

John Briscoe



Law Practice

John Briscoe has tried cases in state, federal, and international courts, and has argued before the California Supreme Court, the United States Supreme Court, and the Permanent Court of Arbitration in The Hague. In real property and environmental litigation he has represented water, oil, mining and real-estate interests, the country's largest title insurers; the States of Alaska, Hawaii, Georgia, and California; the American Territory of Guam; the port authorities of San Francisco, Oakland and Richmond, California; and many city and county governments. Overseas, he has represented the Federal Democratic Republic of Ethiopia, the Republic of Korea, the State of Kuwait, and the United Nations Compensation Commission (established to hear the claims against Iraq, particularly the environmental claims, following the Gulf War of 1991).

Between 1981 and 2000, Mr. Briscoe served as special counsel to the State of Alaska in Supreme Court litigation against the United States Federal Government. The case concerned the limit of American territorial waters off the north coast of Alaska between Icy Cape and the American-Canadian boundary. He served as special counsel to the State of Georgia in its Supreme Court land and maritime boundary dispute with the State of South Carolina. He has been a special assistant attorney general for the State of Hawaii with regard to the State's claim to the resources of the submerged lands of the Hawaiian archipelago, and for matters arising under Hawaii Homes Commission Act of 1920. And he has served as special counsel to the Territory of Guam in litigation against the United States Government seeking recovery of some 23,000 acres of Land.

Between 1972 and 1980, he practiced in the Land Law Section of the California Attorney General's Office, where he was responsible for litigation including several actions in the original jurisdiction of the United States Supreme Court. Mr. Briscoe has published three books and numerous articles on natural resources, land use, land title and oceans law. He has authored papers and books on other subjects as well.

He is a Distinguished Fellow of the Law of the Sea Institute, University of California Berkeley, and Adjunct Professor, U.C. Hastings College of Law. He has been a guest lecturer at U.C. Berkeley (poetry), University of San Francisco (California history), and the University of Southern California (law).

Contact

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Education

J.D. cum laude,
University of San
Francisco Law School,
1972; Law Review

Admissions

State Bar of California

United States District
Court for the Northern,
Eastern and Central
Districts of California

Ninth Circuit Court of
Appeals

Supreme Court of the
United States

Permanent Court of
Arbitration

Prior Experience

Deputy attorney general, the State of California, San Francisco, California (1972-1980); visiting scholar and distinguished senior visiting scholar, University of California, Berkeley, Boalt Hall School of Law, (1990-2000).

Selected Professional Activities

Founding member, twice chair, and member, Board of Directors, San Francisco Bay Planning Coalition (1982-2011); board member, Historical Society of the U.S. District Court for the Northern District of California (1982-present) and president (2004-2012); past member, Council of Friends of The Bancroft Library, University of California, Berkeley; chair, Advisory Board of the MFA Program in Creative Writing, St. Mary's College of California; California Sea Grant Program Advisory Board; Advisory Board, Law of The Sea Institute, University of California, Berkeley; American Bar Association; California Bar Association; Authors Guild.

Representative Litigation Matters

International

Eritrea-Ethiopia Claims Commission, the Permanent Court of Arbitration, The Hague. Represented Ethiopia in this case arising from the war between the two countries between 1998 and 2000.

United Nations Compensation Commission. Special Advisor from 1998 to 2001 to Commission regarding environmental claims against Iraq arising from the first Gulf War, 1998-2001.

United States Supreme Court

Friends of the Earth v. Laidlaw Environmental Services, Inc., 528 U.S. 167, 145 L.Ed.2d 610 (2000). Represented California Association of Sanitation Agencies as amicus curiae.

United States v. Alaska, 521 U.S. 1, 138 L.Ed.2d 231 (1997). Tried lengthy case before Special Master J. Keith Mann in 1984 and 1985, which produced the longest Special Master report in Supreme Court history, and appeared for defendant State of Alaska before the Supreme Court in 1997. The case concerned the application of international law-of-the-sea conventions to the Arctic coast of Alaska.

United States v. California, 449 U.S. 1028 (1980). Tried case before Special Master Alfred Arraj in 1978 and 1979, and appeared before the Supreme Court on behalf of defendant State of California in 1980. The case concerned the application of international conventions to the coast of California.

