

# Snell & Wilmer

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## Sean M. Sherlock

Partner | Orange County

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### Main Bio

Sean Sherlock represents real estate developers, investors, and lenders in environmental, land use, eminent domain and real estate litigation matters. He litigates cases under the California Environmental Quality Act (CEQA), and advises clients preparing Environmental Impact Reports (EIRs) and other CEQA documents needed to obtain project approvals. Sean has extensive experience representing clients in environmental cases involving contaminated properties, air and water quality, and government enforcement actions. He also represents clients in eminent domain and a variety of real estate and business litigation, including contract disputes, commercial landlord-tenant disputes, and loan enforcement.

Sean keeps abreast of changes in these areas through his active involvement in real estate industry organizations including the Legislative Affairs Committee for the National Association of Industrial and Office Properties (NAIOP) SoCal chapter, and the Society of Industrial and Office Realtors, Orange County/Inland Empire chapter. Sean's education and early professional experience as a chemical engineer and Environmental Specialist for Chevron U.S.A. gives him a unique industry perspective and understanding of the issues businesses face.

Sean also serves as co-chair of Snell & Wilmer's Pro Bono Committee.

### Representative Matters

- Defended multiple real estate developers in multiple lawsuits under the California Environmental Quality Act (CEQA) seeking to set aside clients' development entitlements.
- Advised numerous real estate developer clients on compliance with California Environmental Quality Act (CEQA) and preparation of Environmental Impact Reports (EIRs).
- Represented real estate development companies, investment companies, lenders, and other commercial businesses in eminent domain litigation.
- Defended metal plating company and owners in federal lawsuit brought by California Department of Toxic Substances Control (DTSC) under Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and related indemnity claims.
- Represented real estate developer in lawsuit against major oil company for damages resulting from leaking underground storage tanks at retail gas station.
- Defended major oil company in multiple lawsuits arising from contamination at retail service stations and fuel terminals across California.

- Represented commercial real estate developer in protest of application by public utility to install electric power transmission lines across client's property.
- Defended hospital in enforcement action brought by South Coast Air Quality Management District, alleging violations of air quality regulations.
- Defended entertainment company in toxic tort lawsuit alleging exposure to lead on children's product.
- Defended manufacturer of soap products against mass toxic tort action filed by multiple plaintiffs alleging exposure to multiple toxic substances.
- Defended environmental consulting company against lawsuits by homeowners alleging personal injuries resulting from toxic mold exposure, and related indemnity claims by homeowners association.
- Represented entertainment company in lawsuit alleging violation of Proposition 65 as result of runoff of allegedly contaminated storm water from client's studio lot.
- Represented public interest group in federal and state lawsuits challenging U.S. Department of Interior's fee-to-trust acquisition of property for Indian casino, challenging California Governor's concurrence in the approval, and defending California referendum rejecting the casino.
- Represented real estate developer in action against city alleging breach of development agreements.
- Represented real estate developer in code enforcement lawsuit brought by City of San Diego.
- Represented real estate investor in enforcement proceeding by Regional Water Quality Control Board to impose a cleanup and abatement order, and defended client on appeal to the State Water Resources Control Board.
- Represented purchaser of contaminated commercial property in dispute with seller.
- Defended multiple clients in various industries against U.S. EPA administrative orders and enforcement actions under CERCLA, and in their participation in Superfund site groups.
- Defended numerous clients in various industries against Proposition 65 lawsuits.
- Advised real estate investor in zoning conflict with City of Tustin.
- Advised numerous real estate investors, developers, lenders, and other companies on environmental issues arising in real estate and corporate transactions.
- Counseled clients on environmental compliance issues relating to storm water runoff, hazardous materials, air emissions, and other environmental issues.
- Represented national bank in multiple actions against commercial real estate developer to appoint receiver over multiple properties in Los Angeles, Sacramento, San Diego, and Riverside Counties, judicially foreclose on the properties, and pursue the guarantors for breach of loan guarantees totaling \$220 million.
- Represented national bank in Orange County action against homebuilder and over 100 lien claimants to appoint receiver and foreclose on 31 residential development projects located across California, Arizona, and Colorado, and to clear \$13 million in liens from the properties.
- Represented national bank in multiple Marin County actions against developer and guarantors to judicially foreclose on real properties and pursue loan guarantees securing 15 loans totaling over \$32 million.
- Represented national bank in Los Angeles County action against developer for breach of \$18 million in loan guarantees.
- Represented national bank in Marin County and Riverside County actions against real estate developer for breach of loan guarantees.

