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8 Attorneys for Plaintiffs Ananta Baidya, Jon Coffman,  
9 Jennifer Smith and Carol L. Young, individually, and on  
10 behalf of all others similarly situated

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF SAN DIEGO**

13 ANANTA BAIDYA, JON COFFMAN,  
14 JENNIFER SMITH and CAROL L. YOUNG,

15 Plaintiffs,

16 v.

17 SAN DIEGO CITY EMPLOYEES'  
18 RETIREMENT SYSTEM, and DOES 1-30,

19 Defendants.

CASE NO: 37-2011-00096237-  
CU-PO-CTL

DECLARATION OF MICHAEL A.  
CONGER IN SUPPORT OF  
PLAINTIFFS' MOTION TO  
CERTIFY CLASS ACTION  
[Cal. Rules of Court 3.764]

Date: April 17, 2013  
Time: 10:00 A.M.  
Judge: Hon. Ronald S. Prager  
Dept: C-71  
Action Filed: August 12, 2011  
Trial Date: Not yet set

20 I, Michael A. Conger, declare as follows:

21 1. I am an attorney at law duly licensed to practice before all courts of the State of  
22 California. I have personal knowledge of the matters stated herein and if called to do so could  
23 testify competently thereto.

24 2. I attended Vanderbilt University in Nashville, Tennessee from 1979 to 1983, and  
25 obtained an undergraduate degree in economics and was invited to join and joined Omicron  
26 Delta Epsilon, an economics honorary society based on scholastic merit. I thereafter attended  
27 law school at Vanderbilt and graduated in 1986. From 1986 to 1990 I practiced litigation with a  
28 very good firm in Tulsa, Oklahoma. In 1990 I moved to San Diego with my family and have  
practiced law continuously in San Diego since then.

1           3.       I have a great deal of experience in civil litigation, including class action cases  
2 and pension-related litigation, including several pension class actions involving the City of San  
3 Diego's employee pension fund. I have been lead counsel or co-counsel in several class action  
4 cases or multiple plaintiff cases in both state and federal court, including:

5               a.       *Stapel, et al. v. San Diego County Employees Retirement Association*, San  
6 Diego Superior Court Case No. 722450 (Judicial Council Coordination Proceeding No. 4049), a  
7 class action on behalf of more than 27,000 members of the San Diego County Employees  
8 Retirement Association ("SDCERA"). This case was coordinated with 16 cases pending in other  
9 counties in California and assigned to Judge Pollack in San Francisco. Judge Pollak granted  
10 class certification over the objections of the County of San Diego and SDCERA. This case  
11 resolved favorably, after motions for summary adjudication/judgment, on February 14, 2002, for  
12 a total settlement of approximately \$1.2 billion;

13               b.       *Corbett, et al. v. San Diego City Employees Retirement System*  
14 ("*Corbett*"), San Diego Superior Court Case No. 722449, before The Honorable Robert E. May,  
15 a class action on behalf of more than 15,000 members of the San Diego City Employees'  
16 Retirement System ("SDCERS"). I brought the case and acted as lead class counsel, although  
17 four additional attorneys intervened and represented various sub-classes. The case was resolved  
18 in May of 2000 for more than \$162 million;

19               c.       *Andrecht, et al. v. San Diego Unified Port District, et al.* ("*Andrecht*"),  
20 San Diego Superior Court Case No. GIC746436. This class action, brought before The  
21 Honorable Robert E. May, resolved favorably for slightly more than \$15 million in November,  
22 2001. I was the lead attorney for the class of more than 850 current and former Port District  
23 employees, including the San Diego Harbor Police Officers Association;

24               d.       *Hines, et al. v. CSK Auto, Inc.*, San Diego Superior Court Case No.  
25 720346 (Judicial Council Coordination Proceeding No. 4067). This was a class action brought  
26 before The Honorable Kevin A. Enright on behalf of Kragen Auto Parts store managers and  
27 senior assistant managers which settled in 2001 for more than \$11 million. I was co-class  
28 counsel for a class of more than 1,500 employees;

1 e. *Albrecht, et al. v. Rite Aid Corporation, et al.*, San Diego Superior Court  
2 Case No. 729219, before The Honorable J. Richard Haden, a class action seeking overtime  
3 wages for Rite Aid managers and assistant managers. I was co-counsel for the class of managers  
4 and assistant managers of Rite Aid stores throughout California. There were approximately  
5 3,000 class members. This case resolved favorably in October 2001 for \$25 million;

