

1 **MICHAEL A. CONGER, ESQUIRE (State Bar No. 147882)**  
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6 Telephone: (858) 759-0200  
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8 Attorneys for Plaintiffs Christopher Ellis, Bradley D. Elow,  
9 Robert Finch and Howard LaBore 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 CHRISTOPHER ELLIS, BRADLEY D. ELOW, )  
14 ROBERT FINCH and HOWARD LaBORE, )  
15 individually, and on behalf of all others similarly )  
16 situated, )

17 Plaintiffs, )

18 v. )

19 JACKSON, DeMARCO, TIDUS & )  
20 PECKENPAUGH, A LAW CORPORATION, )  
21 GREGORY GLENN PETERSEN, an individual, )  
22 CHRISTOPHER D. NISSEN, an individual, )  
23 BRADLEY MATHEWS, an individual, )  
24 STEPHENEY R. WINDSOR, an individual, )  
25 MICHAEL ANTHONY JENKINS, an individual, )  
26 and DOES 1-50, )

27 Defendants. )

CASE NO: 37-2010-00086284-  
CU-PN-CTL

DECLARATION OF MICHAEL A.  
CONGER IN SUPPORT OF  
PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION

Date: November 19, 2010  
Time: 10:00 a.m.  
Judge: Hon. Ronald S. Prager  
Dept: C-71  
Complaint Filed: February 24, 2010  
Trial: July 15, 2011

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

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

2. I attended Vanderbilt University in Nashville, Tennessee from 1979 to 1983, and obtained an undergraduate degree in economics and was invited to join and joined Omicron Delta Epsilon, an economics honorary society based on scholastic merit. I thereafter attended law school at Vanderbilt and graduated in 1986. From 1986 to 1990 I practiced litigation with a

1 very good firm in Tulsa, Oklahoma. In 1990 I moved to San Diego with my family and have  
2 practiced law continuously in San Diego since then.

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

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

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

21 c. *Andrecht, et al. v. San Diego Unified Port District, et al.* ("*Andrecht*"),  
22 San Diego Superior Court Case No. GIC746436. This class action, brought before The  
23 Honorable Robert E. May, resolved favorably for slightly more than \$15 million in November,  
24 2001. I was the lead attorney for the class of more than 850 current and former Port District  
25 employees, including the San Diego Harbor Police Officers Association;

26 d. *Hines, et al. v. CSK Auto, Inc.*, San Diego Superior Court Case No.  
27 720346 (Judicial Council Coordination Proceeding No. 4067). This was a class action brought  
28 before The Honorable Kevin A. Enright on behalf of Kragen Auto Parts store managers and

1 senior assistant managers which settled in 2001 for more than \$11 million. I was co-class  
2 counsel for a class of more than 1,500 employees;

3 e. *Albrecht, et al. v. Rite Aid Corporation, et al.*, San Diego Superior Court  
4 Case No. 729219, before The Honorable J. Richard Haden, a class action seeking overtime  
5 wages for Rite Aid managers and assistant managers. I was co-counsel for the class of managers  
6 and assistant managers of Rite Aid stores throughout California. There were approximately  
7 3,000 class members. This case resolved favorably in October 2001 for \$25 million;

8 f. *King, et al. v. Lorenz, Alhadeff, Cannon & Rose*, San Diego Superior  
9 Court Case No. 687646, an attorney malpractice class action which resolved for \$3.75 million in  
10 1997. I was lead counsel for the class of more than 1,100 employees of General Dynamics  
11 Corporation;

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

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

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

27 j. *Ellsworth, et al. v. Board of Retirement, San Diego County Retirement*  
28 *Association, et al.*, San Diego Superior Court Case No. 782445. I was lead class counsel in a

1 case challenging the actuarial treatment of excess earnings under the County Employees  
2 Retirement Act of 1937. This case was resolved two days before Judge E. Mac Amos, Jr., was  
3 scheduled to rule on cross motions for summary judgment for, among other things, prospective  
4 declaratory relief regarding the actuarial treatment of SDCERA's surplus undistributed reserve,  
5 and the settlement resulted in the safeguarding of \$350 million of health and cost of living  
6 benefits;

