

**Featuring Speakers From:**

- Idaho Conservation League
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- Marten Law PLLC
- Perkins Coie LLP
- Puget Soundkeeper
- Ryan & Kuehler PLLC
- Smith & Lowney PLLC
- Stoel Rives LLP
- U.S. EPA - Region 10
- University of Washington School of Law

**Who Should Attend:**

*In-house, private sector, and government attorneys; technical experts; senior executives and risk managers; NGO program managers; and anyone else involved with environmental compliance issues*

*An Intensive One-Day Seminar on Litigating Environmental*

# Citizen Suits

The nuts and bolts for bringing and defending against private enforcement actions



**February 2, 2018**

Seattle, Washington

Crowne Plaza Hotel - Seattle Downtown

Credits: 6.25 WA CLE credits (incl. 1 ethics) (call about others)  
Quick when/where: 8:30 a.m., 1113 Sixth Avenue

**Citizen Suits Seminar**

February 2, 2018 | Seattle, Washington  
Crowne Plaza Hotel - Seattle Downtown

**Yes! Please register me:**

Name: \_\_\_\_\_

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For which state(s)? \_\_\_\_\_

**Register my colleague:**

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**If you cannot attend in person, check boxes to order:**

- Live Homestudy Webcast       Homestudy Replay  
 Course Materials



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- 8:30 Registration Opens
- 9:00 Introduction & Overview  
Theories and realities: Innovative theories and decisional trends in recent citizen suit cases; trends in who is getting sued (industry vs government)  
**Jeff B. Kray, Esq., Program Co-Chair**  
Marten Law PLLC ~ Seattle, WA  
**Mark A. Ryan, Esq., Program Co-Chair**  
Ryan & Kuehler PLLC ~ Winthrop, WA
- 9:15 Citizen Suits and the Role They Play in Our Legal System  
Overview of the development and evolution of the concept as an important pathway for addressing environmental contamination; current essential elements and common defenses; national trends and where citizen suits are heading  
**Todd A. Wildermuth, Ph.D.,**  
Director, Environmental Law Program  
University of Washington School of Law ~ Seattle, WA
- 10:00 Environmental Enforcement Priorities at EPA and How the Agency Sees its Role When Citizen Suits Are Filed  
Expected funding and environmental enforcement priorities for the coming budget cycles; areas where we are most likely to see an increase in citizen suits; what to expect in terms of agency involvement  
**Edward J. Kowalski,**  
Director, Office of Compliance and Enforcement  
U.S. EPA - Region 10 ~ Seattle, WA
- 10:45 Break
- 11:00 Environmental NGOs: How do They Identify the Cases They Want to Pursue?  
Geographically, like a watershed? By industry? Randomly based on what presents itself?  
**Justin Hayes, Program Director**  
Idaho Conservation League ~ Boise, ID  
**Katelyn Kinn, Esq., Staff Attorney**  
Puget Soundkeeper ~ Seattle, WA
- 12:00 Lunch (On Your Own)

- 1:15 The Regulated Community: Tips for Avoiding Having a Target on Your Back  
Doing, and proving that you have done, what you are obligated to do: Regulatory compliance for the private sector and the role of independent audits for showing compliance  
**Ankur Tohan, Esq.**  
K&L Gates LLP ~ Seattle, WA  
Permitting as a possible defensive shield  
**Kelly F. Moser, Esq.**  
Perkins Coie LLP ~ Seattle, WA
- 2:15 Getting into Court: Standing and Related Issues  
Violations of substantive statutes vs. common law relief; preemption issues when government has filed an action; applicability of the Burford abstention doctrine for choice of forum  
**Mark A. Ryan, Esq., Program Co-Chair**  
**Jeff B. Kray, Esq., Program Co-Chair**
- 3:15 Break
- 3:30 Getting into Court (cont'd): Suits Against the Government for Failure to Property Perform It's Regulatory Enforcement Functions  
Suits alleging failure to adequately address climate change: Causes of action for failure to perform non-discretionary duties or acting in arbitrary and capricious ways  
**Matthew Cohen, Esq.**  
Stoel Rives LLP ~ Seattle, WA
- 4:00 Ethical Issues for Attorneys Participating in Citizen Suits  
Contingency fees and fee shifting issues in settlement negotiations; confidentiality issues when handling multiple cases or pointing to a neighboring properties; ex-parte contact with government employees; other traps for the unwary  
**Richard A. Smith, Esq.**  
Smith & Lowney PLLC ~ Seattle, WA
- 5:00 Evaluations and Adjourn



## About the Seminar

### LAW SEMINARS INTERNATIONAL

#### What previous attendees have said:

"Really liked interactive approach to most presentations.

"Good variety of topics while conforming to the cohesive theme."

"Some other conferences focus so much on networking that they lack content, but LSI always puts on very informational programs."

