



Paul Hastings

**Proposal to Serve as
Litigation Counsel for
Citizens Redistricting
Commission**

July 2011

SECTION VI – Submission Format

1. Personnel

In the case of a law firm or other entity, identify the lead lawyer and other lawyers, if any, who will be assigned to the work and the anticipated percentage of time for each. Also please attach a resume for each lawyer.

<u>Attorney Name</u>	<u>Title</u>
Paul W. Cane, Jr.	Partner, Employment Department
Grace A. Carter	Partner, Litigation Department
Gordon E. Hart	Partner, Real Estate Department
Stephen B. Kinnaird	Partner, Litigation Department
Thomas P. O'Brien	Partner, Litigation Department
Peter H. Weiner	Partner, Real Estate Department
Igor V. Timofeyev	Of Counsel, Litigation Department
D. Scott Carlton	Associate, Litigation Department

We would base the percentage of time for our team members on each individual matter. We staff leanly and provide proactive matter and budget management.

Attorney biographies are attached at the end of the document.

2. Firm General Description

If the Statement of Qualifications is submitted by a law firm or other entity, provide a general description of the firm.

Since 1951, the growth of Paul Hastings has been driven by our founders' vision to create an institution whose services were sought by leading companies and financial institutions around the globe because of our reputation for providing premier legal services. Their vision was realized as the firm moved beyond its Los Angeles headquarters in 1974, and today continues to expand into key markets around the world.

Today Paul Hastings is recognized as one of the world's leading law firms. Our strong record of solid financial performance and geographic expansion enables us to continually reinvest in our practices and talent, and provide our clients with the highest level of service in markets across the globe to support their growth.

Our lawyers have a strong track record of winning large and difficult cases. Leveraging our extensive resources and expansive global platform, the professionals of Paul Hastings deliver efficient and effective legal services to our clients - wherever they may be. Our practice capabilities include banking and finance, bankruptcy and restructuring, capital markets, corporate/M&A, litigation and dispute resolution, intellectual property, project finance, investment management, real estate, labor and employment, and tax advisory services.

But no matter what type of client you are or the challenges you face, our integrated teams of legal professionals will work closely with you to understand and meet your business and legal needs. It is our quality of work and unwavering commitment to client service that has helped Paul Hastings become one of only two major U.S. law firms formed after 1950 to reach the Top 25 in the United States.

With 18 offices in major business centers across Asia, Europe and the United States, Paul Hastings has the global reach and extensive capabilities to provide personalized service wherever our clients' needs take us. Through a collaborative approach, entrepreneurial spirit and firm commitment to client service, the legal professionals of Paul Hastings deliver innovative solutions to many of the world's top financial institutions and Fortune 500 companies.

To learn more about Paul Hastings, please visit our website at www.paulhastings.com.

3. Experience

- a. Describe at least 10 cases argued before the California Supreme Court, including, in particular, cases involving constitutional or public policy issues.

California Supreme Court Cases

Case #1: Sullivan v. Oracle Corp.

At issue here is what state's wage-hour law governs business travelers. The plaintiffs represent a class of Oracle employees who serve as instructors/trainers. They mostly work in the state in which they live, but sometimes their work requires business travel throughout the U.S. The plaintiffs contend that, when they travel to California (on trips as short as a single day) they become covered by California's unique overtime law (and, presumably, other wage-hour laws, including the laws for determining exempt status, the law setting forth the rules for paychecks and pay stubs, and others). Oracle contends that the wage-hour law governing an employee is the law of the state in which the employee principally works, and that the law does not change with short-term business travel.

The Paul Hastings team won summary judgment in the U.S. District Court for the Central District of California. On appeal, a panel of the U.S. Court of Appeals for the Ninth Circuit initially reversed. The Paul Hastings team immediately petitioned for rehearing, and demonstrated the practical unworkability of the rule that the court's opinion produced. The Ninth Circuit then took the rare step of vacating its opinion and asking the California Supreme Court to decide the case instead. The case is fully briefed and awaiting argument. *Paul W. Cane, Jr.*

Case #2: Reid v. Google Inc.

Google retained Paul Hastings to replace its prior counsel to argue this key age discrimination case in the California Supreme Court. The court of appeal had overturned a summary judgment in favor of Google. The court held that stray remarks — some ambiguous, some arguably ageist but uttered by non-decision makers — sufficed to overturn summary judgment. The case requires the California Supreme Court to decide whether it will follow or deviate from the “stray remarks” doctrine applied in federal courts. The case also presents an important issue of civil procedure: whether evidentiary objections made at summary judgment are deemed sustained, overruled, or waived when the trial judge fails to rule on them. No date for oral argument has been set. *Paul W. Cane, Jr.*

Case #3: Hernandez v. Hillside, Inc.

The California Supreme Court in this case issued an important privacy ruling in employers' favor. In this case, the employer secretly installed videotaping equipment in the plaintiffs' office intended to catch someone using their office after hours to access pornography. The plaintiffs discovered the secretly installed camera, and sued for invasion of privacy.

Paul Hastings orally argued this case, in addition to briefing it for amici The Employers Group and California Employment Law Council. The Supreme Court held as a matter of law that there was no intrusion highly offensive and sufficiently serious to constitute a privacy violation. The trial court's summary judgment was reinstated. The Supreme Court relied on the fact that actual surveillance was drastically limited in nature and scope. They also relied on the fact that the employer had legitimate grounds to try to catch the staff member who was accessing pornography. *Paul W. Cane, Jr.*

Case #4: Richards v. CH2M Hill

In this case, Paul Hastings represented California Employment Law Council as amicus on behalf of CH2M Hill in case involving a disabled employee who sued the company for disability discrimination and harassment. *Paul W. Cane, Jr.*

Case #5: Guz v. Bechtel National Inc.

In this case, Paul Hastings represented Bechtel in a case presenting questions about the law governing claims of wrongful discharge from employment as it applies to an employer's motion for summary judgment. *Paul W. Cane, Jr.*

Case #6: Mullins v. Rockwell International Company

Represented Rockwell International Corporation in a case focusing on whether the statute of limitations in a breach of contract action based upon an alleged constructive termination of employment begins to run when the alleged intolerable working conditions occur, or instead when employment actually is terminated. *Paul W. Cane, Jr.*

Case #7: Turner v. Anheuser-Busch, Inc.

Orally argued as amicus in a case in which an employee alleged that he was forced by his employer, Anheuser Busch, Inc., to quit his job after he complained of the company's alleged illegal activity. *Paul W. Cane, Jr.*

Case #8: People v Fuentes

Appointed death penalty counsel after a jury had convicted defendant of first degree murder, attempted robbery, and automobile theft. *Paul W. Cane, Jr.*

Case #9: Harris v. City of Santa Monica

We're currently representing the California Employment Law Council and Employers Group as amicus on behalf of the city of Santa Monica in plaintiff's pregnancy discrimination suit against the city. *Paul W. Cane, Jr.*

Case #10: Urban Habitat Program, et al. v. City of Pleasanton, et al.

