. 1.5(a). Under the retainer agreement the Firm faced the risk that it would have to expend millions of dollars to pursue the litigation and come up empty handed. The benefit to the State is obvious. If, at the conclusion of the case after all appeals are exhausted, the final result is that no money is recovered, the taxpayers of the state will not be obligated to pay the Firm a penny.

* * *

Before coming to a conclusion, the contingent fees and costs must be examined.¹¹ The Firm provided the court a professional services summary. Subsequent to that submission the

¹⁰ Retainer Agreement, Item 11 (July 9, 2003).

¹¹ Prior to the oral argument on the fee application on July 30, 2015, the court received unsolicited correspondence from the law firm of Nagel Rice, LLP. The Nagel firm, in its July 24, 2015, letter supports the Kanner Firm application. They also represented that they provided services to the Kanner Firm in connection with this case. On inquiry by the court during oral argument it was represented that the Nagel firm performed services as an associated counsel, and that fees owed to the Nagel firm will be paid from the approved fees payable to the Kanner Firm by the State. Mr. Kanner also confirmed that they are not considered reimbursable costs under his application. It was also confirmed that the Nagel firm has no retainer agreement directly with the State regarding the Exxon litigation. Therefore, the court makes no findings regarding the extent or merits of the Nagal Rice submission, as the payment of their fees and costs is the responsibility of the Kanner Firm and does not entail further payment by the State.

court forwarded to counsel requests for additional information which were responded to in a timely fashion. In addition to reviewing the initial submission in support of the reasonableness of the contingent fee, which included a summary of professional services and costs, with the receipt of more detailed information, the court was able to review the detail of the costs making up the total of reimbursable costs. The court was also provided with and reviewed a list of other contingent fee special counsel agreements the Attorney General has entered into since 2002, along with the hourly rates charged by the Kanner Firm in environmental matters.¹² The Attorney General's list of law firms who have or are acting as special counsel in environmental cases, demonstrates, with only two exceptions, that the contingent fee percentages are in line with the SCA in this case.¹³

The court also asked for and received via a certification from DAG Richard Engel, a further explanation of the scope of review of the fees and costs that he and his staff undertook before recommending that the court approve the fees as being reasonable. The Firm represented that it performed 40,063.40 hours of work by fifteen lawyers and seven paralegals, through December 12, 2014. The Firm has continued to perform services since that date, and under the terms of the SCA will have to continue to do so as necessary. They represent that they expended \$5,171,168.71 in reimbursable costs pursuant to the SCA. The Attorney General's Office does not dispute these costs. The court, after having reviewed the detail reimbursable costs, finds them to be reasonable and in accordance with the SCA.

The legal fees themselves are calculated based on \$224 million. Of the \$225 gross recovery \$1 million represents the recovery on the Paulsboro Litigation, for which the Firm performed no services under the SCA. The net recovery therefore is \$218,300,667.07 (\$224,000,000 minus reimbursable costs of \$5,699,332.93 equals \$218,300,667.07).

Pursuant to Rule 1:21-7, the fee calculated on the first \$3 million of the recovery equals \$812,500. Thereafter the fee is calculated based upon the SCA. On the next \$7 million (25%) which equates to \$1,750,000. On the next \$15 million (22.5%) which equates to \$3,375,000. On the balance of the recovery (\$189,300,667.07), after deducting \$4 million which was allocated for the remaining off-site recoveries, which are being settled without litigation, the fee is 20% or \$37,860,133.41. The remaining \$4 million generates a fee under the SCA based on 15% or \$600,000 because the claims were settled without their having to be litigated.

To summarize:

<u>Rule 1:21-7</u> fees:	\$812,500.00	first \$3 million
SCA fees:	\$1,750,000.00	next \$7 million – 25%
	\$3,375,000.00	next \$15 million – 22.5%

¹² In the submission, it was pointed out that the Firm generally performs most of its work on a contingent fee basis, but it was able to submit hourly rates for its professional staff relative the Firm's work on the recent BP oil spill case for the State of Louisiana. It was further pointed out by the Attorney General's Office that such hourly rates are generally lower than customary hourly rates charged in New Jersey and the Northeast.

¹³ One of those exceptions is New Jersey Department of Environmental Protection v. Occidental Chemical Corp., Docket. No ESX-L-9868-05, where the agreement provided for a hybrid where counsel was paid \$23 million on \$355.4 million in recoveries, plus fees paid on an hour rate.

\$37,860,133.41 next \$189,300,667.07 – 20%
\$4,000,000.00 non-litigated recovery – 15%

TOTAL FEE: \$44,397,633.41

After considering the R.P.C 1.5(a) factors above, and after a thorough review of the Firm's submission, and the Attorney General's supplemental response to questions posed by the court, the court is satisfied that the requested fees and costs are reasonable. In making that finding, the court is well aware of the significance of the size of the fee award. But the court is also aware of the unusual nature of this case, in which the Firm for eleven years has worked diligently and professionally on behalf of their client, the State of New Jersey, without receiving any compensation. The court likewise recognizes the risk that they have taken in financing this litigation for the State of New Jersey -- that risk being a real possibility that in the end after all appeals are exhausted there might not be any recovery. That would mean that the eleven-plus years of effort and cost would be absorbed by the Firm.

It is also important to note that the Firm's work may not yet be done, as the approval of the settlement by the court could be the subject of an appeal, which could potentially add years to their effort with uncertain outcomes. This award of fees includes any such future services, should any appeal arise. The SCA provides "Special Counsel's duty to represent the State in assigned NRD case shall include acting on behalf of the State in all levels of appeal."¹⁴ While the rewards for success in this case are generous, such reward potential is counterbalanced by the great risks the Firm faced, which are significant and substantial and will continue until all appeals have been exhausted and the consent judgment becomes non-appealable.

By the terms of the Consent Judgment the \$225 million payment by Exxon will be held by the State in a segregated account and cannot be used for any purpose, which the court interprets as including the payment of legal fees and costs, until the Consent Judgment "becomes final and non-appealable."¹⁵ One final point on this application. Contained in the Firm's proposed order submitted with the application is Item 3, which states the fee "shall be adjusted to include all applicable interest thereupon." The interest referred to is footnoted to reference the fact that the settlement proceeds as part of the consent judgment are to be placed in an interest bearing account until the "judgment becomes final and non-appealable." The court will not approve the payment of interest to the Firm accrued in this fashion. Since the terms of the SCA at Paragraph 3 require the Firm to represent the State through appeals and the consent judgment is not fully executed until by its terms it is "non-appealable," the court finds that the fees are not contractually earned and thus not payable by the State until such time as the final judgment becomes "non-appealable."

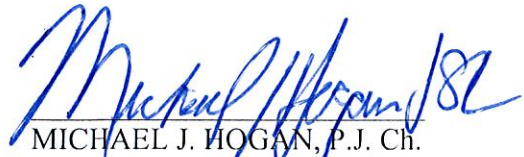
The Firm has demonstrated no entitlement to a portion of interest earned by the State, as it has performed no efforts related to the accrual of interest. To permit the payment of such interest to the Firm would be unreasonable and an affront to R. 1:21-7(f). and R.P.C. 1.5. The interest provision in the consent judgment was to ensure that if the settlement is not approved, or if the court's approval of the settlement is overturned on appeal, that Exxon would promptly

¹⁴ SCA, Item 3 (emphasis added).

¹⁵ Consent Judgment, ¶ 5.

have its money returned with interest. Even if such interest provision was not in the consent judgment, the State likely would place such settlement funds in an interest bearing account as a prudent practice. The SCA does not contemplate such an unearned payment to the Firm.

In conclusion, the court GRANTS the motion and approves the fee and cost application consistent with this opinion and attached Order.



MICHAEL J. HOGAN, P.J. Ch.
(retired T/A recall)

cc: Superior Court of New Jersey – Union Vicinage
Susan J. Kraham, Esq.
Richard Rudin, Esq.

EXHIBIT “C”

KANNER & WHITELEY, L.L.C.
ATTORNEYS AT LAW

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FIRM BIOGRAPHY

Kanner & Whiteley, L.L.C. (“K&W”) is an AV-rated national trial firm founded in 1981 that excels in handling complex and novel matters in a variety of substantive areas of the law, including the representation of state natural resources trustees. Based in New Orleans, Louisiana, Kanner & Whiteley has successfully secured historic recoveries on behalf of its clients for over 38 years. The firm has been especially successful in environmental and toxic tort litigation, pioneering many of the most important developments in these fields. The firm’s attorneys are held in high regard for their persistence, preparation, attention to detail, ability to synthesize large amounts of complex information, problem solving, creativity and strategic thinking. According to Chambers USA, Kanner & Whiteley “enjoys a ‘sterling reputation’ for plaintiff-side representation,” and Allan Kanner has been separately lauded as “‘the best oil and gas’ expert in the world as lead counsel for [The Deepwater Horizon] spill litigation.” Sonia Smith, *Lawmakers Briefed On State’s Oil Spill Response*, BATON ROUGE ADVOCATE (June 10, 2010). Mr. Kanner and Ms. Whiteley are 2017 and 2018 Lawdragon 500 Leading Lawyers in America, and the firm was honored as a Finalist by The National Law Journal in 2015 and 2016 as Elite Trial Lawyers.

