

**Statement of Qualifications
to Provide
Legal Services re: Redistricting Matters**

Presented To:

**The Citizens Redistricting Commission
of the State of California**

March 10, 2011



BEST BEST & KRIEGER
ATTORNEYS AT LAW

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EXECUTIVE SUMMARY

Best Best & Krieger LLP (“BB&K”) is pleased to submit this Statement of Qualifications in response to the Citizens Redistricting Commission’s (“Commission”) Request for Information (“RFI”) for Legal Services for Voting Rights Act counsel. BB&K understands that the Commission is seeking qualified attorneys to provide legal services to assist the Commission with redistricting matters.

BB&K is one of the most experienced and widely respected public law firms in California. The firm has significant experience with all aspects of the California Elections Code: county, city and special district election procedures; initiative and referenda; recalls and election challenges. We have advised clients on general election procedures and special elections. We also have extensive federal Voting Rights Act experience. We have advised clients on compliance with Voting Rights Act election procedures and we have negotiated consent decrees with the US Department of Justice. In addition, BB&K has advised clients on at-large and by-district election proposals and assisted with the redistricting process following many prior census.

BB&K is uniquely qualified to assist the Commission with all legal services as described in its RFI, including:

- Perform all normal and customary duties required of special redistricting counsel in connection with legal issues related to Redistricting Activities.
- Advise the Commission, Commission staff and consultants as to procedures, legality of documents, policy concerns, and legal implications concerning the Redistricting Activities, and specifically work with Commission, Commission staff and consultants with respect to legal issues in connection with drawing new district boundaries.
- Advise the Commission, Commission staff and consultants regarding the requirements of State and Federal laws relevant to Redistricting Activities, and in particular demonstrate expertise and experience with Section 2 and Section 5 of the Voting Rights Act, including but not limited to issues with respect to the *Shaw v. Reno* 509 U.S. 630 (1993) and *Miller v. Johnson* 515 U.S. 900 (1995) line of cases and appropriate population analysis in “majority/minority districts.”
- Advise the Commission, Commission staff and consultants of litigation risks associated with Redistricting Activities and approaches to limit such risks.

Due to BB&K’s extensive experience representing a wide range of public entities, it is particularly well-suited to provide expert, nonpartisan advice to Commission in its unique and highly visible work.

BB&K proposes the following legal specialists to assist the Commission:



John E. Brown is a partner of BB&K, specializing in public law. Over the last 35 years, Mr. Brown has represented a variety of California public agencies including cities, redevelopment agencies, special districts and school districts. He is currently the City Attorney of Ontario, California and the Town Attorney of the Town of Apple Valley, California. Mr. Brown also acts as general counsel for a variety of other public agencies including the Elsinore Valley Municipal Water District, Hi-Desert Water District, March Joint Powers Authority, March Inland Port Airport

Authority and March JPA Redevelopment Agency, the local reuse authorities for the former March Air Force Base in Riverside County. Mr. Brown has been recognized as a “Top Attorney” in Southern California in Government/Cities/Municipalities Law in 2010 and 2011 by Los Angeles Magazine.



Sonia R. Carvalho is a partner of BB&K and the Co-Chair of the firm’s Public Policy and Ethics sub-practice group. As general counsel to a variety of municipal corporations, Ms. Carvalho advises on all aspects of municipal law. In addition, she specializes in the areas of elections law, ethics and open government laws and land use entitlements. She is the City Attorney for the City of Azusa and the City of Claremont. She previously served in this role for the City of Colton and the City of Yorba Linda. Ms. Carvalho has been recognized as a “Super Lawyer” by *Southern California Super Lawyer* magazine in 2009 and 2011, and as one of Orange County’s top lawyers by *OC Metro* magazine in 2009.



Christopher Calfee is of counsel to BB&K where he represents public agency clients in a variety of administrative proceedings and in litigation. He recently served as special counsel for the Office of Planning and Research and the California Natural Resources Agency, where he was responsible for the development and adoption of amendments to the state’s CEQA Guidelines addressing analysis and mitigation of greenhouse gas emissions. Though his practice often involves natural resources matters, he has also counseled clients in a wide range of novel and evolving areas of public law. Mr. Calfee was recognized by the *Daily Journal* as one of California’s 2011 “Top 20 Under 40.”

