

# LAWDRAGON



## THE VERDICT

A misdiagnosed stroke left Allan Navarro disabled. His lawsuit made history.

**PLUS:** Form Over Substance in the Backdating Scandal

**RESTARTING:** A New Career After Hurricane Katrina

**Q&A:** BU's Tamar Frankel on Dishonesty in Corporate America

**GUIDE:** The Lawdragon 500 Leading Plaintiffs' Lawyers

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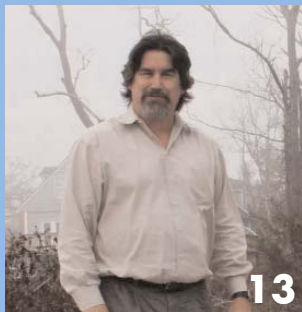


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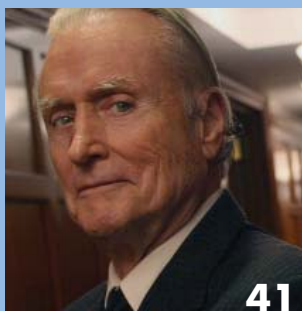
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David Dean lost his law license almost 20 years ago for commingling client funds. But he's beat his demons to emerge as one of the top plaintiffs' lawyers in the nation. He's like a lot of the people on our guide to the best on the plaintiffs' side: tough, smart and ready for a fight.

Cover Photo: Hugh Williams

**CORRECTION:** In the Fall 2006 issue of Lawdragon Magazine, Frederick Baron of Baron & Budd was incorrectly identified as Francis Barron in a photograph on page 49. Lawdragon regrets the error.

# Why?

Why do so many companies  
take us to court?

Results.



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# From the Publisher

Dear Readers,

**STEVEN YERRID MADE NATIONAL HEADLINES** in the past few months by winning the nation's largest verdict of 2006: \$217 million on behalf of Allan Navarro and his family, after Allan's ischemic stroke was misdiagnosed as sinusitis.

That's not why Lawdragon editor John Ryan took a red-eye to Florida to meet with Yerrid and the other lawyers, Richard Gilbert and David Dickey, who uncovered a medical malpractice case of tragedy and deceit.

We chose the Navarros' story because we were looking for an average case, just one more piece of grist in the mill of personal injury litigation in the United States. Not one where a town was poisoned, or an airliner crashed. But one where a guy goes to a hospital and comes out worse. Not better. Where the lawyer is called in to salvage some compensation for a life destroyed.

I hope you will take the time to read "The Verdict," which tells of heroic and steady lawyering while raising serious questions about the tort reform movement.

If the Florida damage caps passed in 2003 had applied to the Navarros' case, the jury could have awarded the family less than \$1 million of the \$100.5 million they found in non-economic damages.

The story is also a perfect counterpart to the Lawdragon 500 Leading Plaintiffs' Lawyers in America, which features a host of luminaries who help people get justice when they're wronged or ripped off.

To compile this guide, we researched more than 10,000 lawyers who represent plaintiffs in medical malpractice, securities class actions, employment and toxic torts. This is the first time such a guide has been journalistically reported and compiled, and we hope it provides a service to individuals who need a great lawyer.

Anyone who questions whether there's a medical malpractice crisis in this country need only read our guide and know that 90,000 people die from medical malpractice each year in this country. Many were the nights after long days of research that our staff swore we would never willingly go back near a hospital. (Though, life being what it is, our staff suffered two serious slip and falls, had three family members die

and two others go through surgery during the reporting of this issue.)

At our Web site, Lawdragon.com, we are doing our part to help clients share information about great lawyers who have helped them (or failed to). We encourage all of our readers to help us spread the knowledge of good lawyers and bad by filling out evaluations online.

The public accountability fostered by Lawdragon is light-years beyond that provided by any other service or bar association. While there are some outstanding state bars in terms of providing access to member information (Texas, Florida, California, Arizona and New York), others are shockingly deficient, failing to even provide access to a listing of registered lawyers. (Our staff find Illinois and Massachusetts particularly deficient.)

We also encourage you to go to Lawdragon.com and register. The service is absolutely free and registration allows you to control your own listing, including providing up-to-date, searchable contact and practice information. (For a nominal fee, you can also join the hundreds of practice leaders who have purchased premium profiles on our site, increasing their ability to be found by clients who need them.)

Within the next month, we'll be adding the first of many practice sites at Lawdragon.com, this one devoted to employment law. Each practice site will provide articles, news releases and other content devoted exclusively to one practice area. In the coming months, we will add sites for personal injury law, real estate, securities and business litigation and corporate/transactions.

If you'd like to write for these pages or any other subject for our magazine or Web site, please contact our editor John Ryan at [john@lawdragon.com](mailto:john@lawdragon.com) or 213-223-2428.

We are very grateful for your support of Lawdragon.

All my best,

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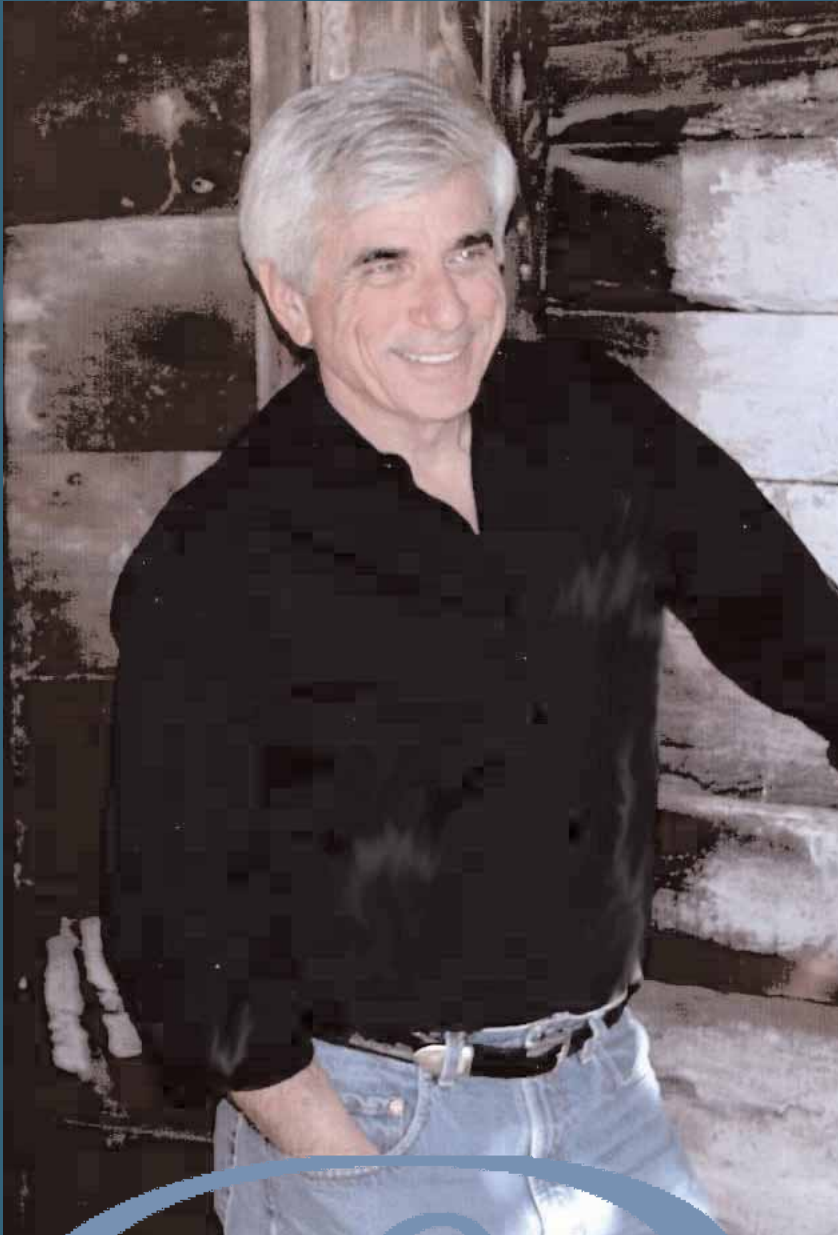
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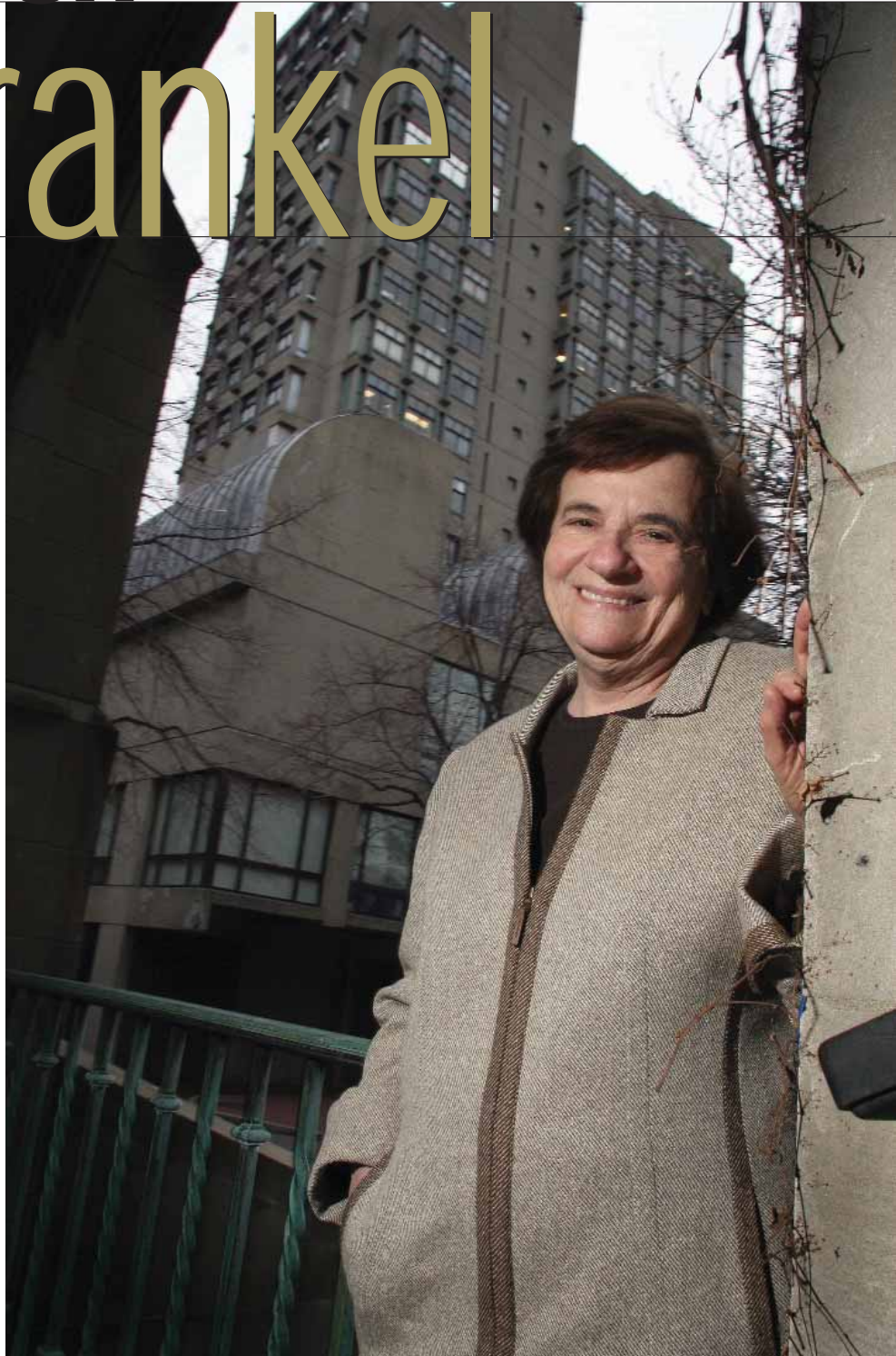
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# Tamar Frankel

BY TINA SPEE

Raised in what she considers an idealistic time for Jews in Tel Aviv, Tamar Frankel established her views on trust and honesty early in life. The Boston University law professor shares those beliefs with Lawdragon as she discusses her new book — her first aimed at the general public — about America's willingness to tolerate dishonesty in corporate culture.



*Photo by Hugh Williams*

**T**amar Frankel was well on her way to a fulfilling law career in Israel. The Tel Aviv-born professor worked as an attorney in the Israeli Air Force and the Ministry of Justice in the 1940s and 1950s before joining a private practice started by her father. Lucky for us, she became a visiting law scholar at Harvard Law School in 1963 and remained stateside. Since joining the faculty of the Boston University School of Law in 1968, Frankel has become one of the nation's sharpest legal minds in the areas of fiduciary law, financial system regulation and corporate governance.

Frankel is grateful to BU for letting her move around from her Boston base. She's enjoyed stints as a visiting scholar at the Brookings Institution and the Securities and Exchange Commission and has taught at Harvard, the University of Oxford and the University of Tokyo. She's also consulted for the People's Bank of China, helping the country control inflation.

Within her areas of expertise in finance and the law, Frankel has written some of the most important treatises and books, including "The Regulation of Money Managers," "Investment Management Regulation" and "Securitization: Structured Financing, Financial Asset Pools, and Asset-Backed Securities."

With her recent book "Trust and Honesty: America's Business Culture at a Crossroad," published by Oxford University Press in 2005, Frankel jumped into the world of mainstream writing. In the book, Frankel writes that ethical standards in Corporate America have eroded and that society has tolerated this dishonesty and abuse of trust. In the era of WorldCom and Enron, "Trust and Honesty" is a wakeup call.

From her small, book-lined office across the hall from BU's center for banking and financial law, Frankel describes how the public can demand better leadership from people who are in positions of power.

"It was the first time where I was driven to write to the public at large, which meant another type of presentation, another style, to some extent another format," says Frankel, 81, whose accent still echoes of her Israeli roots. "But I had to get it out of my system. And so I spent quite a bit of time writing it and loving every moment of it."

**LAWDRAGON:** What were you trying to answer with this book?

**TAMAR FRANKEL:** The question that I faced was, "OK, you see so much fraud happening. Should we be excited about it?" Maybe the reason for what we see is more transparency today than in the past. After all, we always had fraud. This is a society of entrepreneurs. We push the envelope. That's our nature. That's the nature of these United States. And when you push, you might cross the boundaries as well, sometimes to the right and bright side, sometimes to the dark side.

I didn't think I could prove that there is more fraud today than in the past, although it seems to be so. What did strike me was the fact that fraudulent behavior has become more acceptable. The attitude towards fraud became: "Wake up. Be a realist. See that this is human

nature and that's the way things are." And business people would say, "What can we do? Everybody does it. We must do it too."

**LD:** You seem to be driven to the idea that trust is lacking from our society now.

**TF:** It's interesting because Americans are trusting people. Americans trust their social systems more than they trust particular people. This is in contrast to China and other countries where people trust people more than they trust their social systems. Americans trust their political system more than they do the politicians or the law more than they do the lawyers or the banks more than they do the bankers. I dread the possibility that Americans will cease to trust the law and the systems by which they live. Then, I am afraid, Americans will have lost their way of life.

**LD:** Is this problem increasing?

**TF:** I am concerned that dishonesty will increase with the attacks on law. For business, this is dangerous and wrong. As I wrote in my book, "Law is not the enemy of business. It is the enemy of crooked business." Law protects business from competing by crookedness.

I suspect that the rise of economics in law has not done us a lot of good. Law can use the concepts of economics but not its objectives and values. Economics has resulted in the basic assumptions that undermine trust and encourage verification of what other people say and promise — the antithesis of trust. The implication of economics is that people are entirely selfish. Therefore, each party should take care of itself against possible dishonesty of the other. This is a market environment, which is effective only if the parties are more or less on the same playing field. Even then I believe that human nature generally, and the nature of Americans in particular, is not so self-interested. But if we assume that most people are selfish that becomes our culture — a culture of mistrust.

People may say to me "Don't give us the sermon from the mount." But that's not what I'm saying. I would like to have reached a balance rather than extremes. People need not completely rely on each other or trust each other blindly. I think it is good to have some self-reliance and skepticism. But right now we are moving toward the extreme of mistrust.

**LD:** What do you see happening to the economy if this continues?

**TF:** Dishonesty and mistrust cost. If we continue this way, we will pay for dishonesty more and more. And we'll produce shoddy services and shoddy products at a greater rate because with fraud comes shoddiness just as with drugs come bad athletes that win ... . The cost of dishonesty brings the prices up or the quality down.

**LD:** Can we regain our trust in people who have power in our companies and financial systems?



**TF:** There's one rule that can lead to honest behavior: "Don't do to others what you don't want done to you." How do you implement this rule to make it a reality? That's where culture comes in. Culture is a social habit, the opposite of a calculated behavior. If we have to think every time whether something is good or bad or whether we want others to do it or not to do it, we have lost the battle. What we need is a knee-jerk reaction the way we drive a car — automatically. We ought to have a knee-jerk reaction to dishonest behavior. We have to reverse the trend of accepting dishonesty as an inevitable way of life. To be sure, it takes time to change the slides into dishonesty, just as it takes time to change a bad habit. Further, dishonesty should be nipped in the bud when it starts. Otherwise, starting what seems just a little bit wrong will grow to become a full-fledged fraud. Also, it takes more than just one group of people to reverse the trend. It requires many. We need both good leadership and good following. ...

Competition doesn't mean that we have to eat each other alive. Instead, even though it is not a very exciting vision, we should compromise. Let us leave the extreme to an aspiration for honesty. But everyday solutions should not be extreme. Let us live with some give and take, even if it is not all an immediate give or all immediate take.

**LD:** How did you become interested in these areas of law?

**TF:** I was interested in corporations because, especially in the United States, this type of organization allowed the entrepreneur to pool together capital, labor and management and to create tremendously powerful and productive large organizations with no dictates from outside. That is fantastic. So that is what drew me. But then the financial market through which capital flowed fascinated me. And then it wasn't only the market but the intermediaries, such as insurance companies, pensions, mutual funds and investment advisers that make the financial markets, and the asset-backed securities mechanism. And with all of that came the recognition that I'm dealing with power. I am dealing with private power, and I'm dealing with limitations on that power.

**LD:** Before that, you were a lawyer in Israel. It wasn't unusual at the time for a young woman to hold the positions you held in the country?

**TF:** Even when the state of Israel was established in 1948, there were a fair number of women lawyers; there were a fair number of women prosecutors in the government and of women judges. And there were also very strong women in politics. By the way, the chief justice of the Supreme Court today in Israel is a woman.

**LD:** You worked for the Israeli government?

**TF:** Yes, I worked for the government but only for about

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a year and a half. My father was a lawyer. He was the first president of the Israeli Bar Association. I went to work for him and less than a year after that — and even though he was relatively young — he had one heart attack and he was gone. So I continued to operate his office. The clients, both Arabs and Jews, were good to me and gave me a chance. Then I worked as a lawyer for a number of years, took a partner, and then I departed and he continued the service to the clients. I wanted to teach and to write. So that is what I did. ...

My mother's family came to Israel around 1870. My mother came when she was 2 years old. My father was a latecomer; he came in 1920. At that time the Jewish community was very small. Tel Aviv, for example, was entirely different from the Tel Aviv of today. I walked to school barefoot in the sand with sandals on my back. It was an idealistic society that dreamt about a Jewish state where Jews could find refuge from prosecution and extermination that they experienced throughout the ages, and lastly in Nazi extermination camps. Some of my notions and beliefs come from that idealistic period. I admit that some of this attitude to life and society has remained with me to this very day.

**LD:** What are some of the things you are working on now?

*Frankel says she is working with an engineer who specializes in risk-control systems to develop mathematical equa-*

*tions that can help regulators and corporations detect and analyze mistakes. She also is working with an economist to make teaching materials for lawyers and businesspeople based on "Trust and Honesty."*

**TF:** There is another project, which I think I would like to work on with other experts. I believe that, barring a Third World War, more and more corporations and institutions will cover the globe and more and more directors will come from different cultures. They will have to understand each other in order to work together. We will need more guidance on dealing with other cultures and interpreting cultures.

**LD:** You seem excited to continue teaching and writing in different areas.

**TF:** I enjoy it very much. More than that. I think one of the exciting things about teaching and writing is not to get stuck in your own generation. The way to do it is to listen to the new generation and try if not to identify, then at least to understand a very different world. I do it in my teaching by discarding my notes every year and from time to time changing the teaching materials so as to start from scratch, so to speak. I always discover something new that I haven't thought about before. There's a lot of excitement in listening to different views, viewing different realities and trying to understand them and mesh them with your own experience and knowledge. ■



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- \$202 million recovered in civil rights actions on behalf of African Americans who were sold inferior life insurance policies based on race
- \$85.5 million settlement for massive explosion case at Nitromethane plant causing death, injury, property damage and evacuation of surrounding community

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# A Practice Renewed,



"CONCRETE STEPS, THE ONLY REMNANT OF MY FORMER LAW OFFICE" - attorney Reilly Morse on the shore of Gulfport, Miss.

## Communities Rebuilding

By REILLY MORSE

**THE CHECKPOINTS ARE GONE** and the barbed wire has been rolled up. The casino barges have been scrapped. The lines for food, ice and gas have disappeared. The debris landfills no longer burn day and night. The dead are buried. No more helicopters rumble overhead. Air Force One's weekly visits stopped more than a year ago. We are back to invisible.

On a cold, clear December Sunday, I came back to where my office stood 15 months ago, before Hurricane Katrina's 25-foot storm surge swept everything away. Two or three white Federal Emergency Management Agency trailers now are

Hurricane Katrina washed away Reilly Morse's solo litigation practice. As the struggling attorney looked for legal work to support his family, Morse allowed Lawdragon to profile his efforts. One year later, he shares in his own words the progress he and others have made, from his new position in a public interest law firm to the Steps Coalition and the work that remains to be done.



Photo by Hugh Williams





The site of Reilly Morse's former law office in Gulfport, seen above, remains undeveloped. He now works 10 miles east in Biloxi representing victims of the storm. "IT SEEMS EASIER FOR US TO SHED OUR PREJUDICES WHEN WE ARE ALL EQUALLY IMPOVERISHED."

scattered on lots behind me underneath old live oaks. Plastic debris marking the crest of the tidal surge still flutters in the branches.

I look south from concrete steps, the only remnant of my former law office. From the porch one block north, I used to see the beach through a gap between a restaurant and a Waffle House. Now the Mississippi Sound spreads out glittering and flat for miles on either side. The only structure blocking my view is a newly finished, impossibly clean Waffle House, opening soon.

About 10 miles to the east is my new job.

Last fall, as I was coping with the loss of my practice, Martha Bergmark offered to put me to work helping others deal with the storm's consequences on their lives. She is the founder of Mississippi Center for Justice, the state's only homegrown public interest law firm. We were brought together through some unlikely connections.

Years before Katrina, a Louisiana developer planning to destroy hundreds of acres of wetlands found himself upstream from Rose Johnson, a retired Highway Patrol dispatcher and the first African-American to lead the



Mississippi Sierra Club. Downstream from Rose was Derrick Evans, a civil rights history professor and a sixth-generation descendant of freed slaves who settled on Turkey Creek. Derrick left his Boston teaching post to conserve his community's history back home.

The nearest pro bono environmental law firm in New Orleans had closed its doors. I was the coast's only public interest environmental lawyer, so I took the case.

I was a solo lawyer with no staff or budget for experts, so things looked tough. Everything changed when Trisha Miller, a Stanford law student, volunteered to fly herself to Mississippi for a week to help prepare the objections. Soon afterward, the local mayor persuaded the newspaper to endorse the Louisiana developer, but as he walked out of the editorial board room, he scoffed that my clients were "a bunch of dumb bastards."

The next day's headline was "Mayor: Opponents Are 'Dumb Bastards.'" With Trisha's help, I carried this headline to San Francisco and persuaded the Sierra Club to pay for a national wetlands expert. We won the case. Trisha went on to work for the Lawyers Committee for Civil Rights Under Law, where she helped Rose and Derrick set up community land trusts.

One night, weeks after Katrina, I confided in Derrick that I must close my practice.

"This can't happen," he insisted.

The next night, Trisha came into town with Karen Lash, who works for Equal Justice Works, a national pro bono organization. They stayed with me and my family in Gulfport, Miss., as no hotels were open. In the morning, I drove Karen to Hancock County as the gale-force edge of Hurricane Rita passed through. The devastation and neglect of victims one month after Katrina left her stunned and bitter. Everywhere she went, Karen photographed steps remaining from homes and buildings that had been destroyed. On the way back, she urged me to check Equal Justice Works for fellowship opportunities.

In October, Martha interviewed John Jopling and me at a friend's office. John had apartments in Biloxi, Miss., and New Orleans, so he was "bi-damaged." John and I went through law school and clerkships together but parted ways afterwards. John went to work for Southeast Mississippi Legal Services for Martha, while I went to the "dark side" for about 10 years working in insurance, commercial, toxic tort and maritime litigation.

In the mid-1990s I re-emerged and started my own solo practice around the same time John left Legal Services to start his own practice. I pursued a general civil litigation practice, including divorce, estates and small business disputes, but I increasingly took on environmental public interest work.

The interviews with Martha went well. On the way out, I showed Martha my painting of the dead end where John and I lived while attending the University of Mississippi Law School. My college training was in fine art, and I pursued my hero Cézanne (himself a law school dropout) to his native Provence, France. A bilin-

gual Mississippi-born Post Impressionist had no future, so I went to law school. The impulse to paint went into hibernation during my time with law firms, then re-emerged and strengthened along with my involvement in public interest work.

I called Martha several days after the interview. She was eager but could only commit to John's slot. Later, she offered to hire me on a short-term basis, no guarantees. Around the same time, the Mississippi attorney general's office offered me a full-time civil litigation position. The idealism of my wife Christina allowed me to choose Martha's offer over a dependable government paycheck.

Early on, John and I worked a jumble of tasks: direct service to people whose homes were lost and whose recovery required someone who "spoke FEMA," and community organizing to secure a just, sustainable and equitable housing policy.

It was chaos. Travel was nightmarish due to busted bridges, gas shortages, lack of street signs or landmarks and curfews. Lodging was just as bad because FEMA had occupied the hotels. We were crowded too in our 1920s bungalow, because another couple who lost their home had moved themselves and their pets in with my wife, our two daughters, three dogs and me.

But visitors found room with us and with my mother-in-law, Jeanne Backstrom; we ended up running a pro bono bed and breakfast for pro bono lawyers. Some nights after curfew we slipped over to a coffee shop to capture its WiFi. Every time Trisha came she brought an interesting array of attorneys, documentary filmmakers and volunteers. Jeanne soon gave Trisha a key.

We worked together to troubleshoot FEMA problems for hundreds of households. People told us about living in unsanitary, storm-damaged apartments or sleeping on baby mattresses in vans. On the way home late one winter night, I passed scores of people huddled by fires outside of tents that had sprung up like a Hooverville on a city golf course.

For weeks we worked from our vehicles, briefcases and cell phones. A sharp-eyed legal services lawyer tipped me to an office building vacancy in East Biloxi. We grabbed it, filled it with donated furniture, equipment and supplies and prepared for volunteers over Christmas and spring breaks.

John fielded teams of law students from the Student Hurricane Network to monitor eviction court outcomes using a form he designed with a visiting Harvard Law School housing professor. I located pre-Katrina data on apartment complexes and sent students out to survey and photograph storm damage.

In the spring, I sent extra teams into historically segregated enclaves to record community histories and identify buildings that might qualify for landmark status. Whether it was eviction courts or apartment surveys, these students were transformed by their encounters with people in crisis. The same was true with a group of

intellectual property lawyers sent by the law firm of Weil, Gotshal & Manges over an eight-week period to help with appeals for people whose emergency housing and living assistance claims were rejected by FEMA.