**NATURAL RESOURCE DAMAGE,
ENVIRONMENTAL AND TOXIC TORT EXPERIENCE**

Since its inception, Kanner & Whiteley has been on the cutting edge of environmental, natural resource and toxic tort law developments. Starting with *Three Mile Island* and the *Louisville Sewer Explosions*, the firm has achieved an unmatched record in helping clients to navigate through the complex and dynamic backdrop of environmental laws and regulations. Our litigation practice has involved successful claims for recovery of compensation for environmental damage to persons, property, government and the Public Trust resulting from contamination in fields including but not limited to toxic torts, natural resource damages, nuclear power, the Resource Conservation Recovery Act, the Clean Water Act, and the Clean Air Act. The firm has pursued causes of action for both private and public entities under various theories, including nuisance, trespass, strict liability, unjust enrichment, *parens patriae*, as well as both federal and state environmental statutes. These actions have taken the form of class, multiple party, government, and individual plaintiff proceedings against a multitude of corporations, including ExxonMobil, Shell, Texaco, ConocoPhillips, and BP/Amoco. Most recently, the firm secured groundbreaking settlements in two of the largest natural resource damage (NRD) cases in history.

The firm has the best NRD record of any firm in America. The firm acts as Special Counsel to the New Jersey Attorney General and the Department of Environmental Protection to both develop New Jersey’s comprehensive natural resource damages program, as well as litigate

these claims against industry defendants unwilling to amicably resolve their natural resource damage liability with the Department. Initially the firm worked with Commissioner Bradley Campbell and Attorney General David Samson to catalog and prioritize the State's viable claims and prepare legal theories and factual information to enable the State to enforce its interests.

The firm began litigating the leading and largest case in New Jersey's natural resource damage program in 2004 against Exxon Mobil for injuries at two of Exxon's former refinery sites in the State. In a 2007 opinion in that case, the New Jersey Appellate Division found in favor of the State on appeal from a partial summary judgment ruling (under the New Jersey Spill Act), finding that damages for loss of use and services of the State's natural resources are available to the State. *New Jersey Dep't of Env'tl Prot. v. Exxon Mobil Corp.*, 393 N.J. Super. 388 (App. Div. 2007). Damages were tried from January 2014 through September 2014. After trial, the parties reached a settlement for \$225 million. The settlement was approved by the trial and appellate courts as fair and in the interests of the public.

In addition to the case against ExxonMobil, Kanner & Whiteley has served or serves as Special Counsel to the State of New Jersey in other matters seeking restoration or compensation for natural resource injuries and other complex litigation matters. On August 1, 2018, as part of the environmental initiative of the new administration, Kanner & Whiteley filed suit on behalf of the State against Hess Corporation and Buckeye Partners seeking compensation for the lost use and value of resources injured as a result of discharges at the former Hess refinery in Woodbridge, New Jersey. *See N.J. Dep't of Env'tl. Prot. v. Hess Corp., f/k/a Amerada Hess Corp. & Buckeye Partners, L.P.*, Superior Court, Middlesex County, No. MID-L-004579-18. Kanner & Whiteley also filed a complaint on behalf of the State of New Jersey against Exxon Mobil Corp. seeking natural resource damages and restoration for years of injuries caused by polychlorinated biphenyl ("PCB") and other contaminants dumped at the Lail Site in Gloucester County, New Jersey. *See New Jersey Department of Environmental Protection, et al. v. Exxon Mobil Corporation*, No. GLO-L-000297-19.

The firm was also retained by Louisiana Attorney General James D. "Buddy" Caldwell as Special Counsel to represent the State of Louisiana with its claims resulting from the BP Deepwater Horizon oil spill in the Gulf of Mexico, including claims to recover economic losses, response costs and natural resource damages. The firm was involved in the negotiation of the \$18.7 billion global settlement agreement with British Petroleum that resolved all remaining claims against BP Exploration and Production, Inc. brought by the United States, Louisiana and the rest of the Gulf States, and a majority of local government entities in those states. Kanner & Whiteley secured the recovery of more than \$8.8 billion in both environmental and economic damages resulting from the disaster solely for the State of Louisiana, the largest of the States' recoveries and the largest single NRD recovery ever. In addition, the firm assisted the State in its response efforts to the impacts from the spill.

In addition to its current work for the State of New Jersey, Kanner & Whiteley represents the State of New Mexico in PFAS litigation against the United States Air Force. *State of New Mexico, ex rel. v. The United States et al.*, No. 6:19-cv-00178 (D.N.M.).

Kanner & Whiteley continues to bring pioneering environmental cases under innovative theories of liability. In September of 2016, Kanner & Whiteley joined the Conservation Law Foundation in bringing a landmark case against ExxonMobil for failure to follow the best practices required under federal law in armoring the ExxonMobil Everett Terminal in Massachusetts against sea level rise, flooding, and other risks associated with climate change that threaten the Terminal, as well as the repeated violations of its permit conditions. *Conservation Law Found., Inc. v. ExxonMobil Corp. et al.* 1:16-cv-11950-MLW (D. Mass). The trial court denied ExxonMobil's efforts to dismiss this landmark case.

The complaint, filed in the United States District Court for the District of Massachusetts, seeks penalties and injunctive relief for ExxonMobil's violations of the Resource Conservation Recovery Act and the Clean Water Act associated with operations at its Everett Terminal. The complaint alleges in part that despite a broad corporate understanding of the certainty and the effects of climate change dating back decades, ExxonMobil failed to take action to address imminent risks of increased flooding and greater storm tides at the Terminal and to protect local communities from the increased risk of oil and hazardous pollution discharges and spills at the Terminal that are associated with the effects of climate change. In addition, the complaint alleges that ExxonMobil routinely discharges toxic pollutants into the Island End and Mystic Rivers in amounts that far exceed permitted levels and degrade water quality. The firm is also pursuing similar claims against Shell Oil Company relating to violations of the Clean Water Act and the Resource Conservation and Recovery Act for its facility in Providence, Rhode Island. *Conservation Law Found., Inc. v. Shell Corporation USA*, 1:17-cv-00396-WES-KDA (USDC R.I.).

TRIAL AND APPELLATE EXPERIENCE

Kanner & Whiteley has an excellent trial and appellate reputation. The firm has substantial jury trial experience with a number of multi-million-dollar verdicts, including three successful class action trials. Kanner & Whiteley has successfully litigated civil RICO, environmental, toxic tort, antitrust, and fiduciary duty class actions.

The firm has served as lead counsel in a number of cases, including the following: *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 (E.D. La.) (representing the State of Louisiana to recover for natural resource damages following Deepwater Horizon Oil Spill); *N.J. Dep't of Env'tl. Prot. vs. ExxonMobil, Corp.*, Superior Court Union County, Docket No. UNN-L-3026-04 consolidated with UNN-L-1650-05 (representing the State of New Jersey to recover for natural resource damages at the sites of two former refineries under the New Jersey Spill Act and common law theories including nuisance); *In re: Avandia Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 1871 (E.D. Pa.) (representing the State of Louisiana in a fraud case); *In re: Budeprion XL Marketing and Sales Practices Litigation* (MDL 2107) (E.D. Pa.) (Lead Counsel, pending national pharmaceutical consumer class action); *In re Cox Enterprises, Inc., Set-Top Cable Television Box Anti-Trust Litigation*, MDL No. 2048 (W.D. Okla.) (Co-Lead Counsel) (\$6 million antitrust jury verdict); *Roeder v. Atlantic Richfield Co.*, 3:11 - CV - 00105-RCJ -WGC (D. Nev.) (Settled pollution property damage class action); *Shaffer v. Continental Casualty Co.*, No. CV-06-2235-RGK (C.D. Cal.) (Lead Counsel) (\$60 million class action long term care insurance settlement.);

Lemmings v. Second Chance Body Armor, et al., No. CJ-2004-64 (Mayes County District Court, OK) (2/19/05) (certification of class of bullet proof vest purchasers/users) (7/12/05 Order Preliminarily Approving \$29 million national class settlement) (9/23/05 Final Approval Granted); *Samples v. Conoco, Inc.*, No. 2001-CA-000631, Div. J (Escambia County, First Judicial Circuit Court, Florida, 2003) (Litigation of groundwater contaminant class action; \$65 million property owner class settlement); *Talalai v. Cooper Tire & Rubber Co.*, MID-L-8839-OOMT, Mass Tort 259, (Law Div. Middlesex Cty.) (multi-million-dollar national class settlement on behalf of Cooper Tire purchasers; final approval granted on 9/13/02); *Hanson v. Acceleration Life Ins. Co.*, Civ. No. 3:97-152 (D.N.D. 1999) (\$14.7 million settlement on behalf of Long Term Care policyholders); *Wallace v. American Agrisurance*, No. LR-C-99-669 (E.D.AR) (\$3.7 million settlement on behalf of rice growers holding CRC Plus policies); *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140 (8th Cir. 1999) (settlement of certified pollution property class action affirmed on appeal); *Tompkins v. BASF*, No. 96-59 (Traill County, N.D.) (multi-million-dollar settlement on behalf of agricultural product purchasers); *Clark v. Household Finance Corp.*, No. 97-2-22420 (King County, WA, 12/29/97) (certification and settlement of statewide class for defrauded employees). *In re Synthroid Marketing Litigation*, MDL 1182, 264 F.3d 712 (7th Cir. 2001) (\$89 million nationwide class action settlement granted final approval and affirmed on appeal); and *Bonilla v. Trebol Motors*, No. 92-1795 (D. P.R.) (\$129.5 million class action verdict affirmed in part and reversed in part on appeal; settled as to all parties).