In *Urban Habitat Program, et al. v. City of Pleasanton, et al.*, Paul Hastings defeated the City of Pleasanton's petition to the California Supreme Court seeking review of the Court of Appeal's decision reinstating various affordable housing claims brought by a low-income resident and a local non-profit housing organization. The housing claims, brought under California's Housing Element Law and Least Cost Zoning Law, had been dismissed by the trial court on statute of limitations and ripeness grounds. The Court of Appeal reversed, holding that a longer statute of limitations applied to the types of claims brought, and, further, that plaintiffs had timely filed their claims after accrual under the discovery rule. On behalf of the plaintiffs, Paul Hastings' brief to the Supreme Court successfully argued that the City's petition raised only false legal conflicts and that the Court of Appeal's decision rested squarely with recent precedent set in the Supreme Court's *Travis v. County of Santa Cruz* decision. The Supreme Court denied review of the Court's of Appeal's decision. *Peter Meier, Sean Unger, Christopher Mooney* (Not orally argued)

Prior to joining Paul Hastings, Tom O'Brien served as the United States Attorney for the Central District of California. Mr. O'Brien was responsible for all federal criminal and tax investigations and prosecutions, as well as all civil matters involving the United States, in the largest federal district in the country. In this role, Mr. O'Brien handled numerous cases in which a judgment was reached in federal court. Please let us know if you would be interested in receiving a list of those cases.

b. Describe at least 10 cases in which a judgment was reached in a federal court, including, in particular, cases involving constitutional or public policy issues.

Federal Court Cases

Case #1: Branch v. Smith, 538 U.S. 254 (2003)

Branch v. Smith concerned a complex congressional redistricting dispute in Mississippi, and involved preclearance requirements under section 5 of the Voting Rights Act and authority of state and federal courts to fashion remedial reapportionment plans. *Igor Timofeyev*

Case #2: Georgia v. Ashcroft, 539 U.S. 461 (2003)

Georgia v. Ashcroft, under sections 2 and 5 of the VRA, set forth the standards for determining when a redistricting plan has a retrogressive effect on the minorities' voting power (though Congress subsequently altered these standards when it reauthorized section 5 in 2006, largely overruling the Court's holding). *Igor Timofeyev*

Case #3: Bush v. Vera

Bush v. Vera was a case involving gerrymandered majority-minority districts from Texas. Justice O'Connor, joined by The Chief Justice and Justice Kennedy, presided over the case. *Steve Kinnaird*

Case #4: Shaw v. Hunt

Shaw v. Hunt was a case involving gerrymandered majority-minority districts from North Carolina. *Steve Kinnaird*

Case #5: Aholelei v. Hawaii, Dept. of Public Safety, 220 Fed. App'x. 670 (9th Cir. 2007)

This is an Eighth Amendment case involving allocation of gang and non-gang prisoners within Hawaiian prisons. *Sean Unger*

Case #6: Serena v. Mock, 547 F.3d 1051 (9th Cir. 2008).

In this case, Paul Hastings defended a number of judges alleged to have discriminated against certain groups in designing the Yolo County grand jury system. *Sean Unger*

Case #7: Urban Habitat Program, et al. v. City of Pleasanton, et al.

In *Urban Habitat Program, et al. v. City of Pleasanton, et al.*, Paul Hastings defeated the City of Pleasanton's petition to the California Supreme Court seeking review of the Court of Appeal's decision reinstating various affordable housing claims brought by a low-income resident and a local non-profit housing organization. The housing claims, brought under California's Housing Element Law and Least Cost Zoning Law, had been dismissed by the trial court on statute of limitations and ripeness grounds. The Court of Appeal reversed, holding that a longer statute of limitations applied to the types of claims brought, and, further, that plaintiffs had timely filed their claims after accrual under the discovery rule. On behalf of the plaintiffs, Paul Hastings' brief to the Supreme Court successfully argued that the City's petition raised only false legal conflicts and that the Court of Appeal's decision rested squarely with recent precedent set in the Supreme Court's *Travis v. County of Santa Cruz* decision. The Supreme Court denied review of the Court's of Appeal's decision.

Case #8: Kanawi v. Bechtel Corp., Fremont Investment Advisors, Inc., et al.

This case was in the District Court for the Northern District of California; U.S. Court of Appeals for the Ninth Circuit. This was the first case granting summary judgment (for defendants) in the series of very high-profile "excessive fees" cases filed, beginning in 2006, by the same plaintiffs' firm against many of the major 401(k) plans in the country with plan assets of in excess of \$1 billion. Other targeted plans included those of Lockheed Martin, John Deere, General Dynamics, and International Paper.

The plaintiffs in this class action were a class of participants in the Bechtel Corporation 401(k) Plan. Fremont Investment Advisors (FIA), which provided investment advisory services to the Bechtel plan and its participants, and Bechtel as the plan sponsor were sued for breach of fiduciary duties based on excessive fees, failures to disclose, and inappropriate investments of plan assets. The plaintiffs and their experts sought \$2.3 billion in damages against all defendants. The district court granted summary judgment for FIA and Bechtel on all but one claim involving less than \$100,000 in damages; that claim was dismissed without prejudice and without payment to plaintiffs or their counsel.

We represented a key service provider to the Plan (FIA) and achieved a highly substantive ruling that has been cited in several cases, on critical issues including the scope of fiduciary duties relating to investment advice and fees charged by service providers to ERISA plans. After the plaintiffs appealed to the Ninth Circuit Court of Appeals, the case ended in a settlement. *Grace A. Carter, Paul W. Cane, Jr.*

Case #9: B-18 Immigration Detention Center Class Action

We represented the plaintiff class against ICE, et al. together with the ACLU and NILC. The case involved horrific conditions at a detention center located in a federal building in downtown LA. We filed the lawsuit in USDC for the Central District. The case was resolved through a settlement which vastly improved the lives of some 30,000 immigrants who pass through B-18 each year. *Jamie Broder*

Case #10: Buono v. Salazar aka the Mojave Cross

We filed an amicus brief on behalf of the Baptist Joint Committee for Religious Liberty and the Interfaith Alliance in the US Supreme Court in support of Mr. Buono who was represented by the ACLU of Southern California. We argued that Mr. Buono had standing to challenge the placement of a large Latin cross at a "war memorial" located on federal land in the Mohave Desert as a violation of the Establishment Clause of the First Amendment. We were successful on our issue although Mr. Buono was not. *Jamie Broder*

Case #11: E.I. Dupont De Nemours, Inc. v. Kolon Industries, Inc.

In this case, DuPont sued Kolon for misappropriation of trade secrets, and Kolon counterclaimed that DuPont monopolized (or attempted to monopolize) the U.S. market for para-aramid fibers (a type of extraordinarily strong and flexible fibers used in military and civilian applications, including tires and bullet-proof vests or helmets). One of the most critical issues in antitrust law is the definition of the geographic market that was allegedly monopolized. The district court dismissed Kolon's counterclaim because it failed to allege a geographic market that included the countries in which foreign producers of para-aramid fiber were located. Stephen Kinnaird led the briefing and delivered the oral argument in the Fourth Circuit for Kolon. Mr. Kinnaird argued that the district court had misread governing Supreme Court precedent, and that it was proper to define a market around customer locations (the U.S.) for this industry. Mr. Kinnaird further argued that a U.S. market can include foreign suppliers. The Department of Justice and Federal Trade Commission filed an amicus brief urging vacatur of the district court's ruling. This case will clarify important Supreme Court antitrust precedent, and establish whether domestic markets may be defined to include foreign suppliers for antitrust purposes. The case was argued in October 2010 and is still pending. *Stephen Kinnaird, Michael Cohen, Igor Timofeyev, Kristen Warden*

Case #12: Toyo Tire Holdings of Americas, Inc. v. Continental Tire North America, Inc.

