

**Timothy S. Bishop**Partner  
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"...unparalleled in the appellate area of environmental law' and in the words of one commentator 'is the man to take with you if you're going to the highest court in the land.'"

*Chambers USA 2006***Experience**

An experienced appellate lawyer, Tim Bishop has argued four cases and briefed more than 50 before the US Supreme Court and has successfully handled dozens of appeals in federal and state appellate courts. He also represents clients in dispositive dismissal, summary judgment, and class certification motions in federal and state trial courts. Tim is co-author of *Supreme Court Practice* (9th ed., 2007) and is a prolific author and speaker in the areas of appellate practice, environmental law, and securities law.

Tim has substantial experience in environmental and land use litigation (especially under the Clean Water Act, Endangered Species Act, Clean Air Act, and federal and state Takings Clauses), securities and antitrust litigation, class certification, labor and employment law, and constitutional appeals and litigation. In the securities area, he has submitted successful party or amicus briefs in most of the Supreme Court's recent cases, including *Dabit*, *Dura*, *Tellabs*, *Billing*, and *Stoneridge*, as well as in leading lower-court cases such as *In re IPO Securities Litigation* and *Newton*. He has broad experience in defeating class certification in complex litigation.

In the environmental law area Tim has been ranked as a top practitioner by *Chambers*, *Best Lawyers in America*, and other publications, which have called him "a doyen of the appellate bar" (*The Legal 500* (2007)) and have remarked on his "gold-standard reputation" in the appellate arena" (*Chambers USA* 2005). Tim successfully argued *Solid Waste Agency of Northern Cook County* in the Supreme Court, in which the Court struck down the Corps of Engineer's "migratory bird rule." One leading environmental law professor and practitioner has written that Tim is "industry's leading Supreme Court lawyer in environmental cases."

Since 1995, Tim has been a partner in Mayer Brown LLP's 60-strong Supreme Court and Appellate Litigation Practice (which "stands head and shoulders above its competitors," according to *Chambers USA* 2008). Previously, he served as Law Clerk to US Supreme Court Justice William J. Brennan, Jr. (1988–1989) and to Judge James L. Oakes, US Court of Appeals for the Second Circuit (1986–1987). From 1989 to 1991, Tim worked as Staff Counsel and Skadden Fellow with the American Civil Liberties Union. *Chambers USA* (2007) notes Tim's "high visibility" and "incredible reputation for appellate law," and he has been described in the *Lawdragon 500* as "a high court superstar" and a "top advocate" (2006).

**Notable Engagements****Notable cases before the United States Supreme Court include:**

- *South Florida Water Management District v. Miccosukee Tribe*, 541 U.S. 95 (2004): argued—successful petition for certiorari, obtaining grant over opposition of the United States; obtained 8-1 vacatur of adverse court of appeals judgment—Clean Water Act § 402 NPDES permit for water transfers—"addition" of a pollutant from a point source.
- *Stoneridge Investment Partners v. Scientific-Atlanta, Inc. & Motorola, Inc.*, 128 S. Ct. 761 (2008): co-author of defendants' successful brief on the merits—scope of primary securities fraud liability of secondary actors under Section 10(b)—aiding and abetting.

- *Credit Suisse Securities v. Billing*, 127 S. Ct. 2383 (2007): co-author of petitioner banks' certiorari stage and merits briefs—successful challenge to antitrust claims directed at conduct during IPOs, obtaining dismissal on implied immunity grounds.
- *Borden Ranch Partnership v. US Army Corps of Engineers*, 537 U.S. 99 (2002): argued—Clean Water Act § 404 permit—"addition" of a pollutant from a "point source"—agricultural exemption—penalties. Court divided 4-4 (Kennedy, J., recused), without issuing opinion.
- *Chevron USA Inc. v. Echazabal*, 536 U.S. 73 (2002): principal author of successful petition stage and merits briefs; Americans with Disabilities Act—medical testing—threat to self.
- *Solid Waste Agency of Northern Cook County v. US Army Corps of Engineers*, 531 U.S. 159 (2001): argued, defeating the United States 5-4; environmental law—Clean Water Act—isolated wetlands—migratory bird rule—Commerce Clause.

