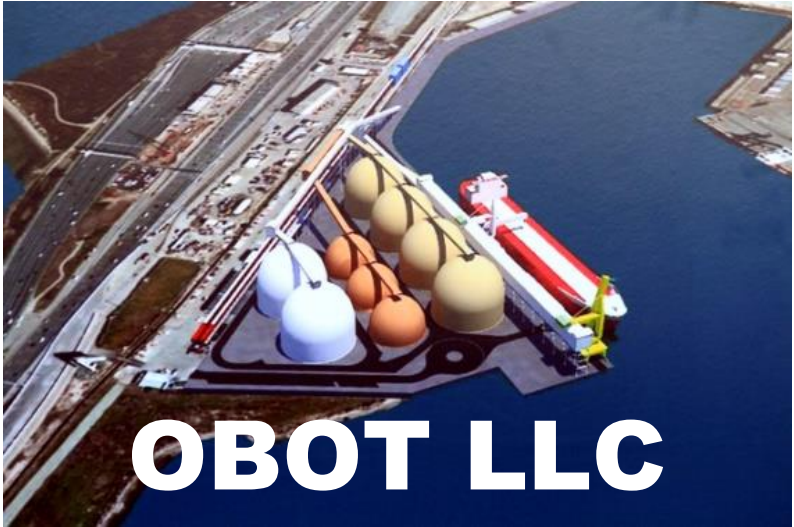


COURTROOM PLAYBILL



versus



CITY OF OAKLAND

Welcome

Dear Visitor to United States District Court,

Today's courtroom action marks the first major showdown between Oakland Bulk and Oversized Terminal LLC (developer Phil Tagami's company) and the City of Oakland.

The City of Oakland has two environmental allies, Sierra Club and San Francisco Baykeeper, who have been granted status as intervenors in the lawsuit.

Sierra Club and San Francisco Baykeeper, represented by attorneys from Earthjustice, will be arguing today for dismissal of portions of the lawsuit claiming that Oakland's coal ban violates Tagami's Constitutional right to ship coal protected by the Commerce Clause.

The City of Oakland will be arguing its own motion to dismiss a different portion of the lawsuit: Tagami's claim that, by banning coal, the City of Oakland breached its contracts with the developer.

This program aims to provide you with some background that may help clarify what is at stake in today's hearing.

No Coal in Oakland believes that, if successful, this lawsuit has the potential to inflict serious damage on the ability of states and local communities to protect themselves from aggressive attempts to expand fossil fuel infrastructure throughout the United States at a time when such expansion spells doom for the planet.

NO COAL IN OAKLAND

What's Going On*¹

Today, the Court will hear three motions and conduct a case management conference.

Sierra Club and SF Baykeeper's Motion to Intervene will resolve whether Sierra Club and SF Baykeeper will be allowed to intervene as parties in the lawsuit. Parties can bring motions, argue in court, take discovery, appear at trial, appeal an unfavorable outcome, and, generally, participate in all aspects of the litigation. OBOT wants the City of Oakland to defend the lawsuit by itself and opposes the motion to intervene.

Insert additional material

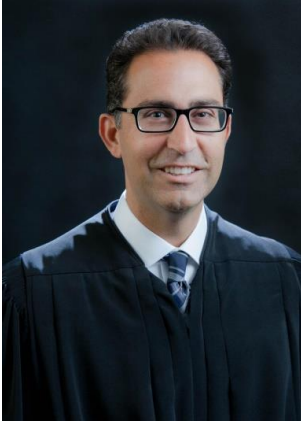
¹ For a fuller appreciation of what's going on, give a careful listen to Marvin Gaye, "What's Going On," at <https://www.youtube.com/watch?v=H-kA3UtBj4M>.

Timeline

A chronology from the 1999 decommissioning of the Oakland Army Base to the filing of the lawsuit in December 2016.