In this case, Toyo commenced arbitration against its partners in a tire manufacturing partnership who had expelled it from the partnership. The partners refused to supply Toyo with the tires it needed to sell to distributors. Because of the months it would take to constitute an arbitral panel (whose members have to be selected pursuant to the arbitral body's rules), Toyo sought preliminary injunctive relief in aid of arbitration in federal district court in California. The district court interpreted Ninth Circuit law to prohibit such injunctions. This was a difficult issue, as the courts of appeals were divided on the question of whether and under what circumstances a district court could issue preliminary injunction in aid of arbitration.

One of Paul Hastings attorney's led the briefing and delivered the oral argument in the Ninth Circuit, which reversed the district court. The court held that the availability of injunctive relief promoted the goals of arbitration by protecting parties against irreparable injury while the arbitration panel is being constituted. On remand, the district court granted Toyo the preliminary injunction it had previously been denied. The victory is significant because of the prevalence of arbitration agreements, and because the well-reasoned Ninth Circuit decision contributes to the clarity of the law in this area. Over the long term, the willingness of parties to agree to arbitration would have been jeopardized if an injured party could not gain temporary relief until the arbitration is decided (or at least until the arbitration panel is ready to act). The case was argued and decided in June 2010. *Stephen Kinnaird*

c. For each matter listed above, provide the following:

- (i) The names of the parties represented before the California Supreme Court and/or in Federal Court.**
- (ii) The principal legal issues presented in each matter handled by the attorney, law firm or entity.**

See above.

d. Describe representative legal work performed on behalf of public agencies, boards or commissions in the past 10 years.

e. Describe any experience with Section 2 and Section 5 of the Voting Rights Act, including:

- (i) The outcome of prior redistricting representations.**
- (ii) A summary of how this experience prepares the attorney and/or law firm to perform the services sought by this RFI.**

We have provided some specific examples of our experience with public agencies, board and commissions in the cases mentioned above.

Paul Hastings has significant relationships with individuals outside the firm who also have extensive experience in this area. Paul Hastings intends to pair with a leading voting rights expert, to give the Commission the benefit of Paul Hastings's litigation capability and subject matter expertise. No arrangements are final at the time of the RFP response.

Specific to the Voting Rights Act and redistricting representation, here are samples of some cases we've handled:

Case #1: *Branch v. Smith*, 538 U.S. 254 (2003)

Branch v. Smith concerned a complex congressional redistricting dispute in Mississippi, and involved preclearance requirements under section 5 of the Voting Rights Act and authority of state and federal courts to fashion remedial reapportionment plans. *Igor Timofeyev*

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Case #4: Shaw v. Hunt

Shaw v. Hunt was a case involving gerrymandered majority-minority districts from North Carolina. *Steve Kinnaird*

f. Describe the attorney or firm's experience with electronic discovery.

The Paul Hastings e-discovery group is a multi-disciplinary team of lawyers, practice-support professionals and other staff, collaborating to provide clients with creative, individualized and cost-effective electronic discovery consulting, advice, and project management services in a variety of contexts. One key to our approach is that - unlike many of our competitors - our team includes dedicated e-discovery lawyers who advise, support and execute full-time on large document collections and productions, as well as create and integrate electronic and other document retention systems and protocols, while also keeping abreast of the latest developments in the field. In addition to our e-discovery legal expertise, the group's practice support professionals are experts in a variety of computer systems, software, document management and litigation support platforms, and information storage and retrieval systems. These professionals leverage their expertise to efficiently assist clients in the technical aspects of preservation, forensic collection, processing, management and review of electronic information.

We assist our clients in developing strategies and plans for preparing for and responding to litigation and government and regulatory agency investigations that involve electronically stored information. In addition, our services encompass drafting legal hold notices; developing protocols for document collection, storage, and management; and planning proactively the responses to requests for the production of electronic information. The e-discovery group serves as coordinating counsel for multiple lawsuits and/or government proceedings across the United States and internationally. In this coordinating role, Paul Hastings lawyers work collaboratively with the client and with other law firms to formulate the strategy for and oversee the implementation of complex electronic discovery projects and protocols.

The e-discovery group has helped our clients to:

- Develop plans for retaining, collecting, and processing electronic and hard copy documents including complying with regulatory requirements and data privacy laws.
- Review and produce millions of documents using a number of different software platforms.
- Manage off-site document review projects, including internationally and cross-border.
- Secure from vendors the most responsive, cost-effective and productive e-discovery solutions.
- Prepare for and defend depositions of the company's IT personnel
- Produce extracts of data from complicated, voluminous databases such as human resources information systems and operational databases.
- Negotiate the production of large quantities of complex electronic information to the U.S. Department of Justice (DOJ), the U.S. Securities and Exchange Commission, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and other governmental and regulatory agencies.
- Ensure protection of privileged and otherwise confidential materials involving attorney advice, trade secret and other highly protected information.
- Work with consulting and testifying experts to process and substantively analyze electronic information.

4. Conflicts of Interest

a. Compliance with Government Code Section 8252

With respect to the attorneys who are expected to work in connection with this representation, please disclose any financial, business, professional, lobbying or other relationship that presents a potential conflict as described in California Government Code Section 8252. In addition: (1) identify any lobbying work the firm has performed in California during the past 10 years; and (2) identify any political contributions, including contributions made by a firm political action committee, to candidates as described in California Government Code Section 8252, during the past ten years.

If the law firm or entity that is awarded the contract contemplates additional staff assignments after the award of the contract, the personnel must be approved individually by the commission. Prior to the date of additional assignment, the law firm or entity must submit a resume and certification of non-conflict, identified in 4 below, for preliminary review and approval by the Commission's legal staff and/or Executive Director and current Chairperson and Vice-Chairperson. The individual may be cleared to work on behalf of the Commission until final approval. Final approval must be obtained by a "super majority" vote of the full Commission at the next Commission business meeting.

Describe any work relating to Redistricting or other work for current or prior clients during the past 10, even if such work has concluded, that could present the appearance of a conflict in connection with the representation of the Commission in connection with the defense of the Maps. For example, if the attorney or law firm either presently, or has in the past represented a political party or an interest group funded by or working on behalf of a political party, such work must be disclosed and the implications of the current or prior representation for this assignment must be described.

b. Other Conflicts

In addition to compliance with Government Code Section 8252, the attorney or law firm must comply with the rules as set forth in the California Rules of Professional Conduct. Please identify any matter in which the attorney or firm is presently adverse to the State of California. In addition, identify any work previously provided by the attorney or law firm on behalf of any potential adverse party or witness, to the extent known.