**Notable cases before Trial and Intermediate Appellate Courts include:**

- *Miles v. Merrill Lynch*, 471 F.3d 24 (2d Cir. 2006) & 483 F.3d 70 (2d Cir. 2007): Counsel for Merrill Lynch in successful Rule 23(f) challenge to class certification of Section 10(b) and Section 11 securities suits.
- *Friends of the Everglades v. South Florida Water Management Dist.*, \_\_\_ F.3d \_\_\_ (11th Cir. 2008): counsel for defendant United States Sugar Corporation—whether Clean Water Act § 402 requires NPDES permit for water transfers.
- *DeMarco v. Robertson Stephens* (2d Cir. 2005): counsel for amicus curiae Securities Industry Association—§10(b)—securities fraud—class certification.
- *Hevesi v. Citigroup Inc.*, 366 F.3d 70 (2d Cir. 2004): counsel for amicus curiae Securities Industry Association—§10(b)—securities fraud—class certification.
- *Waterkeeper Alliance v. US Environmental Protection Agency*, 399 F.3d 486 (2d Cir. 2005): lead counsel for American Farm Bureau Federation in successful APA and CWA challenge to EPA's new Concentrated Animal Feeding Operation regulations.

**Other notable cases before the United States Supreme Court include:**

- *Goss Corp. v. TKS*, \_\_\_ U.S. \_\_\_ (2008): petition for certiorari seeking antisuit injunction to prevent foreign clawback suit.
- *Public Lands Council v. Babbitt*, 529 US 728 (2000): argued; public lands—grazing—environmental law—statutory interpretation.
- *Tellabs, Inc. v. Makor Issues & Rights*, 127 S. Ct. 2499 (2007): amicus brief for Securities Industry & Financial Markets Ass'n and U.S. Chamber of Commerce—successfully urged tightening of scienter pleading standards in securities fraud cases.
- *Merrill Lynch v. Dabit*, 547 U.S. 71 (2006): amicus brief for U.S. Chamber of Commerce—successfully argued that SLUSA preempts state securities class actions by securities "holders."
- *Peters v. Village of Clifton*, 128 S. Ct. 1472 (2008) (order): amicus brief for American Farm Bureau Federation in support of certiorari urging Court to overturn *Williamson County's* exhaustion rule for takings claims against municipality.
- *Commonwealth of Massachusetts v. EPA*, 127 S. Ct. 1438 (2007): counsel for amicus leading economists in support of EPA—regulation of vehicle greenhouse gas emissions under Clean Air Act.
- *Rapanos v. U.S. Army Corps of Engineers*, 547 U.S. 715 (2006): amicus brief for American Farm Bureau Federation in support of petitioners on merits—scope of Corps' Clean Water act jurisdiction over navigable waters of the United States.
- *Dura Pharmaceuticals v. Broudo*, 544 U.S. 336 (2005): amicus brief for Merrill Lynch & Co. in support of petitioner—Section 10(b)—securities fraud—pleading and proof of loss causation; adverse ruling reversed.
- *GDF Realty Investments v. Norton*, 545 U.S. 1114 (2005) (order): co-counsel for developer in Commerce Clause Challenge to Endangered Species Act—protection of intrastate, non-commercial species - petition for certiorari.