6 f. *King, et al. v. Lorenz, Alhadeff, Cannon & Rose*, San Diego Superior  
7 Court Case No. 687646, an attorney malpractice class action which resolved for \$3.75 million in  
8 1997. I was lead counsel for the class of more than 1,100 employees of General Dynamics  
9 Corporation;

10 g. *Argo, et al. v. General Dynamics Corporation*, San Diego Superior Court  
11 Case No. 687646. In this non-class action, I was co-counsel representing more than 100  
12 plaintiffs whose primary theory was that they were defrauded from participating in the settlement  
13 of an overtime lawsuit against the company. This case was tried to a jury for eight weeks in 1997  
14 before The Honorable Vincent Di Figlia, and resulted in verdicts for 97 plaintiffs totaling more  
15 than \$101 million. (However, in May 2000, the judgment was reversed by the Court of Appeal,  
16 Fifth Appellate District, for lack of substantial evidence of fraud.);

17 h. *Harman v. General Dynamics Corporation*, United States District Court  
18 Case No. 95-3788-E(RBB). This case was a Fair Labor Standards Act (29 U.S.C. section 16(b))  
19 representative suit, a procedure almost identical to a class action. I was lead counsel in this case  
20 for 135 plaintiffs, who recovered more that \$500,000 in back overtime compensation;

21 i. *Reznack, et al. v. City of San Diego*, United States District Court Case No.  
22 01CV1075 L(CGA). I was lead class counsel for a class of more than 9,200 people seeking  
23 repayment of money wrongfully withheld by the City of San Diego for overpaid parking tickets.  
24 The Honorable M. James Lorenz approved the settlement of this class action in late 2002;

25 j. *Ellsworth, et. al. v. Board of Retirement, San Diego County Retirement*  
26 *Association, et al.*, San Diego Superior Court Case No. 782445. I was lead class counsel in a  
27 case challenging the actuarial treatment of excess earnings under the County Employees  
28 Retirement Act of 1937. This case was resolved two days before Judge E. Mac Amos, Jr., was

1 scheduled to rule on cross motions for summary judgment for, among other things, prospective  
2 declaratory relief regarding the actuarial treatment of SDCERA's surplus undistributed reserve,  
3 and the settlement resulted in the safeguarding of \$350 million of health and cost of living  
4 benefits;

5 k. *Crouch, et al. v. Unites States of America*, United States District Court  
6 Case No. 01-CV-2189 LAB(NLS). I was lead counsel for a class of 352 property owners in the  
7 City of El Cajon who were incorrectly placed in a flood plain by FEMA and forced to buy flood  
8 insurance they did not need. The primary theory of this case was violation of the Due Process  
9 Clause of the Fifth Amendment to the United States Constitution and, although the case was filed  
10 several years after FEMA's error and subsequent correction, it resulted in refunds to property  
11 owners who made claims;

12 l. *Gleason, et al. v. City of San Diego, et al*, San Diego Superior Court Case  
13 No. GIC 803779. I was lead counsel for a class of 6,330 SDCERS members and obtained  
14 increased pension contributions to SDCERS of \$109 million for the period 2005 to 2008; such  
15 additional contributions were secured by \$535 in unencumbered City property as collateral to  
16 protect the class against the possibility of municipal bankruptcy. The settlement of this class  
17 action was approved by Judge Cowett on July 26, 2004;

18 m. *Wood v. Hanson, Bridgett, et al.*, San Diego Superior Court Case No.  
19 830558. I was class counsel for a class of all of the beneficiaries of SDCERS in a case alleging  
20 that fiduciary counsel for the pension plan committed malpractice by advising the retirement  
21 board that entering into an underfunding agreement with the City of San Diego was consistent  
22 with its fiduciary duty. The case resolved in 2005 in a class action settlement approved by Judge  
23 William Pate for fiduciary counsel's insurance policy limits (\$15.5 million) after it was  
24 established that the defendants lacked financial resources to satisfy a judgment which would  
25 justify any further exhaustion of their self-burning malpractice policies;

