



# Annual Report

## 2021

*City of*  
**SACRAMENTO**  

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**Office of the City Attorney**

# Our Administration Team

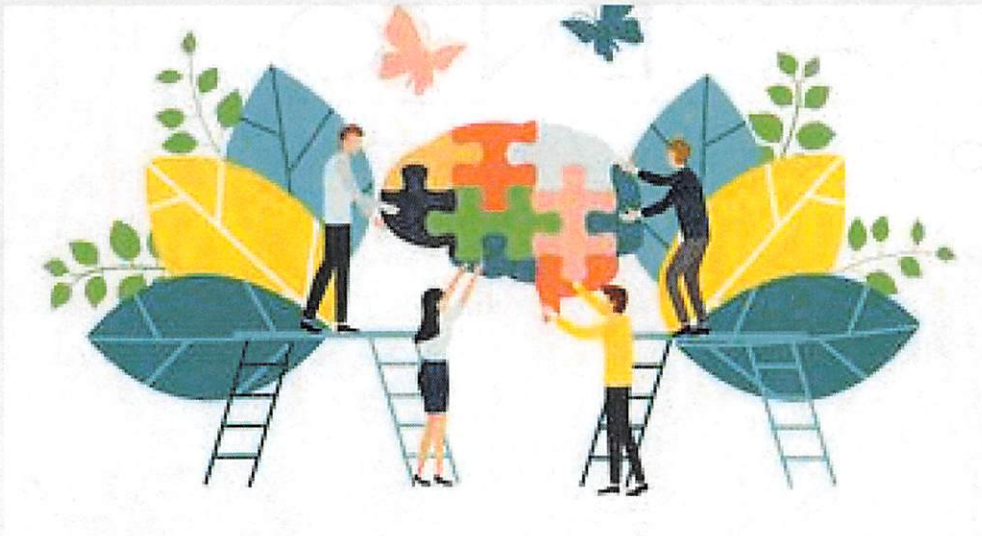
## OVERVIEW

The administration and general support functions of the office are performed under the direction of the City Attorney. The Administration Team is City Attorney Susana Alcala Wood; Chief Assistant City Attorney Sandra G. Talbott ; Assistant City Attorney Matthew D. Ruyak; Supervising Deputy City Attorneys Gustavo. L. Martinez, Brett M. Witter, Jerry C. Hicks, Steve Y. Itagaki and Andrea M. Velasquez; Law Office Administrator Angela Kolak; and Special Assistant to the City Attorney Jenny Manzer Beck.

The Administration Team strives to maintain a work environment that inspires excellence and creativity, while rewarding productivity. We promote career enhancement with ongoing training and staff

development. The office provides staff the opportunity to obtain needed credits for Mandatory Continuing Legal Education (MCLE), as well as other professional-association seminars.

The Administration Team develops and implements office policies and procedures; monitors overall office performance and individual performance; prepares and administers the office budget; handles all personnel hiring and other personnel matters; assembles and analyzes office productivity data, including production of an annual report; and engages in long-range and succession planning. Together the team prioritize the establishment and maintenance of relationships and trust with the City Council and their staff, public commissions and valued City departments, officers and city staff.



# Legislation Highlights

Many of the City Council's goals and policies are implemented by the enactment of new resolutions and ordinances or the amendment of existing resolutions and ordinances. The City Council adopted 28 ordinances during 2021.

The General Counsel & Advisory Section, Strategic Projects & Research Section, Community Advocacy & Public Safety Section, and the Litigation & Human Resources Section assisted City staff in drafting legislation and, where needed, in working through the entire process of developing effective legislation and working with stakeholders and other interested parties. Our Draft Ordinance Review Committee (DORC) held 18 meetings to review various legislative proposals during Calendar Year 2021. Below are the issues addressed by ordinances enacted during 2021.

