

ALBERT E. PEACOCK III

BORN: April 1, 1959
Los Angeles, CA

EDUCATION

UNIVERSITY OF SOUTHERN CALIFORNIA
B.A. (with Honors in English and Religion) – 1980
Magna Cum Laude, Phi Beta Kappa, Blackstonian
President of the Delta Pi Chapter of Delta Tau Delta

UNIVERSITY OF SOUTHERN CALIFORNIA LAW CENTER
J.D. – 1983
President of the Beatty Inn of Phi Delta Phi
Founder/Editor of LLAW Street Journal

WORK EXPERIENCE

CHING, ROSENZWIEG & BOERTZEL
Suite 400, GCIC Building
P.O. Box DL
Agana, Guam 96910
(671) 472-8868
Summer Clerk: 6/81–9/81

HAMILTON, GIBSON, NICKELSEN, RUSH & MOORE
745 Fort Street, 20th Floor
Honolulu, HI 96813
(808) 521-0400
Summer Clerk: 6/82–9/82

RUSH, MOORE, CRAVEN, SUTTON, MORY & BEH
745 Fort Street, 20th Floor
Honolulu, HI 96813
(808) 521-0400
Associate: 6/83–1/88

KEESAL, YOUNG & LOGAN
400 Oceangate
Long Beach, CA 90802
(562) 436-2000
Associate: 3/88–12/91
Shareholder: 12/91–present

KEESAL, YOUNG & LOGAN
1029 West Third Avenue, 6th Floor
Anchorage, AK 99501
(907) 279-9696
Managing Shareholder: 4/94–7/98

ADMITTED TO PRACTICE

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| Hawaii Supreme Court, USDC Hawaii – Active | 1983 |
| California Supreme Court, USDC for Northern, Central, Southern, and Eastern Districts of California – Active | 1988 |
| Ninth Circuit Court of Appeals – Active | 1989 |
| United States Supreme Court | 1990 |
| Alaska Supreme Court, USDC Alaska – Active | 1994 |
| USDC Colorado | 2009 |
| Washington State Supreme Court | 2015 |
| AV® Rating Given by Martindale-Hubbell | |
| Proctor in Admiralty, Maritime Law Association | 1994 |
| American Board of Trial Advocates (ABOTA) | 2013 |

TRIALS & ARBITRATIONS:

Thirty-Two personal injury, wrongful death, breach of contract, and professional malpractice cases tried to verdict in Hawaii, California, Alaska, Missouri, Colorado and Illinois.

Over fifteen arbitrations in California, Alaska, and Texas involving insurance coverage, securities, commercial contract disputes, and personal injury claims.

One Hawaii Supreme Court, nine Ninth Circuit, and five California Appellate Court appeals briefed and/or argued.

PRODUCTS LIABILITY LITIGATION:

Defended numerous products liability actions in Hawaii, California, and Alaska, both in the maritime and non-maritime areas. Clients have included, Union Carbide, Rapistan, Smith & Wesson, Holly Heater, Praxair, United Technologies, Exxon Mobil, and Lear Siegler Diversified Holdings, Inc. and its various subsidiaries and related companies.

AVIATION LITIGATION:

Defended FBO's and aviation tour companies in Hawaii and have both defended and pursued subrogation actions on behalf of Owners/Operators of helicopters involved in the fishing industry. Involved in both Aloha Airlines Flight 243 and Alaska Air Flight 261 litigation.

ENGINEERING/CONSTRUCTION LITIGATION:

Defended Engineers, Construction Managers, General Contractors and EPCM Contractors in suits by project owners for breach of contract, professional errors and omissions, misrepresentation, breach of fiduciary duty, fraud and for disgorgement under California Contractor Licensing Laws. Have successfully tried four such cases to verdict in jury trials held in St. Louis, San Francisco, Denver, and Los Angeles.

NTSB HEARINGS:

M/S NIEUW AMSTERDAM, NTSB Case No. _____; grounding at Gravina Point, Alaska on 8/9/94 – lead defense counsel and prepared proposed finding of fact for Holland America Lines.