26 n. *McGuigan v. City of San Diego*, San Diego Superior Court Case No. GIC  
27 849883. I was class counsel for a class of approximately 18,000 SDCERS members and  
28 obtained additional increased pension contributions to SDCERS of \$173 million. The settlement

1 of this class action was approved by the Honorable Richard E. L. Strauss on December 12, 2006,  
2 and affirmed on September 25, 2008, by the Court of Appeal for the Fourth Appellate District,  
3 Division One;

4 o. *Short, et al. v. CC-La Jolla, Inc., et al.*, San Diego Superior Court Case  
5 No. GIC 877707. I was class counsel for a class of 267 elderly residents of Classic Residence by  
6 Hyatt at La Jolla Village. This fraud and elder abuse case was certified on December 14, 2007,  
7 by the Honorable Yuri Hofmann. The case resolved for a value of between \$8 to \$12 million  
8 (depending on how long the elderly class lives) in August 2008, less than two weeks before trial.  
9 Not a single class member objected to the settlement;

10 p. *Rodriguez, et al. v. United Title Company, et al.*, United States District  
11 Court for the Southern District of California Case No. 05cv1019-JAH (POR). I was appointed  
12 class counsel by The Honorable John A. Houston for a class of approximately 30,000 buyers or  
13 sellers of real property in San Diego County who paid title or escrow fees in violation of the  
14 federal Real Estate Settlement Practices Act. The case resolved for \$1 million after all  
15 defendants either declared bankruptcy or demonstrated insolvency in the wake of the collapse of  
16 the real estate market in Southern California over the past two years. Not a single class member  
17 objected to the settlement;

18 q. *Janet Wood v. City of San Diego*, United States District Court for the  
19 Southern District of California Case No. 03cv1910-MMA (POR). I was appointed class counsel  
20 by The Honorable Michael M. Anello in a gender discrimination class action involving the City  
21 of San Diego's employee pension fund;

22 r. *Sloan, et al. v. City of San Diego*, San Diego Superior Court Case No. GIC  
23 848641. This case involved the proper calculation of retirement benefits due to dozens of San  
24 Diego Police officers in the canine unit. It was favorably tried before The Honorable Judith  
25 Hayes in May 2006, and successfully defended on an appeal by the City to the Court of Appeal  
26 for the Fourth Appellate District, Division One, Case No. D049158;

27 s. *Lopez, et al. v. City of San Diego*, San Diego Superior Court Case No. GIC  
28 869054. This case involved the proper calculation of retirement benefits due to dozens of San

1 Diego Police officers in the motorcycle unit. It was favorably resolved in 2008 after the Court of  
2 Appeal issued its opinion in the *Sloan* case;

3 t. *McElroy, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-  
4 2009-00081178-CU-MC-CTL. This case involved the proper calculation of retirement benefits  
5 due to dozens of San Diego Police officers in the canine and motorcycles units not covered by  
6 the *Sloan* or *Lopez* cases. It was favorably resolved in August 2010 after the City lost key rulings  
7 before The Honorable Judith Hayes;

8 u. *Ellis, et al. v. Jackson, DeMarco, Tidus & Peckenpaugh, et al.*, San Diego  
9 Superior Court Case No. 37-2010-00086284-CU-PN-CTL. This case involved a claim of legal  
10 malpractice in handling pension litigation. It was brought on behalf of more than 1,500 San  
11 Diego police officers. The case was certified as a class action and successfully resolved in  
12 March, 2012; and

13 v. *SDPOA v. Jackson, DeMarco, Tidus & Peckenpaugh, et al.*, San Diego Superior  
14 Court Case No. 37-2010-00088794-CU-PN-CTL. This case involved a claim of legal  
15 malpractice in handling pension litigation. It was brought on behalf of the San Diego Police  
16 Officers Association, and successfully resolved in March, 2012.

17 4. Many of the judges in the class action cases I have handled have been very  
18 complimentary of my performance as class counsel. For example, on December 12, 2006, at the  
19 final approval hearing in the *McGuigan* case, Judge Strauss stated that he “appreciated the effort  
20 of all of the attorneys involved in [the case]. . . . It’s been a real service, I think, to the  
21 community to get this resolve[d].” I have received similar compliments from Judges Enright  
22 (both Kevin and William B.), May, Cowett, Pollak, Burns, Di Figlia, Amos, Houston, and Pate.

