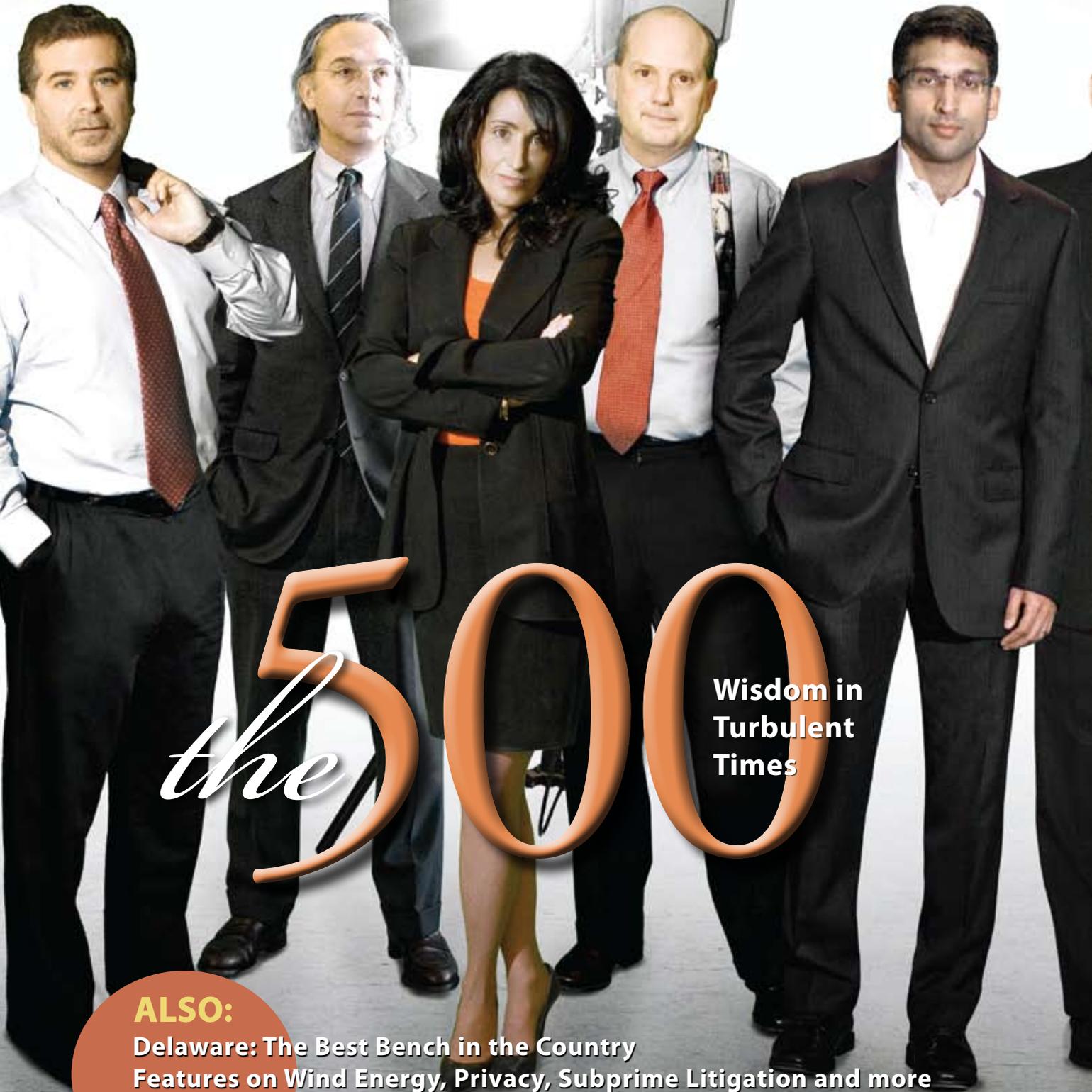


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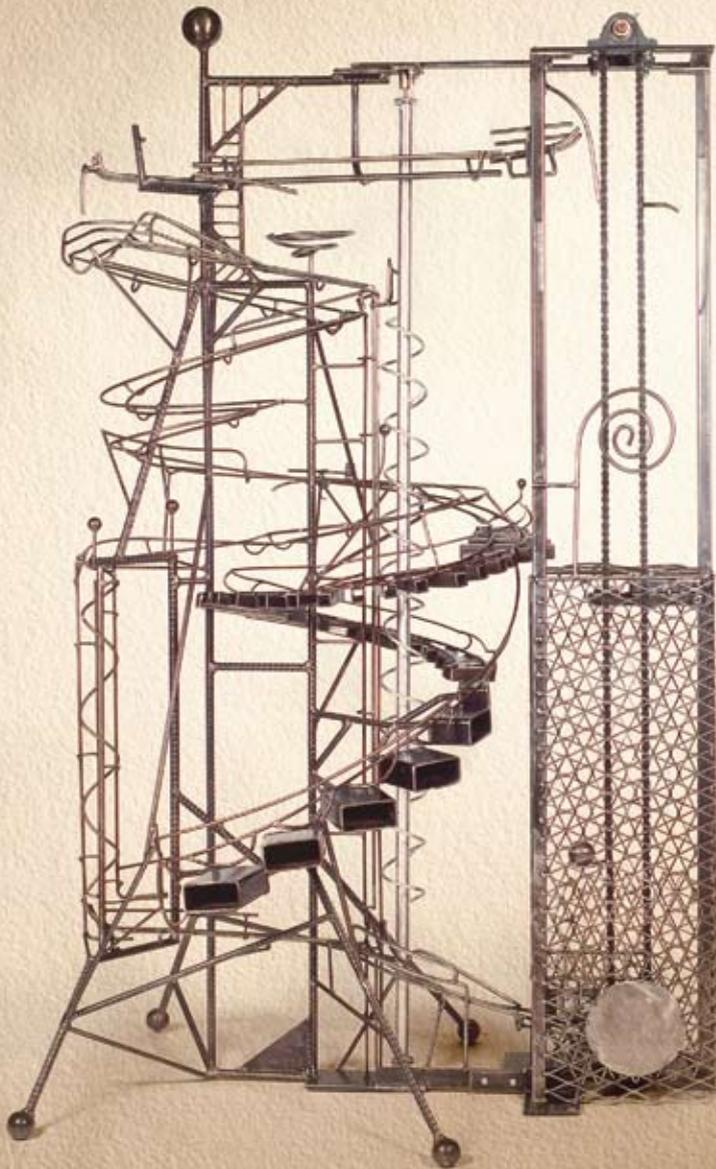
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Leo Strine sits on what may be the best court in America: The Delaware Court of Chancery. Lawdragon's publisher spent two years following Delaware judges and lawyers from the courtrooms of Wilmington – Corporate America's Main Street – to bar conferences and lectures. Among the practitioners she found fans who view the court's judges like rock 'n roll icons. *Story by Katrina Dewey. Photos by Hugh Williams.*



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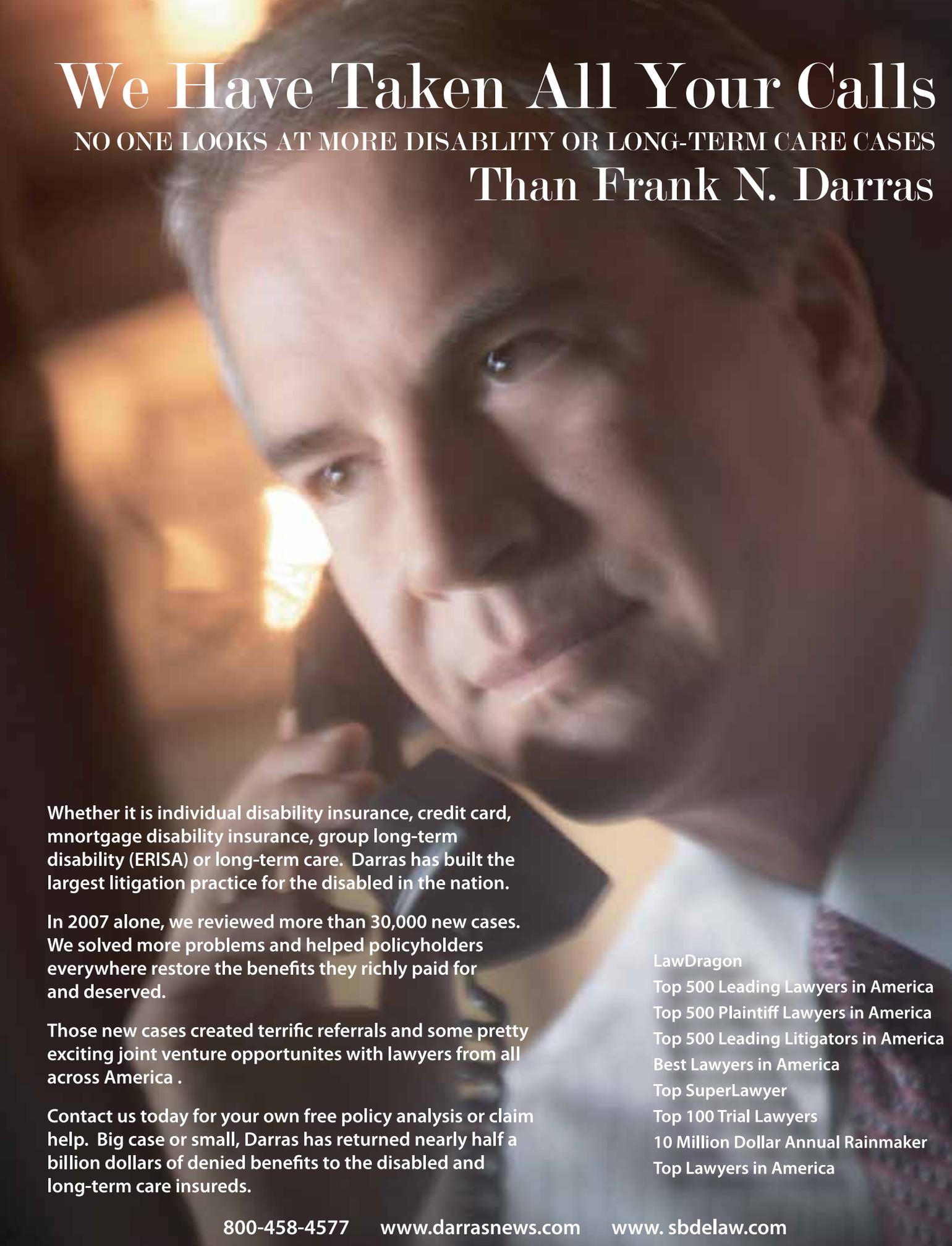
From the economic crisis to the election of our first African-American president, the past year was truly a time of change. Our 4th annual guide to the nation's top legal talent shows once again that excellent lawyers are needed to guide us through turbulent times.

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Last year, Lawdragon unveiled its first online-only guides featuring 100 legal professionals you need to know in securities litigation, law firm management and legal consulting.

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Robert Spatt, John Halvey, Maureen Mahoney, David Boies, Paul Cappuccio, Christopher Seeger, Ted Mirvis, Sandra Goldstein, Leo Strine, Neal Katyal, Robert Giuffra, Scott Edelman, Max Berger, Marshall Doke, William Martin



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T O CALL THE 2008-09 PERIOD “turbulent” is an understatement.

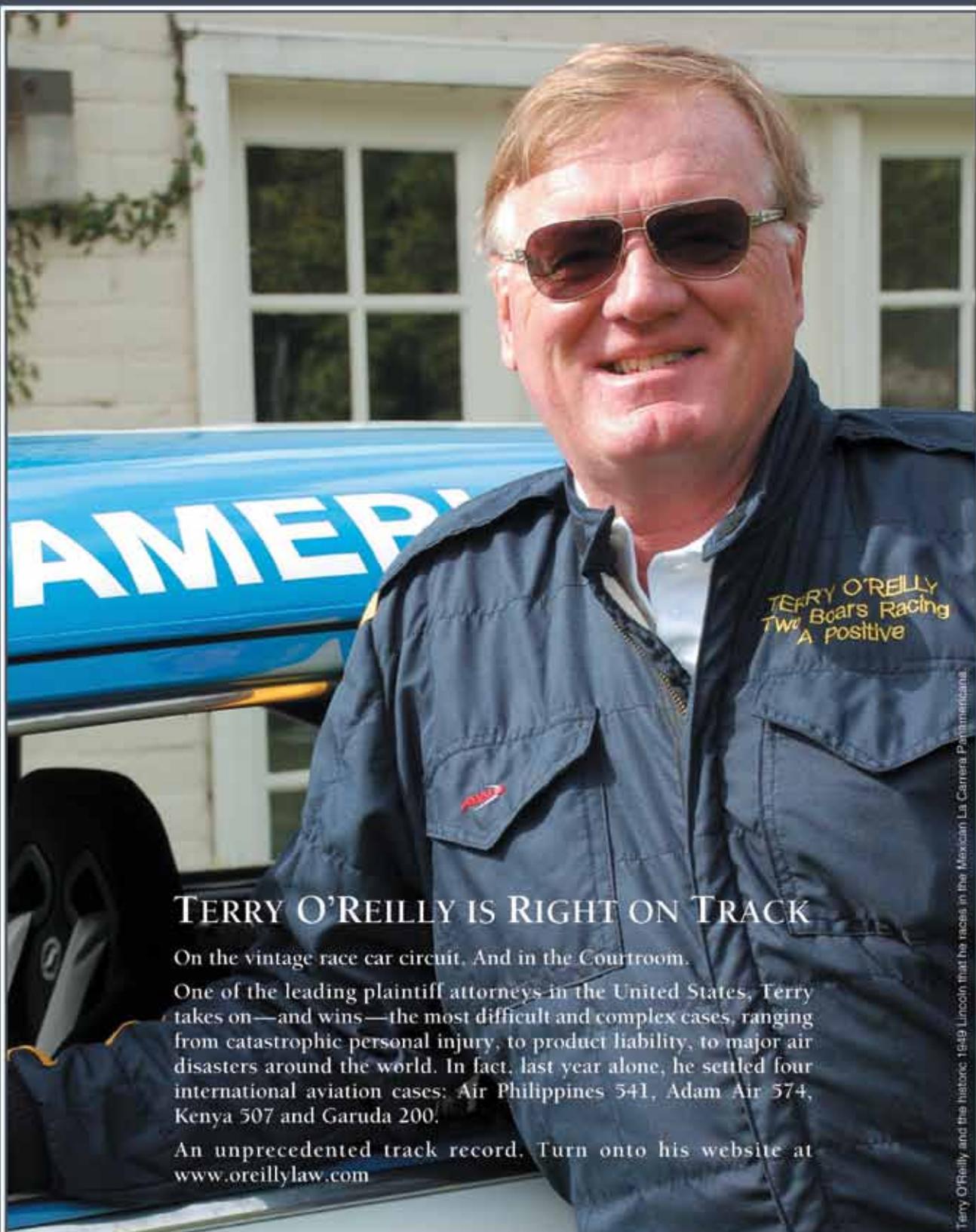
The global economic crisis and the complex legal issues it raises, as well as the election of President Barack Obama, have made for riveting times in which lawyers often play starring roles.

Change has also been in the air at Lawdragon, where we continued to shift our emphasis to our website. The national legal community responded generously to the new Lawdragon.com guides, such as the “Need to Know” series, which features 100 legal professionals in a particular practice group or segment of the industry. We also launched our first site devoted to a specific region, in this case Southern California. Nine newspapers of the Los Angeles Newspaper Group have run our targeted content on their websites and in their print publications – a model that shows the potential of Lawdragon’s reach.

Still, we take special pride in our print edition. At Lawdragon, it bridges the past with the present and takes on a timeless and graceful quality that befits the highest echelons of the legal profession. In addition to another group of stellar attorney-written pieces, this edition features an in-depth profile of the Delaware Court of Chancery by Lawdragon’s publisher, Katrina Dewey. Katrina began reporting on this court – which decides the biggest cases involving America’s biggest (and Wilmington-based) corporations – more than two years ago, and has been gathering string on the story ever since. You’ll see it’s worth the wait.

With layoffs aplenty, some affecting our closest friends, we know this coming year will continue to be a difficult one for the legal industry. We are nevertheless confident that, with your guidance and participation, it will be the best year yet for Lawdragon.com – which we pledge to make the best free source of legal affairs content anywhere. We promise, too, that you’ll still have a new print issue to look forward to each year. As always, we are extremely grateful for your support.

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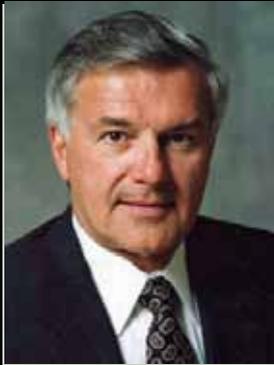
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Conversations

with.....



Jonathan Schiller, a renowned litigator and name partner at Boies, Schiller & Flexner, handles some of the biggest and toughest cases in the world. In the antitrust class action *In re Vitamins*, he broke up a global vitamin cartel and recovered \$1.3 billion for his clients, the largest antitrust settlement in history at the time. He also earned a \$7-billion settlement in 2008 for Barclays from Lehman Brothers and J.P. Morgan. Most recently, Schiller has litigated against Russia, handling the Bank of New York Mellon's defense against a \$22-billion civil RICO suit filed in Moscow by the Russian Federal Customs Service over fraudulent fund transfers by a senior bank employee. It's the type of unique challenge that Schiller enjoys, this time involving the application and interpretation of a U.S. law in an unfriendly jurisdiction.

Reached recently at his New York office, Schiller reminisced about the early days of the firm, which was launched in 1997 after he left Kaye Scholer and famed litigator David Boies left Cravath Swaine & Moore. He laughed about a quote he gave to the Washington Post when the firm only had 12 lawyers: "We now have critical mass — and we can do whatever we want." That's framed on the office wall in New York, and Boies points to it to joke with Schiller now that the firm has 250 lawyers with offices throughout the country.

Lawdragon: Where are you originally from and what got you into law in the first place?

Jonathan Schiller: I grew up in Washington, D.C. in a family of lawyers. My parents were both Roosevelt New Deal lawyers who worked for the government in Washington, D.C. My father joined the Securities & Exchange Commission at its inception under Justice William Douglas. My mother first worked at the Office of Price Administration in Washington, D.C. during the war. Later my father became a judge.

LD Talk to me a bit about how you and David Boies started up the firm.

JS In 1986, I was defending Westinghouse in a series of U.S. criminal investigations over the allegation

that Westinghouse bribed Ferdinand Marcos to obtain a nuclear plant contract in the Philippines. After Westinghouse turned to Boies to handle what was effectively going to be a bet-the-company civil case for Westinghouse, they asked me to present to David the case that I had been defending—the criminal case—and I did. David asked me if I would work with him in the defense of a civil case should they bring it, and I said yes. That was 11 years before we started the firm and in that period we had several successful Westinghouse civil trials and arbitrations and worked on several other interesting cases as well.

From working very closely, we learned a lot about each other, enjoyed working with each other. We enjoyed winning and became good friends. The strength of that relationship, that bond from trial work, the cooperative effort and

LD What was it like at the beginning when you first started the firm?

JS The beginning was as exciting a time as I've ever had in the law, apart from trying cases. We were both conflict free for the first time — in David's case in 30 years and in my case 20 years. We had only the clients who came with us, a core group that we valued very highly and their cases which we were doing and we were open to new work from new clients, new directions to choose as we wished. Our first two years were a whirlwind. We tried a lot of cases. Within five months of being in business, we got a call from the government about Microsoft. [*Boies served as special trial counsel for the Justice Department in its successful antitrust suit against Microsoft.*] I also had three major international arbitrations during that period

Jonathan Schiller

By **NANCY STEIN**

mutual respect have helped establish a wonderful foundation for our law firm. Don Flexner, our co-managing partner, has also become a good friend and trusted law partner.

and missed a lot of David's outstanding trial work in the *Bush v. Gore* matter because I was in hearings in Paris, London and Lausanne.

LD What are your favorite types of cases?

JS Difficult, complex, highly charged, fast moving cases. *Genesco* is the perfect example. Our client, Genesco [*a footwear retailer and wholesaler*], sought an order compelling Finish Line to specifically perform its obligations under the merger agreement, which we secured through a trial. The merger had to be done in three months so we had to get up to speed, conduct discovery, and prepare the case for trial against both Finish Line and its banker, UBS, which was also trying to get out of the transaction. That to me is far more satisfying than a case that lasts for years. I like getting to the

is different. It's at a very high level, but it's different. The presentation of evidence is different. So each of those major arbitrations I've done has been memorable. Spending the month in Paris trying a case is a real treat and the same is true in London. I think more about what's coming though than what I've done in the past.

LD What do you like about arbitration?

JS What I like about it is that you get to the merits fairly quickly. Arbitration is not bound up in procedure and motions. It is intended to be a fast, full and final resolution of a dispute. It's not under the Federal Rules of Civil Procedure. It's under a very general set of

you try a case?

JS Exercise, sleep and preparation. But mostly it's knowing your facts and having a system so your documents are readily available to you. You've prepared your outline of proof; you know what your basic truths are. You prepare to explain and rebut what the other side is going to do.

LD So what's new and hot in your practice?

JS We're in a new era of financial problems, and I'm representing financial institutions today that we did not represent when we formed the firm. We represent the Bank of New York Mellon. We're doing a lot of work for Goldman Sachs and, recently, Barclays arising

lyze their interests in complex, structured transactions, including CDOs [*collateralized debt obligations*] and derivatives. If settlements can't be reached, we will enforce their rights in court. David has a trial coming up on behalf of Hank Greenberg [*of CV Starr, formerly of AIG*] in March. Our firm is right at the cutting edge of a lot of these financial and market problems, which is where we like to be.

LD What can you share with me about the Bank of New York case in Russia?

JS I like difficult problems. I had not been in Russia before nor had I had a Russian-based legal problem. I was engaged by the Bank of New York a year and a half ago

“The beginning was as exciting a time as I've ever had in the law.”

merits quickly, getting it tried and resolved.

LD What else is particularly satisfying?

JS Some of the arbitrations we've had in Europe over the past five years where we've won hundreds of millions of dollars have been particularly satisfying because when we try a case in front of a tribunal of largely Europeans, of different systems, you can't approach the proceeding the same way you might approach New York state court proceeding. It's a different culture. The judging

rules. The arbitrators chosen can be very knowledgeable. I have a lot of respect for the quality of judging that comes from international arbitration. And this year I've devoted about 25% of my time to arbitration.

LD What aspects of cases do you enjoy the most?

JS I love preparing people for trial and putting them on and having them tell their story.

LD Do you have a special routine before

from the Lehman bankruptcy. These are important, growing sources of interesting work for us. We just finished successfully representing Barclays in securing a \$7-billion cash and securities settlement from Lehman Brothers and J.P. Morgan.

LD How about credit crisis litigation?

JS Between Christmas and New Year's, traditionally a quiet time, we received a number of fast moving new matters from different clients who want us to ana-

lyze their interests in complex, structured transactions, including CDOs [*collateralized debt obligations*] and derivatives. If settlements can't be reached, we will enforce their rights in court. David has a trial coming up on behalf of Hank Greenberg [*of CV Starr, formerly of AIG*] in March. Our firm is right at the cutting edge of a lot of these financial and market problems, which is where we like to be.

to prevent any judgment that came out of this proceeding from being enforced in the United States or anywhere else. We got involved in the Russia proceeding itself to prevent a judgment by demonstrating that the U.S. RICO law was not violated and RICO claims may not be prosecuted under Russian law. [*Reports close to press time indicated a settlement in the case was possible.*]

LD Why shouldn't the Russian court hear the case?

JS RICO is a criminal statute. In order for the Russian government to adjudicate this \$22-billion claim against the bank, the Russian Arbitrazh Court would be required to interpret and apply U.S. criminal law. But Russian law forbids the Arbitrazh Court from determining whether a criminal adjudication has occurred and the law is crystal clear on that. For this court to entertain this claim, it would have to interpret and apply U.S. criminal law because U.S. criminal law is a part of RICO. It can't do that.... The Arbitrazh Court has no jurisdiction over something that has this criminal element to it. However, most important, and contrary to the outrageous assertion by the plaintiff's lawyer in this case, the bank did not admit to any criminal liability in the non-prosecution agreement that it signed in 2005. Also the statute of limitations ran years before the case was brought.

LD What if an unfavorable decision is rendered? What are the global enforcement implications for the Bank of New York?

JS I do not believe that any judgment coming out of those courts will be enforced anywhere in the world against the Bank of New York because of the infirmities of any judgment. I remain hopeful that we'll prevent a judgment. But even if we don't prevent the judgment from issuing, I remain very confident that we will prevent it from being enforced in any place where the bank has material assets.

LD Who did you and the firm support in the

McCain/Obama election?

JS In the recent election, both David and I supported President Obama who has a lot to do. He's a great lawyer. We haven't had a great lawyer as president for a long time in this country, and I think his legal skills are going to come into play and contribute to his mastery of many problems.

LD Speaking of presidents, any comments about Boies's representation of Gore in the Florida vote recount case?

JS I thought David did a great job. He explained a complicated electoral process to the American citizens and made them understand in practical terms what was happening in Florida. I think he did a great job for Gore, and the Supreme Court did a terrible job by undoing that Florida victory that he won.

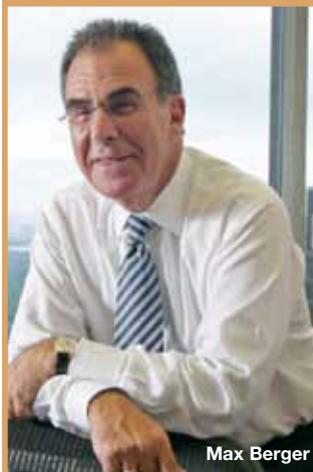
LD While we're on the subject of Boies, do you think Ed Begley did a good job playing him in the HBO movie *Recount* a while back?

JS [Laughing.] No, I didn't think so! That was a movie not a documentary. I don't want to take anything away from Begley. Maybe it was the script.

LD I know you were a basketball Hall of Famer during your college days at Columbia. Do you still play?

JS I don't play basketball anymore; it's life threatening. However, I would love a five on five at the White House.