In March, I became the first of nine legal fellows working under The Equal Justice Works Katrina Initiative. My sponsor is the Association of Corporate Counsel, which helped to spearhead the program. This fellowship enabled the Mississippi Center for Justice to extend my position to a two-year commitment.

Last winter, we saw an informal pattern of meetings and phone conferences emerge between groups advocating for the most vulnerable hurricane victims. Some were local, like the groups headed by Rose and Derrick, some were statewide, like the Mississippi NAACP and the Mississippi Center for Justice, and some were national like the Lawyers Committee and Oxfam America.

As problems emerged this network responded, sometimes quite successfully. For example, thousands of people submitted objections to Mississippi's proposal to make billions in homeowner grants without any requirement to target low-income households. In response, the state's next plan targeted low-income homeowners. When FEMA announced plans to evict 3,000 households from trailers, the groups surveyed trailer parks, held workshops, developed advocacy manuals, captured national media attention and found the correct Congressional connections to force FEMA to reverse course.

But Katrina was too big of a problem. This nameless network needed clout and organization. In May, Derrick proposed that dozens of advocates hold a retreat to hammer out an agenda and organization. Several of us wrote up a proposal and, weeks later, we found almost 60 people being guided through a mission-building process in the River Room of the Monteleone Hotel in New Orleans.

This network fleshed out five core values or pillars: shelter, community, prosperity, balance and fairness.

On the way home, I called Bill Tyler, an art school classmate in Nashville, Tenn., to describe what happened and ask him to come up with a design for the group. Bill sent back a box with three staggered horizontal lines. He called it "Steps," after the concrete steps left behind by the hurricane — like those Karen photographed and the ones in front of my old office.

The Steps Coalition was launched with 30 member groups on July 27, 2006. Only days later, an alert went

out that hundreds of south Mississippi households had received letters that their housing projects would be sold or destroyed. Within two weeks, we submitted Freedom of Information Act requests for the files, drafted tenants' rights materials, held outreach meetings and packed the Housing Authority's board meeting with angry politicians and tenants. We also brought evidence of discriminatory intent to the Department of Housing and Urban Development's Fair Housing officials.



Morse studied art in France before law school and has continued to paint. Above, one of his post-Katrina scenes: shrimp boats aground on a canal's banks.

It was discouraging to see the humanitarian impulse that swept through the immediate rescue and relief phase replaced with bigotry when it came time to rebuild. It seems easier for us to shed our prejudices when we are all equally impoverished.

On the weekend before the anniversary, North Gulfport hosted a national Town Hall sponsored by Oxfam America and the NAACP. The featured panelists included Ray Offenheiser, President of Oxfam America; Bruce Gordon, President of NAACP; and actor/activist Danny Glover. I was one of several local panelists from the Steps Coalition. Over 450 people demanded to know why the recovery was so delayed and why the poorest were being left out.

Earlier in the day, I took part in an NAACP panel to discuss the recovery with funders. On Sunday, I went to Mount Pleasant Church in Turkey Creek, where Lawyers Committee President Barbara Arnwine delivered the only full gospel litigation report I ever expect to hear: "Injunction after mighty, righteous injunction!"

# Timothy J. Cavanagh



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The service ended, unforgettably, with Reverend Edward Moses calling forward the congregation and guest lawyers and activists to lead us all in that memorable hymn: "Glory, glory/Hallelujah/FEMA don't treat me/Like it used to."

After dinner Monday night I drove over to Waveland, about 20 miles west of Gulfport past Bay St. Louis, and set up a tent on the grounds of Gulfside Assembly. Something I cannot explain impelled me to recreate the conditions people endured after the storm. I was alone, just me and 10,000 insects. It was hot and still. Before dawn broke, vehicles began to show up. I directed traffic with a flashlight. Shortly after sunrise, 60 people gathered in remembrance with words from an imam, a rabbi, two bishops and a local choir.

To my surprise, one minister read "Thank You Katrina," a piece I had co-written with Tom Teel, an attorney who owned and shared the office building that Katrina took from us. The prayer expressed gratitude to this concussive storm for awakening ourselves to our better nature and forging new friendships. We crossed the road and spread flowers onto the low, still waters of the Mississippi Sound.

That afternoon, people gathered in a Biloxi Baptist church to march downtown to urge the governor to work with us, not over us. Two months later, the governor's office invited Steps to discuss how to shape future disaster recovery programs. This work has borne fruit even as I write. We have succeeded in doubling the maximum grant for low-income homeowners.

As the recovery has progressed, I have continued to paint. In July, my family had a short trip to a cabin in North Carolina where I finished my first two post-Katrina scenes: one of shrimp boats aground on the banks of a canal and the other a beaten up brick horse-shoe-shaped fort on one of our barrier islands. In October, the couple we housed for two months invited us to join them in Italy for a week. I finished one painting there of the farmhouse and surrounding vineyards.

Tonight, as a cold front settles in, I think about the past year and feel good about our progress. It has been exhausting, heart-breaking but also exhilarating for all of us who have taken part. What lawyers here along the Gulf Coast and across this nation have done for the storm's invisible victims has made me intensely proud of our profession. We should be done with this recovery in another several years — plenty of time for every lawyer reading this to experience it yourself. The reward will be priceless.

In mid-December, the Lawyers Committee brought Rose, Derrick and me to New York to receive an honor at their annual awards reception for our community work following Hurricane Katrina. It was overwhelming to be recognized before a room of nationally distinguished attorneys, and we were delighted to learn that the recipient of the prestigious Founders Award, Jerome Hyman of Cleary Gottlieb Steen & Hamilton, was a native of Rosedale, Miss.

When I think about where I am today, I recall Derrick's words from last year, but give them an optimistic twist: "It can happen!" ■

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# Barking Up the Wrong Tree

BY RICHARD MARMARO  
and RYAN WEINSTEIN

**Prosecutors, regulators and private plaintiffs have chosen form over substance in pursuing cases arising from the backdating scandals. Despite comparisons to pick-pocketing, the option grants are situations in which the common law roots of securities fraud do not apply.**

**THIRTY YEARS AGO**, Justice William Rehnquist famously remarked that Rule 10b-5 actions, which allege deceptive practices or misleading statements in connection with securities transactions, had grown from “a legislative acorn” into “a judicial oak.” *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 737 (1975).

Now, a new theory of securities fraud threatens to transform those oaks into towering Sequoias. The new theory alleges that executives at more than 200 companies engaged in securities fraud by granting stock options at fortuitously low strike prices in order to attract and retain employees, while allegedly attempting to avoid compensation expenses.

The problem with the theory is that it disconnects securities fraud from its common law roots and even sets it adrift from statutory requirements. Indeed, most backdating theories struggle to meet basic fraud requirements, including the elements of intent, materiality, deception and harm. This notion has largely been obscured by populist press coverage and self-congratulatory government press releases, both of which have only exacerbated public confusion.

The issue of intent poses special problems in white-collar cases, and so-called backdating cases are no different. Of course, the idea that wrongdoers cannot be punished absent culpable intent, or mens rea, has a long history in English and American jurisprudence. The principle even has its own Latin maxim, *actus non facit reum, nisi mens sit rea*, which Blackstone translated as “an unwarrantable act without a vicious will is no crime at all.”

Even in traditional white-collar cases, finding such a “vicious will” can be a difficult endeavor. This is because many of the governing rules are complex, arcane or hyper-technical, and their violation is oftentimes morally neutral. For example, given the complexity of the nation’s tax code, the Supreme Court ruled that a good-faith misinterpretation of IRS tax provisions — even if objectively unreasonable — negates the intent element in criminal tax evasion cases. *Cheeks v. United States*, 498 U.S. 192 (1991).

A similar issue faces courts trying what the government has simplistically labeled “backdating cases.” The charges in these cases allege that defendants “willfully” violated Accounting Principles Bulletin No. 25, or APB 25, a now-defunct rule that took effect in 1972. Despite oversimplified versions reported in the press, APB 25 was actually an opaque standard that confused even experts. During the period of alleged backdating activity, from 1994 to 2002, APB 25 was the forgotten stepchild of the Financial Accounting Standards Board, which was formulating APB 25’s successor FAS 123R.

Under APB 25, option expense is equal to the “intrinsic value” of the option, meaning the difference between the exercise price and the fair market value of the underlying stock on the “measurement date.” Though the measurement date was usually the grant date, APB

25 did not clearly define these terms. Many questions remained; some remain unanswered to this day. For example, does the measurement date occur at the time of employment offer and acceptance? Does it occur when option paperwork is drafted? Does it occur when the first board member or board-delegate signs the grant authorization? Or does it occur when the employee receives and signs the grant paperwork?

The text of the rule shed little light on these questions: It said only that the measurement date occurs “the first date on which are known both (1) the number of shares that an individual employee is entitled to receive and (2) the option or purchase price, if any.”

These ambiguities remained unresolved for years. The SEC’s chief accountant did not weigh in on the issue until Sept. 19, 2006, 34 years after the rule took effect and more than a year after FAS 123R superseded it. Fearing the oncoming surge of restatements, and the accompanying confusion that would result from widely diverging interpretations being considered by audit firms, the SEC’s chief accountant offered firm guidance.

Against this backdrop, prosecutors, regulators and private plaintiffs nonetheless charged various executives, mostly non-accountants, with willful or knowing violation of APB 25. Not surprisingly, the first and only federal court confronting the issue found that a violation of APB 25 was insufficient to raise an inference of scienter, or knowledge of wrongdoing. In granting a motion to dismiss, the court observed that “interpretations of the measurement date criteria embodied in APB No. 25 are far from obvious.” The court held that a violation of APB 25 was therefore insufficient to demonstrate scienter for securities fraud. *In re Sportsline.com Sec. Litig.*, 366 F. Supp.2d 1159, 1168 (S.D. Fla. 2004).

Beyond the opaqueness of APB 25, another fact undermines the intent element. Finance departments, which could ensure compliance with the rules, did not administer most option-granting programs. Instead, companies considered options a compensation issue and, therefore, the province of human-resources employees. Indeed, the typical option-granting process did not involve finance personnel until the board or board-delegates authorized the grants and the option data was ready for entry into corporate records and for distribution to grantees.

This was too late in the game. Like revenue recognition accounting, the critical element under APB 25 was not the quantitative elements like share amounts and strike prices, but rather the timing of the grant itself and whether the measurement date occurred when intrinsic value was actually zero. But corporate processes are not the only thing to blame. Outside auditors considered the danger of misdating options to be a low-risk area for material misstatements and, therefore, seldom checked the sufficiency of measurement dates. Most of the audit test work simply ensured the accuracy of work already completed by finance departments. And even if auditors had reviewed the measurement date criteria, standards expounded by APB 25 were too vague to offer useful guidance.

Given the complexity of APB 25 and the lack of expert-

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ise by human resources administrators, it's little wonder that much of what is pejoratively called "backdating" was actually undertaken in good faith. Imagine a situation in which a January 1 grant list inadvertently omits an employee recently hired into a high-flying Silicon Valley startup. HR personnel realize the error on February 15, but by that time the stock price of the growing firm has increased 30 percent. Rather than punish the new hire for the error, human resources decides the best remedy is to grant the employee option retroactively to January 1. Absent an accountant's understanding of APB 25, this not only seems like the proper correction, but the morally correct thing to do. Yet such conduct is lumped into the term "backdating," and the public is deluded into believing that another Enron looms.

Like intent, a core element of common-law fraud is that the alleged misstatements or omissions are material to the execution of the fraud. Materiality is now an undisputed element of statutory fraud, including mail fraud and securities fraud. But it is here where backdating cases venture into uncharted territory.

Unlike in the typical securities fraud cases — where revenues were overstated, or cash expenses hidden, and when discovered, the company's stock craters — prosecutors of backdating cases face an enormous, perhaps insurmountable challenge in proving that non-cash stock-based compensation expense was material to investors.

What makes this problematic is that stock-based compensation expense represents a non-cash expenditure, meaning the expense does not reflect cash flowing into or out of the company's treasury. This fact is oft overlooked in press accounts that analogize backdated option grants to cash hand-outs made at investors' expense. Indeed, stock-based compensation expense has even less to do with cash outlays than items like depreciation or amortization, which represent accounting approximations of capital expenditures from prior periods.

Recognizing the irrelevance of non-cash stock compensation expense to investors, companies regularly provide "pro forma" or "non-GAAP" (Generally Accepted Accounting Principles) performance measures in their earnings releases. The idea is that including those expenses, along with nonrecurring and other non-cash charges, only obscures the company's true operating results. Thus, companies actually exclude stock-based compensation expenses to make their results clearer to investors. Not surprisingly, reports filed by analysts and major buy- and sell-side institutions analyze company performance in a similar way: by excluding stock com-

pensation expense and other irrelevant charges.

These economic realities too often get lost when addressing past errors in options accounting in the current regulatory environment. It does not disparage the importance of accurate financial reporting to observe that at some point the quest to restate an ideal GAAP-approved financial statement in light of options errors risks exalting form over substance — with the company's true financial health becoming virtually irrelevant to a pedantic exercise of post hoc financial reporting of non-cash items.

With an aggressive regulator looking over its shoulder, a public company may feel a perverse incentive to magnify the financial reporting impact of any restated results lest the regulator complain that the company is "low-balling" the problem or, worse, demand further restatements. It is worth noting that many of the companies now caught in this "gotcha" culture suffered dramatic stock price declines since the days when the stock options at issue were granted. As a result, those companies are reconstituting and fly-specking financial statements to properly record an historical compensation expense for prior years, even though (we now know) the options in question remained underwater and were never exercised. Form over substance, indeed.

The most basic element of fraud is deception, and in the classic securities fraud prosecutions the record is replete with examples of management misstating the revenues or cash expenses of the company. Yet proof of such misstatements is entirely absent in alleged backdating cases. In

light of the allegations charging deceit through concealment, it is remarkable just how much companies disclosed about their option grants. Corporate disclosure on stock options was both robust and readily available had the investing public actually cared to look.

Throughout the period of alleged backdating, companies disclosed critical information about grants issued to key executives. These disclosures informed investors about the strike prices, number of shares and vesting arrangements of all grants made to officers covered by Section 16(b) of the 1934 Securities Exchange Act. Importantly, the disclosures were made contemporaneously: SEC rules required disclosure within 45 days of the fiscal-year close; Sarbanes-Oxley later required disclosure of grants within two business days of the grant date. The study by University of Iowa finance professor Erik Lie, credited with exposing the alleged backdating practices, did not report new information; it was based solely on company disclosures, contemporaneously filed.

Company disclosures did not stop at grants to 16(b)



Former Brocade CEO Gregory Reyes was the first top executive criminally charged in the backdating scandal. Now more than 200 companies are under investigation over the granting of stock options.

officers. Under FAS 123, companies were required to disclose expenses for all option grants using a more precise measure than APB 25. FAS 123 mandated that companies include this information in a footnote to its financial statements, along with a pro forma table documenting the hypothetical impact to net income. If investors had actually cared about non-cash option expenses, a more precise measure of expenses was readily available.

Additionally, companies regularly disclosed aggregate data on option grants in their proxy statements and 10-Ks. These disclosures included the number of shares granted, the weighted average strike price and the average vesting requirements. From this data, interested investors could calculate the economic value of all options grants. Despite media accounts that executives were secretly lining their pockets, the value of options granted, whether to executives or to the rank-and-file, was little secret to investors.

Another problematic element in backdating cases is the notion of investor harm. If the alleged backdating did not involve self-dealing or kickbacks, and options expenses were immaterial to investors, where is the harm? If the harm was only making “a hash of the financial statements,” as SEC Chairman Christopher Cox suggested in a July 2006 press conference, shouldn’t backdating cases charge books and records violations, rather than mail and securities fraud?

Harm to a fraud victim is an historical underpinning of common-law fraud. The concept can be traced back to English common law, which routinely required a lie in combination with some taking of property. The absence of property-taking in backdating cases has led some commentators to question whether backdating is securities fraud at all.

Other commentators have argued that the harm from backdating occurs when the company awards stock to employees at a discount to the market price on the grant date. As a result, according to the argument, the company sacrifices the spread between the strike price and the market price — cash it ordinarily would have received had it sold the treasury shares to the market on the date of grant.

This theory is flawed for several reasons. Most importantly, it overlooks the considerable benefits that the companies realized by granting employee options instead of simply dumping treasury shares on the market. During the technology boom, attracting and retaining qualified personnel was a costly activity. Cash-strapped firms were able to limit compensation costs by offering stock options, in which the company agreed to sell employees treasury stock at a predetermined strike

price some three or four years after the grant date.

Because of the volatility in the share price of tech firms, stock prices often fell below option strike prices by the time the options had vested. As a result, firms were able to attract and retain talented individuals without ever awarding the stock that underlied the options.

On the other hand, in the relatively rare instances when the share price exceeded the strike price at the close of vesting, the company often received a capital inflow from the employee in return for stock. Moreover, in exchange for selling discounted stock from the company treasury, the Company received three to four years’ worth of employee services at a relatively cheap price. This flowed directly to the Company’s bottom line through cheap employee recruitment, retention and compensation costs.

Contrast this to the alternative scenario, in which the company instead simply sells treasury stock on the open market. In this situation, the company does not receive the benefits of cheap employee retention and recruiting. It instead receives the theoretically undiscounted market value of its treasury stock. And unlike the employee stock-option scenario, the cash inflow comes directly from investors’ pockets, through a pro rata reduction in the value of investors’ holdings.

The government’s theory also overlooks the fact that companies may legally sell discounted stock to their employees without recording a compensation expense. This is accomplished through widely employed Employee Stock Purchase Programs (ESPP). During the period of alleged backdating, companies could issue stock discounted to 15 percent below mar-

ket level and record no compensation charges.

Unlike options, ESPP stock results in a certain (rather than hypothetical) cost to the company. Yet no one decries the lost “spread” and related losses to the company treasury. This is because investors realize the lost differential is more than offset by reduced employee compensation and retention costs. That stock sold through ESPP programs incurs no charges, while discounted options do, also underscores the arbitrariness of the accounting rules and, by extension, the backdating prosecutions.

Despite the media clamor and various colorful analogies to lightning, lotteries and pick-pocketing — many of which are offered by political appointees for political purposes — most options backdating cases are not fraud, but books and records errors. Careful analysis of the securities fraud elements may help observers see the forest through the oaks. ■



The scandal continues to grow. New backdating allegations made by shareholders in federal civil court have placed Apple Computer and its chief executive, Steve Jobs, under increased scrutiny.





# The Verdict

By JOHN RYAN

**THE JURORS OBSERVED THE SPENT FORM** of Allan Navarro only intermittently during three weeks of testimony about the destruction of his life. > He was absent most days as his lawyer, Steven Yerrid, took the jury through the course of alleged medical neglect and malfeasance that caused the former basketball standout to lose his ability to move, have sex, lift his son, eat. Navarro didn't attend much because he cannot control his bowels or bladder and needs his diaper changed. > But he was there in his wheelchair as

Yerrid, a standout in his own right among Florida's plaintiffs' lawyers, made the final plea for compensation for the Navarro family. > Though he had practiced for 30 years and won about 75 verdicts and settlements exceeding \$1 million, Yerrid's final question during Navarro's testimony a week earlier had thrown the Tampa courtroom for a loop. > "What animal do you admire most?" Yerrid asked his client. > "Lion," Navarro responded. > "That's all," Yerrid said to the

court, and returned to his seat. > Yerrid's face is weathered by four decades in the Florida sun and a deep passion for sailing. His smile contains more than a mischievous trace of the actor James Caan. He can make Caan's Sonny Corleone look timid and complicated by self doubt. > Yerrid told courthouse employees to bolt down the corners of the building when he started this trial: He was going to blow the roof off. > During closing arguments on Sept. 29, the day before his 57th birthday, Yerrid reminded the jurors about Navarro's favorite animal. He began an anecdote about his father taking him to the zoo when he was a kid, and pointing to an enormous beast. > What are those?, his father asked him.

**Hit by a stroke, Allan Navarro's life changed forever in a single day. His family's fight for justice lasted six years. The lawyers for the Navarros had handled plenty of malpractice cases in their careers. But none like this.**

"I said, 'Well, those are lions, Dad,'" Yerrid recounted for the jury. "I saw pictures of them in the book. They're walking around. They've got the manes, and look at the sign on the cage. It says lions."

No, his father told him. Lions live on the Serengeti, where they are free.

"Once they cage him in the zoo, he's not a lion anymore." Yerrid repeated the lesson to the jury. "He doesn't have the ability to protect those family members he loved so much. He cannot play and roar and be the king. No. They feed him with a bucket ... And he knows one thing for sure; he can never leave that cage."

That was now Navarro, once a proud athlete, husband and father, who had to live "in that vomit, that pee, the

years he and his longtime law partner, Richard Gilbert, have represented the Navarros.

Navarro recently went to see his 10-year-old son, Scottie, play in a basketball game — which Dickey thinks is terrific. Dickey has long been concerned about his client's mental health.

Navarro, 50, played professional basketball in the Philippines before coming to America in 1995. His hero is Michael Jordan. It depresses him that he can't play ball with his son.

Tonight, he says he's upset that Scottie didn't get much playing time. Marilyn and Ed have to translate. Navarro can speak only in short and slow gasps that can be hard to understand.

Navarro has no use of his limbs, except for limited use of his right arm. Thanksgiving is a week from this evening, but Navarro won't be able to eat the mashed potatoes he loves so much. His repeated choking has caused respiratory problems. Doctors have now forbidden him from eating, his last remaining pleasure.

As the family reminisces about the trial, Dickey asks for the poster-sized blow-ups from the good days — parties with friends in the local Filipino community, poses with family members.

They are more lifelike than Navarro himself, particularly when placed at the feet of his wheelchair.

These were courtroom exhibits, and one shows Navarro holding his son, then 4, and wearing a wry, satisfied smile and the blazing white suit later selected for his funeral.

The family began planning Navarro's funeral days after his emergency surgery on Aug. 10, 2000, when doctors said he would not awake from the coma brought on by a stroke.

The family are devout Catholics and listened to their priests. Sitting on the couch next to her husband's wheelchair, Marilyn recounts how they told her he was suffering and should be set free.

The family scheduled their last goodbyes and agreed to have Navarro's respirator removed. That day, a family friend who worked as a nurse at the University Community Hospital in Tampa stopped by to try to communicate with Navarro. He blinked. She called in the neurologist, who decided Navarro should remain alive.

That was a close call — so close that the funeral home called the family and asked where the body was.

"I said 'There's no body,'" Ed cries out with a gasp. "He woke up!"

The living room erupts in laughter. They laugh often when discussing details of this six-year ordeal, as hard as their lives have been. Navarro slowly emerged from the coma. He was in care facilities for six years before moving back with his wife and son in January 2006. The family members believe Navarro's life is a miracle.

Navarro is proud of that anecdote. They couldn't pull the plug. He's a fighter.

**ALLAN AND MARILYN NAVARRO MET IN THE EARLY 1980S** in Cebu City, Philippines, a city of about 2 million people. They were neighbors. Each had a young child from a past relationship. As a professional basketball player,



Photo by Hugh Williams

Steven Yerrid joined the Navarros' case in 2006 after meeting with the family. "I WAS STRUCK BY THEIR SINCERITY AND INTEGRITY."

smell, in the soiled diapers."

"If red ants were eating him alive, [he] couldn't even roll three inches to get away from the ant bite," Yerrid told jurors.

Only justice — in the form of monetary damages — could free Navarro, Yerrid said. "Allan Navarro, the old lion that's locked up forever, just in that prison you see right there," he said.

"The lion needs to be set free," he told jurors. "You have the keys. You know what his cage looks like."

**SIX WEEKS AFTER THE TRIAL, NAVARRO RESTS IN A MECHANIZED wheelchair** in his living room in Land O' Lakes, Fla., a town north of Tampa perhaps most notable as the filming site of the movie "Edward Scissorhands." Behind a set of gates securing a development known as Lake Talia, a Virgin Mary statue greets visitors as they head to the Navarros' front door.

Navarro is surrounded by his wife, Marilyn, and his sister and brother-in-law, Susan and Ed Bilbao. Also present is one of his original attorneys, David Dickey, who has become a close friend of the family in the six

Navarro was quite famous in the area. He also coached basketball at the University of Cebu and served as a neighborhood councilman.

Marilyn's father was a U.S. citizen who sponsored her to come to America in 1989. She lived in Stockton, Calif., while Allan stayed in the Philippines. They got married in Cebu in 1992. After Marilyn became a citizen, she sponsored her husband's move to Stockton in 1995. The following year, Scottie was born. He was the first child they had together, and his birth made Navarro enormously proud.

The family moved to Tampa in 1998. Navarro continued to play basketball in local leagues and with friends. A machine operator for Time Warner, he was an active and caring father. He did all the cooking for the family. He loved picking up Scottie and holding him in the air. Navarro's first child, Vanessa, and Marilyn's first, Archie, are in their 20s and no longer live at home.

Archie was still at home on Aug. 9, 2000. That Wednesday morning, he woke up his mom to tell her that dad was very sick. Marilyn found her husband on the couch, holding his head in his hands. Navarro had felt a pop in his head earlier in the morning and now had an excruciating headache. He told Marilyn to call in sick for him. Later, she called their primary care physician, but he was at lunch. When she finally reached him, he told her to take Navarro to the emergency room.

Marilyn took Navarro to the emergency room at the University Community Hospital's Carrollwood campus at around 2:30 p.m.

Examined by a man Marilyn believed to be a physician's assistant, Navarro complained of headache, nausea, dizziness and double vision. Navarro also recounted a medical history that included high blood pressure, high cholesterol, diabetes and a family history of strokes.

Later, the attending physician in the emergency room that day, Michael Austin, met with the Navarros for a few minutes and ordered computerized tomography, or CT, scans of Navarro's brain. When the tests came back negative, Navarro was sent home. His diagnosis: sinusitis. Painkillers were prescribed.

The painkillers didn't work. That night, Marilyn tried rubbing her husband's head with holy water because he believed it had healing powers. She woke up at 4 a.m. to find Navarro pacing around their home in confusion and pain, bumping into walls, vomiting occasionally and slurring his speech.

Marilyn has worked as a nurse for most of her adult life, both in the Philippines and the United States. But she didn't need her training to tell her something was seriously wrong with her husband.

The Navarros returned to the Carrollwood emergency room at 6 a.m. on Aug. 10. New CT scans showed that Navarro had suffered a stroke. He was transferred from the Carrollwood to the Fletcher campus of the University Community Hospital, about 15 minutes away. Before the transfer, Navarro was able to tell Marilyn that he loved her. He told her to take care of Scottie and to send his body back to the Philippines if he died.

Marilyn was in the waiting room at Fletcher when a patient-affairs counselor came to tell her that her hus-

band was in critical condition and might not survive. Navarro went into surgery at about 2 p.m. A shunt was inserted into his brain to relieve intracranial pressure, but the damage to his brain was irreversible. He lingered in a coma for several weeks.

Since then, Navarro has been a prisoner in his own body and an immeasurable burden to his family.

The Navarros and the Bilbaos didn't know whether they should file any malpractice claims. Marilyn says she was reluctant. The family has friends who are doctors, and they didn't want to be viewed as the type of people who would file a malpractice lawsuit.

They prayed about it. Ed Bilbao did some research on the Internet, looking for board-certified civil-trial lawyers in Florida. They looked at the list and prayed some more. Richard Gilbert's name was on that list. Ed called a few firms and spoke mostly to secretaries. When he called de la Parte & Gilbert, he got the name partner on the line.