23 5. I have also been involved in many noteworthy cases. The *Argo* case was the  
24 largest jury verdict (\$101 million) in the State of California in 1997. In the early 1990s I was one  
25 of the attorneys representing the family of Cara Knott in a wrongful death case against the State  
26 of California arising out of Cara’s murder by highway patrolman Craig Peyer. I have argued  
27 cases before the United States Court of Appeals for the Ninth Circuit and the California Court of  
28 Appeal for the Fourth and Fifth Appellate Districts. I have been asked to and have provided

1 continuing legal education courses for attorneys on numerous topics.

2 6. I have received several professional awards and distinctions from my peers in the  
3 legal profession, including: an “AV” rating from Martindale-Hubbell, designation as one of San  
4 Diego’s top attorneys in by other attorneys in balloting conducted by the San Diego Daily  
5 Transcript, an Outstanding Trial Lawyer Award and an Outstanding Advocacy Award from the  
6 Consumer Attorneys of San Diego. I have been asked to be Master in both the J. Clifford  
7 Wallace and William B. Enright Chapters of the American Inns of Court, and have accepted both  
8 requests.

9 7. I believe I am one of the most experienced class action attorneys in the San Diego  
10 area. I am frequently approached by other attorneys—including those also experienced in class  
11 actions—and requested to provide assistance in other class action cases.

12 8. I have met extensively with the named plaintiffs in this matter and discussed with  
13 them their duties and responsibilities as class representatives. I am confident they understand  
14 these duties and responsibilities. They have all volunteered to serve as class representatives.  
15 They each have, without any expectation of compensation, donated several hours for the benefit  
16 of the putative class, despite the burden of responding to several written discovery requests.

17 9. In addition to my services, the plaintiffs have retained a certified appellate  
18 specialist, Richard H. Benes. I have worked on cases with Mr. Benes for almost 20 years.  
19 Attached at Exhibit 1 is a true and correct copy of Mr. Benes’ curriculum vitae.

20 10. Among the other cases listed in paragraphs 3 and 4, *ante*, Mr. Benes assisted me  
21 with the cases set forth in paragraphs 3(b), 3 (g), 3(j), 3(l), 3(m), 3(n), 3(o), 3(q), 3(r), 3(s), 3(t),  
22 3(u) and 3(v).

23 11. I have met on several occasions with the putative class members of Sub-classes A,  
24 B, and C. None has expressed an interest in controlling his or her case personally. Based on  
25 communications with these three groups (*Baidya* [general members], *Lancaster* [Airport  
26 Authority members], and *Lenhart* [safety members]) if the case is not certified, I would estimate  
27 another 700 individual cases will be filed (*Baidya* 500; *Lenhart* 160; *Lancaster* 40).

28 12. The City expressly waived the attorney-client privilege regarding its closed

1 session memoranda attached as Exhibits 12 and 14 to the Notice of Lodgment of Documents in  
2 Support of Motion to Certify Class Action (“NOL”).

3 13. On November 16, 2007, SDCERS publicly promised a full explanation for its  
4 decision to restart the statute of limitations for the City’s second PSC lawsuit, but it has never  
5 provided that explanation. (NOL, Exh. 19 “[t]he Board will issue a report at a future date  
6 documenting the process and reasoning that it employed in reaching its decision”].)

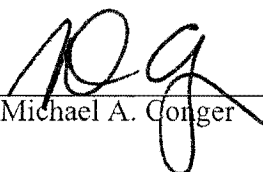
7 14. Although the Government Claims Act does not apply to the claims made in the  
8 *Baidya*, *Lancaster*, or *Lenhart* complaints (Gov. Code, § 905, subs. (c), (f)), all of the plaintiffs  
9 in those cases nevertheless made timely claims, on behalf of themselves and all others similarly  
10 situated. Those claims were rejected by SDCERS.

11 15. The named plaintiffs’ interest in the litigation is not antagonistic to the class and  
12 they have no disabling conflict of interest that might hinder the prosecution of the action on  
13 behalf of the class. Originally, the three cases I filed were filed (*Baidya* [general members],  
14 *Lancaster* [Airport Authority members], and *Lenhart* [safety members]) separately because the  
15 Airport Authority plaintiffs and the safety plaintiffs each had one claim which was different than  
16 the general members. However, the court granted demurrers to the unique claims in these cases  
17 and now all three cases only have remaining claims in common.

