

John Briscoe



Law Practice

John Briscoe has tried and argued cases in the Permanent Court of Arbitration in The Hague, the United States Supreme Court, and lower federal and state courts. Abroad, he has represented Ethiopia, South Korea, Kuwait, Mexico, and Palau in disputes with other states. Following the Gulf War of 1991 he was special adviser to the United Nations commission established to hear the reparations claims against Iraq, particularly the environmental claims. At home he has represented the States of Alaska, Hawaii, Georgia, and California, the American Territory of Guam, numerous port authorities and many real-estate and natural-resources interests.

Contact

Direct: (415) 402-2701
jbriscoe@briscoelaw.net

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

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, a case which like the others (save for Hawaii) went to the United States Supreme Court.

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, including California history and ancient Chinese poetry.

He is a Distinguished Fellow of the Law of the Sea Institute, University of California Berkeley, a member of the Advisory Board of the Rhodes Academy of Oceans Law and Policy in Rhodes, Greece, and formerly an 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). He is co-owner of San Francisco's Sam's Grill, established in 1867, the fifth-oldest restaurant in the country, and is immediate past president of the San Francisco Historical Society.

His poetry and prose in fields other than law have received critical praise, including first prize in the Top Shelf Book Awards for 2019 and The Oscar Lewis Award in western history, given by The Book Club of California, for 2020. For reviews see www.johnbriscoeauthor.com.

Briscoe was named Lawyer of the Year in San Francisco in Land Use and Zoning Law in 2020, and Lawyer of the Year in San Francisco in the Field of Water Law in 2021, by the Best Lawyers publication.

The University of California, Berkeley has taken his seventeen-hour oral history, and published it in the fall of 2021. ucblib.link/OHC-JohnBriscoe

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, (1990-2002).

Representative Cases

International

Eritrea-Ethiopia Claims Commission, the Permanent Court of Arbitration, The Hague, Case No. 2001-02. 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, 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, 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 Appeal

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

Mr. Briscoe tried and argued the case of Eritrea v. Ethiopia in The Permanent Court of Arbitration in The Hague in 2004-2005, on behalf of Ethiopia. The case included charges by each side that the other had violated the laws of war, and various other tenets of international law, during the countries' bloody war waged between 1998 and 2000.

In the late 1990s as a special advisor to The United Nations Mr. Briscoe, in consultation with the five Middle East states most affected, drafted rules of evidence and procedure for the U.N. tribunal that would hear the environmental claims against Iraq arising out of the Gulf War.

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.

Professional Activities & Memberships

Member, Advisory Board for the United States Consortium for the Rhodes Academy of Oceans Law and Policy, Rhodes, Greece

President, San Francisco Historical Society (2019-2021) and board member (2015-present)

Founding member, twice chair, and member, Board of Directors, San Francisco Bay Planning Coalition (1982-2011)

Trustee, San Francisco Maritime National Park Association, (2014-present)

Board member, Historical Society of the U.S. District Court for the Northern District of California (1985-present) and president (2004-2012)

Member, Council of Friends of The Bancroft Library, University of California, Berkeley, (1993-1999, and 2021-present)

Member and past chair, Advisory Board of the MFA Program in Creative Writing, St. Mary's College of California (1995-present)

Member, board of directors, *Catamaran Literary Reader* (a literary magazine)

Member, California Sea Grant Program Advisory Board (1995-2007)

Advisory Board, Law of The Sea Institute, University of California, Berkeley (2002-present)

Patron, American Society of International Law

Authors Guild

Marines Memorial Club

Irish-Israeli-Italian Society of San Francisco

E Clampus Vitus

Calamari Club

Selected Publications

Books (other than law)

A Child's Christmas in San Francisco (San Francisco: Last Gasp Press, 2020)

Crush: The Triumph of California Wine (Reno: University of Nevada Press, 2018)

The Lost Poems of Cangjie (Sebastopol, California: Risk Press, 2016)

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

Surveying the Courtroom, 2nd ed., (New York: John Wiley & Sons, 1999)

