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Preface

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PREFACE

The Ninth Circuit, the largest of the twelve federal circuits, comprises fifteen district courts and the United States Court of Appeals for the Ninth Circuit. Covering approximately 1.4 million square miles, the Ninth Circuit encompasses nine Western states and two U.S. territories, including Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, Guam and the Northern Mariana Islands. Fifty million people live within the Ninth Circuit's jurisdiction. Correspondingly, the Circuit handles approximately twenty percent of the entire federal judicial caseload.

Often characterized as "the most liberal circuit court in the country," the Ninth Circuit Court of Appeals is frequently at odds with the other circuit courts and the United States Supreme Court. When Golden Gate University published the first annual Ninth Circuit Survey, in 1976, the Ninth Circuit Court of Appeals had twelve active judges. In the twelve months preceding the journal's publication, the court disposed of fewer than 1400 cases. Last year, operating with only eighteen of twenty-eight authorized judgeships, the Ninth Circuit Court of Appeals handled an overwhelming 8600 cases. When the Ninth Circuit Survey was conceived, its purpose was to provide practitioners with an overview of the appellate court's most significant decisions. The first annual issue accomplished this goal admirably, discussing, at various lengths, nearly 200 of the 1400 cases decided between September 1, 1974 and August 31, 1975.

Over time, this journal's focus has changed considerably. While it is still an entirely student-managed, student-written and student-edited scholarly legal journal, each of today's Ninth Circuit Survey writers explains and critiques a single, recent Ninth Circuit decision. This twenty-third edition of the Ninth Circuit Survey contains comments and notes on decisions impacting copyright law, constitutional law, and land use

law. This edition differs slightly from past editions in two respects. First, it contains a note based on a Ninth Circuit decision that the Supreme Court subsequently reversed and remanded. The case, *Suitum v. Tahoe Regional Planning Agency*, is currently pending in the district court, but will undoubtedly make its way back through the Ninth Circuit Court of Appeals. *Suitum's* eventual outcome has important implications for government agencies, property owners and developers in the Ninth Circuit and thus, the article is properly published in this journal. Second, this edition contains a moving tribute to the late Cecil F. Poole, written by the Honorable Joseph T. Sneed. Judge Poole passed away on November 12, 1997, after serving more than nineteen years on the Ninth Circuit Court of Appeals. Coincidentally, Judge Sneed's photograph and biography appeared in the first edition of the Ninth Circuit Survey, in 1976. Judge Sneed, who celebrates his twenty-fifth anniversary with the Ninth Circuit Court of Appeals later this year, has graciously agreed to reprint his tribute to Judge Poole in this edition of the Ninth Circuit Survey. I thank him wholeheartedly.

I would like to acknowledge and express my appreciation for the tireless efforts and invaluable contributions of Editor-in-Chief Kristy Topham and Faculty Advisor Roberta Simon. I thank the Ninth Circuit Survey faculty mentors for their guidance and support. I also thank associate editors Devin Courteau, Kyle Klopfer and Laurel Vreeland. In addition, I am indebted to associate editors Brian Acree, Susan Lee and Vicki Wright for their patience and thoroughness. I congratulate and commend Ninth Circuit Survey writers Michael Hitchcock, Steven Rosenberg and Mary Shapiro, and also recognize the efforts of David Cheng, Sunny Park and Michele Perrodin. The strength and dedication of this year's editorial board inspired me and I thank them for never losing sight of our goal. Finally, for their ability to distract me, make me laugh and remind me of what is really important in life, I thank Jack, Justice, Jagger and Jewel.

Julie A. Coldicott
Senior Editor, Ninth Circuit Survey