The fact that a conflict is identified pursuant to this section is not an automatic disqualification, but is information the Commission will consider in the selection process.

The Firm is presently adverse to the State of California in connection with certain tax controversy matters on behalf of AT&T Inc. and Nortel Networks. The Firm is also adverse to the State of California in certain non-litigation matters that are confidential.

With respect to the attorneys who are expected to work in connection with this representation, we know of no financial, business, professional, lobbying or other relationship that presents a potential conflict under Government Code Section 8252. With respect to specific inquiries, please be advised as follows:

- (i) Thomas O'Brien was formerly the United States Attorney for the Central District of California, appointed by President George W. Bush. Mr. O'Brien is presently a Republican delegate in California.

- (ii) Peter Weiner and Gordon Hart (along with Firm attorney Robert Hoffman) have been registered lobbyists for each of the last ten years. If requested, the Firm will furnish a list of client representations. The clients generally have been involved in businesses relating to environmental management (i.e., used oil recycling), rental car companies and a light bulb manufacturer. Activities have been directed to the California Legislature and the California Environmental Protection Agency.

- (iii) The Firm's Political Action Committee has made contributions to the following California politicians:
 - Barbara Boxer – October 2010
 - Darrel Issa – October 2010, June 2007
 - Mary Bono – October 2010, March 2007
 - Anna Eshoo – March 2007
 - Henry Waxman – June 2007, September 2006, July 2005, December 2003
 - Doris Matsui – February 2005
 - George Radanovich – June 2006, September 2004
 - Adam Schiff – February 2004
 - Chris Cong – September 2004

- (iv) The Firm is presently adverse to the State of California in connection with certain tax controversy matters on behalf of AT&T Inc. and Nortel Networks. The Firm is also adverse to the State of California in certain non-litigation matters that are confidential.

SECTION VII – Fee Arrangements

Fee Arrangements

The Commission anticipates the services contemplated by this RFI will be provided on an hourly basis. For each professional who will be assigned to these matters, please set forth his or her hourly rate. The Commission will also consider alternative fee arrangements, and the cost of retaining the firm will be among the factors considered in awarding this contract. The initial amount authorized pursuant to this agreement shall not exceed \$500,000, and shall be in place until August 15, 2012, however, the contract can be amended to extend time and add funds as necessary in order to continue the contract through the completion of all litigation.

<u>Attorney Name</u>	<u>Title</u>	<u>Standard Paul Hastings Rate</u>	<u>Preferred Commission Rate</u>
Paul W. Cane, Jr.	Partner, Employment Department	\$865	\$778.50
Grace A. Carter	Partner, Litigation Department	\$900	\$810
Gordon E. Hart	Partner, Real Estate Department	\$800	\$720
Stephen B. Kinnaird	Partner, Litigation Department	\$905	\$814.50
Thomas P. O'Brien	Partner, Litigation Department	\$910	\$819
Igor V. Timofeyev	Of Counsel, Litigation Department	\$765	\$688.50
Peter H. Weiner	Partner, Real Estate Department	\$855	\$769.50
D. Scott Carlton	Associate, Litigation Department	\$655	\$589.50

The Commission rate reflects a 10% discount off of Paul Hastings' standard hourly rate.

SECTION VIII – References

References

Provide a minimum of five client references, for which the lead lawyer or other team lawyers have performed significant representations, including work for such clients before the California Supreme Court and Federal Court.

Name	Title	Company	Email	Phone	PH Contact
Ted Borromeo	Assistant General Counsel, Employment and Benefits Law	McKesson Corporation	[REDACTED]	[REDACTED]	Paul W. Cane, Jr.
Brenda McDaniel	N/A	Gelson's Markets	N/A	[REDACTED]	Paul W. Cane
Joey Henslee	Labor & Employment Counsel	United Parcel Service, Inc.	[REDACTED]	[REDACTED]	Paul W. Cane
Alexander H. Rogers	Senior Vice President, Legal Counsel	QUALCOMM Incorporated	[REDACTED]	[REDACTED]	Stephen B. Kinnaird
Mark Stachiw	General Counsel, Secretary and Vice Chairman	MetroPCS Communications, Inc.	m [REDACTED]	[REDACTED]	[REDACTED] B. Kinnaird

Attorney Biographies

Paul W. Cane, Jr.



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Paul Cane is a partner in the Paul Hastings Employment Law Department, representing management in employment matters. His principal focus is major motions and appeals. He is the co-chair of the Paul Hastings Appellate practice.

Mr. Cane argued and won a unanimous decision in the U.S. Supreme Court for Sprint Nextel Corporation. (*Sprint/United Management Co. v. Mendelsohn* (2008).) The Supreme Court then reversed a Tenth Circuit decision that had held that trial courts must admit so-called “me, too” evidence: witnesses who would testify that they believe that they, too, were discriminated against by the defendant, but who lack a close factual nexus to the plaintiff and plaintiff’s decisionmaker. (This case was Mr. Cane’s second U.S. Supreme Court victory. The Supreme Court earlier granted review, and then ruled in favor of his client, in a disability-discrimination case, *Raytheon Co. v. Hernandez* (2003).) In *Sprint*, on remand from the Supreme Court, the Tenth Circuit in 2010 unanimously reinstated a jury verdict in Sprint’s favor.

Mr. Cane persuaded the California Court of Appeal to overturn a \$12.9 million verdict initially awarded against a Sun Microsystems subsidiary, in a case tried by another firm. The plaintiff, a commissioned technology salesman, claimed he was owed back wages and had been wrongfully terminated in retaliation for complaining about the issue. The appellate court granted judgment as a matter of law to the defendant, and the plaintiff paid \$110,000 in fees and costs to the defendant. (*Marx v. Storage Technology Corp.* (2006).)

Mr. Cane also achieved a post-trial verdict reduction, from \$18.4 million to \$2.4 million, in another case tried by another firm. Plaintiff was a Vons grocery employee who claimed harassment and retaliation. (*Stevens v. Safeway, Inc.* (2007).)

Mr. Cane also has argued and/or briefed many well-known precedents in the California state courts (including the California Supreme Court) and federal courts of appeals around the country, including *Guz v. Bechtel National, Inc.*, *Turner v. Anheuser-Busch, Inc.*, *Chavez v. City of Los Angeles*, *Hernandez v. Hillside, Inc.*, *Rochlis v. Walt Disney Co.*, *Foley v. Interactive Data Corp.*, *Armendariz v. Foundation Health Psychcare Services, Inc.*, *Cotran v. Rollins Hudig Hall International, Inc.*, *Richards v. CH2M Hill, Inc.*, *Department of Health Services v. Superior Court*, *Green v. State of California*, *King v. United Parcel Service, Inc.*, and *Dotson v. Amgen Inc.* A legal newspaper’s profile on Mr. Cane (taking more than a bit of poetic license) observed that he “has had a finger in just about every important California employment case.”

Mr. Cane has been recognized as “an exceptional thinker and superior communicator” and “bright and pragmatic” by *Chambers USA*, which named Paul Hastings as its sole top-tier employment firm in

California. Mr. Cane also holds a place on the list of lawyers featured in the Labour & Employment chapter of *The International Who's Who of Business Lawyers*. He has been listed in *Best Lawyers in America* for more than 20 years, and he is a fellow of the College of Labor and Employment Lawyers and a member of the California Academy of Appellate Lawyers.