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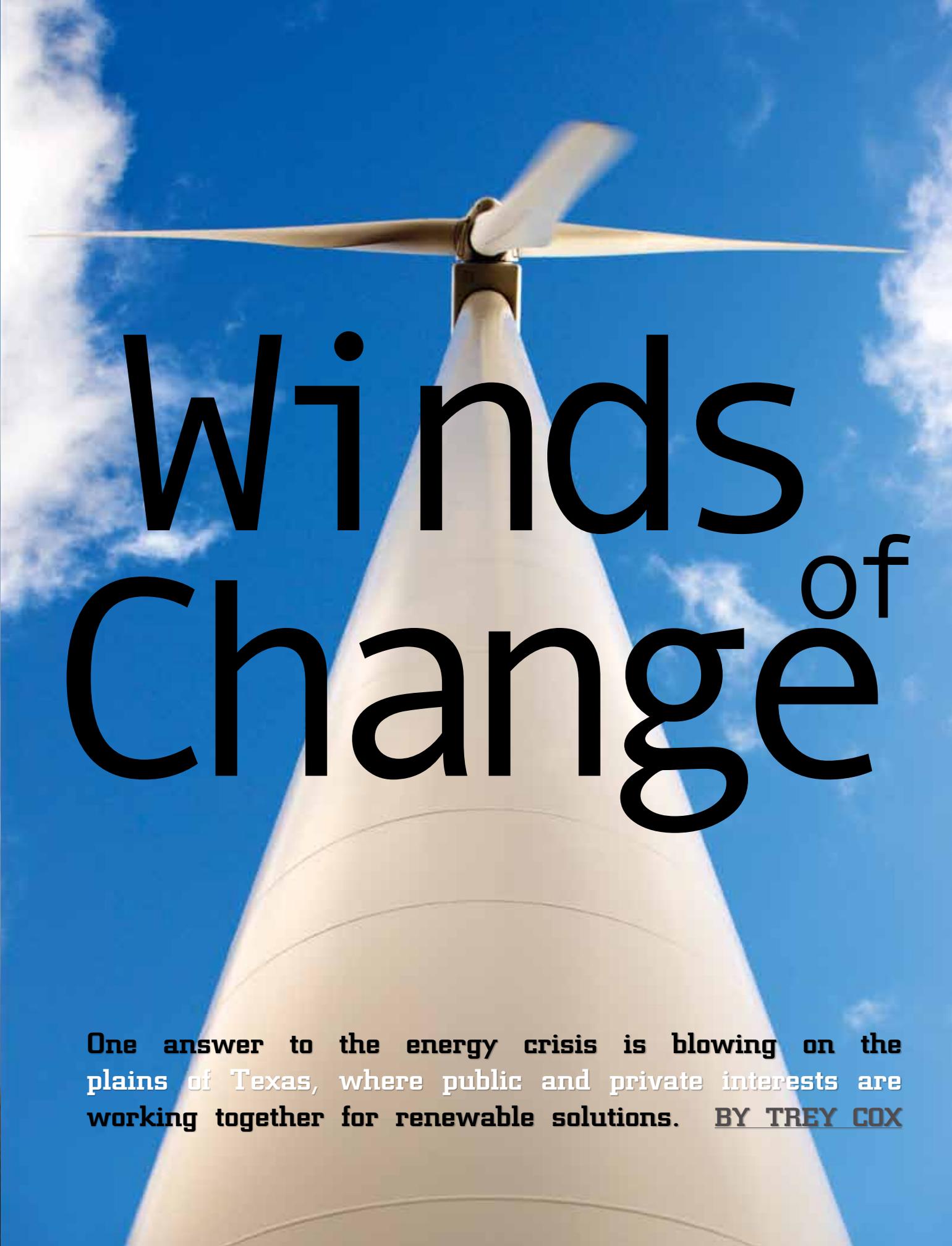
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Winds Change^{of}

One answer to the energy crisis is blowing on the plains of Texas, where public and private interests are working together for renewable solutions. BY TREY COX

n

ot even a decade ago, the notion that tiny Sweetwater, Texas, population 11,000,

would one day sit in the epicenter of a new and highly promising renewable energy industry would have been met with back-slapping guffaws from oil-centric observers in Texas. Back then, Sweetwater was just a windswept outpost on the vast West Texas plains. Fast forward to today, and the wind remains an ever-present aspect of daily life. Instead of a nuisance to be cursed, however, the wind is viewed as a valuable economic resource to be tapped like oil and natural gas below the soil. In fact, rights to wind resources may one day be bought and sold in the same way mineral rights are handled today.

The wide open spaces around Sweetwater are now punctuated by gracefully turning blades on colossal wind turbines that stretch out in all directions and vanish beyond the horizon. Farmers and ranchers go about their daily lives using their land as they have for generations, while collecting royalties from turbines on their property. If the area around Sweetwater were a stand-alone country, it would rank seventh worldwide in terms of wind-energy production.

Climate-change policies and green-energy mandates, unstable commodity prices and increasing energy consumption all have contributed to the explosive growth in wind-generated electricity in the United States. The scene is set for wind energy to assume a key role in the domestic energy mix and provide a potential solution to concerns about energy independence. With the support of business leaders

like T. Boone Pickens and politicians from both major parties, an even greater rate of growth is almost a certainty.

Wind energy enjoys enormous public support. Turbines served as background images in political advertisements for both political candidates this year, and New York Mayor Michael Bloomberg even floated the idea of using turbines to power the Statue of

Liberty. However, a 2007 National Academy of Sciences survey concluded that wind-farm developments can be “surprisingly controversial.”

With the industry set to grow even more, attorneys at all levels of this energy play can learn from the experience of Texas, which has been a trail blazer in this sector and by far the largest producer of wind-generated electricity in the country. Texas didn’t become a wind-energy leader without difficulty. Much insight can be found in the legal battles already fought and won over wind-farm developments.

Attorneys at all levels can learn from the experience of Texas, which has been a trailblazer and the largest producer of wind-generated electricity in the country.

WIND ENERGY’S SUCCESS IN TEXAS AND OTHER STATES IS AN EXAMPLE of public and private interests working to solve problems and address one of the most important problems of our generation. A combination of state mandates and federal renewable energy tax credits created the environment that allowed this growth to occur, and the marketplace seized the opportunity, utilizing technological design advances that make turbines more efficient, productive and cost efficient.

Wind-energy production grew by 44 percent in 2007, with Texas contributing the bulk of that growth. The state has quadrupled its wind-energy output since renewable portfolio standards were implemented in 1999.

The latest and one of the most interesting pushes is coming from legendary oilman and investor T. Boone Pickens. Although the bulk of his fortune was made from fossil fuels, Pickens now envisions wind as the answer to reducing the country’s dependence on foreign oil. He proposes wind farms and high-voltage transmission lines across the country’s “wind belt,” a wide swath of the heartland from the

southern tip of Texas to the Canadian border.

According to his plan, electricity created from wind turbines would replace the natural gas that is now used to generate electricity for the country's power grid. The natural gas previously used to power electricity-producing generators would instead be redirected to fuel cars modified to run on compressed natural gas, in theory reducing the country's gasoline consumption and dependence on oil.

His plan is nothing if not creative and ambitious, and many observers question its viability. But ignore it at your peril. Among other things, Pickens has set aside a considerable budget to make his plan a reality, reserving \$58 million alone for advertising and lobbying. That's in addition to his \$10 billion plan to build the world's largest wind farm in the Texas Panhandle.

Pickens' endorsement of wind's potential is just one reason why the industry is poised for growth. Climate-change legislation also is providing a boost as more states mandate a dedicated portion of their energy production to come from renewable sources like wind and solar power. Additionally, the renewal of the federal tax credit for wind-farm development, which makes the economics of developing large-scale wind farms more competitive, will further stoke wind-farm development.

Farther down the road, the prospect that fossil fuels might one day come with an associated carbon tax would make the industry even more competitive. Each year, wind power displaces approximately 23 million tons of carbon dioxide that would otherwise be emitted by traditional energy sources.

States are improving their electrical grid infrastructures, making it easier for far flung wind farms to send electricity to power users in urban areas. Texas, for example, is investing \$5 billion to build new high-voltage lines and better connect the state to the power grid. With more transmission lines, it's possible to have more wind farms in a broader geographic range. Geographic diversity of those transmission lines will help nullify one weakness frequently cited regarding wind farms – that the intermittent nature of wind makes it unreliable. With more wind turbines spread out over a greater geographic area, there's a better chance that turbines will be turning wherever the wind is blowing.

LEGAL OBSTACLES THAT TEXAS WIND-ENERGY PROJECTS have already encountered are not unique. As the industry expands throughout the country, growth is occurring despite the lack of a consistent regulatory framework. At each step in the process, developers routinely encounter spotty policy and absent or inconsistent regulation. In Texas and most other states, installing a wind farm is as simple as finding agreeable landowners and drafting lease agreements.

Such a regulatory vacuum might seem liberating initially, but it can be a double-edged sword in practice. Without

protection provided by consistent policies, subjective issues such as the ideal distance between turbines and neighbors, visual aesthetics and healthy sound thresholds are left to be ironed out among the utility industry, property owners, local communities and, when all else fails, by the courts. Each project has the potential to be a unique legal experience, and developers face the prospect of fighting the same battles over and over.

Although wind energy enjoys the kind of overwhelming public support that traditional energy providers can only envy, the industry is not without its vocal critics who typically voice not-in-my-backyard concerns to wind-farm developments. The industry's success means that wind farms are increasingly being located closer to population centers, and that proximity increases the likelihood of even more development conflicts.

Consider the experience of FPL Energy's Horse Hollow Wind Energy Center, which is currently the world's largest wind farm with more than 400 turbines spread out over 47,000 acres. In 2006, the project was threatened by litigation from a group of 13 landowners that raised nuisance complaints over the project. The conflict resulted in the first-ever jury trial involving a wind-farm development.

The plaintiffs' broad attack included complaints that the turbines created a visual nuisance by obstructing vistas, as well as complaints about operational noise, blinking lights and the "shadow flicker" strobe effect created at dawn and dusk in some instances. Courts have consistently ruled that, standing alone, any perceived negative visual impact that a development has on a neighboring property cannot be the basis for a cause of action. The reason is obvious. Courts wisely know that aesthetics are subjective and should not be imposed by a court. One person's Mona Lisa is another person's velvet Elvis. In terms of wind farms, some find the gracefully turning turbine blades peaceful while others see them and their blood boils. In short, a property owner cannot have an aesthetic veto over how a neighbor chooses to use his land.

Stripped of the ability to argue in court that wind turbines create a visual nuisance, plaintiffs in the Horse Hollow trial were left to question whether sound generated from the turbines created a nuisance causing "substantial interference" with the enjoyment of their property. Both sides faced the challenge of reconstructing the physical environment of the wind farms inside the courtroom. Plaintiffs' attorneys hooked up a portable stereo with large speakers to play a representation of the ambient sound created by the turbines.

Attorneys for the wind farm relied on hard scientific data about sound propagation and the way sound dissipates over distance. The defense worked to simplify the scientific concepts and terminology for regular folks sitting in the jury box, using everyday analogies to put the scientific data in context. Sound readings revealed, for

example, that wind turbines operate well below accepted noise thresholds. Telling a jury that a wind turbine operates at 45 decibels is one thing. Pointing out that the sound of a turbine during the day is actually less noisy than nighttime sounds made by West Texas crickets creates an analogy easily remembered in the jury room.

Jurors indicated that they relied heavily on expert testimony in reaching their decision that the wind farm did not pose a nuisance. The Horse Hollow case shows that wind farms can win in court when it counts. But while the industry has proven that it can prevail in court, such legal battles are costly in many ways. Because even minor complaints can delay or derail multi-billion-dollar plans, successful projects require a smart approach to development by working to prevent conflicts rather than react to them. Keeping neighbors happy and well-informed pays enormous dividends.

Avoiding conflict is often just a matter of letting common sense prevail and being a good neighbor. Where feasible, a half-mile setback safely protects wind farms from noise complaints. Rather than paying royalties only to landowners where turbines are installed, a broader use of royalties to create a sound easement around wind farms reduces the likelihood of hard feelings between neighbors who have turbines on their property and those who do not. The issue of turbine

noise doesn't have to be an issue at all. Noise concerns can be effectively eliminated through the use of turbine purchasing contracts crafted to ensure that wind turbines operate well below all sound-level limits identified by the Environmental Protection Agency and the World Health Organization.

Developers also are able to use the science of sound propagation and sound forecasting computer models to make sure that turbine placement reduces the likelihood of complaints. Burying unsightly power lines and creating a complaint hotline to quickly respond to neighbor concerns go a long way toward keeping communities feeling good about wind farms.

Texas' experience shows that wind energy can and will be an important component of the domestic energy mix. The Heartland may indeed become the "Saudi Arabia of wind" that Pickens imagines, reducing our \$700-billion dependence on foreign oil in the process. For that to happen, developers and their lawyers will have to continue to navigate a fluid and an ever-changing industry.

Trey Cox is a partner with the Dallas-based trial firm Lynn Tillotson Pinker & Cox. He represents clients in high-stakes business disputes. His experience in jury trials has earned him the distinction of Board Certified Trial Advocate by the National Board of Trial Advocacy.

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Immigration Law Pioneer

Ira Kurzban surprised his Berkeley classmates when upon graduation from law school, he moved to Miami, Florida, to represent indigent Haitian refugees. Within a year, he was in federal court, and since then, he has been lead counsel in several landmark Supreme Court cases upholding the constitutional rights of refugees.

In addition to being named by *Newsweek* as "One of 100 American Heroes", by *Esquire Magazine* as "People Under 40 Changing the Nation," and by virtually all legal publications including the *Best Lawyers in America*, *Chambers*, and the *National Law Journal* as one of the very best immigration lawyers in the United States, he was the first recipient of the Florida Supreme Court's "Tobias Simon *Pro Bono* Award" and received an Honorary Fellowship from the University of Pennsylvania Law School for his work on behalf of immigrants.

Ira is the former national President of the American Immigration Lawyers Association and is an adjunct professor of immigration law at the University of Miami and Nova Law Schools. Perhaps his greatest contribution to government officials and the immigration bar has been his authoring of *Kurzban's Immigration Law Sourcebook*, which Ira personally updates.

Ira practices with his brother, Marvin, and long-standing partners, Steven Weinger and Helena Tetzeli, in the Miami firm of Kurzban, Kurzban, Weinger and Tetzeli. The firm enjoys an international client roster and great success in immigration, products liability, medical malpractice, commercial and maritime law, and has won many multi-million dollar verdicts.



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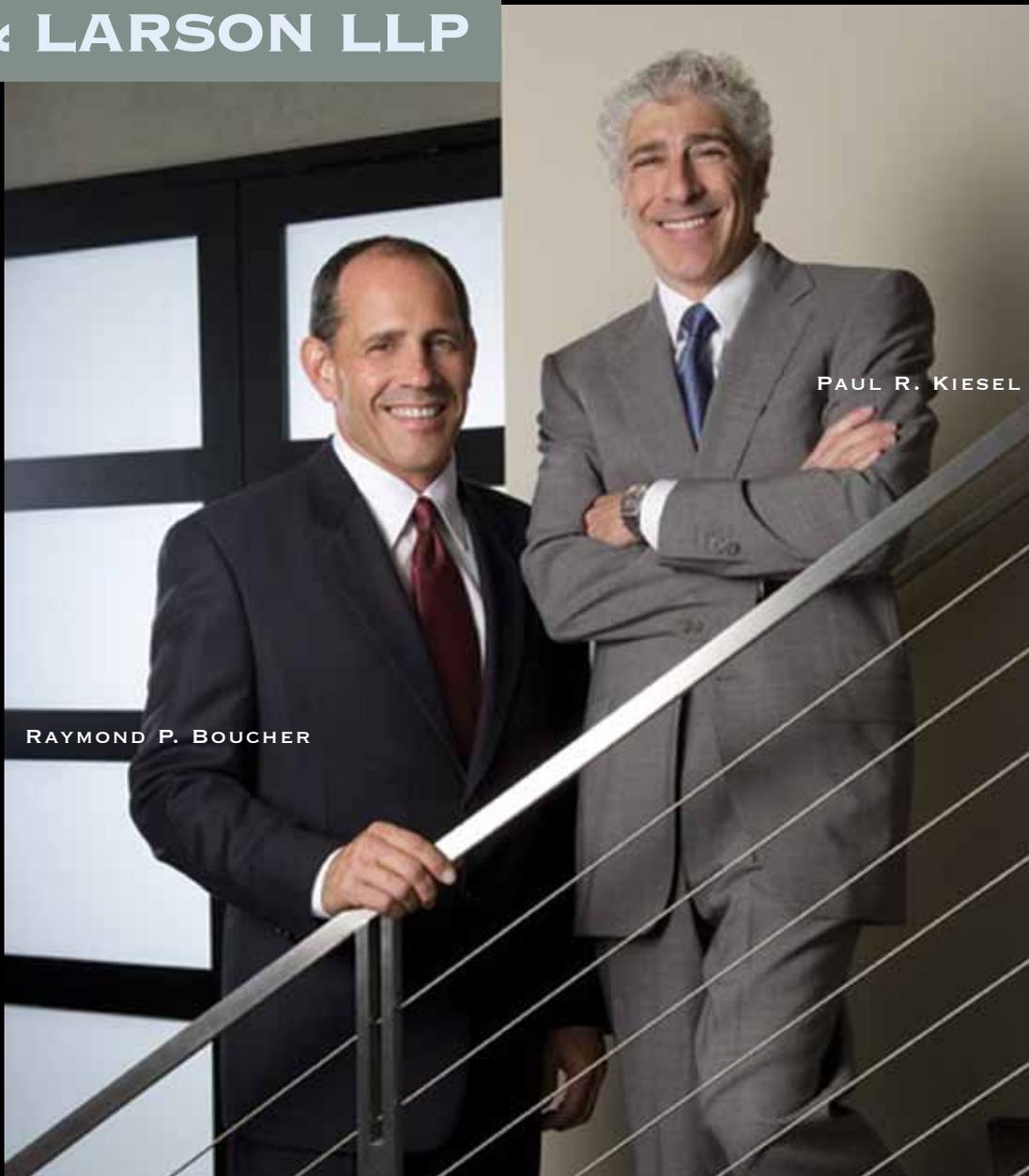
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New Claims,

Securities litigation is booming again thanks to the subprime crisis. But plaintiffs still face the tougher pleading standards created by Supreme Court cases of recent years.

Same

By **SCOTT D. MUSOFF AND SUSAN L. SALTZSTEIN**

SECURITIES CLASS-ACTION FILINGS

reached a 10-year low in 2006. Some attributed the decline in filings to the impact of Sarbanes-Oxley while others believed it was caused by, among other things, the steady increases and stability in the financial markets. While the filings increased somewhat in 2007, the number of filings remained below the 10-year average and some in the legal community had predicted a permanent decline in the number and influence of securities class actions. One academic proclaimed that class-action securities fraud litigation was “shrinking faster than a polar ice cap.”

However, far from a “shrinking ice cap,” last year’s combination of the sudden and severe effects of the global credit crisis and the increased volatility in the securities markets have led to an unprecedented resurgence in securities litigation. While plaintiffs are filing such actions in record numbers, and likely will continue to do so, 2009 will be the year in which the bulk of such “credit crisis” claims will be tested. This rising tide of securities litigation will serve as an opportunity for lower courts to apply the recent Supreme Court jurisprudence – in such cases as *Dabit*, *Tellabs*, *Stoneridge* and *Dura* – which has raised the bar for private plaintiffs.

The first wave of subprime litigation – arriving in 2007 – was brought against various sub- or non-prime lenders that had collapsed under the

weight of rising defaults. Each of the top 10 subprime mortgage originators was named in at least one shareholder securities class action during 2007. In 2008, securities litigation expanded to include nearly every major financial institution over their exposure to Collateralized Debt Obligation (CDO) and Residential Mortgage-Backed Security (RMBS) markets backed by subprime securities. According to NERA Economic Consulting, of the 250-plus filings last year (a ten-year high), 110 were credit crisis-related, and almost 50% of the cases involved defendants in the financial sector, as compared to only 16% of cases in the 2005-06 period. The litigation has since spread to companies that were not directly exposed to subprime assets but which had indirect ties to companies with subprime assets.

Securities class actions tend to track economic downturns and the case of the subprime crisis is no exception. What began as complaints asserted against primarily mortgage originators has morphed into a wave of true credit-crisis litigation with plaintiffs targeting a wide range of defendants, financial institutions included. Some of the defendants seem to be accused of committing securities fraud primarily on the basis of their own exposure to other companies that fell to the vagaries of the market. In 2009, one would expect that trend to continue – as plaintiffs continue to take aim at other securities, including

commercial mortgage-backed securities and other asset-backed securities.

As the 4th U.S. Circuit Court of Appeals recently explained in *Cozzarelli v. Inspire Pharmaceuticals Inc.*, 2008 WL 5194311 (4th Cir. Dec. 12, 2008), the Supreme Court in *Tellabs* gave “teeth” to the strong inference of the scienter pleading standard under the 1995 Private Securities Litigation Reform Act (PSLRA) “by using adjectives like ‘cogent,’ ‘compelling,’ ‘persuasive,’ ‘effective,’ and ‘powerful.’” Under *Tellabs Inc. v. Makor Issues & Rights*, 127 S. Ct. 2499 (2007), an inference of scienter can only be strong – and compelling and powerful – when it is weighed against the opposing inferences that may be drawn from the facts in their entirety.

The *Tellabs* standard will continue to be tested against the backdrop of the financial crisis. The success of pending motions to dismiss in these types of securities litigations depends to a degree on a court’s willingness to consider the context of the unprecedented global credit crisis. If the history of securities actions is prologue, courts will need to be vigilant in sifting through and disposing of complaints that allege not much more than “fraud by hindsight.” It is tempting in this environment to use what we know now as the predicate for arguing that negative information should have been

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The stock market slide and the worst credit crisis since the Great Depression have created a new wave of claims for the federal courts.

disclosed earlier; that temptation ought to be resisted. Scienter – not prescience – is a guiding element of a claim alleging securities fraud. Reviewing some of the earlier decided subprime cases, although the results have not been universal, it does appear that courts will give the context of the current economic situation serious consideration.

Even before some of the recent motions involving mortgage originators were decided, courts were beginning to grapple with the onset of what is now known to be the worst credit crisis since The Great Depression. On June 26, 2008, the 2nd U.S. Circuit Court of Appeals, in *Teamsters Local 445 Freight Div. Pension Fund v. Dynex Capital Inc.*, 531 F.3d 190 (2d Cir. 2008), had an opportunity to consider whether plaintiffs could satisfy the strong inference of scienter pleading standard by alleging “collective scienter” on behalf of the corporation, even where plaintiffs were unable to allege scienter against the individual defendants.

The dispute in *Dynex* arose from the issuance of bonds that were backed by Dynex’s mortgages and manufactured housing loans. In its complaint, the plaintiffs alleged that the defendants had misled investors about the credit quality of the bonds by failing to disclose a material fact about Dynex’s mort-

gages – that they had been originated through the systematic use of so-called loose underwriting guidelines. Addressing defendants’ motion to dismiss, the District Court held that plaintiff’s allegations, while sufficient to establish a pattern of reckless corporate behavior, had “failed to link that behavior to any culpable individuals.” The District Court, however, concluded that a generalized pattern of reckless conduct by unnamed employees was enough to allege scienter against the corporate defendants.

In an interlocutory appeal to the 2nd Circuit, the appellate court dismissed the complaint holding that when the defendant is a corporation, the “pleaded facts must create a strong inference that someone whose intent could be imputed to the corporation acted with the requisite scienter.” While it was theoretically “possible” for a plaintiff to meet this standard without identifying a specific corporate agent in its complaint, the court found that plaintiff’s scienter allegations in this case were far too conclusory and general to pass muster under *Tellabs*.

Dynex is an important decision to be considered in litigating credit-crisis type cases. In its ruling, the 2nd Circuit strongly suggested that fraudulent intent must exist at the highest levels – that is, with the officers or other executives

who are responsible for communicating with the public – in order to plead scienter against a corporation. Indeed, in rejecting plaintiff’s scienter theory, the court pointed to an even stronger inference that “no one responsible for the statements made to investors had reason to believe that Dynex employees were systematically flouting its underwriting guidelines or giving them false information about the cause of the bonds’ poor performance.”

The case has since been applied by U.S. District Judge William Pauley of the Southern District of New York in *In re Am. Express Co. Sec. Litig.*, 2008 U.S. Dist. LEXIS 74372 (S.D.N.Y. Sept. 26, 2008). Plaintiffs there had alleged that the company “misrepresented Amex’s high-yield investments as conservative when, in fact, they were high-risk; concealed the extent of Amex’s high-yield exposure; failed to disclose the lack of risk management controls; and failed to disclose the fact that Amex’s accounting was not in accordance with GAAP.” Applying *Tellabs* and *Dynex*, Pauley found that plaintiffs’ generalized allegations of insider knowledge and recklessness were conclusory and fell well short of the strong inference of scienter required under the PSLRA. Notably, in reaching its decision, the court considered – and discounted – numerous allegations from so-called confidential witnesses. The court found that none of the witnesses had specifically accused the defendants of possessing the underlying knowledge necessary to make an affirmative misstatement under Section 10(b). Further, in Pauley’s judgment, there were no well-pled allegations that even one of the “confidential sources ... had any contact with the Individual Defendants or would have knowledge of what they knew or should have known during the Class Period.”

Several complaints against mortgage originators have also been dismissed. One of the earliest in this category is *In re 2007 Novastar Fin. Inc. Sec. Litig.*, 2008 WL 2354367 (W.D. Mo. June 4, 2008), where the court granted the motion to dismiss on multiple grounds, including that the complaint amounted to nothing



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more than fraud by hindsight. Similarly, the court in *Fremont* granted defendants' motion to dismiss. *N.Y. State Teachers' Ret. Sys. v. Fremont Gen. Corp.*, 2008 WL 4812021 (C.D. Cal. Oct. 28, 2008). The court held that plaintiffs had failed to allege falsity because they failed to allege statements expressing Fremont officers' opinion about the quality of their underwriting standards were false, given that it was acknowledged that Fremont was a subprime lender.

A more recent case also dismissed a complaint brought against BankAtlantic in *Hubbard v. Bankatlantic Bancorp Inc.*, 2008 WL 5250271 (S.D. Fla. Dec. 12, 2008). In that case, involving a bank that originated subprime mortgages and other loans, plaintiffs alleged, among other things, that defendants had access to adverse information contradicting their public statements regarding the quality of their loan originations. These allegations were based on the accounts of confidential witnesses. The court found that the allegations of fraudulent intent based on the accounts of confidential witnesses were not as cogent or compelling as nonfraudulent inferences offered by the defendants, where the confidential witnesses alleged it was "common knowledge" that the company had risky loans on its books. Nor was it sufficient to simply allege that individual defendants received reports as to risky loans because of their high-level positions.

Nevertheless, several cases against subprime loan originators have survived motions to dismiss. These opinions appear to rely primarily on courts accepting allegations that the defendants were in the marketplace touting the rigor and effectiveness of underwriting practices, when in fact these officials knew that credit standards were being loosened dramatically. For instance, in *In re New Century*, 2008 WL 5147991 (C.D. Cal. Dec. 3, 2008), defendants purportedly represented that the company used "strict" and "strong" underwriting guidelines, resulting in a loan portfolio that exhibited "strong," "excel-

lent" and "very high" credit quality. But as the court held, while the defendants were telling the public one thing, they allegedly knew that their company "was doing something quite different – the loans were of poor, not great, quality; the underwriting was all but absent, not strict; and the internal controls were slack rather than searching."

In some cases, plaintiffs have relied heavily on confidential witness accounts. One such case where plaintiffs relied on numerous confidential witnesses at purportedly many levels of the company was *In re Countrywide Fin. Corp. Sec. Litig.* (C.D. Cal. Dec. 1, 2008). In that case, the court held that statements regarding underwriting standards were sufficiently alleged to be false because plaintiffs' extensive allegations primarily from multiple confidential witnesses detailed the underwriting practices allegedly at issue.

As to scienter, the court held that in addition to pleading facts allegedly contrary to public statements, plaintiffs had sufficiently pled motive and opportunity. One allegation involved the sale of stock by a senior executive pursuant to a predetermined plan, but the plan was allegedly modified several times, which the court found contributed to a cogent and compelling inference of scienter. Further, the court rejected defendants' argument that the losses were due to market forces, such as the credit crisis, holding that the determination of what losses were caused by the purported fraud and what losses were caused by market forces was an issue of causation, and would be determined after discovery.