M/V STAR PRINCESS, NTSB Case No. PB-97-916403; grounding on Poundstone Rock, Alaska on 6/23/95 – lead defense counsel and prepared proposed finding of fact for Princess Cruises.

M/V UNIVERSE EXPLORER, NTSB Case No. PB98-916402; fire and five crew fatalities near Juneau, Alaska on 7/27/96 – defense counsel.

OTHER MAJOR MARINE CASUALTY RESPONSES:

M/V OMI DYNACHEM: Broken offshore pipeline and oil spill at El Segundo, California on 3/16/91 – assisted in investigation of accident.

I/B KAPITAN KHLEBNIKOV: Injury to 22 passengers in the Bering Strait on 9/15/94 – led onboard investigation of accident.

M/V KUROSHIMA: Grounding, oil spill, and two crew fatalities at Dutch Harbor, Alaska on 11/26/97 – led on scene response to oil spill cleanup and participated in limitation of liability claim against the NPFCL. Limitation of liability under OPA '90 granted in June 2003. See *Kuroshima*, 2003 AMC 1681 (2003).

M/V HOKUSHIN MARU: Allision at Dutch Harbor, Alaska on 4/9/98 – led on board investigation of accident and defended against USCG accident investigation and Civil Penal proceeding.

M/V ASTORIA BRIDGE: Heavy weather cargo loss/damage and vessel damage on 1/29/00 – led on board investigation of incident.

M/V MSC NEW YORK: Heavy weather cargo loss/damage and severe vessel damage on 3/21/00 – led on board investigation of incident.

M/S VILLE D'ORION: Heavy weather cargo loss/damage and vessel damage on 3/22/01 – led on board investigation of incident.

EVERGREEN: Criminal investigation of alleged oil pollution and MARPOL violations aboard Evergreen fleet by USCG, DOJ and state authorities in May 2001 – led on board investigations in Los Angeles Harbor aboard twelve vessels.

MATSON: Criminal investigation of alleged oil pollution and MARPOL violations aboard Matson fleet by USCG, DOJ, and state authorities in 2001 – led on board investigations in Los Angeles Harbor aboard three vessels.

M/S MONARCH OF THE SEAS: Death of 3 crewmembers and injury to 19 crewmembers caused by exposure to hydrogen sulfide gas on September 2, 2005 – led on board investigation and defended against USCG investigation.

Tug EMMA FOSS: Death of deck hand and serious injury to mate on February 20, 2007 at Chevron offshore mooring facility – led onboard and subsequent internal investigation and defended in LAPD and USCG investigations.

M/V COSCO BUSAN: Criminal depositions of key crewmembers of the vessel which allided with the Oakland Bay Bridge on November 7, 2007 spilling over 53,000 gallons of fuel into San Francisco Bay.

TRIALS:

Kido v. Davis, et al., Case No. 63959, Honolulu Circuit Court (1984) – lead defense counsel – personal injury claim.

Cochran v. Yarbrough, Case No. _____, Honolulu Circuit Court (1985) – lead defense counsel – personal injury claim.

Garner v. DeCorte, Case No. _____, Honolulu Circuit Court (1987) – defense counsel – personal injury claim.

Kaeo v. Davis, et al., Case No. 63959, Honolulu Circuit Court (1987) – lead defense counsel – personal injury claim.

Juellig v. F/V PACIFIC PRINCESS, Case No. 578330, San Diego Superior Court (1989) – defense counsel – Jones Act personal injury claim.

Dearden v. Rapistan, Case No. _____, Indio Superior Court (1990) – lead defense counsel – product liability personal injury claim.

Nelsen v. M/V KILA, 784 F. Supp. 770 (1992); 752 F. Supp. 350 (1991); 805 F. Supp. 831 (1992) – USDC Hawaii – defense counsel – Jones Act personal injury claim.

Blocker v. F/V VOYAGER, Case No. 650948, San Diego Superior Court (1993) – defense counsel – Jones Act personal injury claim.

Silva v. M/V APACHE SPIRIT, Case No. CV 927179, USDC Central District of California (1993) – lead defense counsel – LHWCA 905(b) claim.