Gilbert, 58, has been practicing in Florida since 1974. He is the senior partner in the firm founded by Louis de la Parte, a well-known political figure who was in the state legislature for many years. De la Parte is retired.

Colleagues call Gilbert "the medicine man" for his ability to present complex medical evidence to jurors — a skill developed over 30 years in practice. Gilbert handles complex commercial litigation in addition to personal injury and medical malpractice cases.

Dickey, also a partner at de la Parte & Gilbert, is newer to the profession, having had a career in the military before passing the Bar Exam in 1992. He was a U.S. Naval Officer from 1981 to 1989 and flew fighter planes. He graduated from TOPGUN, the Naval Fighter Weapons School, in 1986, the same year of the movie "Top Gun" starring Tom Cruise. Dickey later worked for the Defense Intelligence Agency. Many people in that type of position end up finding a job somewhere in the military-industrial complex. But that didn't interest Dickey, who wanted to get out of the war business and make a difference in a positive way.

After meeting with the Navarros, getting the medical records and consulting with experts, Gilbert and Dickey believed their new clients had compelling legal claims.

Most important, Gilbert concluded, Austin had ordered only CT scans for Navarro. The problem was that such scans are only effective at ruling out a hemorrhagic stroke — which involves bleeding in the brain — not an ischemic stroke, which involves the blockage of an artery to the brain.

On the morning of Aug. 9, Navarro had suffered an ischemic stroke in the cerebellum, which is the smaller and less important portion of the brain, located below the main part, the cerebrum. The cerebellum is responsible for posture, balance and coordination.

A CT scan is only able to reveal that type of stroke many hours later, which is why the tests were positive on Aug. 10.

The ischemic stroke in the cerebellum was an evolving condition. Earlier discovery and treatment on Aug. 9 could have prevented Navarro from becoming seriously and permanently injured, his attorneys believed. If prop-



erly diagnosed, they believed, the damage to the cerebellum would have left Navarro with only some coordination problems. Timely surgery could have prevented the swelling that irreversibly damaged Navarro's brainstem — the portion that controls vital bodily functions — and left him permanently disabled.

Given the symptoms he presented the afternoon of August 9, Navarro should have received a thorough neurological examination and consultation to test the function of his cerebellum, Gilbert says. Those tests would not have come out normal, and Navarro would have been admitted for observation.

Instead, Austin discharged Navarro even though he was unsteady on his feet.

The attorneys knew they faced a high hurdle to show that the attending staff deviated from a reasonable standard of care. After all, emergency rooms are busy and treat lots of patients. And Navarro was, in fact, evaluated and tested over a period of several hours. In addition, ischemic strokes in the cerebellum are extremely rare. The vast majority of strokes are hemorrhagic strokes that affect the cerebrum.

Though it was clear Navarro and his family had suffered, the lawyers knew one of the golden rules of medical malpractice: To suffer is human; to be liable, the exception. Bad things happen to people, including strokes. Even with exemplary care, strokes can cause lasting damage.

**THE NAVARROS FILED THEIR LAWSUIT IN 2002 AGAINST** Austin and the medical group Franklin, Favata & Hulls, which was Austin's employer and was under contract with University Community Hospital to run the Carrollwood emergency room. (Other defendants in the case, including the hospital and the doctors who treated Navarro on Aug. 10, settled before trial.) The suit was filed in Florida's 13th Judicial District, Hillsborough County, which includes the Tampa area.

As Gilbert and Dickey began discovery, they were still missing the name of the staff member who examined Navarro before Austin ordered the CT scans. Austin tested only Navarro's reflexes and hand grip — nothing that would detect the stroke. Marilyn didn't recall the staff member's name, though she remembered that he identified himself as a physician's assistant.

Gilbert deposed Austin in April 2003, and the doctor couldn't recall who had evaluated Navarro before him. He didn't recognize the handwriting on the examination sheet, called a "T sheet," other than his own signature at the bottom.

It would have been his "pattern and practice" to repeat any medical history and examination done by certain types of people who assisted in the emergency room, such as medical students and interns, Austin testified at his deposition. But he didn't know who had filled out the sheet.

Gilbert and Dickey sought the identity of the employee through a discovery request to Franklin Favata, but the group claimed it couldn't find the staff member's name. Eventually, the group provided a calendar list of physician's assistants who worked that day, but the doc-

ument was of little help.

Gilbert and Dickey decided to depose a corporate representative from Franklin Favata.

The group produced Pam Hall, an administrator, who told the plaintiffs that Franklin Favata used "expediters" who served as note takers or scribes for doctors to help the emergency room run more efficiently. Gilbert and Dickey then requested the names of all the expediters. Sixteen months after they first asked for the staff member's name, Franklin Favata finally told them who had filled out Navarro's sheet: Mark Herranz.

Gilbert deposed Herranz in June 2004. He testified that he had failed the state's test to become a licensed physician's assistant. However, Herranz said, in his role as an expeditor, he merely served as a scribe for doctors and did not perform any official clinical duties, such as patient exams.

Gilbert and Dickey turned their sights to the trial, scheduled for March 7, 2005. They were set to square off against Louis LaCava, a well known defense attorney from Stephens Lynn Klein LaCava Hoffman & Puya in Tampa. LaCava represented both Austin and Franklin Favata, paid for by their medical liability insurer, ProNational Insurance Co.

Four days before trial, LaCava wanted out of the case. He filed an emergency motion to withdraw, saying that Austin had provided new information that created "an irreconcilable conflict." Citing attorney-client privilege, LaCava did not reveal the nature of the conflict.

Hillsborough County Judge James Arnold, who was presiding over the case, held a hearing on the matter and met privately with LaCava. Arnold granted the withdrawal motion and postponed the trial.

The plaintiffs suspected something big.

"They had been representing both Austin and the medical group for two years without a relational conflict," Gilbert says of LaCava's team. "We knew this had to have something to do with one of those parties intending to testify or make comments that the other party felt incorrect or inaccurate."

Gilbert responded with a motion titled unlike any in his long career: "Plaintiff's motion to prevent the presentation of perjured testimony and to prevent the perpetration of a fraud on the court."

In short, Gilbert wanted to re-depose the key witnesses to learn what had caused the bump in the defendants' case. Arnold granted the motion.

Gilbert deposed Austin a second time, on June 13, 2005.

By now, Austin had learned that Herranz was the person who had conducted the medical history and examination of Navarro. In his second deposition, Austin testified that he thought Herranz was a licensed physician's assistant. As a result, he did not redo the medical history and examination conducted by Herranz.

The plaintiffs believed they now had a strong case against Franklin Favata for allowing the unlicensed practice of medicine. It was no surprise Herranz had missed Navarro's stroke; he was untrained and had no idea what to look for.

To nail down their theory, the plaintiffs pursued a second deposition of Herranz, who had to be threatened with

jail time and found in contempt by the new judge on the case, Judge Sam Pendino, before he would be examined.

In late July 2005, Herranz was deposed again. He admitted that he conducted examinations but insisted that they were never the examinations of record.

He asserted his Fifth Amendment right when asked how many times he failed the state's physician's assistant exam. The plaintiffs' attorneys surmised that Herranz may have feared that he could someday face criminal charges for practicing medicine without a license.

The next month, Navarro's lawyers amended their complaint, adding new negligence claims against Franklin Favata to push the theory of "profits over patient care." Austin remained negligent as the physician with ultimate responsibility for Navarro's care and for discharging him with the wrong diagnosis, the lawyers contended, but Herranz's unlicensed status made the case far worse than mere negligence.

To bolster their point, the plaintiffs detailed a series of alleged failures by the medical provider: Franklin Favata never had a written job description for Herranz that limited his role in the emergency room; Franklin Favata never alerted its employees that Herranz was unlicensed and should not perform any clinical duties; Franklin Favata billed for Herranz's work as if he were a doctor; and though officially Herranz's role was as an expeditor or scribe, Franklin Favata had no policies or procedures that stopped Herranz from engaging in the unlicensed practice of medicine.

On August 9, when Navarro walked through the doors of the emergency room, he was snared by a trap laid by a health care provider, his lawyers contended.

"The case had taken on a punitive nature," Gilbert says. "We were able to argue that the medical group had created a system that placed profits over patient care."

In his order allowing the plaintiffs to amend their complaint, Judge Pendino found "evidence of active concealment" on the part of Franklin Favata when it came to identifying the people who provided care to Navarro on Aug. 9, 2000.

As the plaintiffs got their feet under them, the defense continued to falter. In September 2005, Austin filed a complaint against the liability insurer, ProNational, with the civil remedy section of Florida's Department of Financial Services. He claimed that ProNational never conducted a reasonable investigation at the outset of the case to see if Navarro's claims were valid. He accused the company of having a policy of refusing to settle even valid claims.

"Had I known this at the time I went to work for Franklin, Favata & Hulls," Austin writes in the complaint, "I would have purchased insurance with another carrier."

He also claimed that he felt pressured to commit perjury by his attorney when he told LaCava in a March 2005 pretrial meeting that he did not re-examine Navarro after Herranz examined him. He said that LaCava told him to testify as he did during his April 2003 deposition — that it would have been his customary practice to redo the exam. He also claimed that after LaCava withdrew, ProNational Vice President Tony DaPore gave him a similar instruction at a March 24 meeting.

LaCava denies pressuring his client to testify one way or the other. He says he merely asked Austin to choose which version was accurate — whether he did or did not redo the examination. Once Austin made clear that he did not redo the exam, LaCava says, he had no choice but to withdraw from the case because the testimony was not favorable to his other client, Franklin Favata.

Frank O'Neil, a spokesperson for ProNational, says that the company categorically denies all of Austin's assertions. ProNational filed its own declaratory judgment lawsuit against Austin, claiming that the doctor violated the terms of his professional liability policy.



The Navarros' prayers led them to veteran Tampa attorney Richard Gilbert, right, who along with David Dickey has represented the family since the beginning of the case.

ProNational has continued to pay for Austin's defense, as those claims are pending.

Austin's complaint against ProNational and the perjury allegations underscored the plaintiffs' belief that ProNational and Franklin Favata had been trying to hide Herranz's involvement all along.

In March 2006, they filed a motion asking the judge then presiding over the case, Ralph Stoddard, to enter a judgment of liability against the defendants for a pattern of discovery abuses and misdeeds.

Stoddard took a day to hear their claims. He ruled the matter should be decided at trial, by a jury.

**THE WITHDRAWAL OF LACAVA BROUGHT NEW LEGAL** teams: one for Austin, the other for Franklin Favata. Jeffrey Goodis, a partner at Thompson, Goodis, Thompson, Groseclose & Richardson in St. Petersburg, Fla., represented Austin at trial while Brian Stokes, a partner from The Unger Law Group in Orlando, defended the medical group. (Stokes also defended

Carrollwood Emergency Physicians, the group set up by Franklin Favata to run the ER. The two entities were treated as the same defendant throughout the case.)

The delay also brought a new lawyer on the plaintiffs' side, Steven Yerrid. In early 2006, as Gilbert and Dickey prepared the case for trial, Gilbert broke his hip in a bike-riding accident. Unsure of how well or quickly he would heal, the lawyers decided to get some help.

Yerrid was a natural choice. He and Gilbert practice in the same downtown Tampa building and have been friendly for years. Yerrid also has a reputation for bringing in the biggest wins.

Though Yerrid trusted Gilbert on the merits of the case, he wanted to meet the family before fully signing on.

"I was struck by their sincerity and integrity. They are really top-drawer people," says Yerrid, who joined the team in April and tried the case with the two original lawyers.

The trial of *Navarro v. Austin* began on Sept. 11 before Judge Gregory Holder. It took two days to pick a jury of six people, as required for Florida civil cases.

Yerrid and Gilbert tag-teamed for opening statements. Yerrid laid out the tragedy that had wrecked the Navarro family while Gilbert outlined the medical missteps of Aug. 9, focusing on the failure to perform a neurological test of Navarro's cerebellum.

The defense told the jury that Navarro's brainstem injury resulted from the stroke itself — not from delays in treatment. And strokes happen, they said.

Goodis and Stokes also highlighted the difference in Navarro's condition between August 9 and 10, hoping to show the standard of care was met on the first day, when Navarro was alert, oriented and communicative. It wasn't until the next day that his symptoms had worsened to include slurred speech, facial drooping, nystagmus (involuntary eye movement) and eventually the respiratory distress that almost killed him.

The defense strategies diverged when it came to Herranz, however, who, in another strange twist to the case, died five months before trial at age 37.

Goodis said that Austin didn't redo the medical history and examination of Navarro because his client thought Herranz was a licensed physician's assistant and capable of performing exams.

Stokes maintained that Herranz never conducted an exam on Navarro or any other patient because Franklin Favata limited the duties of the expeditors. He told the jury the evidence in the case would back up what Herranz had testified to in his depositions: He was merely an expeditor or scribe for emergency room doctors, including Austin.

In his opening statement for the medical group, Stokes also talked about Rebecca Barkhurst, a nurse who worked at the hospital on Aug. 9. In her nursing chart for Navarro that day, Barkhurst wrote "Exam by Dr."

Stokes told jurors that during her June 2003 deposition Barkhurst testified that her notes meant exactly what they said: A doctor had examined Navarro.

Of course, that deposition had taken place before the plaintiffs had learned Herranz's name.

Stokes gave his opening statement unaware that in March 2005, Dickey called Barkhurst and told her they

had found the missing staff member who saw Navarro that day, and that Herranz was the missing link. Like Austin, once Barkhurst knew the missing man's identity, her testimony changed.

After Stokes thanked the jury for their attention, the courtroom watched a videotape of Herranz's second deposition. Then Gilbert called his first witness: Rebecca Barkhurst.

"I witnessed Mr. Herranz examining patients, obtaining histories, and doing examinations," Barkhurst testified, directly contradicting Stokes' opening points. "I never witnessed him serving as a scribe."

Gilbert asked her why she wrote "Exam by Dr."

"Because I knew that Mr. Herranz was not a licensed physician's assistant, but I wasn't sure what he should be — what his title should be documented as, and I was not comfortable writing PA," Barkhurst said.

Stokes was outraged. After the jury was excused for the day, he requested that Judge Holder declare a mistrial. The plaintiffs' attorneys had engaged in "blatant sandbagging" by not informing him of Barkhurst's changed testimony, he argued.

But Holder noted that attorneys only have to let opposing counsel know about changed testimony when it relates to expert witnesses, not factual witnesses like Barkhurst. He denied the motion.

Holder told Stokes he could try to find some case law to support his view, but he doubted the lawyer would come up with anything.

"Again, I've only been doing this for 25 years or so," Holder remarked.

The plaintiffs were off and running as Yerrid began to score similar points with other key witnesses. Austin testified as he did in his second deposition, that he would not have repeated Herranz's examination.

"Mark Herranz was acting, walking, talking, dressing, and doing everything that a physician's assistant would be expected to do in that environment that was created by the defendant corporation, correct?" Yerrid asked him.

"That is correct," Austin replied.

Howard Franklin, the president and chief executive officer of Franklin Favata, also admitted on the stand that his group never wrote out job duties or limitations for Herranz and other expeditors. He believed "word of mouth" was an efficient means to pass this information along.

A huge part of the plaintiffs' claims lay in persuading the jurors that the medical group created a situation ripe for mishap and patient tragedy.

Still, Franklin was able to place the group's use of expeditors in a broader context. He testified that he came up with the idea in 1999 after reading about the use of expeditors or scribes in medical publications. Patients often complain about emergency rooms being too busy or too slow, and doctors have trouble writing legibly, Franklin explained. Expeditors could serve as information processors by gathering basic information from patients, taking notes for doctors and coordinating lab and test results.

Under questioning by Stokes, Franklin testified the goal was not increased profits but improved efficiency. And, he explained, the Navarro examination was billed as a doctor's work because Austin's signature appeared



at the bottom. He also denied trying to hide Herranz from the plaintiffs. He said that it took a long time to figure out whose handwriting appeared on the “T sheet” because Herranz worked for Franklin Favata for only about a year and few people remembered him.

Franklin testified that when he hired Herranz, he was aware the staff member had not passed the physician’s assistant exam. But he hired him specifically as an expeditor, not as a physician’s assistant. Some of the emergency room doctors chose not to use the expeditors, and the group eventually stopped using them.

Stokes asked Franklin what he would tell a new expeditor if he was hiring him in August 2000.

“You don’t examine the patient,” Franklin said. “You’re not involved in the treatment of the patient. And you’re not involved with making diagnoses ... or the final disposition of the patient.”

On the critical issue of the acceptable standard of care, both Austin and Franklin contradicted their attorneys’ opening statements. Both attorneys told jurors that the evidence would show that Navarro received a reasonable standard of care. But on the witness stand, Austin and Franklin admitted that if an unlicensed staff member was the first to examine Navarro, Austin’s limited re-examination of him fell below an acceptable standard.

Each blamed the other for this deviation.

Austin claimed he had no idea Herranz wasn’t a physician’s assistant because Franklin Favata never told him. Had he known, Austin said, he would have done a full repeat examination.

Franklin testified that it was the physician’s responsibility to ask a person like Herranz about his role. The physician, Franklin pointed out, is ultimately responsible for the patient’s care.

The victim himself came to testify on Sept. 22.

It was an uncomfortable scene. Navarro sat in his wheelchair by the witness stand. Yerrid questioned him for just a few minutes. Ed Bilbao, the brother-in-law, translated most of Navarro’s words for the courtroom.

“What do you wish for yourself?” Yerrid asked.

“To be free, to be set free,” Navarro responded.

He testified that he felt like less of a man because he couldn’t play with his son or provide for his wife.

“I wish I could give them a good living,” Navarro said. Ed repeated his painful admission.

Yerrid asked him what he wanted his son to be.

“I want him to be a doctor some day,” Navarro responded.

A powerful point: Navarro trusts and admires the medical establishment. He is angry only at the defendants in the case.

“Are you scared?” Yerrid continued.

“Yeah.”

“Why are you scared?”

“My wife will leave me if I can’t do anything.”

Goodis and Stokes chose not to cross examine Navarro.

**ONE WEEK LATER, ALL THE EVIDENCE HAD BEEN SUBMITTED and the witnesses heard. Only final arguments stood between Navarro and a verdict from his jury.**

So effectively had the plaintiffs exposed the role of

Herranz that Austin’s attorney sounded more than a bit like his colleagues on the plaintiff side. Navarro wasn’t alone in walking into a trap, he claimed. So did Austin.

“He reasonably relied on [Franklin Favata] to put qualified people in because it’s a team practice,” Goodis told jurors. “You got to rely on people. You can’t do it all yourself. He thought this guy was a PA.”

Stokes, in turn, continued to insist that Herranz did not do the examination.

Stokes pointed to the fact that, unlike Austin and Barkhurst, Herranz’s testimony remained consistent throughout the litigation: He did not do patient examinations.

Stokes told the jurors that Austin, who resigned from Franklin Favata in 2001, had done the exam.

“I have not been able to provide you with evidence as to why [Austin is] saying the things that he’s saying, why he won’t own up to the fact that he did the exam,” Stokes said. “But common sense, reasonableness, deductions that you draw from the evidence, lead you to conclude his fingerprints are all over the [examination sheet].”

Yerrid has a reputation for needing only a tiny crack in the door to kick it down. But the squabbling defendants, the great groundwork laid by his colleagues and the progress of proceedings had him sensing once-in-a-lifetime magic.

He knew the jury felt something big was happening, and he told them to not hold back.

“Look, folks, I don’t know where the money is going,” Yerrid said. “You ought to just jack this case — you ought to jack this case to the moon.”

And they did.

The jurors deliberated for just three hours on a Friday afternoon, Sept. 29, 2006. When they returned to the jury box, they awarded the Navarros \$116.7 million in compensatory damages, with the liability divided between Austin at 25 percent, Herranz at 25 percent and Franklin Favata at 50 percent.

The jurors also found that Franklin Favata had tried to conceal Herranz’s involvement from the plaintiffs. They decided that punitive damages were warranted against the medical group.

**THE PUNITIVE TRIAL WAS SCHEDULED FOR THE FOLLOWING Tuesday.** On Monday, Franklin Favata filed for bankruptcy in federal court, which put an immediate stay on the Navarros’ case. Gilbert says that he learned about the petition in an e-mail from one of the group’s lawyers at 9:30 p.m. Monday. He and other lawyers at his firm put together a motion to lift the stay, and they filed it by 3 a.m.

U.S. Bankruptcy Judge Paul Glenn held a hearing on the matter that morning. He sided with the Navarros, lifting the stay. The parties were back in Hillsborough County before Holder by about 1 p.m. Franklin Favata had succeeded in delaying the punitive trial by only a half day. The group later filed a motion to have its bankruptcy case dismissed. Glenn signed the order, stating that the petition was “initiated in bad faith, and for improper purposes.”

The punitive case took up only Tuesday afternoon.

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congratulates

## Elizabeth J. Cabraser and Kelly M. Dermody

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We are extremely proud of Elizabeth and Kelly's accomplishments in the courtroom and the community. Their dedication to justice and passion for their clients inspire us daily.

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Franklin, the CEO, testified that Franklin Favata was no longer a functioning medical group. Though it still exists on paper as a corporation, the partners merged their practice into a larger group called Tampa Bay Emergency Physicians in 2004. This move was unrelated to the Navarros' case, Franklin testified. He said they made the move to a bigger group because the Carrollwood hospital wanted a larger practice to run the emergency room.

Then Yerrid took the floor one last time.

It was time to send a message to emergency rooms across the country, he said. The Friday verdict had given the Navarros their just restitution. Now the jurors had to hand down a deterrent.

This was not a time for mercy, Yerrid said. It was time for the sword.

"We cannot undo what's been done, but the final chapter is yours," he said. "Write the ending the way you want it written. That way you will be proud of what happens today."

In his closing, Stokes told jurors that Franklin Favata's assets were worth between \$50,000 and \$100,000.

"That's all they're ever going to have," Stokes said. "If you determine that an amount of punitives should be assessed, I submit to you that's the appropriate figure."

Less than an hour later, the jury gave the Navarros the \$100,000 that Stokes had suggested.

Plus another \$100 million.

Outside the courthouse, Navarro and his family were surrounded by a caucus of the media. They pledged the entire \$100,100,000 in punitive damages to medical research related to stroke and brain injuries.

The total verdict of nearly \$217 million set a record for medical malpractice cases in the state of Florida. It's one of the largest medical-malpractice verdicts in U.S. history.

Ten months earlier, the plaintiffs had offered to settle with the defendants for \$3 million each. The last settlement offer the family received, about six weeks before the trial, was for \$300 — \$100 each for Navarro, Marilyn and Scottie.

**THE NAVARRO CASE MAY BE "THE LAST OF THE BIG ONES"** in Florida medical malpractice litigation, according to Dickey. In 2003, the state legislature passed tort-reform legislation capping noneconomic damages in emergency room cases at \$150,000. The caps are higher in non-emergency room cases: \$500,000 in most cases against individual doctors and \$1 million in cases against multiple doctors. These caps did not apply retroactively to existing cases, such as the suit filed in 2002 by the Navarros.

The numbers are startlingly small when measured against the Navarro verdict. In economic damages, the jurors awarded the Navarros about \$15.6 million in past and future medical expenses and \$615,000 in past and future lost wages.

The real meat of the \$116.7 million in compensatory damages came in noneconomic form: \$46.5 million for Navarro's pain and suffering and \$52.5 million for Marilyn's loss of her husband's comfort and attentions. Scottie received \$1.5 million for the loss of his father's companionship.

In sum, the jury determined that the Navarros

deserved \$100.5 million in noneconomic damages.

If Navarro had gone to the emergency room three years later, it wouldn't matter what a jury thought after sitting through a three-week trial and sifting through the evidence. With the same parties and the same set of facts, \$100.5 million becomes less than \$1 million.

Regardless of whether the Navarros deserve \$100.5 million, what attorney would take them to court in a post-cap world?

Medical malpractice cases are expensive to litigate. A trial alone can easily cost hundreds of thousands of dollars. And taking a case is risky when noneconomic damages are minimized at the outset by caps.

"We're just not going to see these types of cases anymore," Dickey says.

(Dickey left de la Parte & Gilbert in January to join Yerrid's firm. He made the move to focus more exclusively on personal injury and medical malpractice trial work. "We talked about it, and it's a good move for him," Gilbert says.)

The Tampa Tribune published several responses to the verdict. One was an opinion piece by Richard Paula, an emergency room doctor at Tampa General Hospital who was critical of the verdict.

"Do you want your doctor thinking about how he can help you, or do you want him thinking about how not to get sued?" Paula wrote. "Every time one of these outrageous verdicts is rendered another great physician puts down his stethoscope for the last time."

Yerrid responded, writing that Paula and other physicians "should indeed put down [their] stethoscopes for the last time" if the standard of reasonable care is too overwhelming.

**THE YERRID LAW FIRM'S DOWNTOWN TAMPA OFFICE** contains a mini-museum of sorts called "The Wall of Shame." On both sides of the main hallway are framed newspaper stories and jury verdict forms from some of his most notable cases. It's a little depressing: burn victims, highway deaths, surgeries gone wrong, people disfigured or killed.

Yerrid's biggest case came in the mid-1990s, when he was part of the Big Tobacco "Dream Team" — the group of plaintiffs' lawyers that represented the State of Florida in reaching a record \$13.6 billion settlement with tobacco companies over the negative health effects of cigarettes.

Getting to that 1997 settlement was tough, and a gamble. Yerrid's firm had only five lawyers. His team worked on holidays and had countless sleepless nights. Money was pouring out of the firm, with very little coming in. Tears were shed and emotions were at their limits, according to Ralph Gonzalez, one of the attorneys at the firm. Yerrid drives hard, and he got them to the other side of that battle.

"I think he's what Alexander the Great must have been like," Gonzalez says.

Yerrid used his bite of the tobacco settlement to create The Yerrid Foundation, which works with a wide range of charities, most for sick kids. This work has added to Yerrid's prominence and lent itself to a fun story or two from his office high above downtown Tampa.

After Yerrid won the Ted Williams Award in 1999 for

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his work with cancer-stricken children, he was able to meet with the Boston Red Sox legend.

"It was supposed to be a short meeting, but we ended up talking for three hours," Yerrid says with a wide grin. "He loved fishing, too."

Yerrid's jaw sets when he starts talking about damages caps. He says he's sick of doctors and insurance companies holding the general public hostage with threats about quitting or states losing doctors.

He finds three fundamental flaws with caps: One, they give doctors more legal protection than the rest of society; two, they interfere with a plaintiff's access to the civil justice system; and three, they remove an important regulatory tool for medical negligence.

"They're morally wrong, ethically wrong, legally wrong, constitutionally wrong — as wrong as wrong can be," Yerrid says.

Though the caps didn't apply to the Navarro case, Yerrid believes that the medical profession and its insurers have succeeded in prejudicing juries against trial lawyers and big awards. This is a challenge that lawyers face in all cases in the tort-reform era, he says, regardless of jurisdiction or caps.

Medical associations and insurance companies say that the Navarro verdict proves the opposite point — that greater tort reform is still needed, especially in states that don't have caps.

Yerrid wanted to give the jury a window into Navarro's hell. His hypothetical about Navarro being eaten alive by red ants was a good one. Navarro is para-

lyzed, but he has sensation all over his body. He feels pain. In fact, he's in almost constant pain as a result of lying on his back all the time. His taste buds still work. That's why he loved eating so much. But now he can't eat because of the respiratory problems.

The emotional pain is worse. He can't hold his son. He can't make love to his wife. He can't visit family in the Philippines. He will be imprisoned until he dies.

Juries can't bring people back to life; they can't return limbs, heal wounds or make the disabled walk. Maybe the victim or the family won't be able to use all the money won in a big award. And maybe the person or company that's liable for the injury can't afford to pay big damages. Even if they can, they'll just appeal whatever verdict comes down. This is what Yerrid calls "the preordained logic" that juries bring to a case.