Another case that has survived a motion to dismiss is *RAIT Fin. Trust Sec. Litig.*, 2008 WL 5378164 (E.D. Pa. Dec. 22, 2008). There, the court held that since credit underwriting and monitoring were alleged to be the company's core businesses, plaintiffs were allowed an inference that the individual defendants, high-level executives with the company, knew about problems with underwriting standards, rendering their statements false.

Plaintiffs should not be too encouraged

by this application of the so-called core operations doctrine, however, as there were other allegations of fraud upon which the District Court relied. For instance, in *RAIT*, defendants purportedly knew contrary facts from attending meetings regarding credit standards, allegations bolstered by the accounts of confidential witnesses. In the end, as the 9th U.S. Circuit Court of Appeals recently held in *South Ferry LP v. Killinger*, 542 F.3d 776 (9th Cir. 2008), reliance on a core operations inference in its "bare form," without additional particularized allegations, "will usually fall short of the PSLRA standard." As a stand-alone argument, it is reserved only for the "exceedingly rare" case in which "the nature of the relevant fact is of such prominence that it would be 'absurd' to suggest that management was without knowledge of the matter."

In 2009, the decisions on motions to dismiss will move from the complaints brought against subprime mortgage originators to those brought against financial institutions that invested in, underwrote and otherwise had exposure to collateralized debt obligations backed by subprime mortgages. The early cases discussed above demonstrate that if the rigorous pleading standards mandated by *Tellabs* and its progeny are applied assiduously, many of these complaints will be dismissed. The challenge for defendants will be to sufficiently attack confidential witness allegations and place the company's issues into the proper context of the general economic crisis. While the outcome of these cases will only be known through the test of time, one thing we can be certain of is that securities litigation – rather than a shrinking ice cap – will expand like a growing glacier in 2009.

Scott D. Musoff, a partner in the New York office of Skadden, Arps, Slate, Meagher & Flom, represents corporations and individuals in complex federal and state court litigation, as well as in arbitration proceedings. Susan L. Saltzstein, also a partner at Skadden's New York office, regularly represents domestic and foreign clients in complex commercial litigation and arbitration proceedings.

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{ DELAWARE COURT OF CHANCERY VICE CHANCELLOR LEO STRINE }

I Delaware Judges

BY KATRINA DEWEY

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PHOTOGRAPHS BY HUGH WILLIAMS



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Richard Posner should have been a U.S. Supreme Court justice. » I flash on him as I watch Vice Chancellor Leo Strine of the Delaware Court of Chancery stride back and forth before a rapt audience of hundreds of Harvard Law Students in October 2007. » Strine's brilliance is staggering, his energy enormous; a boiling rage for the law of the now that is in your face and seething. He relishes skewering fat cats like Hannibal Lecter loves fava beans and a nice Chianti. » And there is Posner, just like it was yesterday. It was 1984, and I am a first-year law student at the University of Chicago. He is a 7th U.S. Circuit Court of Appeals Justice, law professor, author and the anchor of the legendary economic analysis that will come to define the law of an era. » It is civil procedure class and he is sucking the marrow out of the injustice of the federal docket being littered with so many lost limbs – and really, is a lost limb to a poor person actually worth \$10,000, or whatever the legal minimum for federal court jurisdiction is at the time. I know I am seeing genius. I am also slightly nauseated, but can see this is a rare legal mind which shifts a generation of jurisprudence to evaluate cases based on economic

incentives and motivations.

Over the years, the legend of Posner, now 70, as the best legal mind of his generation has only grown, while the test for the Supreme Court had veered, Scalia aside, toward the Stepfordian.

And here is Strine, 45. He is called the most brilliant jurist of his generation. He works doggedly and is as subtle as an ice pick, whether dealing with dozens of AIG apologists, IBP's demand that Tyson Foods consummate its poultrigarchy or a dispute over property rights to a suburban Wilmington shopping mall. I'm not surprised that he ran for more than 4,730 days straight, stopping only in a bid for sanity. He is a product of small-town Delaware, soccer, Skadden Arps and politics, having served as chief counsel to Gov. Thomas Carper, now a U.S. Senator.

And then there's Delaware Supreme Court Chief Justice Myron Steele, who owing to a certain mettle and the tides of the times, was not known on the national scene until recent years, but who is every bit the measure of his younger colleague.

Strine and Steele are in many ways a mirror image of one another that refracts the past of Delaware law and U.S. corporate governance as their divergence reflects its future.

As intense as Strine, Steele, 63, combines military toughness with leadership in a fashion I have rarely encountered. He is a product of the University of Virginia, the military, the well-connected Prickett Jones firm and the land. He still works his farm and his Dover chambers display the ducks on the losing side of his shooting excursions.

I note the ducks as I'm visiting Dover for the Delaware Supreme Court's annual lunch in January 2008. The meeting is an opportunity for Steele to update leading legislators and legal luminaries on current developments.

We are eating crab cakes from a buffet and Strine simply must point out to Steele a typo in the day's program.

I see Leo mounted on Steele's wall.

They are different and yet the same, better together than apart. And, of course, that's the brilliance of the thing.

"It's as if the Beatles never broke up," says Ted Mirvis, one of the nation's elite litigators who often litigates in Chancery.

Mirvis is speaking specifically of the Chancery Court, which has produced a murderer's row of all stars, including the current lineup – Chancellor William Chandler III, Vice Chancellors John Noble, Stephen Lamb, Donald Parsons and Strine.

Included in the all-star sentiment is the Supreme Court, which oversees Chancery, and includes Steele, Jack B. Jacobs, Randy Holland, Carolyn Berger and Henry DuPont Ridgely.

And those are just the current members of courts that have included William T. Allen, Norman Veasey, Andrew Moore and Collins Seitz, who in 1952 on Chancery became the first judge in the U.S. to find that separate but equal in education is unconstitutional. His reasoning laid the foundation for the historic 1954 *Brown v. Board of Education* opinion.

It is the finest bench, pound for pound in the United States. The gem of the nation's "first state" because the excellence of its judges in terms of rigor, devotion, intelligence and scrutiny have made Delaware the forum of choice for the nation's corporations for more than 200 years.

"I would put the Delaware judiciary person to person up against any judiciary in any state in the United States," says Stacey Mobley, who recently retired after a career at DuPont, the last 10 years as general counsel, and joined Dickstein Shapiro.

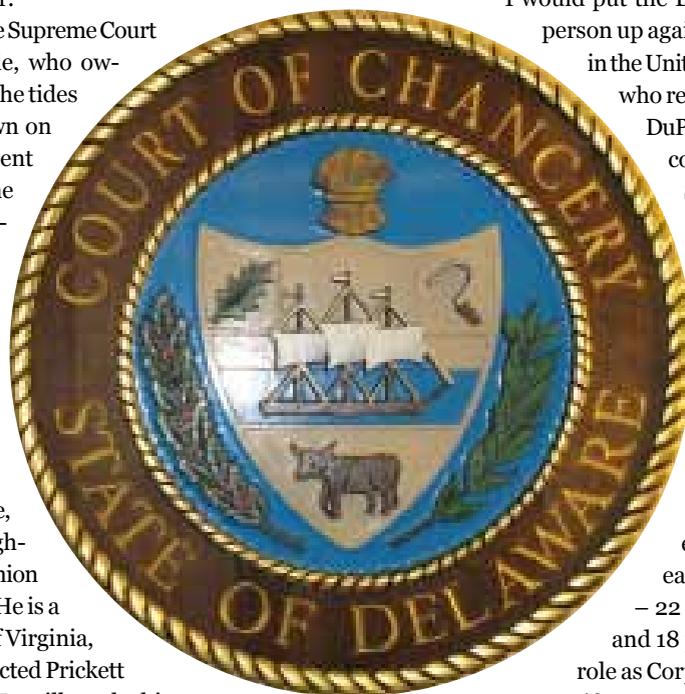
Delaware has just 853,476 residents, yet is home to more than half of the publicly traded companies in the U.S., including 60 percent of the Fortune 500 (and that figure does not include the tens of thousands of privately held corporations and alternative entities sited there). Delaware earns 40 percent of its revenue – 22 percent in registration taxes and 18 percent in escheat – from its role as Corporate America's main street.

So if you care about corporate America – love it or hate it, think Wall Streeters should burn for their excess or that we can't live without them, are an executive or shareholder activist – you care about Delaware.

Delaware is to American corporate law as the U.S. Supreme Court is to the nation's overall jurisprudence. It swiped the title of Miss Corporation from next-door New Jersey when Governor Woodrow Wilson raised the taxes on New Jersey corporations. Delaware promptly copied New Jersey's statute with a modest franchise tax and the rest is history.

Since then, the First State has coyly realized that to retain its title, it needs to boast a bench that will neither scare Corporate America nor coddle it. Will a merger go forward or die? Ask Delaware. Did a corporation pay its CEO too much? Ask Delaware. Can a corporate raider use a new maneuver to install his chosen board members and take over a company? Ask Delaware.

They are the question and the answer. The textbook of corporate law, whose authors are its jurists.



The entire Delaware bench is held in high esteem, but it is Chancery and its overseers on the Supreme Court that are the rock stars. They dictate the futures of eBay, Hewlett-Packard, Apple, Disney and these days Citibank, AIG and all the other wreckage piled up along the shore.

The unparalleled esteem in which the Delaware court is held has, perhaps not surprisingly, led to a chicken and egg question, posed mostly by academicians and other curious sorts who wonder if the Delaware court deliberately rules in favor of “corporations” or is wantonly ambiguous to allow them plenty of grey area.

The only answer needed to that question is a reading of Strine’s AIG flambe, issued in February in the derivative action against its directors and auditors.

“But here? Really?” he asks incredulously at the attempt by two AIG executives to be dismissed from a suit brought by shareholders. “The Complaint fairly supports the assertion that AIG’s Inner Circle led a – and I use this term with knowledge of its strength – criminal organization. The diversity, pervasiveness, and materiality of the alleged financial wrongdoing at AIG is extraordinary.”

It’s easy is to talk in black and white, about defrauded pensioners or greedy executives or negligent boardmembers. What’s hard is to sift through who is responsible and who met and who failed their obligations, their fiduciary responsibilities, and where, at the end of the bloody day, does justice lay its head.

That’s what Delaware’s judiciary does better than any other in the world.

That’s the realization I come to after spending more than two years interviewing nearly 50 Delaware lawyers and judges, those litigation superstars who love Chancery and those dealmakers who structure deals for Delaware corporations. Among the reasons it’s so good is that Delaware’s small bar yields members of an equally small bench that is constitutionally required to be politically balanced – “a majority of not more than one judge may be from the same political party” – and which is extended lengthy terms, generally 12 years, to yield a measured and proud approach to jurisprudence.

“We’re insulated from the French revolution going on now,” says Steele, who like Strine is a Democrat. “We don’t have the Guillotine on the Green,” which is the name of the historic Dover square where the Supreme Court sits.

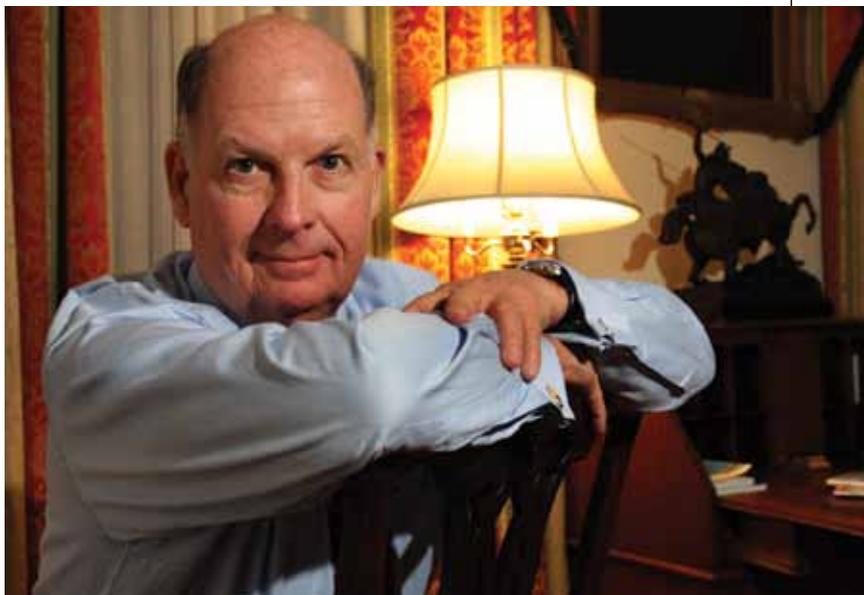
To gain membership on the Chancery bench, you are required to spend years immersed in the unique Delaware legal community, whose birthright is that the business of the state is business. But it also requires an understanding that, though directors are ultimately the ship’s captain under the business judgment rule, shareholders and management are equally corporate stakeholders. To Steele and his brethren,

corporations are real, breathing beings.

“The first principle of the Delaware courts and General Assembly that approves our statutes is that our corporate citizens are citizens just like other citizens. And they will all be treated fairly and evenhandedly,” says Steele.

While other states have tried to create equally friendly havens for corporations, by passing favorable legislation or establishing business courts, none have made a dent thanks to the power of the Delaware judiciary

“Chancery is the reason corporations are here,” says Potter Anderson’s chairman Donald J. Wolfe, one of the most distinguished Chancery advocates. He’s a veteran of such battles as *Hexion v. Huntsman*, the Hewlett-Packard shareholder litigation and the Walt Disney proxy contest as well as the



Chief Justice Myron Steele is the longtime leader of the Delaware bench, which he joined in 1988. The author of more than 400 opinions, many from his stint on the Chancery bench, he is a commanding presence.

co-author of the leading treatise on Chancery practice. He is currently representing Citigroup in connection with an internal board investigation related to the collapse of the subprime markets.

“We have to be the balance of the interest of people in Corporate America. We can’t go hog wild one way or another to favor shareholders or management,” says Donald Bussard of Richards Layton.

Delaware’s bench has a total of 115 jurists, all of whom are also subject to geographic parity. Great care and quiet conversation is given to selecting and encouraging great attorneys to apply for and stay on the bench. There are also nine federal jurists presiding over a burgeoning bankruptcy and intellectual property caseload.

“It is a great luxury that judges will understand your argu-

ment,” says Thomas J. Allingham II, of Skadden’s Wilmington office who has tried cases across the country.

The first steps of each Delaware judge are commemorated on plaques posted aside the doors of the Delaware Supreme Court. Steele is there (1970), as is Strine (1988).

The tradition began with Thomas Spry in 1687, and consistently confounds attorneys from other states who took the bar at convention centers alongside 10,000 other applicants. It is quaint and entirely Delawarean that when he or she passes the Delaware bar, an attorney’s name is engraved on

4,000 lawyers, Delaware weighs in with 18 lawyers for every 10,000 people.

Wilmington is Corporate America’s Main Street and home to most Delaware lawyers. Downtown is surprisingly bare soled while the surrounding area is lovely. The train station is famous because of Joe Biden, and most corporate litigators worth their salt have stayed at the Hotel DuPont, from which you can walk to any of the major firms in three minutes. (Legend has it that during the Hewlett-Packard fight, one firm punched through a wall of the hotel to an adjoining office building to ensure security and access to their war room.)

There are four big hometown firms – Richards Layton & Finger; Potter Anderson & Corroon; Morris Nichols Arsht & Tunnell; and Young Conaway Stargatt & Taylor. They are complemented



a small brass placard attached to a wooden panel mounted to the wall alongside the door to the Delaware Supreme Court.

The notion of being admitted to the Delaware bar is treated as an honor long before it is conferred. Each aspiring member of the Delaware bar must be sponsored by a preceptor, a local member of the bar, who is held accountable for the hopeful’s behavior for the next 40 years. The aspiring lawyer also must clerk for a Delaware firm for five months, completing a checklist that includes going to family court, drafting a will and attending a real estate closing.

“Once you get a reputation, it sticks with you in Delaware,” says Vincent Bifferato Jr., who spent almost his entire career on the Delaware bench before becoming a mediator with his sons at Bifferato Gentilotti. His son Connor agrees, “You only get one chance in Delaware. You can’t hide here. If you’re not going to be straight and above board it sticks with you forever.” That sentiment is echoed by Allingham, whose litigation practice extends beyond Delaware but who loves his home courts. “Everyone starts with the same presumption of credibility. But spend your credibility capital unwisely in front of a Delaware judge, and everyone will know – and no one forgets.” The bar exam is given just once a year and the pass rate is low, about 60 percent. Each year, successful applicants (160 last year) drive to Dover to be sworn in.

Delaware has the third highest per capita representation of lawyers, following just Washington, D.C. (27.6 lawyers for every 10,000 residents) and New York (20.4). With roughly

by a great local office of Skadden, a few standout boutiques, including Abrams & Laster; Bouchard Margules & Friedlander; and on the plaintiff side, Grant & Eisenhofer. Rounding out the bunch are Connolly Bove; the Bayard Firm; the hometown Bifferato Gentilotti alongside a host of locally respected local firms. Increasingly, out of town firms are opening offices in Wilmington, which some longtime practitioners say is changing the bar.

Delaware lawyers excel in the art of corporate origami – the singular skill that defines him long before he ascends to the bench. (And we use the term “him” with full awareness of its meaning.)

“Outside Delaware, lawyers focus on substance over form. In Delaware, it’s exactly the opposite. It’s form over substance,” says Mark Morton, a corporate specialist at Potter Anderson. Key to Rupert Murdoch’s takeover of Dow Jones, for example, was the ability under Delaware law to pay a premium to controlling shareholders, a practice not allowed in other states; that was among the levers Murdoch’s News Corp. was able to use to pull off the deal.

By and very large – though there are a handful of exceptions including Wolfe, Allingham, Bill Lafferty and Andre

Bouchard, who compete as national counsel with the top New York lawyers – Delaware lawyers serve as local counsel to the nation’s top firms. Cravath, Wachtell, Sullivan, Simpson and others handle the overall structuring of a deal, and turn to the Delawareans for their unique knowledge of each decision or batted eye of every Chancery judge, which guides them in where to bend a corporate structuring to accomplish a board’s desired goal.

“If you look at the volume of work that flies across people’s plates here with the same kind of discrete questions coming up over and over again, it gives you an unmatched depth of experience,” says Morton. “If you’re a New York M&A lawyer, you may be doing two or three huge deals a year, soup to nuts. We look at precise statutory pieces, ways to structure or adapt transactions to allow you to tap into prior caselaw that can be archaic.”

Like the bar, the bench is acutely aware of its ability to shape and guide practice through its direct interaction, outside of written opinions, with

Cooley, a far cry from civil procedure. At the Harvard M&A course Strine teaches with former Dean Robert Clark, the guest lecturers are pulled from the headlines and include Bruce Wasserstein, Martin Lipton and Richard Parsons.

“I looked up at the students in the class and I realize am envious of them,” said Climan, a standout corporate dealmaker educated at Harvard, who has recently handled multi-billion dollar M&A transactions for Gilead Sciences and Brocade Communication Systems. “They get to hear the candid insights of a brilliant, sitting judge whose decisions are changing the face of corporate law.”

Wilmington’s bar is insular or collegial, depending whom you ask. (Its insularity was on display in a recent rare misstep by Steele, dubbed the 9th most ethical business leader in the world by Ethisphere magazine, when he sent a cheeky email to 38 male friends from his government account.) Let’s just say you can still kick off a spirited debate by asking whether it’s appropriate to appear in Chancery in anything other than a blue suit, white shirt and red tie. But at least you’re no longer required to wear your hat to cross the street and get a sandwich.

“Every partner knows he or she is what they are because they were fortunate enough to come to this firm,” says



members of the local and national bars. Delaware judges teach at law schools, are active in the ABA and frequently author articles, a level of interaction and forecasting their thoughts that is rare. These activities are collectively known as the Delaware guidance function.

The guidance function led Chief Justice Steele to win an addition to the Delaware Constitution allowing the state Supreme Court to provide advice to questions referred by the Securities and Exchange Commission. The procedure has been used just once, in the CA v. AFSCME case, in which the court reaffirmed the bedrock principle of Delaware corporate law that the directors of the corporation, not the shareholders, manage the business and affairs of the corporation, according to Robert Giuffra, of Sullivan & Cromwell, who represented CA in the case. More such referrals are expected.

It has also led to Strine’s stints at law schools, including Penn (his alma mater), Vanderbilt, Harvard and UCLA, where he recently taught “Real World M&A,” with Rick Climan of

Gregory Williams, the chairman of Richards Layton’s corporate department. Most partners at the big four feel the same way about their firm.

We talk in the early evening in his office near Rodney Square. He is the picture of elegance and accomplishment and talks about his friendship with Tom Murphy, the former head of ABC who was chairman of Save the Children. He represented the directors in the Disney proxy fight, and last year successfully defended an attempt to enjoin the acquisition of WCI Steel. He credits Richards Layton’s legendary partners for his success – Frank Balotti correcting his grammar, Charlie Richards telling him why to put binders in your litigation bag upside down, and why to always travel with a small stapler.

You wouldn’t know that he grew up very blue collar in

LAWYERS YOU NEED TO KNOW IN DELAWARE



STUART GRANT

The leading plaintiff class action lawyer in the state, the Grant & Eisenhofer partner is bold, brash and very, very successful.



ANDRE BOUCHARD

One of the most revered litigators, the Bouchard, Margules & Friedlander partner is taking on AIG and working for sports betting.



BILL LAFFERTY

A prize litigator at Morris Nichols, his resume is a who's who of Delaware corporate matters, most recently for eBay against Craigslist.



GILCHRIST SPARKS

This Morris Nichols partner became a legend with his defense of Unocal against a takeover attempt by Mesa.

Wilmington, the son of a DuPont lab technician who did textile design experiments. His childhood bed was a hand-me-down mattress from the lab, which had used it for pressure testing. He never thought of Wilmington being anything special until he was taking corporate law at William & Mary and noted that nine of the first 10 cases were from his hometown. "My instructor explained I was from a very special place," says Williams, who came back and became one of dozens of locals who now make up the power structure of the Delaware bar.

Delaware lawyers believe to a person that theirs is one of the nation's best known secrets: a top quality law practice in a pleasant small-town environment, where they can ride their bike to work and raise a family without the pressures of New York, Washington, D.C., or even nearby Philadelphia. Leave home at 8:52 am and be in the office by 9 am. More junior members of the Wilmington bar have moved there for the excellence of the practice and the opportunity it represents.

Wilmington is a sandlot where the World Series is regularly played. And home plate is at 500 N. King Street, where it intersects with 5th in downtown Wilmington, population 72,826. I walk from the train station to the most powerful corporate court in America against a strong wind with sleet coming down. Though the journey is mostly through corporate towers sprinkled with anonymous blight, I'm still expecting something like the steps of the U.S. Supreme Court to rise before me.

Instead, I find a sleek, modern courthouse that accommodates confused jurors, unhappy family law litigants and the entire range of humanity that passes through the legal system. Taking the elevator to the 12th floor, I find the home of Corporate America's Sultans of Swing.

The emperors of equity are based here, behind a hushed receptionist. Down the hall, there is often \$1 million a day in legal talent convened to argue about AIG, Citibank or any of the other debacles currently being sorted through. The range, breadth and depth of recent opinions issued by Lamb, Noble, Parsons, Chandler and Strine is breathtaking, and while Strine gets much of the attention in this article and elsewhere,

he is well aware that he is surrounded by chancellors of outstanding capabilities.

Chancery is a unique court as a court of equity, the only one in the United States. There are no juries, and its jurists make decisions sure and swift based on the equities – what’s right, what’s just while paying heed to the law of other states.

The current lineup has been together since 2003, when Parsons joined. This July 28, the Beatles will split. That’s when Vice Chancellor Stephen Lamb, a former Skadden partner and a brilliant jurist, will retire. By some accounts, Chancellor Chandler is also expected to step down in the near future. Some reports have Strine ascending to the Chancellorship if that happens and J. Travis Laster of Abrams & Laster taking Lamb’s slot as both are Republicans from New Castle County, where Wilmington resides.

Steele is confident that the next version of Chancery can be as strong as the last – despite statewide budget pressures that currently require all state employees to take an 8 percent pay cut. While judges are constitutionally buffered from such cuts, it is vintage Steele that he will very publicly take an 8 percent pay cut, as well, if other state employees must. “The probability is all sitting judges will voluntarily forgo 8 percent of their pay,” he says. “It would be impossible for me to walk into an office of people who took an 8 percent cut when we didn’t.” The cuts come in a year when he had hoped to win pay increases for his bench to retain its all-star appeal.

“The way the Delaware bar has always come to the plate when we needed good judges suggests to me that tradition is so embodied in our culture that it won’t change,” he says, though he is clearly mindful of the pressures on his jurists who could make far more in private practice.

Chief among them is Strine, the son of teenaged parents who was born in Baltimore and moved to Hockessin when he was nine. He raises his sons there now, and they, too, are avid travel soccer players. He weathered a bruising confirmation battle to win his appointment in 1998, and has not just proven that he belongs, but set a new standard for excellence.

“Strine could turn out an 85 page opinion with expertise and an eye to detail that is



KEN NACHBAR

The corporate counselor at Morris Nichols is noted for his defense of InterActive Corp., among other matters



DON WOLFE

The Potter Anderson chair represents Infinity World in its suit to end its role in the CityCenter development.



TED MIRVIS

Though based in New York with Wachtell, Mirvis is considered one of the finest minds in corporate governance.



HENRY DUPONT RIDGELEY

Under his leadership on the bench, the state became the first in the nation to implement e-filing, in 1991.

just breathtaking. Every member of the court can and does do that,” says Mirvis of Wachtell Lipton. “And when you come under scrutiny by the Delaware Court, you leave there feeling like you had a full body MRI, but somebody turned up the heat.”

The AIG opinion is 104 pages and Exhibit A not just for Delaware’s supremacy and fairness as the arbiter of corporate disputes, but also for the unquestioned mantle Strine has earned – under Steele’s ever watchful eye – as the leading corporate jurist in the nation. The opinion rips and bleeds and bites and has what will become a legendary footnote – #246 – expressing his dismay at the need to dismiss PricewaterhouseCoopers under New York law to promote the predictability required by the Delaware Supreme Court. He all but drafts the amended complaint against the giant accountancy, which earned \$213 million looking over AIG’s cooked books from 2000 to 2004.

The decision is just one chapter in what is almost certainly this decade’s Enron. Stuart Grant of Grant & Eisenhofer has brought a shareholder derivative action on behalf of the Teachers’ Retirement System of Louisiana as shareholders of AIG, suing the longtime leader of AIG, Maurice Greenberg, his inner circle, other employees, GenRe and PricewaterhouseCoopers, the company’s longtime auditors, for what is already \$1.6 billion in fines assessed against the insurance conglomerate. As a derivative suit, Grant is trying to claw back to the shareholders value and other fines lost by the corporation because of the bad acts of its directors and affiliates.