Railyards Special Planning District and the Central City Special Planning District	Rezoning at 3855 Power Inn Road
Green Building Standards and Electric Vehicles	Parks and Community Enrichment Commission
Southeast Industrial Area Dispensaries	Drive-Through Restaurants
Planning and Development	Sacramento Register of Historic and Cultural Resources
Green Building Standards Including Electrification	Shared-Rideable Businesses
Worker Protection, Health, and Safety; and Declaring the Ordinance to be an Emergency Measure to Take Effect Immediately Upon Adoption	Truxel 3 Planned Unit Development
Greenbriar Community Facilities District No. 2018-03 (Improvements)	Southeast Industrial Area Dispensaries Authorized to Deliver
Ministerial Approval of Two Dwelling Units on a Lot and Urban Lot Splits, and Declaring the Ordinance to be an Emergency Measure	Campaign Contribution Limitations
Storefront Cannabis Dispensaries	5441 Pleasant Drive (Nathaniel Colley Residence) as a Landmark on the Sacramento Register of Historic and Cultural Resources

# Legislation Highlights

1860 60th Avenue (James Dodd Residence) as a Landmark on the Sacramento Register of Historic and Cultural Resources	Commercial Solid Waste Management
Establishment of Small Temporary Residential Shelters and Temporary Shelter Facilities	Fireworks
Infrastructure Financing Plan for the City of Sacramento Aggie Square Enhanced Infrastructure Financing District	Prohibition of Industrial Hemp
Massage Therapy	Accessory Dwelling Units
Solid Waste Management	Military Equipment Use Policy

# Office Overview

## Budget

Operating Budget for FY 2020-2021: \$ 9,997,687

Sources:

General Fund: \$ 7,381,884

Interdepartmental Funds: \$ 2,395,712

Enterprise or other funding: \$ 220,091

Revenue: \$ 52,000

In addition to the revenue figure above, the City Attorney collected a total of \$287,407 under Council Resolution # 2009-164 (Justice for Neighbors Operating Project). Those funds are set aside to provide resources to the City to combat quality-of life-issues under the Social Nuisance Code.

Special Budget Items: In order to send employees home to work during COVID-19, additional equipment was purchased (Monitors and computers). CARES act funding was used to cover the \$38,340.00 cost.

Department efficiencies: Finalized portion of multi-phase project to renovate office space to increase efficiency and productivity by utilizing existing office space to better serve department's needs while incorporating COVID-19-related protocols

# Office Overview

## Budget

### OBJECTIVES FOR FY 2020/21

- Continue to guide the Council and City departments through the changing laws and regulations related to cannabis regulation and enforcement, including the launch of the CORE program.
- Assist the Council and City Manager with researching and advising on all options available to the City in the pursuit of securing additional resources and avenues for the provision of services and housing to the City's homeless population.
- Assist the Council and City Manager by analyzing, researching, and advising on issues related to COVID-19, including the health and safety of employees and citizens, economic recovery, and access to available funding,
- Initiate efforts to engage in affirmative litigation to address community issues related to improving health, welfare, and safety.

# Community Advocacy & Public Safety Division ("CAPS")

This division provides advisory and enforcement services to the Sacramento Police Department (SPD) and the Code Enforcement and Dangerous Housing divisions of the Community Development Department. The division partners with enforcement departments to prosecute and abate physical and social nuisances. The division also includes a Criminal Prosecution Unit that prosecutes criminal violations of the City Code.

The mission of the division is to fight corrosive social and criminal nuisances that degrade the quality of life in the City. Operating under the "broken windows" theory, the division's aim is to identify, prioritize, and address criminal problems before they grow into serious offenses that can lead to urban decay. The division understands that the ability to respond to neighborhood complaints and address criminal problems proactively is critical to improving quality of life in our neighborhoods.

Through the Justice for Neighbors (JFN) program our office has coordinated with the City's enforcement departments, including the Fire and Community Development Departments, to target abandoned structures, nuisance properties, and blight plaguing neighborhoods. The JFN team files lawsuits seeking aggressive and specifically-tailored injunctive relief, including stay-away orders, closure of properties, hiring of security guards, installation of video camera systems, and other improvements to properties.