Courts have consistently acknowledged the firm's expertise in handling complex litigation and trials:

Letter Opinion, *N.J. Dep't of Env'tl. Prot. v. Exxon Mobil Corp.*, Dkt. Nos. L-3026-04, L-1650-05 (Aug. 25, 2015), at 4-5:

("[T]he court by necessity has also become very familiar with the history and previous rulings of this eleven year old case. There can be no question that this case raised complex and novel issues of law, including the application of the controversial Habitat Equivalency Analysis methodology. The Firm was required to undertake a sixty-six day trial before Exxon became motivated to reach a settlement with the State while awaiting the court's decision on the merits. Even the fundamental and difficult question of whether there was a cause of action under the Spill Act for NRD (loss of use) made its way to the Appellate Division on an interlocutory basis as well as statute of limitation issues. The Firm provided the legal services to be successful on those trips to the Appellate Division. Altogether there were three rulings of the Appellate Division litigated by the State under the guidance of Mr. Kanner and his Firm...[T]he high difficulty of conducting discovery and defending the State's prerogatives from a more-than-able adversary demonstrates to this court a high level of competence and skill. There were many novel and untested questions that the Firm had to address at various stages of the proceedings, such as expert evidence questions, loss of use over

time damages under the Spill Act, retroactivity of the Spill Act, the role of physical improvements, the application of the Public Trust Doctrine over private uplands, and the applicability of Habitat Equivalency Analysis methodology in NRD litigation, to name a few of the issues that required experienced, motivated, and highly skilled counsel...The Firm was up against a determined adversary who created a daunting ten year defense that a less experienced, less determined, or less skilled effort would not have been able to timely, professionally, and, for the most part, successfully meet the challenge.”)

New Jersey Department of Environmental Protection v. ISP Environmental Services et al, No. UNN-L-2271-07 (Super. Ct., Civil, Union County, New Jersey) (Fasciale, J.) *Hr’g Tr.* (Mar. 5, 2013) at 4-5 (The Attorney General’s Office and Special Counsel, Kanner and Whiteley, have a lengthy substantive attorney/client relationship. The firm has been Special Counsel to the AG since July 2003, and prior to the time, the firm worked with the DEP for over a year to assess potential claims. Since 2003, Kanner and Whiteley, has litigated numerous cases on behalf of the attorney general. The firm has also participated in development of the State’s natural resource initiative. The firm is a national reputable practice, and Allan Kanner, the primary attorney in this matter, is the founding member of the firm.”)

Ralph Shaffer v. Continental Casualty Company, CV 06-2235-PSG (June 12, 2008) (Final Approval) (“The Court finds Class Counsel have achieved a substantial benefit for the Class in the face of formidable defenses to liability and difficult damages issues. Class Counsel’s skill and experience enhanced the Settlement, and Class Counsel took on a substantial risk by taking this case on a contingency basis and advancing all of the necessary litigation expenses. Class Counsel fought numerous motions, took or defended several depositions in various locations throughout the Country, analyzed thousands of documents and several expert reports, extensively prepared for trial, and after nearly two years of litigation and effort to build a compelling case against an aggressive opponent, engaged in difficult settlement negotiations.”)

Lemmings, et al., v. Second Chance Body Armor, Inc., et al., CJ-2004-62 (District Court, Mayes County, Oklahoma) (Final Approval Hearing 9/23/05, Judge James D. Goodpaster) (“Having been in this business some 40 years and having been through some litigation right here from this bench and personally I think that the lawyers for the claimants and for Toyobo have done an outstanding

job and I really do thank you all for the hard work that all of you have done in putting this settlement together.”); (2/9/05 Order Certifying Class Action with Findings of Fact and Conclusion of Law) (“Plaintiffs’ lawyers are qualified, experienced and generally able to conduct the proposed litigation and there are no antagonistic interests between the representative party and the class. Plaintiffs have retained attorneys that are qualified and skilled in complex and consumer class litigation.”)

Wallace v. American Agrinsurance, Inc., No. LR-C-99-669 (E.D.Ark, 2005) (“I have nothing but admiration for you and your associates for the outstanding manner in which you at all time represented the class plaintiffs in this case.”)

Samples v. Conoco, Inc., No. 2001-CA-000631, Div. J (Escambia County, First Judicial Circuit Court, Florida, 2003) (Class Counsel were “shown to be qualified, adequately financed and possessed sufficient experience...[and] have demonstrated both their commitment to vigorously pursue this matter on behalf of the class as well as their qualifications to do so.”)

Janes v. CIBA-GEIGY Corporation, Docket No. L-1669-01 Mass Tort 248 (Law Div. Middlesex Cty.) (5/16/03 Opinion and Order Certifying Litigation Class for pollution property damages) (Plaintiffs’ “attorneys are qualified and experienced to conduct this litigation. Class counsel has the requisite experience, skill, and competency in dealing with class actions and complex litigation.”)

Hanson v. Acceleration Life Ins. Co., Civ. No. A3:97-152 (D.N.D. Mar. 18, 1999) (certifying class, rejecting filed rate doctrine and denying summary judgment): Order of December 11, 1999 (approving final settlement of \$14.7 million), pp. 8-9: (“*This litigation was hard fought* throughout its two year pendency and required thousands of hours of counsel’s time and hundreds of thousands of dollars advanced for expenses, with significant risk of no compensation. Both local counsel and national *class counsel are commended for their willingness to take on this cause when there were virtually no precedents to assure them of likely success.* They are all highly skilled and well-experienced attorneys who appreciate the risky nature of this litigation, yet their desire to correct a perceived injustice suffered by a vulnerable group of people led them to take this risk. *Counsel’s considerable skill, both in the substantive areas of this case as well as in discovery and class action procedure, together with their degrees of preparation were primary factors leading to the favorable settlement for the class. Of equal note is the fact that counsel*

unquestionably put the interests of the class far ahead of their own interest.”) (emphasis added)

Talalai v. Cooper Tire & Rubber Co., MID-L-8839-00MT, Mass Tort 249, (Law Div. Middlesex Cty.) (11/1/01 Opinion and Order Certifying National Class and Preliminarily Approving Settlement) (“The attorneys of Allan Kanner & Associates, P.C. have substantial jury trial experience with a number of multi-million-dollar verdicts, including a number of successful class action trials. The firm is known for its willingness to try class actions to verdicts and has done so on at least three occasions, winning every time”); Opinion of September 13, 2002 (Approving Certification and Final Settlement of National Class), p. 5: (“The Stipulation was the result of extensive and intensive arm’s length negotiations among highly experienced counsel, with the benefit of extensive discovery and full knowledge of the risks inherent in this litigation.”)

Milkman v. American Travellers Life Insurance Co., No. 3775, (Ct. Cm. Pleas, First Judicial District, June Term 2000) (Preliminary Approval of National Class: 11/26/01) (“As demonstrated by the credentials set forth in the Motion, the Plaintiff’s attorneys are more than capable of representing the interests of the Class and there do not appear to be any conflicts of interest between the Plaintiff and the Class.”). (Final Approval of National Class: 4/1/02), p. 47 (“Again, the quality of the legal representation provided by Class Counsel is exceptional. The extensive experience of each of the firms and individual attorneys serving the Class is set forth in Kanner Affidavit Paragraphs 54 through 68. Moreover, the Court can attest to Class Counsel’s professionalism and skill, as demonstrated by the extensive memoranda of law and the first-class oral arguments delivered on behalf of the Class.”)

Bonilla, et al. v. Trebol Motors Corporation, et al., No. 92-1795 (JP) (D.P.R.) (\$129,000,000 jury verdict in civil RICO class action against Volvo and local distributor) (describing the firm’s abilities on March 27, 1997, as follows: “*We have no trouble concluding that the experience and resources of Allan Kanner & Associates, P.C. was a major reason that the plaintiffs’ class was able to so successfully present its case to the jury and achieve such an estimable result. Mr. Kanner, who served as lead counsel at trial, has perhaps as much experience litigating complex class action suits as any attorney in the United States. He has authored, chaired, consulted on, contributed to, and given articles, symposiums, classes, books, practice guides, etc. More importantly, his resume is replete with instances in which he served as counsel in complex class action suits. His experience*

was essential to the success realized by the plaintiffs in this action.”) (emphasis added)

Glass, Molders, Pottery Plastics, and Allied Workers International Union, et al. v. Wickes Companies, Inc., No. L-06023-88 (Sup.Ct., Camden Cty., February 24, 1992) (certifying national class of workers who lost jobs as a result of tortious conduct occurring in the context of hostile corporate raid) (describing the firm’s abilities to represent the class as follows: “Plaintiffs’ attorneys have extensive professional experience representing plaintiffs in class actions. Additionally, the attorneys representing the plaintiffs are equipped with the staff and resources to adequately handle a technical and complex class action. *In short, I am satisfied that plaintiffs’ attorneys are committed to the class and competent to advocate its interest.*”); (emphasis added) Order Approving Counsel Fees of December 16, 1993 (“This Court finds that the Kanner firm, [and co-counsel] have all *provided outstanding service to the class* and faithfully executed their fiduciary duties in connection with this litigation.”) (emphasis added)

Local 7-515, Oil Chemical and Atomic Workers International Union (OCAWIU), et al. v. American Home Products, et al., Civ. No. 92-1238 (JP) (D.P.R.) (Order of April 13, 1992, certifying national class of workers who lost jobs as a result of fraudulent job transfers to Puerto Rico under civil RICO theory), *Oil Chemical and Atomic Workers International Union v. American Home Products, et al.*, Civil No. 91-1093 consol. with Civil No. 92-1238 (Order of September 17, 1992, approving \$24 million settlement); p. 38 of transcript: “Indeed, the Court affirmatively finds that Mr. Kanner and [co-counsel] have in all matters handled this case and conducted themselves, in relation to their co-counsel, with *the highest degree of professionalism, integrity and ability*. There is no doubt in the Court’s mind, based on his intimate familiarity with the record, that *but for the outstanding efforts of Mr. Kanner and [co-counsel] there would not have been such a significant and landmark result in this case*, and I have been telling you all this long before this moment.” (emphasis added)

The Board of Commissioners of the New Orleans Exhibition Hall Authority v. Missouri Pacific Railroad Company, et al., No. 92-4155 (Judgment of February 15, 1996) “It must be said that both firms and all attorneys involved in this protracted litigation exemplified *the highest standard of trial experience and skill* which was brought to bear on *this novel and difficult matter* in a specialized area of the law.”) (emphasis added)

Due to the firm's trial experience and success, Allan Kanner is regularly asked to lecture and write on presenting the plaintiff's case for trial. The firm is especially well known for its ability to communicate novel theories effectively, and has been featured in *Business Week*, *American Bar Association Journal*, *New York Times*, *Washington Post* and *Wall Street Journal* articles.