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

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

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

27 n. *McGuigan v. City of San Diego*, San Diego Superior Court Case No. GIC  
28 849883. I was class counsel for a class of approximately 18,000 SDCERS members and

1 obtained additional increased pension contributions to SDCERS of \$173 million. The settlement  
2 of this class action was approved by the Honorable Richard E. L. Strauss on December 12, 2006  
3 and affirmed on September 25, 2008, by the Court of Appeal for Fourth Appellate District for the  
4 State of California;

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

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

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

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

28 s. *Lopez, et al. v. City of San Diego*, San Diego Superior Court Case No. GIC

1 869054. This case involved the proper calculation of retirement benefits due to dozens of San  
2 Diego Police officers in the motorcycle unit. It was favorably resolved in 2008 after the Court of  
3 Appeal issued its opinion in the *Sloan* case; and

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

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

15 5. I have also been involved in many noteworthy cases. The *Argo* case was the  
16 largest jury verdict (\$101 million) in the State of California in 1997. In the early 1990s I was one  
17 of the attorneys representing the family of Cara Knott in a wrongful death case against the State  
18 of California arising out of Cara’s murder by highway patrolman Craig Peyer. I have argued  
19 cases before the United States Court of Appeals for the Ninth Circuit and the California Court of  
20 Appeal for the Fourth and Fifth Districts. I have been asked to and have provided continuing  
21 legal education courses for attorneys on numerous topics.

22 6. I have received several professional awards and distinctions from my peers in the  
23 legal profession, including: an “AV” rating from Martindale-Hubbell, designation as one of San  
24 Diego’s top attorneys in 2005, 2006, and 2007 by other attorneys in balloting conducted by the  
25 San Diego Daily Transcript, an Outstanding Trial Lawyer Award and an Outstanding Advocacy  
26 Award from the Consumer Attorneys of San Diego. I have been asked to be Master in both the  
27 J. Clifford Wallace and William B. Enright Chapters of the American Inns of Court, and have  
28 accepted both requests.

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

4           8.       I have met extensively with the named plaintiffs in this matter and discussed with  
5 them their duties and responsibilities as class representatives. I am confident they understand  
6 these duties and responsibilities. They have all volunteered to serve as class representatives.  
7 They each have, without any expectation of compensation, donated dozens of hours for the  
8 benefit of their fellow police officers, despite the burden of sitting for days-long videotaped  
9 depositions conducted by four defense attorneys and responding to thousands of written  
10 discovery requests. They have prosecuted a focused negligence claim against those attorneys  
11 primarily responsible for the malpractice in a manner preserving the limited available insurance  
12 coverage.

13           9.       In addition to my services, the plaintiffs have retained a certified appellate  
14 specialist, Richard H. Benes, who has already successfully opposed a writ petition by defendant  
15 Petersen when this Court overruled his demurrer. I have worked on cases with Mr. Benes for  
16 almost 20 years. Attached at Exhibit 1 is a true and correct copy of Mr. Benes' curriculum vitae.

17           10.       Among the other cases listed in paragraphs 3 and 4, *ante*, Mr. Benes assisted me  
18 with the cases set forth in paragraphs 3(b), 3(l), 3(m), 3(n), 3(q), 3(r), 3(s), and 3(t).

19           11.       No putative class member has expressed an interest in controlling his or her case  
20 personally, and I know of no other similar malpractice claims being prosecuted by other  
21 plaintiffs.

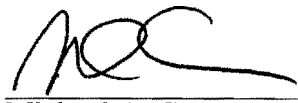
22           12.       I have already obtained, through verified discovery responses from the defendants,  
23 information regarding available insurance—\$20 million of self-burning coverage. I have also  
24 had an expert analysis of the damages prepared and have voluntarily shared this analysis with the  
25 defendants. The damages in this case exceed \$140 million. Because only \$20 million in self-  
26 burning coverage is available for claims exceeding \$140 million, there are numerous claimants  
27 and a limited fund.