AIG is alleged to have committed a decades long crime spree that would make Bernie Madoff blush, including a fraudulent \$500 million reinsurance transaction in which AIG insiders staged an artificial transaction with Gen Re Corporation simply to improve AIG’s balance sheet, insiders’ use of secret offshore subsidiaries to mask AIG losses, blatant misstatements of accounts with no basis for adjustments, and AIG hiding its involvement in controversial insurance policies that involved betting on when elderly people would die.

There may be uncertainty about when elderly people will die, but there is no lack of clarity in Strine’s horror at AIG’s practices.

In November, Strine hears arguments on the motion to dismiss various defendants and PricewaterhouseCoopers. He dubs the company the “Baskin Robbins of Innovation,” by which he means a waffle cone of cow intestines and garbage rather than cookies and cream. He reams the defense lawyers on the social utility of AIG’s products, pressing them particularly on the policy implications of letting PricewaterhouseCoopers off the hook when it earned so, so very much auditing AIG.

“Why in the circumstance when the gatekeeper’s role is most important, and there are litigable issues about the gatekeeper’s compliance with its obligations to its client, would public policy exculpate the gatekeeper?” Strine asks Thomas Rafferty of Cravath in an hour-long duel over PricewaterhouseCoopers’ request that it be dismissed from the suit.

You can feel the gnashing of his teeth when he releases his

decision in February, dismissing most of the employees for lack of personal jurisdiction, denying dismissal to the insiders, and shockingly granting Price Waterhouse’s motion to dismiss.

Strine is trapped by the drafting of the plaintiffs’ pleading and the requirement of the Supreme Court that he apply the Restatement (Second) of Conflict of Laws “to promote consistency among the states and avoid unnecessary clashes of interest, where that can be sensibly achieved.” Consequently, he must apply New York law, which almost uniquely insulates auditors from third-party liability. Given the pleading offered by the plaintiff, that means Pricewaterhouse must be dismissed.

Strine nearly riots – or at least takes up serial running again – over an insidious 7th Circuit decision that bred New York’s law giving safe harbor to auditors.

The case is *Cenco v. Seidman & Seidman* (1982), which considers “A corporation ... a legal fiction.” Strine is perplexed at the perspective of Cenco’s author, which he deems sufficiently “free wheeling” to quote from it at length: “From the standpoint of deterrence, the question is whether the type of fraud that engulfed Cenco between 1970 and 1975 will be deterred more effectively if Cenco can shift the entire cost of the fraud from itself (which is to say, from its stockholders’ pockets) to the independent auditor who failed to prevent the fraud. We think not.”

Cenco was a massive fraud perpetrated by some managerial employees of Cenco Incorporated, that started in one division, but eventually metastasized to the chairman and other top managers, as well as two board members. Seidman was Cenco’s auditor, earning 70 percent of its revenue from auditing Cenco.

And, in his 1982 decision, Judge Richard Posner thought a board would have better incentive to prevent fraud if it could not turn to its auditors for blame.

Strine dismisses the claims against Pricewaterhouse as pled, without prejudice.

I meet Strine at Libby’s, the local lawyer’s restaurant, just before Christmas for chicken orzo. It’s \$12 for two.

No sales tax. He has not yet released his AIG opinion, but the economic meltdown astounds him, particularly the lack of responsibility and the buck-passing. He is in a hurry. He has told this morning’s litigants his wife will whup his butt if he doesn’t get some Christmas presents picked up. He walks up the street, head down against the cold and I wonder, as I make my way to the train station, where he can find presents in downtown Wilmington.

I know where he can find 200,000 U.S. corporations. They’re based in a building over on Orange Street. Ford is there. So are American Airlines, General Motors, Coca-Cola and Kentucky Fried Chicken. And I realize that is the burden of being Steele or Strine, particularly in this age, when the gilded excess has crashed.

The future of Corporate America will largely be written in their courtrooms in the years to come. And while all Delawareans depend on them, so does a different ethic for America’s business.

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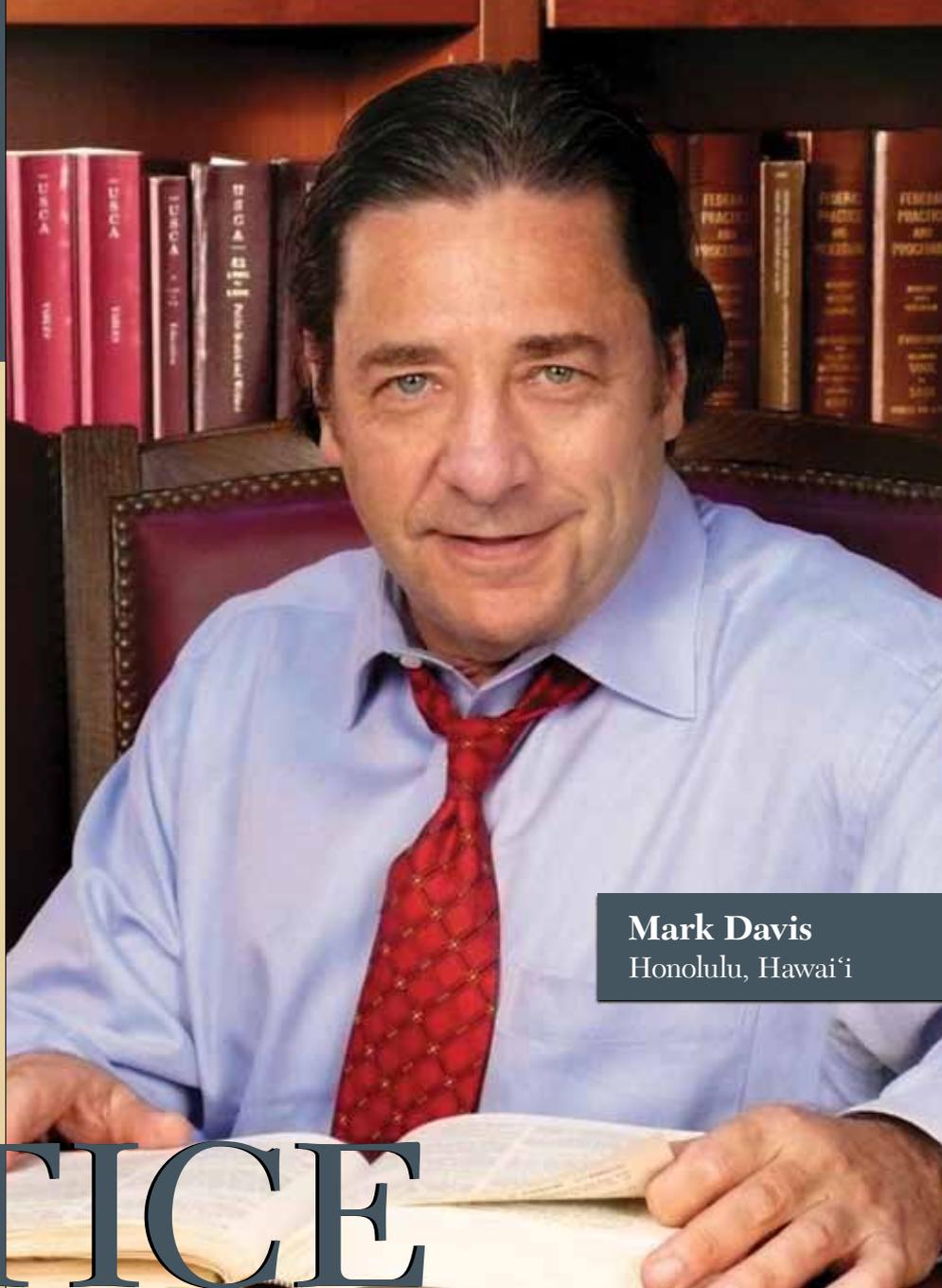
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ONE YEAR AGO, THE LANIER LAW FIRM maintained offices in New York and Los Angeles in addition to the firm's Houston headquarters. Firm founder Mark Lanier, universally acclaimed for his courtroom track record, was busy working to continue the firm's growth as a national powerhouse.

Today, the firm has a new office in Palo Alto, CA, and Lanier is one step closer to making The Lanier Law Firm one of the most recognized law firms in the nation.

To help achieve his goal, Lanier added top-flight attorneys in every firm office while expanding the firm's reach into new areas of practice. The new hires joined the firm under Lanier's longtime credo – that every case deserves a great trial lawyer.

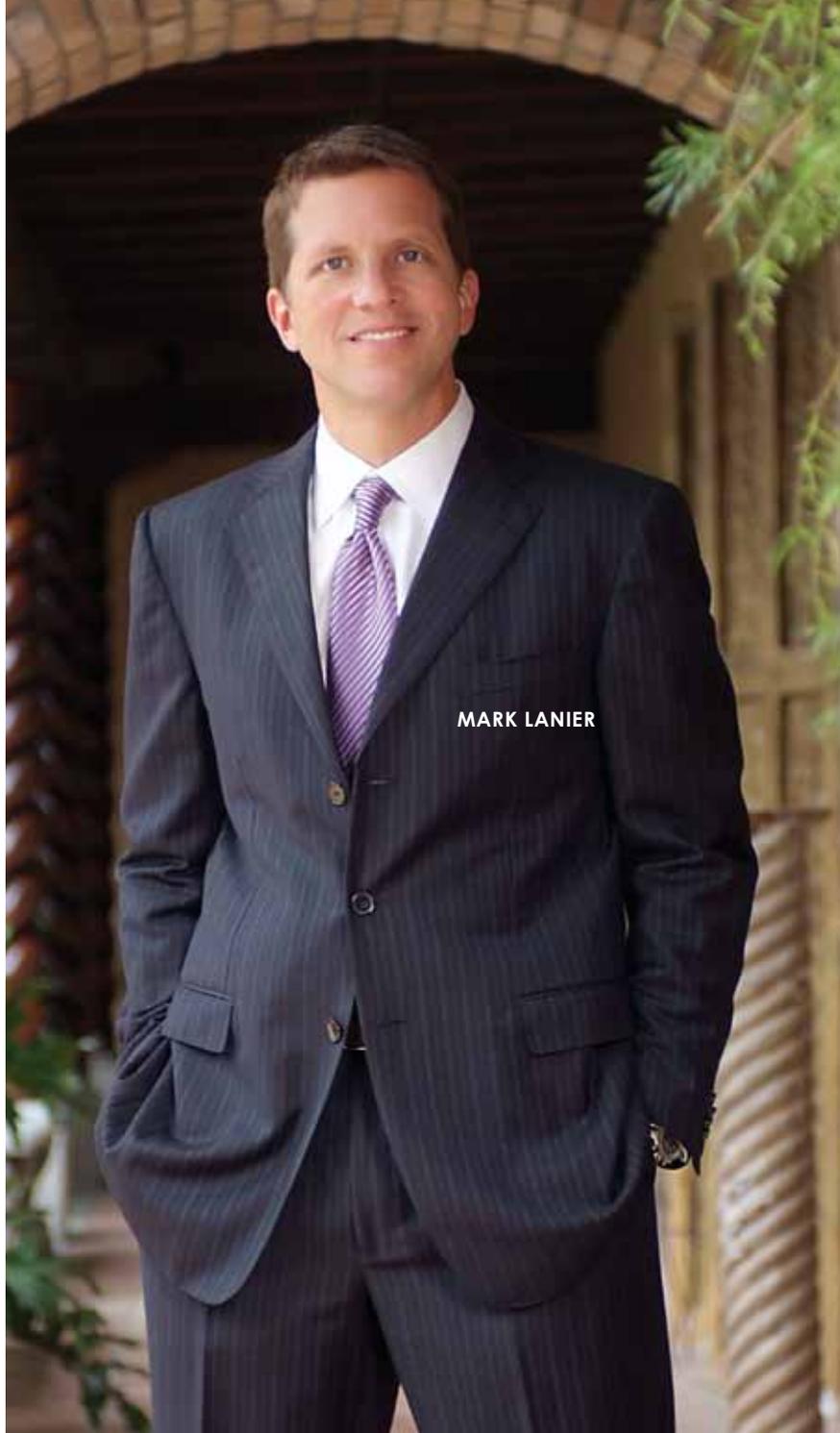
"To continue our rapid national growth, we sought out lawyers with great educational and legal backgrounds, but we made sure they could handle themselves in the courtroom," Lanier says. "We built this firm on the notion that great lawyering can come out on top against even the best-prepared opponent, and I believe the success we've seen as a firm in the past year shows that we're doing things the right way."

In addition to bringing in new legal talent – The Lanier Law Firm now boasts more than 30 attorneys – Lanier and his team also began representing clients in new areas of law, including extensive work in intellectual property cases handled out of the new firm offices in California.

“ Every business client we represent has hired our firm for the same reason: because they want proven trial lawyers when they go into the courtroom. ”

The firm also represents more and more business clients, who call on Lanier when the courtroom stakes are at their highest. The firm's work in high-profile business litigation includes representation of medical device manufacturers, software companies, technology providers and oil and gas concerns, among others.

"Every business client we represent has hired our firm for the same reason: because they want proven trial lawyers when they go into the courtroom," says Lanier. "As we continue to grow our firm nationally, we are committed to providing proven trial counsel in every case we handle."



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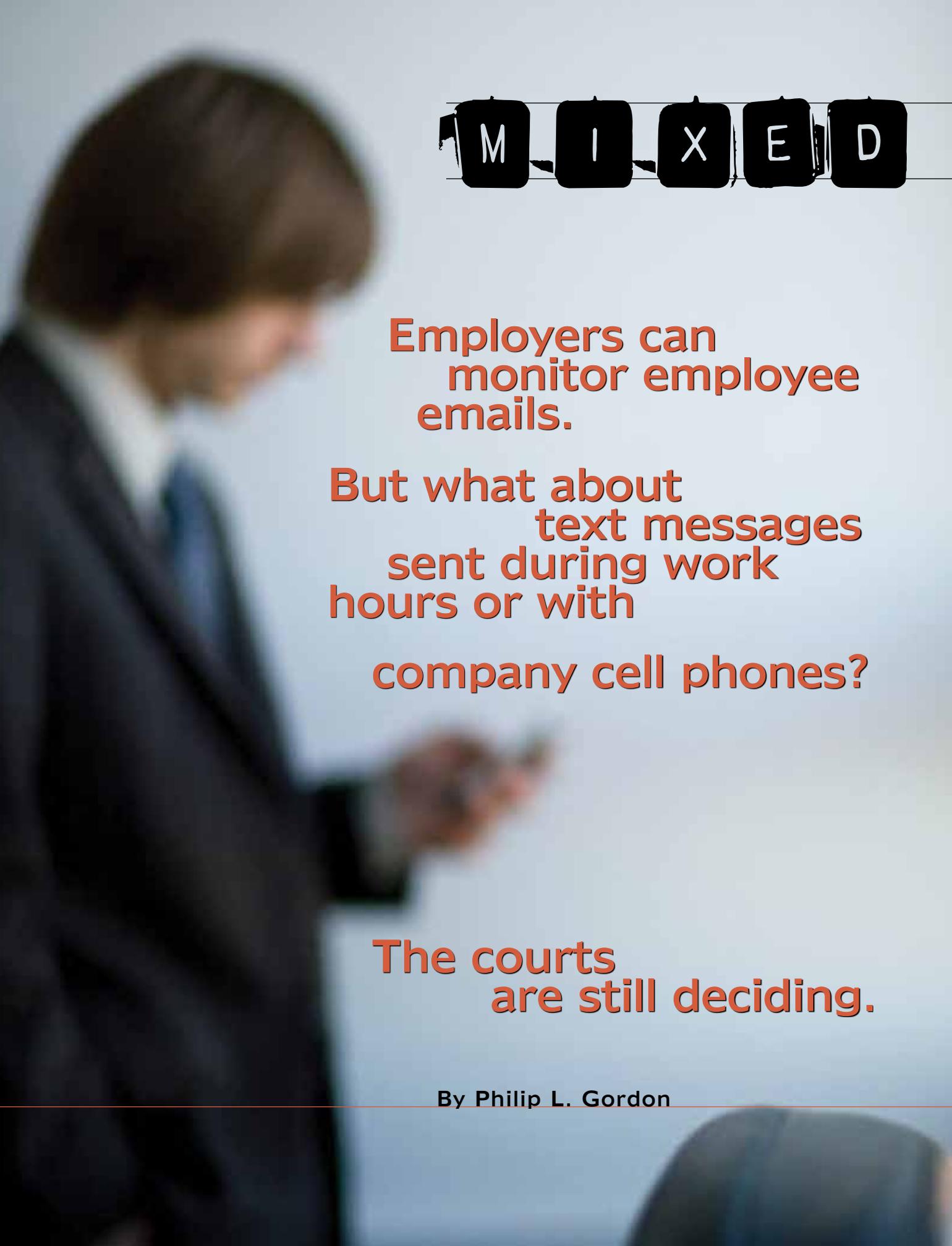
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**Employers can
monitor employee
emails.**

**But what about
text messages
sent during work
hours or with
company cell phones?**

**The courts
are still deciding.**

By Philip L. Gordon

M E S S A G E S

THE SEPTEMBER 2008 GUILTY PLEA AND

resignation of former Detroit Mayor Kwame Kilpatrick after he lost his battle to avoid public disclosure of damning text messages is a resounding wake-up call for every employer: The time to address the impact of text messaging on the workplace has arrived. Soon text messaging will join, and potentially surpass, e-mail as an indispensable business tool. Text messaging, however, is fundamentally different from most e-mail transmitted for business purposes. Except perhaps when an employee works for a text message provider, employee text messages never pass through a corporate communications network. Instead, they are stored with a third-party service provider whose disclosure of those messages is strictly limited by federal law.

Also, the messages often are transmitted using personal cell phones. Existing corporate electronic-resources policies are premised on the paradigm of e-mail typed on company-owned computers and transmitted through, and stored on, company-owned servers. They do not adequately serve employers' interests when applied to text messaging.

Describing the growth of text messaging as explosive is an understatement. According to a recently published study by CTIA – The Wireless Association, 75 billion text messages were transmitted in June 2008, a 160% increase over the number transmitted in June 2007, and the total number of wireless users grew by 20 million during the same one-year period to 262 million. Applying these numbers, the average SMS (short message service) user sends 286 text messages per month. Anecdotal research (i.e., questioning the author's teenage children) suggests that adolescents, who will soon be the next generation of recruits, send anywhere between 1,000 and 6,000 SMS texts monthly. It is no wonder that the research firm Gartner Inc. predicts the number of transmitted text messages will increase to 2.3 trillion annually by 2010. Logic strongly supports the inference that as today's teens enter the workforce over the next five to ten years, text messaging will be as commonplace a business tool as e-mail is today.

Text messaging is very much like e-mail in one critical respect: Workers transmit text messages that get themselves and their employers into trouble. In the case of former Mayor Kilpatrick, he denied under oath having an affair with his chief of staff and having fired a police officer who sued the

City of Detroit for retaliation. After the police officer's attorney obtained thousands of text messages exchanged between Kilpatrick and his chief of staff, the mayor engineered a deal intended to keep the existence and content of the text messages a secret from Detroit's City Council and the general public. When incriminating text messages made their way into the media in January 2008, Kilpatrick was charged with perjury, among other crimes, and the Detroit City Council commenced formal proceedings to remove him from office. On the second day of those proceedings, Kilpatrick pleaded guilty to two felony counts and resigned from office. Attorney fees and settlement payments in litigation related to the text messages cost the city millions of dollars.

Kilpatrick's fall from power is just one of several recent cases in which text messages have been key to allegations of employee misconduct. In a wrongful termination action pending in Charlotte, N.C., the employer asserts that the plaintiff's termination was proper because she sent text messages to a former subordinate that were threatening and filled with profanity. A terminated employee in Fresno, Calif., alleges retaliatory discharge after complaining about a text message from a male coworker that stated "I wanna fuck." A plaintiff in San Bernardino County, Calif., claims that her supervisor sent her a text message stating "Will you practice First Aid on me?" For those who remember the infamous 1990s e-mail, entitled "Twenty Reasons Why Beer Is Better Than Women," this is *déjà vu* all over again.

These cases illustrate the critical need for employers to gain access to text messages. Because text messages are not stored on a corporate server, however, employers have no choice but to turn to the cell phone's user, i.e., the employee, or to the service provider to obtain stored text messages. In many circumstances, asking an employee to turn over a cell phone for a review of stored text messages would be impractical. An employee who is permitted to use a personal cell phone for business purposes will be loathe to reveal personal text messages and other personal information, such as a contacts list, to an employer. Additionally, in many investigations of workplace misconduct, employers do not want the targeted employee to know about the investigation until after it has been concluded.

Even when an employee is willing to give an employer access to the employee's cell phone, the employer may not



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be able to recover pertinent text messages. While corporate e-mail servers, computer hard drives and back-up tapes store gigabytes — if not terabytes — of e-mail, a cell phone’s memory chip (known as the SIM card) generally stores a relatively minuscule number of text messages. Moreover, dated text messages are continually being deleted as new text messages are sent and received. For a user who sends or receives hundreds or even thousands of text messages daily, an employer most likely will not be able to retrieve text messages sent months, weeks or even days in the past.

Because of the practical limits on accessing text messages from the cell phone itself, employers often will need to resort to the third-party service provider to access those messages. However, the federal Stored Communications Act, or SCA, which regulates access to text messages stored with providers, generally prohibits disclosure by the providers. The only exception that an employer may be able to invoke permits disclosure “with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of a remote computing service.”

The non-italicized language means, in the employment context, that the employer must have the consent of the employee, who will be the “originator,” “addressee” or “intended recipient” of the text message, before the provider can lawfully disclose stored text messages. Satisfying a service provider that the employee has provided lawful consent most likely will require the employee’s affirmative written authorization for disclosure of stored text messages. Given that the SCA is a criminal statute, which also provides significant civil remedies, it is highly unlikely that a service provider would be willing to disclose text messages based on an employee’s acknowledgement of a corporate electronic-resources policy, particularly one in which the employer “reserves the right” to monitor employee communications only over the corporate network. Consequently, this exception would be rendered useless if the employee refuses to consent, is dead, can no longer be located or is implicated in an investigation that the employer does not wish to disclose to the employee.

Of course, an employer could invoke the italicized portion of the exception — “with the lawful consent of . . . *the subscriber in the case of a remote computing service*” — and ask the provider to disclose an employee’s text messages without first obtaining the employee’s consent. The provider, however, could lawfully comply with that request only if the employer is the “subscriber,” the text messages are not stored with the employee’s cell phone service and the provider is a “remote computing service.” Significantly, if the service provider is not a “remote computing service,” then it cannot lawfully disclose the employee’s text messages, even though the employer is the subscriber. But what exactly is a “remote computing service”? Thus far, the definition has varied by legal jurisdiction.

A case recently decided by the 9th U.S. Circuit Court of Appeals — *Quon v. Arch Wireless Operating Company* — demonstrates the critical importance for employers to properly determine whether the corporate cell phone provider is a “remote computing service,” a term that may have had a commonly understood meaning when the SCA was enacted in 1986 but has since dropped completely from everyday parlance. In *Quon*, the City of Ontario, Calif., Police Department issued two-way pagers to its SWAT team members and paid for the text messaging service through Arch Wireless Operating Co. Arch billed the city a fixed monthly charge for the first 25,000 characters per officer and an overage charge for each character exceeding the limit. Sgt. Jeff Quon exceeded the 25,000-character limit on several occasions, partly because he was using the city’s two-way pager for salacious chats with a woman who was his mistress and, separately, with his erstwhile wife. Quon paid the overage charge, and the officer responsible for overseeing the program, Lt. Duke, in accordance with his practice, refrained from auditing the content of Quon’s text messages.

The police chief subsequently ordered Duke to audit some of the text messages to determine whether the officers were using the pagers for personal purposes. Duke obtained from Arch the transcripts of Quon’s text messages, but without Quon’s consent. Word of the transcripts’ sexually charged content filtered through the police department and ultimately made its way back to Quon who, joined by his ex-wife/then-mistress, sued Arch for violating the SCA and the city for violating his privacy rights.

The federal district court dismissed the claims against Arch, holding that the provider had lawfully disclosed Quon’s text messages to the department because the city was the subscriber and Arch was a “remote computing service.” The district court reasoned that a remote computing service provides long-term storage of communications that is neither incidental to transmission nor for back-up protection. When Arch printed the transcripts of Quon’s text messages from its archives, the messages already had been read, so the storage was not incidental to transmission. In addition, the archival storage was not for back-up purposes because the text messages had been transferred to the archive after Quon read them and were not retained anywhere else.

The appeals court rejected the district court’s reasoning. The 9th Circuit did not examine the specific function Arch performed when it printed the transcripts from its archives. Instead, the court held that, on the whole, Arch was not a “remote computing service” because Arch served as a “conduit for the transmission” of communications, whereas a “remote computing service” is akin to an “electronic filing cabinet.” In light of this conclusion, the appeals court reversed the dismissal of Quon’s claims against Arch for violating the SCA. The court ruled that Arch violated the SCA by disclosing Quon’s text messages to the department without Quon’s consent.

In the normal jurisprudential course, a reversed lower court

ruling, like that in the *Quon* case, has little or no significance after the reversal. That is not the case with former Mayor Kilpatrick. The federal district court hearing the dispute over the disclosure of Kilpatrick's text messages took the unusual step of rejecting the 9th Circuit's reasoning in the *Quon* case and adopting the reasoning of the lower court that the 9th Circuit had refused to follow.

In the Detroit case, *Flagg v. City of Detroit*, the city had retained SkyTel as a text message provider, but by the time of the dispute over disclosure of the former mayor's text messages, SkyTel no longer was providing text messaging services to the city. The court did not look at the general nature of SkyTel's service as the 9th Circuit's decision teaches, but rather at the nature of the storage of the text messages as the *Quon* district court had done. Following this line of reasoning, the Detroit court concluded that because SkyTel no longer was providing service to Detroit, the text messages in SkyTel's archives were solely for purposes of long-term storage, and not maintained incidental to transmission or for back-up purposes. As a result, SkyTel was a remote computing service and could disclose the text messages to its subscriber, the city, without Kilpatrick's consent.

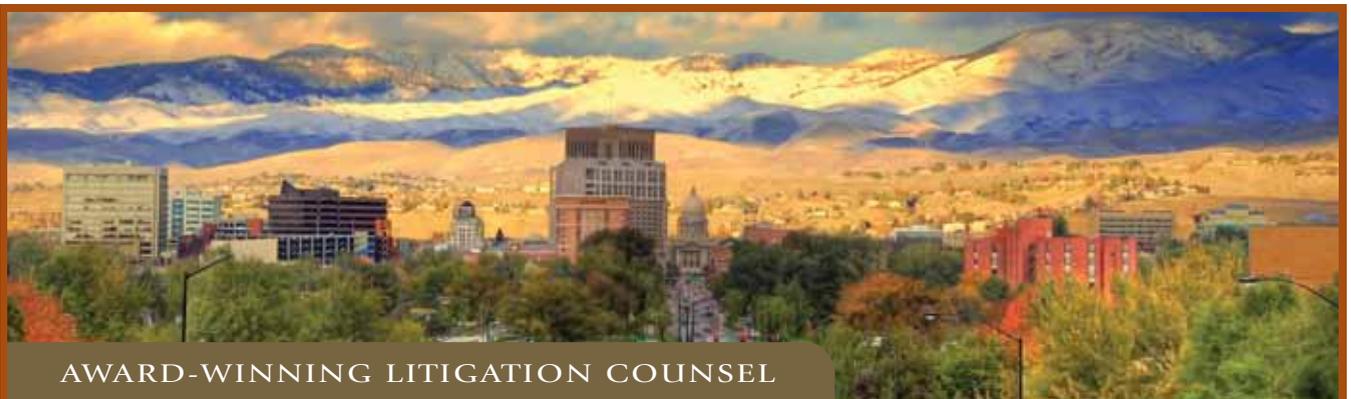
Most corporate electronic-resources policies, drafted before the text messaging explosion, provide employers with virtually no assistance when an employer needs to access an employee's text messages. These policies rarely mention text messaging and, to the extent that they do, simply clump text

messages with other methods of electronic communications without taking into account the integral role of third-party service providers, the possibility that an employee is using a personal cell phone or the existence of an employee's own cell phone provider. In light of these common shortcomings in many existing policies and the developments described above, employers should consider revamping their pertinent policies in several important respects.

