

# RED TAPE ROLLBACK

A Project of Pacific Legal Foundation

REDTAPEROLLBACK.COM

July 11, 2017

[REDACTED]

Dear [REDACTED]

There's a powerful, often unnoticed, "fourth branch" of government.

This fourth branch of government touches every aspect of our daily lives. It affects health care, the cost of goods, what medicines we can access, how we consume energy, and even how we use our own private property.

And until now, it has been accountable to no one.

I'm referring to the "administrative state." It's what we call the out-of-control federal agencies that make and enforce rules without the approval of our elected representatives.

And Pacific Legal Foundation, or PLF as our friends call us, has an exciting new project that aims to finally rein in the power of overreaching federal agencies and slice through the red tape that has strangled our nation's citizens for far too long. It's called **Red Tape Rollback**, and I will tell you more about this project in a moment.

**I write to you today, [REDACTED] to enlist your support for confronting abusive government. And to ensure that federal agencies will be held accountable by elected representatives.**

But first, let me tell you a little bit about Pacific Legal Foundation.

When Ronald Reagan was governor of California, he and members of his senior staff realized there needed to be a public interest legal group that fought for "We the People" ... and not for the special interests. PLF was born from that need.

For more than four decades, PLF has worked successfully to restore the promise of the American Revolution, beating back Leviathan government and striking blow after blow for freedom. We do this primarily in the courts.

In court case after court case, PLF has put real limits on government power, putting bureaucrats in their place and forcing government to back down.



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PACIFIC LEGAL FOUNDATION

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“Pacific” is still in our name, but these days we fight for liberty from coast to coast.

In fact, PLF is one of the most active and effective public interest legal organizations in filings before the U.S. Supreme Court.

We have an unprecedented nine wins in our last nine direct appearances before the High Court – including four in the last two years. This record of success is unmatched by any other public interest legal organization.

In fact, we are the most effective public interest law firm in the liberty movement, with hundreds of court victories for property owners and citizens besieged by overreaching and unchecked bureaucrats.

We have more cases heard by the Supreme Court – and more high court victories – than any other group advancing the cause of liberty.

But as much as we have accomplished, we can do more – much more – in our fight to contain the unchecked bureaucracy.

And now, we have a way to beat back the unchecked regulatory state that makes such court fights necessary in the first place.

Today, more than ever, the American people need relief from intrusive government.

During the Obama Administration, federal agencies published more than 29,000 rules in the Federal Register. That’s nearly 10 rules every single day, 365 days a year, for eight full years.

And these same agencies issued thousands more regulatory “guidance documents” and enforcement manuals that dictate other aspects of our lives and were not even published in the Federal Register.

The Department of Transportation, FAA, Homeland Security, and Environmental Protection Agency topped the list of rule generators during the Obama years. Combined, they accounted for 70% of those 29,000-plus rules that were published. The total number of rules imposed on Americans each year is even greater than that.

More than 3,000 of these regulations were labeled “significant,” but that mostly relates to their direct economic impact. Other rules impact how schools must operate or they regulate our lives in ways that are socially or culturally significant.

And that’s why I am writing to you today, [REDACTED]

Whether they are labeled “significant” by the bureaucrats or not, most of the rules issued by the federal government are legislative-like edicts that impact you, me, and all Americans. And it’s how government agencies have been routinely bypassing Congress for 20 years.

These bureaucratic agencies were never meant to operate independently, but they have been ... which is why we’re launching one of our biggest, most impactful weapons yet.

As I mentioned earlier, we call it **Red Tape Rollback.**

**Red Tape Rollback** has the potential to completely upend the bureaucratic overreach of government agencies once and for all.

As government has grown, agencies within the executive branch have become increasingly autonomous and unaccountable – creating rules and regulations that govern and constrain the people ...

... rules that carry the weight of law, but lack the checks and balances the Founders intended.

So how can we reverse their decades-long power grab and hold them accountable?

It hinges on the Congressional Review Act (CRA), a law that PLF's own Todd Gaziano, our senior fellow in constitutional law, helped former Rep. David McIntosh (R-IN) write. Todd has since become the nation's foremost expert on the CRA.

Our new initiative, which *The Wall Street Journal* calls a “regulatory game-changer,” aims to make full use of the Congressional Review Act (CRA) to stop bureaucratic agencies from running roughshod over the American people.