- Represented lender in tax foreclosure lawsuit brought by County of Sacramento.
- Represented real estate investor in real property encroachment lawsuit.
- Represented real estate investor in multiple unlawful detainer actions against retail tenants.
- Defended various clients in commercial unlawful detainer actions.

## Education

- Loyola Law School, Loyola Marymount University (J.D.)
- Michigan Technological University (B.S., Chemical Engineering, *with high honors*)

## Professional Memberships & Activities

- National Association of Industrial and Office Properties (NAIOP)
  - Legislative Affairs Committee (2007-Present)

## Representative Presentations & Publications

- "[Enforcement of the South Coast AQMD's Warehouse Rule Is Coming](#)," Author, Snell & Wilmer Legal Alert (October 30, 2023)
- "[Environmental Considerations in Commercial Real Estate Transactions – Part 2](#)," Episode Host, CalCurrent Podcast (September 8, 2022)
- "[Environmental Considerations in Commercial Real Estate Transactions – Part 1](#)," Episode Host, CalCurrent Podcast (July 14, 2022)
- "Environmental Considerations in Commercial Real Estate Transactions," Presenter, Snell & Wilmer Virtual CLE Series (June 2, 2022)
- "Vapor Intrusion Update," Moderator, Snell & Wilmer Environmental Law Roundtable Series (September 16, 2021)
- "Environmental Justice Under Federal and California Law," Presenter, Snell & Wilmer Virtual CLE Series (June 29, 2021)
- "[Environmental Justice](#)," Guest Host, Brownfield Braintrust Podcast with Matt Winefield (June 16, 2021)
- "[Putting 'Teeth' in Environmental Justice](#)," Episode Host, CalCurrent Podcast (May 6, 2021)
- "NAIOP Academy: SCAQMD Indirect Source Rule (ISR) Update," Panelist, National Association of Industrial and Office Properties Inland Empire Chapter (April 29, 2021)
- "LA County Green Zone Ordinance," Presenter, Construction Management Association of America (April 13, 2021)
- "Biden, the Environment & Energy – the First Three Weeks," Co-Presenter, Environmental Law Update (February 11, 2021)
- "Calif. Justices Say Gov. OK To Back Feds On Tribal Casino," Quoted, Law360 (August 31, 2020)
- "[Longtime Judge Martin Jenkins Address Orange County Law Center Event](#)," Media Mention, Daily Journal (June 26, 2019)
- "Ports Update and Labor Unions Impact on Development," Co-Presenter, Society of Industrial and Office Realtors, Newport Beach, CA (September 8, 2016)
- "[A Sensible Proposal for CEQA Reform](#)," Author, Orange County Business Journal (November 23, 2015)

- "[United States: California Water Law Update](#)," Co-Author, Mondaq (August 20, 2015)
- "Bill is Wrong Approach to Protect Workers From Wage Theft," Author, Daily Journal (August 18, 2014)
- "2014 Legal and Legislative Update for Commercial Real Estate," Co-Presenter, Society of Industrial and Office Realtors, Newport Beach, CA (January 27, 2014)
- "[Case Study: American Trucking v. LA](#)," Author, Law 360 (October 4, 2011)
- "[Good News For Calif. Developers](#)," Author, Law360 (August 11, 2011)
- "[Case Study: Oasis West Realty v. Goldman](#)," Author, Law360 (May 23, 2011)
- "[Warning: California Has Listed 'Wood Dust' Under Proposition 65](#)," Author, Daily Journal (December 2010)
- "Water, Global Warming Critical Issues," Real Estate Southern California (January 2008)
- "From Drugs to Tire Tread: Daubert Test to Admit Expert Testimony Applies to Technical, Not Just Scientific, Experts," Co-Author, abtl Report (Orange County), Volume I, No. 2 (May 1999)
- "Cleaning Up the Mess: Dealing With Property Contamination," Journal of Property Management (January 1999)
- "Dealing with Contaminated Soil," Journal of the Greater Los Angeles Apartment Association (October 1997)
- "Contaminated Soil," Apartment Management Journal (October 1997)
- "Lead-Based Paint Requirements for Apartment Owners and Managers," Apartment Management Journal (September 1997)
- "Recent Breakthroughs in the Regulation of Underground Storage Tanks," Orange County Business Journal (March 1997)
- "The Long and Unexpected Reach of State and Federal Oil Spill Laws," California Environmental Insider (May 1993)