If corporate culture and financial and administrative resources permit, employers should prohibit employees from sending business-related text messages other than through company-issued cell phones and the company's cell phone provider. If employees already are using personal cell phones for business purposes, the employer should require the transmission of all business-related text messages, whenever practicable, through the company's cell phone provider.

The employer should discuss with the service provider at the time of contracting whether the provider takes the position that it is a remote computing service, at least when the employer requests the disclosure of stored text messages. Given the uncertainty in the law, the provider may not be willing to commit to a position. Still, the employer is better off knowing the provider's position at the inception of the relationship rather than receiving an unexpected denial of a request for disclosure of text messages that are critical to a corporate investigation.

Employers also should consider developing a policy for



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requesting an employee's consent to access text messages stored on the employee's cell phone and with the service provider. Such a policy could require that the employee sign a consent form as a condition to receiving a company-issued cell phone or in return for the company's paying for the employee's cell phone service. Alternatively, the policy could inform employees that if a future need to access the employee's stored text messages were to arise, the employer would request written authorization to access those messages whether stored with the company's provider or on the employee's cell phone.

The employer should consider whether to impose any limits on its requests for consent. Asking an employee to authorize access to text messages stored on the employee's personal cell phone or with his provider raises more significant privacy concerns than a request to access text messages stored on a company-issued cell phone or with the corporate provider. An employer expecting significant resistance to such a policy could make it more palatable by requesting consent to access stored text messages only if there is reasonable suspicion that an employee has violated company policy or any federal, state or local law.

For many employers, the most difficult drafting issue likely will be whether and how the policy will address the consequences of an employee's refusal to permit access to text messages. Employers can lawfully follow a forthright approach and expressly state that an employee's refusal to consent could result in discipline up to and including termination. A middle course would be a policy providing that refusal to consent will result in termination of the employee's privilege to use a company-issued cell phone or the company's refusal to pay or reimburse the cost of cell phone service. As a third alternative, the employer could address the issues on a case-by-case basis without committing to a specific position in its policy.

CONCLUSION

The substantial monetary and reputational costs to the City of Detroit, resulting from the resignation of its chief employee, and the explosive growth in text messaging highlight the need for employers to address text messaging as a business communications tool. Most significantly, employers need to be in a position where they can lawfully access text messages when the need arises. While the current legal environment creates significant uncertainty, employers can substantially mitigate their risks by updating their existing electronic-resources policies to explain to employees how and why the employer will access their text messages.

Philip L. Gordon is chair of Littler Mendelson's privacy and data protection practice group. He litigates privacy-based claims and counsels clients on workplace privacy and security issues.

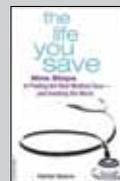
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Time to Save

No in-house counsel needs to be told that litigation is costly and that large litigation is enormously costly. One of the many ways to reduce litigation costs is to settle cases early when that can be done at a reasonable expense. Early settlements avoid not only litigation costs but also risk to the client's reputation, management distractions and the possibility of an adverse outcome. Ultimately, the question is: What is the cost of these benefits of early settlement? Not every case should be settled early. Companies have good reasons to avoid early settlements. And certainly opponents can be unreasonable in their demands. However, with major cases it generally makes sense to at least evaluate the benefits of early settlement.

EARLY CASE ASSESSMENT

To evaluate whether an early settlement overture is prudent, counsel must assess the case as thoroughly as possible. What are the underlying facts, applicable law and considerations bearing on the settlement value of the litigation? There should be a focus on both liability and damage issues. Often this analysis must be done with incomplete information because discovery will not be complete and may not have even started if an "early" settlement is contemplated. Nonetheless, the more comprehensive the initial case assessment, the

In this economy, seeking an early settlement is a sign of good judgment – not weakness.

By **GREGORY A. MARKEL**

easier it is to develop an effective strategy. If and when a decision is made to explore a resolution, it is necessary to decide how to approach the opposition. For reasons described below, it is often useful to enlist the services of a mediator.

EARLY SETTLEMENT

There are several arguments often made against early settlement talks and mediation, including:

- ▶ Raising the issue of settlement early is a sign of weakness;
- ▶ The case may get better with discovery;
- ▶ The mediation process will reveal information to the opponents; and
- ▶ Some hard-nosed litigation will soften up the other side.

Each of these points has some validity. However, the weight of each depends on

the particular circumstances of each case. Large litigation tends to be *sui genesis*. No rule fits every case, and the reasons to avoid an early settlement will not always apply.

There are cases where a suggestion of early mediation is not a sign of significant weakness. For example, if what is involved is a disagreement between contracting parties, the parties are likely to have discussed resolution before litigation commenced. If properly presented, mediation may be put forward as merely a continuation of those efforts even if a lawsuit has been filed.

As to the other arguments, the relative strength of a party's case generally gets either better or worse during discovery. Knowledgeable inside and outside counsel may have some insight early in a case into whether improvement or deterioration of the prospects of success is likely. At the same time, counsel often does not know what the other side has in the way of evidence or what might lurk in voluminous, and so far unreviewed, emails.

Therefore, a lawyer or client cannot be certain if the case will get better or worse. Although disclosing your main themes in the mediation may have some downside, it is not often a great downside and needs to be weighed against the value of an early resolution. As a result, we come back to the conclusion that an overall evaluation must be done based on

all the facts and circumstances of each case to determine whether an attempt at early settlement is warranted.

WHAT MEDIATION ADDS

Mediators can educate the parties on the merits of a case. Often, early settlement talks go nowhere for a variety of reasons, including:

- ▶ The parties don't know their own case very well;
- ▶ The parties don't understand their opponents' case very well; and
- ▶ The parties assess both their case and their opponents' case with the prejudice and emotion of the advocates or participants, not the eyes of neutral sophisticated observers.

As a result of any combination of these reasons, the parties almost always have mismatched evaluations of a lawsuit.

Mediation can educate the parties on the strengths and weaknesses of both sides' positions. The natural tendency of each party to a dispute will be to try to convince the other side and the mediator (if there is one) that the party knows everything it needs to know about a dispute, and that the party's "position" is the right one. The reality is often different. A mediator can assist the parties and their understanding of the value of the case by encouraging the exchange – under mediation privilege – of briefings that lay out the key factors in the case.

Putting down in writing the strengths and weaknesses of a client's case is often a useful educational exercise in itself. In conjunction with a review of the opponent's briefing, preparation for mediation can lead to new awareness and help narrow the differences in the evaluations of a given case.

A good mediator will encourage parties to share information in an effort to help each side understand the case better. It is true that there is often concern that some tactical advantage or surprise might be lost – but the reality in modern litigation is that providing carefully selected information early can be worth more than saving it for dramatic use at trial. The calculation is simple: Few key pieces of information escape notice until trial (and most cases are never tried anyway) but may have a

meaningful impact on the other side's own evaluation of the value of his or her case in the settlement process.

The mediation process can help force participants to look more closely at their own and opposing positions, and receive some input from a respected neutral observer. The skilled mediator is careful in dispensing his or her views of the merits because the neutrality and credibility of the mediator are essential to the success of the mediation process. If the process helps bring the respective parties' evaluation of their positions more closely in line with each other, it can materially improve the chances of settlement. The mediation process may also be the only chance the client gets to hear the unvarnished merits and demerits of its case. Obviously, this can be extremely valuable, particularly early in a case when strategic decisions are being made.

Another value added by mediation is its effect on the settlement process. The likelihood of an early resolution often can be evaluated in just one mediation day. By contrast, a settlement discussion without a mediator can often devolve into a long and desultory settlement dance with little learned about the merits of the case or the opponent's position. If evaluating settlement prospects quickly without appearing anxious is an important goal for the client, mediation is a great help.

Once parties arrive for the mediation, the mediator's job is to foster constructive consideration of the issues. The first event is often an opening presentation. Mediators often encourage counsel to avoid being overly strident and to think carefully about mediation tone, making concessions, focusing on the key issues and maintaining credibility. The opening session of a mediation is often the only time during litigation and before a trial when the parties have the opportunity to talk directly to the decision makers. Mediators help the parties engage in constructive and frank dialogue about what the case is about, and they help the parties focus on the key issues.

One valuable tool a mediator has for trying to bring a matter to resolution is

access to information about what both sides are thinking. During the course of the day, the mediator spends time with each side alone in private caucus. Discussions with parties in private caucus are generally much more constructive than with their adversary sitting across the table. The parties generally feel more comfortable giving information, pushing and being pushed and having limits tested in private caucus. If a mediator can use the insights gained during these private sessions to help move the discussions forward and lead the parties to realistic expectations, the chances of settlement improve.

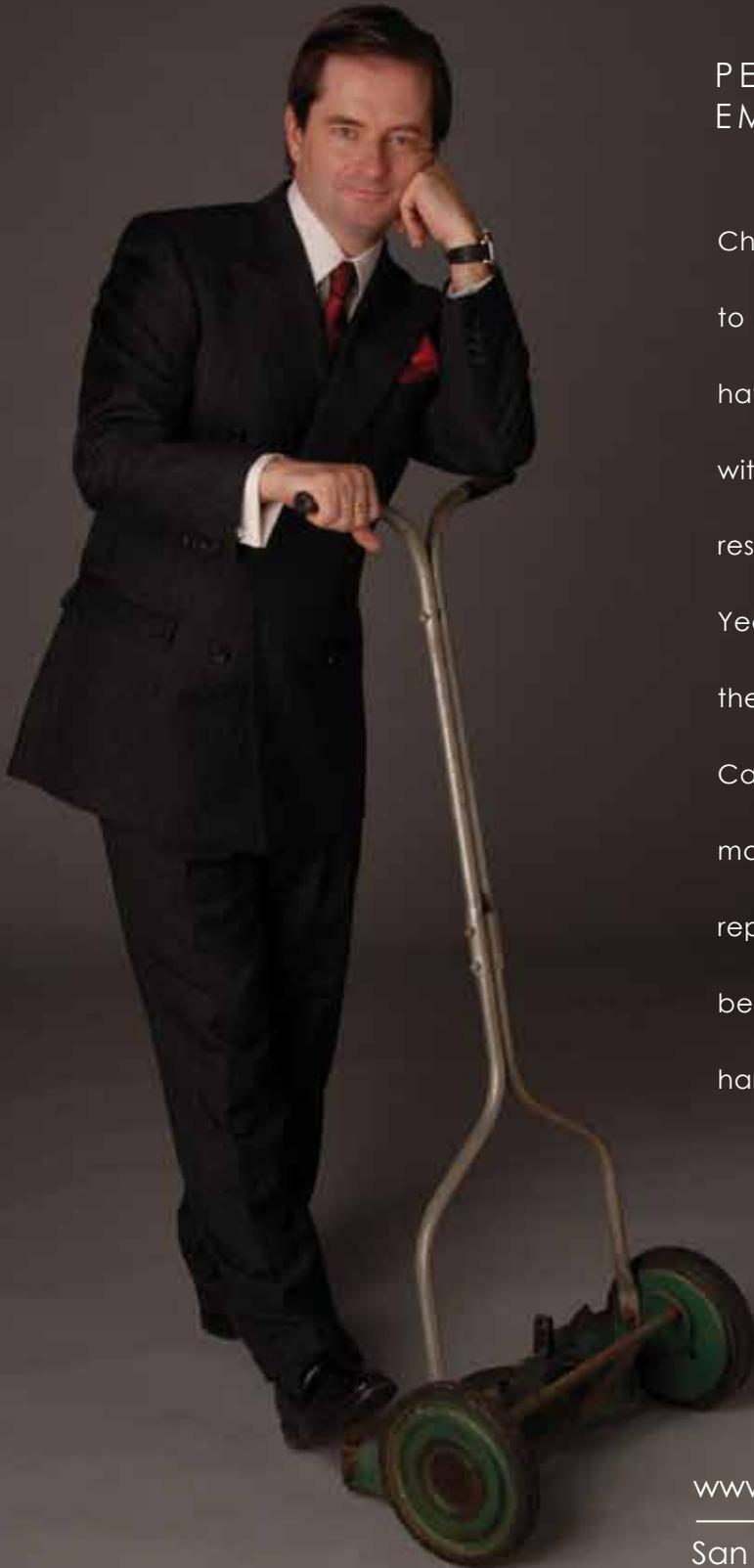
Often the bargaining process in settlement gets bogged down by egos and minor tactical considerations. The relative size of changes in offers and counteroffers can take on an exaggerated importance that obscures and detracts from the real goal of ultimate resolution of the dispute. A skilled mediator usually tries to avoid back and forth bids in small steps and is much more than a messenger. He or she subtly guides the parties to a range of possible resolutions while trying to suppress the effects of ego and gamesmanship. The way mediators achieve this is difficult to describe in detail because it is as much an art as a science and because all cases and personalities involved are different. However, the skill involved and the use of creative ways of developing settlement ranges can be vitally important to arriving at a successful result.

CONCLUSION

Litigation expense can be quite large in absolute terms and relative to the amount in dispute and the cost of settlement. Early settlements can result in saving both sides litigation expense, and that savings can help bridge gaps to settle some cases. Mediators can bring real value to the resolution of disputes by speeding up the settlement process, causing the parties to educate themselves and facilitating negotiations.

Gregory Markel chairs the litigation department at Cadwalader, Wickersham & Taft. He concentrates his practice on securities, antitrust and other complex commercial litigation. Jed Melnick, a skilled mediator of complex disputes, assisted in the preparation of the article.

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By **TIMOTHY D. SCRANTOM**

Third-party funding can benefit law firms and litigants without compromising values the profession holds dear. It's time to reconsider our insulation of the business of law from the capital markets.

THERE IS A MILD DEBATE among scholars of English legal tradition concerning the functional role of a small pouch that even to this day hangs on the back of the black robe English barristers wear in court. Some say it is a vestige of a mourning hood that was appended to the robe sometime in the 16th century, when barristers marched in a funeral procession of a popular English king. Others attribute an even more quaint purpose: It functioned as a money pocket to be used by solicitors to anonymously (and one could even say reverently) deliver to the barrister a discretionary cash honorarium for the barrister's performance that day in court. According to lore, the barrister would return to the robing room to discover, to his

delight or disappointment, what tribute had been placed in his pouch and how his efforts that day had been recognized and rewarded.

Regardless of the true origins of the pouch, it is historical fact that originally barristers – English lawyers who until recently had exclusive rights of audience before English courts – would never stoop to charge “fees” for their noble enterprise. Even to this day, they remain largely cloistered from the world of private enterprise. Of course, the opportunity to make money hand-over-fist in innovative ways was never lost on their English solicitor counterparts, who have evolved into leaders of some of the world’s largest global businesses. But barristers, most of whom were traditionally financially secure in their own right and very often “trust babies,” were taught

fairs evolved, I proposed, in an effort to insulate the business of law from the potential evils and distortions believed to infect other sectors of free market economies. Indeed, the legal profession itself has fostered the protectionism, as in its best interests.

Whatever the basis and logic for the segregation of law and capital markets, the support of the barrister’s livelihood through mere honoraria is anachronistic indeed, as are a variety of other early statutory antecedents – such as champerty, maintenance and prohibitions against any form of financial speculation in court cases or otherwise – believed necessary in early times to preserve the complete independence of officers of the Crown’s courts and to promote the financial rationality and fairness of Crown subjects bringing claims before those courts.

Yet based largely on tradition and beliefs, law markets still seem to suffer in their ability to directly access the power of capital markets, and law firms are unable to speak publicly and openly about their need for access to those markets. Law firm management committee members wring their hands over how to ethically access money to smooth cash flows and monetize receivables within the straightjacket of competing internal partner-profit competition, pressures to annually distribute profits for income tax purposes and professional ethics rules. Law firms that undertake contingent fee work can be likened to hapless investment bankers, seeking joint venture opportunities with no internal capital reserves and in the face of pressures to dump out cash while making fair (and forward-looking) allocations of firm re-

The effective monopoly U.S. lawyers enjoy over investing in litigation outcomes is outmoded and inefficient

to eschew the characterization of their calling as “commerce” and to disdain all associations with the London City Markets just up Fleet Street.

These are the roots of the American legal profession, still celebrated by American Inns of Court and wistfully named law school societies like the Order of the Coif.

In a recent presentation hosted by the Rand Corporation Institute for Civil Justice, I posed the curiosity of the barrister’s pouch and the ironies of names like “Order of the Coif” in the context of the modern American legal system to introduce a fundamental question: “Why have law markets traditionally been seen to be inaccessible by capital markets?” I went so far as to suggest to the audience that, historically, law markets have actually been quarantined from capital markets. This state of af-

It is rarely spoken openly, but common knowledge, that the legal profession is now big business. It is equally common knowledge that law and legal services, including mechanisms to value and transfer legal claims and legal risk, play an indispensable and crucial role in capital markets. If the industry of professional legal services and capital markets are so interwoven, why should capital flow into law markets be constrained at all? After all, major corporate transactions succeed or fail based on speculations about litigation outcomes and the perceived inability to transfer litigation risk after an uninsured or uninsurable event; lawyers play central roles in the tectonics of finance and commerce; and the insurance industry has grown largely based on products that remove risks from their customers – in return for premiums and what amounts to a purchase of legal claims before the event.

sources among competing power centers within the firm. The somewhat perverse result of these pressures, dynamics and perceptions is that law firms are forced to grow inorganically in order to “manage” cash flow and fund expansions – all because operating capital, so the belief goes, must be generated internally, rather than externally.

For different reasons, businesses find themselves in a similar situation with respect to their litigation-oriented assets and liabilities. Prospective recoveries in cases are generally believed to be un-monetizeable, except through the unique opportunity for clients to share risk with their lawyers through contingent fee arrangements. To make matters worse, under some accounting rules, a company’s prospective recoveries in litigation (often no matter how robust the prospect of winning) cannot

generally be assigned much if any value prior to an actual recovery. Such rules trap sometimes massive capital values inside “claim assets” for an indefinite time. Businesses faced with litigation liabilities confront the inability to accurately value those liabilities in merger and acquisition transactions, resulting in distortions in transaction prices – and even failed deals. The perceived inability of businesses to unlock wealth embedded in litigation opportunities and liabilities, or to turn to the marketplace for help even in valuing claims, likely distorts capital transactions, requires businesses to sit on risk and leaves the corporate law department as a pure cost center in most corporations. In other words, businesses, like law firms, want and need access to capital markets for a variety of everyday business needs. To restrict that access is economically inefficient, if not damaging.

The “third-party litigation finance” market can also serve important access-to-justice aims. In the United States, the public can generally turn to lawyers to finance their litigation. Whether this joint venture model has worked to provide efficient access to justice is not currently the subject of much debate in the United States (although, tellingly, a number of retail litigation financing companies have sprung up in many states), but it is in the United Kingdom. Last year the UK government recognized that state-sponsored legal aid programs, which, in the absence of contingent fees traditionally provided the means for impecunious claimants to bring claims there, are inefficient, costly and lead to their own distortions in claim prosecution and the overall administration of justice. The result was groundbreaking legislation that will allow third-party financing of legal claims and even outside investments in and stock market listings of law firms.

These developments are being watched closely by major U.S. law firms as they try to imagine competing against publicly traded London “Magic Circle” firms for global business client opportunities. The irony of these bold moves in the UK, when viewed from the prospect of the barrister’s

pouch, is delightful to many Americans. More importantly, it is instructive in the emerging debate over the role capital markets should play in the legal marketplace in the United States.

The debate centers on a specific phenomenon: whether there can be a rational role for outside capital within law markets that does not jeopardize the core social values of professional legal independence, unfettered lawyer-client relationships and proper administration of justice. Throughout history, these goals have been enshrined in professional ethics rules, including the fee-splitting and conflicts-of-interest rules, as well as laws prohibiting champerty, maintenance and frivolous litigation. The central question is whether these goals can still be served while allowing third-party capital to meet the needs of law firms, businesses and plaintiffs.

There are paradoxes embedded in this question. Scholars and proponents of tort reform recognize that the effective monopoly U.S. lawyers enjoy over investing in litigation outcomes (through contingent fees) is outmoded and inefficient. They point out that the superior bargaining power lawyers possess in the negotiation of contingent fee arrangements with their clients and the potential conflicts that emerge from such arrangements can lead to inefficiencies in the provision of legal services and even in distortions in the overall justice system.

Business claim holders – whether major corporations with antitrust claims or individuals in slip-and-fall cases – have questioned the fairness of the defendants’ ability to transfer risk to an insurance company before the event, while plaintiffs are left to absorb all the risk of returns on their claims until the eventual outcome. Alongside the legal profession’s exclusive access to contingent fee joint ventures, one can question the economic efficiency and moral justification for promoting claim transfers to insurance companies before the event, while discouraging the transfer of a claim by a claim holder after the event. Why should an insurance company be able to take direct control of a claim through the contract right of subrogation,

while a financial institution is restricted from purchasing an interest in a legitimate business claim held by a business?

In the end, the prohibitions on claim transfer are more mythical or perceptual than real. In most U.S. states, champerty has been relegated to the bin of legal curios occupied by statutes permitting paramour killings or spitting on a public sidewalk. And, while fee-splitting is still prohibited in every U.S. state, no court has ever effectively challenged the ability of a law firm to transfer to a lender a security interest in its fee income in return for a commercial loan. After all, if the fee-splitting rules were applied to an illogical extreme, a lawyer would be prohibited from paying a nonlawyer for goods or services if the source of the payment were, originally, a legal fee. In other words, there are a variety of ways to legitimately purchase claim interests and to finance a law firm’s operations and cases even under the most unfavorable interpretations of current legal and ethical doctrines. A number of businesses are doing just that.

Capital movements into the law market industry have surged in recent years. The capital-in-flow is perhaps most evident in the intellectual property claims field. There, a variety of hedge funds and venture capital businesses have entered the marketplace armed with an estimated \$4 billion of capital available to invest. The market is growing, fueled by the demands of law firms and claim holders for financial choices and risk mitigation products. Recognizing this, and the exciting implications for capital markets, The London Times heralded the creation of a “new asset class” at the announcement of the listing of shares of Juridica Capital Management, which provides strategic capital for law markets, on the AIM market of the London Stock Exchange in December 2007. [*The author is the general counsel of Juridica.*]

What comprises this new asset class, and what does it mean for law firms and other businesses seeking access to capital markets for claim valuation and finance? The possibilities are numerous, and will increase as businesses and law firms real-

ize the scope of the opportunities. They will also increase if and as laws allowing claim transfer and investments in law firms are implemented and absorbed into the world economy. The following are examples of "financial products" that are available to law firms and business claim holders.

- › Portfolio loans to law firms secured by interests in firm income, including case recoveries;
- › Direct purchases of claim interests from claim holders;
- › Nonrecourse loans to claim holders, secured only by an interest in the claim;
- › Insurance products that cover downside risks of litigation and adverse costs awards;
- › Insurance-like products, where outside capital sources guarantee a core recovery to the law firm or claim holder even if the trial or appeal is unsuccessful;
- › Claim portfolio transactions, where baskets of claims can be monetized

to finance claim defenses, to mitigate overall claim portfolio risks, or to provide "off-balance-sheet" financing to supplement law department operating budgets; and

- › Purchases of risk of loss in defended claims (allowing valuation of claims in merger and acquisition transactions, for insurance purposes, or other internal financial reasons).

Leading law and economics scholars generally welcome capital access to law markets: It can level the playing field between parties to a dispute; afford additional risk-mitigation options to businesses; afford monetization options to claim holders; and help free up lawyers to operate professional services firms rather than financial institutions.

The forces shaping the legal marketplace are legion: hesitant access to traditional capital markets; increasing global competition among major firms; pressures to expand law firms in a crucible of internal competition and archaic

profit distribution models; demands from corporate clients for innovative ways to finance claims and legal services; and expanding needs of businesses to unlock claim values and mitigate risk of loss in claims. Like the barrister's pouch, and soon even the barrister's wig, the disassociation of law markets from capital markets is bound to become an anachronism. But the transformation must happen carefully and thoughtfully – with leadership – rather than haphazardly. The challenge will be to realistically reassess the goals to be achieved through the legal system, and to meet those goals in a modern, reasonable manner.

Timothy D. Scramton is an American lawyer and an English barrister-at-law (currently non-practicing) at Fields Scramton Sullivan in Washington, D.C., and the general counsel of Juridica. A significant portion of his practice is focused on disputes, audits and investigations in international finance, and he has consulted on complex multi-jurisdiction litigation and business migrations.

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- 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 and Top 50 Women Litigators by the California Daily Journal
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FROM THE ECONOMIC CRISIS TO THE ELECTION OF OUR FIRST AFRICAN-AMERICAN PRESIDENT, THE PAST YEAR WAS TRULY *a time of change.*



About the list

We selected the members of this year's Lawdragon 500 through an intense online voting and nomination process, in which tens of thousands of votes were cast. We then researched each of those lawyers, as well as others who made 2008 a year to remember (and some would say, forget), by sifting through legal news and calling our most trusted sources.

By Katrina Dewey | Before the storm, John Halvey was one of Milbank Tweed's top partners, considered the godfather of outsourcing, representing, among many others, the New York Stock Exchange.

That was a natural for him, having been born and raised on Wall Street. At least in a manner of speaking.

As a child, Halvey and his father would get into the family car in the Bronx and drive to pick up his mother at 14 Wall Street, where she worked as an executive assistant at a broker dealer. He remembers looking up at the Stock Exchange building, across the street at 11 Wall. After gaining his law degree and MBA, he joined Milbank. For the past 30 years, he has roamed the .11 miles between Chase Manhattan Plaza, by way of Pine, Broadway and Wall Streets nearly every day.

So when his long-time friend, Duncan Niederauer was appointed CEO of the New York Stock Exchange, it was perhaps no surprise that he turned to Halvey to be his General Counsel. Milbank has a long tradition of producing the general

counsel of the NYSE, and Halvey is not only connected but a standout counselor with a mind for business.

He started work on Monday, March 3, 2008.

Remember, back when the Dow Jones Industrial Average was above 12,000?

“No one coming into this job would have expected in two weeks you would be working over the weekend to see if JP Morgan could buy Bear Stearns at the speed with which they were trying to accomplish it,” says Halvey. “It was an unprecedented confluence of events.”

Did we mention the godfather of understatement?

Since then, the Dow Jones plummeted below 8,000; deal making has all but ceased to exist; the auto industry has tanked; and no one is sure what constitutes the United States’ financial industry. (Somehow we also elected a dashing young Senator (and lawyer) president.)