Cast

Judge Vince Chhabria



Born 1969 in San Francisco, CA

Federal Judicial Service:

- Judge, U.S. District Court, Northern District of California
- Nominated by Barack Obama on July 25, 2013, and re-nominated on January 6, 2014, to a seat vacated by Susan Yvonne Illston
- Confirmed by the Senate on March 5, 2014, and received commission on March 7, 2014

Education:

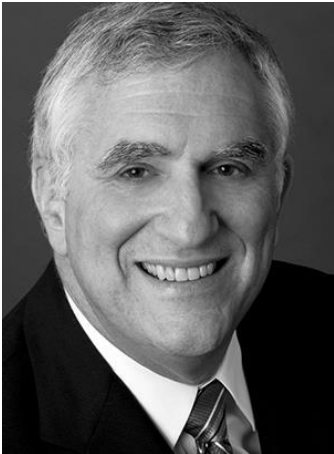
- University of California, Santa Cruz, B.A., 1991
- University of California, Berkeley, Boalt Hall School of Law, J.D., 1998

Professional Career:

- Staff member, U.S. Rep. Lynn C. Woolsey, Washington D.C. and California, 1992-1995

- Law clerk, Hon. Charles R. Breyer, U.S. District Court, Northern District of California, 1998-1999
- Law clerk, Hon. James R. Browning, U.S. Court of Appeals for the Ninth Circuit, 1999-2000
- Litigation associate, Kecker & Van Nest, San Francisco, California, 2001
- Law clerk, Hon. Stephen G. Breyer, Supreme Court of the United States, 2001-2002
- Litigation associate, Covington & Burling, San Francisco, California, 2002-2004
- Deputy city attorney for government litigation, San Francisco, California, 2005-2014; co-chief of appellate litigation, 2011-2014

Robert P. Feldman



Since law school graduation in 1975, Bob Feldman has been a law clerk to a federal judge, a federal prosecutor in San Francisco and a partner (and litigation department chair) at the largest Silicon Valley law firm. He joined Quinn Emanuel in 2007. Bob has represented companies and individuals in their most important matters: criminal defense, internal investigations, patent infringement trials, and other matters in which the parties' futures may be at stake. Bob is a Fellow of the American College of Trial Lawyers. In 2011, *Best Lawyers in America* named him the “Bet the Company Litigator” in the Bay

Area. He has also been recognized by *Best Lawyers* for Commercial Litigation and White-Collar Criminal Defense and by *Chambers USA*.

Bob currently serves on the committee that advises United States Senator Dianne Feinstein regarding judicial selections. He formerly served on the committee that advised a Governor of California regarding judicial selections. Bob has twice chaired the committee that advises the Northern District of California regarding the selection and retention of Magistrate Judges.

Education

- **Columbia Law School**
(J.D., 1975)
 - *Columbia Law Review*:
 - Managing Editor
 - Kent Scholar
- **SUNY at Buffalo**
(B.A., *magna cum laude*, *Phi Beta Kappa*, 1972)

Jessica Yarnall Laurie



Jessica focuses her work on mining, coal exports, and supporting rail infrastructure. She received her J.D. from the University of California Berkeley School of Law (Boalt Hall) where she was an editor of the Ecology Law Quarterly and the California Law Review. Jessica earned her B.A. from Carleton College where she focused on international relations and environmental studies. Following college, Jessica worked as a field organizer on Tim Johnson (D-SD)'s U.S. Senate race (a 524 vote victory!), was awarded a Fulbright fellowship to Peru to complete a project on public participation in making decisions about mining projects, and worked at the Federal Trade Commission. Before joining the Sierra Club, Jessica was an associate in the civil litigation group at Weil, Gotshal and Manges, clerked for Judge John Munter, and spent time during law school working for the Earthjustice International Program and Shute, Mihaly and Weinberger. During her free time, Jessica enjoys making up new recipes, traveling, hiking, and learning to garden.

Colin O'Brien



Colin C. O'Brien joined the San Francisco location of the California regional office in 2015, having previously worked as a staff attorney in the Alaska regional office. While there, Colin was recognized as the 2013 “Conservationist of the Year” by the Northern Alaska Environmental Center for his work to protect air quality in the Arctic and in Fairbanks, Alaska. He also successfully litigated to protect endangered Steller sea lions and the rich ocean ecosystem of the North Pacific.

Prior to joining the Alaska regional office in 2011, Colin worked for four years as an associate in the Environmental Practice Group at the New York office of Sidley Austin LLP, and then for four years as a staff attorney for the Natural Resources Defense Council’s “Clean Air Project” in Washington, D.C. He also served as a law clerk for the Honorable Richard J. Cardamone of the U.S. Court of Appeals, Second Circuit.

