

1 LARRY CALDWELL, SBN 88867
2 QUALITY SCIENCE EDUCATION FOR ALL
3 1380 Lead Hill Boulevard, Suite 106
4 Roseville, CA 95661
5 Tel. (916)774-4667
6 Fax (916)797-4954
7 caldwellandassociates@surewest.net

FILED
06 APR 14 PM 2:49
RICHARD W. HEERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 Kevin T. Snider, State Bar No. 170988 – Counsel for Service
9 Matthew B. McReynolds, State Bar No. 234797
10 PACIFIC JUSTICE INSTITUTE
11 P.O. Box 276600
12 Sacramento, CA 95827
13 Tel. (916) 857-6900
14 Fax. (916) 857-6902
15 kevinSnider@pacificjustice.org

16 Attorneys for for Plaintiff/Appellant

11
12 **UNITED STATES DISTRICT COURT**
13
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 **JEANNE E. CALDWELL,**)
16 **Plaintiff/Appellant,**)
17 **v.**)
18)
19 **ROY L. CALDWELL, PH.D., in his**)
20 **official capacity as Director of the**)
21 **University Of California Museum**)
22 **Of Paleontology; DAVID**)
23 **LINDBERG, in his official capacity**)
24 **as Chair of the Integrative Biology**)
25 **Dept., University of California,**)
26 **Berkeley; and MICHAEL PIBURN**)
27 **in his official capacity as Program**)
28 **Director for the National Science**)
Foundation,)
Defendants/Appellees.)

No.
Dist. Ct. No. C05-04166 PJH

**NOTICE OF APPEAL TO THE
UNITED STATES COURT OF
APPEALS FOR THE NINTH
CIRCUIT; REPRESENTATION
STATEMENT**

1 Jeanne E. Caldwell, plaintiff, appeals to the United States Court of Appeals for
2 the Ninth Circuit from the final judgment of the district court, entered in this case on
3 March 21, 2006, and all interlocutory orders that gave rise to that judgment,
4 including but not limited to the following interlocutory orders:

5 1. The District Court's Order entered February 8, 2006, granting
6 defendants Roy L. Caldwell, Ph.D. and David Lindberg's (collectively the "UC
7 Defendants") motion pursuant to Federal Rule of Civil Procedure 12(f) to strike the
8 prayer for nominal damages from plaintiff's Complaint;

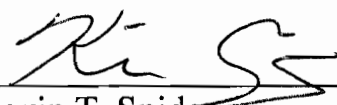
9 2. The District Court's Order entered March 13, 2006, granting the UC
10 Defendants' motion pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss
11 plaintiff's Complaint, and re-stating the court's prior granting of the UC Defendants'
12 Federal Rule of Civil Procedure 12(f) motion to strike the prayer for nominal
13 damages from plaintiff's Complaint;

14 3. The District Court's Order entered March 20, 2006, entitled "Order
15 Granting Defendants' Motion to Dismiss and Vacating Hearing Date, granting
16 defendant Michael D. Piburn's motion pursuant to Federal Rule of Civil Procedure
17 12(b)(6) to dismiss plaintiff's Complaint; and

18 4. The District Court's Order entered March 20, 2006, entitled "Order on
19 Administrative Motion and Granting Clarification," that *inter alia*, denied plaintiff's
20 request for leave to amend the Complaint.

21 Plaintiff/appellant Jeanne Caldwell is unaware of any related cases pending in
22 the Court of Appeals.

23
24 Dated: April 5, 2006

25 By: 
26 Kevin T. Snider
27 Attorneys for Jeanne E. Caldwell
28 Plaintiff/Appellant


REPRESENTATION STATEMENT

The undersigned represents Jeanne E. Caldwell, plaintiff and appellant in this matter, and no other party. Attached is a service list that shows all of the parties to the action below, and identifies their counsel by name, firm, address, and telephone number, where appropriate. (F.R.A.P. 12(b); Circuit Rule 3-2(b).)

Respectfully submitted,

Larry Caldwell, SBN 88867
QUALITY SCIENCE EDUCATION FOR ALL
1380 Lead Hill Boulevard, Suite 106
Roseville, CA 95661
Tel. (916)774-4667
Fax (916)797-4954
lcaldwell@insurelaw.biz

Kevin T. Snider, SBN 170988
MATTHEW B. McREYNOLDS, SBN 234797
PACIFIC JUSTICE INSTITUTE
P.O. Box 276600
Sacramento, CA 95827-6600
Tel. (916) 857-6900
Fax (916) 857-6902
kevinsnider@pacificjustice.org

By: 

Kevin T. Snider
Attorneys for Jeanne E. Caldwell
Plaintiff/Appellant

Certificate of Service

This is to certify that on April 7, 2006, a true and correct copy of the foregoing (1) NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT; REPRESENTATION STATEMENT; (2) CIVIL APPEALS DOCKETING STATEMENT, AND (3) APPELLANT'S NOTICE OF STATEMENT OF ISSUES in the appeal from D.C. #C-92-3000-DLJ, was served by United States Mail, first class, on counsel of record for all parties to the action listed below in this matter, as follows:

Defendants Roy L. Caldwell, Ph.D., and David Lindberg

Counsel:

James E. Holst SBN 34654
Christopher M. Patti SBN 118283
University of California
Office of the General Counsel
1111 Franklin Street, 8th Floor
Oakland, CA 94607-5200
Telephone: (510)987-9800
Facsimile: (510)987-9757

Morgenstein & Jubelirer LLP
William J. Carroll SBN 118106
Adrienne S. Leight SBN 226854
One Market Street, Spear Street Tower, 32nd Floor
San Francisco, CA 94105
Telephone: (415)901-8700
Facsimile: (415)901-8701

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Defendant Michael D. Piburn

Counsel:

Kevin V. Ryan SBN 118321

Joann M. Swanson SBN 88143

Owen P. Martikan SBN 177104

450 Golden Gate Avneue, 10th Floor


San Francisco, CA 94102-3495

Telephone: (415)436-7241

Facsimile: (415)436-6748

Email: owen.martikan@usdoj.gov

I declare, under penalty of perjury under the laws of the State of California and the United States of America, that the foregoing is true and correct, is of my own personal knowledge, and indicate such below by my signature executed on this 7th day of April, 2006, in the County of Sacramento, City of Sacramento, State of California.



Kevin T. Snider