“This year will be remembered as the revenge of technology, among other things” says Halvey, who has seen previous starbursts including the tech bubble, Asian downturn and the microburst of the late 1980s. The velocity of the 21st Century makes them all pale. “You have these events start to happen and information, not always accurate, starts getting disseminated at incredible speed. This collapse is unparalleled in terms of speed and scope.”

The changes Halvey experienced in his first year at the iconic NYSE/Euronext were especially monumental. What may be equally notable is that he’s far from alone in the topsy-turvy world of this year’s Lawdragon 500 Leading Lawyers in America.

The legal world turned upside down, clients tanked, and so did more than a few firms. And that was just foreplay to the wholesale re-ordering of the legal universe now underway.

We had to capture water to select this year’s list, Lawdragon’s 4th Leading Lawyers in America. Lawyers who for years were the backbones of their firms saw their practices evaporate and their clients go out of business. The passing of the Bush Administration – whose legal counsel was always considered a fright among the nation’s elite lawyers, including Republicans – retired an entire era of Edifice Tex, in which the

well as others who made 2008 a year to remember (and some would say, forget). The result is a peek at the legal world that lies ahead, with a touch of what we’ve left behind.

Though we live in an era of great uncertainty, we believe the lawyers on the pages that follow will exhibit the leadership and problem-solving that will open the first page on a new chapter for our world. As always, we are honored to recognize and write about each of them, from Roger Aaron to Gerson Zweifach.

As for Halvey, he logged 18 trips last year, 16 to Europe, one to Asia



Since John Halvey started as general counsel at NYSE/Euronext, the Dow Jones plummeted below 8,000 and no one is sure what constitutes the United States’ financial industry.

outcome dictated the process.

And then there are the heroes. The Rodgin Cohens who almost single-handedly salvaged a banking system; the Wachtell attorneys who worked for a handout to pitch in; the Guantanamo guys, who fought and fought and fought and fought, until rights to habeas corpus were recognized and restored; the members of Team Obama who embraced a dream and never blinked. Many of them have since moved to the Administration to salvage the economy, the world and galaxies beyond, in no particular order.

We selected the members of this year’s Lawdragon 500 through an intense online voting and nomination process, in which tens of thousands of votes were cast. We then re-searched each of those lawyers, as

and one to the Midwest. He sees a brighter future with every mile and each passing day.

“Absolutely. In every correction, the market that emerges is stronger and more thoughtful. Crisis takes ideas beyond rhetoric and into action,” he says.

For the NYSE, that means adding financial products to its market, providing greater transparency, and ensuring more effective regulation (rather than that which is merely more onerous).

For the legal profession, it means a fast and hard wake-up call to the indulgence and delusion of the past. The last year mostly sucked. Let’s be honest.

But as the old Buddhist proverb says: Barn’s burnt down, now I can see the moon.

Here we go

Photography by Hugh Williams | Research directed by Draeger Martinez



john halvey

- **roger aaron** SKADDEN (NEW YORK)

Aaron towers over the nation's leading deal practice, which last year helped Bear Stearns in its sale to JPMorgan Chase, XM in its merger with Sirius and Yahoo in the proposed Microsoft takeover.

- **nancy abell** PAUL HASTINGS (LOS ANGELES)

The chair of Paul Hastings' prestigious employment group represents institutions such as Microsoft, Oracle and GE as well as law firms and members of the judiciary.

- **floyd abrams** CAHILL GORDON (NEW YORK)

The nation's preeminent First Amendment advocate and veteran of the Valerie Plame affair helped establish a new coalition to fight international restrictions on the criticism of religion.

- **rodney acker** FULBRIGHT & JAWORSKI (DALLAS)

The anchor of Fulbright's subprime team won dismissal of a \$400M anti-trust suit against the International Speedway Corp.

- **robert adams** SHOOK HARDY (KANSAS CITY, MO.)

This dominant litigation force is diverse in his talents - recently defending claims of mortgage fraud, toxic tort, patent infringement, legal malpractice and motor-vehicle defects.

- **linda addison** FULBRIGHT & JAWORSKI (HOUSTON)

A dynamo who is one of the nation's most respected litigators, she poses an intimidating presence in all manners of complex civil litigation, from pet food to diamond mines.

- **sanford ain** AIN & BANK (WASHINGTON, DC)

He keeps his high-profile divorce clients under the radar, but his excellent trial skills got him elected as an ACTL Fellow.

- **wylie aitken** AITKEN AITKEN (SANTA ANA, CALIF.)

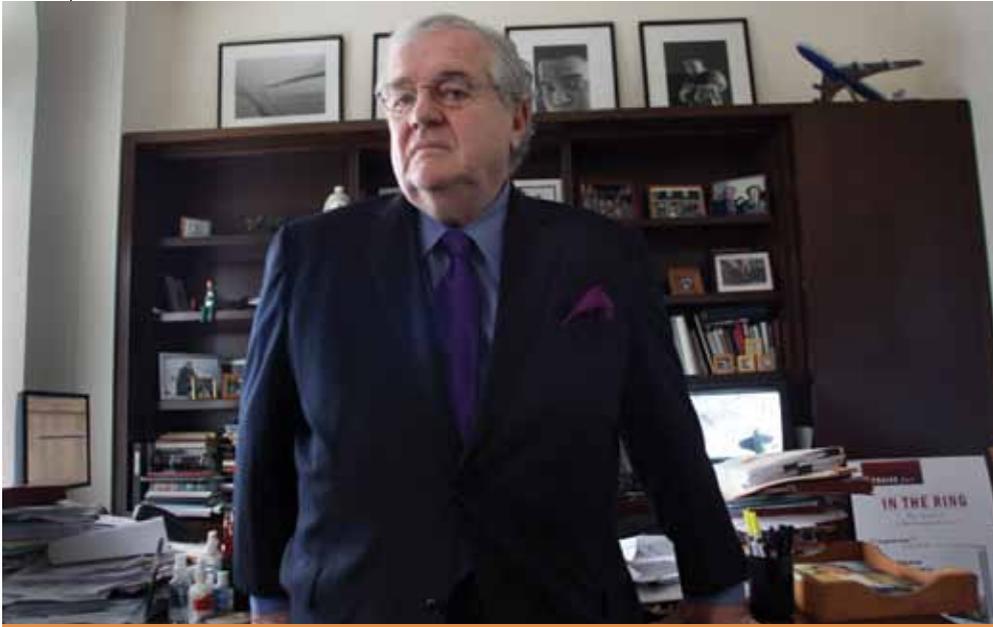
Aitken cranks out the big wins, including \$55M against the U.S. government for a child injured in a collision and \$23M for a brain injured child against a red light runner's employer.

- **tom ajamie** AJAMIE LAW FIRM (HOUSTON)

Ajamie is well positioned to help financial fraud victims, having obtained the first- and third-largest securities arbitration awards in history: \$429M against a PaineWebber broker and \$14.5M against Prudential Securities.

- **frederick alexander** MORRIS NICHOLS (WILMINGTON)

Simply unsurpassed in the fields of commercial litigation, corporate law and M&As, especially through the Delaware lens.



robert bennett

- **mary alexander** LAW OFFICES OF MARY ALEXANDER (SAN FRANCISCO) Turned her beginnings as a widowed single mother into a passion to help others grievously harmed and provide leadership for consumer advocates.
- **rosemary alito** K&L GATES (NEWARK, N.J.) This star helps employers sort through thorny issues like broad-based EEOC challenges, ERISA class actions and termination of retiree benefits.
- **greg allen** BEASLEY ALLEN (MONTGOMERY, ALA.) Allen won \$4M from Wal-Mart, and now hounds Nissan over paralyzing injuries caused by the crushing of an Altima's roof.
- **kenneth allen** KENNETH J. ALLEN & ASSOCIATES (VALPARAISO, IND.) The state's most successful PI attorney won Indiana's largest verdict, \$48M for a steelworker rendered paraplegic after falling from a ladder.
- **rand allen** WILEY REIN (WASHINGTON, DC) He saved the \$35B Air Force tanker deal for Boeing and aided EDS in restructuring its Navy/Marine Corp Intranet (NMCI) contract.
- **riley allen** ALLEN & MURPHY (MAITLAND, FLA.) Continued his winning ways with a \$13M bad-faith victory for a mother of five whose husband was denied disability.
- **thomas allingham** SKADDEN (WILMINGTON) Among the very best for bet-the-company matters. Just ask Daimler-Chrysler, Cantor Fitzgerald or MacAndrews & Forbes.
- **eleanor alter** KASOWITZ BENSON (NEW YORK) Alter is tops for family law, not to mention client funds, including escrow funds she protected from victimization by shady lawyers.
- **reuben anderson** PHELPS DUNBAR (JACKSON, MISS.) Mississippi's first African-American Supreme Court justice is a professor and one of the state's most coveted litigators and advisors.
- **bruce angiollilo** SIMPSON THACHER (NEW YORK) He defeated a class action against clients The Blackstone Group and Hilton Hotels Corp. and turned back a claim that Blackstone reneged on a deal to buy Alliance Data Systems.

- **dennis archer** DICKINSON WRIGHT (DETROIT)
The quiet dignity of this Michigan maven stands tall during his region's economic and political crises.
- **seth aronson** O'MELVENY (LOS ANGELES)
Aronson helped in the successful defense of shareholder challenges to Bank of America's merger with Countrywide Financial, and he is currently defending Broadcom's former GC in SEC and shareholder lawsuits.
- **kevin arquit** SIMPSON THACHER (NEW YORK)
The nation's leading antitrust ace won approval for Siri to merge with XM, advised Mars in its \$23B acquisition of Wrigley and won dismissal of antitrust violations against Staples.
- **peter atkins** SKADDEN (NEW YORK)
Even in tough times, Atkin's at the center of the biggest deals, such as BHP Billiton's proposed \$150 billion acquisition of Rio Tinto.
- **kenneth bachman** CLEARY GOTTlieb (WASHINGTON, DC)
This banking guru served on the front lines for Morgan Stanley in its role counseling the Treasury Department in rescuing Fannie and Freddie.
- **brent baldwin** BAKERS STERCHI (ST. LOUIS)
Baldwin is the lawyer other lawyers turn to when they're in trouble - not to mention health care providers, accountants, and litigants with catastrophic losses or serious insurance coverage issues.
- **corinne ball** JONES DAY (NEW YORK)
Need to restructure a company? Ball's the lawyer to call as evidenced by her role as counsel to Dana Corp. and Chrysler.
- **juliane balliro** WOLFBLOCK (BOSTON)
This trial ace, who made her name last year with a \$101M civil rights win, is now successfully defending subprime loan servicers against claims brought by state authorities.
- **thomas banducci** BANDUCCI WOODARD (BOISE, IDAHO)
Idaho's top complex civil litigator secured the largest jury verdict in the state's history, defended Tamarack Resort (\$250M foreclosure action) and is lead defense counsel for DBSI (real estate fraud class action).
- **roy barnes** BARNES LAW GROUP (MARIETTA, GA.)
This Georgia Bulldog made it right for the families of two American subcontractors brutally murdered in Iraq, helping win more than \$400M against the government of Syria for facilitating terrorism.

- **bob barnett** WILLIAMS & CONNOLLY (WASHINGTON, DC)
DC's reigning power broker coached Hillary Clinton for her debates, got Barack Obama the book contract that helped launch a new era and has represented everyone from Laura Bush to Ted Kennedy to Tony Blair.
- **robert baron** CRAVATH (NEW YORK)
This litigation master helped Credit Suisse and Deutsche Bank prevail in the Hexion/Huntsman financing suit and won dismissal of a shareholder derivative complaint against Merck in connection with Vioxx.
- **francis barron** CRAVATH (NEW YORK)
He represented the underwriters in Wells Fargo's \$11B public offering, National City's board in the company's proposed \$5.2B acquisition by PNC, and Morgan Stanley's board in its \$9B investment in Mitsubishi.
- **scott barshay** CRAVATH (NEW YORK)
As one of IBM's favorite counselors, he handled a trio of acquisitions (ILOG, Platform Solutions and Diligent Technologies) and also helped Alcoa sell its packaging business for about \$2.7B.
- **george bason** DAVIS POLK (NEW YORK)
Bason represented Citi in its deals with TARP and Smith Barney, as well as the Federal Reserve Bank of NY in its investment in AIG.
- **robert bauer** PERKINS COIE (WASHINGTON, DC)
The leader of Perkins Coie's top-notch political law team wielded his influence as outside lawyer to Obama for America and the Democratic congressional and senatorial campaign committees.
- **gordon bava** MANATT (LOS ANGELES)
Bava led East West Bancorp's sale of over \$515M in securities as part of a capital enhancement program and steered Image Entertainment in its \$100M merger deal with Nyx Acquisitions.
- **sam baxter** MCKOOL SMITH (DALLAS)
This elite IP trial lawyer followed up a \$250M patent verdict for client Medtronic against Boston Scientific Corp. with a \$59M verdict for Pioneer Corp. in its infringement case against Samsung SDI.
- **jere beasley** BEASLEY ALLEN (MONTGOMERY, ALA.)
The staggering track record keeps growing for Beasley, who scored a \$215M verdict for the state of Alabama in its Medicaid drug-price fraud case against AstraZeneca Pharmaceuticals.
- **richard beattie** SIMPSON THACHER (NEW YORK)
The legendary Simpson Thacher chair represented the Federal Reserve Bank of New York in a \$30B financing deal for JPMorgan Chase's acquisition of Bear Stearns.



ted olson

- **lucian bebchuk** HARVARD LAW SCHOOL (CAMBRIDGE, MASS.) Everyone's listening to this Harvard genius and outspoken corporate governance expert for his thoughts on TARP, AIG, executive pay and everything in between.
- **philip beck** BARTLIT BECK (CHICAGO) Beck's latest feat is winning a defense jury verdict against claims from 27 Chicago firefighters that they suffered permanent hearing loss from alarms made by Federal Signal.
- **william beck** LATHROP & GAGE (KANSAS CITY, MO.) Having "been there, won that," Beck is on speed dial for insurance policyholders and toxic tort defendants across the country.
- **john beisner** O'MELVENY & MYERS (WASHINGTON, DC) This stellar defense lawyer scored big for Merck in the Vioxx litigation and is defending Bank of America/Countrywide against claims related to subprime mortgage lending practices.
- **alan beller** CLEARY GOTTLIEB (NEW YORK) Former SEC honcho provides strategic advice to major players in the financial crisis, including Citi, Credit Suisse and the Federal Reserve Bank of NY.
- **james benedict** MILBANK (NEW YORK) The master of mutual fund and securities class actions is the man to see if you're suffering a meltdown – he won dismissals for Fidelity, Legg Mason, Citigroup and Capital Research.
- **robert bennett** SKADDEN (WASHINGTON, DC) Also a sports arbitration judge, Bennett served as lead counsel in the New York U.S. Attorney's KPMG tax shelter investigation.
- **max berger** BERNSTEIN LITOWITZ (NEW YORK) Just how well plaintiff shareholders fare in recovering monetary losses and securing reforms will depend largely on the maestro of the most nimble and effective securities practice in the nation.
- **martha bergmark** MISSISSIPPI CENTER FOR JUSTICE (JACKSON, MISS.) While still working on post-hurricane claims, Bergmark is also targeting payday loans - the refuge of one in five Mississippians, despite interest rates that can hit 500% annually.
- **david bernick** KIRKLAND & ELLIS (NEW YORK, NY) He settled the suit against client Dow Chemical by two executives fired for conducting secret LBO talks and is defending WR Grace & Co. against high-profile federal criminal allegations.



michele roberts

- **donald bernstein** DAVIS POLK (NEW YORK)
Ever have one of those weeks? Not like Bernstein, who had four days to work through an attempted bailout of Lehman and the rescue of AIG.
- **martin bienenstock** DEWEY LEBOEUF (NEW YORK) The bankruptcy baron is building a new empire at Dewey LeBoeuf after winning reorganizations for companies like Enron.
- **evelyn biery** FULBRIGHT & JAWORSKI (HOUSTON)
Over 35 years, Biery has skillfully and gracefully guided clients through complex multi-billion-dollar litigation and reorganization matters.
- **brian bilzin** BILZIN SUMBERG (MIAMI)
In good times and bad, this top real estate lawyer stays busy, no matter the type of deal.
- **sheila birnbaum** SKADDEN (NEW YORK)
Birnbaum saved Aventis Crop Science from class actions stemming from its biogenetic corn products; ditto Thompson-Delaco in the litigation aimed at its over-the-counter drug PPA.
- **victoria bjorklund** SIMPSON THACHER (NEW YORK) Her “exempt organizations” practice is the coolest, helping charities like Doctors Without Borders and Robin Hood Foundation save lives.
- **jeffrey bleich** MUNGER TOLLES (SAN FRANCISCO)
This special counsel to the President played a role in the election as a Friend of Obama, while winning back-to-back California Supreme Court arguments and a patent trial.
- **jerry bloom** WINSTON & STRAWN (LOS ANGELES)
Bloom is a leader when it comes to policy and energy project development to improve efficiency and establish U.S. oil independence.
- **paula boggs** STARBUCKS (SEATTLE)
Boggs’ leadership is a triple shot for the company as it responds to a challenging business environment with renewed focus on transformation.
- **david boies** BOIES SCHILLER (ARMONK, N.Y.)
He won billions for AmEx, drove NASCAR down victory lane in antitrust litigation and now helms a huge amount of meltdown work.

- **andre bouchard** BOUCHARD MARGULES (WILMINGTON)
Bouchard successfully spearheaded iPCS's Delaware litigation strategy arising from the Sprint-Clearwire transaction, and he is also AIG shareholders' hero for taking on the board for disenfranchisement.
- **raymond boucher** KIESEL BOUCHER (BEVERLY HILLS, CALIF.)
Duly notable for his advocacy of sexual-molestation victims, Boucher also targets misuse of California's business code.
- **leo boyle** MEEHAN BOYLE (BOSTON)
After a ceiling section of freeway flyover collapsed and killed a Mass. woman, Boyle stepped in to advocate for the grieving family.
- **david braff** SULLIVAN & CROMWELL (NEW YORK)
Braff paddled through rough waters as lead counsel for Barclays during its Enron lawsuits, including a securities class action.
- **thomas brandi** BRANDI LAW FIRM (SAN FRANCISCO)
His dual positions in the Vioxx plaintiff's management committee and the MDL science and discovery committee keep him well-apprised of the future of Vioxx litigation.
- **frank branson** LAW OFFICES OF FRANK L. BRANSON (DALLAS)
This courtroom master continues to get the biggest recoveries for the gravely injured, such as a child rendered blind by doctor and hospital negligence, and an attorney who suffered brain damage in an auto accident.
- **elaine bredehoft** CHARLSON BREDEHOFT & COHEN (RESTON, VA.)
This employment law guru represented the former CEO/President of Government Micro Resources, tallying \$5.5M for defamation and breach of contract he endured.
- **lanny breuer** COVINGTON & BURLING (WASHINGTON, DC)
After defending Bill Clinton in impeachment, it should be a walk in the park to get Roger Clemens and former Citibank head Charles Prince through congressional investigations.
- **william brewster** KILPATRICK STOCKTON (ATLANTA)
You can't outpace Brewster if you're ripping off Adidas' three-stripped mark. Payless Shoe Source tried, and a jury awarded Adidas \$304M.
- **brad brian** MUNGER TOLLES (LOS ANGELES)
His legal leadership is impeccable, whether representing major corporations in U.S. courts or teaching Sudanese lawyers to advocate the rights of victims of the Darfur genocide before international tribunals.



chris seeger

- **e. drew britcher** BRITCHER LEONE (GLEN ROCK, N.J.)
Garden Staters count on Britcher to help when their children suffer injuries from medical error, when family members are hurt in accidents or when loved ones are injured by dangerous products or actions.
- **bruce broillet** GREENE BROILLET (SANTA MONICA, CALIF.)
This tireless and passionate leader can be counted on to win big – bringing in nearly \$18M for individuals hurt in three dangerous public property cases in just the last few months of 2008.
- **barbara brown** PAUL HASTINGS (WASHINGTON, DC)
When your company or its executives face sexual harassment claims or employment class actions, you can't do better than Brown.
- **lisa brown** THE WHITE HOUSE (WASHINGTON, DC)
Brown took her crusade for civil rights from the American Constitution Society to the White House, where she serves as Secretary.
- **norman brownstein** BROWNSTEIN HYATT (DENVER)
He fashioned legislative and regulatory strategies for Apollo Private Equity, Comcast, Global Crossing, Intelsat, Toshiba and Western Union.
- **carol bruce** BRACEWELL & GIULIANI (WASHINGTON, DC)
Equally comfortable in court or before Congress on behalf of clients, this white-collar wonder and civil litigator also has won awards for her pro bono work on behalf of Guantanamo detainees.
- **charles bryan** CADWALADER (WASHINGTON, DC)
A capital markets guru, Bryan tapped his experience with thousands of securitizations to play a key role guiding longtime clients through a challenging market.
- **bobby burchfield** MCDERMOTT WILL (WASHINGTON, DC)
This longtime counselor to Republican politicians also stars in the courtroom, having never lost one jury trial for such clients as American Can, Dow Corning, Ebasco Services and Enserch Corp.
- **john butler** SKADDEN (CHICAGO)
Haynes International, Per-Se Technologies, Rite Aid and Wickes Furniture all counted on his restructuring counsel.
- **elizabeth cabraser** LIEFF CABRASER (SAN FRANCISCO)
This class action dynamo anchored the Bextra/Celebrex litigation that brought \$894M for people who suffered increased strokes and other ailments from Pfizer drugs.

- **elwood cahill** SHER GARNER (NEW ORLEANS)

Cahill's a clear choice for commercial real estate matters, business and finance law, creditors' rights, workouts and commercial bankruptcies.

- **dan callahan** CALLAHAN & BLAINE (SANTA ANA, CALIF.)

Callahan keeps bringing in record awards: \$50M for a personal injury case; \$42M for newspaper carriers in an employment dispute; and \$934M for Beckman Coulter in a business dispute.

- **timothy cameron** CRAVATH (NEW YORK)

This litigation star was key in dismissing an action against entities of the Australian Wheat Board, which alleged unlawful monopolization of the sale of wheat to Iraq through bribery and other misdeeds.

- **paul cappuccio** TIME WARNER (NEW YORK)

While his company's magazine division sheds titles and writers, and AOL fades from the first tier of Internet giants, Cappuccio keeps busy looking for the media behemoth's next Big New Thing.

- **george carpinello** BOIES SCHILLER (ALBANY, N.Y.)

If the sale of auction rate securities (a \$330B market) is ever found to be riddled with fraud, we may have this fearsome lawyer's bold work on behalf of Plug Power against UBS to thank.

- **david casey** CASEY GERRY (SAN DIEGO)

This top trial lawyer keeps his firm one step ahead with cutting-edge technology for conducting jury focus groups, depositions and training.

- **howard chatzinoff** WEIL GOTSHAL (NEW YORK)

Weil's seasoned M&A leader guided NYMEX Holdings in its \$9.5B acquisition by CME Group, then advised NBC Universal in its purchase of the Weather Channel.

- **rohit chaudhry** CHADBOURNE & PARKE (WASHINGTON, DC)

An international superstar, Chaudhry led a \$4.3B financing for the 4,000 MW Mundra ultra mega power project in India.

- **james cheek** BASS BERRY (NASHVILLE)

This corporate M&A giant worked on one of the largest LBOs during the credit crunch: client Bright Horizons' \$1.3B buyout by Bain Capital.

- **erwin chemerinsky** UC LAW SCHOOL (IRVINE, CALIF.)

The noted constitutional law scholar is championing legal education for the 21st century as dean of the new UCI Law School, starting out offering 60 full scholarships to the legal stars of tomorrow.



jimmy nguyen

- **michael chepiga** SIMPSON THACHER (NEW YORK)
Chepiga continued his mastery of litigation arising from M&A deals and financial fiascoes while earning kudos for his play, “Matter of Honor.”
- **evan chesler** CRAVATH (NEW YORK)
He brokered a historic settlement for Qualcomm in its disputes with Nokia and protected Bristol-Myers Squibb and Sanofi-Aventis’ rights to sell Plavix.
- **morgan chu** IRELL & MANELLA (LOS ANGELES)
The IP whiz won a crucial appeal for City of Hope, got TiVo \$105M in a patent victory against EchoStar and won cases for defendant eBay.
- **richard cieri** KIRKLAND & ELLIS (NEW YORK)
Cieri’s prolific team worked many of the biggest bankruptcies of the year and is only getting busier.
- **richard clary** CRAVATH (NEW YORK)
He led victories for Credit Suisse and Deutsche Bank in Hexion/Huntsman and won for Chase in Hechinger while securing a legal right to shelter for homeless NY families.
- **jay clayton** SULLIVAN & CROMWELL (NEW YORK)
He helped Barclays Capital cherry-pick many of the best Lehman assets and massaged Berkshire Hathaway’s \$5B investment in Goldman Sachs.
- **robert cleary** PROSKAUER (NEW YORK)
Cleary steered a former Marsh Inc. executive to acquittals on 36 of 37 felonies and is now representing former Lehman CFO Erin Callan in the federal investigation of the bank’s collapse.
- **robert clifford** CLIFFORD LAW OFFICES (CHICAGO)
This consumer hero won \$6M for a victim of a botched surgery and \$100M for victims of the Cook County Administration Building fire.
- **richard climan** COOLEY GODWARD (PALO ALTO, CALIF.)
One of the nation’s best legal minds in M&A, Climan represented Brocade in its multi-billion dollar acquisition of Foundry Networks.
- **jerome coben** ZEUGHAUSER GROUP (LOS ANGELES)
This dean of the LA M&A bar built Skadden’s vaunted California presence before taking his expertise to the Zeughauser Group.