"It's true, all the money in the world is not going to change a man's life," Yerrid says. "But I impress upon people that you're not giving them money to allow them to do certain things. As a jury, your only requirement is to determine the magnitude of the loss in a dollars sense. And I have to convey that magnitude. I want them to know what I already know."

**THE NAVARROS' CASE REMAINS AN EXTREMELY COMPLEX** piece of litigation. Both defendants appealed the verdict to the state's 2nd District Court of Appeal. In addition, the defendants have filed a separate motion seeking relief from the judgment based on alleged juror misconduct, claiming one of the jurors was convicted of a crime

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in another state and should not have been on the jury.

The Navarros will have to fight for their money even if they overcome these challenges. ProNational has a declaratory judgment action pending against both Austin and Franklin Favata, claiming that it is not responsible for paying damages awarded in the case because the defendants violated their professional liability policy.

Among other allegations, ProNational claims that Austin and Franklin Favata allowed Herranz to practice medicine without a license — a criminal or fraudulent act that is excluded from policy coverage. The Navarros, as third-party beneficiaries of the policy, also were named as defendants. Gilbert, Dickey and Yerrid responded with counterclaims, alleging insurer bad faith against ProNational and pointing out that the company refused settlement offers throughout the litigation.

Because of defendants who settled out early, the Navarros have regained some comfort from their burden. The hospital settled out of the case in 2004. The doctors who rendered care on August 10 — when about eight hours lapsed before Navarro finally made it into surgery — settled in 2005. The settlements were confidential but have been paid. (The doctor who performed the life-saving surgery was not named as a defendant.)

After the stroke, Marilyn sold the family home, and she and Scottie lived with Ed and Susan Bilbao in Tampa while Navarro remained in a nursing home. The settlement money enabled the Navarros to buy their house in Land O' Lakes. Ed and Susan Bilbao have since sold their Tampa home and moved to a new place in Land O'

Lakes so they can continue to help out as much as possible. Throughout the ordeal, the Bilbaos have been a second set of parents to their Godson, Scottie.

The settlement money bought Navarro's mechanized wheelchair, which is the size of a dentist's chair and allows him to raise or lower himself with a control used by his right hand. The money pays for a caretaker during the day so Navarro can live at home instead of at a facility. Navarro was not able to live at home until the settlement money came in, allowing the family to retain extra help.

After he awoke from his coma in 2000, Navarro had a private room at the facility where Marilyn worked as a nurse. But he eventually lost his room and was transferred to a lower-quality care facility where he shared a room with other patients. He didn't like it there. The crowded room stank, and nurses failed to answer his call button. He tried to kill himself by wrapping a call cord around his neck. Briefly, he was placed in the psychiatric ward.

Navarro likes being home. His wheelchair is stationed in front of a large screen television. He watches a lot of sports and has access to Filipino channels.

"I am happier being closer to my wife," he says, slowly, clearly.

Marilyn is happy to have him home, as well. But she is exhausted.

The caretaker they've hired is not a nurse, which would be too expensive. Before going to her nursing job each day, Marilyn tends to her husband, changing his diaper and preparing his feeding tube before the help arrives. She faces trouble at work because she's been

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late. She fears getting fired.

Whenever the litigation over the compensatory damages concludes, they will apply the money to pay for a full-time nurse.

Marilyn also misses the man she fell in love with.

She was nervous to testify because she has a noticeable accent and occasional difficulty finding the right words in English. When questioned by Yerrid, she said that she and her husband were like a pair of birds.

"He is my — he is my — just like a bird, you know, you have to fly together," she testified. "And then just like, you know, we have the same plans and dreams and then we have — we just like to soar, you know, here and there were plans and dreams to be fulfilled."

Marilyn told jurors that she misses the strong, vibrant, "always smiling" husband who had boundless energy for playing with Scottie, walking on the beach and engaging in late-night talks. When she's not working, she tends to what remains of him.

Sometimes, he's bitter. He can be paranoid and angry. If she takes too long at the store, he might accuse her of having an affair. He's tried to run her over in his wheelchair when she hasn't done what he's told her to.

Navarro's physical and mental anguish is also Marilyn's.

"Every time he suffers, I suffer, too," she testified.

Navarro is expected to have a normal life span. The jurors awarded the same amount — \$37.5 million — for his future pain and suffering and for Marilyn's future loss of her husband's services, care and affection.

Still, Susan says her brother is lucky, and so is the family.

"So many people have been through something like this and don't have what he has now," she says.

In the days after the stroke, when family members held a meeting to decide whether to remove Navarro from life support, Susan alone opposed the idea. She wanted to pray more, and harder, because she believed in miracles.

The Navarros' story may be a testament to the power of the civil justice system. It's just one case, one family. But what happened to them could happen to any of us. Despite the delays and pending appeals, the family is happy with the result. And, whether you cheer or deride the jury's verdict, their case sent a message to anyone interested in medical malpractice and tort reform. For the Navarros, the system worked. Asked whether he still wants Scottie to become a doctor, as he testified in court, Navarro nods his head affirmatively.

"Or a lawyer," he adds from his wheelchair.

Above all, the Navarros' story is a testament to the powers of family and faith. Family kept Navarro alive. Faith has kept them strong. Even Navarro, who was never that religious himself, has become more so.

Navarro even had a vision. He told it to his brother-in-law, and now Ed shares the story.

Navarro was running in a field when Jesus approached him and asked him if they could talk. Navarro stopped, and Jesus gave him a message: Keep living.

"Your time is not yet up," Jesus told him. ■





## Donna M. Ballman, P.A. Attorneys at Law

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### **Severance Agreements - What to Think About Before You Sign One, and Why You Might be Able to Get One Even if it Isn't Offered**

by Donna Ballman

When I represent terminated employees, many of them have been presented with severance agreements that they ask me to review for them. Many more have not been offered severance, but may be able to receive it if they know how to ask. What should you do if you've been fired, laid off, or made redundant, before you sign a severance agreement? And what should you do if severance is not offered? Here are some things to consider.

1. If severance is offered, make sure an attorney reviews the agreement. You may be giving up rights you have not considered, or may be agreeing to something that will cost you more than the amount of severance.

2. Do you have a pension? How is it dealt with in the agreement? Many agreements contain releases that include releases under ERISA, which is the law that governs pensions. Make sure you are not accidentally giving up your pension rights.

3. Did you have a non-compete agreement? If not, and the employer is adding one, it may limit your ability to get a new job. If the time restriction is longer than the number of weeks of severance, it is probably not worth signing the agreement unless you are going into an entirely new field.

4. If you had a non-compete agreement, you should also have an attorney review it for you to make sure you understand your limitations before you sign a severance agreement. You may be reaffirming those restrictions in a severance agreement, so may be giving up your defenses to the non-competition provisions.

Some employers will try to add restrictions you did not have, make the restrictions longer or for a larger geographic area. Some know that they had an agreement that was not enforceable and use the severance agreement to put in place an enforceable provision.

5. Is the release mutual? If the employer wants you to release them from any claims, they should also release you. Some claim to be offended by such a request, will say, "what did you do that you need to be released from?" The answer, of course, is, "What did YOU do that you need to be released from?" Mutual releases assure that any claims are released by both sides.

6. Is confidentiality mutual? Employers want the severance agreement to be kept confidential. But if the employer does not have to keep it confidential, they may get cute and say things to references like, "I have to look at the agreement to see what I'm allowed to say." Protect yourself and make sure that they can't disclose the agreement to potential employers.

7. Put in non-disparagement. You don't want this employer to be able to say bad things to potential employers or to customers, co-workers or others in the community. If they want non-disparagement to be mutual, to keep you from bad-mouthing them, agree. It is worth the peace of mind to know that they will not be making negative comments that keep you from future employment.

8. Do you have insurance? Many employers will pay some or all of your COBRA payments to tide you over while you are working.

You need to make sure you understand what will happen to your insurance benefits.

9. Do you have stock options, stock appreciation rights, or other similar rights? Make sure the agreement is not making you give up valuable rights you may have. If you were about to vest, see if the employer will agree to vest your rights.

10. Do you have any potential claims against the employer? Potential claims may give you leverage to negotiate a severance package if it is not offered, or to negotiate a better package. If you are in doubt about your rights or any potential claims you may have, contact an attorney to discuss your options. There are attorneys who have experience in negotiating severance agreements to make sure your rights are protected.

Donna M. Ballman, P.A. is a labor and employment law firm based in Fort Lauderdale, Florida. Our website with more firm information is located at: <http://www.ballmanfirm.com>

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## How to Tell if You Have Potential Claims Against Your Employer

Ask yourself some questions:

a. Am I of a different race, age, sex, national origin, marital status, color, or religion from those who were not terminated for the same reason or offense? If so, you may have a discrimination claim.

b. Was I recently sexually harassed or the victim of other discriminatory harassment based upon race, age, religion, national origin, marital status, color, or disability? You can't be fired in retaliation for reporting such harassment.

c. Did I recently report, object to, or refuse to participate in discrimination, harassment, or illegal activity? If so, you may be a whistleblower.

d. Did I recently make a worker's compensation claim? If so, it's illegal to terminate you for making such a claim, and you also need to make sure you are not giving up your worker's compensation claim in the agreement.

e. Did I recently take leave due to bereavement, sickness, disability, or serious medical condition of a family member? If so, you may have a Family and Medical Leave Act claim.

f. Does the employer owe me overtime or wages? Make sure you are paid what you are owed. Plus, failure to pay wages is a great defense to a non-compete agreement.

g. Did I recently testify against the employer or in any court case where I was subpoenaed? You can't be terminated for your testimony under subpoena.

h. Am I pregnant? You can't be terminated for your pregnancy, or because you recently gave birth and the employer has stereotypical beliefs about women with children.

i. Did the employer breach a contract with me?

j. Am I over 40? If so, in a layoff or redundancy, the employer is supposed to provide you with a list of the ages of the others laid off or made redundant so you can determine whether or not age discrimination has occurred.

The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.

# Free Speech

By PETER SUSSER

The next presidential campaign is already heating up, and talk of politics is sure to dominate water cooler conversations. But when stimulating debate turns to badgering from overzealous political advocates, employers have a duty to limit political expression and prevent a hostile workplace.

**D**o you find yourself at the water cooler, copy machine or in the boardroom having the same innocuous chats with your colleagues? You know, the conversations where you ask questions like: “How does your afternoon look?” “What are you eating for lunch?” “Any plans this weekend?”

Sometimes what you really want to know is how a colleague feels about immigration, the war in Iraq or President George W. Bush. But how, if at all, should employees approach these topics, and can employers restrict them?

With the conversation over public policy questions heating up and the 2008 presidential campaign just over the horizon, now is the perfect time for employers and employees to review corporate policies regarding expression in the workplace. Before marching up to the co-worker with a different political philosophy and declaring your support of an issue or candidate, you need to understand some things about freedom of expression and how it applies to the workplace.

A common misconception among many employees is the assumption that the U.S. Constitution and the Bill of Rights entitle them to express their political views whenever and wherever they choose. In one sense that’s true — in the realm of public discourse — but those critical protections do not necessarily insulate you in every aspect of your life. That is why it is very important for employers to distribute handbooks and review policies with their employees. Tension and conflict in the workplace often result when employees lack understanding

about permissible workplace conduct and are confused about activities in the workplace that may not be appropriate.

The Bill of Rights, including the First Amendment’s protections of free speech, does not apply directly to private-sector entities. Workers at companies who are employed “at-will” can be terminated for “a good reason, a bad reason or no reason.” The reasons potentially include their political actions in the workplace, so long as their dismissal complies with employment statutes and does not run afoul of other state-law guarantees or employment contract limitations.

It is similar to the way in which the Fourth Amendment, which prohibits the government from conducting searches without probable cause, applies to private-sector workplaces. Those restrictions do not apply to private companies, which often can conduct searches of most every personal space, including electronic files and lockers. This is particularly true if the companies have diminished any reasonable expectation of privacy by communicating their policies in advance.

Employers have the right and responsibility to ensure that work environments are safe, free of hostility and conducive to productivity. This may involve protecting employees from being badgered or pressured by overzealous political advocates. In most cases in the private sector, employers have the legal right to limit or prohibit political expression during work hours. Even in states with laws protecting political expression and lawful activities away from the workplace, employers still retain broad powers to restrict workday activities to business pursuits.

Employers should consider adopting various practices in the interest of their companies’ efficiency and to keep employees focused on the job.

For starters, employers should limit employee political activities that have an impact on the workplace by implementing rules prohibiting various activities, such

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*Peter Susser, a shareholder in the Washington, D.C., office of Littler Mendelson, regularly counsels employers on workplace policies and practices.*



as political campaigning during business hours. They also should enforce uniform rules about employees' personal appearance or work-area décor, making sure all employees are treated equally. For example, retail workers who come into contact with customers often can be required to adhere to dress standards, such as not wearing political campaign tee shirts or buttons.

Companies should consider adopting "no-solicitation/no-distribution" rules that limit soliciting support for and distributing literature regarding various types of non-work activities and ensure that they are applied to political campaigning. The rules should be applied in a uniform and even-handed manner but should not be so broad as to prohibit protected activities, such as the right of workers to discuss union-related issues on non-work time in non-work areas. Employers should seek legal counsel to draw up appropriate work rules.

Finally, employers should adopt policies dealing with workplace technology, including the restriction of e-mail and Internet use to work-related activities. In this way, employers can declare political campaigning using company technology to be off-limits.

Most companies rely on general guidelines rather than explicit policies regarding political expression. For instance, when a company designs a policy to limit solicitation in working areas, it does so with an eye toward restricting all non-work-related solicitation, from Tupperware and Girl Scout cookie peddlers to distributors of political materials. Restricting the use of e-mail to distribute political material is another action generally covered under most companies' standard electronic communication policies.

When it comes to the issue of political expression in the workplace, a big division exists between the public and private sector. Public-sector employers must recognize that government employees do have certain rights to political expression on the job because the U.S. Constitution and Bill of Rights relate to actions by the government, including those taken in the role of employer. Even in such settings, however, statutes and regulations may limit political activities of public employees, both on the job and in some cases off the job. Overall, laws constrain public employers in their actions and policies that would restrict employee political expression more than their counterparts in the private sector.

As far as restricting and limiting expression away from the workplace, most private-sector employers do not address political behaviors and activities specifically. Most companies simply prohibit off-property behavior

and expression associated with illegal activities and actions that can damage the company's business reputation and its image in the public eye.

Typically, corporate policies are listed in employee handbooks or through a memorandum. If employers want to assure these rules and guidelines are being understood, however, they should explain policies orally or in some forum where employees can ask questions. That forum can serve as an opportunity to answer specific questions that are often not listed, such as whether prohibiting political talk in a carpool or during a happy hour is within an employer's rights.

No matter how many measures a company takes to avoid conflict prompted by political expression, it still may surface at some point. When a political dispute arises between employees and an employer is approached regarding the problem, prudent advice would generally call for the employer to steer clear of taking partisan sides and to re-emphasize the company's business interests in focusing on its commercial mission and activities.

Some employers are more directly involved in political issues and may invite local politicians or candidates to visit their facility. From the standpoint of maintaining a perception of fairness, such efforts should avoid an extreme partisan focus and put the spotlight on policy issues that have a direct commercial tie to the business' mission, such as international trade issues if the organization is very dependent on imports or exports. While some employers go farther and plunge into policy issues that may have a broader impact than business concerns, many businesses conclude that such involvement may be seen as divisive, overbearing and counter-productive.

Whether in the private or public sector, the goal of employers should be to develop workplace policies that promote a civil and respectful work environment. This should help minimize conflicts in the workplace because these policies keep the focus on business or the goals of the organization and avoid topics or styles of communication that are perceived as slanted or heavy-handed.

Passions often run high when it comes to controversial public policy issues and hotly-contested elections. While reasonable discourse on these issues among co-workers occurs in many working environments, employees and employers must recognize the limits of appropriate expression in a business environment and keep the principal focus of workplace energies and activities on the organization's mission. ■

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# LAW DRAGON

# 500

## LEADING PLAINTIFFS' LAWYERS IN AMERICA

☞ BY KATRINA DEWEY ☞

**I** LIVE MY LIFE so little, so small in a world so big. Survival impels me to believe I am not connected to others. I am the master of my ship, which sails on waves that bend to my will.

I am not the blind man inching his way across the street who is killed when struck by a van rushing to deliver an extra-large pepperoni pie.

I will never become the woman whose cancer went undiagnosed while she worried about her children, who needed new clothes and had runny noses.

I take comfort that it's some other investor who tied up her life's savings in a company that committed fraud and lost it all.

That's life, I say. Bad things happen — to other people.

For mortality, there are gravediggers.

For justice in this life, there are the folks on the following pages.

The Lawdragon 500 Leading Plaintiffs' Lawyers in America are the watchdogs of our nonchalance toward the fate of those who aren't us.

Forget everything you've read about plaintiffs' lawyers. The truth is life happens, and they are the ones we call to sort it out with the help of attentive judges and jurors. Plaintiffs' lawyers are all too often the fragile divide between hope and despair.

Judith Livingston has handled hundreds of cases, many of them for babies grievously injured during birth. She and her husband, Tom Moore, are consistently cited at the top of the New York bar for their expertise and for winning hundreds of multi-million dollar awards.

But for all their success, they've never once met a

**PHOTOGRAPHY BY HUGH WILLIAMS**

RESEARCH DIRECTED BY DRAEGER MARTINEZ

client who wouldn't gladly return unbelievable riches for the way they were.

"Let me be one-half, two-thirds of what I was," Moore says. That's all his clients want.

These are the lawyers who remind us that our little boat, roiling on the stormy wave that is nothing more than life, can capsize.

Few plaintiffs' lawyers know this as exquisitely as David Dean.

It would be so easy to say the tears of his clients led him to drink.

I arrive at Sullivan Papain Block McGrath & Cannavo a little before 2 p.m., just ahead of Dean's next appointment. He doesn't want Steven Zizic to wait a moment longer. Zizic is stopping in to pick up his check, a cut of \$8.8 million that is his recompense for the loss of his legs after he drove his motorcycle into an errant delivery vehicle.

I'm early. So is Steven, accompanied by a woman who helps him with his wheelchair, fusses with the bag that hangs from the back of the chair that now substitutes for his legs.

We three sit over the next hour watching the day's fire drill progress. The participants include an actual fire-hazard consultant, now required by all New York buildings, a lead poisoning victim, a woman threatened with eviction and more of life's flotsam. They are channeled to the proper help by Lucy, a commanding woman who directs the ebb and flow of Sullivan Papain's legal trauma ward.

"No, we're down the street from Cedar and Pine, not across the street from the graveyard," she tells a caller.

Steven and his companion renew an on-and-off conversation as an elegant man emerges stage right. His looks have been used to sell fancy products, as they should; he's a dead ringer for Kirk Douglas. I watch as he spots Steven, bends down and greets him.

And I know this guy is the real deal.

The real deals — those you'll find on the following pages — know the performance from the audition. Like Dean, they live it.

We selected the Lawdragon 500 Leading Plaintiffs' Lawyers in America through our proprietary review process, combing through more than 10,000 nominations made by our staff, judges and peers to find those lawyers who embody excellence and dedication in this controversial practice that is so easily dismissed by those who are a crisis away.

The efforts of these attorneys are appreciated in every region of the country. Three thousand miles away from Dean, the Los Angeles power duo of Tom Girardi and Walter Lack nailed last year's biggest settlement with \$1.7 billion against Semptra Energy. But Girardi really loved his second \$300 million-plus victory against Lockheed Martin for ground contamination, while Lack loved his settlement against The Dow Chemical Company and others on behalf of 3,000 Nicaraguan banana workers.

After discovering his sister's insurance carrier was

underpaying her cancer benefits, South Dakota attorney Michael Abourezk fought for a \$20 million settlement to benefit present and future cancer patients. Texas brings us Mark Lanier, king of the Vioxx cases, and Stephen Gardner, who as litigation director of The Center for Science in the Public Interest sues to keep food and drink companies honest about their products. Jock Smith from Jackson, Miss., has a staggering \$1.6 billion verdict to his record. Just as important to the grocery store clerk in Massachusetts is Neil Sugarman, whose efforts secured \$3.5 million to pay for the quadriplegia the clerk suffered after falling on ice near the store.

You can read more about each of these lawyers and their recent successes in the pages ahead and at [Lawdragon.com](http://Lawdragon.com).

Dean is one of America's great trial lawyers, and like all the great ones, he is both gracious and accompanied by a story or two. He's a man who won \$180 million on behalf of two million Vietnam veterans who sued seven chemical companies that exposed them to Agent Orange. Who, post 9/11, convinced a New York jury that the Port Authority bore more responsibility than terrorists for the 1993 bombing of the World Trade Center. Who in 2004 racked up two of the 10 largest verdicts and topped all others in the state of New York in 2000, \$92 million.

That win came just three years after he was readmitted to the bar. Three years and change after he went to audition after audition to earn a living off Broadway and as the face of elegance for Lexus and other luxury goods. He cared little about the goods he was selling, concerned more about reclaiming the family and law practice he nearly lost.

The trial win in 2000 was 11 years after he walked the streets of Midtown at 4 a.m., completely smashed, his clothes shredded by a mugger he can't remember.

Twelve years after his bar ticket was pulled for commingling client funds during his crazy days as a small Long Island practitioner quarterbacking the claims of 2 million soldiers exposed to Agent Orange.

No wonder he drank, you might say. But he wouldn't. He erred and he paid. He's grateful to again be practicing his craft and to have been taken on by Sullivan Papain. He quietly spreads the word in prisons about the importance of sobriety when not loudly spreading the gospel of justice in the New York courtrooms that will once again have him.

He remembers, not so long ago, attending a staging of "Aida" at The Met in New York on a Saturday night before starting a trial on Monday morning. Leaning back, he heard only the words he would say to explain the suffering and loss of a breast cancer victim to a jury.

She bought books to learn how to tell her children and husband she was dying. Then quietly laid back and held her husband as she passed away.

He's an actor, but he doesn't have to fake the tears.

None of the great ones do.

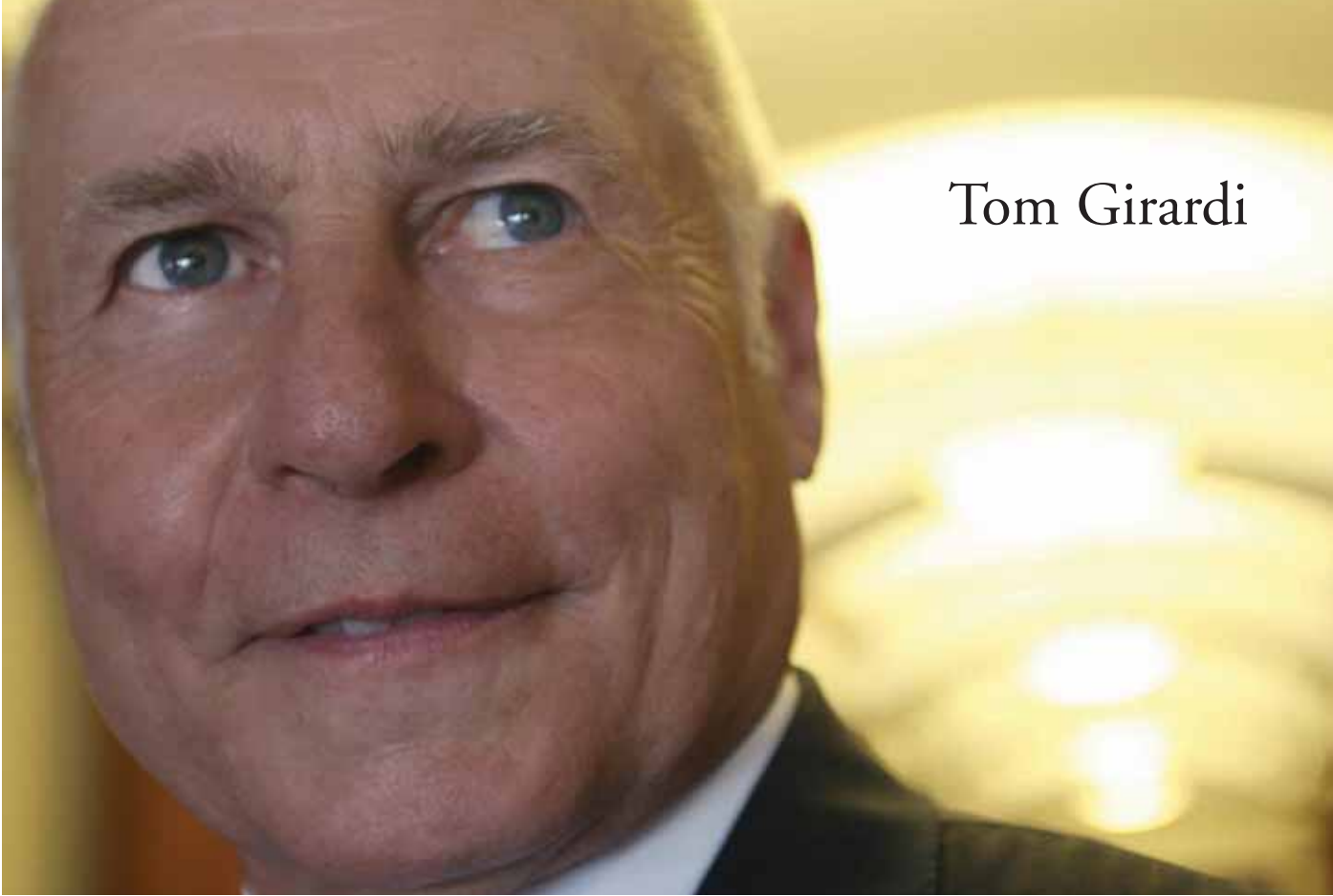
It's what happens when you care about helping those who, after all, are only us. ■



David Dean

**Terry Abeyta** Abeyta-Nelson (Yakima, Washington) Abeyta sued Uncle Sam over conditions that prompted a Native American to hang himself in tribal jail. **Michael Abourezk** Abourezk Law Firm (Rapid City, South Dakota) Abourezk undertook a national class action, inspired by his sister's terminal cancer battle, against insurance companies for underpaying benefits to cancer patients. **Mark Abramson** Abramson Brown (Manchester, New Hampshire) When cleft-lip cosmetic surgery caused a woman brain damage, he recovered \$8.4 million. **Gerald Agnew** Agnew & Brusavich (Torrance, California) For 30 years Agnew has consistently netted six-to-eight-figure verdicts and settlements for victims of malpractice, negligence and defective products. **Esteban Aguilar** Aguilar Law Offices (Albuquerque, New Mexico) He wins quiet respect in the Southwest, due to triumphs such as \$27 million from Ingersoll-Rand for product liability. **Wylie Aitken** Aitken Aitken (Santa Ana, California) Aitken obtained \$14.6 million for a youngster left blind after suffering cardiac arrest during routine ankle surgery. **Thomas Albro** Tremblay & Smith (Charlottesville, Virginia) He deflated Virginia immunity with a \$450,000 settlement in the collapse of a UVA balcony during graduation, resulting in a death and 19 injuries. **Charla Aldous** Law Office Of (Dallas) The diva of damages has all these results: over 100 trials, plus \$675 million in wins (including two national Top Tens) since 2000. **Mary Alexander** Alexander & Associates (San Francisco) Inspired by a young graduate student who died on United Flight 93, she spearheaded efforts to compensate September 11th's casualties. **George Allen** Allen Allen (Richmond, Virginia) "Ted" prides himself on novel tort wins, including one that extended the timeframe allowing Virginians to sue for asbestos claims.