BB&K has a longstanding commitment to the efficient and cost-effective delivery of legal services. We believe that the depth and quality of our experience in the public law field is second to none. We are able, therefore, to address complex legal issues with creativity, speed, efficiency and accuracy at a fair and reasonable cost. Finally – and this is what we are most proud of – our clients wholeheartedly approve of the way we serve their legal needs. They tell us that we provide good value, that our fees are fair, that we are responsive to their requests, are easy to work with and that we work with them as a team. In our experience, a per hour billing arrangement ensures that the client receives the highest quality legal advice while permitting overall cost containment. However, we have considerable experience over the years with alternative fee arrangements, including fixed monthly retainers, annual caps and flat fees for special legal projects. We would be happy to negotiate with the Commission a mutually acceptable retainer agreement providing for capped rates, a fixed and not to exceed retainer or a flat fee per project, if preferred. Any fee arrangement with the Commission would include, without charge, Commission, as well as staff or legal counsel, use of any of our eight offices for workshops and meetings, as well as access through our engaged attorneys to our law library resources, including LexisNexis.

Our hourly billing rates for the proposed legal team is as follows:

Attorney	Hourly Rate
John E. Brown	\$330/hour
Sonia R. Carvalho	\$315/hour
Christopher Calfee	\$295/hour

Additional BB&K specialists may, from time to time, assist the attorneys proposed above. Hourly rate ranges for those attorneys and paralegals are listed below by title:

Title	Hourly Rate
Partners	\$300-360/hour
Of Counsel	\$275-320/hour
Associates	\$250-285/hour
Paralegals/Clerks	\$165/hour

We also propose an added-value service to the Commission by participating in a one-day orientation with key Commission staff at no charge, in order to get acquainted, define and agree upon a client service plan, and define the scope of our representation. We believe it is important stay in line with our clients' changing needs and requirements. Accordingly, we will conduct periodic client service interviews to assess the Commission's satisfaction with our services.

In summary, BB&K is enthusiastic about the possibility of serving as special counsel to the Citizens Redistricting Commission. We also welcome the opportunity to meet face to face with Commission's decision makers to discuss our capabilities and readiness to provide legal services.

1. PERSONNEL

We propose that one BB&K partner, John E. Brown, will be in charge of all legal work assigned by the Commission. He will be the primary contact person for all matters and will supervise all legal services provided by our firm. This approach will serve to avoid duplication of efforts among our attorneys and help minimize legal costs. Sonia R. Carvalho and Christopher Calfee will be available to provide additional legal counsel to the Commission and to assist Mr. Brown. We anticipate the workload to be distributed as follows:

Attorney	% of Legal Services Provided
John E. Brown	50%
Sonia R. Carvalho	15%
Christopher Calfee	35%

Individual attorney resumes for each of the listed attorneys are attached as Appendix A. In addition to the attorneys listed above, one of BB&K's core strengths is the depth and diversity of its lawyers with respect to redistricting issues and related matters. These experienced practitioners, who are located throughout the State, are available to assist Mr. Brown, Ms. Carvalho and Mr. Calfee should particularized needs arise. Biographies of all BB&K attorneys are available on the firm's Website: www.bbklaw.com.

2. ATTORNEY/FIRM GENERAL DESCRIPTION

A. General Description of BB&K

BB&K is a full-service municipal law firm, with offices in Sacramento, Los Angeles, Irvine, Ontario, Riverside, San Diego, Indian Wells, and Walnut Creek. For 120 years, BB&K has

represented special districts, cities, counties and other government agencies. As a recognized leader in California Municipal Law, BB&K has remained on the cutting edge of municipal and public law issues during our history. Today, we are comprised of 200 attorneys focusing on virtually all areas of municipal law. Attorneys from our firm serve as city attorney to 30 cities and as general and/or special counsel to over 100 special districts throughout California.

We pride ourselves on delivering effective, timely and service-oriented solutions to complex legal issues facing our clients. Because BB&K has a history of extensive involvement in all aspects of municipal law, we have pioneered methods to deliver advisory and litigation services in a comprehensive and cost-effective manner. Our approach ensures the highest quality and most timely representation available in California. While providing broad representation, we have attorneys who specialize in complex legal areas such as redistricting efforts, elections law and related matters.