ATTORNEYS

ALLAN KANNER is the founder and senior member at Kanner & Whiteley, L.L.C. Mr. Kanner has a wealth of experience litigating complex class action lawsuits, and practices in the areas of environmental, toxic tort, commercial litigation, and consumer fraud. He is the nation's leading Natural Resource Damage lawyer having won over \$9 Billion in NRD recoveries. From 2010-2016 he was lead counsel for the State of Louisiana, recovering over \$8.8 billion, midway through trial, in the BP Deepwater Horizon oil spill litigation. Allan Kanner has served as Special Counsel to the New Jersey Attorney General and the New Jersey Department of Environmental Protection since 2002 to both develop New Jersey's comprehensive NRD program and litigate these claims against industry defendants unwilling to amicably resolve their NRD liability with the State. Kanner & Whiteley, with Allan Kanner as lead counsel, began litigating the leading case in New Jersey's NRD program in 2004 against ExxonMobil for injuries at two of ExxonMobil's former refinery sites in the State. Following the completion of pre-trial motion practice, including multiple arguments before the Appellate Division; a nine-month bench trial on damages; and post-trial briefing, the parties reached an agreement to resolve ExxonMobil's NRD liabilities at the sites, and others across the State, for \$225 million, the largest NRD recovery in the State's history. During many of the same years that Kanner & Whiteley litigated the claims against ExxonMobil, the firm also pursued litigation on behalf the State against a number of other corporate defendants, also for compensation for damage to or destruction of natural resources of the State. Mr. Kanner is currently lead counsel for the State of New Jersey in the recently filed suit against Hess Corporation and Buckeye Partners, L.P. related to NRD at the Port Reading Terminal, and ExxonMobil related to NRD at Lail. He is also currently lead counsel for the State of New Mexico in its pollution litigation against the United States Air Force.

Allan Kanner has served an Adjunct Professor at Tulane Law School, and has taught as a Visiting Lecturer in Law at Yale Law School (Fall 2002), Visiting Senior Lecturer at Duke University (Fall 2000), and Visiting Professor at the University of Texas Law School (Spring 2001). He is the author of ENVIRONMENTAL AND TOXIC TORT TRIALS (Lexis-Nexis) (2d ed.), as well as over 50 articles in the diverse fields of torts, trial practice, civil discovery, civil RICO, environmental law, toxic torts, class actions, and business and consumer fraud. Mr. Kanner has taught and written extensively in his areas of expertise. Many of his articles have been relied upon by courts and legal scholars. His publications and presentations include the following:

- Allan Kanner, *Emerging Trends In Perflourinated Chemical Regulation And Litigation*, ABA Environmental and Engery Litigation News Letter (August 28, 2017).
- Allan Kanner, *Environmental Gatekeepers: Natural Resource Trustee Assessments And Frivilous Deubert Challenges*, 49 ELR 10420 (May 2019).

- Allan Kanner, *More Than Seals And Sea Otters: OPA Causation And Moratorium Damages*, (forthcoming in DUKE ENVTL. L. & POL'Y F.).
- Allan Kanner & Caitrin Reilly, *Like a Phoenix Rising from the Ashes: Melding Wildfire Law Into a Comprehensive Statute*, (forthcoming in J. ENVTL. L. & LITIG.)
- Allan Kanner, *Issues Trustees Face In Natural Resource Damage Assessments*, Part II, J. OF ENVTL. PROT. (April 2017).
- Allan Kanner, *Issues Trustees Face In Natural Resource Damage Assessments*, Part I, J. OF ENVTL. PROT. (April 2017).
- Allan Kanner, Elizabeth Petersen & Allison Brouk, *Federal Environmental Laws Require Hardening Against Climate Change*, Vol. I, ABA ENVTL. & ENERGY LITIG. NEWS LETTER, Issue No. 1 (Nov. 2016).
- Allan Kanner, *Which Came First, The Incident Or the Oil: The Moratorium and OPA Causation*, Vol. I, ABA ENVTL. & ENERGY LITIG. NEWS LETTER, Issue No. 1 (Nov. 2016).
- Allan Kanner, *Experts in Natural Resource Damages and Toxic Tort Litigation*, Proceedings of the International Network of Environmental Forensic Conference, J. OF ENVTL. PROT. (2015)
- Allan Kanner, *Natural Resource Restoration*, 28 TUL. ENVTL. L. J., 355 (Summer 2015)
- ENVIRONMENTAL & TOXIC TORT TRIALS (2005, Lexis);
- CIVIL RICO (1998, Center for Continuing Legal Education) (Co-author M.H. Patel).

During 1998 and 1999 Allan Kanner was one of the principal authors of the LOUISIANA JUDGES' COMPLEX LITIGATION BENCH BOOK. He has taught at the Louisiana Judicial College, and the Brookings Institute is Judicial Symposium on Civil Justice Issues. He is a member of the bars of California, District of Columbia, Louisiana, New Jersey, New York, Oklahoma, Pennsylvania, Texas and Puerto Rico (Federal) and has successfully handled matters throughout the United States.

ELIZABETH B. PETERSEN, member, joined Kanner & Whiteley, L.L.C. in 1996. Ms. Petersen practices in the fields of environmental law, complex litigation and class actions, including consumer fraud and environmental property damage litigation. She has taught seminars on toxic torts as an adjunct professor at Tulane Law School. Prior to joining Kanner & Whiteley, she practiced in the areas of civil and maritime litigation. She is admitted to practice before the United States District Court for the Eastern and Western Districts of Louisiana and before all Louisiana State Courts. She has also been admitted to practice *Pro Hac Vice* in the United States District Courts for the Western District of Missouri; the District of Puerto Rico; the Southern District of Texas; the Northern District of Illinois; the Circuit Court of Escambia County, Florida; the District Court for Kay County, Oklahoma; and before several of New Jersey's State Courts. Ms. Petersen graduated in 1992 with a Bachelor of Arts degree in English from the University of California at Berkeley with Distinction. In 1995, she obtained a Juris Doctor degree and Certificate of Environmental Law from Tulane University School of Law.

CYNTHIA ST. AMANT, member, joined Kanner & Whiteley, L.L.C. in 1998 where she practices general, civil, commercial, consumer fraud, class action and environmental law. Before joining Kanner & Whiteley, L.L.C., she worked at the Louisiana Supreme Court, clerking

for Justices Lemmon and Bleich and serving as a staff attorney in the Court's Civil Staff Division. Ms. St. Amant is a member of both the Louisiana and Texas bars and is admitted to practice before Louisiana State and Federal Courts, Texas State Courts and the Fifth Circuit Court of Appeal. She graduated with a Bachelor of Science degree in Business Administration from Louisiana Tech University in 1993. In 1996, she obtained a Juris Doctor degree from the Paul M. Hebert Law Center at Louisiana State University.

ALLISON S. BROUK, associate, joined Kanner & Whiteley, L.L.C. in 2011 and is part of the Kanner & Whiteley litigation team representing the State of New Jersey in natural resource damage cases for the State, including a case against ExxonMobil. Ms. Brouk was also part of the litigation team representing the State of Louisiana in its claim related to the Deepwater Horizon oil spill, the largest environmental disaster ever to occur in the Gulf of Mexico. Ms. Brouk has also served as class counsel in litigation involving property damage related to contaminated groundwater, as well as landmark litigation relating to oil company's failure to follow the best practices required under federal law in armoring its facility against risks associated with climate change that threaten the terminal and surrounding communities, as well as violations of its Clean Water Act permit. Ms. Brouk is admitted to practice in the State of Louisiana; the Eastern, Middle and Western District Courts of Louisiana; and the Fifth Circuit Court of Appeals. She is a member of the Louisiana Bar Association, the Federal Bar Association and the Louisiana Association for Justice. She graduated magna cum laude from Tulane University Law School, where she received a Certificate in Environmental Law. While in law school, she practiced as a student attorney for the Tulane Environmental Law Clinic. Ms. Brouk was Editor in Chief of the Tulane Environmental Law Journal and was a member of the Tulane Moot Court Board. She also served as an intern for U.S. District Judge Stanwood R. Duval, Jr. in the Eastern District of Louisiana.

EXHIBIT “D”

Allan Kanner



Allan Kanner is the founding member of Kanner & Whiteley, LLC, a national firm handling natural resource damages, environmental, toxic torts, whistleblower, first-party insurance, class action and complex business litigation. Kanner & Whiteley is a national boutique law firm made up of Mr. Kanner and three partners, Conlee Whiteley, Lili Petersen and Cindy St. Amant who have worked together as a team for over twenty-two years. The firm's successful reputation is built on its ability to effectively manage and successfully litigate and try substantial, cases to successful completion on a cooperative basis with in-house counsel, co-counsel, or referring counsel.¹

Mr. Kanner is highly regarded nationally as a trial lawyer and legal strategist. Mr. Kanner is a Lawdragon 500 Leading Lawyer in America 2017, and a 2016 Top Rated Litigator, The American Lawyer. The firm has been honored as a National Law Journal Finalist, 2016 Elite Trial Lawyers (Pharmaceutical Category). The Firm was also a Finalist, 2015 Elite Trial Lawyers (Environmental Category). In 2014, Law360 recognized Mr. Kanner as a "Titan of the Plaintiffs' Bar" (2014).² He is best known for handling novel case claims, especially those arising from mass disasters, mass torts and consumer fraud.