- *Newdunn Assocs. v. U.S. Army Corps of Engineers*, 541 U.S. 472 (2004) (order): co-counsel for developer in challenge to Clean Water Act §404 jurisdiction over ephemeral waters—petition for certiorari.
- *Pronsolino v. Nastri*, 539 U.S. 926 (2003) (order): counsel for American Farm Bureau Federation and individual tree ranchers in petitioning for certiorari—Clean Water Act—authority of EPA to require TMDLs for waters impaired only by non-point sources.
- *Sprietsma v. Mercury Marine*, 537 U.S. 51 (2002): Federal Boat Safety Act—preemption of state common law tort claims; represented Brunswick in opposing certiorari and on the merits.
- *J.E.M. Ag Supply, Inc. v. Pioneer Hi-Bred Int'l, Inc.*, 534 U.S. 124 (2001): co-counsel for amicus Cargill in support of respondent on the merits; intellectual property—patents.
- *Gibbs v. Norton*, 531 U.S. 1145 (2001) (order): lead counsel for amicus National Association of Home Builders in support of certiorari petition; environmental law—Endangered Species Act—Commerce Clause.
- *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001): lead counsel for amicus American Farm Bureau Federation in support of petitioner on the merits; takings—environmental law.
- *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001): lead counsel for petitioner American Farm Bureau Federation on the merits; Clean Air Act—particulate matter and ozone rules—non-delegation—cost-benefit analysis.
- *District Intown Properties Ltd. P'ship v. District of Columbia*, 531 U.S. 812 (2000) (order): lead counsel for amicus National Association of Home Builders in support of certiorari petition; takings—historic preservation.
- *Concord Boat Corp. v. Brunswick Corp.*, 531 U.S. 979 (2000) (order): principal draftsman of respondent Brunswick Corporation's brief in opposition to certiorari; antitrust—Sherman Act §§ 1, 2—Clayton Act § 7—market share discounts and vertical mergers.
- *City of Monterey v. Del Monte Dunes Ltd.*, 526 U.S. 687 (1999): lead counsel for amicus American Farm Bureau Federation in support of respondent on the merits; takings—environmental law.
- *Robinson v. Administrative Committee of Sea Ray ESOP*, 528 U.S. 1114 (2000) (order): counsel for Sea Ray pension plan in opposition to certiorari; ERISA—partial termination of plan.
- *Eastern Enterprises v. Apfel*, 524 U.S. 498 (1998): lead counsel for amicus Washington Legal Foundation in support of petitioner on the merits; takings—retiree welfare benefits.
- *Sprague v. General Motors Corp.*, 524 U.S. 923 (1998) (order): counsel for respondent General Motors Corporation in opposition to certiorari: ERISA—retiree welfare benefits—class actions.
- *Albertson's, Inc. v. Kirkingburg*, 527 U.S. 555 (1999): counsel for amicus American Trucking Associations in support of petitioner on the merits and in support of certiorari; labor—Americans with Disabilities Act—compensating mechanisms—statutory interpretation.
- *Murphy v. United Parcel Service, Inc.*, 527 U.S. 516 (1999): counsel for American Trucking Associations and National Association of Manufacturers in support of respondent on the merits; labor—Americans with Disabilities Act—compensating mechanisms—statutory interpretation.
- *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Kravitz*, 525 U.S. 811 (1998) (order): counsel for broker-dealers on petition for certiorari; securities—Rule 10b-5—duty of best execution.
- *Weisgram v. Marley Co.*, 528 U.S. 440 (2000): counsel for amicus Brunswick Corporation in support of respondent on the merits; civil procedure—judgment as a matter of law—inadmissible expert testimony.
- *Suitum v. Tahoe Regional Planning Agency*, 520 U.S. 725 (1997): lead counsel for amicus American Farm Bureau Federation in support of petitioner on the merits; takings—transferable development rights.
- *National Association of Home Builders v. Babbitt*, 524 U.S. 937 (1998) (order): lead counsel for amicus American Farm Bureau Federation in support of petition for certiorari; Endangered Species Act—Commerce Clause—takings.
- *Bennett v. Spear*, 520 U.S. 154 (1997): lead counsel for amicus American Farm Bureau Federation in support of petitioner on the merits; Endangered Species Act—landowner standing—zone of interests.
- *Weaver v. Wood*, 522 U.S. 1049 (1998) (order): counsel for respondent officers of the First Church of Christ, Scientist in opposition to certiorari; First Amendment—church governance—standing.
- *Braunstein v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 523 U.S. 1119 (1998) (order): co-counsel for respondent in opposition to certiorari; securities—preemption—broker-dealers' use of customer-free credit

balances.