Mr. Cane speaks and writes frequently. Among other things, he is co-author of *An Employer's Guide to the Americans With Disabilities Act*, and editor-in-chief of Lindemann & Grossman's *Employment Discrimination Law* (3d ed.), the American Bar Association's treatise. His articles include "Lies, Damned Lies and Statistics: How *The Peter Principle* Warps Statistical Analysis of Age Discrimination Claims" (The Labor Lawyer); "Mixed-Motive Cases After *Costa*: Why The Judicial Council Jury Instruction Is Flat Wrong" (Matthew Bender); "Exploiting 'Confidential' Settlement Offers in Attorney's Fee Litigation" (Matthew Bender); "Staying at 'Yes': How to Avoid a Busted Settlement" (Los Angeles Lawyer); "When the Whistle Blows and There Is No Foul: Managing the Misguided Whistleblower" (Matthew Bender); "Evaluating 'Me, Too' Claims: Is It an Evidentiary Marathon - Or a *Sprint* After All?" (BNA Employment Discrimination Report); "'Mixed-Motive' Cases in California (*Redux*): *Harris v. City of Santa Monica*" (Matthew Bender); "Workplace Privacy in California: Employee Interests, Employer Rights" (Privacy & Data Security L.J.); "*Preston v. Ferrer*: A Limitations Trap for the Unwary FEHA Plaintiff" (Matthew Bender); "'I Want to Work at Home': Telecommuting as a Reasonable Accommodation" (Law.com); and others.

Mr. Cane graduated from Dartmouth College (summa cum laude) in 1976, and from Boalt Hall School of Law at the University of California at Berkeley in 1979, where he was editor-in-chief of the *California Law Review*. After law school, he served, successively, as law clerk to Hon. Carl McGowan, Judge of the U.S. Court of Appeals for the District of Columbia Circuit, and Hon. Lewis F. Powell, Jr., Justice of the U. S. Supreme Court.

Grace A. Carter



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Grace Carter, a partner in the Paul Hastings Litigation practice, has practiced extensively in both state and federal courts in the area of complex commercial litigation. The clients represented by Ms. Carter include health care organizations, financial services companies, mutual fund companies, investment advisors, publishing companies and energy producers. Ms. Carter has represented clients in suits involving claims of unfair competition, unfair business practices, securities fraud and ERISA litigation.

In unfair business practice cases, Ms. Carter has handled unfair competition and false advertising matters for a variety of clients. She has represented a major managed care organization in a series of California class actions, and obtained rulings denying certification of a class of over 1 million members and striking monetary relief.

In ERISA litigation, Ms. Carter obtained summary judgment in favor of an investment advisor in a significant class action involving claims of excessive fees, failures to disclose, and breach of fiduciary duties, eliminating all but one minor claim which was later dismissed by the plaintiff. *Kanawi v. Bechtel Corp., Fremont Investment Advisors, Inc., et al.*, 590 F. Supp. 2d 1213 (Nov. 3, 2008).

In the area of securities litigation, Ms. Carter has represented clients in federal class actions under the Private Securities Litigation Reform Act (PSLRA), in ERISA-related actions, and in state securities law actions.

Additionally, Ms. Carter represented a defendant in the multi-party federal litigation involving the massive Orange County bankruptcy, and successfully defended a large health care company in a class action arising out of its health plan disclosures. Ms. Carter also has substantial experience in litigation involving unfair business practices and consumer fraud, false advertising, and trade secret infringement.

As an outgrowth of her securities litigation expertise, Ms. Carter has represented several broker-dealers and investment management companies in arbitrations and similar proceedings. She also has extensive experience in negotiating with insurers with respect to directors and officers (D&O) insurance coverage for securities litigation matters.

Ms. Carter has written and spoken on commercial litigation issues and in the area of insurance coverage. She has served as a member of the Judiciary Committee of the Bar Association of San Francisco. She has served on the State Bar of California Administration of Justice Committee and worked with several pro bono and legal services organizations. Ms. Carter is currently a member of the Board of the Western Center on Law and Poverty, a legal services group involved in impact litigation throughout California, and on the Board of Raising a Reader of San Francisco and Alameda Counties.

Ms. Carter received her B.A. degree, with great distinction from the University of California at Berkeley in 1977 and her J.D. degree from University of California at Berkeley School of Law (Boalt Hall) in 1981.

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Gordon E. Hart is a partner in the San Francisco office. He specializes in: real estate transactions involving contaminated property; environmental insurance; environmental permitting and enforcement actions; and administrative and legislative lobbying.

Mr. Hart has particular expertise in the redevelopment of closed military bases and other federal facilities, and serves as the co-chair of Paul Hastings' Military Base Reuse and Privatization Practice Group. He has represented developers, local agencies and engineering firms in connection with complex projects at closed and active federal facilities, including negotiating the largest early transfer with privatization of environmental responsibility for contaminated property at a closed military base in the history of the Department of Defense. He is the author of "Brownfields Redevelopment at Closed Military Bases", a chapter in the American Bar Association's handbook, *Environmental Aspects of Business and Real Estate Transactions* (3rd Ed. 2004).

Prior to entering private practice, Mr. Hart served as a legislative representative for Sierra Club California, and then in several capacities on the staff of the California State Legislature. Those positions included serving as senior consultant to the Senate Toxics and Public Safety Management Committee, as counsel to the Senate Judiciary Committee, and as counsel to the Speaker of the Assembly. In those positions, Mr. Hart drafted many important pieces of legislation, including significant reforms to the state hazardous waste management laws, the state Superfund law, and the laws governing tort liability of tobacco companies. He has served on a number of advisory committees to various state agencies.

Mr. Hart received his B.A. degree in Political Science in 1984 from Reed College, and was a Fellow in Public Affairs with the Coro Foundation in 1985-1986. He graduated first in his class in 1994 from the McGeorge School of Law, University of the Pacific, and was selected for membership in the Order of the Coif and the Order of the Barristers.

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Stephen B. Kinnaird is a partner in the firm and co-chair of its Appellate practice. He has represented clients in numerous cases in the United States Supreme Court, the federal courts of appeals and district courts, and state appellate courts.

A highly experienced appellate lawyer, Mr. Kinnaird has handled matters involving energy, transportation, intellectual property, antitrust, environmental, telecommunications, administrative, criminal, and constitutional law. Specifically, Mr. Kinnaird has handled cases involving the Communications Act, the Interstate Commerce Act, the Federal Power Act, the Federal Railroad Safety Act, the Federal Employer's Liability Act, the Social Security Act, the Sherman and Robinson-Patman Acts, the Lanham Act, the Clean Water and Clean Air Acts, CERCLA, the Patent and Trademark Acts, ERISA, the Carriage of Goods by Sea Act, and the Civil Rights Act; the Commerce, Due Process, and Takings Clauses; and the Fourth, Fifth, Sixth, Seventh, Eighth, Tenth, and Eleventh Amendments.