18 16. Each of the documents attached to the accompanying Notice of Lodgment in  
19 Support of Plaintiffs’ Motion for Class Certification and Request for Judicial Notice in Support  
20 of Plaintiffs’ Motion for Class Certification are true and correct copies of what they purport to  
21 be.

22 I declare under penalty of perjury under the laws of the State of California that the  
23 foregoing is true and correct.

24 Executed this 24th day of January, 2013, at Rancho Santa Fe, California.

25  
26   
27 Michael A. Conger  
28



# **EXHIBIT 1**

CERTIFIED SPECIALIST  
APPELLATE LAW  
THE STATE BAR OF CALIFORNIA  
BOARD OF LEGAL SPECIALIZATION

RICHARD H. BENES  
ATTORNEY AT LAW  
716 CORDOVA STREET  
SAN DIEGO, CALIFORNIA 92107-4220

TELEPHONE (619) 223-7700  
FACSIMILE (619) 223-7746  
E-MAIL rbenes@cox.net

## CURRICULUM VITAE OF RICHARD H. BENES

### 1. *Education:*

<u>School</u>	<u>Years Attended</u>	<u>Degree</u>
Yale University	1965-1969	B.A.
University of Southern California	1972-1976	J.D.

Executive Editor of Publication, Southern California Law Review, 1974-1975

### 2. *Admission to Law Practice:*

<u>Jurisdiction</u>	<u>Date</u>
California	1976
United States Supreme Court	1981
United States Tax Court	1982
United States Court of Appeals for the Ninth Circuit	1980
United States District Court for the Southern District of California	1976

### 3. *Specialization:*

Certified Specialist, Appellate Law,  
The State Bar of California Board of Legal Specialization  
(since May 17, 1996)

### 4. *Martindale-Hubbell Rating:* AV

RICHARD H. BENES  
ATTORNEY AT LAW

5. *Legal Employment:*

<u>Employer/Address</u>	<u>Dates of Employment</u>
a. Summer Associate  O'Melveny & Myers 400 South Hope Street Los Angeles, California 90071	Summer, 1974
b. Summer Associate  Keatinge, Bates & Pastor Los Angeles, California	Summer, 1975
c. Extern Law Clerk to Associate Justice Stanley Mosk  California Supreme Court 350 McAllister Street San Francisco, California 94102	August, 1975 - January, 1976
d. Senior Research Attorney and Writs Attorney  Court of Appeal of the State of California, Fourth Appellate District, Division One 750 B Street, Suite 300 San Diego, California 92101	March, 1976 - June, 1978
e. Associate and Partner  Procopio, Cory, Hargreaves & Savitch 530 B Street, Suite 1900 San Diego, California 92101	July 1, 1978 - January 15, 1984
f. Partner and President  Benes & Fiorello, A P.C. 401 West A Street, Suite 1300 San Diego, California 92101	January 16, 1984 - September 30, 1990

RICHARD H. BENES  
ATTORNEY AT LAW

<u>Employer/Address</u>	<u>Dates of Employment</u>
g. Sole Proprietor	October 1, 1990 - Present
Richard H. Benes, Attorney at Law 716 Cordova Street San Diego, California 92107-4220	

6. *Appellate Law Activities:*

- a. Past and present appellate law-related activities and publications:
- |           |   |
|-----------|---|
| 2000-2001 | Co-Editor, California Appellate Practice Handbook (7th ed.), published by the San Diego County Bar Association                              |
| 1995-1999 | Appointed Member, Committee on Appellate Courts, State Bar of California (Chair, 1998-1999; Vice Chair, 1997-1998)                          |
| 1995      | Panelist for San Diego County Bar Association Appellate Practice Seminar  |
| 1995      | Presenter of Program on "Thinking Appeal During Trial" to the Litigation Section of the Bar Association for Northern San Diego County       |
| 1993      | Panelist for San Diego County Bar Association Program on the Nuts and Bolts of Civil Appellate Practice                                     |
| 1992      | Moderator for San Diego Legion Lex American Inn of Court Program on The Appellate Process--From the Perspective of Appellate Court Justices |
| 1992      | Panelist for Continuing Education of the Bar Seminar on Handling Civil Appeals  |
| 1991-1992 | Appointed Member, Delay Reduction Committee, Court of Appeal, Fourth Appellate District, Division One                                       |
| 1991      | Chair, Civil Rules Subcommittee, Appellate Court Committee, San Diego County Bar Association  |
| 1987      | Panelist for Continuing Education of the Bar Seminar on Handling Civil Appeals  |