Keith v. M/V TRADEMASTER, Case No. CV 926452, USDC Central District of California (1993) – lead defense counsel – LHWCA 905(b) claim.

Ghotra v. M/V GRACIOUS, Case No. CV 915469, USDC Central District of California (1993) – see also 113 F.3d 1050 (9th Cir. 1997), *cert. denied* (1998) – lead defense counsel for both trial and appeal – marine surveyor wrongful death claim.

Knight v. M/V EIYO, 1996 AMC 1720, USDC Alaska (1996) – lead defense counsel – Jones Act personal injury and Ryan Indemnity claims.

Torres v. Caribbean Fishing Co., 141 F. Supp. 2d 1028 (S.D. Cal. 2001), *reversed in part and affirmed in part*, 30 F. App'x 752 (9th Cir. 2002) – lead defense counsel – Jones Act personal injury claim.

Yazzie v. Container Stevedoring Company, Case No. NC 028656, Long Beach Superior Court (2003) – lead defense counsel – LHWCA personal injury claim.

Muller v. Daniel Freeman Memorial Hospitals, Case No. SCO65146, Santa Monica Superior Court (2003) – plaintiffs' counsel – medical malpractice amputation claim.

San Diego Revitalization Corp. v. Willis Insurance Services, Case No. GIC 811351, San Diego Superior Court (2004) – lead defense counsel – insurance brokerage professional malpractice claim.

Bakotich v. California United Terminals Inc. et al., Case No. NC034720, Long Beach Superior Court (2005) – lead defense counsel – Jones Act personal injury claim.

Porter v. Dorio, Case No. NC 040718, San Pedro Superior Court (2005) – lead defense counsel – Jones Act/DOHSA death claim.

Cobb v. Foss Maritime Company, Case No. NC 037153, Long Beach Superior Court (2006) – lead defense counsel – Jones Act personal injury claim.

Muller v. Daniel Freeman Memorial Hospitals, Case No. SCO65146, Malibu Superior Court (2006) (Retrial) – lead plaintiffs' counsel – medical malpractice amputation claim.

Bi-State Development Agency (Metro) v. Cross County Collaborative Joint Venture, et al., Case No. 04CC-003335, Circuit Court of the County of St. Louis, State of Missouri (2007) – lead defense counsel for Defendant Jacobs Civil Inc. – breach of contract, engineering and construction management professional negligence and fraud claim. (The longest civil jury trial in St. Louis County history.)

Stewart v. Lavinia Shipping, et al., Case No. 3AN 06-8787 CI, Alaska Superior Court for the Third Judicial District (2008) – defense counsel – LHWCA 905(b) personal injury claim.

Muller v. Daniel Freeman Memorial Hospitals, Case No. SCO65146, Malibu Superior Court (2010) (Retrial) – lead plaintiffs’ counsel – medical malpractice amputation claim.

Hebert v. City of Los Angeles and APL Limited, Case No. NC043304, San Pedro Superior Court (2011) – lead defense counsel – longshore foreman personal injury claim.

Judicial Council of California, Administrative Office of the Courts v. Jacobs Engineering Group Inc. et al., Case No. CGC-09-495036, San Francisco Superior Court (2012) – lead defense counsel – Business and Professions Code 7031 contractor license disgorgement claim.

Coors Brewing Company v. Jacobs Engineering Group Inc., Case No. 08-cv-00985-RPM, USDC Denver, Colorado (2013) – lead defense counsel for Jacobs Engineering Group – breach of contract, engineering and construction management professional negligence and unjust enrichment claim.

Martinez et al. v. Jacobs Engineering Group Inc., Case No. TCO25238, Compton Superior Court (2013) – lead defense counsel – professional negligence and products liability claim involving four personal injuries from a refinery heater explosion.

ABM Facility Services Inc. v. Jacobs Facilities Inc., et al., Case No. BC483858, Los Angeles Superior Court (2014) Phase 1 Trial – lead defense counsel – breach of contract claim with an affirmative cross claim for disgorgement under Business & Professions Code 7031.