Falsework (Brightlingsea, England: Technographics Press, 1998)

Reports of the Special Masters in the Submerged Lands Cases (Rancho Cordova, California: Landmark Press, 1993)

Surveying the Courtroom (Rancho Cordova, California: Landmark Press, 1984)

(Addendum to) *The Court That Tamed the West* (Berkeley: Heyday, 2013)

Selected Articles

“Of Colleges and Halls, and Judges Bearing Gifts: Reflections on the Great Denaming Debate,” *The California Supreme Court Historical Society Journal*, page 2 (Spring/Summer 2023), <https://www.cschs.org/wp-content/uploads/2023/06/2023-CSCHS-Review-Spring.pdf>

“As Santayana Winces,” *The Book Club of California Quarterly*, vol. LXXXV, number 4, page 119 (fall 2020), written in acceptance of the Oscar Lewis Award in Western History for 2020, <https://www.bccbooks.org/oscar-lewis-awards/>

“California’s ‘Long War of Extermination,’” California State Library, fall 2020, <https://cal170.library.ca.gov/californias-long-war-of-extirmination/>

“The Finest College Football Team of All Time—Both on the Field and Off,” California State Library, fall 2020, <https://cal170.library.ca.gov/the-finest-college-football-team-of-all-time-both-on-the-field-and-off/>

“Reshaping the World as the Atomic Age Dawns,” California State Library, fall 2020, <https://cal170.library.ca.gov/reshaping-the-world-as-the-atomic-age-dawns/>

“The Ancient and Honorable Art of Light Verse” *Catamaran Literary Reader*, vol. 4, issue 4, p. 83 (winter 2020)

“Lewis M. Alexander, Modern Master Mariner of the Law of the Sea,” in H. Scheiber, N. Oral, and M. Kwon, eds., *Ocean Law Debates: The 50-year Legacy and Emerging Issues for the Years Ahead*, Law of the Sea Institute (Leiden: Brill Nijhoff, 2018), p. 169

“The Moral Case for Renaming Hastings College of the Law,” *San Francisco Chronicle*, (July 10, 2017) p. , ([online version](#) posted July 9, 2017)

“The Judgment of Paris,” *Catamaran Literary Reader*, vol. 4, issue 3, p. 47 (fall 2016)

“A Remembrance of Stefan A. Riesenfeld,” in H. Scheiber, et al., eds., *Science, Technology and New Challenges of Ocean Law*, Law of the Sea Institute (Leiden: Brill Nijhoff, 2015), p. 453

“The Role of Islands in the Generation of Boundaries at Sea” (with Peter Prows), in C. Schofield, S. Lee and M. Kwon, eds., *The Limits of Maritime Jurisdiction*, Law of the Sea Institute (Leiden: Martinus Nijhoff, 2014), p. 79

“‘Flooding’ Versus ‘Inundation’” (With Reinhard E. Flick of Scripps Institution of Oceanography), 93 *EOS, Transactions, American Geophysical Union* 38 (September 18, 2012)

“The Great Martini Fraud,” *Argonaut*, (Warren Hinckle, ed.) vol. xxviii, no. 4537 (November 2011)

“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 W. 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 Hawaii 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 Award To Come,” in *Current Maritime Issues and the International Maritime Organization*, Proceedings of the Twenty Third Annual Conference of the International Maritime Organization, (January 7, 1999)

“The Division of America’s Offshore Zones Between Nation and State,” 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 Effect of President Reagan’s 12-Mile Territorial Sea Proclamation on the Boundaries and Extra-Territorial Powers of the Coastal States,” 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,” (Dallmeyer and DeVorsey eds.), *Rights to Oceanic Resources*, Dean Rusk Center for International and Comparative Law, (Dordrecht: Martinus Nijhoff, 1989)

“Federal-State Offshore Boundary Disputes: The State Perspective,” Krueger and Riesenfeld eds., *The Developing Order of the Oceans*, 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 New 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 or 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)