**Greg Allen** Beasley Allen (Montgomery, Alabama) He logs seven-figure wins like **clockwork**, including \$82 million from GM for a young man left unable to understand danger after the crash of an Olds Delta 88. **Riley Allen** Allen & Murphy (Maitland, Florida) Allen's **advocacy** for brain-damaged infants set his sights on undoing Florida's Neurological Injury Compensation Act. **Gloria Allred** Allred Maroko (Los Angeles) The **fearless** femme opened L.A.'s Jonathan Club to women and wants comedian Michael Richards to pay for his racist rant. **Manuel Alvarez** Rywant Alvarez (Tampa, Florida) Alvarez **recovered** \$1.8 million for a police officer who slipped on a grease puddle outside a convenience store. **Robert Ammons** Ammons Law Firm (Houston) Exxon, Firestone, Phillips 66 and most major carmakers have lost **million-dollar** cases to Ammons. **Joseph Anderson** Anderson Weber (Kernersville, North Carolina) His firm is **digging** into toxic-chemical exposure allegedly suffered by Marines and their families stationed at North Carolina's Camp Lejeune. **Peter Angelos** Law Office Of (Baltimore) A Baltimore **mainstay** (city councilman, Orioles investor), whose biggest win netted Marylanders \$4 billion from Big Tobacco. **Richard Angino** Angino & Rovner (Harrisburg, Pennsylvania) Lauded as the co-architect of his state's insured-driver requirements, his **legend** continues to grow. **Joseph Anthony** Anthony Ostlund (Minneapolis) Anthony landed a \$940,000 **golden** parachute for a financier and a directed verdict for a brokerage client, via separate mediations. **Amy Ardell** Law Office Of (Santa Monica, California) She **shatters** glass ceilings for clients frustrated by employers, and also wins for sexual harassment, wrongful firing and insurance bad faith.



Tom Girardi

**Victor Arellano** Lawton & Cates (Madison, Wisconsin) Nicknamed “The Storm” for his **passionate** advocacy of worker’s rights, Arellano pours it on for migrant workers, professionals and blue-collar workers alike. **James Arnold** Clark Perdue (Columbus, Ohio) Won **big bucks** against a hospital that fatally administered anesthesia to an expectant mother’s bloodstream, rather than spinal fluid. **Rosemarie Arnold** Law Office Of (Fort Lee, New Jersey) After a grad student was murdered, Arnold **launched** \$100 million in claims against New York’s prison establishment, which paroled her killer. **William Artz** Artz Law Firm (Arlington, Virginia) On behalf of youngsters who claim Catholic priests molested them, Artz **forced** a former clergyman to surrender his Virginia child-counseling license. **William Atlee** Atlee Hall (Lancaster, Pennsylvania) GM **fought** with him over defective gas tanks in Chevy Lumina. Big mistake: the resulting laws made it easier to prove the cars aren’t crashworthy. **Mark Avera** Avera & Smith (Gainesville, Florida) The former SWAT cop **wrested** big verdicts from landscaping giant Asplundh and the Association of Retarded Citizens for sexual assault in a group home. **Janine Avila** Connelly Jackson (Toledo, Ohio) This Ohio **overseer** specializes in claiming dual capacity of employers to open doors to greater damages in workers comp cases. **Joseph Awad** Silberstein Awad (Garden City, New York) He **recovered** \$56 million for medical malpractice in Brooklyn and \$5.3 million for a breast cancer patient who suffered unnecessary diagnosis delays. **Theodore Babbitt** Babbitt Johnson (West Palm Beach, Florida) A **go-to** lawyer to achieve seven-figure compensation for victims of serious med-mal mishaps. **Kyle Bachus** Bachus & Schanker (Denver) Bachus **backed** up his reputation with \$1.85 million in compensation to a woman whose 1993 Saturn got broadsided by a semi truck.





Thomas Moore & Judith Livingston

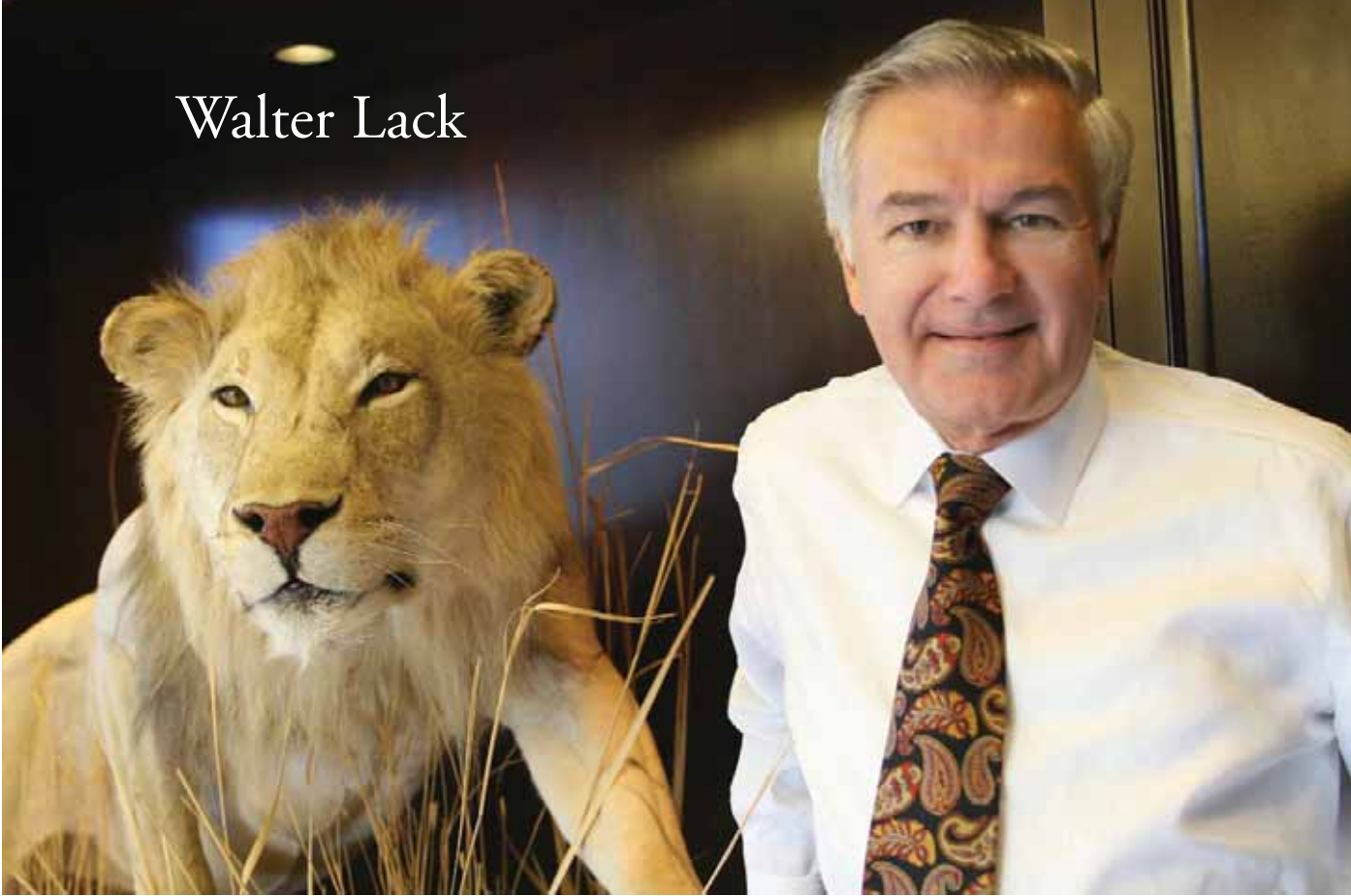
**Blake Bailey** Bailey Law Firm (Tyler, Texas) Bailey has **braved** every obstacle in more than 150 trials, ranging from industrial disease to med-mal to environmental protection. **Guy Bailey** Bailey & Dawes (Coconut Grove, Florida) Bailey doesn't fall for "corporate shell" games, as seen in his **pursuit** of a \$1.5 million judgment against Omni Construction for a debris-removal client. **Ken Bailey** Bailey Perrin (Houston) With wins against Big Tobacco, fen-phen, asbestos and dangerous oil refineries, he **covers** all the bases. **William Bailey** Fury Bailey (Seattle) Bailey bagged a **landmark** sleep deprivation win after his client, a paper mill worker ordered to work 36 straight hours, crashed his car driving home exhausted. **Jan Baisch** Law Office Of (Portland, Oregon) He **won** \$12.3 million for a killed lathe operator, and \$5 million for a trio who received transplanted organs tainted with hepatitis. **Phillip Baker** Baker Keener (Los Angeles) Also a **leading** legal-malpractice and product-liability attorney, he represented a prominent Southern California casino in a partnership dispute involving \$17 million. **Robert Baker** Baker Keener (Los Angeles) Baker's **bold** for Hawaii's Hokulia landowners, who have sued their county and state governments for \$265 million over development rights. **Donna Ballman** Law Office Of (Fort Lauderdale, Florida) She has negotiated settlements in the **millions** and recently won \$600,000 for breach of an employment contract and \$100,000 for defamation of an employee. **Frederick Baron** Baron & Budd (Dallas) Contaminated neighborhoods, from Tucson to West Dallas, have **benefited** from his toxic-tort prowess. **Leonard Barrack** Barrack Rodos (Philadelphia) When it's time to stalk big securities prey — WorldCom, Cendant, Sunbeam — he often **leads** the hunt.

**George Barrett** Barrett Johnston (Nashville, Tennessee) Barrett **torpedoed** Tennessee's dual-track education system, then won a \$70 million settlement from Pirelli Armstrong for rubber and plastic workers. **Patrick Barrett** Barrett Law Office Of (Lexington, Mississippi) Barrett bears the burdens for welders **exposed** to toxins and landowners underpaid for gas royalties and excessive water diversion. **James Bartimus** Bartimus Frickleton (Kansas City, Missouri) Three years of medical school **helped** prepare Bartimus to avenge those hurt by negligent doctors, product makers and vehicle operators. **Vincent Bartolotta** Thorsnes Bartolotta (San Diego) Previously a Marine attorney who **arranged** friendly-fire victims' compensation, more recently he won \$136 million for a business park stymied by San Diego. **James Batson** Liddle & Robinson (New York) Thanks to his **top-notch** electronic sleuthing, Batson raised standards for preserving cyber-evidence and landed a \$29 million verdict from UBS Warburg for discriminating against an equities broker. **Samuel Baxter** McKool Smith (Dallas) This former judge has the steer by the horns for matters corporate and consumer in Texas, like his recent **victory** over Big TV for Parental Guide of Texas. **Jere Beasley** Beasley Allen (Montgomery, Alabama) **Legends** are made through quality (forcing tractor makers to include rollover protection) and quantity (\$11.9 billion wrangled from ExxonMobil). **Michael Becker** Becker & Mishkind (Cleveland) When parents face their worst nightmare — medical mistakes that damage their baby's brain — Becker is there to **help** right those wrongs. **Carmen Belefonte** Saltz Mongeluzzi (Media, Pennsylvania) He specializes in traumatic brain-injury cases, ensuring victims have their lifelong medical **needs** cared for. **Leonard Bennett** Consumer Litigation Associates (Newport News, Virginia) It's not over 'til he decides: Bennett successfully **fought** to overturn a flawed credit-reporting settlement and got real relief for his client class.

**David Berg** Berg & Androphy (Houston) **Big-time** Berg nabbed \$420 million for thousands of limited partners of Host Marriott and Marriott International and persuaded Texas Petrochemical to halve the carcinogen it pumps into Houston's water supply. **Max Berger** Bernstein Litowitz (New York) The **king** of securities litigation sizzles: \$6.1 billion from WorldCom, \$1.3 billion from Nortel Networks, \$1 billion from McKesson. **Steve Berman** Hagens Berman (Seattle) The **titan** of the Northwest battled Blue Cross, Bonneville Pacific, Boeing & Louisiana Pacific — and he whipped them all. **Marc Bern** Napoli Bern (New York) Also an **accomplished** injury and pharmaceutical tort attorney, Bern's burning to take on the oil industry over MTBE, a cancer-causing gasoline additive. **Lynne Bernabei** Bernabei Law Firm (Washington, DC) This employee rights **wizard** made a special delivery of \$61 million to a pair of FedEx drivers who endured two years of racial slurs from management. **Marshall Bernstein** Kolsby Gordon (Philadelphia) This **legendary** inner circler wrote the book on civil litigation for victims of crime. **Stanley Bernstein** Bernstein Liebhard (New York) Bernstein leads the Shell and IPO securities class actions, **recovered** hundreds of millions for defrauded investors and improved corporate governance at some of America's largest companies. **Lisa Bertini** Bertini O'Donnell (Norfolk, Virginia) Bertini had successful cases against Busch Entertainment, Food Lion, Norfolk Marriott Hotel and Xerox while leading a trial boutique **anchored** by women. **David Best** Best & Anderson (Orlando, Florida) Best used an exact-duplicate vehicle to **prove** his client, paralyzed from a rollover accident, wasn't driving during the crash. Result: a \$10 million win. **Nadeem Bezar** Kolsby Gordon (Philadelphia) Bezar **bested** his opponents and won \$1 million for a 4-year-old girl whose doctors failed to diagnose her dislocated hip.



# Walter Lack



**Michael Bidart** Shernoff Bidart (Claremont, California) Bidart **blasted** Aetna for not paying for care its own doctors recommended, and led the California pension system to expand benefits to breast cancer patients. **Andy Birchfield** Beasley Allen (Montgomery, Alabama) The field general for his firm's mass torts group has **marshaled** \$450 million in wins over Vioxx, Bextra, Rezulin and others. **Walter Bithell** Holland & Hart (Boise, Idaho) He **helped** Denver attorney Tim Rastello complete a 12-year quest for justice for Randy Bartel, who died when a speeding police car collided with his vehicle. **Paul Bland** Public Justice (Washington, DC) Ever notice that **mandatory** arbitration clause in your credit card statement? This consumer hero is working hard to preserve your right to take on Big Credit in court. **Alexander Blewett** Hoyt & Blewett (Great Falls, Montana) Among the nation's **top** railroad attorneys, Blewett has bested Amtrak, Union Pacific, Montana Rail Link and Burlington Northern Santa Fe. **Lance Block** Searcy Denney (Tallahassee, Florida) This **record-setter** took \$9.25 million for a child's wrongful death and \$8 million for a case under Florida's Bill of Rights for developmentally disabled people. **Lisa Blue** Baron & Budd (Dallas) A practicing forensic psychologist, Dr. Blue has helped hundreds of asbestos victims **tell** their stories in court. **John Blume** Blume Goldfaden (Chatham, New Jersey) Blume has made new case-law **benefiting** people injured by overhead power lines, as well as poorly-designed cars. **Mark Bocci** Pippin & Bocci (Lake Oswego, Oregon) Already **renowned** for his football-helmet case, Bocci sacked Oregon Health Sciences University, which state law largely shielded from liability. **Emmet Bondurant** Bondurant Mixson (Atlanta) Acclaimed throughout the South, Bondurant has also made his **mark** in pro bono death penalty and reapportionment cases.



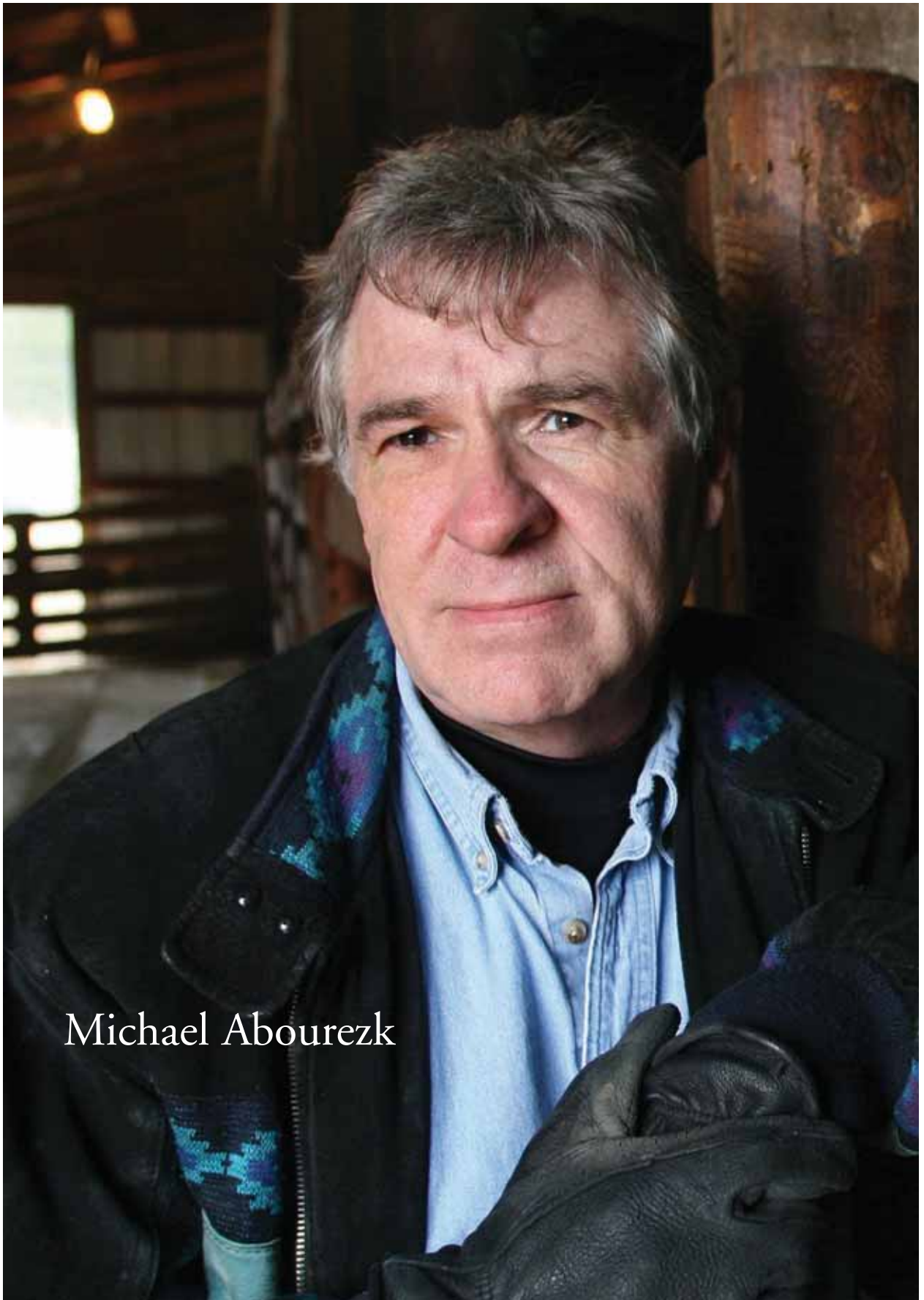
Jock Smith

**Lawrence Booth** Booth & Koskoff (Torrance, California) **Broke** some bones, or worse, because of someone else's harmful driving? Booth will get your recovery, even if the defendant has scant U.S. assets. **Carole Bos** Bos & Glazier (Grand Rapids, Michigan) Bos has repeatedly **slapped** the State of Michigan for undervaluing land it seized under eminent domain. **David Bossart** Bossart Law Firm (Fargo, North Dakota) North Dakotans injured through medical malpractice and car/truck wrecks find a **silver** lining with Bossart. **James Bostwick** Bostwick & Associates (San Francisco) He obtained \$11 million for pediatric blindness, \$21 million for an accident **victim** with brain trauma and \$10 million for a birth injury. **Beverly Bove** Law Office Of (Wilmington, Delaware) The **doyenne** of Delaware goes the extra mile for victims of construction mishaps and negligent nursing homes. **Leo Boyle** Meehan Boyle (Boston) A workplace accident turned tragic for an employee who received regular glasses when he **ordered** safety glasses; Boyle got American Optical to write a \$2.7 million check for his lost eye. **Susan Brackshaw** Webster Fredrickson (Washington, DC) Brackshaw analyzed more than a million pages of documents to **win** \$500 million-plus for 1,100 women discriminated against by the U.S. Information Agency. **William Bradley** Bradley Drendel (Reno, Nevada) A **maven** for med-mal and product liability cases, Bradley has overcome the fiscal conservatism of rural Nevada juries to attain significant sums at trial. **Margaret Branch** Branch Law Firm (Albuquerque, New Mexico) She'll blind you with **science**, just ask the other side in her breast implant, hydrogen sulfide and "L-tryptophan" insomnia-medicine cases. **Thomas Brandi** Brandi Law Firm (San Francisco) Brandi **bashed** Bank of America for illegally garnishing his client's Social Security checks. The bank was ordered to pay \$75 million, plus \$1,000 for each customer who incurred similar harm.

**Frank Branson** Law Offices Of (Dallas) Hear about the dentist who fatally botched his patient's anesthesia? Named as special prosecutor, Branson **helped** send that dentist to prison for manslaughter. **Gregory Breedlove** Cunningham Bounds (Mobile, Alabama) Breedlove won big in a tragic case for the 247 **victims**, including 47 fatalities, of Amtrak's Sunset Limited train wreck in Mobile. **Jeffrey Breit** Breit Drescher (Norfolk, Virginia) Breit has won dozens of **cases**, but his favorite is \$20 million for a Richmond boy who suffered third-degree burns from unsecured power lines. **Ralph Brindley** Luvera Law Firm (Seattle) Brindley **won** \$17.75 million for a woman whose neck catheter inadvertently punctured her heart, causing a heart attack and eventual brain damage. **Drew Britcher** Britcher Leone (Glen Rock, New Jersey) He won his first seven-figure **verdict** at the tender age of 28, and he's added plenty more since then. **Quentin Brogdon** Law Offices of Frank L. Branson (Dallas) Brogdon browbeat opposing counsel, winning full damages including punitives, for a 2-year-old girl who tragically fell through a second-story apartment railing. **Bruce Broillet** Greene Broillet (Santa Monica, California) Big wins in legal malpractice and against Big Tobacco and Firestone underscore Broillet's **bulletproof** reputation. **Marc Brotman** Brotman Nusbaum (Boca Raton, Florida) A blind man suffered irreversible brain damage after a Florida delivery truck ran him down in a crosswalk. Brotman **won** \$6.5 million for his lifetime medical care. **Joseph Brown** Cunningham Bounds (Mobile, Alabama) An Alabama teenager underwent surgery to **correct** her overbite, only to die due to anesthesia errors. Brown won the girl's mother \$14.5 million. **Lee Brown** Brown Sawicki (Dallas) Color him **confident** after nailing GM for \$38 million for design defects in a Chevy Suburban that caused severe brain damage.



**Thomas Brown** Fisher Boyd (Houston) When a tour bus fatally crashed in 2003, Motor Coach Industries said its bus didn't have seatbelts because they weren't required. Brown argued safety **trumps** regulations, and won \$17.5 million. **Gregory Bubalo** Bubalo & Hiestand (Louisville, Kentucky) He **won** \$17 million for a neurosurgeon completely disabled by a slip-and-fall inside St. Mary's Hospital. **Elizabeth Cabraser** Lieff Cabraser (San Francisco) She **harvested** \$456 million from State Farm, chastising the insurer for sticking its auto-insurance customers with generic "after-market" parts in repaired cars. **Michael Caddell** Caddell & Chapman (Houston) DuPont and Shell developed plastic plumbing pipes that degraded and caused widespread property damage. Caddell led efforts to **establish** a \$950 million reimbursement fund. **Daniel Callahan** Callahan & Blaine (Santa Ana, California) An **uncompromising** work ethic is the hallmark of this multimillion regular who's now pursuing Blackwater Security over four contractors killed in Fallujah. **Clair Campbell** Campbell & Associates (Charlotte, North Carolina) The **skilled** equestrian, dove hunter and private pilot uses her diverse skills for Carolinians injured on the road and at work. **William Carmody** Susman Godfrey (Dallas) Watch out for **clever** Carmody, who wrangled \$61 million from an oil company for failure to pay contractors. **David Casey** Casey Gerry (San Diego) He **landed** the biggest personal injury settlement ever paid by the city of San Diego, followed by the biggest-ever highway-design verdict against San Diego County. **Stewart Casper** Casper & de Toledo (Stamford, Connecticut) He **secured** \$6.3 million from Greenwich, Conn., for the victim of a debilitating sledding accident. **Ben Castle** Young Conaway (Wilmington, Delaware) Castle proved **sturdy** as stone in his pro bono efforts to aid families devastated by the terrorist attacks of September 11th.



Michael Abourezk



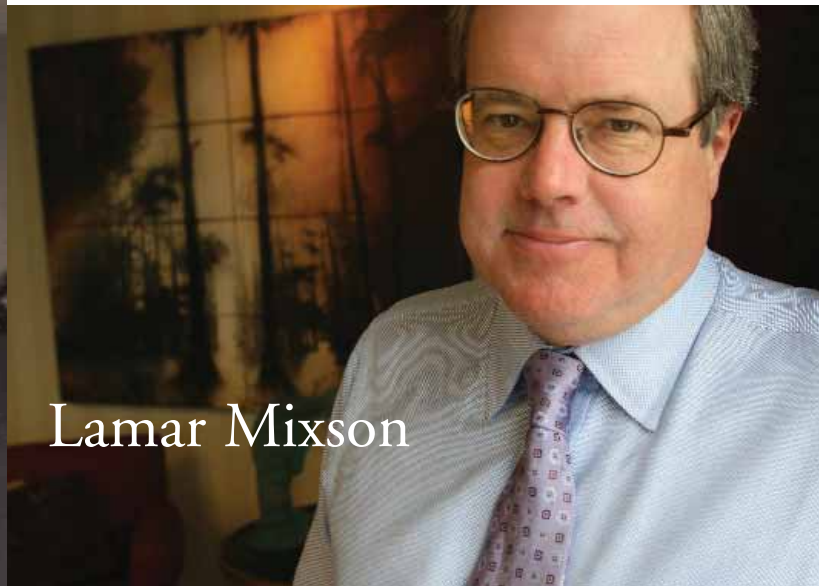
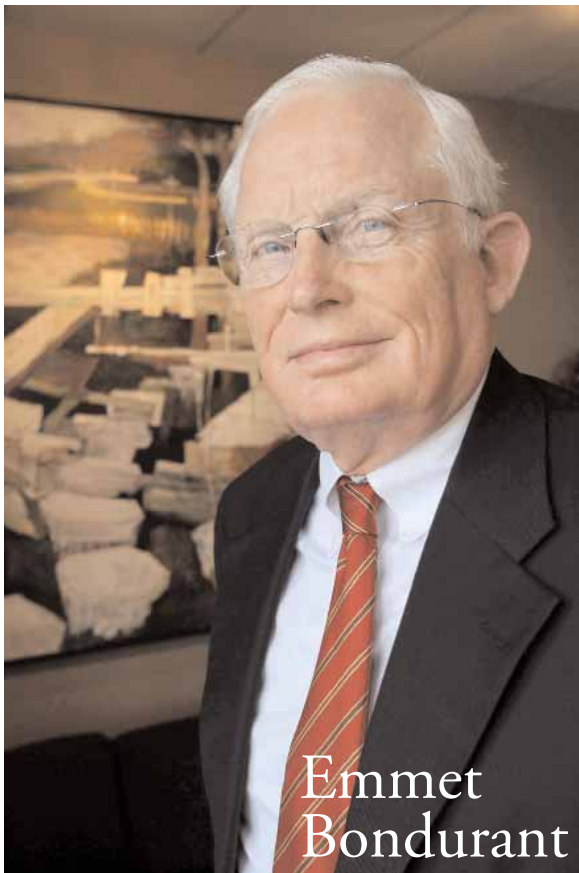
Lynne Bernabei

**Daniel Cathcart** Magana Cathcart (Los Angeles) He **wrote** the book on aviation-crash cases (titled “Aircrash Litigation Techniques”) after logging hundreds of cases involving manufacturer’s liability and/or pilot causative factors. **Timothy Cavanagh** Lloyd & Cavanagh (Chicago) Cavanagh **picked** up \$7.5 million for a woman whose doctors didn’t provide a timely EKG and \$2 million for a woman killed during a police-car chase. **Madelyn Chaber** Paul Hanley (Berkeley, California) This **pioneer** won the first-ever victory against Lorillard Tobacco for its “Micronite” filter cigarettes, and she hounded asbestos-using companies early and often. **George Chandler** Chandler Law Offices (Lufkin, Texas) Don’t underestimate his small-town surroundings: Chandler has **won** millions for nursing home negligence, securities litigation, med-mal and vehicular crashes. **Cynthia Chapman** Caddell & Chapman (Houston) Salant didn’t adequately maintain a bus which crashed in Mexico, killing 14 workers. Chapman, who frequently wins jurisdictional battles for **foreign** plaintiffs, won at trial and secured a \$30 million settlement. **Morris Chapman** Chapman & Associates (Granite City, Illinois) Still going strong at age 87, this legal legend keeps an **eagle eye** out for instances of legal malpractice, med-mal and more. **Lawrence Charfoos** Charfoos & Christensen (Detroit) Charfoos has million-dollar-plus wins dating to 1972, including **trailblazing** verdicts for women who took diethylstilbestrol to prevent miscarriages, which increased their cancer risk. **Cynthia Chihak** Chihak & Associates (San Diego) Chihak’s client Daniel Doll **saved** a young girl from being killed by a 1,700-pound theater sign. She secured him \$12.7 million to compensate for his paralyzing injuries. **David Christensen** Charfoos & Christensen (Detroit) He **cut** his teeth flummoxing Ford over exploding Pintos, and now avenges families haunted by obstetrical malpractice. **Sharon Christie** Law Office Of (Baltimore) Christie **cleaned** up with a seven-figure settlement for a defective-product victim, and \$850,000 for a man who suffered colon injuries during heart surgery.