## Summary Calendar Year

Total Matters/Assignments: 902

Assignments: 772 Non-Criminal: 339 Criminal: 354	Matters: 135	Contracts approved: 51
Public Records Act: 103		

# Notable Achievements

Provided immediate, after-hours legal advice to effectuate the closure of City Hall Garage premises to all persons following a fire that compromised the structural integrity of the garage.

Developed a Citywide Homelessness Response Protocol, modeled after the Standard Operating Procedures adopted by the Department of Utilities.

Prepared frequently asked questions posed by City staff and members of the public regarding homelessness with special emphasis on RV enforcement and the application of the 9<sup>th</sup> Circuit court case in Martin vs. City of Boise.

Guided the City through compliance with successive iterations of the County Health Officer's COVID Stay-at-Home Order, and advocated for the more limited scope of such orders.

Advised the City Manager's Office and Office of Emergency Management on the designation of sites deemed critical infrastructure.

Assisted the Police Department with developing and operationalizing a policy to enable petitions for vehicle seizure warrants in cases involving street side shows.

We settled a record high case against an illegal cannabis violator for \$1,008,220 on behalf of the City.

Since 2018 we have worked with the police department to reduce the illegal grow house operations by about 90% through aggressive enforcement and prosecution of administrative penalties.



Successfully filed a probate for the deceased owner of 5541 71<sup>st</sup> Street. The property had turned into a major nuisance for the neighborhood. Family of the deceased were living in the house and using and dealing drugs. Probate was opened, and the home was sold as part of the probate estate. Family members ended up with thousands of dollars from the sale, and the property is now in the hands of a new and responsible owner.

We settled an illegal cannabis grow case through an innovative house donation that will be going to a family in need, assuring the property will never be used for illegal cannabis cultivation again (3715 Andros Way).

# General Counsel & Advisory Division

The General Counsel and Advisory Section provides legal advice and support to the City Council, all City departments, and staff. The advisory attorneys provide full support for City operations, including:

- Drafting and reviewing ordinances and resolutions
- Preparation and review of contractual documents
- Researching federal, state, and local law

## Summary Calendar Year

Total Matters/ Assignments: 1435

Matters: 249	Assignments: 1186	Contracts: 683
Ordinances Reviewed: 18	Public Records Act: 158	Staff Reports: 25

# Notable Achievements

The CAO coordinated a class action lawsuit based on unlawful collusion on prices for aluminum sulfate purchased by the Department of Utilities. The total distribution to the City of \$148,518.03 represented approximately 3.8% of the total amount that the City paid for the purchase of Liquid Aluminum Sulfate during the class period and constituted a material return on the estimated overcharges in this case.

Drafted an ordinance, in response to recent state legislation, authorizing the ministerial approval of up to four housing units on a lot and “urban lot splits.” These measures allow for the establishment of four housing units on a site that previously housed one unit. The hope is that this ordinance and their measures— such as streamlining the permitting of accessory dwelling units (which the CAO also worked on this year)— will help to alleviate the state’s housing crisis.

Advised on tribal resource consultation under various laws with respect to the General Plan, specific plans, and various projects.

Reviewed and advised on the adoption of the city’s housing element (part of the city’s general plan), which in part paved the way for the city’s “Pro-Housing Designation” by the state’s Department of Housing and Community Development— the first such designation in the state.

# Litigation & Human Resources Division

The Litigation/Human Resources Division provides both litigation and advisory support. Division attorneys represent the City, City Council, and staff in all manner of litigated matters, including, civil rights, personal injury and property damage cases, construction defect, eminent domain, and breach of contract. Litigation attorneys work in both the administrative and civil arenas, providing litigation services in arbitration and administrative proceedings, and in both state and federal courts. Division attorneys also provide advisory support to the various divisions in the City's Human Resources Department, including the Office of Civil Rights, Benefits, Class and Compensation, Labor Relations, Safety, Workers' Compensation, and Risk Management.