The CRA was passed – and signed by Bill Clinton – in 1996. It states that any rule published by a government agency **must** be submitted to Congress for approval **before** the rule can take effect. This also includes regulatory guidance documents and policy manuals that the agencies have been unlawfully enforcing even though they don't publish them.

Under the CRA, an agency rule must be sent to the House and Senate for review under a special fast-track process. Congress has 60 legislative days to either approve or reject the rule. The Senate may only debate the issue for up to 10 hours and cannot filibuster it.

If both houses jointly reject a rule, the rejection is sent to the President for his signature. If he signs the rejection, the rule dies.

And if the President signs the rejection, the agency cannot re-issue a substantially similar rule ever again unless Congress says so in a subsequent law.

Either out of sloppiness or incompetence, executive agencies have routinely disregarded the CRA's requirement that they send rules to Congress *before* they start to enforce them. Under the law, however, any “significant” or “major” rule an agency issues is not legally binding until it is sent to Congress for review.

Last year, there was a 56% spike in published rules as President Obama's Administration pushed through regulation after regulation – the so-called “midnight regulations” – to grow government in the waning months of his presidency.

In fact, during the Obama years, thousands of agency rules illegally bypassed Congress and have been enforced like pseudo-laws without going through the legislative process.

A 2014 study by a scholar who worked for the Administrative Conference of the United States estimates that approximately 1,000 eligible rules failed to be sent to Congress each year.

Thousands more per year were never even published in the Federal Register.

But that hasn't stopped agencies like the EPA and the U.S. Army Corps of Engineers from using them to govern by fiat.

That's why **Red Tape Rollback** is so important. Especially to the work we do at PLF to protect Americans from government overreach.

One vital mission of **Red Tape Rollback** is to identify all of these rules that slipped through the cracks. We are pinpointing the most egregious rules that merit immediate consideration and rejection.

Since February, Congress and President Trump have already jointly rejected 14 major agency rules. And they are primed to systematically review thousands of other "overlooked" regulations and agency guidance documents over the next several years.

As you can imagine, **Red Tape Rollback** has the potential to undo years of abusive and harmful rules brought on by government agencies operating outside the rule of law.

But combing through these regulations is no small feat. PLF's small staff just isn't equipped to handle that much work in addition to all of the important battles we are fighting in courts all across the country.

And you can bet that those who believe in large, unchecked government bureaucracy will do everything they can to stop the complete use of CRA – including filing lawsuits to gum up the works.

That's why we need your help today. It is critically important to give **Red Tape Rollback** the strong push it needs to succeed. This means adding resources for increased outreach, activism, and research. It also means bringing in experts well-versed in agency regulations and others with the know-how to work effectively with legislators on Capitol Hill.

Finally, it means having the firepower to fight back against any legal challenges.

All with the ultimate goal of abolishing the administrative state – this unaccountable fourth branch of government.

We are already on a winning streak with our many successes at the U.S. Supreme Court. Now it's time to beat back the unchecked regulatory state that makes such court fights necessary in the first place.

With you as our partner, we can begin rolling back the unnecessary and burdensome regulations that government agencies like the EPA, the Army Corps of Engineers, and so many others have been using to improperly reign over American citizens for far too long.

The political climate is finally in our favor and we must not let this opportunity pass us by. We have no time to waste.

Big Government advocates know what a powerful tool the Congressional Review Act is. That's why they have already acted to fight our efforts.

An environmental activist group called the Center for Biological Diversity has just filed a

federal lawsuit that claims – astonishingly – that Congress and the president violate the Constitution when they pass a law that rescinds a bureaucracy’s regulation.

Based on their argument, unelected, unaccountable bureaucrats would be above Congress!

Big Government advocates have long known that laws they cannot get passed by Congress can instead be implemented and enforced through government agencies without accountability. The Congressional Review Act enables us to keep these bureaucrats in check.

Pacific Legal Foundation was the first to intervene in this federal lawsuit, seeking to dismiss the environmental activists’ senseless claim. As PLF attorney Jonathan Wood explains:

“Under our Constitution, administrative agencies only have power that Congress chooses to delegate to them. Congress is free to limit its delegation of power as it sees fit. What Congress gives, it can take away, or curtail. Using the Congressional Review Act to strike down an agency’s regulatory decrees is an example of that constitutional principle in action.”