Richard Amavisca v. Foss Maritime Company, Case No. 2:13-cv-03550 FMO (RZx), USDC Central District of California (2014) – lead defense counsel – Jones Act personal injury claim.

Miller v. Foss Maritime Company, Case No. NC044604, Los Angeles Superior Court (2014) – lead defense counsel – Jones Act personal injury claim. Settled after jury selection.

United States Aviation Underwriters v. Jacobs Engineering Group Inc., Case No. 08-L-651, Circuit Court of the Third Judicial Circuit, Madison County, Illinois (2015) – lead defense counsel – professional negligence, breach of warranty construction claim. Settled after jury selection and opening statements.

Mohamed v. Crowley Maritime et al., Case No. 8:14-cv-0239 DOC, USDC Central District of California (2015) – lead defense counsel – Jones Act personal injury claim.

ABM Facility Services Inc. v. Jacobs Facilities Inc., et al., Case No. BC483858, Los Angeles Superior Court (2015) Phase 2 Trial – lead defense counsel – breach of contract claim with an affirmative cross claim for disgorgement under Business & Professions Code 7031.

Russo v. APL Marine Services, Ltd., Case No. 2:14-cv-03184-ODW(JCGx), USDC Central District of California (2015) – lead defense counsel – Jones Act personal injury and California Employment law (FEHA) sexual harassment/retaliatory discharge claim.

SUBSTANTIVE OR PUBLISHED MOTIONS AND APPEALS:

Kido v. Davis, et al., 68 Haw. 447, 719 P.2d 387 (1986). Hawaii Supreme Court – defense counsel. Drafted Supreme Court brief and argued appeal.

Hafnia v. Stork, Case No. 88-15708, Ninth Circuit Court of Appeals (1990), *cert. denied*. Case No. 90-528, U.S. Supreme Court (1990) – plaintiff’s counsel – commercial subrogation claim. Drafted appellate brief.

Nelsen v. M/V KILA, 784 F. Supp. 770 (1992); 752 F. Supp. 350 (1991); USDC Hawaii – defense counsel - Jones Act personal injury claim. Drafted and argued motions.

Becerra v. M/V MERCHANT PRINCIPAL, Case No. CV 930126, 1994 USDC Central District of California (1994) – lead defense counsel – LHWCA 905(b) claim. Summary judgment granted. Drafted and argued motion.

Wurzer v. M/V MERCHANT PRINCIPAL, Case No. CV 926774, 1995, USDC Central District of California (1994) – lead defense counsel – LHWCA 905(b) claim. Summary judgment granted. Drafted and argued motion.

Koscik v. Supreme Alaska, 1996 AMC 2522 (D. Alaska 1996) – lead defense counsel – Jones Act personal injury claim – right of Jones Act employer to recover maintenance and cure on its contribution claim against third party despite its settlement with plaintiff.

PEMEX Refinicion v. M/V RESPECT, 89 F.3d 650 (9th Cir. 1997) – defense counsel – cargo contamination claim. Drafted underlying motions/oppositions (no oral argument held in District Court). Drafted Ninth Circuit brief and argued appeal.

Ghotra v. M/V GRACIOUS, 113 F.2d 1050 (9th Cir. 1997), *cert. denied* (1998) – lead defense counsel for both trial and appeal – marine surveyor wrongful death claim. Drafted Ninth Circuit brief and argued appeal.

Verdugo v. Gratitude Shipping, Case No. 99-C-2461IEG (AJB), USDC Southern District of California (2000) – lead defense counsel -- LHWCA 905(b) claim – summary judgment granted.

Leyba v. Gratitude Shipping, Case No. 00-CV-0457JM (JAH), USDC Southern District of California (2000) – lead defense counsel – LHWCA 905(b) claim – summary judgment granted.

Torres v. Caribbean Fishing Co., 141 F. Supp. 2d 1028 (S.D. Cal. 2001), *reversed in part and affirmed in part*, 30 F. App’x 752 (9th Cir. 2002) – lead defense counsel – Jones Act personal injury claim. Assisted in drafting Ninth Circuit brief.