- *Ameritech Corp. v. Raczak*, 522 U.S. 1107 (1998) (order): counsel for Ameritech Corporation on petition for certiorari; labor—Older Workers Benefit Protection Act—effect of release—tender back of consideration for release.
- *Allentown Mack Sales & Service, Inc. v. NLRB*, 522 U.S. 359 (1998): counsel for amicus American Trucking Associations in support of petitioner on the merits; labor—poll of employees—unfair labor practices.
- *Johnson v. Sheahan*, 519 U.S. 1006 (1996) (order): lead counsel for Johnson on petition for certiorari; Fourth Amendment—searches.
- *Norwest Corp. v. Commissioner of Internal Revenue*, 517 U.S. 1203 (1996) (order): counsel for Norwest Corporation on petition for certiorari; tax—foreign tax credits—pecuniary benefit—IRC § 901.
- *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995): lead counsel for amicus American Farm Bureau Federation in support of respondent on the merits; Endangered Species Act—meaning of term "harm"—habitat modification—statutory construction—takings.
- *Nesladek v. Ford Motor Co.*, 516 U.S. 814 (1995) (order): counsel for Ford Motor Company in opposition to certiorari; tort—choice of law.
- *First Options of Chicago, Inc. v. Kaplan*, 514 U.S. 938 (1995): counsel for petitioner First Options on the merits; arbitration—Federal Arbitration Act—standard of judicial review.
- *Borst v. Chevron Corp.*, 514 U.S. 1066 (1995) (order): counsel for respondent Chevron Corporation in opposition to certiorari; ERISA—"surplus" assets—plan amendment—partial termination of plan.
- *Arvey, Hodes, Costello & Burman v. Kline*, 513 U.S. 1032 (1994) (order): counsel for Arvey, Hodes on petition for certiorari; securities—Rule 10b-5—statements in opinion letters—cautionary language.
- *Dolan v. City of Tigard*, 512 U.S. 374 (1994): counsel for amicus American Farm Bureau Federation in support of petitioner on the merits; takings—exactions—physical occupation—nuisance.
- *Continental Illinois Corp. v. Commissioner of Internal Revenue*, 510 U.S. 1041 (1994) (order): counsel for Continental Illinois Corporation on petition for certiorari; tax—taxation of funds received subject to contingent obligation to repay.
- *ABF Freight System, Inc. v. NLRB*, 510 U.S. 317 (1994): counsel for amicus American Trucking Associations in support of petitioner on the merits; labor—employee's false testimony—propriety of reinstatement with back pay.
- *Michigan Bell Telephone Co. v. Department of Treasury*, 513 U.S. 1016 (1994) (order): counsel for Michigan Bell on petition for certiorari; tax—Equal Protection—discriminatory tax burdens.
- *Chrysler Corp. v. International Union*, 506 U.S. 908 (1992) (order): counsel for Chrysler Corporation on petition for certiorari; labor—arbitration—reinstatement of sexual harasser—public policy.
- *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992): counsel for amicus American Farm Bureau Federation in support of petitioner on the merits; takings—deprivation of all use and value of land.
- *Adkins v. General Motors Corp.*, 504 U.S. 908 (1992) (order): counsel for General Motors Corporation in opposition to certiorari; labor—preemption—Labor Management Relations Act § 301.
- *Hartford Fire Insurance Co. v. California*, 509 U.S. 764 (1993): counsel for Hartford, other insurers, and Insurance Services Office, Inc., as petitioners on merits; antitrust—McCarran-Ferguson Act—antitrust exemption—business of insurance—boycott—standardized terms.
- *Southview Farm v. Concerned Area Residents for Environment*, 514 U.S. 1082 (1995) (order): lead counsel for Southview Farm on petition for certiorari; environmental law—Clean Water Act—concentrated animal feeding operation—point source—dairy farm.
- *Robert Brace Farms v. United States*, 515 U.S. 1158 (1995) (order): lead counsel for amicus American Farm Bureau Federation in support of certiorari petition; environmental law—Clean Water Act—normal farming exemption to CWA § 404—permit to dredge or fill.
- *Soldal v. Cook County*, 506 U.S. 56 (1992): counsel for amicus American Civil Liberties Union in support of petitioner on the merits; Fourth Amendment—search and seizure.
- *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989): counsel for Price Waterhouse on the merits; Title VII—gender discrimination—burden of persuasion.
- *Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694 (1988): counsel for Volkswagen on the merits;

service of process—Hague Service Convention—service on US subsidiary of foreign corporation.

