

Following the Guidelines for a Public Interest Law Firm in Revenue Procedure 92-59

Public interest environmental law is an attractive model for a nonprofit organization because it combines a few of the charitable purposes set forth as qualifying for 501(c)(3) status. A public interest environmental law firm is both an environmental organization and a public interest law firm, combining advocacy and conservation of the environment. One of the largest public interest environmental law firms in the United States is Earthjustice. Their mission statement combines nonprofit law with an environmental purpose.

Rev. Proc. 92-59 addresses the types of cases a public interest law firm should be taking. According to Rev. Proc. 92-59 Sec. Three: 01, cases should be “in representation of a broad public interest” and “designed to present on behalf of the public at large on matters of public interest.” Suggested types of litigation are suits against government or agency action, and “private interests broadly affecting the public.” *Id.* Section Three: 04 requires the organization to file with its annual information report the “rationale for determination” why the cases taken benefit the public.

According to their website, Earthjustice has a systematic method for choosing the cases they litigate. Currently, they are involved in hundreds of cases across the U.S., and are in the business of litigating issues involved in environmental laws and regulations. Their clients include hundreds of nonprofits, ranging from municipalities to cancer foundations and environmental groups. According to their website, they have three criteria for choosing a case. First, Earthjustice looks to see how high the stakes are in a case. The website gives the example of national air quality, which affects everyone in the U.S. Also, they look to see what the landmark impact of a case will be, and whether it will help influence environmental policy across the

country. Additionally, Earthjustice seeks cases that will build strong partnerships with local, regional, and national groups.

Additionally, for being such a large public interest firm, Earthjustice is very transparent with the public about its finances. On their website, they openly share their annual IRS forms as well as how they are funded and where those funds are appropriated. According to their website, only eight percent of their funding is “legal funding” as it is considered by the IRS. Section Four: 05 of Rev. Proc. 92-59 states that the “total amount of all attorney’s fees. . . must not exceed 50 percent of the total cost of operation of the organization’s legal functions.” Earthjustice litigates entirely for free. Their revenue is mostly based on private donations and foundations. This is an excellent model for a nonprofit, public interest environmental law firm. Earthjustice has an advantage in its size and scope, and is able to afford to litigate for free.

Earthjustice appears to have its 501(c)(3) status tightly secured. As a nonprofit, they are in the business of assisting other nonprofits, as well as doubling as an environmental organization and a nonprofit law services organization. For having such a large impact on the nonprofit sector, they also manage to remain transparent in both their net earnings and their rationale for taking cases. Transparency is a quality that is always beneficial to a nonprofit.

Apollonia Rose Goeckner

October 3, 2012