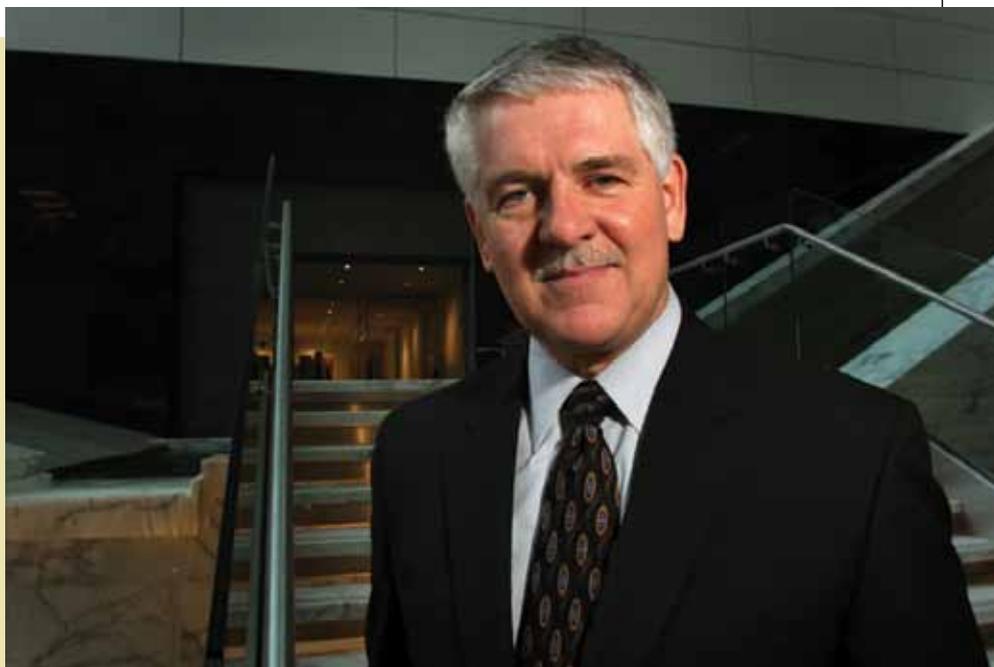


maureen mahoney

- **john coffee** COLUMBIA LAW SCHOOL (NEW YORK)
The leading legal mind in corporate and securities law is helping us understand how we got into the financial crisis and how we can emerge from it.
- **john coffey** BERNSTEIN LITOWITZ (NEW YORK)
This titan has earned billions for shareholders and is now leading separate class actions against bankrupt Lehman and Merrill Lynch over the companies' mortgage-related losses.
- **charles cogut** SIMPSON THACHER (NEW YORK)
Cogut repped Wyeth in its \$68B merger with Pfizer, and the outside directors of Anheuser-Busch in the company's \$52B merger with InBev.
- **h. rodgin cohen** SULLIVAN & CROMWELL (NEW YORK)
Amid the Panic of 2008, the nation's top banking lawyer made sure clients AIG, Fannie Mae, JPMorgan Chase and Lehman weathered the storm with the best possible counsel.
- **mary louise cohen** PHILLIPS & COHEN (WASHINGTON, DC)
The queen of qui tam got Medtronic Spine to pony up \$75M for defrauding Medicare in connection with spinal procedures.
- **anthony colletta** SULLIVAN & CROMWELL (NEW YORK)
He has secured \$40B in mortgage and mezzanine financings for companies such as Aetos Capital, American Continental Properties, Broadreach Capital Partners and others.
- **james comey** LOCKHEED MARTIN (BETHESDA, MD.)
Lockheed will keep its by-the-book reputation with this former deputy AG who stood up for Justice Department principles in the Bush Administration.
- **roxanne conlin** ROXANNE CONLIN & ASSOCIATES (DES MOINES, IOWA)
There's not a person - or pet - in need whom this trial attorney won't take on against the likes of Microsoft and MidAmerican Energy.
- **joseph cotchett** COTCHETT PITRE (BURLINGAME, CALIF.)
Cotchett secured a \$200M settlement in the British Airways and Virgin Atlantic price-fixing case and is handling San Mateo County's suit against Lehman over lost investments.
- **patrick coughlin** COUGHLIN STOIA (SAN FRANCISCO)
Coughlin continues to count up big wins, including a \$7.2B settlement for Enron shareholders, of which his firm kept a tidy \$688M.

- **greg craig** THE WHITE HOUSE (WASHINGTON, DC)
The former Williams & Connolly star defended President Clinton in impeachment hearings, earning the mettle to become White House Counsel to President Obama.
- **robert cunningham** CUNNINGHAM BOUNDS (MOBILE, ALA.)
The fiercest trial lawyer in Alabama followed up his \$108M verdict against Halliburton with a \$192M verdict for an inventor with an IP dispute against German chemical company Ineos Phenol GmbH & Co.
- **andrew cuomo** NEW YORK ATTORNEY GENERAL (ALBANY, N.Y.)
Though he missed a Senate opening this time around, the future is bright for this talented lawyer/politician who took on the student loan industry and AIG, and is tackling the Madoff criminal probe.
- **frank darras** SHERNOFF BIDART (CLAREMONT, CALIF.)
You better wake up pretty early, and work long and late, to match Darras' work ethic: He evaluates roughly 12,000 new disability cases every year and won't hesitate to litigate in any venue.
- **mark davis** DAVIS LEVIN (HONOLULU)
A veteran of complex personal-injury and med mal cases, Davis is suing the federal government for the mother of a 5-year old who was fatally beaten at the Wheeler Army Airfield on Oahu.
- **steve davis** DEWEY LEBOEUF (NEW YORK)
This talented firmwide chair and energy standout guided Dewey LeBoeuf through the biggest law firm merger in recent years and is now expanding its reach throughout the Middle East and Africa.
- **david dean** SULLIVAN PAPAIN (NEW YORK)
Dean won a \$24M verdict for a drunken man left partially paralyzed after falling down the stairs, following confirmation of his historic trial victory against the Port Authority for liability over the 1993 WTC bombing.
- **mark decof** DECOF & DECOF (PROVIDENCE, R.I.)
Decof has in recent years scored a \$21.5M wrongful death/med-mal verdict for poor emergency room care and a \$13M settlement for the families of the victims of a private plane crash.
- **francis dee** MCELROY DEUTSCH (NEWARK, N.J.)
A hugely respected expert in employment law, Dee makes a habit of winning for the likes of Johnson & Johnson, Bell Atlantic and State Farm.
- **michael demarco** K&L GATES (BOSTON)
Blessed with a background in white collar crime and product liability defense, DeMarco now finds himself representing Ecuador and that nation's Central Bank.

- **thomas demetrio** CORBOY DEMETRIO (CHICAGO)
Demetrio demonstrated his mastery again by landing a \$29.6M verdict for a young Chicago woman who suffered grave injuries when a Rock Island Metra train derailed and hit her.
- **robert denham** MUNGER TOLLES (LOS ANGELES)
Warren Buffet turned to his most trusted corporate advisor for Berkshire Hathaway's \$5B investment in Goldman Sachs and its \$2.1B investment in Wm. Wrigley Jr. Co. as part of Wrigley's purchase by Mars.
- **otway denny** FULBRIGHT & JAWORSKI (HOUSTON)
This top defense lawyer for manufacturers, energy companies and other Southern businesses helped BP resolve more than 4,000 claims over the 2005 Texas City refinery explosion that resulted in 15 deaths.
- **kelly dermody** LIEFF CABRASER (SAN FRANCISCO)
After scoring big victories for health coverage for the uninsured, Dermody won \$33M for victims of sexual discrimination at Smith Barney.
- **john desmarais** KIRKLAND & ELLIS (NEW YORK)
After a judge threw out his \$1.53B jury verdict for Alcatel-Lucent against Microsoft, he came back and snagged \$512M while winning an injunction against sweeping patent reform rules proposed by the PTO.
- **gandolfo diblasi** SULLIVAN & CROMWELL (NEW YORK)
DiBlasi's securities expertise, which stretches back to 1980s insider-trading cases and the Salomon Treasury auction scandal of 1991, well-prepared him for a leading role sorting out the Panic of 2008.
- **mark dichter** MORGAN LEWIS (PHILADELPHIA)
The top dog of employment defense recently defended Morgan Stanley against claims of discrimination against African-American retail brokers.
- **jonathan dickey** GIBSON DUNN (NEW YORK)
Among the clients relying on Dickey are leading tech companies such as Intel and Hewlett Packard, as well as other leading Wall Street firms.
- **joseph dilg** VINSON & ELKINS (HOUSTON)
Under Dilg, Vinson has expanded its top-notch energy practice to Abu Dhabi, Dubai, Hong Kong and Tokyo at the same time creating an award-winning program to help veterans and active duty personnel.
- **marshall doke** GARDERE (DALLAS)
Doke's the dynamo for Bell Helicopter Textron, the Dallas County Hospital District, EDS, Raytheon and the U.S. Treasury Bureau of Public Debt.



william mclucas

- **christopher dolan** DOLAN LAW FIRM (SAN FRANCISCO) A leading litigation light, he drummed up \$6M from a fatal head-on collision, \$1.5M for a crippling motorcycle accident, and more.
- **thomas dubbs** LABATON SUCHAROW (NEW YORK) The lead counsel for Ohio funds against AIG secures significant settlements for pension funds: \$445 million (HealthSouth), \$185 million (Bristol-Myers Squibb), among others.
- **dennis dunne** MILBANK (NEW YORK) Dunne's stellar record in bankruptcy work prepares him for the biggest one yet: Lehman.
- **douglas eakeley** LOWENSTEIN SANDLER (ROSELAND, N.J.) This top trial lawyer for Merck and Schering-Plough is taking on novel issues of donor intent and academic freedom for his client, Princeton's Woodrow Wilson School.
- **scott edelman** MILBANK (NEW YORK) A canny courtroom counsel, he helped get two arms of Cerberus Capital Management off the hook from an ill-considered merger with United Rentals Inc.
- **michael egan** KING & SPALDING (ATLANTA) This prolific M&A star handled client Sprint Nextel's \$14.5B merger with Clearwire as well as the \$3.2B investment by Intel, Google and others.
- **robert eglet** MAINOR EGLET (LAS VEGAS) One of the best trial lawyers in Nevada, Eglet is pursuing justice for thousands of victims who contracted hepatitis C at Southern Nevada medical clinics.
- **jay eisenhofer** GRANT & EISENHOFER (WILMINGTON) Eisenhofer was lead counsel in the mammoth \$3.2B securities settlement with Tyco and its accountants, as well as the \$450M pan-European settlement with Royal Dutch Shell.
- **larry eisenstat** DICKSTEIN SHAPIRO (WASHINGTON, DC) Creative solutions to complex regulatory, project development and finance, and litigation problems put Eisenstat heads above the rest in energy.
- **mittchell eitel** SULLIVAN & CROMWELL (NEW YORK) Eitel has had his hands full recently with Citigroup's \$7.5 B stock sale to Abu Dhabi Investment Authority, AmSouth Bancorp's merger with Regions Financial, and much more.



william perlstein



tom ajamie

- **mark ellenberg** CADWALADER (WASHINGTON, DC)
This bankruptcy expert's clients include Bear Stearns, Lehman creditors, and global insurers like XL Capital, for whom he successfully terminated \$80B in contingent liabilities.
- **adam emmerich** WACHTELL LIPTON (NEW YORK)
Just eyeball the deals Emmerich assembled: Acciona's €42.5B purchase of Endesa, Berkshire Hathaway's \$5B investment in Iscar and the Mills mega-mall chain selling for \$7.9B.
- **paul engelmayer** WILMERHALE (NEW YORK)
He hatched class-action defenses for The Hartford, UBS and Paine Webber and repped Citigroup in its three-way fight with Wachovia and Wells Fargo.
- **jay epstien** DLA PIPER (WASHINGTON, DC)
The Great Credit Crunch cannot slow down the tireless work of Epstien, who continues to represent owners and developers in the nation's biggest real estate deals.
- **john ettinger** DAVIS POLK (NEW YORK)
Ettinger oversaw M&A deals for Burlington Industries, GM, PricewaterhouseCoopers, Shell Oil and Travelers.
- **robert faiss** LIONEL SAWYER (LAS VEGAS)
Stints as an LBJ Administration staffer, Vegas newspaper editor and top aide to the Gaming Commission prepared him to know all the political and legal levers impacting the gaming industry.
- **eldon fallon** U.S. DISTRICT COURT, EASTERN DISTRICT OF LOUISIANA (NEW ORLEANS)
Besides Vioxx, His Honor hammered out a \$330M settlement between Murphy Oil Corp. and 6,500 Louisiana property owners over a Hurricane Katrina-related oil spill.
- **myrna felder** LAW OFFICE OF MYRNA FELDER (NEW YORK)
She grew up singing and dancing on Broadway, talents that toughened her against rejection and for her divorce clients' benefit.
- **boris feldman** WILSON SONSINI (PALO ALTO, CALIF.)
Boris rebuffed Walter Hewlett on HP's behalf and shut down shareholder suits against Business Objects, Intrabiotics, Nektar and Synopsis.
- **lewis feldman** GOODWIN PROCTER (LOS ANGELES)
Visitors to LA Live, the sizzling new \$2.5B entertainment and hotel complex, can thank Feldman, who represented Anschutz Entertainment Group in making its downtown dream a reality.

- **kathryn fenton** JONES DAY (WASHINGTON, DC)
Fenton fuels clients such as Airlines Reporting Corporation, DirecTV, Liberty Media and SABMiller with pure unleaded antitrust advice.
- **edwin feo** MILBANK (LOS ANGELES)
Feo keeps banking cred in the alternative energy and energy infrastructure fields; in fact, he was the only attorney on Euromoney/Institutional Investor's recent list of industry influencers.
- **james ferguson** FERGUSON STEIN (CHARLOTTE, N.C.)
His impact is legendary, from his advocacy on behalf of catastrophically injured individuals in North Carolina to the formation of South Africa's first trial advocacy program.
- **ralph ferrara** DEWEY LEBOEUF (WASHINGTON, DC)
The god of SEC enforcement and litigation has his hands full defending Mark Cuban and Royal Dutch/Shell, while representing Brocade's special litigation committee.
- **allen finkelson** CRAVATH (NEW YORK)
This leading dealmaker represented Bristol-Myers Squibb in its \$4.5B bid for ImClone and also advised Citigroup's independent directors.
- **john finley** SIMPSON THACHER (NEW YORK)
This leading dealmaker represented Mars in acquiring Wrigley, Lehman in selling its North American businesses and operating assets to Barclays and the outside directors of Anheuser-Busch in its deal with InBev.
- **alan fisch** KAYE SCHOLER (WASHINGTON, DC)
For his client Thomas & Betts, he did what many thought unachievable for a defendant, getting the jury to invalidate two patents at trial in "plaintiff-friendly" Marshall, Texas.
- **wayne fisher** FISHER BOYD (HOUSTON)
Houston's trial titan made his name with hundreds of successful personal injury suits, as lead counsel in Howard Hughes Estate litigation and by representing the Houston Astros in construction-defect and other matters.
- **michael fitzgerald** MILBANK (NEW YORK)
He helped launch IPOs for Mexico's first and only stock exchange, as well as the exchange's first pharmaceutical, Genomma Lab Internacional.
- **patrick fitzgerald** U.S. JUSTICE DEPARTMENT (CHICAGO)
So what if Scooter Libby skated, and Obama picked someone else for AG? Fitzgerald will keep putting away bad guys like 2008's bad boy, former Illinois Gov. Rod Blagojevich.

- **william fogg** CRAVATH (NEW YORK)

This hot young dealmaker was J.P. Morgan Securities' choice in both its \$12.6B role as underwriter for Wells Fargo's offering and its \$10B work as underwriter for JPMorgan Chase & Co.

- **katherine forrest** CRAVATH (NEW YORK)

A standout Internet litigator for Time Warner, Forrest is representing Cartoon Network in a copyright battle over Cablevision's new storage system and advised Unilever on its approximately \$1.45B sale of laundry brands to Vestar Capital.

- **carol forte** BLUME GOLDFADEN (CHATHAM, N.J.)

This Jersey Giant brought in \$9M in 2008 alone for victims of medical malpractice, including birth injuries and failure to diagnose cancer.

- **michael frankfurt** FRANKFURT KURNIT (NEW YORK)

A star entertainment lawyer, Frankfurt recently took a turn on the other side of the camera, appearing in the film "Run for Your Life," about the creation of the New York City Marathon.

- **bart friedman** CAHILL GORDON (NEW YORK)

He specializes in getting corporate outsiders their fair say, as seen in his work for WellCare Health Plans' new management team and the New York Mercantile Exchange's audit committees.

- **david friedman** KASOWITZ BENSON (NEW YORK)

He secured a \$90 million judgment and verdict for Bluebird Partners against an indenture trustee, and guided Donald Trump vis-a-vis his Atlantic City casino investments.

- **richard friedman** FRIEDMAN RUBIN (BREMERTON, WASH.)

This dealmaking dynamo won \$61M for a disabled businessman and \$17.3M for another disability victim who was improperly denied benefits.

- **joseph frumkin** SULLIVAN & CROMWELL (NEW YORK)

He aided key segments of UST in its pending sale to Altria Group, RR Donnelley in its purchase of Banta and Tenaris in buying Maverick Tube.

- **anthony gair** GAIR GAIR CONASON (NEW YORK)

His Empire State wins are legendary, most recently dinging the City for millions after its failure to place proper barriers around the Rockaway Turnpike resulted in injuries.

- **michael galligan** GALLIGAN DOYLE (DES MOINES, IOWA)

He'll take on anyone who's played fast and loose with Iowans' safety – the Des Moines transit authority, Humboldt Community Schools, doctors performing laser eye surgery and more.



stacy phillips

- **stephen garcia** GARCIA LAW FIRM (LONG BEACH, CALIF.) This elder law impresario also got satisfaction for class action clients wronged by AT&T, British Airways, Medtronics and others.
- **james garner** SHER GARNER (NEW ORLEANS) He took the lead in pressing for Hurricane Katrina and Rita damages for Children's Hospital of New Orleans, Imperial Trading, Pioneer Resources, Xavier University of Louisiana and more.
- **theodore garrett** COVINGTON & BURLING (WASHINGTON, DC) He gets it done for the American Chemistry Council, GM, Kansas City Power & Light and Procter & Gamble on environmental compliance, regulatory and enforcement issues.
- **ronald george** CALIFORNIA SUPREME COURT (SAN FRANCISCO) This impressive leader of the nation's largest court system was the decisive voice in legal recognition of gay marriage before Proposition 8.
- **james gilbert** GILBERT FRANK (ARVADA, COLO.) Gilbert got payback from after-market windshield installers, winning \$6.5M after a defective installation left customers injured.
- **thomas girardi** GIRARDI KEESE (LOS ANGELES) This king of the courtroom has transcended billion-dollar settlements with work securing a strong and independent judiciary.
- **robert giuffra** SULLIVAN & CROMWELL (NEW YORK) Giuffra represents global companies and their executives in high-profile government investigations and class actions and recently won precedential appellate rulings for CA and UnitedHealth.
- **patricia glaser** GLASER WEIL (LOS ANGELES) A courtroom winner for Walt Disney Co. and Lucasfilm, she also served as litigation partner for a federal receivership topping \$100 million in cash and real estate.
- **richard godfrey** KIRKLAND & ELLIS (CHICAGO) What a client list. He represents 3M, Allstate, Citicorp, GMAC, ExxonMobil, Moody's Investors, ServiceMaster and Walgreens.
- **craig goldblatt** WILMERHALE (WASHINGTON, DC) Goldblatt proved golden for Alcatel-Lucent, winning the company a \$250 million favorable decision out of the Winstar bankruptcy.



- **daniel golden** AKIN GUMP (NEW YORK)
After handling some of the world's biggest Chapter 11s, including WorldCom and WCI Communities, he's in demand advising corporate debotors and holders of distressed assets.
- **marcia goldstein** WEIL GOTSHAL (NEW YORK)
AIG left a big mess after cratering due to credit default swaps. Goldstein's wielding the biggest broom to tidy matters up via restructuring.
- **sandra goldstein** CRAVATH (NEW YORK)
Goldstein's winning ways secured her the role as the Managing Partner of Litigation at the firm that Xerox, HCA and Novartis all turn to in trying times.
- **arturo gonzalez** MORRISON & FOERSTER (SAN FRANCISCO)
The Oakland Raiders sued a former Oakland-Alameda County stadium director for \$1B, alleging fraud. Gonzalez flung that nonsense into a black hole, ensuring the director owed the team no silver.
- **david gordon** LATHAM & WATKINS (NEW YORK)
Gordon's advice on project financing and structuring shines for clients such as CoBank, Energy Capital Partners and LS Power.
- **jamie gorelick** WILMERHALE (WASHINGTON, DC)
After serving the Departments of Defense and Justice as well as Fannie Mae, Gorelick offers keen insight for clients navigating the waters of the Committee on Foreign Investment and other overseers.
- **stuart grant** GRANT & EISENHOFER (WILMINGTON)
Grant obtained the largest derivative shareholder litigation settlement in Delaware Chancery Court history from four former AIG executives – one of several massive settlements in recent years.
- **thomas green** SIDLEY (WASHINGTON, DC)
Green has his hands full defending at trial Anibal Acevedo Vila, the embattled former governor of Puerto Rico facing campaign-related corruption and conspiracy charges.
- **gordon greenberg** MCDERMOTT WILL (LOS ANGELES)
This white-collar standout is the guardian for ex-Milberg Weiss partner Steven Schulman as well as former Broadcom board chairman Henry Samueli.
- **browne greene** GREENE BROILLET (SANTA MONICA, CALIF.)
An undisputed leader of Southern California's trial lawyers, Greene is taking on Johnson & Johnson for a girl blinded by Children's Motrin and the LAPD on behalf of media injured in the MacArthur Park melee.

- **edward greene** CLEARY GOTTLIEB (NEW YORK)
This noted capital markets scholar and general counsel returned from Citigroup to his old firm, where he will counsel the largest financial institutions on the challenges posed by the current market environment.
- **dicky grigg** SPIVEY & GRIGG (AUSTIN, TEXAS)
A big-time trial attorney, Grigg made his mark once again, this time pressing the Bush Administration to win release for Guantanamo detainee Mohammad Akhtiar.
- **r. dale grimes** BASS BERRY (NASHVILLE)
In addition to serving as defense counsel in more than 30 class actions, this complex litigator helped Tennessee-American Water win customer rate increases of \$11M.
- **stuart grossman** GROSSMAN ROTH (CORAL GABLES, FLA.)
This personal injury and civil rights champion scored a mammoth \$80M victory on behalf of three Cuban workers forced to work as slave laborers repairing ships for a Cuban joint venture.
- **joe grundfest** STANFORD LAW SCHOOL (STANFORD, CALIF.)
Besides sorting out what the Great Recession could mean to his corporate-law students, this leading securities litigation light is examining securities disclosures via the Internet.
- **richard hall** CRAVATH (NEW YORK)
In a down year for deals, he did a bundle: IKON in its \$1.6B acquisition by Ricoh, Time Warner in its \$25B spinoff of its cable operations and Haas Family Trusts in the \$15B sale of Rohm & Haas to Dow Chemical.
- **robert hall** HALL SICKELS (RESTON, VA.)
Forty years of winning wrongful-death and catastrophic-injury cases gave Hall the perfect perspective to co-author, along with noted grief therapist Mila Tecala, a handbook for grieving victims.
- **john halvey** NYSE (NEW YORK)
He built one of the nation's top corporate outsourcing practices as a Milbank partner before taking the GC post at NYSE Euronext during a tumultuous year.
- **peter hansen** HANSEN LAW OFFICES (BURLINGTON, IOWA)
This hometown favorite safeguards the rights of minor children and helps locals facing financial peril, including foreclosure and bankruptcy.
- **scott harris** HARRIS WILTSHIRE (WASHINGTON, DC)
He keeps clients on top of media moves and communications changes: broadband deployment, network neutrality, intercarrier compensation reform and innovative new uses of wireless/broadcast frequencies.



bob denham

- **michael hausfeld** HAUSFELD LLP (WASHINGTON, DC)
He's leading the charge for Virginia's Fairfax County and others seeking recovery from 30 banks that allegedly sold them dodgy derivatives.
- **kris heinzelman** CRAVATH (NEW YORK)
Heinzelman has led Cravath's formidable corporate practice, a mainstay counselor to the nation's leaders during the economic crisis.
- **brian hennigan** IRELL & MANELLA (LOS ANGELES)
One of the region's most well-respected white-collar defenders, he is defending a San Diego County administrator as well as Broadcom.
- **ed herlihy** WACHTELL LIPTON (NEW YORK)
He had a big hand in some of 2008's biggest deals, including Bank of America acquiring Merrill Lynch, and JPMorgan Chase buying Bear Stearns.
- **russ herman** HERMAN HERMAN (NEW ORLEANS)
The king of New Orleans has championed tobacco, Vioxx, Hurricane bad faith and antitrust claims, and has repped the City Council in a housing probe.
- **lynne hermle** ORRICK (MENLO PARK, CALIF.)
The best at preventing statewide wage and hour class actions against her clients (Banana Republic, Old Navy among others) from being certified.
- **gary hoffman** DICKSTEIN SHAPIRO (WASHINGTON, DC)
He nailed Boston Scientific for \$501M for infringing a doctor's patent relating to heart stents - and has a similar case against Johnson & Johnson.
- **eric holder** COVINGTON & BURLING (WASHINGTON, DC)
The first African-American Attorney General has wasted no time undoing Bush Administration practices to restore respect for the rule of law.
- **robert hoyt** TREASURY DEPARTMENT (WASHINGTON, DC)
He was the eye of the 2008 storm, overseeing 2,000 lawyers handling bailouts for Bear Stearns, Fannie Mae, Freddie Mac, AIG and many others.
- **james hurst** WINSTON & STRAWN (CHICAGO)
A patent litigation specialist who's waged battle on drugs like Prozac, Taxol, & AZT, Hurst is equally appealing on complex commercial cases.



sam baxter



patrick regan

- **mel immergut** MILBANK (NEW YORK)
Few lawyers lead with the force of Immergut, who has chaired Milbank since 1995 while directing its representation of Anheuser-Busch, Cushman and Wakefield, Mastercard, NASCAR and Tyson Foods.
- **henry ipsen** HOLME ROBERTS (DENVER)
With the Obama Era underway, this longtime advocate of tough Clean Water Act enforcement can look forward to a more receptive environment.
- **james irwin** IRWIN FRITCHIE (NEW ORLEANS)
Irwin simply wins for major pharmaceutical, medical device and consumer products companies facing product liability and mass tort claims.
- **david jacobson** SONNENSCHIN (CHICAGO)
Good things come to those who work: Jacobson's all-out efforts on Barack Obama's campaign won him a prized position advising the President.
- **sarkis jebejian** CRAVATH (NEW YORK)
This deal dynamo helped Merrill Lynch's directors in the \$50B acquisition of Merrill by BofA and National City's board in the company's \$5.2B proposed acquisition by PNC.
- **robert joffe** CRAVATH (NEW YORK)
The suave supernova kept Cravath at the top for clients, including the independent directors of Citigroup and GM not to mention David Gregory in his Meet the Press contract negotiations.
- **michael jones** KIRKLAND & ELLIS (WASHINGTON, DC)
Jones persuaded a Milwaukee jury that client NL Industries was not to blame for a child's lead-paint-induced learning difficulties.
- **robert josefsberg** PODHURST ORSECK (MIAMI)
He shielded Ana Caos from the worst-case scenario of her false-Medicare claims convictions, cutting her prison sentence and monetary damages.
- **paula junghans** ZUCKERMAN SPAEDER (WASHINGTON, DC)
She's fearless in defending white-collar defendants, such as Westar Energy exec David Wittig and former minister Phil Driscoll.
- **charles kaiser** DAVIS GRAHAM (DENVER)
This veteran energy attorney, who won clients the right to drill oil and gas wells in the Powder River Basin and the San Juan Basin, should have his hands full adapting to the Obama era.