BB&K is an active member of and supports numerous state and national public law organizations and associations, such as the League of California Cities, the Independent Cities Association, the Association of California Water Agencies, the California Special Districts Association and the California Association of Sanitation Agencies. We frequently host seminars on issues of concern to public agencies, and our lawyers regularly write and lecture on topics of interest to public agencies, including the Brown Act, the Public Records Act, public finance issues, labor issues, toxic cleanup and environmental remediation, Proposition 218, eminent domain, the Political Reform Act and other conflict of interest laws, CEQA, public contracting and developments in water law.

B. BB&K's Overall Approach to Handling of Redistricting Matters

For more than a century, BB&K has not only represented special districts, cities and counties, but it has assisted as well in the formation or incorporation of dozens of special districts and cities. BB&K has as its core practice the representation of agencies like the Commission. Should BB&K be selected to provide legal services to the Commission, we are prepared to assist it in the following areas:

- Provide initial written and oral advice to staff, the Committee and Board of Directors concerning legal considerations when drawing electoral districts;
- Provide continued legal advice and guidance throughout the redistricting process; and
- Prepare all legal documents required to effectuate the establishment of the new electoral boundaries.

BB&K attorneys are often employed as special counsel by public entities to handle individual matters that require the expertise developed by our attorneys in a particular area of law, including any litigation that may be necessary.

3. EXPERIENCE

A. John E. Brown, Partner

Mr. Brown has represented both special districts and cities on matters relating to redistricting and reapportionment, as well as related electoral matters, including at large versus district or division elections and the direct election of mayors and city clerks. He has represented the Elsinore Valley Municipal Water District (“EVMWD”) on three separate redistricting efforts over the past 30 years due to the District’s rapid population growth during that time. His redistricting experience includes the transfer of territory from one electoral division to another in order to equalize disparate population growth or to accommodate annexations of additional territory to an existing special district. Mr. Brown authored his senior honor’s thesis at Claremont McKenna College on the demographics of electoral politics under the supervision of Dr. Alan Heslop, the longtime director and founder of the Rose Institute of State and Local Government at Claremont McKenna College. Mr. Brown also has worked with The Rose Institute on computer reapportionment modeling necessary for the Elsinore Valley Municipal Water District redistricting projects.

Most recently, Mr. Brown, in collaboration with longtime Riverside County District Attorney, Grover Trask, who directs the firm’s Public Policy and Ethics practice, headed up the firm’s efforts to advise all of its municipal, special district and school district clients with redistricting responsibility of their legal obligations under both federal and state law. Mr. Trask has also been working directly with all 58 counties to make available to them firm legal resources regarding the redistricting of supervisorial districts. Beginning in 2009, Mr. Brown has also headed up a firm effort in anticipation of the 2010 census to update clients of the firm and others on policies impacting the lines of 2011’s Congressional Districts in California and in particular how redistricting was expected to come with opportunities for local governments to consider more closely aligning “communities of interest” within congressional districts and other electoral districts or divisions.

i. The names of the public entities or private parties represented in Redistricting matters, including experience representing boards or commissions in connection with this work;

Mr. Brown has represented the board of directors of the Elsinore Valley Municipal Water District on three separate redistricting efforts over the past 30 years. Many of the other lawyers in the firm have similarly assisted firm clients in similar redistricting efforts.

ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.

The redistricting matters for the EVMWD related to the transfer of territory from one electoral division to another in order to equalize disparate population growth or to accommodate annexations of additional territory to an existing special district. Particular attention was paid in the 2010 redistricting process.

iii. Experience with Section 2 and Section 5 of the Voting Rights Act and in particular the issues identified above.

Neither Section 2 nor Section 5 were implicated in the EVMWD redistricting efforts in 1980, 1990 or 2000.

iv. The outcome of prior redistricting representations --e.g., resolved without litigation, negotiated settlement, or trial.

All of the EVMWD redistricting efforts have been accomplished without litigation.

B. Sonia R. Carvalho, Partner

Ms. Carvalho has represented numerous cities on election and redistricting matters. She represented the City of Colton in a redistricting challenge and the City of Azusa in a Voting Rights Act, voter discrimination case. Ms. Carvalho has also written several papers on California Election issues and has worked on the California Municipal Law Handbook's chapter on California Election issues, including coverage of the Voting Rights Act. As a result, many cities have looked to her for representation in various election related issues.

i. The names of the public entities or private parties represented in Redistricting matters, including experience representing boards or commissions in connection with this work;

Ms. Carvalho has represented the City of Colton, California on redistricting matters. Ms. Carvalho also represented the City of Azusa, California in a Voting Rights Act case brought against the City by the United States Department of Justice.

ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.

The City of Colton has established a system by which its voters elect an at-large Mayor and six city council members by district. Following release of the 2000 Census data, a group of citizens sought to challenge the districts alleging that the districts resulted in the denial of representation of a certain class of voters. The legal issue presented was whether the existing districts had equivalent populations resulting in fair representation.

iii. Experience with Section 2 and Section 5 of the Voting Rights Act and in particular the issues identified above.

The City of Azusa was alleged to have engaged in voting discrimination in violation of Section 2 of the Voting Rights Act. The allegations were based on claims that the City did not properly translate all voting materials, including, for example, directional signs to voting booths. It was also alleged that volunteers were discouraging Latino voters from voting and were making racially charged statements while handing out ballots.

iv. The outcome of prior redistricting representations --e.g., resolved without litigation, negotiated settlement, or trial.

The City of Colton matter was resolved through a negotiated settlement that did not result in any changes to the existing districts. The City of Azusa matter was resolved through the negotiation of a Consent Decree.

C. Christopher Calfee, Of Counsel

Mr. Calfee developed an in-depth understanding of the federal Voting Rights Act as part of his representation of a local commission in federal litigation concerning compliance with that Act. The scope of his experience in this matter is described more fully below.

- i. The names of the public entities or private parties represented in Redistricting matters, including experience representing boards or commissions in connection with this work;**

Mr. Calfee defended the Merced County Local Agency Formation Commission (“Merced LAFCo”) in a federal lawsuit brought against it and several other municipalities and special districts.

- ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.**

Mr. Calfee assisted in the research and drafting of a successful motion to dismiss which resulted in the Merced LAFCo’s removal from the litigation. Plaintiffs in that action raised several legal issues involving Section 5 of the Voting Rights Act, and in particular the application of pre-clearance requirements to political subdivisions.

- iii. Experience with Section 2 and Section 5 of the Voting Rights Act and in particular the issues identified above.**

As indicated above, Mr. Calfee has assisted in litigation involving Section 5 of the Voting Rights Act. Defense of the litigation involved extensive research into not just the text of the Act, but also Supreme Court jurisprudence, legislative history, and past practice of the U.S. Attorney General in considering pre-clearance applications.

- iv. The outcome of prior redistricting representations --e.g., resolved without litigation, negotiated settlement, or trial.**

BB&K successfully moved to dismiss Merced LAFCo from the litigation. This favorable outcome was achieved at a relatively early stage of the litigation resulting in significant cost savings for our client.

D. Relevant Firm Experience

- i. Redistricting**

BB&K counsels clients in their redistricting efforts. BB&K has counseled a variety of public agency clients on the ramifications of at large versus district representation. We have worked with the Rose Institute of State and Local Government on a variety of special district redistricting efforts over the decades. Our lawyers have also worked on redistricting efforts for the Elsinore Valley Municipal Water District, as noted, Casitas Municipal Water District and the Cosumnes Community Services District. With regard to litigation, we have successfully assisted the Merced County LAFCO in defending litigation involving alleged failure to comply with preclearance requirements after completion of numerous annexations.

ii. Voting Rights Act

BB&K often advises clients on the Voting Rights Act (“VRA”) compliance and other state and federal laws pertaining to reapportionment, including doing preclearance submissions and responding to a challenges regarding preclearance submission.

iii. California Election Code

BB&K provides a wide range of advice to our clients on election law, including legal and tactical advice concerning initiative and referenda processes. We routinely assist clients during all stages of the initiative and referenda processes concerning initiative drafting, filing, publication and circulation, spending limits, ballot arguments, campaign regulations, election contests, election timing, ballot security, recall procedures, ballot recounts, election result contests and other post-election matters. We provide advice to clients conducting regular, special and consolidated elections. We also advise clients on voter registration issues, candidate qualification and nomination procedures, ballot pamphlet issues, and ethics laws. Our experience in these matters has given us a full understanding of California’s Political Reform Act, Proposition 208 and local campaign finance regulations.