Mr. Kinnaird argued *Padilla v. Kentucky* in the United States Supreme Court in 2009. The Court ruled in favor of firm client Jose Padilla in holding that the Sixth Amendment imposed duties upon defense counsel to advise criminal defendants of the deportation consequences of criminal convictions. Mr. Kinnaird was featured on the cover of the July/August 2010 issue of *The American Lawyer* in a story discussing *Padilla* as the capstone of the firm's *pro bono* initiatives.

Other notable matters include engagements for:

- an energy company in the U.S. Supreme Court in a case establishing private rights to coal bed methane in homestead grants;
- a railroad in the U.S. Supreme Court in a case establishing preemption of state tort claims for inadequate warning devices;
- a major league baseball team in the U.S. Supreme Court in a case involving taxation of back pay;
- a telecommunications company in the U.S. Supreme Court and the courts of appeals in cases establishing rules of competitive access to network facilities under the Telecommunications Act of 1996 and rejecting takings and sovereign immunity defenses;
- a railroad in the U.S. Supreme Court in a case establishing the protections of limited liability clauses for inland carriers engaged in international cargo transportation;
- a tire manufacturer in the Ninth Circuit in a case involving the availability of preliminary injunctive relief in aid of arbitration;
- an information technology company in the Federal Circuit in cases involving patent infringement and the scope of authority of the International Trade Commission;

- a chemical company in the Fourth Circuit in a case involving relevant market definition under the Sherman Act; and
- veterans in the Federal Circuit in major cases involving veterans benefits laws.

Prior to entering private practice, Mr. Kinnaird served as a law clerk to Justice Anthony M. Kennedy of the United States Supreme Court, and to Judge John M. Walker, Jr. of the United States Court of Appeals for the Second Circuit. Mr. Kinnaird was a management consultant in the corporate strategy practice of Booz, Allen & Hamilton before entering the legal profession. Mr. Kinnaird received a B.A. in English language and literature from Yale University, *summa cum laude*. He received an M.A. in philosophy, politics, and economics from Oxford University, which he attended on a Rhodes Scholarship. He received a J.D. from Yale Law School, where he served as articles editor on the Yale Law Journal and was awarded three faculty prizes for scholarship.

Mr. Kinnaird has given speeches and presentations on issues of federal and constitutional law to the Food and Drug Law Institute, Mealey's National Asbestos Litigation Conference, and the National Association of Railroad Trial Counsel, among other organizations. His publications include *All Over the High Court: Major Corporate Law Firms Dominate the Court's New Cases*, Legal Times (Oct. 6, 2008); *Fear-of-Cancer Claims After Norfolk Southern Railway v. Ayers*, Washington Legal Foundation Legal Briefing, Vol. 18, No. 29 (July 2003); *The Supreme Court's Revolutionary Decision On Punitive Damages Promises Much Relief for Defendants*, The Insurance Advocate (May 5, 2003); *The Impact of State Farm Insurance Co. v. Campbell*, Claims Magazine (May 2003); and Note, *Public Housing: Abandon HOPE, But Not Privatization*, 103 Yale L.J. 961 (1994), excerpted and discussed in Robert C. Ellickson & Vicki L. Been, *Land Use Controls: Cases And Materials* (2d ed. 1999); *High Court to Revisit Federal Preemption*, Paul Hastings - Stay Current (January 2009).

Mr. Kinnaird is a Lecturer in Law at the University of Pennsylvania Law School and co-teaches its Supreme Court Advocacy Clinic. Mr. Kinnaird is also a member of the Board of Directors of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, the National Veterans Legal Services Program, and Saint Anselm's Abbey School. He was honored with the 2010 Public Advocate's Award by the Kentucky Department of Public Advocacy for his *pro bono* service in the *Padilla* case.

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Thomas P. O'Brien is a litigation partner with Paul Hastings in Los Angeles, where he leads the firm's White Collar practice on the west coast. He has vast experience as a trial attorney, having tried 85 cases, both criminal and civil, in federal and state court. His current caseload includes representing clients in federal and state investigations, corporate compliance, FCPA matters, and high-stakes civil litigation.

Prior to joining Paul Hastings in October 2009, Mr. O'Brien served as the United States Attorney for the Central District of California. Mr. O'Brien was responsible for all federal criminal and tax investigations and prosecutions, as well as all civil matters involving the United States, in the largest federal district in the country. In addition, Mr. O'Brien sat on the President's Corporate Fraud Task Force, and was Chair of the Attorney General's Advisory Committee's Cyber/Intellectual Property Subcommittee. Mr. O'Brien was the first sitting United States Attorney in 25 years to conduct a criminal jury trial, and the first in memory to try a civil case.

During his tenure as U.S. Attorney, Mr. O'Brien's office filed the most felony cases in the history of the Central District, and increased complex case filings by 50 percent. Under his leadership, his office filed the most trademark protection cases nation-wide; the nation's first cyber-bullying prosecution; the largest tax restitution case in IRS history (\$86 million); the second-most corporate fraud cases and the second-most health care fraud cases of all the 93 United States Attorney's Offices; the largest gang RICO case in the nation (147 defendants); the first gang RICO case in Santa Barbara; one of the largest counterfeiting cases in United States Secret Service history; and the country's first Internet peer-to-peer child predator sweep. The office also filed the largest RICO case ever against a motorcycle gang, and in another national first, seized the gang's trademark. In his Civil Division, the caseload increased dramatically, and his office recovered the largest government procurement fraud fine in history.

Prior to being selected as the United States Attorney, Mr. O'Brien served for more than two years as the Chief of the Criminal Division. In that capacity, Mr. O'Brien oversaw several high-profile espionage cases; helped bring the first treason case in the nation since World War II; supervised several high-profile public corruption and civil rights cases; charged several cyber crime statutes which had not been charged in the nation; and executed some of the largest fraud cases in the United States. He was the only Criminal Chief in many years who tried cases during his tenure.

Before serving as Criminal Chief, he was a line Assistant United States Attorney for four years before rising to Chief of the Civil Rights Section, where he personally investigated and prosecuted numerous cases, including federal hate crimes, human trafficking violations, and police misconduct cases. In that capacity, Mr. O'Brien was the first prosecutor in the nation - and to date, the only prosecutor - to utilize civil rights statutes to charge gang members with murder. He also was one of the few federal prosecutors in the country to successfully utilize human trafficking statutes to prosecute pimps who trafficked young girls as prostitutes.

Over the past several years, Mr. O'Brien has been publicly recognized for outstanding performance on numerous occasions, and has received awards from many different organizations, including the Los Angeles City Council; Los Angeles Police Department; Federal Bureau of Investigation; Drug Enforcement Administration; United States Secret Service; Internal Revenue Service; United States Marshal's Office; Santa Barbara District Attorney's Office; United States Postal Service; United States Postal Inspectors and Office of Inspector General; Bureau of Alcohol, Tobacco, Firearms and Explosives; and the Los Angeles City Attorney.