Georgia v. South Carolina, 475 U.S. 1115 (1986). Served as special counsel to the State of Georgia during trial proceedings before special master, and before Supreme Court, on the questions of the lateral seaward boundary, initially to 200 nautical miles, between the states of South Carolina and Georgia, under applicable international law.

California v. Arizona and the United States, U.S. Supreme Court (1977-78). Following a decision of the Court, 440 U.S. 59, tried the case before the Court's Special Master, which resulted in decree in favor of California, 452 U.S. 431 (1981).

United States v. Louisiana, Alabama and Mississippi Boundary Case, 470 U.S. 93 (1985). Filed brief as amicus curiae on behalf of the State of Alaska, urging the position of the states.

United States v. Maine, Rhode Island and New York Boundary Case, 469 U.S. 504 (1985). Filed brief as amicus curiae on behalf of State of Alaska, urging the position of the states.

Mr. Briscoe has participated as amicus curiae in numerous other cases in the Supreme Court since 1974.

California Supreme Court

Stockton Citizens for Sensible Planning v. City of Stockton, A.G. Spanos Companies, et al., 48 Cal.4th 481 (2010).

Redevelopment Agency v. Gilmore, 38 Cal.3d 790 (1985). Argued before the California Supreme Court on behalf of property owners in this condemnation case.

People v. Weeren, 26 Cal.3d 654 (1980). Argued before the California Supreme Court on behalf of State of California in fisheries case.

9th Circuit Court of Appeals

Mr. Briscoe has appeared before the Ninth Circuit Court of Appeals on several occasions. Two recent cases are: *Intertanko v. State of Washington*, 148 F.3d 1053 (9th Cir. 1999), and *Government of Guam v. United States of America*, 179 F.3d 630 (9th Cir. 1999).

California Courts of Appeals

Mr. Briscoe has argued before the California Courts of Appeal on many occasions. Many of the decisions in the cases he has argued have not been published but a number have. Three of the more unusual cases are *People ex rel. State Lands Commission v. Superior Court*, 36 Cal.App.3d 727 (1973) and *Hitchings v. Del Rio Woods Recreation & Park District*, 55 Cal.App.3d (1976), and *Bay Island Club v. California Coastal Commission*, 2012 Cal.App. Unpub. LEXIS 4459 (Cal.App. 4th Dist. June 14, 2014)

Trial Court Cases

In the federal and state trial courts, Mr. Briscoe has tried condemnation, land-use, environmental, and other property or natural resource cases. In the federal courts, he has represented clients such as the States of Alaska, Georgia and California, the territory of Guam, the United States Chamber of Commerce, the California Association of Sanitation Agencies, the California Land Title Association, the developer of the Squaw Creek Project at North Lake Tahoe, the Vallejo Sanitation and Flood Control District, and First American Title Insurance Company. In state courts he has represented such clients as the Association of California Water Agencies, The Grupe Company, Marriott Corporation (in three separate lawsuits regarding the San Francisco Airport Marriott Hotel), the former Leslie Salt Co. (now Cargill, Incorporated), the Sohio Petroleum Company (the final redetermination of interests in the Prudhoe Bay oil field in Alaska), and W.R. Grace & Company in class action litigation regarding asbestos in California homes.

Administrative Matters

In addition, Mr. Briscoe has represented clients in hundreds of matters before administrative agencies such as the United States Army Corps of Engineers, the San Francisco Bay Conservation and Development Commission, the California Coastal Commission, the Environmental Protection Agency, the California State Lands Commission, the California Water Resources Control Board, and various California Regional Water Quality Control Boards. His clients in these matters have included major real-estate developers, water interests, oil and mining companies, railroads, municipalities, the Ports of Oakland and Richmond, and 1969 Oscar winner (for Best Actor), Cliff Robertson.

Selected Publications:

Books

- *Tadich Grill: The Story of San Francisco's Oldest Restaurant* (Ten Speed Press, 2002)

- *Surveying the Courtroom* (2d ed., John Wiley & Sons, 1999)
- *Falsework* (1998)
- *Reports of the Special Masters in the Submerged Lands Cases* (Landmark Press, 1993)
- *Surveying the Courtroom* (Landmark Press, 1984)
- Four in preparation on wine in California, ancient Chinese poetry, light verse and the craft of the law.