**Other notable cases before Trial and Intermediate Appellate Courts include:**

- *Crue v. Aiken*, Chancellor, University of Illinois, 370 F.3d 668 (7th Cir. 2003): First Amendment—lead counsel and argued appealing award of declaratory judgment, damages, and fees for Chancellor's alleged prior restraint of faculty and student speech.
- *Doe v. Veneman*, 380 F.3d 807 (5th Cir. 2004): lead counsel and argued defense of reverse FOIA injunction on behalf of FWS cooperators.
- *ChoiceParts LLC v. Ford Motor Co.* (ND Ill.): Sherman Act § 1 conspiracy claim—concerted refusal to deal—opposition to preliminary injunction.
- *Borden Ranch Partnership v. U.S. Army Corps of Engineers*, 261 F.3d 810 (9th Cir. 2001): co-counsel seeking rehearing of adverse Clean Water Act ruling; meaning of "discharge," "addition," and "point source"; scope of normal farming exemption.
- *United Phosphorus, Ltd. v. Angus Chemical Co.*, 322 F.3d 942 (7th Cir. 2002) (en banc): defense of dismissal of Sherman Act § 2 claim under Foreign Trade Antitrust Improvements Act.
- *In re IPO Securities Litigations*, 227 F.R.D. 65 (S.D.N.Y. 2004): opposing class certification of §§ 10(b) and 11 securities claims against Merrill Lynch and other underwriters in suits relating to internet and technology IPOs. Argued.
- *McAleer v. General Motors Corp.* (N.D. Ga.): represent GM in opposing press efforts to obtain sealed documents filed with court.
- *American Farm Bureau Federation v. EPA* (D.D.C., N.D. Cal., & 9th Cir.): represented AFBF and numerous grower organizations in challenge to EPA's implementation of the Food Quality Protection Act—pesticide regulation; settled.
- *Concord Boat Co. v. Brunswick Corp.*, 309 F.3d 494 (8th Cir. 2002): successful appeal of costs order in antitrust suit—awarded over \$1 million in costs.
- *South Dakota Farm Bureau v. South Dakota*, 197 F.R.D. 673 (D.S.D. 2000): successful Commerce Clause and Americans with Disabilities Act challenge by farmers and their organizations to state constitutional amendment barring most corporate farming or ownership of farmland or livestock.
- *Pronsolino v. Nistri & U.S. Environmental Protection Agency*, 291 F.3d 1123 (9th Cir. 2001): statutory Clean Water Act challenge to EPA requirement that TMDLs be established for water polluted only by non-point sources.
- *Aetna Development Co. v. Town of St. Joseph* (Michigan Circuit Court 1999): successful challenge to moratorium on real estate development.
- *Texas Farm Bureau v. Glickman*, 256 F.3d 371 (5th Cir. 2001): defense on appeal of denial of motion to intervene by Animal Protection Institute in reverse FOIA suit.
- *American Insurance Association v. Quackenbush*, 2000 WL 777978 (E.D. Cal. 2000): constitutional challenge under Foreign Affairs Power, International Commerce Clause & Due Process Clause to California Insurance law regulating overseas insurance practices.
- *Wyoming Farm Bureau Federation v. Babbitt*, 199 F.3d 1224 (10th Cir. 2000) (argued): Endangered Species Act challenge to federal government's reintroduction of grey wolves to Wyoming and Idaho.
- *Concord Boat Corp. v. Brunswick Corp.*, 207 F.3d 1039 (8th Cir. 2000): successful appeal on behalf of Brunswick Corporation in antitrust suit alleging violations of §§ 1 and 2 of Sherman Act and § 7 of Clayton Act; \$180 million jury verdict set aside.
- *Air Canada et al. v. U.S. Department of Transportation*, 148 F.3d 1142 (D.C. Cir. 1998): briefs on behalf of joint air carriers in air terminal financing dispute.
- *Sprague v. General Motors Corp.*, 133 F.3d 388 (6th Cir. 1998) (en banc): successful defense of denial of certification of ERISA class action seeking restructuring of nation's largest private medical plan and hundreds of millions of dollars in damages.
- *International Paper Co. v. NLRB*, 115 F.3d 1045 (D.C. Cir. 1997): successful appeal on behalf of employer in multi-plant strike, lockout, and permanent replacement labor dispute.