#### *S&W Real Estate Litigation Blog*

- "[California Case Deals with Nuisance Lawsuit Intended to Delay Foreclosure](#)," Author (May 11, 2016)
- "[Guarantor Waivers Narrowed](#)," Co-Author (December 18, 2014)
- "[California Case Requires Arbitration Despite Lack of Actual Controversy](#)," Author (December 9, 2014)
- "[New California Case Illustrates Peril of Full Credit Bid](#)," Author (October 6, 2014)

#### ***S&W Environmental & Natural Resources Law Blog***

- "[California Water Law Update](#)," Co-Author (May 11, 2015)
- "[Project Built at Variance With EIR Subject to Late CEQA Lawsuit](#)," Author (December 23, 2014)
- "[CEQA Lawsuit to Enforce Climate Change Mitigation Measure Prevails](#)," Co-Author (November 13, 2014)
- "[Coastal Commission Public Access Condition Held Invalid](#)," Author (October 27, 2014)
- "[Legislature Expands CEQA to Require Tribal Consultation](#)," Co-Author (October 22, 2014)
- "[Governor of California Is Not a 'Public Agency' Under CEQA](#)," Co-Author (October 8, 2014)
- "[Time to Dust Off California Water Law on Development Moratoria](#)," Co-Author (October 1, 2014)
- "[Property Owner Waives Right to Challenge Permit Conditions](#)," Author (September 11, 2014)

#### ***Developing News***

- ["Enforcement of the South Coast AQMD's Warehouse Rule Is Coming,"](#) Author, Snell & Wilmer Developing News (October 25, 2023)
- ["Enviro Justice Org Wants to Sue Warehouses to Enforce South Coast AQMD's Warehouse Indirect Source Rule,"](#) Author, Snell & Wilmer Developing News (July 20, 2023)
- ["Your Due Diligence Checklist Just Got Longer—Environmental Justice,"](#) Author, Snell & Wilmer Developing News (April 20, 2021)
- ["New California Bill Aggressively Targets Distribution Warehouse Development,"](#) Author, Snell & Wilmer Developing News (March 30, 2021)
- ["LA County to Adopt Green Zone Ordinance, Environmental Justice Initiative,"](#) Author, Snell & Wilmer Developing News (March 9, 2021)
- ["South Coast Air Quality Management District to Regulate Distribution Warehouses, Part 2,"](#) Author, Snell & Wilmer Developing News (February 25, 2021)
- ["South Coast Air Quality Management District to Regulate Distribution Warehouses, Part 1 \(Updated\),"](#) Author, Snell & Wilmer Developing News (October 15, 2020, rev. February 15, 2021)
- ["In California the Housing Crisis Yields to Luxury Spas,"](#) Author, Snell & Wilmer Developing News (September 23, 2020)
- ["Five Key Takeaways From the Pennsylvania Decision Throwing Out the Governor's Lockdown Orders,"](#) Author, Snell & Wilmer Developing News (September 17, 2020)
- ["California Supreme Court Hands Victory to Private Property Owners Over Public Use"](#) (June 16, 2017)
- ["Developer Awarded Cost of Preparing Administrative Record in CEQA Lawsuit"](#) (September 14, 2016)
- ["Does a Project's Impact on the 'Character of the Community' Need to Be Evaluated Under CEQA?"](#) (March 31, 2016)
- ["How to Avoid CEQA Environmental Review by Ballot Initiative"](#) (February 26, 2016)
- ["It's the Effect of the Project on the Environment - Not the Effect of the Environment on the Project"](#) (December 21, 2015)
- ["New CEQA Cases Approve Flexibility in Determining Environmental Baseline"](#) (November 30, 2015)
- ["California Bill Would Permit Employees to Record Liens for Alleged Unpaid Wages"](#) (July 18, 2014)
- ["CEQA Reform Update"](#) (March 19, 2013)
- ["Assembly Bill 59 Clears Path for Higher Commercial Property Taxes"](#) (January 17, 2013)
- ["A Sensible Proposal for CEQA Reform"](#) (January 16, 2013)
- ["California Court of Appeal Applies Rapanos to Affirm Stormwater Penalty Against Developer"](#) (October 25, 2012)
- ["Rialto Citizens Case Provides Helpful Direction On Controversial CEQA Issues"](#) (August 2012)
- ["California Supreme Court Kills Redevelopment Agencies. Now What?"](#) (January 11, 2012)
- ["Ninth Circuit Court of Appeals Strikes Down Port of Los Angeles' Clean Trucks Provision"](#) (September 27, 2011)
- ["New CEQA Case Undermines Common No-Growth Litigation Tactic, and Clarifies Greenhouse Gas Analysis"](#) (August 1, 2011)