The fact that our adversaries are already taking their fight to the courts to limit the use of the CRA as an accountability tool is all the more reason to act now. But we need your support to fight for more accountability.

More accountability means less Big Government intrusion. Fewer onerous and unnecessary regulations. More freedom for hard-working Americans who just want to live their lives and provide for their families.

And that is what Pacific Legal Foundation is all about ...

... fighting for the rights of individuals who have fallen victim to unconstitutional government overreach, who have been strangled by the illegitimate hold of bureaucrats not beholden to public accountability.

And it’s because of our donor partners that we’re the best at what we do!

In case after case, people like you have made it possible for PLF to achieve significant wins for freedom. We have an unrelenting drive to place real limits on government power, putting bureaucrats in their place and forcing functionaries to back down.

And with that drive, coupled with our top-notch team of constitutional law experts and support from people like you, we have achieved nine straight wins at the Supreme Court, two of them in the past year alone! This record of success is unmatched by any other public interest legal organization today.

In March, the Supreme Court heard *Murr v. State of Wisconsin and St. Croix County* – a potentially landmark case for individual property rights.

At issue here is the practice of officials arbitrarily treating separate, adjacent lots owned by the same person as if they were a single property – and claiming that the government can deny the use of one of the lots without “just compensation,” as required by the Takings Clause of the Fifth Amendment, because the “whole” property has not been taken.

Proponents of Big Government and regulatory intrusion obviously want to keep control. That's why it's no surprise that the Obama Administration, along with nine attorneys general, filed friend-of-the-court briefs against PLF and the Murrs when the Supreme Court agreed to take the case.

We are not intimidated or deterred, however. We know our arguments for constitutional property rights are rock solid. To create a single super-parcel smacks of confiscation and we mean to put bureaucrats everywhere on warning that they should not try to emulate it. We expect a decision by this summer.

The *Murr* case isn't our only Supreme Court case on the docket this year.

In January, the Justices accepted our case, *National Association of Manufacturers v. U.S. Department of Defense*, in which we are standing up for landowners, farmers, and ranchers throughout the country who are battling invasive, business-killing Clean Water Act rulings.

We also have several other cases pending before the Supreme Court:

- *Nies v. Town of Emerald Isle* – in which town officials took part of a North Carolina couple's beachfront property for use as a driving lane and paid parking lot, but refused to provide just compensation as required by the Constitution.
- *616 Croft Ave. v. City of West Hollywood* – where the city is demanding an unreasonable "affordable housing" fee of \$540,000 for a couple to redevelop two single-family home lots into an 11-unit condo complex.
- *People v. Rinehart* – a miner's fight to clear himself of state-based criminal charges for engaging in suction dredge mining on federal lands, which is permitted by federal law but not state law.

Each of these cases represents a situation in which a government entity is unjustly flexing its regulatory muscle over "the little guy."

With you as our partner, we can continue to fight for limited government, individual liberty, and constitutional sanity in hundreds of federal and state courts this year and well into the future.

In addition to fighting these Goliath government entities in the courtroom, we are now taking the fight directly to these agencies that have grossly and illegally overstepped their constitutional bounds.

██████████ our success is thanks to people who have believed and invested so generously in our work. Without support from people like you, we couldn't defend the individual citizens and small businesses who are being bullied every day by the nanny state.

Your support today will enable us to hit the ground running with **Red Tape Rollback** and hold government agencies accountable for the rules they slipped past Congress and the American people during the past two decades.

It's time to hit the gas for freedom and put the brakes on runaway government.

██████████, will you become a key member of the Pacific Legal Foundation team by sending a generous, tax-deductible donation of **\$100, \$500, \$1,000**, or even **\$5,000** or more today?

Of course, your gift OF ANY AMOUNT will be most helpful and appreciated.

Our window of opportunity to roll back burdensome and costly regulations will not be open forever. I am counting on your most generous investment today to help us start strong.

To succeed, to make the most of our legal momentum for liberty, we must have the strong support of generous Americans like you – people who understand why it's so important to fight for freedom and individual liberty, especially in today's political climate.

I hope you will join PLF's efforts to fight for liberty by sending your generous, tax-deductible contribution today.