iv. Voters First Act

BB&K and the attorneys listed in this proposal are very familiar with the Voters First Act, related propositions and pertinent statutes. In addition, in 2009 and 2010, the firm advised its clients on the proposed initiatives (Prop 11 and Prop 20), and their effects on electoral districts throughout the State. Since 2009, Mr. Brown headed up the firm’s efforts to monitor the developments leading to the passing of the Voters First Act, thus, educating and advising his clients on congressional redistricting in 2011 and identifying opportunities for many of the firm’s clients to influence the creation of more carefully aligned “communities of interest” as part of the redistricting process.

v. Bagley-Keene Act

BB&K routinely provides advice regarding the interpretation and application of the Bagley-Keene Open Meeting Act ("Open Meeting Law") to our public entity clients. Advice often pertains to:

- Requirements for agenda preparation, posting and distribution
- Closed session topics and reporting
- Notices and agendas for special and emergency meetings
- Conducting meetings by teleconferencing
- Application of Bagley-Keene Open Meeting Act to committees of state bodies and committees
- Avoiding violations and penalties

We have also prepared to defend challenges to compliance with the Bagley-Keene Open Meeting Act.

vi. Conflicts of Interest Laws

BB&K provides advice to elected and non-elected public officials regarding conflicts of interest laws including:

- Political Reform Act (Government Code § 81000 et seq.)
- Self-interested contracts (Government Code § 1090)
- Campaign contribution conflicts (Government Code § 84308)
- Incompatibility of public offices

We are informed of the most recent decisions from the Fair Political Practices Commission. We also monitor statutory and common law changes to the law and regularly advise clients of such changes. BB&K designs innovative publications to educate and assist public officials confronted by these issues. Our attorneys conduct ethics training workshops for public agency officials in compliance with AB 1234 and Government Code Section 53235. Mr. Brown recently presented AB 1234 ethics training to more than 60 attorneys in the firm. We also speak regularly at seminars and workshops, updating our clients on the most recent changes and trends to this law. On March 16, 2011, Mr. Brown and Ms. Carvalho will be moderating and presenting a BB&K webinar titled “Gift Law Land Mines for California Public Officials to Avoid”. Public officials and others may participate in this free webinar by registering online at www.bbklaw.com/events.

vii. Litigation Experience

One of the hallmarks of BB&K is the ability to offer its municipal and public agency clients a full range of litigation support. Drawing on the experience and expertise of 200 lawyers with many decades of experience, our firm is capable of handling nearly all of a public agency’s potential litigation needs, including in such areas as labor and employment, contracts, construction, energy, transportation, redevelopment, environmental issues, eminent domain, assessment foreclosures, land use, CEQA, rent control and water. In addition, having both public law and litigation “under one roof” affords BB&K the opportunity to tailor its litigation services to better meet the particular needs of its public agency clients and promotes more effective litigation management.

4. CONFLICTS OF INTEREST

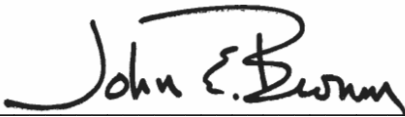
BB&K maintains a comprehensive database on client representation. Prior to accepting any representation, the database is accessed to determine whether there are any existing conflicts. Additionally, each attorney is separately e-mailed a description of the proposed representation and asked to comment on any potential conflicts. Based on the results of that check, BB&K does not have any current or potential conflicts with the Commission that would preclude from serving as special counsel.

CONCLUSION

Thank you for considering this proposal. BB&K would be pleased to act as special counsel for the Citizens Redistricting Commission. We believe we have special expertise in virtually every area of practice that will be of value to the Commission, and hope you will select us as special counsel. We look forward to the opportunity to discuss our proposal with the Commission in more detail and, if selected, we would be honored to work with you in the years ahead. If you require any additional information, please contact me at (909) 483-6640 or at john.brown@bbklaw.com.

Respectfully Submitted,

BEST BEST & KRIEGER LLP

By: 
John E. Brown, Partner

John E. Brown

Partner



John E. Brown is a partner of the law firm of Best Best & Krieger LLP. He joined the firm in 1975. Mr. Brown chaired the firm's Municipal & Redevelopment Law practice group from 1996 - 2008. Mr. Brown has also served on the firm's Executive Committee and as Best Best & Krieger LLP's Marketing Partner.