Colin received a bachelor's degree in political science summa cum laude from The Ohio State University. He is also a graduate of Yale Law School (J.D.) and the Yale School of Forestry and Environmental Studies (Master of Environmental Management).

Adrienne Bloch



As Senior Fossil Fuels Attorney, **Adrienne Bloch** leads the strategy and litigates to advance Earthjustice's work to keep fossil fuels in the ground. She is based in San Francisco, California.

Prior to joining Earthjustice, Adrienne was Senior Staff Attorney at Communities for a Better Environment, where she worked on behalf of low-income communities and communities of color to prevent and stop pollution and build green, healthy and ecological communities and environments. Among her accomplishments, Adrienne played a leading role in blocking Chevron's proposed refinery expansion project to process low-quality crude at its Richmond California refinery, securing the nation's first refinery flare control rule, tightening emissions trading provisions in Southern California, and stopping a new proposed power plant in the process; she also helped to secure California's truck idling law and diesel policies for goods movement. A champion for environmental justice, she also has a passion for climate justice and has worked as a consultant for numerous California and national organizations to support efforts to achieve climate equity.

Adrienne is a graduate of Oberlin College and University of California Hastings College of the Law.

Heather Lewis is an associate attorney with Earthjustice's California regional office in San Francisco.



Prior to joining Earthjustice, Heather Lewis was a staff attorney at ChangeLab Solutions, a public health law and policy organization in Oakland. At ChangeLab, Heather drafted model legislation, guidance documents, and provided trainings to help state and local governments, community organizations, and public health advocates create healthier built environments through law and policy. Before that, she was a legal fellow at Communities for a Better Environment, where she litigated environmental justice cases and provided legal support for community campaigns in the Bay Area and Southern California.

Heather received her J.D. from NYU School of Law, where she was Editor-in-Chief of the *Environmental Law Journal*, and her B.A. in Environmental Studies from the University of Chicago.

Kevin Siegel



Kevin represents cities and other local agencies regarding a wide range of public law matters, including land use and planning, CEQA and environmental law, open meeting and public records, taxes and assessments, eminent domain, contracting, elections, tort claims, due process, takings and other issues of constitutional law. Kevin provides litigation as well as advisory services.

Kevin joined Burke, Williams & Sorensen in August 2012. Prior to joining Burke, Kevin was a Deputy City Attorney for the City of Oakland, where he specialized in writs and appeals. Previously, Kevin was a shareholder at McDonough Holland & Allen, where he litigated cases for public agencies across the state, and a Legal Research Attorney for the San Francisco Superior Court, where he advised judges regarding complex litigation.

Education

- J.D., *magna cum laude*
University of California, Hastings College of the Law, 1997
- B.A., Columbia University, 1988

Barbara J. Parker



Barbara J. Parker is the elected City Attorney of Oakland, CA. She is the recipient of the 2015 Public Lawyer of the Year award from the State Bar of California.

In July 2011, the Oakland City Council appointed Parker to complete the term of the prior City Attorney, and in November 2012, Oakland voters overwhelmingly elected her to serve a full four-year term.

Voters elected Parker to a second four-year term in November 2016. She ran unopposed.

Parker is the first and only African American woman elected to citywide office in Oakland.

Background:

Parker is a native of Seattle, Washington, where her parents migrated to escape the brutalities of legalized oppression and sharecropping in the rural, segregated South. Family experiences during segregation, her parents' fierce commitment to education and their struggles as union workers ignited Parker's determination to strive for equal opportunity and equal rights for all.

Parker and her siblings are the first generation in her family's history to go to college.

Parker earned an undergraduate degree in Economics from the University of Washington, and she was one of the very few African American women accepted at Harvard Law School in the early 1970s. She graduated from Harvard in 1975 determined to use the law as a tool to help underrepresented communities.

In an award-winning legal career spanning almost four decades, Parker has developed extensive expertise as an attorney at all levels of government – federal, state and local – including more than 10 years as Chief Assistant of the Oakland City Attorney's Office and more than five years as an Assistant United States Attorney for the Northern District of California. As an Assistant US Attorney, she represented the United States in federal court litigation involving complex matters, including but not limited to medical malpractice, civil rights and breach of contract.