*Citizen suits are among the most active and most heavily-litigated corners of environmental law. Citizens, both as individuals and as groups, frequently file claims and lawsuits against businesses to enforce several federal environmental statutes, including the Clean Water Act and the Clean Air Act. They also bring many actions against the government to challenge rule makings, compel government action or to disclose documents, among others.*

*Statutory fee-shifting provisions that allow prevailing plaintiffs to recover their costs and reasonable attorney fees can make these cases very expensive for the losing defendant. This program looks at the nuts and bolts of bringing and defending citizen suit cases. We will discuss many of the latest court cases on key issues such as notice letters, preemption, standing, and attorneys' fees. Most importantly, we'll provide strategies on how to avoid potential citizen suits in the first place.*

*Two of the leading environmental groups in the Pacific Northwest will be there to discuss how they chose the cases they bring and many of the best defense attorneys will present on how to respond if you receive a notice of intent to sue letter or get sued. This one-day CLE is a must for anyone actively involved in environmental law.*

**Program Co-Chairs: Jeff B. Kray, Esq. of Marten Law PLLC and Mark A. Ryan, Esq. of Ryan & Kuehler PLLC**



**Jeff B. Kray**, *Program Co-Chair* and partner at Marten Law PLLC, focuses his practice on water quality, water resources, and environmental litigation, including Clean Water Act permitting, regulatory compliance and CERCLA site remediation. He advises clients on water quality permit compliance and defense, stormwater pollution prevention, and transferal of water rights.

**Mark A. Ryan**, *Program Co-Chair* and Principal at Ryan & Kuehler PLLC, was the Regional Counsel at the U. S. Environmental Protection Agency, Region 10, focusing on Clean Water Act litigation and permitting. He is editor and co-author of the ABA's Clean Water Act Handbook, 2nd edition.

**Matthew Cohen** is a partner in the Environment, Land Use and Natural Resources practice group at Stoel Rives LLP. He supports clients applying for NPDES permits, Title V air operating permits and Prevention of Significant Deterioration permits for complex industrial facilities and represents clients facing enforcement proceedings and citizen suit litigation.

**Justin Hayes** is Program Director for the Idaho Conservation League. His conservation work includes mercury and mining, air quality, water quality and litigation.

**Katelyn Kinn**, Staff Attorney for the Puget Soundkeepers Alliance, manages Soundkeeper's Clean Water Act Enforcement Program.

**Edward J. Kowalski**, Director, EPA Office of Compliance and Enforcement (OCE) in Region 10 is responsible for most of the EPA direct

enforcement, compliance assurance, and state oversight work, and also coordinates enforcement efforts with OECA.

**Kelly F. Moser**, partner in Perkins Coie LLP's Environment, Energy & Resources practice, focuses on regulatory compliance, project development and litigation. She advises clients on environmental, health and safety (EHS) laws, including the Clean Water Act (CWA), Clean Air Act (CAA), Emergency Planning and Community Right-to-Know Act (EPCRA), Resource Conservation and Recovery Act (RCRA), the Occupational Safety and Health Act (OSHA) and state counterparts.

**Richard Smith** helps people use the law to protect the environment and wildlife. He has extensive experience in water quality issues and has brought scores of successful Clean Water Act citizen suits against polluters across Washington. He has also assisted environmental and community groups and other clients to accomplish their public interest goals through a variety of other state and federal environmental laws, including the Endangered Species Act, Clean Air Act, and Resource Conservation and Recovery Act.

**Ankur K. Tohan**, partner at K&L Gates LLP, focuses his practice on energy infrastructure, natural resource development, compliance counseling, and defense of governmental and citizen enforcement actions.

**Todd A. Wildermuth, Ph.D.**, is Director, UW Environmental Law Program, where he coordinates current curricular offerings, works with faculty to increase UW's depth and stature in the field, and conducts outreach.



## Registration & Other Seminar Information

### To Register:

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Online: www.lawseminars.com

Mail the registration form on the front page.

Walk-ins are welcome, subject to space availability.

Registration is complete when we receive payment or agree to later payment.

**Tuition:** Regular tuition for in person or webcast attendance for this program is \$595 with a group rate of \$535 each for two or more registrants from the same firm. For government employees and Tribal members, we offer a special rate of \$445. For students, people in their job for less than a year, and public interest NGO's, our rate is \$297.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Materials will be available for download and review a few days before the seminar. Make checks payable to Law Seminars International. Financial aid is available to those who qualify. Contact our office for more information.

### Substitution & Cancellation:

You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on Friday, January 26, 2018. After that time, we will credit your tuition toward attendance at another program or the purchase of a webcast or audio replay.

**Seminar Location:** The seminar will be held at the Crowne Plaza Hotel - Seattle Downtown at 1113 Sixth Avenue in Seattle, WA 98101. Call the hotel directly at (206) 464-1980 for reservations or use your favorite hotel booking website to find a nearby hotel that offers the best deal for you.

### Continuing Education Credits:

Live credits: This program qualifies for 6.25 WA CLE (including 1 ethics) credits. Upon request, we will apply for, or help you apply for, CLE credits in other states and other types of credits.

### Time Shift Your Content:

Webcast and audio replays, with course materials, are available for \$595. The course materials alone are available for \$100. Replays will be available within three business days after the seminar or from the date we receive payment.

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- The Vodcast option allows you to make effective use of in-flight plane time

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