In the *BP Deepwater Horizon* litigation, working for the State of Louisiana, the firm recovered the largest payment from a single defendant ever, the largest natural resource damages recovery for any state in history plus additional damages of almost \$10 billion.³ Mr. Kanner has won significant environmental, toxic tort, commercial, consumer fraud and civil RICO cases throughout the United States for private and government clients. He has won numerous jury verdicts, has reached multi-million dollar settlements, and has been asked by courts and/or co-counsel to serve in various litigation leadership roles. Examples of some of these cases include *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, MDL No. 2179 (representing the State of Louisiana and as Co-Coordinating Counsel for the State Interests); *In re: Cooper Tire & Rubber Co. Tire Litig.*, MDL No. 1393 (lead counsel in consumer fraud class action ending with a settlement valued over \$1 billion); *N.J. DEP v. ExxonMobil*, No. UNN-L-3026-04 c/w UNN-L-1650-05 (Sup. Ct., NJ) (lead counsel for the State of New Jersey; settlement of \$225 million for environmental damage following 10 years of litigation and an 8 month trial); *Bonilla v. Trebol Motors Corp.* (co-lead counsel; \$129 million jury verdict in RICO class action trial) ("Mr. Kanner,

¹ See, www.kanner-law.com. Kanner & Whiteley is an equal opportunity employer striving for diversity within its practice as well as in its alliances with co-counsel.

² Mr. Kanner's Lawdragon 500 profile appears at www.lawdragon.com/2017/10/01/lawyer-limelight-allan-kanner/, and his Law360 profile appears at www.law360.com/articles/585076/titan-of-the-plaintiffs-bar-allan-kanner.

³ The prior record for a recovery by a state by private counsel was \$225 million, which the firm won for the State of New Jersey. *New Jersey Department of Environmental Protection v. Exxon Mobil Corporation*, No. UNN-L-3026-04 (Union county Superior Court, NJ).

who served as lead counsel at trial, has perhaps as much experience litigating complex class action suits as any attorney in the United States. He has authored, chaired, consulted on, contributed to, and give articles, symposiums, classes, books, practice guides, etc.”); *In re: Synthroid Marketing Litig.*, MDL No. 1182 (co-lead counsel in national consumer fraud class action; \$98 million settlement); *Lemmings v. Second Chance Body Armor*, No. CJ-2004-64 (Mayes County Dist. Ct., Okla.) (lead counsel in national class action; \$29 million settlement); *In re: Cox Enter., Inc. Set-Top Cable Television Box Antitrust Litig.*, MDL No. 2048(W.D. Okla.) (co-lead counsel in antitrust class action; \$6.3 million jury verdict in test case; on appeal); *In re: Budeprion XL Marketing and Sales Litig.*, MDL No. 2107 (E.D. Pa.) (lead counsel in \$10.6 million nationwide consumer fraud class action); E.g., *In re Dollar General Corp., Motor Oil Marketing And Sales Practices Litigation*, MDL No. 2709 (W.D. Mo.) (Lead Counsel); *In re Synthroid Marketing Litigation*, MDL No. 1182 (N.D. Ill.) (one of five co-lead counsel; successfully resolved); *Talalai v. Cooper Tire & Rubber Co.*, MID-L-8839-OOMT, Mass Tort 259 (Law Div. Middlesex County, N.J.) (lead counsel in national class action; successfully resolved).

Mr. Kanner has enjoyed a distinguished thirty-six year career representing individuals, businesses and governmental entities in hundreds of complex, multi-district and high profile cases in both state and federal courts, starting with *In re: Three Mile Island Litig.* (M.D. Pa.) and *In re: Louisville Sewer Explosions Litig.* (E.D. Ky.). According to Chambers USA (2009), “Allan Kanner of Kanner & Whiteley enjoys a ‘sterling reputation’ for plaintiff-side representation in toxic tort trials.”

Many of Mr. Kanner’s landmark victories have established important precedents for other litigants or spurred transformative legislative and regulatory action. *Coleman v. Block*, No. A1-83-47 (D.N.D.) (enjoined all farm foreclosures nationwide on constitutional due process grounds and led to new FMHA regulatory guidelines); *Local 7-515 OCAW v. American Home Products*, Civ. No. 92-1238 (D.PR.) (lead counsel in Civil RICO class action obtaining compensation for workers who lost their jobs because of tax motivated corporation restructuring, leading to new federal laws barring abusive corporate tax and relocation practices); *Hanson v. Acceleration Life Ins. Co.*, Civ. No. A3:97-152 (D.N.D.) (lead counsel in national consumer fraud class action; \$14.7 million settlement for elderly purchasers of long term care insurance, leading to new federal laws eliminating bad policies and untoward actuarial practices); *Petrovic v. Amoco Oil Company* (\$10.6 million settlement on landmark environmental pollution case); *Samples v. Conoco* (\$66 million for decreased property values caused by pollution); *Roeder v. Atlantic Richfield* (\$18 million settlement property owner pollution case spurring EPA action).⁴ Mr. Kanner’s pioneering environmental justice work was honored by the U.S. Civil Rights Commission.⁵

Courts have repeatedly recognized Mr. Kanner’s zealous advocacy:

New Jersey Department of Environmental Protection v. Exxon Mobil, No. UNN-L-3026-04 (consolidated with HUD-4415-04) (August 25, 2015, Hogan, J.) (“The Firm has labored in the high weeds of this litigation for eleven years,...The Firm was up against a determined adversary who

⁴ [EPA Is Moving To Designate Contaminated Nevada Cooper Mine A Superfund Site](#), NEW YORK TIMES (Dec. 25, 2015), A 17 (“The federal proposal comes after the residents filed a class-action lawsuit in 2011...”)

⁵ U.S. Commission on Civil Rights, *THE BATTLE FOR ENVIRONMENTAL JUSTICE IN LOUISIANA* (Sept. 1993), p. 48. (“The residents used legal action to challenge industry on environmental problems. There was no substantial support from civil rights or environmental groups...Attorneys played a primary role in the mobilization and resolution process.”).

created a daunting ten year defense that a less experienced, less determined, or less skilled effort would not have been able to timely, professionally, and, for the most part, successfully meet the challenge...Litigating natural resource damages is a complex and time intensive undertaking, involving a close and confident relationship between the Attorney General, the DEP and the Firm. The court was able to observe that this was true during the trial. The Kanner Firm is, under any definition, a small law firm. It is dwarfed by the firms that it opposed in this case. Yet by having the focus of those attorneys assigned to the case devote the majority of their time to their client's efforts, they undoubtedly were precluded from taking on numerous new clients particularly because of their limited size. The Attorney General's Office, having worked with the firm for over a year on a non-compensation basis before formally retaining the firm, was most certainly well aware of the limitations their retainer agreement and subsequent litigation would place on the economics of the firm and it is no doubt a reason for their support of the Firm's application.")

In re: SCBA Liquidation, Inc.. f/k/a Second Chance Body Armor, Inc. No. 04-12515 (W.D. Mich) (November 11, 2013) ("But for the Class and the efforts of Class Counsel, the interests of many of these individual vest purchasers would not have been adequately represented in this bankruptcy case and these individuals would not have received any compensation for their valid vast claims." As the bankruptcy court noted, "Class Counsel has protected the 'little guys.'")

Ralph Shaffer v. Continental Casualty Company, CV 06-2235-PSG (June 12, 2008) (Final Approval of national class action for seniors against long term care insurer) ("The Court finds Class Counsel have achieved a substantial benefit for the Class in the face of formidable defenses to liability and difficult damages issues. *Class Counsel's skill and experience enhanced the Settlement*, and Class Counsel took on a substantial risk by taking this case on a contingency basis and advancing all of the necessary litigation expenses. Class Counsel fought numerous motions, took or defended several depositions in various locations throughout the Country, analyzed thousands of documents and several expert reports, extensively prepared for trial, and after nearly two years of litigation and effort to build a compelling case against an aggressive opponent, engaged in difficult settlement negotiations.")

Lemmings, et al., v. Second Chance Body Armor, Inc., et al., CJ-2004-62 (District Court, Mayes County, Oklahoma) (Final Approval Hearing for a national class action for police departments against makers of faulty bulletproof vest, 9/23/05, Judge James D. Goodpaster) ("Having been in this business some 40 years and having been through some litigation right here from this bench and personally I think that the lawyers for the claimants and for Toyobo have done *an outstanding job* and I really do

thank you all for the hard work that all of you have done in putting this settlement together."); (2/9/05 Order Certifying Class Action with Findings of Fact and Conclusion of Law) ("Plaintiffs' lawyers are qualified, experienced and generally able to conduct the proposed litigation and there are no antagonistic interests between the representative party and the class. Plaintiffs have retained attorneys that are qualified and skilled in complex and consumer class litigation.")