## Summary Calendar Year

Total Litigation Cases Opened: 159

Litigation Review: 24	Cannabis: 8	Civil Rights: 13
Contract: 1	Subrogation-Collection: 2	Tort/Appeal: 37
Writs: 9	Eminent Domain/Land Use: 9	Employment: 13

Total Litigation Assignments: 39

Advice: 26	Public Records Act:: 13	
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Total HR Cases Opened: 62

Contract:: 30	Staff Reports: 25	Subpoenas: 22
Matters: 40	Assignments: 320	PRA: 30

# Notable Achievements

## ***Robin Brewer v. City of Sacramento and Jay Schenirer***

Ms. Brewer installed a hot tub in her front yard and a masonry wall in the City's right-of-way without first obtaining the necessary permits. The City filed a public nuisance action against Ms. Brewer. She then filed the instant matter against the City, alleging negligence and promissory estoppel, and Councilmember Schenirer, alleging defamation and intentional infliction of emotional distress. The City's demurrer to Ms. Brewer's Complaint was sustained without leave to amend and the City is no longer a party to this case. Councilmember Schenirer's demurrer to the intentional infliction of emotional distress cause of action was sustained, with leave to amend. Ms. Brewer did not amend her Complaint, therefore this matter now only involves a single cause of action for defamation against Councilmember Schenirer.

## ***Lana Le Chabrier v. Regional Transit, et. al.***

Ms. Le Chabrier, a pro per, was walking in downtown Sacramento and claims to have suffered hearing loss when a Regional Transit Light Rail train that was traveling near her blew its horn. She brought a negligence cause of action against the City for not having an ordinance moderating the volume of the Light Rail train horns. The City's demurrer was sustained without leave to amend.

## ***Robin Isaacs v. City of Sacramento***

Ms. Isaacs slipped and fell at Sacramento International Airport and filed a Complaint against the City and County. She alleged a dangerous condition of public property claim against the City. The accident location is not within the City's jurisdiction. We were able to successfully meet and confer with Ms. Isaac's attorney before the responsive pleading was due and she dismissed the City from the action.

## ***Wyatt, Russell v. City of Sacramento***

Plaintiff alleged City Measure I (passed by a majority of City voters in 1998) violated the provisions of the California Constitution that relate to municipal taxes. Pursuant to Measure I, each fiscal year, eleven percent of all revenue collected by enterprise utilities is transferred to the City's general fund. The trial court agreed with plaintiff and ruled the City's yearly transfer of funds from enterprise utilities to the general fund pursuant to Measure I violated the California Constitution. Assuming the trial court's ruling stood, the City's general fund would have lost out on between \$20,000,000 and \$30,000,000 in funds transferred each year from all enterprise utilities.

## ***Lea, Susan v. City of Sacramento***

# Notable Achievements,

The City appealed the trial court's ruling to the California Third District Court of Appeal. In a unanimous and published opinion, the three assigned justices of the Third District Court of Appeal reversed the trial court ruling and held Measure I did not violate the California Constitution. Plaintiff subsequently requested that the California Supreme Court review the Third District District's opinion in favor of the City. Plaintiff's request for review was denied by the California Supreme Court.

## *Lea, Susan v. City of Sacramento*

Plaintiff was assaulted by an unknown assailant in the downtown area and sustained significant injuries. Plaintiff filed and served a complaint naming the City, Mayor Darrell Steinberg, City Manager Howard Chan and Police Chief Daniel Hahn as defendants. Her complaint set forth five causes of action against all defendants and sought both substantial damages and declaratory relief. Our office filed a demurrer to each of the five causes of action asserted against all four defendants. The Sacramento Superior Court sustained our demurrer on behalf of all defendants and all five causes of action in plaintiff's complaint, with leave to amend. Plaintiff subsequently filed her first amended complaint which set forth additional facts supporting her claims against all defendants. Our office filed a demurrer to plaintiff's first amended complaint concerning all four defendants and all five causes of action that was granted by the court, without leave for plaintiff to amend her first amended complaint. The court also entered judgment in favor of all four defendants concerning the action filed by plaintiff.