He is a public lawyer and has represented a variety of California public agencies including cities, redevelopment agencies, special districts and school districts. He is the City Attorney of Ontario, California and the Town Attorney of the Town of Apple Valley, California. He has served as the City Attorney for cities throughout California since 1976.

Mr. Brown also acts as general counsel for a variety of other public agencies. He has served as general counsel to the Elsinore Valley Municipal Water District for more than 30 years and also acts as general counsel to the Hi-Desert Water District. He is the general counsel of the March Joint Powers Authority, as well as the March Inland Port Airport Authority and March JPA Redevelopment Agency, the local reuse authorities for the former March Air Force Base in Riverside County.

Mr. Brown served as the Acting City Manager of Unalaska ("Dutch Harbor"), Alaska, during the summer of 1972.

Mr. Brown graduated from Claremont McKenna College, Magna Cum Laude, holds a Master of Arts degree from Occidental College awarded as part of a Coro Foundation Fellowship in Public Affairs (Los Angeles), and received his Juris Doctorate degree from the University of California, Berkeley School of Law (Boalt Hall). His professional memberships include the Urban Land Institute and the American Planning Association.

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Education

University of California, Berkeley, J.D.
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Occidental College, M.A.

Claremont McKenna College, B.A.,
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Memberships

Urban Land Institute

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Education

University of California, Los Angeles
(UCLA), J.D. (1992)

University of California at Irvine, B.A.

Sonia R. Carvalho is a partner in the Municipal & Redevelopment Law practice group of Best Best & Krieger LLP. She is the City Attorney for the City of Azusa and the City of Claremont. She previously served in this role for the City of Colton and the City of Yorba Linda. Ms. Carvalho is also the Co-Chair of the firm's Public Policy and Ethics sub-practice group.

As general counsel to municipal corporations, Ms. Carvalho advises on all aspects of municipal law. In addition, she specializes in the areas of ethics and open government laws, land use entitlements and elections law. She also advises a variety of redevelopment agencies.

Ms. Carvalho attended the University of California at Irvine and graduated Phi Beta Kappa with a Bachelor of Arts degree, *cum laude*. She received her J.D. from UCLA School of Law where she served as the Editor-in-Chief of the *Chicano-Latino Law Review*. Ms. Carvalho was admitted to the California Bar in 1992.

Ms. Carvalho has been recognized as a "Super Lawyer" by *Southern California Super Lawyer* magazine in 2009 and 2011, and as one of Orange County's top lawyers by *OC Metro* magazine in 2009. In addition, she is a frequent speaker on topics related to ethics, the Brown Act and land use issues. Ms. Carvalho has been an instructor for various Continuing Education of the Bar (CEB) land use and real estate courses and most recently has written and spoken on the topic of medical marijuana and land use regulation.

Christopher H. Calfee

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Education

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University of California, Davis, B.A.

Christopher Calfee is of counsel in the Environmental Law & Natural Resources practice group of Best Best & Krieger LLP's Walnut Creek and Sacramento offices. Mr. Calfee represents clients in litigation and administrative proceedings involving climate change, land use, environmental and water law, with particular emphasis on the California Environmental Quality Act ("CEQA").

In February 2009, Governor Schwarzenegger appointed Mr. Calfee as special counsel for the Office of Planning and Research and the California Natural Resources Agency. There, he was the lead attorney responsible for the development and adoption of amendments to the state's CEQA Guidelines addressing analysis and mitigation of greenhouse gas emissions. Following completion of the Guidelines amendments, Mr. Calfee returned to Best Best & Krieger to advise clients on compliance with CEQA and evolving federal and state climate change laws, including AB 32 and SB 375, and to assist in the development of long-range plans for the reduction of greenhouse gas emissions.

Prior to originally joining the firm in 2004, Mr. Calfee practiced with Remy, Thomas, Moose and Manley, LLP, where he assisted clients in all phases of compliance with CEQA, NEPA, the Endangered Species Act, and state and federal water quality regulation.

Mr. Calfee is a frequent speaker on CEQA and greenhouse gas reduction, and is a member of the State Bar of California, the American Bar Association, and the Sacramento and Contra Costa County Bar Associations.