Parker also has worked in the private sector for several major law firms and corporations, including the law firm of Pillsbury Madison & Sutro (now Pillsbury Winthrop), Brobeck Phleger & Harrison, Kaiser Aluminum Chemical Corporation and Kaiser Hospitals.

In 2005, the State Bar Board of Governors selected Parker for an appointment to the prestigious State Judicial Council. The constitutional agency chaired by the Chief Justice of the California Supreme Court oversees the California courts and is responsible for ensuring the consistent, independent, impartial and accessible administration of justice.

Parker joined the City Attorney's Office in mid-1991 as a line attorney, was promoted to head the Labor and Employment Unit in the Advisory Division, where she handled complex advisory and litigation matters for the City of Oakland. In 2000, Parker was promoted to serve as Chief Assistant City Attorney (second-in-command), a post she held for more than ten years.

As Oakland's City Attorney, Parker has worked to improve public safety, to secure equal opportunity and justice for all Oaklanders, and

to assure that City Hall operates in a transparent, honest and fair manner.

Work and initiatives as City Attorney:

Parker has worked to keep Oakland in the [strongest possible legal standing](#), thereby saving millions of dollars for essential services like public safety, libraries and infrastructure.

She has been a strong advocate for transparency and good government at City Hall; she sponsored and co-authored a comprehensive [government ethics law](#) adopted by the City Council in 2015.

She [shut down two Oakland hotels](#) that were centers for prostitution and the sexual exploitation of minors; in 2015 she filed lawsuits against two other motels that have been epicenters of crime and violence in East Oakland.

She won a [record \\$15 million judgment](#) in a lawsuit against a fraudulent immigration consultant that preyed upon Oakland families.

She launched an initiative to [crack down on illegal dumping](#), which has resulted in thousands of dollars in fines against people who dump their trash on Oakland streets.

She has forced slumlords to [improve inhumane and unsafe living conditions](#) at Oakland rental properties.

She has taken the [federal government to court](#) to uphold Oakland's right to regulate and license medical cannabis.

And she has filed [lawsuits to hold big banks and financial institutions accountable](#) for violating antitrust laws and mortgage lending violations, and recovered hundreds of thousands of dollars from companies like GE Funding Capital Market Services and Wachovia.

In 2015, Parker [sued the giant chemical company Monsanto](#) to hold it accountable for years of contamination of Oakland's storm water system and the San Francisco Bay.

Also in 2015, Parker filed a [federal lawsuit against Wells Fargo](#) to recover damages caused by predatory and discriminatory mortgage lending practices by the bank against African American and Latino borrowers.

In 2016, Parker [co-sponsored a gun safety ordinance](#) to reduce theft of firearms from vehicles. The law makes it a crime to leave firearms, magazines or ammunition unsecured in unattended vehicles on city streets and in other public places.

Parker co-sponsored an ordinance adopted in 2016 that prevents anti-abortion organizations from [misrepresenting themselves as medical professionals](#) or unbiased health care counselors.

The California State Bar, which licenses California attorneys and oversees the practice of law in California, recognized Parker as [California's 2015 Public Lawyer of the Year](#) for her work on behalf of the community and her dedication to public service. The award recognizes exceptional attorneys who have dedicated a significant portion of their careers to public service and is named in honor of former California Supreme Court Chief Justice Ronald George.

In 2016, Parker received the [Woman Lawyer of Distinction Award](#) from the Women Lawyers of Alameda County and was named a [2016 California Champion of Choice](#) by NARAL Pro-Choice California.

In addition, Parker has received the the *Ella Hill Hutch Statewide Award* from Black Women Organized for Political Action (2013), the *Distinguished Public Service Award* from the International Municipal Lawyers Association (2013) and the *Susan B. Anthony Woman of the Year Award* from the National Women's Political Caucus Alameda North Chapter (2013). In 2012, the California Diversity Counsel named Parker one of the "Most Powerful and Influential Women of California."