RICHARD H. BENES  
ATTORNEY AT LAW

- 1985 Co-author of syllabus for seminar presented by the Appellate Court Committee of the San Diego County Bar Association -- California Appellate Practice
- 1985 Coordinated Support for Proposition 32 in San Diego
- 1983 Chair, Appellate Court Committee, San Diego County Bar Association
- 1980 Panelist and co-author of syllabus for San Diego Trial Lawyers Association seminar -- Appellate Practice: How To Handle Appeals & Writs in the Appellate Courts

7. *Non-Appellate Law Activities:*

- 1992- Present Charter Member, William L. Todd, Jr. American Inn of Court (Executive Committee, 1997-2001)
- 2005-2007 Member of the Board of Trustees, Institute for Criminal Defense Advocacy [sponsor of the California Innocence Project] (Treasurer/Secretary, 2005-2006)
- 1994-2007 Director of Appellate Defenders, Inc. and Federal Defenders of San Diego, Inc. (President, 1999-2001; Vice President, 1997-1998; Secretary, 1996-1997; Treasurer, 1995-1996)
- 2000-2005 Member, Sunset Cliffs Natural Park Recreation Council
- 1990-1996 Member of the Board of Directors, Legion Lex (San Diego Chapter)
- 1985-1992 Appointed Member, Lawyer Referral and Information Service Committee, San Diego County Bar Association
- 1984-1992 Member, San Diego Trial Lawyers Association
- 1987-1991 Member of the Board of Visitors, University of San Diego School of Law
- 1983-1991 Member, American Judicature Society
- 1984-1990 Director, San Diego County Bar Foundation

RICHARD H. BENES  
ATTORNEY AT LAW

1983-1990 Member, San Diego County Bar Association Delegation,  
Conference of Delegates

1986-1988 Member of the Advisory Board, The San Diego Law Center

1986 Vice President and Director, San Diego County Bar Association

1985 Treasurer and Director, San Diego County Bar Association

1984 Judge Pro Tempore, San Diego County Superior Court

1984 Director, San Diego County Bar Association

1983-1984 Vice-Chair, State Bar Committee on Mandatory Fee Arbitration

1981-1982 Chair, Arbitration Committee, San Diego County Bar Association

1989-  
Present Arbitrator, American Arbitration Association

1978-  
Present Member, Lawyers Club of San Diego

1976-  
Present Member, San Diego County Bar Association

1976-2006 Member, American Bar Association

8. *Published Appellate Cases Handled as Lead Counsel:*

	<u>Case Name</u>	<u>Number</u>	<u>Court</u>	<u>Date</u>	<u>Citation</u>
a.	<i>Wood v. City of San Diego</i>	10-56826	9th Cir.	05/09/12	678 F.3d 1075
b.	<i>Cahill v. San Diego Gas &amp; Electric Co.</i>	D057024	CA(4/1)	04/27/11	194 Cal.App.4th 939
c.	<i>Wherry v. Award, Inc.</i>	G042404	CA(4/3)	02/09/11	192 Cal.App.4th 1242
d.	<i>McGuigan v. City of San Diego</i>	D055199	CA(4/1)	04/06/10	183 Cal.App.4th 610
e.	<i>Townsend v. Townsend</i>	D052325	CA(4/1)	02/23/09	171 Cal.App.4th 389

