

NOTE: This disposition is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

---

**LEMON BAY COVE, LLC,**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

---

2022-2242

---

Appeal from the United States Court of Federal Claims  
in No. 1:17-cv-00436-MCW, Senior Judge Mary Ellen Cos-  
ter Williams.

---

**JUDGMENT**

---

DAVID SMOLKER, Smolker Mathews, LLP, Tampa, FL,  
argued for plaintiff-appellant.

ANDREW MARSHALL BERNIE, Environment & Natural  
Resources Division, United States Department of Justice,  
Washington, DC, argued for defendant-appellee. Also rep-  
resented by MICHAEL THOMAS GRAY, THEKLA HANSEN-  
YOUNG, TODD KIM, BENJAMIN RICHMOND.

CHRISTOPHER M. KIESER, Pacific Legal Foundation,

Sacramento, CA, for amicus curiae Pacific Legal Founda-  
tion.

---

THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (MOORE, *Chief Judge*, CLEVINGER and  
CHEN, *Circuit Judges*).

**AFFIRMED. See Fed. Cir. R. 36.**

ENTERED BY ORDER OF THE COURT

March 6, 2024  
Date



Jarrett B. Perlow  
Clerk of Court