Wallace v. American Agrinsurance, Inc., No LR-C-99-669 (E.D.Ark, 2005) ("*I have nothing but admiration for you and your associates for the outstanding manner in which you at all time represented the [national rice grower] class plaintiffs in this case.*")

Samples v. Conoco, Inc., No. 2001-CA-000631, Div. J (Escambia County, First Judicial Circuit Court, Florida, 2003) (Class Counsel were "shown to be qualified, adequately financed and possessed sufficient experience...[and] have demonstrated both their commitment to vigorously pursue this matter on behalf of the class [for pollution property damages] as well as their qualifications to do so.")

Janes v. CIBA-GEIGY Corporation, Docket No. L-1669-01 Mass Tort 248 (Law Div. Middlesex Cty.) (5/16/03 Opinion and Order Certifying Litigation Class for pollution property damages) (Plaintiffs' "attorneys are qualified and experienced to conduct this litigation. Class counsel has the requisite experience, skill, and competency in dealing with class actions and complex litigation.")

Hanson v. Acceleration Life Ins. Co., Civ. No. A3:97-152 (D.N.D. Mar. 18, 1999) (certifying class of senior long term care insurance purchasers, rejecting filed rate doctrine and denying summary judgment): Order of December 11, 1999 (approving final settlement of \$14.7 million), pp. 8-9: ("*This litigation was hard fought throughout its two year pendency and required thousands of hours of counsel's time and hundreds of thousands of dollars advanced for expenses, with significant risk of no compensation. Both local counsel and national class counsel are commended for their willingness to take on this cause when there were virtually no precedents to assure them of likely success. They are all highly skilled and well-experienced attorneys who appreciate the risky nature of this litigation, yet their desire to correct a perceived injustice suffered by a vulnerable group of people led them to take this risk. Counsel's considerable skill, both in the substantive areas of this case as well as in discovery and class action procedure, together with their degrees of preparation were primary factors leading to the favorable settlement for the class. Of equal note is the fact that counsel unquestionably put the interests of the class far ahead of their own interest.*") (emphasis added). This case involved a North Dakota class action certified against Acceleration Life Insurance and Commonwealth Life Insurance Company for fraud in connection with

multiple premium increases of up to 700% between 1989 and 1997 on "guaranteed renewable" Long-Term Care insurance policies. Shortly before trial a national class action settlement, supervised and approved by the federal magistrate, was entered into which brought over \$7.7 million in cash payouts to numerous elderly policyholders and their families and an additional \$4 million in insurance benefits tailored to the specific needs of each class member.

Talalai v. Cooper Tire & Rubber Co., MID-L-8839-00MT, Mass Tort 249, (Law Div. Middlesex Cty.) (11/1/01 Opinion and Order Certifying National Class and Preliminarily Approving Settlement) ("The attorneys of Kanner & Whiteley, L.L.C. have substantial jury trial experience with a number of multi-million-dollar verdicts, including a number of successful class action trials. *The firm is known for its willingness to try class actions to verdicts and has done so on at least three occasions, winning every time*"; Opinion of September 13, 2002 (Approving Certification and Final Settlement of National Class), p. 5: ("The Stipulation was the result of extensive and intensive arm's length negotiations among highly experienced counsel, with the benefit of extensive discovery and full knowledge of the risks inherent in this litigation."))

Milkman v. American Travellers Life Insurance Co., No. 3775, (Ct. Cm. Pleas, First Judicial District, June Term 2000) (Preliminary Approval of National Class: 11/26/01) ("As demonstrated by the credentials set forth in the Motion, the Plaintiff's attorneys are more than capable of representing the interests of the Class and there do not appear to be any conflicts of interest between the Plaintiff and the Class."). (Final Approval of National Class: 4/1/02), p. 47 ("Again, the quality of the legal representation provided by Class Counsel is exceptional. The extensive experience of each of the firms and individual attorneys serving the Class is set forth in Kanner Affidavit Paragraphs 54 through 68. Moreover, the Court can attest to Class Counsel's professionalism and skill, as demonstrated by the extensive memoranda of law and the first-class oral arguments delivered on behalf of the Class.").

Bonilla, et al. v. Trebol Motors Corporation, et al., No. 92-1795 (JP) (D.P.R.) (\$129,000,000 jury verdict in civil RICO class action against Volvo and local distributor) (describing the firm's abilities on March 27, 1997, as follows: "*We have no trouble concluding that the experience and resources of Kanner & Whiteley was a major reason that the plaintiffs' class was able to so successfully present its case to the jury and achieve such an estimable result. Mr. Kanner, who served as lead counsel at trial, has perhaps as much experience litigating complex class action suits as any attorney in the United States. He has authored, chaired, consulted on, contributed to, and given articles, symposiums, classes, books, practice guides, etc. More importantly, his resume is replete with instances in which he served as counsel in complex class action suits. His experience*

was essential to the success realized by the plaintiffs in this action.") (emphasis added).

Glass, Molders, Pottery Plastics, and Allied Workers International Union, et al. v. Wickes Companies, Inc., No. L-06023-88 (Sup.Ct., Camden Cty., February 24, 1992) (certifying national class of workers who lost jobs as a result of tortious conduct occurring in the context of hostile corporate raid) (describing the firm's abilities to represent the class as follows: "Plaintiffs' attorneys have extensive professional experience representing plaintiffs in class actions. Additionally, the attorneys representing the plaintiffs are equipped with the staff and resources to adequately handle a technical and complex class action. *In short, I am satisfied that plaintiffs' attorneys are committed to the class and competent to advocate its interest.*"); (emphasis added) Order Approving Counsel Fees of December 16, 1993 ("This Court finds that the Kanner firm, [and co-counsel] have all provided outstanding service to the class and faithfully executed their fiduciary duties in connection with this litigation.") (emphasis added).

Local 7-515, Oil Chemical and Atomic Workers International Union (OCAWIU), et al v. American Home Products, et al., Civ. No. 92-1238 (JP) (D.P.R.) (Order of April 13, 1992, certifying national class of workers who lost jobs as a result of fraudulent job transfers to Puerto Rico under civil RICO theory), *Oil Chemical and Atomic Workers International Union v. American Home Products, et al.*, Civil No. 91-1093 consol. with Civil No. 92-1238 (Order of September 17, 1992, approving \$24 million settlement); p. 38 of transcript: "Indeed, the Court affirmatively finds that Mr. Kanner and [co-counsel] have in all matters handled this case and conducted themselves, in relation to their co-counsel, with *the highest degree of professionalism, integrity and ability*. There is no doubt in the Court's mind, based on his intimate familiarity with the record, that *but for the outstanding efforts of Mr. Kanner and [co-counsel] there would not have been such a significant and landmark result in this case*, and I have been telling you all this long before this moment." (emphasis added).

The Board of Commissioners of the New Orleans Exhibition Hall Authority v. Missouri Pacific Railroad Company, et al., No. 92-4155 (Judgment of February 15, 1996) "It must be said that both firms and all attorneys involved in this protracted litigation exemplified *the highest standard of trial experience and skill* which was brought to bear on this *novel and difficult matter* in a specialized area of the law." (emphasis added).

Mr. Kanner also enjoys the highest "av" rating from Martindale-Hubbell, and has been voted a Louisiana Super Lawyer (2007-2016). He is on BNA's Board of Advisors for both THE CLASS ACTION REPORTER and THE TOXIC LAW REPORTER, and the Editorial Boards, ENVIRONMENTAL LAW REPORTER and ENVIRONMENTAL FORENSICS JOURNAL. Kanner is a member of the American Law Institute and past President of the Louisiana Association of Justice and former Governor of the American Association of Justice. His cases and results have

been featured in *The Wall Street Journal*, *Business Week*, *The National Law Journal*, *The New York Times*, *Newsweek*, *Washington Post*, CNN and other news outlets.

Kanner earned an A.B. degree from the University of Pennsylvania and a J.D. degree from Harvard Law School. He is the author of 2 books and scores of scholarly articles, which are regularly relied upon by Judges, scholars and practitioners. He has served as an adjunct professor of law at Tulane University, Duke Law School, Yale Law School, and the University of Texas. He is a former law review editor and former federal appellate clerk.

Elizabeth B. Petersen



Elizabeth (“Lili”) is a member of Kanner & Whiteley and has been with the firm since 1996. She practices primarily in the areas of environmental law, complex litigation and class actions, including consumer fraud and environmental property damage litigation.

Since Lili has served as Special Counsel to the State of New Jersey, and is involved in litigation on behalf of the State of New Jersey to recover for damage to its natural resources from various defendants, including a case against ExxonMobil for which the State reached a \$225 million settlement, its largest ever natural resource damage recovery. She also serves as counsel to the Conservation Law Foundation in a landmark case against ExxonMobil for its failure to follow the best practices required under federal law in armoring the ExxonMobil Everett Terminal in Massachusetts against risks associated with climate change that threaten the terminal and surrounding communities, as well as violations of its Clean Water Act permit. Lili served as Special Counsel to the Louisiana Attorney General representing the State of Louisiana in the litigation against the many defendants associated with the Deepwater Horizon oil spill disaster in the Gulf of Mexico, in which she assisted in the recovery of more than \$8.8 billion in both environmental and economic damages for the State of Louisiana resulting from the disaster.

Lili has also been involved in a number of cases on behalf of private property owners for damage suffered because of pollution, including contaminated ground and surface waters, which have resulted in multi-million dollar settlements. *See, e.g., Roeder v. Atlantic Richfield Co.*, 3:11 - CV - 00105-RCJ -WGC (D. Nev.) (securing a settlement valued at \$19.5 million for residents living near contaminated groundwater); *Zancorp Properties, et al., v. Browning Ferris Industries, et al.*, No. 466933 (19th J.D.C. LA); *Guste v. Shell Oil Co.*, No. 95-0601-D (E.D. LA) (reaching a multi-million dollar settlement after six days of trial); *Samples v. Conoco, Inc.*, No. 01-631 (Fla. 1 JDCC) (reaching a settlement that provided for client payments of \$65 million plus additional monies for attorney fees and costs); *Petrovic v. Amoco Oil Co.*, No. 98-3816, 99-1334 (8th Cir.).