RICHARD H. BENES  
ATTORNEY AT LAW

<u>Case Name</u>	<u>Number</u>	<u>Court</u>	<u>Date</u>	<u>Citation</u>
f. <i>Crawford, et al. v. Weather Shield Mfg. Co.</i>	S141541	California Supreme Court	07/21/08	44 Cal.4th 541
g. <i>San Diego County Employees Retirement Assn. v. County of San Diego</i>	D048038	CA(4/1)	06/07/07	151 Cal.App.4th 1163
h. <i>Bonner v. County of San Diego</i>	D045238	CA(4/1)	05/26/06	139 Cal.App.4th 1336
i. <i>Bandt v. Board of Retirement</i>	D044999	CA(4/1)	01/30/06	136 Cal.App.4th 140
j. <i>Emerald Bay Community Assn. v. Golden Eagle Ins. Corp.</i>	G032597	CA(4/3)	06/29/05	130 Cal.App.4th 1078
k. <i>Caira v. Offner</i>	D042481	CA(4/1)	01/26/05	126 Cal.App.4th 12
l. <i>In re Estate of Stoddart</i>	D041026	CA(4/1)	02/19/04	115 Cal.App.4th 1118
m. <i>Stephens v. Superior Court</i>	D038328	CA(4/1)	02/08/02	96 Cal.App.4th 54
n. <i>Williamson, et al. v. General Dynamics Corp.</i>	98-55783	9th Cir.	04/12/00	208 F.3d 1144
o. <i>Tinseltown Video, Inc., et al. v. Transportation Insurance Co.</i>	D024037	CA(4/1)	01/30/98	61 Cal.App.4th 184
p. <i>Bay Summit Community Assn. v. Shell Oil Co.</i>	D018345	CA(4/1)	12/16/96	51 Cal.App.4th 762
q. <i>Wilson v. Gentile</i>	B057235	CA(2/7)	08/04/92	8 Cal.App.4th 759
r. <i>Holliday v. Jones</i>	D006879	CA(4/1)	09/28/89	215 Cal.App.3d 102

RICHARD H. BENES  
ATTORNEY AT LAW

<u>Case Name</u>	<u>Number</u>	<u>Court</u>	<u>Date</u>	<u>Citation</u>
s. <i>Security Pacific National Bank v. Williams</i>	D004365	CA(4/1)	08/31/89	213 Cal.App.3d 927 (decertified)
t. <i>Yarbrough v. Superior Court</i> (amicus curiae brief)	S.F. 24698	California Supreme Court	07/29/85	39 Cal.3d 197
u. <i>I.E. Associates v. Safeco Title Insurance Co.</i>	4 Civ. 31042	CA(4/1)	07/02/84	158 Cal.App.3d 52
v. <i>E.S. Bills, dba Sanesco v. Tzucanow</i>	4 Civ. 26757	CA(4/1)	08/30/83	147 Cal.App.3d 1194
w. <i>Moran v. Harris</i>	4 Civ. 22798	CA(4/1)	04/20/82	131 Cal.App.3d 913
x. <i>United Nuclear Corp. v. Superior Court</i>	4 Civ. 24286	CA(4/1)	12/16/80	113 Cal.App.3d 359
y. <i>New Linen Supply v. Eastern Environmental Controls, Inc., et al.</i>	4 Civ. 18628 4 Civ. 18630	CA(4/1)	09/11/79	96 Cal.App.3d 810

9. *Professional Awards:*

- a. May 1, 1987      Annual Award for Outstanding Service to the San Diego County Bar Association
- b. April 5, 1983      Award in Recognition of Exceptional Services as the Chairman of the San Diego Bar Association Arbitration Committee for 1981 and 1982

10. *Expert Witness Experience:*

2003      *Reis, et al. v. Kolodny & Pressman, et al.;*  
American Arbitration Association Case No. 71 194 1126 02 SACO  
Appellate malpractice



RICHARD H. BENES  
ATTORNEY AT LAW

- 1997      *Shega v. Southern California Physicians Insurance Exchange;*  
San Diego County Superior Court Case No. 666735  
Appellate malpractice
- 1996      *Short v. Scuba;*  
San Diego County Superior Court Case No. 685645  
Legal malpractice
- 1994      *Rouse v. Kershek, et al.;*  
San Diego County Superior Court Case No. 674195  
Appellate malpractice
- 1993      *Hammond v. Ravin, et al.;*  
San Diego County Superior Court Case No. 655111;  
Appellate malpractice
- 1992      *Keiser v. Cannon, et al.;*  
San Diego County Superior Court Case No. 646207;  
Appellate malpractice
- 1992      *Hughes v. Backes, Friesen & Wolf;*  
San Diego County Superior Court Case No. 649135;  
Appellate malpractice
- 1984      *Voss & Cook v. Mahfouz;*  
United States District Court for the Southern District  
of California Case No. 84-0537-JLI(CM)  
Court-appointed expert witness on the subject of  
attorneys' fees in appellate representation