Mr. O'Brien received the 2007 Anti-Defamation League Pacific Southwest Region's Helene and Joseph Sherwood Prize for combating hate. In October 2007, he received the Attorney General's Award for Exceptional Service – the highest award given by the Attorney General – for his role in investigating and prosecuting street gang members who committed hate-crime murders of African-Americans in Northeast Los Angeles. Mr. O'Brien also received the 2008 Immigration and Customs Enforcement Assistant Secretary's Award for Excellence in Law Enforcement.

He has accumulated 2,000 flight hours as a Radar Intercept Officer in the F-14 "Tomcat" fighter aircraft, and is a graduate of the U.S. Navy Fighter Weapons ("Top Gun") School. Mr. O'Brien received his J.D. from the University of San Diego School of Law (Associate Editor, San Diego Law Review; cum laude) in 1993 and his B.S. from the U.S. Naval Academy in 1981. He is a member of the State Bar of California.

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Peter H. Weiner heads the West Coast environmental practice of Paul Hastings. He splits his time between San Francisco, Los Angeles and Sacramento. Mr. Weiner represents real estate developers, manufacturers, energy companies and trade associations in federal, state and local environmental, energy and OSHA regulatory matters, litigation and legislation.

Mr. Weiner's broad *environmental* practice focuses on "brownfields" development, real estate transactions, California Environmental Quality Act (environmental impact reports), property cleanup, air and water quality, hazardous waste management, Proposition 65, pesticide registration and environmental insurance. He has represented both large and small clients before regulatory agencies at every level of government. He has also successfully defended clients in Proposition 65, Superfund and California Environmental Quality Act litigation. Mr. Weiner also has achieved significant legislative victories to promote brownfields development and hazardous waste recycling.

Mr. Weiner's *energy* practice includes representation of wind, geothermal, solar and biomass companies before the California Energy Commission, Public Utilities Commission, endangered species regulatory bodies (US Fish and Wildlife Service, Department of Fish and Game, etc.) and land-use regulators.

Mr. Weiner's *OSHA* practice is national in scope, including representation of employers in California, New York, North Carolina, Georgia, Kansas, Colorado and Washington, to name a few. Mr. Weiner was at one time an official with responsibility for the California OSHA program and taught federal OSHA law for seven years. Mr. Weiner also represents California businesses on prevailing wage matters.

Mr. Weiner received his B.A. degree from Harvard College in 1966, magna cum laude and Phi Beta Kappa. He received his LL.B. degree from Yale University School of Law in 1970, where he served as a member of the Yale Law Journal. He also received a Master's degree in economics from the London School of Economics in 1967. Mr. Weiner is admitted to the California bar, various federal courts in California and the U.S. Supreme Court.

Mr. Weiner served in various capacities in California State government from 1975 until 1983, including special assistant to the governor for Toxic Substances Control and chief deputy director of the Department of Industrial Relations, which includes the California/OSHA and prevailing wage programs.

In his capacity as special assistant to the governor, he participated in drafting more than 25 of the state's basic environmental laws, including the State Superfund law. He also taught courses in occupational and environmental law for several years at the University of California's Boalt Hall School of Law and the University of San Francisco Law School. Mr. Weiner has written several books and articles on environmental issues, concentrating on real property and leasing transactions, development of contaminated property and hazardous waste regulatory issues.

Mr. Weiner has been a consistent appointee to California governmental advisory groups regarding environmental issues, including the Unified Environmental Statute Commission. He currently serves on the Advisory Committee to the Director of the Department of Toxic Substances Control, the DTSC Brownfields Revitalization Advisory Group, and the Statewide Advisory Committee to the University of California Center for Occupational and Environmental Health. Mr. Weiner sits on the boards of several nongovernmental environmental organizations, including the California State Parks Foundation and Coalition for Clean Air.

EXAMPLES OF REPRESENTATION

Development of Contaminated Property for Private Sector and Public Use

- Represent purchaser of closed 157-acre hazardous waste landfill (Cal-Compact) in obtaining prospective purchaser agreement and judicial consent decree from state, EIR for development of residential and retail mall, and Cal-EPA agreement to allow development during cleanup (Carson, California).
- Represent purchaser of former military weapons production site and hazardous waste treatment facility in obtaining regulatory approvals for development of cold storage facility (Vernon, California).
- Represent purchaser of inactive landfill in obtaining regulatory cleanup approvals (Sylmar, California).
- Represented owner of former Omar Rendering Site in Chula Vista, California, in obtaining "Polanco Agreement" from San Diego Regional Water Quality Control Board.
- Represented investor in development of public housing in San Francisco and Oakland in obtaining approvals for residential construction despite remaining contamination, including use of deed restrictions, risk assessment, and insurance.
- Represented owner of former Gardena Valley I & II landfill in Carson, California, in preparing and obtaining approval of Remedial Action Plan (1992); represent current prospective purchaser of property re RAP implementation and Prospective Purchaser Agreement.
- Represented purchaser of closed landfill in obtaining prospective purchaser agreement and judicial consent decree from state for development of retail mall (Elizabeth, N.J.).
- Represented school district in obtaining approval for development of school in light of contamination (Southern California); represented other school districts in Northern and Southern California re approval for new school sites.
- Represented owner of 500 acres of land, including former rail yard and former landfill, in obtaining cleanup approvals and land use entitlements (Northern California)
- Represented prospective purchaser of 600 acre former Kaiser Steel site in determining cleanup requirements and purchase conditions, approval of transfer of site by DTSC (Fontana, California)
- Represent developers in obtaining No Further Action determinations from Los Angeles Regional Water Quality Control Board re soils and groundwater (Los Angeles, Long Beach, Southgate).

Energy

- Represent large geothermal power company on environmental and energy issues before California Energy Commission, California Independent System Operator, Department of Toxic Substances Control, etc. re operation of existing and construction of new geothermal energy production facilities (Imperial County, California).
- Represent large wind power company in litigation, mediation, and political issues concerning impact on avian mortality (Alameda County, California).

- Represent multi-state utility on legislative issues in California and possible settlement of hydropower relicensing matters (involves California, Oregon, Department of the Interior, private groups).
- Represent renewable energy trade association in negotiating statewide siting guidelines for wind energy.
- Represented five different agricultural waste biomass facilities on energy and environmental issues, including negotiation of Power Purchase Agreements and approval by PUC, legislation to exempt ash from environmental regulation.

Cleanup of Contaminated Property, Including Litigation

- Represent several companies in EPA CERCLA proceeding regarding Casmalia landfill.
- Represent multiple companies in EPA CERCLA proceeding regarding Omega Chemical facility.
- Represent landowner in CERCLA litigation against PRP and DTSC (Southern California).
- Represented large airline in administrative (Water Board) and judicial proceedings concerning contamination at San Francisco Airport.
- Represented large hazardous waste management company in cost-recovery litigation (Northern California).
- Represented manufacturer in responding to Order requiring investigation and cleanup of required groundwater contamination (Fresno, California).