**Thomas Cifarelli** Cifarelli Law Firm (Santa Ana, California) He **won** \$2 million for two children who were abandoned to an abusive, neglectful foster parent. **Michael Ciresi** Robins Kaplan (Minneapolis) **Legendary** for his work against Union Carbide over Bhopal, more recently he beat Big Tobacco and cosmetics giant Mary Kay. **Daniel Clements** Salsbury Clements (Baltimore) Recently, he won \$2.3 million for a man who suffered a stroke, greatly reducing his speech and **ability** to walk, due to a doctor's misdiagnosis. **Robert Clifford** Clifford Law Offices (Chicago) Clifford flies high in **headline** aviation fatalities, including those of Dick Ebersol and noted Chicago DJ Bob Collins. **John Coffey** Bernstein Litowitz (New York) After his record-setting WorldCom effort (\$6.1 billion), Coffey won the collapsed Baptist Foundation of America a \$217 million **settlement** and also took point in suing Delphi, HealthSouth and Nortel. **Eleni Coffinas** Sullivan Papain (New York) She obtained \$31 million stemming from a doctor's fatal failure to diagnose breast cancer, the **largest** such award in New York. **Michael Cogan** Cogan McNabola (Chicago) A man suffered a grave spinal injury during surgery, dropping his head 80 degrees from the correct alignment. Cogan **won** him \$11.4 million. **Stewart Colling** Colling Gilbert (Maitland, Florida) This calm workers comp **guru** works for Vioxx victims and advises fellow personal injury attorneys. **Cathleen Compton** Dudley & Compton (Little Rock, Arkansas) Compton **leads** the cause of ending the U.S. prison system's practice of shackling pregnant prisoners' legs while they're giving birth. **Robert Conason** Gair Gair (New York) He matches his courtroom skills with rainmaking, **enabling** his firm to take point in prominent explosion and building-collapse cases.

**Jan Conlin** Robins Kaplan (Minneapolis) Scored more than \$43 million in a patent case against Mary Kay and is leading California's public universities' patent **battle** with Microsoft. **Roxanne Conlin** Conlin & Associates (Des Moines, Iowa) A **standout** since she was an assistant AG at 24, Conlin has posted sexual-discrimination wins against Sullivan Paine, UPS and her hometown, Des Moines. **Ralph Cook** Hare Wynn (Birmingham, Alabama) Landed a **unanimous** court decision for HealthSouth shareholders, requiring a former CEO to return \$47 million in unearned bonuses. **Brent Coon** Coon & Associates (Beaumont, Texas) Coon's relaxed just-folks **manners** play well before "60 Minutes" and juries, making comprehensible complex refinery explosions and silicosis. **Patrick Cooper** Maynard Cooper (Birmingham, Alabama) Cooper **dinged** Dillards stores for racial discrimination in its hair salons, which overcharged African-American clients. **Joseph Cotchett** Cotchett Pitre (Burlingame, California) He's the **tops**, whether taking down Charles Keating, representing Valerie Plame and Joe Wilson or commanding the Apple options cases and national antitrust suits. **Patrick Coughlin** Lerach Coughlin (San Francisco) The steady force of the Lerach firm, he **nailed** Joe Camel for \$12.5 billion on behalf of Californians, while scaring up millions from 3Com, Unocal and IDB. **Trey Cox** Lynn Tillotson (Dallas) Cox **cooked** up a \$10 million class action settlement, plus \$1.4 million for a wrongfully fired CEO. **John Crowder** Cunningham Bounds (Mobile, Alabama) Add it up: Nine documents in Crowder's hands **equaled** \$3.5 billion against ExxonMobil for defrauding Alabama of oil/gas royalties. **Daniel Cullan** Law Office Of (Omaha, Nebraska) A **pioneering** doctor-turned-attorney, Cullan's knowledge of the ins and outs of medical malpractice is second-to-none.



**Joel Cunningham** Luvera Law Firm (Seattle) He **notched** a record \$29.7 million med-mal verdict in Idaho and won \$16 million from Abbott Laboratories, whose test falsely showed 22-year-old Jennifer Rufer to have cancer. **Robert Cunningham** Cunningham Bounds (Mobile, Alabama) This Alabama **all-star** first-chaired the trial that won his state \$11.9 billion from ExxonMobil for unpaid energy royalties. **Frank Darras** Shernoff Bidart (Claremont, California) For tens of thousands who have given up hope of ever seeing **compensation** for their ills, Darras proves a savior. **Merrill Davidoff** Berger & Montague (Philadelphia) A 15-year delay didn't **deter** him from obtaining a \$554 million plaintiffs' verdict in the Rocky Flats nuclear-weapons plant case. **Grant Davis** Davis Bethune (Kansas City, Missouri) Say it with me: \$2 billion in punitive damages. That's what Davis won from **shady** dealers of diluted chemotherapy drugs. **Mark Davis** Davis Levin (Honolulu) Davis has deep **experience** in the brain damage area, winning \$15 million for a baby injured during delivery and \$2.4 million for a woman whose laryngoscope lacked batteries at a critical moment. **Mike Davis** Slack & Davis (Austin, Texas) He's the litigator Texans **trust** with toxic torts, aviation failures and auto/truck wreck injuries. **David Dean** Sullivan Papain (New York) Became a legend **riding** point for two million Vietnam veterans in the massive Agent Orange class action before amassing a slew of eight-figure wins. **Roy DeCaro** Raynes McCarty (Philadelphia) DeCaro **landed** \$10 million for a man paralyzed in a swimming pool accident, sparking widespread reform in the above-ground pool industry. **Mark Decof** Decof & Decof (Providence, Rhode Island) Decof's **deeply** involved in representing victims of the infamous Rhode Island nightclub fire, which killed 99 people and injured at least 200 more.





## Hal Gillespie

**Morris Dees** Southern Poverty Law Center (Montgomery, Alabama) In November, Dees co-headed a **high-profile** suit against U.S. Immigrations and Customs Enforcement for raiding Georgia businesses employing illegal workers. **Sherry DeJanes** Law Office Of (Kansas City, Missouri) DeJanes **dug** in and won verdicts for victims of natural gas explosions, car crashes and birthing injuries. **Tracey Dellacona** Dellacona Law Firm (Macon, Georgia) The former ER nurse **brings** the right insight to wrongful death and catastrophic-injury cases. **Teresa Demchak** Goldstein Demchak (Oakland, California) Don't cross Demchak, especially if you represent car dealerships that **persist** in illegally overcharging minorities who have solid credit reports. She has made such opponents pay dearly. **Thomas Demetrio** Corboy & Demetrio (Chicago) Stands alone atop the Chicago trial bar for 100 million reasons, including the **biggest** injury verdict upheld by Illinois supremes. **Richard Denney** Denney & Barrett (Norman, Oklahoma) Denney led a **multi-firm** team that won \$61 million for a fatal product-liability lawsuit against Ford Motors. **Jack Denove** Cheong & Denove (Los Angeles) He **took** Ford and Firestone to task for equipping millions of vehicles with tires that blew out too easily. **Kelly Dermody** Lieff Cabraser (San Francisco) When Sutter Health **socked** uninsured patients with exorbitant bills, Dermody recovered \$276 million and pledges to bill future patients fairly. **Maria Diamond** Otorowski Johnston (Bainbridge Island, Washington) Diamond **shined** for a Washington man who took fen phen for 10 months, then came down with primary pulmonary hypertension. **David Dickey** Yerrid Law Firm (Tampa, Florida) Want a **top-gun** trial lawyer? Dickey flew Navy F-14 Tomcats for eight years; now he lands carrier-sized wins for clients.

**Chris Dolan** Dolan Law Firm (San Francisco) When Arab-American truck drivers **faced** post-9/11 discrimination at FedEx, Dolan won them \$50 million in punitives. **Dennis Donnelly** Blume Goldfaden (Chatham, New Jersey) Jerseyites know he's the man for **med-mal** and product liability wins: four verdicts and 10 settlements topping \$1 million since 2001 and a \$14-million verdict last year. **Henry Dugan** Dugan Babij (Timonium, Maryland) Dugan **dug** up a \$13 million win against Baltimore County on behalf of a maltreated child with cerebral palsy. **Michael Easley** Easley Hudson (Forrest City, Arkansas) This 200-trial veteran has **eased** into the winner's circle against Union Pacific, Automobile Club Interinsurance Exchange and St. Louis Southwest Railroad. **Robert Eglet** Mainor Eglet (Las Vegas) He set a state **record** slamming a doctor for sexual improprieties with a patient, leading his peers to name him Nevada's No. 1 in 2005. **Barry Eichen** Eichen Levinson (Edison, New Jersey) Eichen won \$19 million for a railway worker who **developed** pulmonary fibrosis from his work, owing to inadequate facial protection. **Lewis Eidson** Colson Hicks (Coral Gables, Florida) He **closed** a confidential settlement with Bridgestone over defective tires that blew out on a Ford Aerostar van, leading to a fatal crash. **Gregory Eiesland** Johnson Eiesland (Rapid City, South Dakota) Eiesland **prides** himself on taking few cases, but keep your eye on those he chooses, in nursing home neglect, med-mal and premises liability. **Jay Eisenhower** Grant & Eisenhower (Wilmington, Delaware) He **spearheaded** nine-figure securities settlements against Chrysler and Global Crossing, plus he proved that "dead hand poison pill" anti-takeover gambits broke Delaware state law. **Alan Ellis** Sommerman & Quesada (Dallas) His **modesty** can't hide his experience: over 175 trials, with sizable wins in personal injury, med-mal, product liability and general negligence.

**Charles Elmer** Haskell Slaughter (Birmingham, Alabama) Two Crimson Tide coaches got **hosed** by unfounded allegations of football recruitment violations. Elmer won them \$30 million in defamation damages. **Bruce Elmore** Elmore Law Firm (Asheville, North Carolina) Elmore won his state's first seven-figure railroad crossing verdict and competes **strongly** in med-mal, workers compensation, product liability and more. **Alan Epstein** Spector Gadon (Philadelphia) Sports figures, broadcast personalities and corporate honchos need legal help, too — and when they do, Epstein's **ready** to work. **Regina Etherton** Etherton & Associates (Chicago) Etherton **eclipsed** her opponents and won a \$6.5 million judgment for the family of a driver fatally burned in his truck. **Bruce Fagel** Law Office Of (Beverly Hills, California) Dr. Fagel's reputation recedes him, as his 30-year medical license **leads** opponents to settle roughly 90 percent of the time. **Rhoda Faller** Law Office Of (Louisville, Kentucky) Previously a **high** school biology teacher, Faller schools her opponents in big medical-negligence cases. **James Ferguson** Ferguson Stein (Charlotte, North Carolina) His **triumph** over the Charlotte-Mecklenberg Board of Education allowed his clients to attend previously segregated public schools. **Cynthia Fichera** Spiegel Brown (Poughkeepsie, New York) Fichera always **finds** the way to build million-dollar wins for her Hudson Valley clients. **Geoffrey Fieger** Fieger Fieger (Southfield, Michigan) Fieger **safeguarded** Dr. Kevorkian, then won \$25 million for the man killed after revealing his attraction to a straight man on "Jenny Jones." **Wayne Fisher** Fisher Boyd (Houston) Deemed a "**trial titan**" by the Texas bar, Fisher has reeled in hundreds of \$1 million-plus wins, especially in aviation, sea vessels and land vehicles.





Joe Jamail

**James Fitzgerald** Fitzgerald Law Firm (Cheyenne, Wyoming) Fitzgerald held his state's **record** for a wrongful-death award for 18 years and regained the title by winning \$8 million over the antidepressant Paxil. **Thomas Fitzpatrick** Fitzpatrick Blackey (La Crosse, Wisconsin) After a woman received excessive doses of morphine and methadone, damaging her brain, Fitzpatrick won her \$11.9 million in **relief**. **Katherine Flom** Meshbeshier & Spence (Minneapolis) When tort reformers sought to limit compensation for injuries, she **showed** her state has the nation's lowest malpractice premiums for doctors. **Rafe Foreman** Foreman Lewis (Grapevine, Texas) If some lowdown varmint stole your horses or crippled your cows, look up this **expert** in equine law and veterinary malpractice. His web address? [www.SeeYouInCourt.com](http://www.SeeYouInCourt.com). **Carol Forte** Blume Goldfaden (Chatham, New Jersey) Forte's **forte** resides in injured children and mothers: nursery infections, fetal distress and misdiagnosed breast and cervical cancer. **Jan Fox** Law Office Of (Houston) She **smacked** around an actuarial company that published controversial guidelines limiting reimbursement for stays in children's hospitals. **Kevin Fox** Law Office Of (Hauppauge, New York) In 2005, Fox **fished** in a \$212 million verdict on behalf of a child injured via medical malpractice. **Larry Franklin** Franklin & Hance (Louisville, Kentucky) He won \$3.1 million for victims of a Borden Chemical plant explosion and **ensured** that Kentucky school buses have nine emergency exits after a bus crash killed 22 schoolkids. **Bruce Fredrickson** Webster Fredrickson (Washington, DC) Fredrickson made Title VII **history** with a \$508 million settlement from the U.S. Information Agency on behalf of 1,100 female job applicants. **Ed Freidberg** Freidberg & Parker (Sacramento, California) Also accomplished in med-mal and legal malpractice, Freidberg's star **shines** brightest for commercial fraud, such as the \$7.1 million he won from a prominent Sacramento developer.



Thomas Simeone

**Aaron Freiwald** Layser & Freiwald (Philadelphia) Freiwald **freezes** errant hospitals in their tracks, winning \$4.5 million after doctors operated on the wrong kidney of one patient, who consequently died. **Nathan Friedman** Brown & Connery (Westmont, New Jersey) A **leading** light of the New Jersey plaintiffs' bar, he is a longtime Inner Circle member. **Richard Friedman** Friedman Rubin (Bremerton, Washington) He **bags** the big fish, including \$150 million for a State Farm insurance agent and \$84 million for a disabled doctor. **Nancy Fullam** McEldrew & Fullam (Philadelphia) True story: A veterinarian botched a pregnant mare's checkup so badly, she had to be destroyed. The horse's owner, a Philadelphia County judge, **tapped** Fullam to handle her malpractice suit. **Frederick Furth** Furth Firm (San Francisco) Four decades' experience — check. Sherman Act verdict **topping** \$70 million — check. Semi-fearful profile in Time magazine — check, and mate. **Steve Fury** Fury Bailey (Seattle) Fury lived up to his name in **besting** a bedding company that ignored the fire threat posed by its polyurethane mattresses. **Christine Galvin** Gordon Siegel (Latham, New York) She **notched** a \$2.5 million wrongful-death verdict, then settled out on a carbon-monoxide-spewing space heater for over \$1 million. **Stephen Garcia** Garcia Law Firm (Long Beach, California) Allstate, Countrywide Home Loans, HP, Tenet Healthcare, Sun Healthcare and Beverly Healthcare have all **learned** about Garcia's skills, the hard way. **Steve Gardner** Center for Science in the Public Interest (Dallas) When food makers misstate products — “all-natural” sodas that aren't, “blueberry” pancakes without fruit — Gardner gets 'em to **fix** their labels. **Todd Gardner** Swanson Gardner (Renton, Washington) He **wows** Washington juries, logging a forest of seven-figure-plus wins in the Evergreen State. **Joseph Garnett** Sheehy Serpe (Houston) Garnett works both sides of the fence, most recently winning a **large** confidential settlement for an unfairly terminated airline pilot.

**Willie Gary** Gary Williams (Stuart, Florida) As comfortable on “Oprah” as in his custom Boeing 737, Gary gets big **results** such as \$139 million for Maris Distributing Co. from Anheuser Busch. **Florentino Garza** Garza & Garza (Redlands, California) His **fabled** rise from working the Texas cotton fields to representing it in a \$73 million victory against Howard Hughes’s estate led to a role advising Romania and Spain on how to improve their legal systems.

**Paul Geller** Lerach Coughlin (Boca Raton, Florida) Geller **grabbed** \$120 million from Prison Realty Trust, \$38 million from American Family Publishers, \$11 million from Advanta. And he’s only 40! **Richard Gerry** Hebert Schenk (Phoenix) It’s **no joke**: Southwest Airlines allowed bounty hunters to bring their weapons aboard a flight, then had them arrested. Gerry got them \$9 million. **Jim Gilbert** Gilbert Frank (Arvada, Colorado) Also an experienced racecar driver, Gilbert steers his automotive-injury clients right to the **winner’s** circle. **Richard Gilbert** de la Parte & Gilbert (Tampa, Florida) A skilled commercial litigator, Gilbert also helped make medmal history in Florida with a \$217 million verdict. **Harry Gillam** Gillam & Smith (Marshall, Texas) Gillam **knows** how to grill ‘em, as seen by his \$55 million contract-breach win and \$6.5 million for an injured timber worker. **Hal Gillespie** Gillespie Rozen (Dallas) A **champion** for wronged execs, employees and unions, he won for the Dallas Firefighters Association and has taken on TXU and Spencer’s Gifts. **Vicki Gilliam** Cochran Firm (Jackson, Mississippi) She’s at the **wheel** on a claim that Ford Motor Co. dumped tons of sludge from a Jersey car plant, exposing 600-plus members of the Ramapough tribe to toxic chemicals. **Thomas Girardi** Girardi & Keese (Los Angeles) The **baron** of billions slams home record verdicts and settlements against Lockheed, Sempra and others year after year after year.



Steven North



**Elizabeth Gleicher** Elizabeth Gleicher (Royal Oak, Michigan) This Michigan Bar favorite **convinced** the courts to allow breast-cancer patients to receive stem cell treatment and for health insurers to pay the resulting bills.

**Lee Godfrey** Susman Godfrey (Houston) Godfrey **gobsmacked** \$165 million from energy companies over “posted price” oil royalties and aided the City of Austin in its fight against Houston Lighting and Power.

**John Goetz** Schwebel Goetz (Minneapolis) After a young farmer suffered traumatic brain injury in a grain-elevator explosion, Goetz **got** \$9 million for his family.

**Jeffrey Golan** Barrack Rodos (Philadelphia) He **lassoed** \$3 billion for Cendant shareholders, then eclipsed that with \$6 billion for WorldCom investors.

**Nathan Goldberg** Allred Maroko (Los Angeles) Goldberg won \$18 million for a grocery clerk who faced sexual harassment at work and was **retaliated** against when he complained to management.

**Ervin Gonzalez** Colson Hicks (Coral Gables, Florida) Don’t **roll** your Miami dice against Gonzalez: he has dozens of seven-figure verdicts and settlements under his belt.

**Barry Goodman** Goodman Acker (Southfield, Michigan) Goodman gave good **results** (\$14.5 million worth) to a Michigan woman gravely injured by an exploding manhole cover.

**Richard Goodman** Goodman Kalahar (Detroit) Goodman’s a bad guy to cross. Just ask the leaders of Executive Realty, whom Goodman sued for allegedly losing \$6 million in personal injury winnings he **invested** with the firm.

**Allan Gordon** Kolsby Gordon (Philadelphia) A founder of one of Philly’s finest plaintiffs’ firms, Gordon does it all — from failure to **diagnose** cancer to defective machinery and diving accidents.

**Richard Grand** Law Office Of (Tucson, Arizona) Not only has the Inner Circle **icon** logged more than 100 wins in the seven-figure-plus range, he also underwrites an annual competition on damages arguments.

**Stuart Grant** Grant & Eisenhofer (Wilmington, Delaware) Already the **hero** of Digex shareholders and Wisconsin's Investment Board, Grant got roughly \$280 million for investors holding Safety-Kleen Corp. bonds. **Lawrence Grassini** Grassini & Wrinkle (Woodland Hills, California) When a Children's Hospital of Orange County-owned truck hit Becky Burch's car, she was left brain-damaged. Grassini **won** her \$51 million. **Mark Gray** Gray & White (Louisville, Kentucky) There are no shades of gray with his success in med-mal (\$13 million bad-faith verdict) or **class-action** litigation against large corporations. **Sharon Green** Law Office Of (Las Vegas) Green's the lucky **charm** for elder/nursing-home abuse victims, as evidenced by an \$8.6 million verdict and \$1.5 million settlement, both in California. **Stewart Greenberg** Greenberg & Stone (Miami) He **brought** home \$25 million for the victims of a car wreck that killed a young mother and left her 5-year-old a paraplegic. **Browne Greene** Greene Broillet (Santa Monica, California) Greene's **legendary** career has produced many pots of gold in burn injuries, entertainment accidents and police misconduct. **Richard Greener** Greener Banducci (Boise, Idaho) He **helps** individuals caught on the other side of med-mal claims, including doctors, chiropractors and podiatrists. **Andrew Greenwald** Joseph Greenwald (Greenbelt, Maryland) Strong in med-mal across the board, Greenwald's niche in obstetrical malpractice has **netted** him four recent results ranging from \$2.5-to-\$5 million. **Lynn Grisham** Waltman & Grisham (College Station, Texas) Grisham gets it **done** for victims of oilfield fires and defective cars, products and recreational vehicles. **Stuart Grossman** Grossman Roth (Coconut Grove, Florida) He grossed \$37 million for a deceased Pinecrest girl's family, largely by **convincing** jurors that Florida Power & Light didn't care about the 12-year-old's traffic death.



Niall McCarthy

**Peter Guerrero** Roush McCracken (Phoenix) A tough abogado who speaks **fluent** Spanish, Guerrero wins his Hispanic clients millions for wrongful death and catastrophic injury claims. **Rene Haas** Perry Haas (Corpus Christi, Texas) Previously a judge elected to Texas district court, she won huge **recoveries** for families hurt by a fatal BP refinery explosion in 2005 near Houston. **Robert Habush** Habush Habush (Milwaukee) After a construction crane collapsed, killing three ironworkers, Habush **hustled** up \$57 million for their widows. **William Haggard** Haggard Parks (Coral Gables, Florida) Can you hear me now? Working with his son/partner Michael Haggard, he **dialed** up \$21 million for an elderly woman injured by a driver yakking away on his cell. **John Haley** Hare Wynn (Birmingham, Alabama) It took three years, but Haley **helped** his breach-of-contract client win \$4.9 million in Caremark RX stock options. **Rusty Hardin** Hardin & Associates (Houston) Steve Francis, Rudy Tomjanovich, Warren Moon, Wade Boggs and the estate of J. Howard Marshall II put their **trust** in Rusty. **Richard Harrison** Fritz Byrne (Austin, Texas) He continues to **press** Baker Botts and Wells Fargo for millions in fiduciary-duty damages incurred by a 90-year-old woman. **John Hart** Law Office Of (Fort Worth, Texas) Hart has **successfully** pressed claims for car-wreck and on-the-job injury victims, even in tort-averse Texas, for a quarter-century. **Michael Hausfeld** Cohen Milstein (Washington, DC) He **gained** notice with \$176 million from Exxon for Valdez-injured Native Americans, and recently won certification for a massive class action against Big Tobacco over “light” cigarettes.



Jan Conlin & Michael Ciresi

**Debra Hayes** *Woska & Hayes (Houston)* When clients **invested** in stocks and mutual funds, only to watch their money vanish, Hayes hit back against shady investment brokers. **Steven Heimberg** *Heimberg Law Group (Los Angeles)* Take two depositions and call him: Dr. Heimberg **holds** the California med-mal verdict record, part of \$500 million in recoveries. **John Hepworth** *Hepworth Lezamiz (Twin Falls, Idaho)* From burn injuries to farming mishaps and hospital negligence, Hepworth has proven **worthy** of some of Idaho's largest personal injury verdicts and settlements ever. **Russ Herman** *Herman Herman (New Orleans)* Among this Bayou Boss' **accomplishments**, he homed in on Big Tobacco for his home state, landing \$4.6 billion for Louisiana. **Nancy Hersh** *Hersh & Hersh (San Francisco)* This **pioneer** in women's health law won big for mothers who took anti-miscarriage drug DES, which was found to damage the fetus's reproductive system. **Ian Herzog** *Law Office Of (Santa Monica, California)* Herzog manhandled the Sav-On drugstore chain for a labor-law client, then **strutted** his stuff when the court approved fees of \$800-per-hour. **Mark Hiepler** *Hiepler & Hiepler (Oxnard, California)* Hiepler took on his sister's HMO when they **denied** her life-saving bone marrow transplant. Result: \$89 million. **Barry Hill** *Hill Toriseva (Wheeling, West Virginia)* A veteran of prescription drug litigation, Hill was a key member of the **team** that brought a \$70 million settlement for users of Propulsid heartburn medicine. **Albert Hofeld** *Hofeld & Schaffner (Chicago)* A Windy City **wizard** in personal-injury, Hofeld has also held up under scrutiny stemming from sexual molestation claims filed by his niece. **Ben Hogan** *Hogan Law Firm (Birmingham, Alabama)* Hogan **obtained** \$1.25 million for a factory owner who lost his plant after a defendant provided inferior cast-iron drums, not the promised steel drums.