- *Borst v. Chevron Corp.*, 36 F.3d 1308 (5th Cir. 1994): successful brief on behalf of Chevron Corporation in multi-million dollar ERISA class action.
- *Administrative Committee of Sea Ray ESOP v. Robinson*, 164 F.3d 981 (6th Cir. 1999): successful trial, appeal, and Supreme Court briefs on behalf of Brunswick's Sea Ray division establishing that layoffs in economic downturn did not effect partial termination of the plan.
- *Delcon Group, Inc. v. Northern Trust Corp.*, 187 Ill. App. 3d 635 (2d Dist. 1989): successful appeal overturning jury verdict and narrowly construing cause of action for oral commitment to lend funds.
- *Newton v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 259 F.3d 154 (3d Cir. 2001): successful defense on appeal of denial of class certification of securities fraud claims against broker-dealers.
- *Bowles v. Quantum Chemical Co.*, 266 F.3d 622 (7th Cir. 2001): appeal of adverse judgment in contractual dispute over severance benefits.
- *Joseph T. Ryerson & Son v. NLRB*, 216 F.3d 1146 (D.C. Cir. 2000): labor dispute concerning propriety of board certifying unions' joint petition to serve as bargaining representative.
- *Van Winkle v. Owens-Corning Fiberglas Corp.*, 291 Ill. App. 3d 165 (4th Dist. 1997): successful appeal of \$4 million jury verdict for conspiracy to fail to warn of asbestos hazards; new trial ordered (argued post-trial motions).
- *General Signal Corp. v. Commissioner of Internal Revenue*, 142 F.3d 546 (2d Cir. 1998): amicus brief challenging Tax Court's interpretation of IRC § 419A(c)(2)—deductibility of VEBA contributions for retiree benefits.
- *Evangelical Lutheran Church v. Atlantic Mutual Insurance Co.*, 169 F.3d 947 (5th Cir. 1999): successful defense of judgment on insurance contract.
- *Trustmark Life Insurance Co. v. The University of Chicago Hospitals*, 207 F.3d 876 (7th Cir. 2000): successful appeal to enforce insurer's independent obligation to reimburse for medical treatment.
- *North Shore Medical Centers, Ltd. v. Evanston Hospital Corp.*, No. 92 C 6533 (N.D. Ill. 1998): successful briefs urging JMOL on antitrust claims; successful jury verdict for defendant on all claims.
- *Zdeb v. Baxter International, Inc.*, 297 Ill. App. 3d 622 (1st Dist. 1998) (argued): appeal of \$8 million jury verdict for tortious interference with prospective economic advantage.
- *Europlast, Ltd. v. Oak Switch Systems*, 10 F.3d 1266 (7th Cir. 1993) (argued): obtained remittitur of actual damages on post trial motions and reversal of punitive damages on appeal on tortious interference with contract claim.
- *Canedy v. Boardman*, 16 F.3d 183 (7th Cir. 1994) (argued): successful appeal of dismissal of § 1983 search and seizure claim.
- *Hathcock v. Navistar International Transportation Corps*, 53 F.3d 36 (4th Cir. 1995): successful challenge to \$6 million default sanction in tort suit; district judge should have recused himself.
- *Great Lakes Overseas, Inc. v. Wah Kwong Shipping Group, Ltd.*, 990 F.2d 990 (7th Cir. 1993): successful defense of court's refusal to assert personal jurisdiction over foreign corporation.
- *Blackshire v. NAACP*, 285 Ill. App. 3d 561 (1st Dist. 1996): successful appeal for NAACP establishing that courts may not intervene in private association's internal disputes and interpretation of its own constitution.
- *JWE Recovery Fund v. The Alternative Group Ltd.*, No. 95-20814 (5th Cir. 1995) (settled): rights and duties of general and limited partners under partnership agreement.
- *Illinois v. Russells*, 1 58 Ill. 2d 23 (1994): amicus brief for American and Illinois Public Health Associations in Fourth Amendment search and seizure case.