Flores v. Alcazar Shipping Co., Case No. 01-CV-01791 R(AJWx), USDC Central District of California (2001) – lead defense counsel – LHWCA 905(b) claim – summary judgment granted. Lead defense counsel on Ninth Circuit brief.

Witty v. Hyundai Merchant Marine, 2002 AMC 2195 (C.D. Cal. 2002) – lead defense counsel – LHWCA 905(b) claim – summary judgment granted.

In Re Kuroshima Limitation Proceeding, 2003 AMC 1681 (2003), National Pollution Fund Center – vessel owner’s counsel responsible for protecting and supporting limitation of liability claim during the initial casualty response and oil spill clean up. Assisted in the preparation and presentation of the limitation claim to the NPFC.

Muller v. Daniel Freeman Memorial Hospitals, Appellate Case No. B169141, California Court of Appeals, Second Appellate District, Division Eight (2005) – plaintiffs medical malpractice claim. Assisted in preparation of appellate briefs and argued appeal.

Porter v. Dorio, Appellate Case No. B185417, California Court of Appeals, Second Appellate District, Division Three (2006) – lead trial and appellate counsel – Jones Act/DOHSA death claim. Drafted appellate brief and argued appeal.

Muller v. Daniel Freeman Memorial Hospitals, 172 Cal. App. 4th 887 (2009), California Court of Appeals, Second Appellate District, Division Eight – plaintiffs medical malpractice claim. Preparation of appellate briefs in both, consolidated appeals and argued appeal.

Cape Flattery Ltd. v. Titan Maritime LLC, 607 F. Supp. 2d 1179 (D. Haw. 2009) – maritime suit by vessel owner under OPA ’90 for contribution for negligent salvage operation allegedly causing extensive coral reef damage. Lead counsel in trial court. Drafted appellate brief and argued appeal to the Ninth Circuit.

City of Larkspur v. Jacobs Engineering Group, Inc., as successor in interest to Sverdrup Civil, Inc., Appellate Case No. A123486, California Appellate Court, First Appellate District, Division Two (2010) – Engineering fraud claim. Lead appellate counsel drafted appellate briefs and argued appeal.

Cape Flattery Ltd. v. Titan Maritime LLC, 647 F.3d 914 (9th Cir. 2011) (*cert. denied*) – maritime suit by vessel owner under OPA ’90 for contribution for negligent salvage operation allegedly causing extensive coral reef damage. Lead counsel on appeal on the issue of compelling arbitration in London. Argued case before the Ninth Circuit Court of Appeals in Honolulu, Hawaii.

Globe-Con Freight Systems v. APM Terminals Pacific LTD/Maersk Inc., Appellate Case No. B229652, California Appellate Court, Second Appellate District, Division Five (2011) – Serious personal injury claim to independent trucker at a marine terminal. Plaintiff’s employer failed to answer cross-complaint for indemnity/contribution and had its default taken. Plaintiff’s employer sought to overturn the default judgment for \$2.88 million. Lead appellate counsel drafted appellate brief and argued appeal.

Judicial Council of the State of California, Administrative Office of the Courts v. Jacobs Facilities Inc., et al., Appellate Case Nos. A140890 and A141393, 240 Cal App. 4th 160 (2015) – California contractors licensing law claim for disorgement under Business & Professions Code 7031. Lead trial counsel and co-counsel on appeal. Assisted drafting appellate brief.

Russo v. APL Marine Servics, Ltd., 135 F. Supp. 3d 1089 (C.D. Cal. 2015) – Jones Act sexual harassment claim. Lead trial counsel.

ARBITRATIONS:

Azusa Lumber v. Axco, Los Angeles Superior Court (1989).

Nickerson v. Shearson Mortgage, Ventura Superior Court (1990).

Lipscomb v. Union Carbide, Norwalk Superior Court (1991).

Radoff v. Brooks, Orange County Superior Court (1991).

Miller v. M/V HIGH LIGHT, Civ. No. NC-003211, Los Angeles Superior Court (1992).