28           13.       Each of the documents attached to the accompanying Notice of Lodgment in

1 Support of Plaintiffs' Motion for Class Certification and Request for Judicial Notice in Support  
2 of Plaintiffs' Motion for Class Certification are true and correct copies of what they purport to  
3 be.

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

6 Executed this 15 day of October, 2010, at Rancho Santa Fe, California.

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10 Michael A. Conger

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# **EXHIBIT 1**

## 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

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

- 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>McGuigan v. City of San Diego</i>	D055199	CA(4/1)	04/06/10	183 Cal.App.4th 610
b. <i>Townsend v. Townsend</i>	D052325	CA(4/1)	02/23/09	171 Cal.App.4th 389
c. <i>Crawford, et al. v. Weather Shield Mfg. Co.</i>	S141541	California Supreme Court	07/21/08	44 Cal.4th 541

RICHARD H. BENES  
ATTORNEY AT LAW

<u>Case Name</u>	<u>Number</u>	<u>Court</u>	<u>Date</u>	<u>Citation</u>
d. <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
e. <i>Bonner v. County of San Diego</i>	D045238	CA(4/1)	05/26/06	139 Cal.App.4th 1336
f. <i>Bandt v. Board of Retirement</i>	D044999	CA(4/1)	01/30/06	136 Cal.App.4th 140
g. <i>Emerald Bay Community Assn. v. Golden Eagle Ins. Corp.</i>	G032597	CA(4/3)	06/29/05	130 Cal.App.4th 1078
h. <i>Caira v. Offner</i>	D042481	CA(4/1)	01/26/05	126 Cal.App.4th 12
i. <i>In re Estate of Stoddart</i>	D041026	CA(4/1)	02/19/04	115 Cal.App.4th 1118
j. <i>Stephens v. Superior Court</i>	D038328	CA(4/1)	02/08/02	96 Cal.App.4th 54
k. <i>Williamson, et al. v. General Dynamics Corp.</i>	98-55783	9th Cir.	04/12/00	208 F.3d 1144
l. <i>Tinseltown Video, Inc., et al. v. Transportation Insurance Co.</i>	D024037	CA(4/1)	01/30/98	61 Cal.App.4th 184
m. <i>Bay Summit Community Assn. v. Shell Oil Co.</i>	D018345	CA(4/1)	12/16/96	51 Cal.App.4th 762
n. <i>Wilson v. Gentile</i>	B057235	CA(2/7)	08/04/92	8 Cal.App.4th 759
o. <i>Holliday v. Jones</i>	D006879	CA(4/1)	09/28/89	215 Cal.App.3d 102
p. <i>Security Pacific National Bank v. Williams</i>	D004365	CA(4/1)	08/31/89	213 Cal.App.3d 927 (decertified)

RICHARD H. BENES  
ATTORNEY AT LAW

<u>Case Name</u>	<u>Number</u>	<u>Court</u>	<u>Date</u>	<u>Citation</u>
q. <i>Yarbrough v. Superior Court</i> (amicus curiae brief)	S.F. 24698	California Supreme Court	07/29/85	39 Cal.3d 197
r. <i>I.E. Associates v. Safeco Title Insurance Co.</i>	4 Civ. 31042	CA(4/1)	07/02/84	158 Cal.App.3d 52
s. <i>E.S. Bills, dba Sanesco v. Tzucanow</i>	4 Civ. 26757	CA(4/1)	08/30/83	147 Cal.App.3d 1194
t. <i>Moran v. Harris</i>	4 Civ. 22798	CA(4/1)	04/20/82	131 Cal.App.3d 913
u. <i>United Nuclear Corp. v. Superior Court</i>	4 Civ. 24286	CA(4/1)	12/16/80	113 Cal.App.3d 359
v. <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
- 1997 *Shega v. Southern California Physicians Insurance Exchange;*  
San Diego County Superior Court Case No. 666735  
Appellate malpractice



RICHARD H. BENES  
ATTORNEY AT LAW

- 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