## Education

Northwestern University School of Law, JD, magna cum laude, 1985; Order of the Coif; John Henry Wigmore Scholar; Articles Editor, Northwestern University Law Review • University of Oxford (England), Corpus Christi College, BA, Law with First Class Honors, 1979; MA 1983, Diploma in Law, 1986

## Admitted

- District of Columbia, 1996

- Illinois, 1988
- Member, bars of the US Supreme Court and Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, District of Columbia and Federal Circuits
- Member, bars of the US Court of Claims, US Tax Court, US District Court for the Northern District of Illinois

## Publications

- Supreme Court Practice (9th ed. 2007) (with Gressman, Shapiro, Geller & Hartnett)
- "Oral Argument in the Roberts Court," *Litigation*, forthcoming, 2008
- "[Tips on Petitioning for and Opposing Certiorari in the U.S. Supreme Court](#)," *Litigation*, Winter 2008
- Tips on Petitioning for Certiorari in the U.S. Supreme Court, *The Circuit Rider* (May 2007)
- "[The Clean Water Act in the Supreme Court: Recent Developments](#)," ALI-ABA, The Clean Water Act Conference, 2004
- "[The Supreme Court's Environmental Decision During the 2003 Term: A Survey](#)," ABA, Section of Environment, Energy, and Resources, 12th Section Fall Meeting, 2004
- "[Counting the Hands on Borden Ranch](#)," 34 *Environmental Law Reporter* 10040 (2004)
- "Do Federal Environmental Laws Regulate Commerce?" 17 *Natural Resources & Environment* 7 (2002)
- "Smart Growth or Dumb Bureaucracy?" 32 *Environmental Law Reporter* 10822 (2002)
- "Defeating Class Certification In Securities Fraud Cases," 20th Annual Federal Securities Institute Conference Papers, 2002
- "Extrajurisdictional Takings," 31 *Environmental Law Reporter* 11225 (2001)
- "The Solid Waste Agency Decision," 42 *Municipal Lawyer* 16 (2001)
- "Commerce Clause Constraints on Federal Environmental Regulation," ABA, Section of Environment, Energy & Resources, *Environmental Law Conference Papers*, 2001
- "Key Issues for Takings Litigators: Physical and Partial Takings," Georgetown Univ. Law Center, *Litigating Takings and Other Constitutional Challenges to Government Regulation*, 2000
- "One for the Birds: The Corps of Engineers' Migratory Bird Rule," 30 *Environmental Law Reporter* 10633 (2000)
- "Some Practical Implications of Monterey Dunes," Georgetown Univ. Law Center, *Litigating Regulatory Takings Claims*, 1999
- "Opposing Certiorari in the United States Supreme Court," ABA Litigation Manual: *Special Problems and Appeals*, 1999
- "Recent Developments in Standing and Other Citizen Suit Justiciability Issues," ABA, SONREEL, *Developments in Public Land, Forest Resources, and Mining Law, Conference Papers*, 1998
- "Earning Your Quill: How to Petition the US Supreme Court for Certiorari," *CBA Record*, 1997
- "State Property Rights Statutes: A Reassessment," *Washington Legal Foundation Working Paper*, 1996
- "State Charters Often Have Broad Takings Clauses," *National Law Journal*, 1995
- "The Privileges or Immunities Clause of the Fourteenth Amendment: The Original Intent," 79 *Northwestern University Law Review* 142 (1984)
- "Legal Protection of Computer Programs in the United Kingdom," 5 *Northwestern Journal of International Law & Business* 269 (1983)

## Seminars

- "The Supreme Court's Business Decisions, 2007-08," Corporate Counsel Institute, N.Y., June 2008
- "The Supreme Court's *Stoneridge* Decision," Conference on Subprime Litigation, Los Angeles, May 2008
- "The *Stoneridge* Decision," Stanford Law School, Rock Center, May 2008
- "The Supreme Court's *Stoneridge* Decision," London, Frankfurt, N.Y., Chicago, 2008
- "The End of Automatic Class Certification in Securities Cases," CLE Int'l, 4<sup>th</sup> Securities Litigation Conference, N.Y., May 2008