## *Aguayo, Joseph v. City of Sacramento*

Plaintiff's vehicle was struck by a Sacramento fire truck at the intersection of 47<sup>th</sup> Avenue and Franklin Boulevard. Plaintiff's vehicle sustained significant damage and was totaled as a result of the subject collision. The California Highway patrol investigated this collision and concluded the SFD engineer's negligent operation of the SFD fire truck was the sole cause of the subject collision. Plaintiff sustained significant injuries including a concussion, and injuries to his back, ribs, and left ankle. Plaintiff's past medical expenses are \$10,000. Two of plaintiff's doctors confirmed plaintiff's treatment for his injuries is ongoing. Plaintiff claimed he will require \$50,000 in future medical care for his injuries. Our office settled plaintiff's claim for a total of \$30,000.

## *Excel Fitness Fair Oaks, LLC v. Gavin Newsom et al.*

Excel Fitness filed a complaint against the State of California, Sacramento County, the City of Sacramento, and other local jurisdictions in the Eastern District of California alleging the Public Health Orders requiring closure of gyms during the COVID pandemic constitute constitutional violations including violations of the takings clause, due process, and equal protection clauses of the state and federal constitution. The City filed a motion to dismiss on the grounds that there is no constitutionally protected right to operate a gym. In March of 2021, the City prevailed; the Court granted the motion to dismiss.

# Notable Achievements,

## **500 Bercutt LLC v. City of Sacramento**

500 Bercutt LLC filed a complaint against the City of Sacramento challenging SHRA/City actions to provide shelter to homeless during COVID, specifically, providing restroom facilities in the River District and submitting a grant application to convert Hawthorn Suites into housing for the homeless. The complaint alleged promissory estoppel, violation of due process and equal protection, and state-created harm. The City demurred to the complaint on the grounds that plaintiff filed to name a necessary party and failed to state facts sufficient to support the causes of action. In response, plaintiff dismissed the lawsuit.

## **Aggie Square**

The UC Regents approved the Aggie Square Project in November of 2020 and two organizations filed lawsuits challenging the approval: Sacramento Investment without Displacement and American Federation of State, County, and Municipal Employees. The City intervened in both lawsuits in an effort to protect the City's interest in the Aggie project. The City Attorney's Office worked with the Mayor's office to negotiate settlements of both cases.

## **Sacramento Valley Station**

The CAO assisted Public Works in the processing of an area plan for the Sacramento Valley Station that will facilitate and guide the development of a 31-acre sustainable regional mobility hub within a connected, vibrant, and walkable community. The SVS Station was processed based on streamlined and efficient environmental review, without legal challenge.

## ***Velez v. City***

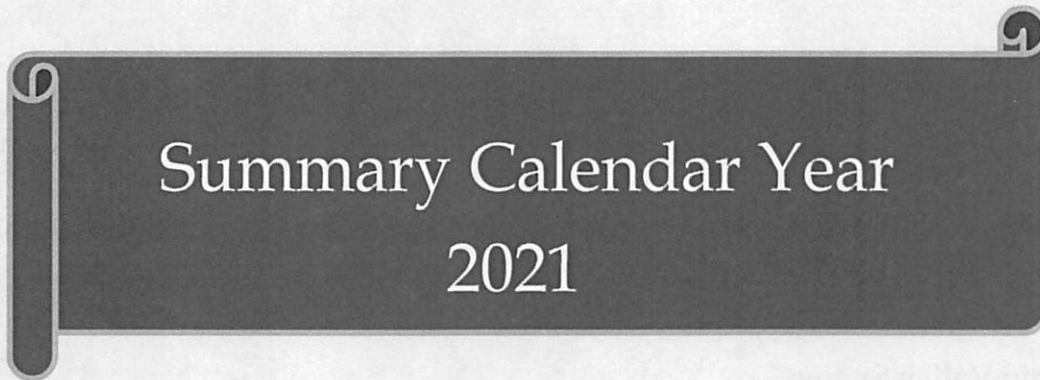
Officer involved shooting involving KP Officer Harshbarger on 09/18/2017. Bail bonds agents were attempting to serve a warrant on claimant Velez. Sac PD arrived as backup at address on Bellini Way. A gunshot was heard which caused SPD Sgt. Farnsworth and Ofc. Harshbarger to enter residence. Claimant remained in bathroom of residence and would not come out despite orally communicating with Sgt. Farnsworth for approximately 30 minutes. Ofc. Harshbarger remained as cover for Sgt. Farnsworth. Through a crack in the bathroom door, Ofc. Harshbarger believed he saw Velez reaching on the ground for the gun. He then fired four shots through the door striking Plaintiff with every shot. Plaintiff sustained injuries but shooting not lethal. Settled the case at private mediation for 3,250,000.