Solid and Hazardous Waste Experience: Landfills

- Represent two large hazardous waste facilities in Northern and Southern California in closure and post-closure negotiations with all relevant state, federal, and local agencies, and the public. Assist in preparation of environmental impact reports and defense thereof, entitlements for transitional development to productive use, and ancillary permitting and enforcement issues (West Covina and Benicia, California).
- Obtained local land use permit for major new hazardous waste facility, assisted in preparation of environmental impact report, successfully defended EIR and permit in litigation (San Bernardino, California).
- Represented cities in obtaining appropriate closure and environmental protection at local landfills within municipalities, negotiated franchise agreements, and wrote solid waste ordinances for municipalities (Richmond and Fremont, California).
- Represented West Contra Costa County cities in creating the West Contra Costa County Integrated Waste Management Authority (Pinole, Hercules, San Pablo, Richmond, El Cerrito).

Treatment and Recycling

- Represent major hazardous waste treatment and recycling facilities, including inorganic recyclers, hydrocarbon recyclers, neutralization facilities, transfer facilities, etc. in obtaining and modifying permits, enforcement activities, EIRs (including successful defense in litigation), and community relations (Compton, Santa Fe Springs, Richmond, Chula Vista Emeryville, Los Angeles, Orange, Bakersfield, East Palo Alto).
- Represent large biomass facilities in recycling ash for agricultural and other uses.

Water Quality

- Represent property owner in pressuring Bay Area RWQCB to require PRPs to clean up property.
- Represented major airline before Bay Area RWQCB re airport cleanup.

- Represented owner of large Brownfields before Bay Area RWQCB.
- Represented several developers before Los Angeles RWQCB re cleanup obligations.
- Represented landowner/developer before San Diego RWQCB.
- Represented power plant before Santa Ana RWQCB in enforcement action.
- Represented various parties before Lahontan, North Coast, and Colorado River Regional Boards.

Air Quality

- Represent Fortune 50 Chemical Company in obtaining Title V permit from Bay Area AQMD.
- Represented propane association in successfully defending against further ARB regulation.
- Represented biomass facilities in facilitating burning of agricultural waste.
- Represented large car manufacturer before ARB and EPA in successfully objecting to recall of 2.1 million vehicles.
- Represented motorcycle manufacturer regarding reports on warranty claims on emission-related components.
- Represented large solvent manufacturer/distributor before ARB and local districts contesting feasibility of new requirements on solvent components.
- Represent numerous solid and hazardous waste companies in permitting and enforcement issues before air districts in California (South Coast, Bay Area, San Joaquin, Yolo).
- Represented equipment manufacturer in obtaining Best Available Control Technology (BACT) determination from EPA and California air districts.
- Represent various facilities in obtaining variances from local district air quality requirements.

Proposition 65

- Represent major chemical and manufacturing companies in regard to listing issues and various claims filed by plaintiffs regarding environmental, consumer product, and work place exposures. (Details available.)

OSHA

- Represent companies in defending against alleged violations and compliance counseling re federal and State OSHA programs. Clients include telecommunications, waste management, dialysis clinics, network television, movie production, software, major art museum, and various other employers. (Details available.)

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Igor Timofeyev is of counsel in the Litigation practice of Paul Hastings. His practice focuses on appellate litigation, as well as international arbitration and dispute resolution. He has represented corporations and business associations in appellate, trial, and regulatory proceedings involving constitutional, foreign affairs, securities, health care, patent, and antitrust issues. In the field of international litigation, Mr. Timofeyev has represented multinational corporations and foreign governments in World Trade Organization disputes, investor-state arbitration, *ad hoc* international commercial arbitration, and domestic U.S. litigation. In addition, he has advised clients on issues concerning investment treaties and free trade agreements.

Prior to joining Paul Hastings, Mr. Timofeyev served as Director of Immigration Policy and Special Advisor for Refugee and Asylum Affairs at the U.S. Department of Homeland Security. In that capacity, he advised the Secretary of Homeland Security on immigration, visa, refugee, and asylum policy, and coordinated the department's regulatory policy on immigration reform, benefits, and enforcement. Mr. Timofeyev testified before and briefed Congress on issues of immigration reform and enforcement, visa policy, and asylum and refugee protection. He also represented the Department of Homeland Security on the G8 Anti-Terrorism and Law Enforcement Working Group, the U.S.-Canada Visa Policy Working Group, and before the United Nations Human Rights Committee. Mr. Timofeyev is a frequent speaker on topics relating to homeland security, immigration, and refugee law.

Mr. Timofeyev was previously an associate at a multinational law firm where his practice focused on appellate litigation and international arbitration. Prior to entering private practice, Mr. Timofeyev served as a clerk to Justice Anthony M. Kennedy of the U.S. Supreme Court and Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit. He also served as an associate legal officer to the president of the United Nations International Criminal Tribunal for the Former Yugoslavia. In that capacity, he advised the president and judges of the Tribunal on appeals involving international criminal law, international humanitarian law, and laws of war.

Mr. Timofeyev received his J.D. from the Yale Law School, where he served as articles editor on the *Yale Law Journal* and the *Yale Journal of International Law*. He also holds an M.Phil. in Russian and East European Studies from Oxford University, which he attended as a Donovan/Moody Scholar, and a B.A., summa cum laude, with highest honors in History, from Williams College. Mr. Timofeyev is an associate member of the Edward Coke Appellate Inn of Court, a term member of the Council on Foreign Relations, and a member of the American Society of International Law. He also serves on the Alumni Advisory Board of the Bronfman Youth Fellowships.

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Scott Carlton is an associate in the litigation practice of the firm's Los Angeles office.

Mr. Carlton represents and advises clients in complex shareholder and consumer class actions and SOX "whistleblower" lawsuits. His practice also emphasizes appellate litigation, briefing cases in both state and federal courts of appeal.

Recent exemplar appellate and heavy motion work includes:

- *City of Los Angeles v. BCI Coca-Cola Bottling Company of Los Angeles, Case No.08-56163 (9th Cir.)*, pending appeal regarding liability for environmental contamination under the Comprehensive Environmental Response, Compensation, and Liability Act and state law claims.
- *In re UBS Auction Rate Securities Litigation*, No. 08 CV 2967(LMM), 2009 WL 860812 (S.D.N.Y. Mar. 30, 2009), winning dismissal of Securities Exchange Act claims brought in a multi-billion dollar class action by those holding illiquid auction rate securities.
- *Kassover v. UBS AG*, No. 08 CV 02753(LMM), 2008 WL 5331812 (S.D.N.Y. Dec. 18, 2008), winning dismissal of Investment Advisor Act and New York state law claims brought in a multi-billion dollar class action by those holding illiquid auction rate securities.
- *Holmstrom v. Peterson*, 492 F.3d 833 (7th Cir. 2007), successfully dismissing appeal for lack of appellate jurisdiction.
- *Drake v. Cotton*, No. G035982, 2006 WL 1778915 (Cal. App. June 29, 2006), affirming the trial court's approval of a negotiated settlement.

Prior to joining Paul Hastings, Mr. Carlton clerked for the Honorable Judge Ferdinand F. Fernandez of the Ninth Circuit Court of Appeals in Pasadena, CA.

Mr. Carlton received his J.D. from the University of San Diego School of Law (*magna cum laude*, Order of the Coif) in 2005 and his B.A. in political science from Yale University in 2001. Mr. Carlton is a member of the State Bar of California, and is admitted to practice before the Ninth Circuit Court of Appeals, the Central District of California, and the Southern District of California.

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