Pierce v. Great Lakes Dredge & Dock, Civ. No. NC-001239, Los Angeles Superior Court (1992).

Roberto v. Pacific Knight, Inc., Civ. No. NC-001752, Los Angeles Superior Court (1992).

Verdugo v. Great Lakes Dredge & Dock, Civ. No. SOC-103095, Los Angeles Superior Court (1992).

Morgan v. Great Lakes Dredge & Dock, Los Angeles Superior Court (1992).

Roberto v. F/V LAURIE ANN, Los Angeles Superior Court (1992).

Cervantes v. Lear Siegler, Orange County Superior Court (1993).

Fiutem v. Catalina Ocean Rafting, Case No. NC 021971, Los Angeles Superior Court (1998).

Fox v. APL Ltd, Case No. NC 040343, Los Angeles Superior Court, submitted to binding JAMS arbitration (2003).

Agrium Inc. v. Unocal, Case No. 50 T 198 00468 02, American Arbitration Association. Complex commercial arbitration on breach of contract claim in Houston, Texas (2004).

SPEECHES/PAPERS/ARTICLES:

2011 NYK Group Americas Inc.'s Raising The Bar 1st Annual Safety Seminar, Secaucus, New Jersey: "A Lawyers Perspective On Lessons Learned From Safety System Failures." Presentation on how Safety Management Systems affect post-accident litigation.

2010 Hudson Marine Management Services 2010 OPA '90 Training and Exercise. Participate in Preparedness for Response Exercise Program (PREP) tabletop oil spill exercise under OPA '90 with the USCG, California Office of Spill Prevention and Response (OSPR), Hudson Marine and ship owners.

2008 Pacific Admiralty Seminar, San Francisco, California: "Personal Injury Tricks and Treats: How To Stop Them, How To Top Them" Panel Discussion on maritime personal injury pretrial and trial practices.

- 2005 Pacific States/British Columbia Oil Spill Task Force Annual Meeting, Anchorage, Alaska: “Non-tank Vessel Response Issues: Certificates of Financial Responsibility and Limits of Liability” speech on state and federal financial responsibility and limitation of liability laws for oil spills on the West Coast of the United States.
- 2004 “Sitting duck? Liability and insurance cover after a ‘dirty bomb’ attack: two lawyers’ views,” Robert Mottley, American Shipper Magazine, December 2004. (www.americanshipper.com).
- 2004 Pacific Admiralty Seminar, San Francisco, California: “*When Your Ship’s the Bull’s-Eye: Sharing the Liability Among Vessel, Charterers, Insurers and Other Friends*” speech on various vessel interest’s liability and insurance coverage for a hypothetical terrorist attack in the Port of Oakland.
- 2004 Longshore Claims Association, Lake Tahoe, Nevada: “*Water, Water Everywhere and Third Parties, Too!*” Panel Discussion on third party claims under the LHWCA and the effect of the lien claim on same.
- 2001 Hawaii Defense Bar Association, Honolulu, Hawaii: “*California Good Faith Settlement: A ‘Ballpark’ Presentation*” speech on California Good Faith Settlement Law recently adopted by Hawaii.
- 1999 International P&I Club Correspondents’ Conference, Paris, France: “*Ten Years After: The Lasting Effects of the EXXON VALDEZ on U.S. Shipping*” speech on OPA ’90 and state laws on oil pollution.
- 1998 West of England Annual Review: “*More to Fear Than Fear Itself*” paper on maritime laws recognition of emotional distress claims.
- 1998 Material Handling Industry of America, Irwindale, California: “*Product Liability: What? Why? How?*” speech on basics of strict product liability law to industry group.
- 1996 International P&I Club Correspondents’ Conference, Paris, France: “*Expecting the Unexpected*” speech on responding to maritime casualties in Alaska.
- 1990 Paper titled “*AIDS and the Cruise Industry*”

PERSONAL/HOBBIES:

Married to Robyn Lynn Peacock

Two children: Albert IV (17 years) and Chancellor (16 years)

Hobbies: snow skiing, surfing, sailing, roller blading, zymurgy, movies, and music.

6/17/16

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