Articles

- *The Real Needleman on Mortgages, on Law of the Sea, and Much More*, Law of the Sea Institute (2013) [to be published]
- (With Peter Prows), *The Role of Islands in the Generation of Boundaries at Sea in The Limits of Maritime Jurisdiction*, (Schofield, Lee, Kwon eds., Law of the Sea Institute 2013)
- (With Reinhard E. Flick), et al., “*Flooding*” Versus “*Inundation*,” 93 EOS, Transactions, American Geophysical Union 38 (September 18, 2012)
- *The Great Martini Fraud*, Argonaut, vol. xxviii, no. 4537 (November 2011).
- John Briscoe & Peter Prows, *The U.N. Convention on the Law of the Sea Turns 27, and American Ratification Is Not in Sight – Still*, 1 Berkeley J. Int’l L. Publicist 18 (2009)
- *Garret McEnerney: California’s Greatest Lawyer?*, 15 The Argonaut, Journal of the San Francisco Museum and Historical Society 1 (Summer 2004)
- *The Aboriginal Land Title of the Native People of Guam*, 26 University of Hawai’i Law Review 1 (Winter 2003)
- *A Life of Law and Letters – Louis F. Claiborne, 1927-1999*, XXIII The Supreme Court Historical Society Quarterly 3 (2002)
- *Iraq’s Defilement of the Gulf Environment, and the Damages Awards To Come*, in Proceedings of the Twenty Third Annual Conference, Current Maritime Issues and the International Maritime Organization, London, England (January 7, 1999)

- *The Division of America's Offshore Zones Between Nation and State*, presented at conference, Implications of Entry into Force of the Law of the Sea Convention for U.S. Ocean Governance, University of Hawaii, Honolulu, Hawaii (January 9-11, 1995), published in *Implications of Entry into Force of the Law of the Sea Convention for U.S. Ocean Governance*, The Ocean Governance Study Group, University of Hawaii (April 1995)
- *Wetlands and Ex-Wetlands in California: The Perils of Insuring Their Titles*, in *Title Insurance, Real Estate Law and Practice* (Course Handbook Series, No. N-412, 1995)
- *The Clean Water and Endangered Species Acts – Reform is in Sight (But of What Kind?)*, San Francisco Business Times (January 24, 1992)
- *The Effect of President Reagan's 12-Mile Territorial Sea Proclamation on the Boundaries and Extra-Territorial Powers of the Coastal States*, University of California (1991), reprinted in 2 *Territorial Sea Journal* 225 (1992)
- Book Review, *The Juridical Bay* by Gail Westerman, 20 *Ocean Development and International Law* (1989)
- *America's Offshore Zones*, Western Legislative Conference Ocean Resources Committee, Monterey, California (November 11, 1989)
- *Islands in Maritime Boundary Delimitation*, 7 *Ocean Yearbook* (1988)
- *The Use of Islands in Maritime Boundary Delimitation*, in *Rights to Oceanic Resources* (Dallmeyer and DeVorse eds.), Dean Rusk Center for International and Comparative Law, University of Georgia (1989) (based on paper presented at a symposium held at the Center on May 2, 1987)
- *Federal-State Offshore Boundary Disputes: The State Perspective*, in *The Developing Order of the Oceans*, (Krueger and Riesenfeld eds., Law of the Sea Institute 1985)
- *Seabed Mineral Discoveries Within National Jurisdiction and the Future of the Law of the Sea*, 18 *University of San Francisco Law Review* 433 (1984)
- *Delimitation Questions in United States v. California* (1980), 25 *Journal of Urban and Contemporary Law* 203 (1983)

- *Developing Sites Near Water: Running a Government Gauntlet*, Journal of the Industrial Development Research Council 27 (March/April 1983)
- *The Use of Tidal Datums in the Law*, 43 Surveying and Mapping 115 (1983)
- *An Introduction to Civil Procedure and Evidence for the Land Surveyor*, 73 Bulletin of the American Congress on Surveying and Mapping 27 (1981)
- *Legal Problems of Tidal Marshes*, in San Francisco Bay: The Urbanized Estuary, The Pacific Division of the American Association for the Advancement of Science (1979)
- *Gion After Seven Years: Revolution of Evolution?*, 53 Los Angeles Bar Journal 207 (1977)
- Reidel, *37 Photographs and Luros: The Disinterring of Roth*, 6 University of San Francisco Law Review 399 (1972)