**Wayne Hogan** Terrell Hogan (Jacksonville, Florida) One of Florida's first attorneys designated in consumer law, he also **pioneered** class actions against Ford for its faulty 15-passenger vans. **James Holloran** Holloran Stewart (St. Louis) While personal injury cases remain Holloran's mainstay, he also won \$15 million for an NHL player **libeled** via a comic book. **Kenneth Hovermale** Hovermale Law (Portland, Maine) Coping with birth injuries, dental malpractice or failure to receive a timely cancer diagnosis? Hovermale's your Maine man for **seeking** recovery. **James Hubbard** Liddle & Robinson (New York) He won \$1 **million** from another attorney, who published derogatory comments about Hubbard's stockbroker client. **Dixie Ishee** Wood Carlton (Memphis, Tennessee) Formerly a forensic examiner and nurse anesthetist, Ishee knows how to **speak** medical professionals' language. **Joe Jamail** Jamail & Kolius (Houston) This Texas trial titan has **notched** 200-plus wins totalling roughly \$13 billion, including triumphs over Texaco and the infamous Roy Cohn. **Lynn Johnson** Shamberg Johnson (Kansas City, Missouri) Johnson **test-rolled** a convertible to help secure a confidential settlement for a college professor, who suffered career-ending brain damage in his Mazda Miata. **Douglas Johnston** Barrett Johnston (Nashville, Tennessee) Whether **hundreds** of millions for shareholders or \$10 million for women who unknowingly ingested radioactive isotopes as part of a Vanderbilt University experiment, he wins for clients. **Stewart Jones** Jones Law Firm (Troy, New York) He **won** \$7.5 million for victims of a dormitory fire at Skidmore College, which killed one student and injured 12 more. **Gladstone Jones** Jones Verras (New Orleans) Jones **jostled** with Union Oil on behalf of Sweet Lake Land and Oil, and chipped at Cheminova for damaging lobster crops with their pesticides.

**Christopher Keane** Keane Law Firm (San Francisco) A tireless **advocate** for injured children, Keane has collected seven-figure wins for wrongful death, amputation, cerebral palsy and more. **Don Keenan** Keenan Law Firm (Atlanta) Keenan gets big-money paydays but takes real pride in his pro bono wins for **underprivileged** Southerners. **Michael Kelly** Kirtland & Packard (El Segundo, California) Kelly recently **collected** \$63.9 million for a PrivitAir employee who suffered discrimination on the job. **Robert Kerrigan** Kerrigan Estess (Pensacola, Florida) Part of Florida's **dream** team against Big Tobacco, this million-dollar-winner also dedicates plenty of time to international human-rights cases. **David Kirby** Kirby & Holt (Raleigh, North Carolina) Senator John Edwards **told** the story of a case won with Kirby, in which a young girl suffered horribly because of a swimming pool's defective drain system. **Beth Klein** Law Office Of (Denver) Check her Rocky Mountain highs: \$1 billion in a team effort for patients with defective hip implants, plus \$15 million for homeowners **stuck** with faulty roofing shingles. **Thomas Kline** Kline & Specter (Philadelphia) Victims of breast cancer (\$33 million), a foot-severing accident (\$50 million) and an oil refinery explosion (\$36 million) can all **attest** to Kline's prowess. **Loren Klitsas** Klitsas & Vercher (Houston) This onetime Sysco Foods marketer now **gives** indigestion to wayward insurers, pharmaceutical companies and construction firms. **Alan Kluger** Kluger Peretz (Miami) Kluger used 33 years of experience and **analysis** to grow a basic personal injury case into a nationwide defective-tire class action. **Karen Koehler** Stritmatter Kessler (Seattle) Known for her **elaborate** computerized courtroom exhibits, Koehler won big against the City of Seattle after proving the city exacerbated conditions in its 2001 Mardi Gras riots.



Christopher Seeger

**Alison Kohler** Dugan Babij (Timonium, Maryland) Trained in chemical engineering at MIT, Kohler lands **knockouts** in med-mal and automobile tort cases. **Paul Komyatte** Gilbert Frank (Arvada, Colorado) When a seatbelt failed during a rollover accident, Komyatte and his partner **collared** the seatbelt maker for \$17 million at trial. **Michael Koskoff** Koskoff Koskoff (Bridgeport, Connecticut) Not only does he win millions in med-mal and personal injury verdicts, he **connected** with \$19 million from Connecticut over illegal wiretaps. **Jim Kreindler** Kreindler & Kreindler (New York) Before he co-chaired the 9/11 Plaintiffs' Committee, he **captured** \$2.15 billion in compensation from Libya for those who died on Pan Am Flight 103. **Ronald Krist** Krist Law Firm (Houston) Doctors Hospital, GM and American Physicians Insurance Exchange fought Krist and lost **big** time. **Anne La Bue** Shayne LaBue (Columbus, Ohio) She nabbed \$15.7 million for participants in the CommutAir employee stock ownership plan, saw the judgment vacated and **saddled** up to win the appeal. **Walter Lack** Engstrom Lipscomb (Los Angeles) This quiet titan lacks nothing in the **victory** department, nailing Dow Chemical, Shell Chemical and Dole Food for \$800 million for Nicaraguan workers exposed to pesticide. **Steven Laird** Law Office Of (Fort Worth, Texas) You hear about the dialysis patient who was fatally injected with cleaning fluid? Laird set a county **record** for his med-mal win on that one. **David Lambert** Howard Lewis (Provo, Utah) Construction disasters, mining-equipment failures, propane explosions — Lambert has won in all these **categories** and more. **Lawrence Landskroner** Landskroner & Associates (Cleveland) He **landed** \$2.5 million from Press Automation Systems, after a defective decoiler inflicted painful knee problems and removed a client's testicle.



Wylie Aitken

**Joseph Landy** Lesser Lesser (Palm Beach, Florida) Landy landed \$6.3 million for the family of a motorcyclist, 23, who **crashed** into a car which suddenly made an unexpected left turn. **Steven Lane** Herman Herman (New Orleans) Lane **landed** \$120 million in a class action against MetLife, plus \$9.8 million from Louisiana's Boxing and Wrestling Commission.

**Joseph Langston** Langston Law Firm (Booneville, Mississippi) After fighting with a restaurant employee, a Mississippi teen slipped and broke his neck. Langston **served** up 20 million reasons the restaurant should have prevented the fight. **Mark Lanier** Lanier Law Firm (Houston) Not content to rest on his Vioxx laurels, this leading light now **lasers** in on ReNu contact solution, the antibiotic Ketek and Zicam nasal gel. **Richard Lawrence** Lawrence Firm (Covington, Kentucky) He **won** \$23 million for a brain-damaged child and \$3.5 million for a man who lost an eye to post-surgery hospital mismanagement. **James Leach** Viken Viken (Rapid City, South Dakota) His caseload is David v. Goliath, such as representing six Native American tribes opposing a shooting range going up next to **sacred** Bear Butte. **Lewis LeClair** McKool Smith (Dallas) When Enron failed, LeClair **saddled** up for the company's creditors committee in bankruptcy. **Bill Lee** Lewis Feinberg (San Francisco) While at Lieff Cabraser, Lee represented immigrant workers from Mexico clamoring for hundreds of millions they **earned** but did not receive as braceros in the 1940s. **Ira Leesfield** Leesfield Leighton (Miami) He **slammed** Suzuki for motorcycles with defective side stands, and won \$2.7 million for trucking collision victims. **William Lerach** Lerach Coughlin (San Diego) His **skills** are first-rate, as evidenced by the more than \$7 billion recovered for Enron shareholders, but his legacy is in question following prolonged investigation.



**Fredric Levin** Levin Papantonio (Pensacola, Florida) He has **held** records for Florida's largest personal-injury verdict, plus wrongful-death records on behalf of lost children, housewives and wage earners. **Harvey Levine** Levine Steinberg (San Diego) Levine **landed** \$55 million for California consumers from Columbia House, the "buy 12 CDs for a penny" people, over claims of deceptive advertising. **Halley Lewis** Fonvielle Lewis (Tallahassee, Florida) **Trained** in finance as well as law, Lewis can lay out the cash-flow then go win the case for clients, including \$75 million for the tragic death of a single mother. **Jeannete Lewis** Haggard Parks (Coral Gables, Florida) Florida aircraft crashes are her turf, and they keep her **busy**: an NBC news helicopter in Miami, a military copter in Fort Myers and an Aero Commander twin-propeller in Boca Raton. **Michael Lewis** Lewis & Lewis (Clarksdale, Mississippi) Well before "identity theft" reached the public consciousness, Lewis won \$4.5 million for a man who couldn't **convince** TransUnion to correct credit-report data he had disproven. **Salvador Liccardo** Liccardo Law Firm (Saratoga, California) Liccardo's 40-year legacy of success in catastrophic personal injury matters makes him an **ideal** spokesman for the plaintiffs' bar. **Jeffrey Liddle** Liddle & Robinson (New York) Liddle's lair is big securities arbitrations, which should **serve** him well in his \$500 million claim of wrongly withheld compensation and benefits from Robertson Stephens investment bankers. **Michael Lieder** Sprenger & Lang (Washington, DC) He won \$58.5 million for First Union bankers with careers cut short by age discrimination. Now he **wants** to do the same for 3M, Allstate and New York Life workers. **David Lira** Girardi & Keese (Los Angeles) Lira **loots** lots of **loot** by putting his clients first, in brain injury cases against First Transit and Delta Tow & Transport, discrimination and other torts. **Tracy Lischer** Pulley Watson (Durham, North Carolina) Lischer's **lauded** for her recoveries for victims of medical misdiagnosis, kernicterus, electrical injury and more.

**Judith Livingston** Kramer Dillof (New York) The leading **light** of the plaintiffs' bar brings in millions for injured infants while blazing a path she hopes more women will follow. **Christian Lodowski** Weiner & Weltchek (Lutherville, Maryland) He won \$5 million after doctors failed to notice a child with "shaken baby syndrome" and **secured** a confidential settlement from United Oil for negligence and intentional misrepresentation. **Ramon Lopez** Lopez McHugh (Newport Beach, California) **Experienced** in pharmaceutical (with a \$700 million Zyprex settlement) and product liability (Firestone tires, Sulzer hip implants) litigation, Lopez even won a \$3.2 million emotional distress verdict for a client who suffered no physical injury. **Paul Luvera** Luvera Law Firm (Seattle) Luvera's **legacy** includes eight-figure wins against pharmaceutical giants, errant hospitals and a negligent billboard company. **Mitchell Makowicz** Blume Goldfaden (Chatham, New Jersey) Makowicz makes better days **happen** for victims of accidental shootings, chemical exposure and balcony-railing mishaps. **Patrick Malone** Stein Mitchell (Washington, DC) He **recovered** \$5.8 million for a serial-stroke victim that went undiagnosed and \$3.7 million for the family of a college student whom an undercover cop shot to death. **Thomas Malone** Malone Law Office Of (Atlanta) Malone won **millions** for victims of a police shooting, undiagnosed strokes and unscrupulous mortgage lenders. **Gerald Maltz** Haralson Miller (Tucson, Arizona) **How's** this for sneaky: A property owner sold his land, then doctored up phony lien documents to push up the price. Maltz got the buyer a \$15 million verdict. **Mark Mandell** Mandell Schwartz (Providence, Rhode Island) Liquor liability, wrongful death and nursing home cases dot his C.V., including a **record** \$15 million from a local pub. **David Markowitz** Markowitz Herbold (Portland, Oregon) When a lender improperly liquidated a borrower's millions in collateral, Markowitz got **payback** at arbitration.



Steven Lane

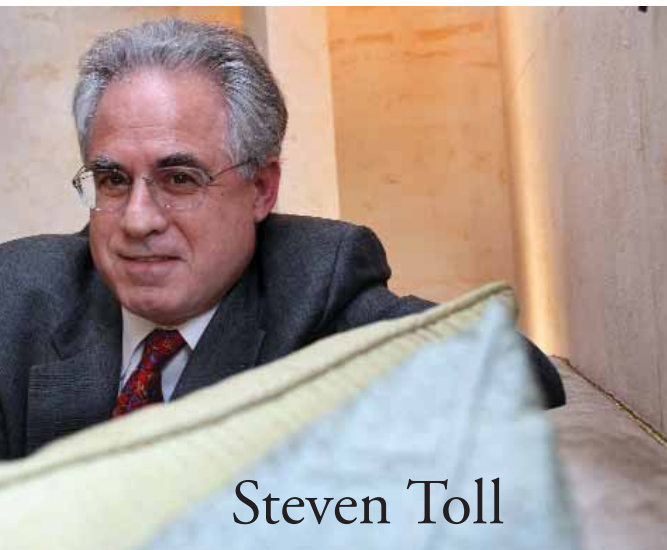
**Steven Marks** Podhurst Orseck (Miami) From Moscow to Lexington, Ky., not to mention Miami and ports between, he's the **go-to** guy for airplane-crash recovery. **David Marsh** Marsh Rickard (Birmingham, Alabama) He **won** \$29 million for the trucking-accident death of a 35-year-old man, and \$8.3 million for the victim of a fatal industrial-furnace explosion. **David Mazie** Mazie Slater (Roseland, New Jersey) Another **round** at a N.Y. Giants game led to a car accident that paralyzed a 7-year-old. Mazie made concessions giant Aramark serve up \$135 million for its lapse. **Katherine McArthur** Reynolds McArthur (Macon, Georgia) McArthur made sure her clients, catastrophically injured due to their car's defective wheel assemblies, received **relief**: specifically, \$13.5 million plus interest. **Niall McCarthy** Cotchett Pitre (Burlingame, California) McCarthy can't stand to see elder abuse or predatory lending happen. He's **won** millions for "reverse mortgage" victims and sought justice for three nursing-home-bound seniors killed by a heat wave. **Kenneth McClain** Humphrey Farrington (Independence, Missouri) Often **ahead** of the pack, McClain tackled Big Asbestos in 1984 and settled New York's first individual tobacco tort in 1997 for the "Lucky Strike" poster girl. **Craig McClellan** McClellan Law Firm (San Diego) He's **fighting** Porsche for selling cars ordinary drivers find too "fast and furious" to drive safely. Deja vu: McClellan beat Porsche on a similar case in 1981. **James McCrorie** Law Office Of (New York) McCrorie **attained** a \$14 million settlement for a father paralyzed by a department store's negligence and \$8.4 million for a construction worker injured on the job. **James McEldrew** McEldrew & Fullam (Philadelphia) He's been **workin'** on the railroad, or at least for rail workers injured on the job, with myriad seven- and high-six-figure settlements. **Randi McGinn** McGinn Carpenter (Albuquerque, New Mexico) Metalworker Reynaldo Delgado died following management orders to drive across molten slag to retrieve a pot. Because of McGinn, the company won't **make** that mistake again.



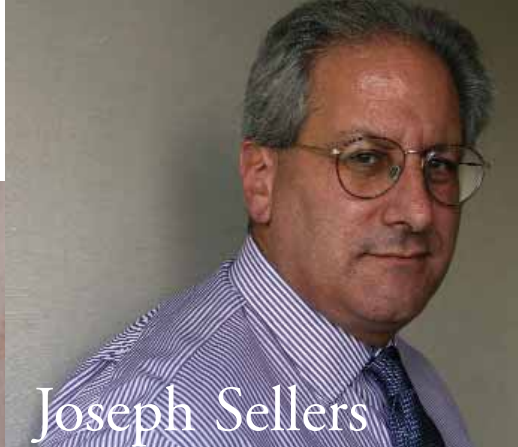


Bruce Broillet

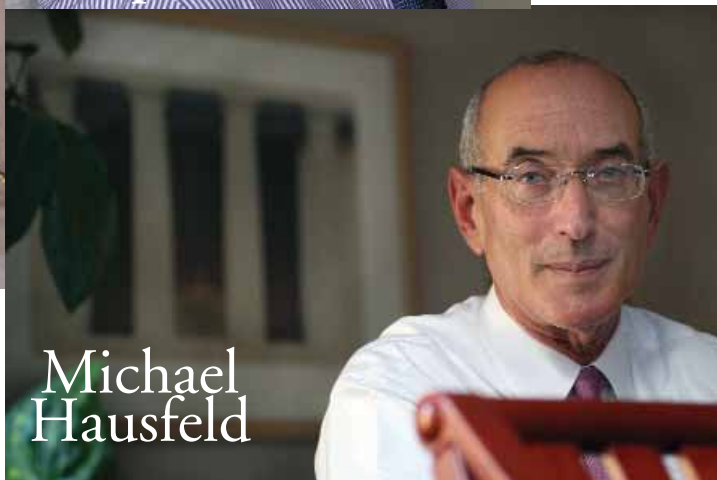
**Christopher McGrath** Sullivan Papain (New York) McGrath is **mighty** for victims of excessive police force, electrocution and defective pasta-makers. **Joseph McKernan** McKernan Law Firm (Baton Rouge, Louisiana) He **led** his firm to share in Louisiana's \$5 billion tobacco settlement, and also won \$222 million for creditors of the failed HMO HealthNet of California. **Vincent McKnight** Ashcraft & Gerel (Washington, DC) How many labor lawyers can say they convinced a DC appeals court to **overlook** the "employment at will" principle? Very few, and McKnight was the first. **Mike McKool** McKool Smith (Dallas) There's nothing this **multifaceted** maven can't do, whether repping Enron creditors or proponents of television V-chips. **Mary Alice McLarty** McLarty Firm (Dallas) A **heroine** for Lone Star State little guys, including victims of surgical negligence, sexual assault and schoolyard hazing. **James McMath** McMath Woods (Little Rock, Arkansas) He won \$6.5 million for a soldier fatally electrocuted at Fort Benning and a **confidential** settlement for a woman injured in a light-aircraft crash. **Randy McMurray** Cochran Firm (Los Angeles) He's the **McMaster** of governmental entity liability, police pursuit, professional/medical liability and road design. **Mark McNabola** Cogan McNabola (Chicago) A Greyhound bus, driving too fast for the weather, **triggered** a chain-reaction crash that killed a teenaged girl. McNabola won her family \$10 million. **Paul McNeill** Womack Landis (Jonesboro, Arkansas) Hear about the Army nurse whose modest **investments** grew to a seven-figure estate? McNeill made sure her intended beneficiary got \$5 million, despite a disputed will. **Ronald Meshbesh** Meshbesh & Spence (Minneapolis) Meshbesh made his name **getting** the Dalkon Shield contraceptive off the market and kept 10 criminal defendants off Death Row.



Steven Toll



Joseph Sellers



Michael Hausfeld

**Ellen Messing** Messing Rudavsky (Boston) Messing blocked a Massachusetts biotech from **preventing** her client, formerly an executive there, from pursuing new work. **Andrew Meyer** Lubin & Meyer (Boston) Meyer has **made** \$245 million in recent wins, including a \$30 million verdict for a brain-damaged child. **Robert Michael** Shadoan & Michael (Rockville, Maryland) He won \$10 million for the **victims** of a Pennsylvania private-aircraft crash and \$8 million for a doctor whose poorly-repaired yacht injured him, costing him his medical practice. **Jeffrey Miller** Roush McCracken (Phoenix) Construction site accidents and bad-faith insurance claims light Miller's fire, which burns **bright**. **Paul Minor** Law Office Of (Biloxi, Mississippi) Talk about tough: When Kmart dragged its feet in **paying** a \$3.4 million judgment, Minor marched into a local branch with federal marshalls and emptied the store's cash registers. **Jerome Mirza** Mirza & Associates (Chicago) Mirza made it happen for a Skokie boy, winning \$78 million after the five-year-old **suffered** brain damage under two different hospitals' care. **Gerard Mitchell** Stein Mitchell (Washington, DC) Feared as the district's most **effective** medical-malpractice attorney, Mitchell makes health care providers pay for their mistakes. **Mickey Mixson** Bondurant Mixson (Atlanta) He's not afraid to **mix** it up, as seen by the \$454 million he won for Six Flags shareholders and \$192 million from Coca-Cola for racial discrimination. **Robert Mongeluzzi** Saltz Mongeluzzi (Philadelphia) He won \$75.6 million in a Philadelphia liquor liability case and \$14 **million** for a man who suffered a crushed skull at a construction site. **Robert Montgomery** Montgomery & Larson (West Palm Beach, Florida) He's **recorded** 65 separate million-dollar wins but will still take a matter with \$1.80 at stake if there's been injustice. **Thomas Moore** Kramer Dillof (New York) Scores of seven-figure verdicts and hundreds of similar settlements show that Moore's "**the man**" for Empire State clients.

**Mary Morgan** Billings Morgan (Winter Park, Florida) She won \$2 million for the **family** of a children's acting coach killed by her apartment's maintenance man, and \$1.7 million for an engineer injured in a head-on collision.

**Larry Morris** Morris Haynes (Alexander City, Alabama) He **obtained** \$58 million for the victims of a fatal Ford Explorer crash, raising important questions about the vehicle's crashworthiness and seat belt integrity. **Ronald**

**Motley** Motley & Rice (Mount Pleasant, South Carolina) Underwritten with the millions he **earned** fighting Big Tobacco and asbestos-users, Motley's ready to spend years suing airlines and al Qaeda financiers over Sept. 11. **Marion**

**Munley** Munley Munley (Scranton, Pennsylvania) A chip off her father Robert's block, she **represented** an AIDS nurse stuck by an infected needle, which counts as on-the-job AIDS exposure. **Robert Munley** Munley

Munley (Scranton, Pennsylvania) A Korean War **veteran** with 48 years in the courtroom, he won \$17.5 million for the families of five Pennsylvania teenagers killed in a car wreck. **James Nance** Law Office Of (Melbourne, Florida)

**Legendary** for representing workers caught in the Harbor Bay condominium collapse, Nance also did heavy lifting toward Florida's \$13 billion settlement with Big Tobacco. **Howard Nations** Law Office Of (Houston) Nations **han-**

**dles** class actions for people who used antipsychotic meds Risperdal, Seroquel and Zyprexa, and he won \$12 million for the wrongful death of a young child.

**Martha Neese** Neese Law Firm (Apple Valley, Minnesota) This surgical nurse nabbed \$72 million for a youngster who suffered brain **damage** under an overseas naval hospital's care. **Richard Newsome** Newsome Law Firm

(Orlando, Florida) He navigates tricky product-liability cases against tire and car companies, recovering tens of millions for catastrophically **injured** clients and their families. **Nick Nichols** Abraham Watkins (Houston) Strong in admi-

ralty, med-mal and personal injury, he also got NBA coach Rudy Tomjanovich \$3.2 million after his **throttling** by Kermit Washington.

**David Nixon** Nixon Raiche (Manchester, New Hampshire) When state Supreme Court justices sought reimbursement for the legal fees they accrued **fighting** impeachment, they turned to Nixon. **Peter Nordberg** Berger & Montague (Philadelphia) Nordberg helped post the first win for plaintiffs who got cancer from **exposure** to U.S. nuclear weapons plants. **John Norman** Norman & Edem (Oklahoma City) Norman won \$1.8 million for a **teenager** ejected from his car after a low-speed collision, due to a defective door latch and striker plate. **Steven North** Law Office Of (New York) Doctors' improper **treatment** of an arterial obstruction cost a Queens home-maker her leg. North won her \$15.7 million. **Hiawatha Northington** Northington Law Firm (Jackson, Mississippi) After helping **secure** over \$100 million in mass tort settlements for clients, Northington now focuses on product liability and medical negligence cases. **Lisa O'Donnell** Bertini O'Donnell (Norfolk, Virginia) Cross-licensed as an agent for NFL and NBA players, she drives the lane for victims of defective products and **negligent** nursing homes. **Pierce O'Donnell** O'Donnell & Associates (Los Angeles) He hits for **power** against energy companies, with a \$1.9 billion settlement from Sempra Energy and \$1.7 billion from El Paso National Gas Co. **David Oesting** Davis Wright (Anchorage, Alaska) Years of work **spearheading** the Exxon Valdez class action for 30,000 plaintiffs paid off with \$5.3 billion in damages, including \$5 billion in punitives. **Steven Okey** Okey Law Firm (Canton, Ohio) Okey has been more than OK, **recovering** \$43 million in motorcycle collisions, industrial accidents and HMO liabilities. **Jack Olender** Olender & Associates (Washington, DC) He has **picked** up dozens of seven-figure obstetrical-malpractice wins, starting with the nation's first in 1976.





Elizabeth Cabraser

**Jami Oliver** Oliver Law Offices (Columbus, Ohio) A longtime **guardian** of whistleblowers and workers enduring discrimination, Oliver also won \$4.5 million for the survivors of a fatally defective product. **Alice Oliver-Parrott** Burrow & Parrott (Houston) The former Texas appellate judge faced down mega-homebuilder KB Home Inc. on behalf of 60,000 homeowners, **winning** them the right to sue over warranty disputes. **John O’Quinn** O’Quinn Laminack (Houston) As if hammering Halliburton and breast-implant makers wasn’t enough, O’Quinn later **targeted** the entire “penny stock” trading industry on investors’ behalf. **Terry O’Reilly** O’Reilly & Danko (San Mateo, California) He drives **home** big wins against Bell Helicopter, RGW Construction and Sheng Hsiang Jen Foods. **Van O’Steen** O’Steen & Harrison (Phoenix) Nearly 30 years ago, he went all the way to SCOTUS to **argue** that attorneys had the right to advertise their services. Much obliged, Mr. O’Steen. **Larry Ottaway** Foliart Huff (Oklahoma City) Dozens of plaintiffs have gone **all the way** with Ottaway, who handles cases on both sides of the bar. **Wayne Outten** Outten & Golden (New York) When two Wall St. bankers tried to collect the hefty compensation they earned, their company **fired** them. Outten won the bankers more than \$18 million in arbitration. **Alvarene Owens** Alvarene N. Owens (Dayton, Ohio) Owens stands among the Midwest’s **elite** personal injury and wrongful death attorneys after starting out as a probation officer. **Cliff Palefsky** McGuinn Hillsman (San Francisco) This good-faith **guardian** won big for workers whose companies unfairly, and often retroactively, lowered their commissions or switched their sales territory. **Brian Panish** Panish Shea (Los Angeles) Big-time bulldog **tenacity** brings home the bacon time and time again: He has 10 verdicts topping eight-figures, not to mention one for \$4.9 billion.



Patrick Malone

**Mike Papantonio** Levin Papantonio (Pensacola, Florida) He teamed with RFK Jr. in 1998 to file two suits against polluters **mucking up** the Northwest Florida coastline. He won \$70 million, and now the pair co-host a radio show on Air America.

**Roger Pardieck** Pardieck Law Firm (Seymour, Indiana) Pardieck pried confidential **settlements** from Louisville Chemical Co. and Affordable Pest Control for youngsters who suffered brain damage from pest-control sprayings.

**Michael Parham** Parham Smith (Greenville, South Carolina) Dedicated to keeping the Carolina medical establishment honest, Parham has **prevailed** over Greenville Hospital System and Companion Healthcare.

**Robert Parks** Haggard Parks (Coral Gables, Florida) An airplane-crash ace since 1972, Parks was **appointed** lead counsel representing victims of a 2005 Chalks Air crash off Miami Beach.

**Nicholas Patton** Patton & Tidwell (Texarkana, Texas) Double your targets, **double** your fun: Patton pursued Merck and Wal-Mart for allegedly making his client sick by selling him Vioxx.

**Eugene Pavalon** Pavalon Gifford (Chicago) He won \$36 million for children who **lost** both their parents when a power line, hanging low over a stretch of highway, decapitated them both.

**Jim Perdue** Law Office Of (Houston) Perdue picked up \$1.8 million from an incubator **manufacturer** that knew that infants can go blind after 14 straight days of high-oxygen air, yet did not warn hospitals.

**Cheryl Perkins** Whetstone Myers (Columbia, South Carolina) Perkins picked up \$8.5 million for employees of a shuttered factory and \$2.5 million for an aneurysm **victim** whose doctors misdiagnosed his extreme headaches.

**Peter Perlman** Perlman Law Offices (Lexington, Kentucky) A baby developed cerebral palsy after the obstetrician ignored nurses' advice and decided against a rapid C-section. Perlman **pulled in** \$2.5 million for the family.

**James Peterson** Hill Peterson (Charleston, West Virginia) He's Mr. **Got-It-Covered** in the Mountain State, winning big on tire-tread separation, Oxycontin, insurance fraud and fen phen.