More information:

Parker served as Board President of the Black Adoption Placement and Research Center, which for more than 30 years found permanent homes for children, the majority of whom were in California's foster care system. She is co-President of Sankofa Holistic Healing Institute,

which supports holistic health and healing for cancer and depression patients. She is a member of the Charles Houston and Alameda County Bar Associations, the Berkeley-Bay Area Alumnae Chapter of Delta Sigma Theta Sorority, Inc., the League of Women Voters, the National Women's Political Caucus, Black Women Organized for Political Action and the Black Women Lawyers Association. She also served as a mentor for the East Bay College Fund which mentors college students who are the first in their families to attend college.

Parker is the proud parent of daughter Savannah Parker, a 2012 graduate of Spelman College, and the proud grandparent of Samuel Koda Clement, born in 2011. Parker resides in Oakland's Haddon Hill neighborhood near Lake Merritt. She has lived in Oakland for more than 30 years.

Otis McGee Jr.



Chief Assistant City Attorney / Litigation Division

Otis McGee is head of the City Attorney's Litigation Division and a member of the office's Executive Team.

Mr. McGee has nearly four decades of legal experience. He attended UC Berkeley Law School after serving as a police officer in Pacifica and as an investigator for the Alameda County Public Defender's Office. In 1980, McGee co-founded the firm Ocampo, Millner & McGee. Following several mergers the firm became Alexander, Millner & McGee, at one time the largest minority-owned firm in the country, with offices in San Francisco, Los Angeles, New York City and Philadelphia. Mr. McGee served as Managing Partner throughout the firm's tenure.

Mr. McGee most recently served as a Partner and Senior Trial Attorney at Sheppard Mullin Richter & Hampton, LLP. He joined Sheppard Mullin as a partner in 1997. His areas of expertise include labor and employment, products liability, environmental and toxics matters and general commercial litigation. He has substantial jury trial experience, including work for the City of Oakland, and has conducted numerous investigations for both public and private entities. In the products liability and consumer warranty arenas, he has represented manufacturers of automobiles and light trucks, consumer products, industrial equipment, pharmaceuticals and medical devices.

Colin Troy Bowen



Supervising Deputy City Attorney / Litigation Division Colin Bowen
is part of the Litigation Division of the City Attorney's Office

Phil Tagami – The developer charged with supervision of the
horizontal redevelopment’

Glossary

Bulk commodity

CCIG (aka California ...

Oakland Global Trade and Logistics Center

OBOT

Oversized commodity

Prologis

Terminal Logistics Solutions (TLS)

Map



The Oakland Army Base redevelopment covers an expanse of 310 acres. The proposed Oakland Bulk and Oversized Terminal (OBOT) would be located on the 34-acre West Gateway at the upper left. Other projects are proceeding on the rest of the former Army Base. The controversy is about whether developers can store and handle millions of tons of Utah coal at the proposed terminal.

Your Tax Dollars at Work

The land on which OBOT wishes to build a coal terminal is public land owned by the City of Oakland. OBOT has a 66-year lease and rights to develop a marine terminal on the site.

The site preparation for redevelopment has been overseen by CCIG. Nearly a half billion dollars of public money was invested

Now the

Who Is Jeffrey Holt?



Investment banker Jeffrey Holt is the behind-the-scenes mastermind behind the deal to bring Utah coal to Oakland's port.

After working for Goldman Sachs servicing West Coast ports, Holt moved in 2008 to Utah, where he became the Bank of Montreal's managing director, chairman of Utah's

transportation commission, and a member of the Community Impact Board (CIB), a state agency that oversees distribution of federal mineral rebates to aid local communities impacted by mining on federal lands.

Jeff Holt landed a contract to advise Utah's Carbon, Sevier, Emery, and San Pate Counties on a scheme to use the federal rebates to invest in a terminal in Oakland to ship Utah coal abroad, thereby expanding mining on federal land rather than mitigating its impacts. Although he had left the CIB, Holt had no trouble persuading his former colleagues to allocate \$53 million to the Oakland project.

When questions were raised about this use of mineral lease rebates that are intended to mitigate the impact of mining on Utah communities, the Utah legislature passed a bill signed by the governor to cover up the direct flow of the money.

Jeffrey Holt's real client in the Utah-Oakland deal appears to be Bowie Resource Partners, a Kentucky-based mining company with a major interest in Utah coal.

The CIB's approval of the \$53 million "loan" to the four counties blew open