- Intellectual Property in the U.S. Supreme Court, Loyola Univ. School of Law, Conference, Feb. 2007
- "Is the Endangered Species Act Constitutional?" ALI-ABA 24th Annual Water Law Conference, 2006
- "Does the Endangered Species Act Regulate Commerce?," ABA 24th Annual Water Law Conference, 2006
- National Conference of State Legislators Fall Forum, *Rapanos* and *Carabell*, 2005
- "Developments in Eminent Domain," Lambda Alpha International, 2005
- "Inter-Basin Transfers and 'Additions' to 'Waters' Post-SFWMD," ALI-ABA Clean Water Act Advanced Course, 2004
- "*South Florida Water Management Dist. v. Miccosukee Tribe*," National Water Resources Association, 2004
- "The Supreme Court's Recent Environmental Decision," ABA Section on Environment Fall Meeting, 2004
- "Supreme Court Roundup," Georgetown Law School, 2004
- "The Scope of Regulated Activities Under the Clean Water Act," ALI-ABA Advanced Course of Study, Clean Water Act Law & Regulation, 2003
- "Wetlands Use & Regulation after *Borden Ranch*," Rocky Mountain Land Use Institute, 2003
- "The US Supreme Court's 2001—2002 Employment Cases," Chicago Bar Association Labor & Employment Section Seminar, 2002
- "Class Certification Developments—Are the Courts Cutting Back?" 20th Annual Federal Securities Institute, 2002
- "Is Smart Growth Really Smart? Land Use Law: Current Issues," 2002
- "The Resurgent Commerce Clause as a Constraint on Environmental Regulation," ABA Section of Environment, Energy, and Resources Fall Meeting, 2001
- "The *Solid Waste Agency* Decision," Federal Bar Association, 2001
- "The Supreme Court's 2000 Term in Review," Mecklenberg County Bar Association, 2001
- "The Supreme Court's 2000 Term in Review," NYU School of Law Seminar, ABA Annual Meeting, 2001
- "Wetlands and the Public Trust Doctrine," ALI-ABA Inverse Condemnation Conference, 2001
- "Constitutional Challenges to Environmental Regulation," ABA Section of Environment, Energy & Resources Conference on Environmental Law, General Session, 2001
- "Repercussions of the *Solid Waste Agency* Decision," International Municipal Lawyers Association Annual Conference, 2001
- "Challenging EPA's Implementation of the Food Quality Protection Act," American Farm Bureau Federation, Committees on Horticulture, Labor and Forestry, 2001
- "The *Solid Waste Agency* Decision—What it Means for the Clean Water Act," Georgetown University Law Center, Environmental Policy Project, 2001
- "The *Solid Waste Agency* Case," Vermont Law School, Appellate Advocacy Program, 2000
- "Key Issues for Takings Litigators," Georgetown University Law Center Takings Conference, 2000
- "The Rangelands Reform Case, *Public Lands Council v. Babbitt*," Georgetown University Law Center, Environmental Policy Project, 2000
- "*Public Lands Council v. Babbitt*," National Cattlemen's Beef Association Annual Conference, Federal Lands Committee, 2000
- "The *Monterey Dunes* Decision," Georgetown University Law Center Takings Conference, 1999
- "Developments in Standing Law," ABA Section on National Resources, etc., Conference on Public Land, Forest Resources, and Mining Law, 1998

#### Awards and Honours

- "...has carefully carved a niche representing clients before the US Supreme Court. 'He's probably one of the most substantial attorneys in this area!...' - Chambers USA 2004-2005
- Described in the Lawdragon 500 (2006) as "a high court superstar" and "top advocate"
- Illinois Institute for Local Government Law's annual Litigation Award, 2001

## Professional Activities

- Seventh Circuit Bar Association
- Supreme Court Historical Society
- Adjunct Professor: University of Chicago Law School, 1990–1991; Northwestern University School of Law, 1981–1983, 1993–1996; Illinois Institute of Technology–Chicago Kent Law School, 1989–1991
- Guest lecturer at Georgetown University Law Center, Harvard Law School, and Vermont Law School