



MAINE

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MAINE LOBSTERMEN'S ASSOCIATION HIRES FORMER U.S. SOLICITOR GENERAL; FILES FOR EXPEDITED APPEAL TO PRESERVE LOBSTERING INDUSTRY & PROTECT STATE'S ECONOMY

Paul Clement has argued more than 100 cases at the U.S. Supreme Court

KENNEBUNK, Maine – The Maine Lobstermen's Association (MLA), today, announced that it has retained former [U.S. Solicitor General Paul Clement](#) and has filed for expedited consideration of MLA's appeal to the United States Court of Appeals for the District of Columbia in *Maine Lobstermen's Association v. National Marine Fisheries Service* — its lawsuit to reverse a scientifically-flawed federal whale plan that will cripple Maine's lobster industry.

Clement, who served as U.S. solicitor general during the President George W. Bush administration from 2004-2008, is widely recognized as a leading Supreme Court advocate, focusing on appellate matters, constitutional litigation, and strategic counseling. He has argued more than 100 cases before the Supreme Court including several of the highest-profile cases of the past decade.

“When we said we refuse to let a single judge's decision be the last word and that MLA is preparing to go all the way to the Supreme Court, we weren't kidding,” *said MLA president Kristan Porter*, who is also a commercial fisherman from Cutler. “We are incredibly grateful that Paul Clement, arguably the most qualified attorney in the nation on these matters, has chosen to stand with us. Paul has looked at the facts and agrees with what we have been saying all along – National Marine Fisheries Service (NMFS) abused its discretion. Maine lobstermen are not driving the right whale toward extinction, but we are being punished by unsound federal rules that will wreck this industry but won't recover the whale.”

“This is a clear case of government overreach. It is no exaggeration to say that the fate of the Maine lobster fishery, a national icon, hangs in the balance,” *said Paul Clement*. “The applicable statute requires the agency to apply the best available evidence. The agency instead has resolved every doubt and every disputed issue against an iconic American industry that has gone to great lengths to protect the right whale. The agency is inflicting unprecedented hardship on Maine

lobstermen, while explicitly acknowledging that all this suffering will do nothing to restore the right whale so long as they continue to die in Canada.”

In September 2021, MLA filed a lawsuit challenging the federal government’s fundamentally flawed 10-year whale protection plan that will all but eliminate the Maine lobster fishery yet still fail to save the endangered North Atlantic right whale. MLA argues that NMFS has overestimated the lobster industry’s risk to right whales by cherry-picking the science and using unsupported assumptions and “worst-case scenarios” to justify its mandate for Maine’s lobster fishery to reduce its already minimal risk to right whales by 98%. MLA claims that NMFS also failed to follow mandatory legal requirements to assess the economic and social costs of their actions.

On September 8, 2022, a federal judge in Washington, DC ruled against MLA in an opinion that deferred to the federal agency on all counts without disputing the validity of MLA’s concerns. As a result, NMFS is now fast-tracking the 10-year whale plan and will require Maine’s lobster industry to implement an unachievable 90-percent “risk reduction” as quickly as possible or the federal lobster fishery could be shutdown. According to Clement, the district court’s green light for shutting down a way of life is entirely unjustified.

“The Maine lobster industry is in utter shock and disbelief that their own federal government has set a course to eliminate a fishery that has never been known to kill a single right whale, *said Patrice McCarron MLA executive director*. “Lobstermen are already mourning the loss of their industry. These are good people who care deeply about the ocean, lobsters, and right whales. They want to be part of the solution but, without action by the Court, this is not possible.”

The Maine lobster fishery is essential to Maine’s culture, heritage, and economy and has supported communities and generations of families while ensuring that this important natural resource is sustainably harvested for nearly two centuries. There are approximately 4,750 commercially licensed lobstermen and 1,085 student license holders in the state. Maine’s lobster fleet directly supports more than 12,000 jobs on the water. In addition to the harvesters, the shoreside wholesale lobster sector, that is, the lobster supply chain, supports an additional 5,500 jobs and generates an additional \$1 billion annually – which just begins to touch upon the real value of the fishery to the state. Lobster directly infuses myriad sectors of Maine’s economy from real estate to hotels, restaurants, trucking companies, auto dealerships, and banks to name a few.

“The uncertainty of the new deep cutting federal whale regulations now underway has sent a chill through the lobster fishery this year unlike anything I have experienced during my tenure,” said *Larry Barker, president of Machias Savings Bank*, in a Declaration filed with the motion for appeal. “Our employees with close connections to the lobster industry are regularly hearing from lobstermen that they are canceling plans to apply for new loans given their uncertain future. Many will delay important investments in upkeep of their boats, engines, and traps due to financial uncertainty.”

The MLA is the oldest and largest fishing industry association on the east coast, established in 1954. In 2021, MLA launched its #SaveMaineLobstermen campaign with a four-pronged

approach to preserve the industry and protect the endangered whales. The plan includes aggressive legal and policy strategies, ensuring decisions are based on sound science, innovating effective conservation strategies, and communication. More information on the issue and documents supporting MLA's court case can be found at www.savemainelobstermen.org/in-court.

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