She has also litigated as co-lead counsel for class of purchasers of a prescription drug where misrepresentations by the manufacturer inflated purchase prices. *In re: Synthroid Marketing Litigation*, MDL No. 1182, 264 F.3d 712 (7th Cir. 2001) (reaching a settlement of \$98 million, affirmed on appeal).

Lili has taught as an adjunct professor at Tulane Law School in the area of toxic torts. Prior to joining Kanner & Whiteley, she practiced in the areas of civil and maritime litigation.

Lili is a member of the State Bar of Louisiana, and is licensed to practice law in the Louisiana State Courts, the United States District Courts for the Eastern and Middle Districts of Louisiana, and the United States Courts of Appeals for the Fifth Circuit. She has also been admitted to practice *pro hac vice* in various federal and state courts throughout the country.

Cindy St. Amant



Cindy, a member of Kanner & Whiteley, has been with the firm since 1998. She practices primarily in the areas of consumer fraud, insurance, antitrust, pharmaceutical, agricultural products, environmental law and general class action litigation, on behalf of a variety of clients. She has been appointed as class counsel in many of the firm's class actions and has an active role in the litigation, class certification, trial and settlement of cases against product manufacturers, drug manufactures and insurance companies.

Cindy is managing the MDL *In re: Dollar General Corp. Motor Oil Marketing and Sales Practices Litigation* in which the firm serves as lead counsel. Before that, she managed the *Press* overhead and profit class action (the only successfully resolved class action after Katrina), the *Cox* antitrust MDL, and the firm's Chinese drywall litigation. In addition, she has managed large, multistate class actions, such as the *Cooper Tire* litigation, which consisted of 33 state class actions involving violations of state consumer fraud statutes or deceptive trade practices associated with the alleged faulty manufacture of tires, and the *Second Chance* litigation, which consisted of 7 state class actions alleging claims of breach of warranty and violation of state consumer protections laws associated with the sale of faulty bullet proof vests to law enforcement officers. Both of these actions ended in multi-million dollar settlements providing relief to consumers who had purchased potentially defective and deadly products. Additionally, she has handled a number of insurance coverage and broker liability claims following Hurricanes Katrina and Rita, including the *Press* class action against Louisiana Citizens Property Insurance Corporation for unpaid overhead and profit associated with certain property damage claims.

A member of the State Bars of Louisiana and Texas, Cindy is licensed to practice law in all Louisiana and Texas State Courts, the United States District Courts for the Eastern, Middle and Western Districts of Louisiana, the United States District Courts for the Eastern and Western Districts of Arkansas, the United States District Court for Northern District of Florida, the United States District Court for Western District of Michigan, the United State District Court for the District of Colorado, and the United States Courts of Appeals for the Fifth and Tenth Circuits. She has also been admitted to practice *pro hac vice* in various federal and state courts throughout the country.

In addition to her legal career, Cindy is actively involved in the community including serving on the Rayne Early Childhood Program Board as a Member (2010-2015) and currently as Chair (2016-present). She also served as Rayne Early Childhood Program Parents' Committee, Officer (2012-2014). In addition, she has served the Bricolage Academy of New Orleans as a Board Member (2013 school year) and as a Committee Member (2014 school year) of the Bricolage Community Association. She is also a perennial sponsor and active participant of Carrollton Boosters baseball and soccer leagues.

Allison S. Brouk



Allison is an associate at Kanner & Whiteley, L.L.C. and has been with the firm since 2011. Her practices focuses on environmental law, natural resource damage litigation, complex litigation, and class actions.

Allison is part of the Kanner & Whiteley litigation team representing the State of New Jersey in natural resource damage cases for the State, including a case against Exxon Mobil Corp., for which, following a 66-day bench trial, the parties reached a \$225 million settlement, the State's largest ever natural resource damage recovery.

Allison was also part of the litigation team representing the State of Louisiana in its claim related to the Deepwater Horizon oil spill, in which she assisted in the recovery of more than \$8.8 billion in both environmental and economic damages for the State of Louisiana resulting from the incident, the largest environmental disaster ever to occur in the Gulf of Mexico.

Allison currently serves as Special Counsel to the Attorneys General of the State of Mississippi and the State of New Mexico in the States' respective cases against Dollar General regarding its deceptive and misleading marketing and sales practices used in connection with its obsolete motor oil products.

Allison also represents the Conservation Law Foundation in landmark cases against Exxon Mobil Corp. and Shell Oil Co. for their failure to follow the best practices required under federal law in armoring the certain coastal fuel terminals against risks associated with climate change that threaten the terminals and surrounding communities, as well as violations of the companies' Clean Water Act permits.

Allison previously served as class counsel in *Roeder v. Atlantic Richfield Co.*, in which she assisted in securing and overseeing the administration of a class action settlement valued at \$19.5 million that included compensation for property damages, future medical costs and the extension of the city water system to properties in the community previously serviced by contaminated well water, as well as water right permits for residents wishing to maintain the use of private wells.

Allison graduated *magna cum laude* from Tulane University Law School, where she received a Certificate in Environmental Law. While in law school, she practiced as a student attorney for the Tulane Environmental Law Clinic, was Editor in Chief of the Tulane Environmental Law Journal and was a member of the Tulane Moot Court Board. She also served as an intern for U.S. District Judge Stanwood R. Duval, Jr. in the Eastern District of Louisiana.

Allison is admitted to practice in the State of Louisiana, the Eastern, Middle and Western District Courts of Louisiana, and the Fifth Circuit Court of Appeals. She has also been admitted to practice *pro hac vice* in various courts throughout the country. She is a member of the Louisiana Bar Association, the Federal Bar Association and the Louisiana Association for Justice.

In addition to her legal work, Allison is Presodent of the Board of Directors of Teaching Responsible Earth Education (T.R.E.E.), a non-profit organization providing comprehensive curriculum based, life-science and earth education programs in "Outdoor Classrooms" to children throughout Louisiana.

EXHIBIT “E”

August 28, 2017

ARTICLES

Emerging Trends in Perfluorinated Chemical Regulation and Litigation

Inaction by the federal government and some state regulators should not be misinterpreted to mean that the current federal guideline is sufficiently protective.

By Allan Kanner – August 28, 2017

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Under the 1996 Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f et seq., the U.S. Environmental Protection Agency (EPA) is required periodically to generate a new list of no more than 30 unregulated contaminants to be monitored by public water systems. 40 C.F.R. § 141.40. Each iteration of this list is known as the Unregulated Contaminant Monitoring Regulation (UCMR). UCMR 3 was published on May 2, 2012, and required the monitoring of 30 contaminants between 2013 and 2015. The list includes six perfluorinated compounds (PFC), including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). Currently, the EPA's minimum reporting requirements for PFOA and PFOS, considered to be indicator chemicals for the presence of other PFCs, are 0.04 µg/L and 0.02 µg/L, respectively, and the combined lifetime exposure limit is 70 ppt.

Two developments of note have occurred in conjunction with increased awareness of the dangers of PFCs: state guidelines and personal injury litigation. States have begun to take their own close looks at PFCs and their possible effects on the states' drinking water supplies, implementing guidelines more stringent than the EPA regulations. At the same time, personal injury class actions have revolved around manufacturers' failure to properly dispose of PFOA and similar PFCs.

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Expansion of U.S. State Monitoring Rules

In light of UCMR 3 and independent state testing following claims of water contamination from manufacturing plant emissions, states are moving toward regulation of PFCs. A few states in particular have begun the process of adopting stricter standards than those suggested by the EPA

as an appropriate exposure level. (These suggested exposure levels are not binding regulations but rather technical guidelines for state and local governments to use in determining how best to handle these persistent chemicals.) This handful of regulations and guidelines represents the shift that states are making as the prevalence and danger of PFCs are brought to light in an increasing number of water supply systems around the country.

Vermont's guidelines call for a health advisory level of 20 ppt. Vermont, where a Saint-Gobain fabric manufacturing plant is suspected of being the cause of significant PFOA contamination, decided to adopt a more stringent health advisory level of 20 ppt, much lower than the EPA's UCMR monitoring levels and the lifetime health advisory. The state notes that in recommending this low exposure level, it considered the entire population, including children's exposure, over the long term.

Despite the new exposure level's basis in science, Saint-Gobain has filed multiple suits against the state, two of which were unsuccessful, arguing that this level is not based on generally accepted scientific standards, failing to recognize that there likely will never be 100 percent consensus on any given effect of any given chemical.

Nonetheless, Vermont is moving forward with its crackdown on PFCs and is in the process of signing into law a bill that extends liability for contamination of potable water supplies to emitters of PFOA. Those that release PFOA into the air, groundwater, surface water, or soil will be liable for the costs of extending municipal water lines to the affected areas. 10 Vt. Stat. Ann. § 6615e. The legislation passed in the Vermont Senate in February 2017 and passed in the House May 4, 2017.

New York classified chemicals as hazardous substances. New York has also taken steps toward regulation of PFOA: Governor Cuomo issued emergency regulations to classify PFOA as a hazardous substance in 2016 after severe PFOA contamination was found in Hoosick Falls, another location of a Saint-Gobain facility. As of March 3, 2017, PFOA and PFOS are considered permanent hazardous substances under New York law. 6 N.Y. Comp. Codes R. & Regs. pt. 597.3.