## ***Ford v. City***

On 06/06/2018, Brandon Smith, son of Plaintiff, died from drug overdose while being transported to the Main Jail for booking on a parole violation by SPD Officer Marcus Frank. The primary claim was that Officer Frank was deliberately indifferent to Smith's need for medical care. Causes of action for civil rights violations pursuant to 42 U.S.C. 1983 and wrongful death. Settled case at Mandatory Settlement Conference for \$99,000.

# Strategic Projects & Research Division

The Strategic Projects and Research Division provides legal advice on projects initiated by the City Council or that require multi-departmental coordination. SPR attorneys also provide legal advice to the City Council, charter offices, and city departments .



## Summary Calendar Year 2021

Total Assignments: 144

Advice: 22	Cannabis: 27	Contracts Approved: 1846
Ordinances Reviewed: 2		

Total Matters: 142

Advice: 115	Cannabis: 27	Assignments: 368
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# Notable Achievements

**AGGIE SQUARE.** Provided legal advice on the Aggie Square development project, a state-of-the-art hub for research, innovation, and education, along the Stockton Boulevard corridor. This included assisting in the formation of the enhanced infrastructure financing district and the community facilities district, as well as the drafting of the business term sheet, community benefits agreement, and master funding agreement.

**STOREFRONT CANNABIS DISPENSARY PERMITS.** Assisted the Office of Cannabis Management in providing an opportunity for participants in the city's Cannabis Opportunity Reinvestment and Equity (CORE) Program to apply for newly available storefront cannabis dispensary business permits.

**INSPECTOR GENERAL.** Provided legal guidance to create the position of Inspector General within the Office of Public Safety Accountability. The Inspector General will independently investigate use-of-force incidents and in-custody deaths.

**AMERICAN RESCUE PLAN.** Provided legal advice for the City's use of \$112 million received from the federal government under the American Rescue Plan Act.

**COMPREHENSIVE SITING PLAN TO ADDRESS HOMELESSNESS.** Provided legal advice on the preparation and execution of the city-wide plan to identify properties and construct temporary housing options for persons experiencing homelessness.

**FIREWORKS ORDINANCE.** Drafted the fireworks ordinance that introduced social-host liability for fireworks violations and advised the Fire Department on its implementation.

**INFORMATION SECURITY POLICY.** Provided legal advice on the city-wide information security policy.

**GREENBRIAR BOND ISSUANCE.** Advised on the \$43 million special tax bond issuance for the Greenbriar Community Facilities District, servicing the Northlake development project in North Natomas.

**ROBERTS FAMILY DEVELOPMENT CENTER.** Prepared a \$450,000 grant agreement and deed of trust to facilitate the renovation of the Roberts Family Development Center in North Sacramento.

**ADVANCED LIFE SUPPORT AGREEMENT.** Negotiated an agreement between the Fire Department and the Sacramento County Emergency Medical Services Agency regarding advanced life support services.