**Kathleen Peterson** Robins Kaplan (Minneapolis) Peterson's nursing-honed empathy helped her develop **innovative** reminders for juries of the impact of lives lost and bodies ruined. **Roberta Pichini** Feldman Shepherd (Philadelphia) She won \$15 million for a victim of negligent orthopedic surgery left deformed and permanently **injured** and got a dangerous dam closed after it drowned father-and-son canoeists. **Matthew Piers** Hughes Socol (Chicago) Piers pried out \$400 million from Mexico Money Transfer, ensuring a **fairer** remittance environment for migrant workers in the U.S. **Eric Pinker** Lynn Tillotson (Dallas) This **switch-hitter** has linked plaintiffs with \$120 million in malpractice and breach of fiduciary duty recoveries. **Lee Plotkin** Gertler Gertler (New Orleans) It's unwise to oppose Plotkin on occupation lung disease cases, as Mine Safety Appliances and Badger Mining **learned** to their regret. **Aaron Podhurst** Podhurst Orseck (Miami) This aviation **ace** has also piloted multiple lawsuits against HMOs for "code dropping," the brazen practice of paying doctors much less than the agreed-upon rates for patient care. **Scott Powell** Hare Wynn (Birmingham, Alabama) A **savior** of whistleblowers and personal injury victims, he proved the scourge of Shell Oil. **Joseph Power** Power Rogers (Chicago) He's wracked up million-dollar **victories** since age 28, capped by helping bring down Gov. George Ryan with a \$100 million win. **James Pratt** Hare Wynn (Birmingham, Alabama) Car companies that won't **do right** by their customers really grind his gears. Just ask Ford, GM and Volkswagen. **Bradley Prochaska** Prochaska Craig (Wichita, Kansas) Midwesterners hurt by train wrecks, medical malpractice, motorcycle accidents or defective products put their **trust** in Prochaska.

**Joseph Quinn** Hourigan Kluger (Kingston, Pennsylvania) Quinn recently **quilled** back-to-back \$3 million settlements for the deaths of a 42-year-old father and an unrelated newborn infant. **John Quisenberry**

Quisenberry Law Firm (Los Angeles) This ex-Navy fighter **pilot** shot down arguments by Claim Jumper and Blue Cross of California en route to sizable wins.

**Jeffrey Rasansky** Rasansky Law Firm (Dallas) Obstetrical/nursing negligence is his **oeuvre**, with four recent wins ranging from \$2.55 million to \$11 million in that practice area alone. **Stuart Ratzan** Ratzan & Alters

(Miami) A Florida girl, 17, was sunbathing at the beach when an SUV drove on the sand and ran over her, causing **severe** brain injuries. Ratzan and his firm won \$17 million and a ban on beach-driving. **Harry Reasoner** Vinson &

Elkins (Houston) Client First Nationwide Bank took over a bankrupt savings-and-loan, but Congress **pulled** out the rug. Reasoner won FNB \$70 million.

**Wayne Reaud** Reaud Law Firm (Beaumont, Texas) Also noted for monster wins in asbestos and tobacco, Reaud **proved** the terror of Toshiba with a \$2.1 billion settlement over the company's defective laptops. **Patrick**

**Regan** Regan Zambri (Washington, DC) Regan's also appealing after the trial — his arguments recently **established** dram shop liability for restaurants caught serving alcohol to minors. **Carl Reynolds** Reynolds McArthur

(Macon, Georgia) Reynolds has wrapped up more than \$135 **million** in wrongful-death, med-mal and product liability recoveries since 1991. **George**

**Ripplinger** Ripplinger & Zimmer (Belleville, Illinois) Ripplinger **ripened** a \$3.8 million settlement for a construction worker who fell through a skylight hole and \$1 million for an innocent man shot by Illinois police.

**Darren Robbins** Lerach Coughlin (San Diego) His probe into Dollar General generated 172 million "generals" for its shareholders, and he **clashed** with Hanover Compressor for a medical-benefits trust.





Mike McKool

**Mark Robinson** Robinson Calcagnie (Newport Beach, California) Robinson's the **stealth** force behind billions in recoveries for consumers harmed by tobacco, defective cars, Vioxx and Baycol anti-cholesterol medicine. **Paul Rosen** Spector Gadon (Philadelphia) **Thinking** about foreclosing on a Rosen client? Look out: he won \$5 million from a client's lender in a counterclaim. **Susan Rosen** Rosen Law Firm (Charleston, South Carolina) A **celebrated** ex-Atlanta prosecutor, Rosen recently won a \$7 million medical malpractice verdict. **Stephen Rosenthal** Podhurst Orseck (Miami) The "hired muscle" for boxer Bernard Hopkins and Miami-Dade County's mayor, he also helped **win** \$48 million for a victim of Palestinian terrorism in Israel. **Michael Rubin** Altshuler Berzon (San Francisco) Rubin does **well** by doing good, as evidenced by his successful challenges to sweatshop factories in Saipan and human trafficking in California. **Richard Rubin** Law Office Of (Santa Fe, New Mexico) Rubin roughed up MBNA after the credit-card issuer repeatedly dodged **responsibility** for false and damaging information it reported about a cardholder's credit usage. **Samuel Rudman** Lerach Coughlin (Melville, New York) He won \$40 million from DHB Industries for shareholders, \$23 million from Impath and \$17 million from Spiegel. Next up: **fraudulent** sunscreen makers. **Ellsworth Rundlett** Childs Rundlett (Portland, Maine) Rundlett **resolved** a brain injury case for \$1 million, and helped win a \$720,000 verdict for a factory worker whose arm was severed. **Kenneth Sacks** Sacks & Sacks (New York) After an ironworker fell 12 feet through a Park Avenue trapdoor, **gravely** injuring his back, Sacks got him \$6.5 million to retire on. **Steven Samuel** Samuel & Ott (New Hyde Park, New York) Samuel's client suffered from neurofibromatosis, then endured crippling radiation treatment instead of standard **surgery**. Samuel secured \$5.5 million in damages. **Norman Saucedo** Corsiglia McMahon (San Jose, California) Saucedo won \$18.9 million, a med-mal award **record** in Santa Clara County, and he hasn't slowed down since.



Jack Olender

**Sherrie Savett** Berger & Montague (Philadelphia) Savett **savages** securities opponents: \$334 million from Rite Aid, \$94 million from Fleming Companies and \$93 million from Cigna just last year. **Mike Sawicki** Brown Sawicki (Dallas) This erstwhile newspaperman is **mighty** in med-mal and packs a big punch against bar and restaurant owners that allow patrons to drive home drunk. **Richard Sayles** Sayles Werbner (Dallas) Since 1994, Sayles has recovered more than \$30 million for personal-injury **plaintiffs**, including a person who incurred brain injuries during a routine surgery. **Federico Sayre** Law Office Of (Santa Ana, California) Talk about return on investment: Sayre put up \$300,000 of his own money to recreate a **complicated** traffic crash near Fort Worth. The resulting settlement totaled \$12 million. **Jack Scarola** Searcy Denney (West Palm Beach, Florida) Cigna, American Medical, North American Van Lines — and those are just the **big-money** opponents he can disclose. **Melissa Scartelli** Scartelli & Distasio (Scranton, Pennsylvania) She's Scranton's scrappiest advocate for med-mal and wrongful death victims. Next up: **gobsmacking** Guidant over recalled defibrillators. **James Scherr** Scherr Legate (El Paso, Texas) He won \$33 million for a mother and daughter hit by a train and \$10 million for Levi's workers placed in trailers, not **hospitals**, to recover from on-the-job injuries. **Jonathan Schiller** Boies Schiller (Armonk, New York) Schiller's **supremely** healthy for shareholders, having landed \$1.1 billion from vitamin companies in an antitrust settlement and a \$149 million verdict against a co-conspirator. **Sheldon Schlesinger** Law Office Of (Fort Lauderdale, Florida) How's this for respect: No less than the presiding judge in a recent Schlesinger med-mal trial **sung** his praises. Schlesinger won, of course. **Michael Schmidt** Schmidt Firm (Dallas) This trial **tyro** has made his name, and Texas-sized wins, in mass torts, med-mal, trucking, construction and defective products. **Dennis Schoville** Schoville & Arnell (San Diego) Schoville sure can win: \$369 million for a San Diego woman who **rolled** her Ford Explorer and suffered crushing injuries when its frame collapsed.

**Neal Schulwolf** Kalfus & Nachman (Norfolk, Virginia) Four pediatric nurses plunged to their death during a hotel parking-garage **mishap**. Schulwolf won big after showing the garage lacked parking guards and rebar in its walls.

**James Schwebel** Schwebel Goetz (Minneapolis) He's among the **best** at representing groups of victims, such as those who suffered in an MGM Hotel fire in Las Vegas and a Galaxy Airlines crash in Reno.

**Richard Scruggs** Scruggs Law Firm (Oxford, Mississippi) Merry Christmas! In December, Scruggs won reaffirmation that his clients, who had been steered into overly-expensive mortgages, will get a hefty **settlement** from Lehman Brothers.

**Mary Anne Sedey** Sedey & Ray (St. Louis) Rent-a-Center company **executives** wanted women workers gone: firing some, demoting others and forcing several to transfer to high-crime areas. Sedey got \$47 million for 5,000 female employees.

**Christopher Seeger** Seeger Weiss (New York) Seeger sealed a \$700 million settlement for users of the antipsychosis med Xyprexa, and now co-leads the plaintiffs' committee of the federal **Vioxx** multi-district litigation.

**Scott Segal** Scott Segal (Charleston, West Virginia) The husband of state Supreme Court Justice Robin Davis, Segal flies high in class actions targeted against **asbestos**, fen phen, OxyContin and Rezulin.

**Brad Seligman** Impact Fund (Berkeley, California) Seligman has opened up **gigantic** gender-discrimination class actions against Wal-Mart, and more recently Costco.

**John Selinger** Zeccola & Selinger (Goshen, New York) He **answers** the call, weekends, late nights, whenever, and rings up \$8.3 million for a paralyzed motorcyclist and millions more for others.

**Joseph Sellers** Cohen Milstein (Washington, DC) Lionized for his work against discriminatory employment practices, Sellers gained 1.5 million new friends when his Wal-Mart worker class action **gained** certification.

**Marc Seltzer** Susman Godfrey (Los Angeles) Seltzer spanked his **opponents**, winning \$140 million from Tyco Healthcare and \$135 million in a massive structured-settlement litigation.

**George Shadoan** Shadoan and Michael (Rockville, Maryland) He fights against Maryland's practice of "warehousing" brain-injury patients in psychiatric hospitals, seeking instead for **patients** to receive community-based housing and treatment.





Terry O'Reilly

**Anthony Shapiro** Hagens Berman (Seattle, Washington) A foe of monopolistic drug and baby food companies, Shapiro's **centerpiece** cause remains Visa and MasterCard's shady debit-card fees. **Tad Shapiro** Shapiro Galvin (Santa Rosa, California) He **won** \$1.95 million for a mother killed when her car hydroplaned off a faulty road and \$2.1 million for two vineyard workers run down by the roadside while trying to help a friend. **Daniel Sheehan** Sheehan & Associates (Dallas) A **prime** candidate for professional and commercial negligence cases, he won \$16 million for a vitamin company whose supplier tried to rip it off. **Carol Shepherd** Feldman Shepherd (Philadelphia) Shepherd brought home \$2.3 million for a young girl who suffered grave injuries because doctors didn't **diagnose** or treat her as having twin-to-twin transfusion syndrome. **Michael Sheppard** Law Office Of (Cuero, Texas) Also a local DA, Sheppard guided jurors toward a \$44 million **verdict** against Kinder Morgan Energy Partners, which short-changed his clients on natural-gas contracts. **William Shernoff** Shernoff Bidart (Claremont, California) He won \$100 million for Samoan hurricane sufferers, **fights** for Holocaust survivors and has filed a baker's dozen lawsuits against Blue Cross and Blue Shield for improperly canceling clients' health insurance. **William Sieben** Schwebel Goetz (Minneapolis) Sieben **succeeds** for proverbial "little guy" clients: \$5 million for an injured high schooler and \$2.2 million for a home-maker hurt at a shopping mall. **Norman Siegel** Stueve Siegel (Kansas City, Missouri) State Farm made five insurance agents who criticized their company's policies pay a price. Enter Siegel, who **turned** the tables to the tune of \$26.5 million. **Thomas Simeone** Simeone & Miller (Washington, DC) Simeone **struck** back for hearing-impaired moviegoers against AMC Theaters. Result: DC became the world's leading city for closed-captioned cinema screens. **Michael Slack** Slack & Davis (Austin, Texas) No slacker, he has used his training as a NASA aerospace **engineer** in successful aviation-crash lawsuits since 1983. **Richard Slawson** Slawson Cunningham (Palm Beach Gardens, Florida) Slawson recovered \$30 million on a \$1 **million** insurance policy after the insurer of an apartment complex failed to settle the claim of a girl who suffered brain damage and nearly drowned in the pool.



John Coffey

**Clarence Small** Christian & Small (Birmingham, Alabama) There's nothing small about this **giant** leader of the Alabama and litigation bars. **Hugh Smith** Smith & Fuller (Belleair Bluffs, Florida) The former FBI special agent's **focus** in products liability becomes clear when reading his web address: [www.TireInvestigations.com](http://www.TireInvestigations.com). **Jock Smith** Cochran Firm (Jackson, Mississippi) Swings for the fences to **win**, among many others, \$1.6 billion — the largest U.S. verdict ever by an African-American lead lawyer. **Michael Smith** Lesser Lesser (Palm Beach, Florida) After setting down the mantle of insurance defense, he has **slugged** tens of millions of dollars out of the park on behalf of injured plaintiffs. **Todd Smith** Power Rogers (Chicago) Smith smashed opposing counsel en route to \$20 million and \$17.5 million med-mal **verdicts**, plus \$10.6 million for a victim of psychiatric malpractice. **William Smith** Abramson Smith (San Francisco) A **high-diver** was left quadriplegic after slamming into a synchronized swimmer in a Walnut Creek public pool. Smith won \$27.8 million from the city's negligence. **William Snead** Law Office Of (Albuquerque, New Mexico) Jurors and Inner Circle **elites** recognize he has the touch to help those in need. **Michael Snyder** Meshbesh & Spence (Minneapolis) He **won** \$5.9 million for a pedestrian struck by a school bus, and \$3.5 million stemming from a construction-accident wrongful death. **Alison Soloff** Soloff & Zervanos (Philadelphia) A **fierce** advocate for children harmed through medical negligence, Soloff secured \$8 million for a 5-year-old who suffered brain damage because of botched anesthesia. **Christine Spagnoli** Greene Broillet (Santa Monica, California) She never "tires" of big verdicts, including \$58 million won for a client with severe burns **suffered** from West-Pac Industries and Tool Exchange equipment. **Shanin Specter** Kline & Specter (Philadelphia) Specter **spanked** Abington Memorial Hospital to the tune of \$20 million for causing a boy's blindness.

**Gerry Spence** Spence Law Firm (Jackson, Wyoming) After winning \$2 million from the FBI for wrongfully connecting an Oregon attorney to the 2004 Madrid bombings, this **legendary** lion warned that U.S. assumptions are getting out of hand.

**J.B. Spence** Leeds Colby (Miami) He's been generating seven-figure wins for 40 years, and he works to protect his witnesses from enduring **excessive** questioning from opposing counsel.

**Broadus Spivey** Spivey Law Firm (Austin, Texas) An outstandingly bad boss had an employee and his wife wrongfully **imprisoned** in Mexico to coerce him to confess to embezzlement. Spivey helped the worker win \$7.5 million.

**Robert Spohrer** Spohrer Wilner (Jacksonville, Florida) People hurt in aircraft crashes spin Spohrer's rotors, **leading** him to land wins for U.S. Army, FedEx and Virginia National Guard fliers.

**Steven Sprenger** Sprenger & Lang (Washington, DC) Sprenger got his start **fighting** racial discrimination, including white males facing reverse discrimination. Next up: TV writers who feel shut out of Hollywood after turning 40.

**Lance Stevens** Stevens & Ward (Jackson, Mississippi) This one-time trial lawyer of the year award winner in the Magnolia State generates high-six-figure **wins** for victims of workplace injuries.

**Darnley Stewart** Bernstein Litowitz (New York) She **smote** the auto-loan arms of GM, Nissan and Chrysler for hiking up their "dealer markup" as much as 50 percent more for minorities.

**Lawrence Stewart** Stewart Tilghman (Miami) Not only did Stewart represent three families shattered by Sept. 11, he led efforts to form the largest **pro bono** group in history resulting in 1,100-plus lawyers representing 1,700 9/11 families.

**Dan Stormer** Hadsell & Stormer (Pasadena, California) He stormed his way to \$20 million from Texaco, \$4.3 million from the City of Los Angeles, plus \$2 million for a **tenant** who died due to her apartment's failed septic system.

**Paul Stritmatter** Stritmatter Kessler (Hoquiam, Washington) Washington property owners **treated** their wood walls with a mildew-preventing Behr coating, only to develop mildew anyway. Stritmatter got them \$67.5 million.

**Thomas Strong** Law Office Of (Springfield, Missouri) A rail-car trailer hitch collapsed, crushing a rail worker's arm; despite five follow-up surgeries, he can't wear a prosthesis. Strong won the **worker** \$1.8 million.

**James Sturdevant** Sturdevant Law Firm (San Francisco) Sturdevant's **sturdy** skills won over \$1 billion from Bank of America, which was found to

have illegally seized retirement-benefit funds from roughly 1.3 million depositors.

**Neil Sugarman** Sugarman and Sugarman (Boston) Sugarman secured \$3.5 million for an elderly grocery store clerk who slipped on ice near the store,

**fractured** his spine and wound up a quadriplegic. **Daniel Sullivan**

Law Office Of (Seattle) Sullivan secured \$1.1 million from American Cyanamid, which failed to warn **doctors** that its "live virus" polio vaccines for infants could

actually inflict polio on nearby adults. **Robert Sullivan** Sullivan Papain

(New York) He **safeguarded** the families of six firefighters killed in a

Brooklyn supermarket fire and won \$4 million for a deliveryman whose job exacerbated his multiple sclerosis. **Stephen Susman** Susman Godfrey

(Houston) From a humble milk price-fixing case to **titanic** class actions against

vitamin makers, Susman knows how to suss out the biggest wins. **Nancy**

**Sussman** Hayworth and Sussman (San Diego) She focuses on helping sexual abuse victims **overcome** their mistreatment from callous doctors, foster par-

ents and daycare providers. **Edward Swartz** Swartz & Swartz (Boston)

When part of a Fisher-Price toy got stuck in a 14-month-old's trachea, causing permanent brain **damage**, Swartz swooped in and got \$3.1 million from the toy

company. **Paula Sweeney** Howie & Sweeney (Dallas) In court and as an

ABOTA leader, Sweeney **rails** against the "medical culture of secrecy," which she says keeps patients from learning the real reason behind their medical complications.

**Dennis Sweet** Sweet & Freese (Jackson, Mississippi) Sweet soured matters for American Home Products, winning a \$400 million **verdict** against the com-

pany for selling fen phen. **Raymond Tam** Tam & Stanford (Honolulu) A seven-figure-winner for 30 years, Tam is one of the **best** plaintiffs' trial lawyers in

the Aloha State. **John Taylor** Taylor & Ring (Los Angeles) Wow: \$13 mil-

lion for an injured trucker, facing down Phil Spector for wrongful death and even two suits against a DJ for **promoting** a fatally flawed faith healer.





Jim Leach

**George Thompson** Thompson O'Neil (Traverse City, Michigan) He **triumphs** against his hometown in a teen's drowning and a local power company for a couple's electrocution. **Peter Thompson** Thompson & Associates (Portland, Maine) This brain injury **expert** has trounced Pratt & Whitney and the Maine Municipal Employees Health Trust, as well as UPS for not hiring a man who suffers from diabetes mellitus. **Arthur Tifford** Tifford and Tifford (Miami) He secured a \$5 million settlement for a teenager **inflicted** with permanent brain damage in a bicycling accident. **Steven Toll** Cohen Milstein (Washington, DC) Ask not for whom he Tolls. Instead, ask the **shareholders** of Globalstar, for whom he successfully took a class action to trial, or Parmalat, for which he leads the massive fraud case. **Eunice Trevor** Saltz Mongeluzzi (Philadelphia) Trevor **recovered** \$10.3 million for a contractor fried by a high-voltage cable and \$5 million for a youngster scalded by boiling water after standing on an open oven door. **Bill Trine** Law Office Of (Boulder, Colorado) Proud captain of a nationwide prison **reform** project, Trine also won a recent \$6.5 million personal injury settlement. **Nancy Turbak** Turbak Law Office Of (Watertown, South Dakota) She **stands** out in soft-tissue injuries, winning for an insurance rep with a cervical injury and a farmer impaired by his ailing shoulder and knee. **Thomas Vesper** Westmoreland Vesper (Atlantic City, New Jersey) He won \$2.3 million for a gunshot **victim** who sued an apartment owner for lax security and \$5.8 million for a slip-and-fall accident victim. **Simina Vourlis** Law Office Of (Columbus, Ohio) Vourlis got vengeful for a family whose daughter died after Children's Hospital of Columbus shuffled her around instead of correctly **treating** her ectopic pregnancy. **Bill Wagner** Wagner Vaughan (Tampa, Florida) Wagner's the one for **injured** electric-lines workers, securing \$5 million for a worker who lost both arms and a seven-figure settlement for a linesman electrocuted to death. **Robert Waltman** Waltman & Grisham (College Station, Texas) The sentinel of Aggieland gets the "**thumbs up**" for his handling of amputation, asbestos, child safety seat and tire failure cases.

# Stephen Susman



**Roderick Ward** Stevens & Ward (Jackson, Mississippi) Ward **stood up** for customers of Dillard's department stores who allege racial profiling, in the process taking on local police who frequently moonlight as Dillard's security. **Ted Warshafsky** Law Office Of (Milwaukee) Warshafsky won a \$2.3 million med-mal **verdict** that raised questions about a hospital's use of fresh-from-med-school "resident" doctors. **Richard Watson** Pulley Watson (Durham, North Carolina) Watson's client followed her dentist's **advice** to lose her (healthy) wisdom teeth, but botched surgery left her in mind-bending pain. Watson won her \$5 million. **Mikal Watts** Watts Law Firm (Corpus Christi, Texas) Watts hit the switch against Ford, **winning** \$101 million in three product liability verdicts against the automaker for SUV-rollover wrecks. **Dianne Weaver** Harrell & Harrell (Jacksonville, Florida) Talk about gratitude: Weaver won a \$1.4 million judgment for a stepladder-injury victim, who later sued her for not pursuing punitive **damages**. Weaver prevailed, natch. **Les Weisbrod** Morgan & Weisbrod (Dallas) Weisbrod's reputation precedes him: When another **attorney** added him to a team handling a wrongful-death case, the defendant's offer instantly doubled to \$6 million. **Melvyn Weiss** Milberg Weiss (New York) Controversy aside, no one can argue with Weiss's record: stunningly large shareholder **recoveries** from companies like America Online and Wickes. **Harvey Weitz** Weitz & Associates (New York) His wins are huge: \$197.6 million from Budget Rent-a-Car, three eight-figure-plus **triumphs** over New York City, plus \$43 million from Beth Israel Medical Center and company. **Perry Weitz** Weitz & Luxenberg (New York) His **thriving** practice covers Accutane to welding rods, not to mention serving as state and federal liaison counsel in asbestos and breast-implant litigation. **Lantz Welch** Lantz Welch (Kansas City, Missouri) Welch **wowed** juries into a \$45 million personal injury verdict in an auto-collision case, and \$49 million for 31 Missourians poisoned by an Alcolac chemical plant.

**Mark Werbner** Sayles Werbner (Dallas) Sure, he's hooked his share of catastrophic injury and wrongful death wins. Now he's **immersed** in international intrigue for Terror Victims v. Arab Bank. **Charles Whetstone** Whetstone Myers (Columbia, South Carolina) He proved a millstone to Nexsen Pruet, helping win a \$5.5 million **verdict** over malpractice-worthy advice Nexsen gave to a would-be inventor. **William Whitehurst** Whitehurst Harkness (Austin, Texas) An instrument-rated pilot who **soars** in aviation cases, Whitehurst also won \$44 million and \$32 million for brain-damaged babies in Texas. **John Williams** Williams Bailey (Houston) Williams **walloped** Wyeth for 6,500 fen-phen users, and brought home a big settlement for workers hurt by the 2005 British Petroleum plant explosion. **Joseph Williams** Weitz & Luxenberg (New York) He's front-and-center for victims of asbestos, Bextra, Celebrex and Vioxx, and he **helps** his firm notch multi-million dollar wins. **Mary Wilson** Lyons & Rhodes (San Antonio) She won \$28.3 million for the parents of a baby girl named Princess who **suffered** shoulder dystocia during her delivery. **Teresa Woody** Stueve Siegel (Kansas City, Missouri) Woody's on the warpath against Premcor Refining and Dow Chemical for **contaminating** the groundwater of Hartford, Ill., and the Tittabawassee River Basin, respectively. **Michael Worel** Cunningham Bounds (Mobile, Alabama) Worel was a **whiz** against Target Corp., winning \$10 million for an electrical subcontractor thrown from a raised scissor lift. **Steven Yerrid** Yerrid Law Firm (Tampa, Florida) The master of disaster scored one of the biggest medmal verdicts (\$217 million) in U.S. history for a client left disabled by a misdiagnosed stroke. **Robert Zeff** Zeff and Zeff (Detroit) With 48 years of personal injury **experience**, Zeff's a zinger for car crash, employment, med-mal and slip-and-fall claims. **Kathleen Zellner** Zellner & Associates (Naperville, Illinois) Zellner **flipped** the script: first she trained as a Chicago HMO's corporate counsel, then she dogged doctors for Erb's Palsy injuries, misdiagnosis and wrong-medication claims.

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- Named one of San Francisco's Bay Area's "Top 10 Trial Attorneys" by the San Francisco Chronicle
- Repeatedly named one of the "100 Most Influential Attorneys in California" by the California Daily Journal
- Past Editor-in-Chief of Forum, a CAOC publication
- Board Member of the American Board of Trial Advocates (ABOTA)
- Named one of the Top 30 Women Litigators in 2002 and Top 50 Women Litigators in 2003 and 2004 by the California Daily Journal
- Named a Northern California Super Lawyer in 2006

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Bob Wolfe  
Recent Verdicts: \$28 million Inverse  
Condemnation vs. City of Anaheim  
upheld on appeal and \$12.2 million  
breach of Contract claim against  
Ford Motor Company



Gary Praglin  
Recent Verdict: \$14.9 million for 6  
cases in groundwater contamination  
against Aerojet General. Jury returned  
12-0 on punitive damages. Case then  
settled for confidential amount.



Daniel G. Whalen  
Recent Verdict: \$13.5 million  
For paraplegic in auto accident



Brian J. Heffernan  
Recent Settlement: \$4.5 million  
For brain injury to homeowner  
fixing pool equipment



Paul A. Traina  
Recent Settlement: \$1.6 billion  
Antitrust Cartwright Act claim  
after nine weeks of trial against  
a major utility



Jerry Ramsey  
California Fire Cases: Over \$50  
million collected to date from  
recalcitrant insurance companies

*"We're never going to win a popularity contest, nor should we. One is rarely popular when one is putting a harpoon into powerful vested interests."*

*—Wylie Aitken*

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Back Row: Casey Johnson, Michael Penn.

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Wylie and Aitken•Aitken•Cohn have been involved in high profile and precedent setting litigation resulting in major changes leading to safer drugs, safer theme and public parks, bad faith and punitive damages, among others.

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