New Jersey has proposed a 14 ppt guidance level. New Jersey is currently proposing the lowest guidance level yet of 14 ppt, which is significantly lower than its current 40 ppt guidance level and the EPA's 70 ppt. The N.J. Department of Environmental Protection (DEP) issued a report in 2014 finding that PFOA and other PFCs were detected in two-thirds of the water systems sampled in 2009 and 2010. Given this information as well as

the multiple exposure routes, New Jersey's Drinking Water Quality Institute recommended the significantly lower health advisory guidance in 2016.

Minnesota recognizes long-term effects of chemicals. In May of 2017, Minnesota reevaluated its Drinking Water Guidance Value originally issued in 2009. It adopted a much lower guidance value of 27 ppt for PFOS and 35 ppt for PFOA. These revised guidance values are based on short-term periods, weeks to months, but with the understanding that PFCs remain in the human body for years and will bioaccumulate with each successive exposure.

California published a notice of intent addressing water supply contamination.

California is also taking action to curb PFC contamination in its water supply. On September 16, 2016, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) published a notice of intent to list PFOA and PFOS as known to the state to cause reproductive toxicity under California's Safe Drinking Water and Toxic Enforcement Act of 1986. The list of chemicals is known as the Proposition 65 List, which requires listing a chemical when an authoritative body formally identifies the chemical as causing reproductive toxicity and the evidence considered to reach that conclusion meets the sufficiency criteria laid out by the regulation.

Recent Litigation

Recent personal injury class actions have revolved around the failure of manufacturers and government entities to properly dispose of PFOA and similar PFCs. A few large lawsuits against prominent chemical companies have made national headlines. These suits are unique because, though dealing with water contamination, they are not claims under the Clean Water Act. Because PFCs, as unrecognized and unregulated chemicals, are essentially legally no different than water, the attorneys brought medical-monitoring claims, as well as claims for negligence, trespass, and an amalgam of traditional torts.

DuPont litigation ends with a settlement focusing on research. *Leach v. E. I. Du Pont de Nemours & Co. & Lubeck Public Service District*, Case No. 01-C-608 (Wood Cnty. W. Va. Cir. Ct.), was filed for medical monitoring on behalf of all those that had consumed water laced with the chemical. A settlement agreement for the *Leach* class action was approved on February 28, 2005, which required that a scientific panel be assembled to conduct research into diseases that may be linked to PFOA exposure. Diseases found to have a

“probable link” to PFOA exposure would be preserved for personal injury claims against DuPont.

Importantly, the results of this study were legally applied only to those that qualified to be class members, namely, people living within the six identified water districts that had consumed water with PFOA levels of .05 ppb or higher for at least one year, which is a deviation from the toxic tort standard for the general population. Such specifications were required by the settlement agreement in order to expedite causation issues in future litigation. With these particular parameters, DuPont agreed not to contest general causation; each plaintiff in turn would need to prove specific causation. Six diseases were found to have such a probable link—high cholesterol, kidney cancer, testicular cancer, thyroid disease, pregnancy-induced hypertension/preeclampsia, and ulcerative colitis—and those diagnosed brought successful claims for negligence, negligent infliction of emotional distress, and punitive damages.

The agreement was carefully worded to require the scientists to show a “probable link,” not definitive proof that PFOA could cause a given disease. The reports issued by the panel are careful to explain that “[a] ‘probable link’ in this setting is defined in the Settlement Agreement to mean that given the available scientific evidence, it is more likely than not that among Class Members a connection exists between PFOA exposure and a particular human disease.” Despite this, the science panel has been cited by articles and studies around the world. For example, a recent study in the Netherlands highlighted the studies in its analysis of “high-exposure communities.” Herremans Oomen Ag, Significance of PFOA Blood Test Results for People Living Nearby DuPont/Chemours (Nov. 2016).

Coinciding with the 2005 settlement agreement, the EPA entered into a Consent Agreement with DuPont for its violation of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., in which DuPont paid \$16.5 million. TSCA section 2607(e) provides that “any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform the Administrator.” DuPont conducted extensive research on PFOA exposure, both for animals and humans, including blood tests in 1981 that showed transplacental movement of the chemical, but did not share this information with the EPA when it became available or following a 1997 request for known

toxicological information about PFOA. As such, DuPont violated the TSCA and its RCRA permit, which required sharing information that may warrant a modification. Pursuing other companies with similar permits in this manner may encourage safer handling of PFCs as well as put pressure on regulators to address PFC contamination with sufficient regulations to protect human health.

DuPont litigation settles for multimillion-dollar award. DuPont again found itself in court with the first personal injury multidistrict litigation (MDL), *In re E.I. Du Pont de Nemours & Co. C-8 Personal Injury Litigation*, MDL No. 2433, for PFC contamination. The case was recently settled for \$671 million.

The suit dealt with decades' worth of PFOA contamination in southeastern Ohio and northern West Virginia that originated from DuPont's Washington Works plant in Parkersburg, West Virginia. The lawsuit revealed that DuPont had known since as early as the 1960s that PFOA was likely dangerous to human health. No. 2:13-CV-170, 2016 WL 659112, at *8 (S.D. Ohio Feb. 17, 2016). In 1991, DuPont scientists determined that the internal safety limit for PFOA concentration in drinking water should be set at 1 ppb. *Leach v. E.I. Du Pont de Nemours & Co.*, 2002 WL 1270121, at *4 (W. Va. Cir. Ct. Apr. 10, 2002). Despite this, DuPont failed to inform the public when the company found three times that level of contamination in a local water district.

St.-Gobain finds itself the subject of two states' lawsuits. Saint-Gobain is in the midst of legal battles in both New York and Vermont following PFOA contamination from its Bennington, Vermont, fabric plant and its Hoosick Falls, New York, plastics plant. Both were the impetus for each state to adopt stricter PFC guidelines and regulations.

In Vermont, the plant contaminated the local groundwater aquifer, soil, and private drinking wells, which led to a class action bringing negligence, nuisance, trespass, battery, and strict liability claims and demanding that the company pay for remedial measures to prevent further and eliminate current contamination in the water supplies. *Sullivan v. Saint-Gobain Performance Plastics Corp.*, 2016 WL 7487723 (D. Vt. 2016). The class also brought a claim for a violation of RCRA, which defines actors that may be responsible for hazardous waste, including the "owner operator of a . . . facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment." 42 U.S.C. § 6972(a)(1)(B). The manufacturing

operations at the plant released significant amounts of PFOA into the atmosphere, which resulted in environmental contamination around the facility, including contamination of the groundwater and local drinking water supplies. Plaintiff's Class Action Complaint, *Sullivan v. Saint-Gobain Performance Plastics Corp.*, 2016 WL 7487723.

The residents of Hoosick Falls brought a class action against Saint-Gobain, as well as Honeywell International, for medical monitoring and diminution in property values due to the stigma created by PFOA contamination in their community drinking water supplies. *Baker v. Saint-Gobain Performance Plastics Corp.*, 2016 WL 40228974 (N.D.N.Y. 2016). In 2016, the EPA designated the plants as Superfund sites, ultimately impacting homeowners' ability to obtain a mortgage. This is common when homes are not equipped with potable water supplies. Without the ability to obtain a mortgage, property values in the village have been affected and remain the primary claim in the class action.

The U.S. military fought a litigation war stemming from PFC contamination. Recently, the U.S. military, following decades of using PFC-laced firefighting foam in training and in emergency response, has come under fire from nearby communities that have found large swaths of PFC contamination in their water supplies.

A notable group of cases out of Pennsylvania concerns contamination around the Willow Grove Naval Base. Plaintiffs in these actions have brought claims against the U.S. Department of the Navy as well as four manufacturers of the foam and PFOA. *In Giovanni v. U.S. Department of the Navy*, 2:16-cv-04873 (2016), the Giovanni family has raised claims for medical monitoring for themselves, as well as for health assessments for themselves and other individuals exposed to the chemical. In the suits against the manufacturers, the most prominent being *Bates v. 3M Co.*, 2:16-cv-04961-PBT (E.D. Pa. 2016), plaintiffs brought claims for negligence, nuisance, and medical monitoring, as well as two products liability claims, failure to warn, and design defect.

Given the number of military bases throughout the country, and more significantly the world, lawsuits similar to these will likely only increase in number.

Future Issues

Following the UCMR 3 testing of public water supplies completed between 2013 and 2015, systems across the country were found to have reportable levels of PFC contamination. Significantly, the reporting levels required by the EPA are much higher than those adopted by some states; and, as

such, there is a high probability that many more systems are contaminated at levels lower than EPA's advisory levels but at levels that are likely deleterious to human health.

Because the Trump administration has emphasized deregulation, it is unlikely that the EPA will be moving toward a binding regulation on PFCs in the near future. Inaction by the federal government and some state regulators, however, should not be misinterpreted to mean that the current federal guideline is sufficiently protective. Without a federal regulation, it will be up to the states to independently monitor and regulate PFC contamination.

If regulators continue to ignore the persistence of PFCs, lawsuits will only continue to proliferate as contamination becomes increasingly more prevalent throughout the world. PFCs are found in everything from Scotchgard to Teflon to firefighting foam used on U.S. military bases around the country. With so many exposure routes, PFCs have the potential to reach the litigation levels seen with polychlorinated biphenyl (PCB) and methyl tertiary butyl ether (MTBE) contamination lawsuits. Many of the same plaintiffs will likely come forward, including the states, private and public water service providers, and local communities.

Given their bioaccumulative and persistent nature, PFCs and their contamination problems are not going to dissipate any time soon.

[Allan Kanner](#) is named partner of Kanner & Whiteley, LLC in New Orleans, Louisiana.

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