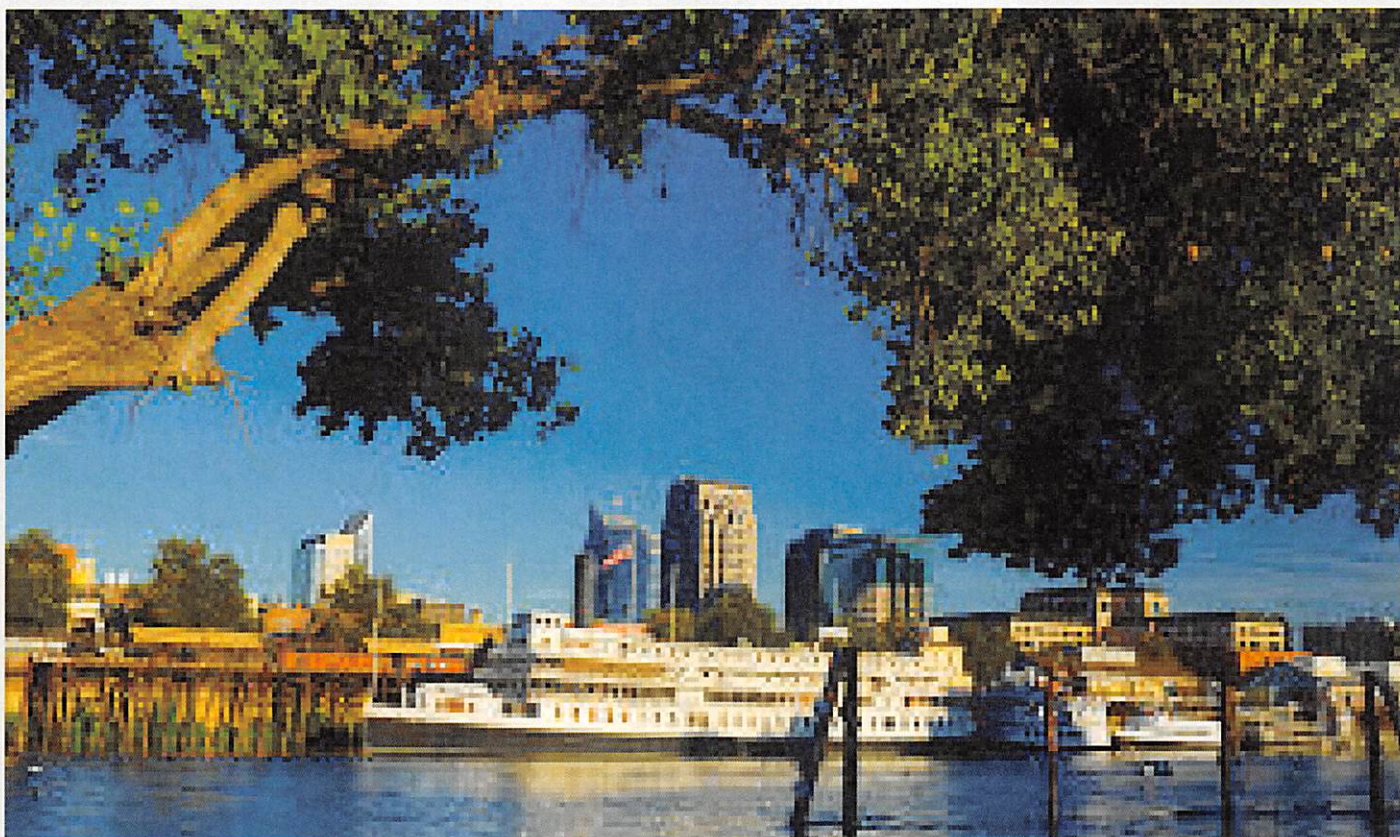
# Office Programs

**Christmas Gift for Community:** In December of 2021 we gave a collective donation to Next Move Homeless Services in the amount of \$800.00 which provided gifts to 17 families.



## **Law Clerks:**

Our law clerk program continues to thrive, thanks to all of the attorneys who are willing to work with and provide guidance to the students. The majority of the applicants are students from local law schools, (University of the Pacific and UC Davis) but we have also had applicants from Berkeley, Pepperdine, University of Virginia, and William and Mary. Our office hosts students year-round, part-time during the school semesters and full-time during the summer. The law clerks are not paid but receive a wealth of experience as they work on issues from all four sections within the office. The law clerks also accompany attorneys to meetings, arbitrations, mediations, depositions, hearings, and trials, all of which help them utilize their newly acquired skills in a professional setting. The office currently has three former law clerks working as attorneys.



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