- "[Land Use Dispute is Backdrop for California Supreme Court Decision on Attorney's Duty of Loyalty](#)" (May 16, 2011)
- "[California Assembly Takes Up 10-Year Statute of Repose](#)" (May 4, 2011)
- "[WARNING: The State of California has listed "wood dust" under Proposition 65](#)" (December 6, 2010)
- "[New Case Adds Wrinkle in Evolving Law on Application of CEQA to Water Supply Process](#)" (February 3, 2009)
- "[Riverside County Superior Court Rules That EIR for Residential/Commercial Development Must Consider Global Warming Impacts](#)" (August 12, 2008)
- "[California Supreme Court Finds CALFED Adequately Evaluated Alternatives in Program EIS/EIR for Bay-Delta Program](#)" (June 9, 2008)
- "[New Case Explains When Supplemental Environmental Review Is Required Under CEQA](#)" (May 9, 2008)
- "[New Case Holds No CEQA Review Necessary for Water Supply Assessment](#)" (April 18, 2008)
- "[New Case Holds That Permitting Baseline Must Be Based On Actual Past Emissions, Rather Than Permitted Potential To Emit](#)" (January 17, 2008)

## **Professional Recognition & Awards**

- Volunteers for Justice Attorney of the Year, Public Law Center (2019)
- Wiley W. Manuel Award for Pro Bono Legal Service, State Bar of California (2013-2016, 2020)

## **Community Involvement**

- The Public Law Center, Board Member (2020-Present)
- Big Brothers/Big Sisters of Orange County, Volunteer Big Brother (1997-2008)
- Serra Catholic School, Capital Campaign Committee (2008-2013)
- Orange County Coastkeeper, Board Member (2008-2011)
- AYSO Volunteer Referee (2008-2016)
- Boy Scouts of America, Troop 818, Committee Member and Assistant Scoutmaster (2014-2017)

## **Previous Professional Experience**

- Environmental Specialist and Process Engineer, Chevron U.S.A.
  - Products Company, El Segundo, California

## **Bar Admissions**

- California

## **Court Admissions**

- Supreme Court of California
- United States Court of Appeals, District of Columbia Circuit
- United States Court of Appeals, Ninth Circuit
- United States District Court, All Districts of California
- United States Supreme Court

## **Client News**

- Court Confirms \$8.7 Million Arbitration Award Against OC Lawyer and Others in Partnership Dispute
- Snell & Wilmer Advises Specialty Mechanical Contracting Company A.O. Reed & Co. in Acquisition to Legence