With your contribution today, we can push back the bureaucratic state and restore property rights and individual freedoms for all Americans. Please stand with Pacific Legal Foundation as we protect an America that values its rights as guaranteed under the U.S. Constitution.

I look forward to hearing from you soon.

Sincerely,



Steven Anderson  
President and CEO

P.S. **Red Tape Rollback** will be a regulatory game changer. *Now* is our time to roll back the bureaucratic overreach of the Obama Administration and beyond and restore the proper checks and balances to government.

With the political climate finally in our favor and Big Government proponents already fighting back in the courts, we must capitalize on this opportunity to roll back the bureaucratic nanny state that has been systematically encroaching on Americans' rights for far too long.

Please, ██████████ ask that you join PLF by sending a generous tax-deductible donation of **\$100, \$500, \$1,000**, or more today to beat back the administrative state and protect the rights of individuals against government overreach. Please let me hear from you today. Thank you!

# Let's Roll Back Government Red Tape!

## *Reply Memo*

Steven Anderson  
President and CEO  
Pacific Legal Foundation  
930 G Street  
Sacramento, CA 95814

Dear Steven,

- I agree! Government agencies should have to follow the law just like the rest of us. They have been caught operating outside the bounds of the Constitution and it's time to hold them accountable! There must be a check and balance on the rules and regulations they implement. They cannot bypass the Congressional Review Act simply because it is inconvenient.
- Thanks to your exciting new **Red Tape Rollback** project, the days of legislation through rule-making will come to an end. I want to help you make sure that our individual liberties and constitutional rights are protected from an unaccountable and lawless government that has run roughshod over "the little guy." It stops now! Momentum is on our side and I want to help you keep it going.
- I understand the legal actions you are involved in around the country. And I know that **Red Tape Rollback** needs an immediate boost of support to give it the huge push for maximum early impact. To help you fully fund this project and your other vital legal efforts, I'm joining PLF by enclosing my generous, tax-deductible donation of:

\_\_\_ \$100      \_\_\_ \$250      \_\_\_ \$500      \_\_\_ \$1,000  
\_\_\_ \$2,500    \_\_\_ \$5,000    \_\_\_ \$10,000    \_\_\_ Other: \$ \_\_\_\_\_

*My check is made payable to Pacific Legal Foundation.*

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See reverse of this page to charge your contribution to your credit card.

E-mail (optional): \_\_\_\_\_

Phone (optional): \_\_\_\_\_

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## CHARITABLE REGISTRATION INFORMATION



Dear Donors:

PLF provides the information on this card because certain states require us to notify you that PLF is registered within their jurisdiction as a nonprofit charity. We are grateful for your support.

**Florida:** Pacific Legal Foundation is registered with the State of Florida as a nonprofit charitable organization. A copy of the official registration and financial information may be obtained from the Division of Consumer Services by calling toll free (800) 435-7352. Registration does not imply endorsement, approval, or recommendation by the State. Registration No. SC-07109 - 100% of each contribution is received by PLF. **Georgia:** Pacific Legal Foundation is a nonprofit charitable organization. A copy of our financial statements will be made available upon request. **New Jersey:** Information filed with the Attorney General concerning this charitable solicitation may be obtained from the Attorney General of the State of New Jersey by calling (973) 504-6215. Registration with the Attorney General does not imply endorsement. **New York:** A copy of the last annual report can be obtained from Pacific Legal Foundation or from the Office of the Attorney General by writing the Charities Bureau, 120 Broadway, New York, NY 10271. **North Carolina:** Financial information about this organization and a copy of its license are available from the State Solicitation Licensing Branch by calling toll free (888) 830-4989. The license is not an endorsement by the State. **Pennsylvania:** The official registration and financial information of Pacific Legal Foundation may be obtained from the Pennsylvania Department of State by calling toll free, within Pennsylvania, (800) 732-0999. Registration does not imply endorsement. **Washington:** A copy of additional financial disclosure information of Pacific Legal Foundation is available from the Secretary of State at (800) 322-4483. **West Virginia:** West Virginia residents may obtain a summary of the registration and financial documents from the Secretary of State, State Capitol, Charleston, WV 25305. Registration does not imply endorsement.



JULY 4, 1776



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TOOL THAT IS A REGULATORY  
GAME-CHANGER.**

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**ROLLBACK**  
of Pacific Legal Foundation





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