- **bruce kaplan** FRIEDMAN KAPLAN (NEW YORK)
Kaplan completed Bain Capital Partners and Thomas H. Lee Partners' \$18B buyout of Clear Channel Communications.
- **harvey kaplan** SHOOK HARDY (KANSAS CITY, MO.)
The world's leading product liability defender at one of the world's premier defense firms claims a who's who of clients like Sanofi-Aventis, for which he persuaded a plaintiff to drop a class action over Ambien.
- **brad karp** PAUL WEISS (NEW YORK)
Karp's as hot as they come, taking the helm of Paul Weiss while juggling a jaw-dropping number of critical cases for Citigroup, JP Morgan, Apollo, Wachovia, Deloitte and the late Bear Stearns.
- **jay kasner** SKADDEN (NEW YORK)
Merrill Lynch may be gone, but the firm's workload lived on for Kasner, who shaped the firm's recent auction-rate securities settlement with state regulators.
- **neal katyal** U.S. JUSTICE DEPARTMENT CENTER (WASHINGTON, DC)
Winning *Hamdan* made Katyal one to watch: The former Georgetown professor now serves as principal deputy solicitor general, the number two post in that department.
- **david katz** WACHTELL LIPTON (NEW YORK)
Katz may have uncovered a bright spot in America's economic doldrums: recent mergers and strategic investments by foreign companies, which may introduce much needed capital to U.S. markets.
- **thomas kavaler** CAHILL GORDON (NEW YORK)
Kavaler continues to represent AIG as it tries to wind down class actions brought by shareholders and other creditors.
- **john keker** KEKER & VAN NEST (SAN FRANCISCO)
Keker helped Univision settle claims against it by Grupo Televisa for rather less than the \$100M sought by plaintiffs.
- **michael kelly** KIRTLAND & PACKARD (EL SEGUNDO, CALIF.)
Kelly won nifty settlements for plaintiffs in class action suits against Verizon and the Ralph's grocery chain.
- **david kendall** WILLIAMS & CONNOLLY (WASHINGTON, DC)
Kendall's longstanding civil rights credentials led to Maryland governor Martin O'Malley appointing him to a blue-ribbon commission on capital punishment.

- **anthony kennedy** U.S. SUPREME COURT (WASHINGTON, DC)
Even with Justices Ginsberg and Stevens eyeing retirement, Kennedy's swing-vote role looks likely to continue, as seen by his key vote in June calling into question the Military Commissions Act of 2006.
- **diane kerr** DAVIS POLK (NEW YORK)
Kerr proved *muy importante* in arranging Banco Santander of Spain's \$1.9B purchase of Sovereign Bancorp.
- **jeffrey kessler** DEWEY LEBOEUF (NEW YORK)
Sports maven Kessler won Michael Vick's right to keep bonuses worth \$20M and got paralympic athlete Oscar Pistorius a chance to qualify for the Beijing Olympics.
- **paul kiesel** KIESEL BOUCHER (BEVERLY HILLS, CALIF.)
This connected counselor was tapped by LA to collect taxes not paid by the online travel industry, and he's representing victims of the Metrolink train tragedy.
- **b. robbins kiessling** CRAVATH (NEW YORK)
When he wasn't representing the consortium of the nation's biggest banks to establish a \$77B liquidity facility, he advised HM Treasury in a recapitalization plan for three of the UK's largest banks.
- **kenton king** SKADDEN (PALO ALTO, CALIF.)
He's Mr. Go-To for Yahoo!, arranging acquisitions of Overture Services and Zimbra, and shaping its proposed purchase by Microsoft.
- **kenneth klee** KLEE TUCHIN (LOS ANGELES)
Klee wrote many of our bankruptcy laws in the '70s, structured big bankruptcies (Adelphia, Del Taco and Orion Pictures, among others) and now he also teaches law students about bankruptcy trends to come.
- **tom kline** KLINE & SPECTER (PHILADELPHIA)
One of Philadelphia's legendary litigators, he won \$11M for the family of a Wisconsin child who suffered brain injuries due to hospital incompetence during his birth.
- **ralph knowles** DOFFERMYRE SHIELDS (ATLANTA)
His 10-figure breast-implant win against Dow Chemical still shines, but now Knowles spends more time trying to exonerate death row inmates with mental handicaps.
- **harold koh** U.S. STATE DEPARTMENT (NEW HAVEN, CONN.)
Koh's spirited defense of the Geneva Conventions fell on deaf ears during Alberto Gonzales's tenure - but won the former dean of Yale Law School the nomination for legal adviser to the State Department.



sandra goldstein



neal katyal

- **colleen kollarkotelly** U.S. DISTRICT COURT, DISTRICT OF COLUMBIA (WASHINGTON, DC)
She exempted the White House Office of Administration from FOIA requirements, while also ordering Dick Cheney and the National Archives to preserve all of the VP's official records.
- **victor kovner** DAVIS WRIGHT (NEW YORK)
This NY legend defended Yellow Book USA against false advertising claims by phone-directory rival Verizon Directories Corp.
- **ronald krist** KRIST LAW FIRM (LEAGUE CITY, TX)
Emerging from Hurricane Ike largely unscathed, this honorary Texas Ranger captain continues his quest to get justice for the seriously injured.
- **bruce kuhlik** MERCK (WHITEHOUSE STATION, N.J.)
He put to rest lengthy government investigations into whether Merck slashed hospital prices of its Mavacor, Pepcid, Vioxx and Zocor medicines.
- **ira kurzban** KURZBAN KURZBAN (MIAMI)
The leading U.S. immigration lawyer wrote the book and made much of the law on the rights of aliens, whom he continues to champion.
- **walter lack** ENGSTROM LIPSCOMB (LOS ANGELES)
Lack is unmatched at taking on the toughest causes for those harmed or killed by industrial pollution, natural disasters and transportation industry neglect.
- **william lafferty** MORRIS NICHOLS (WILMINGTON)
One of Delaware's top-flight corporate litigators can handle either side of a takeover battle, as shown by his work for ebay and many others.
- **stephen lamb** DELAWARE CHANCERY COURT (WILMINGTON)
The highly respected Vice Chancellor ruled against General Video Corp. in January, finding that a former shareholder had no barriers to launching a competing business.
- **christopher landau** KIRKLAND & ELLIS (WASHINGTON, DC)
Case Corp., Nationwide Mutual Insurance and the Children's Investment Fund all recently benefited from his appellate expertise.
- **steven lane** HERMAN HERMAN (NEW ORLEANS)
This esteemed advisor specializes in family law, but also represents the City Council and handles insurance coverage and major class action suits.

- **william lanham** JOHNSON & WARD (ATLANTA)
Famed for his defense of two soldiers who took part in the My Lai massacre, Lanham has a legacy of looking out for the little guy.
- **w. mark lanier** LANIER LAW FIRM (HOUSTON)
This high-impact litigator won the first Vioxx trial on the way to a \$4.85B settlement and is now suing Nintendo for patent infringement on Wii technology and Splenda for claiming to be natural.
- **joseph leccese** PROSKAUER (NEW YORK)
He shaped the formation of the NBA's developmental league in China, plus all aspects of the New York Jets' and Philadelphia Eagles' new stadium deals.
- **william lee** WILMERHALE (BOSTON)
Lee shut down patent claims against Targus Information Corp. with an appellate win last August that voided a \$49M award.
- **andrew levander** DECHERT (NEW YORK)
He's keeping busy defending GMAC chairman Ezra Merkin from accusations that he lost \$24M of NYU's money by investing it without permission in a Bernie Madoff fund.
- **fredric levin** LEVIN PAPANTONIO (PENSACOLA, FLA.)
The namesake of the University of Florida's law school, Levin continues to win massive personal injury and wrongful death awards across the Sunshine State.
- **richard levin** CRAVATH (NEW YORK)
Less than a year after starting Cravath's bankruptcy practice, Levin was tapped by Lazard as financial advisor to Bear Stearns. He also represented Credit Suisse in connection with the Lehman bankruptcy.
- **lee levine** LEVINE SULLIVAN (WASHINGTON, DC)
He nailed down Pennsylvania's shield-law protections, even with respect to sources that broke the law in talking with the media, and safeguarded the New York Times' victory in its "anthrax libel" defense.
- **victor lewkow** CLEARY GOTTlieb (NEW YORK)
When Barclays Capital swooped in for Lehman's assets, Lewkow made sure the firm cherry-picked the best prospects.
- **martin lipton** WACHTELL LIPTON (NEW YORK)
He's swimming against the changing tides, advising corporate boards to keep CEOs highly compensated and unfettered by shareholder interference.

- **david lira** GIRARDI KEESE (LOS ANGELES)
He's quietly making a big name in trial circles by taking on the makers of defective beds for toddlers, insurers who deny coverage and oil companies who contaminate property.
- **cheryl little** FLORIDA IMMIGRANT ADVOCACY CENTER (MIAMI)
Little won the prized Morris Dees Justice Award for her indefatigable efforts to help refugees, children and other immigration clients, regardless of their ability to pay.
- **judith livingston** KRAMER DILLOF (NEW YORK)
This enormously impressive trial lawyer won \$12M for the family of a young mother who died after a medical lab misread her pap smears, leading her gynecologist to not detect the mother's cervical cancer.
- **abbe lowell** MCDERMOTT WILL (WASHINGTON, DC)
Nevada Gov. Jim Gibbons faced charges that he accepted cash and gifts in return for steering state business. Then Lowell stepped in as Gibbons' attorney. In November, prosecutors dropped the charges.
- **patricia lowry** SQUIRE SANDERS (WEST PALM BEACH, FLA.)
When the makers of OxyContin, Trasyolol and orthopedic bone screws needed strong legal medicine, Lowry rode to the rescue.
 - **martin lueck** ROBINS KAPLAN (MINNEAPOLIS)
Lueck brought patently good luck to Eolas Technologies, ExxonMobil Chemical, General Electric and Honeywell.
 - **james lyons** SKADDEN (SAN FRANCISCO)
He piloted McKesson Corp. through multiple lawsuits following the company's acquisition of HBOC.
 - **barry macban** MACBAN LAW OFFICES (TUCSON)
He continued his winning ways with a \$4.7M verdict for a middle school teacher hit by a school bus - among the largest PI verdicts in Pima County history.
 - **colleen mahoney** SKADDEN (WASHINGTON, DC)
A Supreme Court contender if McCain had won, Latham's appellate chair is the last hope of clients like Entergy and former Qwest CEO Joseph Nacchio.
 - **maureen mahoney** LATHAM & WATKINS (WASHINGTON, DC)
For auditors and audit firms, hedge funds and national stock exchanges facing SEC scrutiny, there's no one better.



(left to right) Stuart Singer, David Boies, Jonathan Schiller, George Carpinello

- **thomas malcolm** JONES DAY (IRVINE, CALIF.)
This elegant figure has dominated the OC legal scene, successfully defending Applied Medical Resource Corp. in multiple courts against unfair competition and trade secret theft claims.
- **patrick malone** PATRICK MALONE & ASSOCIATES (WASHINGTON, DC) Malone won \$24.5M for a 14-year-old athlete who had a leg needlessly amputated after massive failures by his physician and nurses.
- **thomas malone** MALONE LAW (ATLANTA)
The longtime patients' advocate and author of the "The Life You Save" scored a nearly \$6M verdict against a dermatology practice.
- **floyd mandell** KATTEN MUCHIN (CHICAGO)
A much-admired leader of Katten's well-stocked IP force handles the litigation and counseling needs of Microsoft, E! Entertainment Network, Bausch & Lomb, AIG, Motorola and many others.
- **gregory markel** CADWALADER (NEW YORK)
The veteran leader of Cadwalader's litigation team won dismissals in 2008 in separate securities cases for Bear Stearns, Pfizer, Xstrata and Bank of America officers and directors.
- **steven marks** PODHURST ORSECK (MIAMI)
The plaintiffs' side master of airline cases also is leading the Russian government's \$22.5B case against Bank of New York Mellon over a former VP's illegal transfer of funds from the country.
- **richard marmaro** SKADDEN (LOS ANGELES)
A master in white-collar matters continues to defend former Embarcadero Technologies leader Raj Sabhlok and many others.
- **david martin** COVINGTON & BURLING (WASHINGTON, DC) This securities regulation guru guided the Och-Ziff hedge fund on governance and similar topics stemming from its IPO.
- **john martin** THOMPSON & KNIGHT (DALLAS)
The vice president of Lawyers for Civil Justice continues to shield attorneys, law firms and health care providers from liability.
- **william martin** SUTHERLAND ASBILL (WASHINGTON, DC) The chair of Sutherland's white-collar practice is the lawyer of choice for many corporations and celebrities in trouble, thanks in no small part to his work for NFL star Michael Vick and Sen. Larry Craig.



billy martin

- **timothy mayopoulos** BANK OF AMERICA (CHARLOTTE, N.C.) Previously Bank of America's general counsel, Mayopoulos remains poised to bring considerable insight to financial giants.
- **alejandros mayorkas** O'MELVENY (LOS ANGELES) This former U.S. Attorney wins "bet-the-company" matters for aerospace, consumer safety, health care, media, real estate and telecom clients.
- **david mazie** MAZIE SLATER (ROSELAND, N.J.) He's collected tens of millions of dollars from stadium vendors and health insurance companies and scored a \$2.1M settlement for a patient over a botched Lasik eye surgery.
- **brian mccarthy** SKADDEN (LOS ANGELES) A tight credit market didn't stop this Skadden stalwart from finding financing for client United Online's \$800M purchase of FTD.
- **robert mccaw** WILMERHALE (NEW YORK) For companies facing problems relating to securities fraud, insider trading, improper sales practices, failure to supervise, negligent misrepresentation or rule violations, McCaw's your man.
- **william mccorriston** MCCORRISTON MILLER (HONOLULU) One of Hawaii's best-known litigators counts as clients the University of Hawaii and a Kauai man facing manslaughter charges over a dam failure that killed seven people.
- **patrick mcgroder** GALLAGHER & KENNEDY (PHOENIX) This Grand Canyon State great keeps churning out wins in aviation, product liability, professional negligence and wrongful death cases.
- **mike mckool** MCKOOL SMITH (DALLAS) The Texas legend continues to make the Marshall area tops for patent cases while expanding his top-notch trial firm to New York.
- **william mclucas** WILMERHALE (WASHINGTON, DC) An era of renewed SEC enforcement will bring even greater demand for McLucas, who investigated a tax-office scandal for the DC City Council.
- **john mead** SULLIVAN & CROMWELL (NEW YORK) Kept busy as outside counsel to Goldman Sachs, Mead also worked on Cablevision Systems' \$650M purchase of Newsday from the Tribune Co. and its \$500M purchase of the Sundance Channel.

- **christopher meade** WILMERHALE (NEW YORK)
This skilled commercial and busy Supreme Court litigator won a crucial 5-4 victory in *Dada v. Mukasey*, enabling his noncitizen client to withdraw his voluntary departure motion.
- **mark menting** SULLIVAN & CROMWELL (NEW YORK)
Part of the Sullivan dream team, Menting handled billion-dollar investment deals for clients CDC, Allianz, ING Group NV and Tygris Commercial Finance Group.
- **ron mercaldo** MERCALDO LAW FIRM (TUCSON)
A Tucson teenager suffered serious injuries after a high-speed driver ran him down in the crosswalk. Mercaldo won \$9.2M from Pima County for negligent road design and allowing excessive speed limits.
- **michael meyer** DLA PIPER (LOS ANGELES)
The real estate leasing czar created the definition of fair market rental value as he transformed office leasing, most recently handling Union Bank of California's 345,000 sq. foot lease extension in downtown LA.
- **lee meyerson** SIMPSON THACHER (NEW YORK)
This corporate master is right in the thick of it - to say the least - representing the U.S. Treasury in the TARP structuring, as well as Wachovia and JP Morgan in their multi-billion dollar offerings.
- **harvey miller** WEIL GOTSHAL (NEW YORK)
The unparalleled bankruptcy counsel continues his legendary ways for Lehman, the largest bankruptcy of all time and a host of other companies in a jam, including WaMu, AIG and many others.
- **j. gregory milmoe** SKADDEN (NEW YORK)
Milmoë's the man in M&A matters. Just ask Abraxis Petroleum, Aurora Foods, Fairfield Manufacturing, Radio Unica and Vlastic Foods.
- **thomas minogue** THOMPSON COBURN (ST. LOUIS)
This St. Louis corporate mainstay represents companies like Enterprise Rent-A-Car and United Van Lines while leading one of the most successful firms in the region.
- **ted mirvis** WACHTELL LIPTON (NEW YORK)
Mirvis finds great enjoyment in litigating deals, which probably explains why he's so good at them.
- **stacey mobley** DICKSTEIN SHAPIRO (WILMINGTON)
The legendary general counsel left DuPont after a storied 30-year career for Dickstein, where he is leading diversity efforts while serving in the state attorneys general practice



bob giuffra

- **steve molo** SHEARMAN & STERLING (NEW YORK)

Molo moves easily between criminal cases – defending Symbol Technology CFO Ken Jaeggi – and civil – pursuing The Donald for Deutsche Bank and chasing Madoff money.

- **michael mone** ESDAILE BARRETT & ESDAILE (BOSTON)

The esteemed trial attorney known for big plaintiffs’ verdicts also defended a superior court judge accused of writing threatening letters to the Boston Herald.

- **robert mongeluzzi** SALTZ MONGELUZZI (PHILADELPHIA)

Fresh from his \$100M settlement in a case over a deadly parking-garage collapse, Mongeluzzi is taking on the developers of an apartment complex where a summer fire left hundreds homeless.

- **h. laddie montague** BERGER & MONTAGUE (PHILADELPHIA)

Respected jurists use words like “extraordinary,” “efficiency and imagination” and “results that speak for themselves” to describe the work of this personal injury pro.

- **c. barry montgomery** WILLIAMS MONTGOMERY (CHICAGO)

This defense dynamo came through big time for Black & Decker, Indeck Energy, Turner Construction Co. and the Boston Chicken audit committee.

- **thomas moore** KRAMER DILLOF (NEW YORK)

Moore earned a \$19.6M verdict against St. Vincent’s Hospital over a botched baby delivery and is suing a Manhattan clinic for the family of a woman who died three days after a failed facelift.

- **mary ann morgan** BILLINGS MORGAN (WINTER PARK, FLA.)

She glows across the Sunshine State for personal injury, product liability and wrongful death victims.

- **james morphy** SULLIVAN & CROMWELL (NEW YORK)

The corporate master led one of the biggest deals of the year with client InBev’s \$52B acquisition of Anheuser-Busch, and he counseled Microsoft in its bid for Yahoo!

- **robert morvillo** MORVILLO ABRAMOWITZ (NEW YORK)

The white-collar stalwart guided former Refco CFO Robert Trosten to his guilty plea and is defending former AIG chairman Maurice Greenberg against civil fraud claims brought by the state of New York.

- **ed moss** SHOOK HARDY (MIAMI)

In recent years, Shook Hardy’s Miami ace-in-the-hole has defended Hoffman-LaRoche against users of the Accutane drug and Home Depot against a proposed class of consumer plaintiffs.

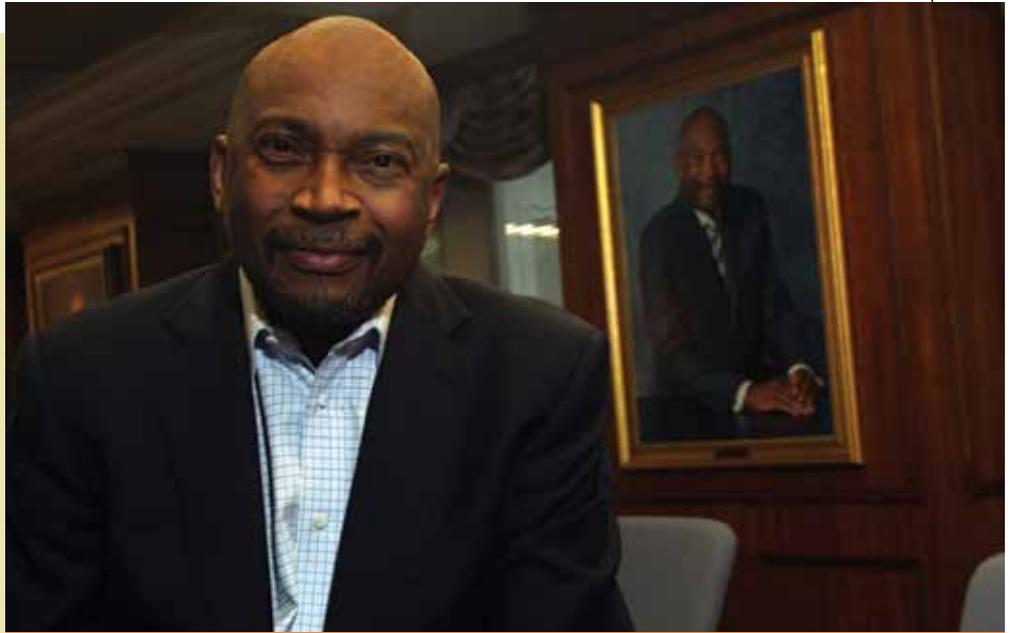


tom demetrio

- **ronald motley** MOTLEY RICE (MOUNT PLEASANT, S.C.)
Motley wields tremendous influence as the unstoppable force behind the region's most fearsome plaintiffs' practice.
- **francis murphy** CORBOY & DEMETRIO (CHICAGO)
He added two more multimillion-dollar settlements to his record in 2008: \$1.4M for a carbon-monoxide poisoning death and \$2.5M for injuries resulting from a porch-railing collapse.
- **john murphy** CLEARY GOTTLIEB (WASHINGTON, DC)
As sought after as any lawyer for complex banking and finance matters, this former FDIC general counsel advised Hartford Insurance on its foray into banking during the bailout bonanza.
- **christopher murray** O'MELVENY (LOS ANGELES)
Murray remains one of the most in-demand lawyers for any complex entertainment deal - financing, licensing, publishing, distribution.
- **barry nace** PAULSON & NACE (WASHINGTON, DC)
The man behind *Daubert v. Merrell Dow Pharmaceuticals* regularly scores multimillion-dollar verdicts for injured plaintiffs and their families.
- **kenneth nachbar** MORRIS NICHOLS (WILMINGTON)
This mainstay of Delaware's tight knit securities-litigation bar added to his record with a defense-side victory in *In re IAC/InterActiveCorp.*
- **clifford naeve** SKADDEN (WASHINGTON, DC)
The former FERC commissioner is the very definition of "leading lawyer" as the guiding force behind the nation's strongest energy regulatory practice.
- **gary naftalis** KRAMER LEVIN (NEW YORK)
Naftalis defended Kenneth Langone against charges that he misled NYSE board members about chairman Richard Grasso's compensation package.
- **charles nathan** LATHAM & WATKINS (NEW YORK)
Latham's strength in NY and in the high-stakes global M&A arena is built on this giant, a veteran of dozens of multi-billion dollar deals.
- **steve neal** COOLEY GODWARD (PALO ALTO, CALIF.)
Eager to take on any complex civil or criminal matter, Cooley's steely leader won an acquittal on stock-option backdating charges for former McAfee GC Kent Roberts.

- **daniel neff** WACHTELL LIPTON (NEW YORK)
One of Wachtell's M&A powers represented Smith International in its \$3.2B purchase of fellow Houston energy company W-H Energy Services.
- **steven newborn** WEIL GOTSHAL (WASHINGTON, DC)
Weil's antitrust co-head continues his endless streak of megadeal work, advising Staples in its \$4.3B acquisition of Corporate Express.
- **james nguyen** WILDMAN HARROLD (BEVERLY HILLS, CALIF.)
Wildman's dynamo talent is a one-stop shop for companies in entertainment, technology, advertising, sports and other industries seeking IP, litigation and transactional advice.
- **tom nolan** SKADDEN (LOS ANGELES)
From antitrust and securities litigation to white-collar crime and IP cases - including defending MGA against Mattel's claims over the Bratz dolls - Skadden's top trial lawyer out West can do it all.
- **harold novikoff** WACHTELL LIPTON (NEW YORK)
Wachtell's restructuring and finance chair performed his magic for the Treasury Department's bailout work, and at a bargain, for less than 1 percent of the firm's normal rates.
- **robert o'brien** ARENT FOX (LOS ANGELES)
Arent Fox's LA head is a top-flight commercial litigator who makes an impact globally, serving as co-chair of the State Department's Afghanistan public-private justice reform initiative.
- **david o'keefe** BONNE BRIDGES (LOS ANGELES)
Doctors and hospitals feel confident going to trial when their case is handled by O'Keefe, one of the most admired malpractice lawyers in Southern California.
- **terry o'reilly** O'REILLY & DANKO (SAN MATEO, CALIF.)
An amazing advocate, he won \$23.9M for an 88-year-old farmer paralyzed when his auto was struck by a speeding ambulance, allowing the man to return to his 110-year old family home.
- **jack olender** JACK OLENDER & ASSOCIATES (WASHINGTON, DC)
One of the DC bar's true legends, Olender remains the unrivaled master of complex medical malpractice cases with more than 200 settlements topping a million dollars.
- **stephen oleskey** WILMERHALE (BOSTON)
This litigator possesses a staggering pro bono CV, most recently serving as co-lead counsel for *Boumediene v. Bush*, in which the Supreme Court found that Guantanamo detainees are entitled to habeas corpus.





stacy mobley

- **ronald olson** MUNGER TOLLES (LOS ANGELES)
The esteemed name partner is always up to his elbows in high-stakes litigation, representing Yahoo!'s board of directors in Microsoft's attempted takeover.
- **brian panish** PANISH SHEA (LOS ANGELES)
The record-setting Panish keeps winning big: \$21M from the city of SF for a 4-year-old's death and \$15M from Sempra for a brain-injured teen.
- **theodore olson** GIBSON DUNN (WASHINGTON, DC)
He was three for three before the Supreme Court last year, including winning preemption for FDA approved medical devices, upholding NY's judge selection system and curbing some qui tam claims.
- **mike papantonio** LEVIN PAPANTONIO (PENSACOLA, FLA.)
The outspoken trial lawyer and voice of the left continues to score big for plaintiffs while co-hosting the Air America radio show "Ring of Fire."
- **barry ostrager** SIMPSON THACHER (NEW YORK)
He secured a \$2B arbitration award for Hanwha and got nationalized Argentine pension assets in the U.S. subject to creditor execution.
- **c. allen parker** CRAVATH (NEW YORK)
This financing leader is helping Steven Spielberg start his new studio with Reliance Big Entertainment while working for Bristol-Myers in its \$4.1B sale of ConvaTec.
- **wayne outten** OUTTEN & GOLDEN (NEW YORK)
Bad times for employees mean that Outten is busier than ever as the leader atop New York's fiercest plaintiff-side employment practice.
- **kirk pasich** DICKSTEIN SHAPIRO (LOS ANGELES)
The leader of one of the best insurance-coverage practice groups anywhere scored a \$48.5M verdict for Sempra Energy against its insurance broker.
- **cliff palefsky** MCGUINN HILLSMAN (SAN FRANCISCO)
Outgoing Silicon Valley executives and other ex-employees call on this vocal plaintiff-side employment advocate, who has only grown in influence as the economy worsened and terminations spread.
- **lawrence pedowitz** WACHTELL LIPTON (NEW YORK)
This internal-investigations specialist and white-collar litigator determined that NBA referee Tim Donaghy was the sole NBA insider betting on games.

- **peter perlman** PETER PERLMAN LAW OFFICES (LEXINGTON, KY.)
The star of the Kentucky plaintiffs bar is a master in PI and wrongful death cases, securing settlements in this past year from Comair over a 2006 plane crash that left 49 dead.
- **william perlstein** WILMERHALE (WASHINGTON, DC)
The co-managing partner of superfirm WilmerHale specializes in big bankruptcy cases involving the likes of EPIC Associates, LTV Corp., Spectra Vision and Orange County, Calif.
- **kathleen peterson** ROBINS KAPLAN (MINNEAPOLIS)
Peterson continued to lead one of the nation's best and most prolific medical-malpractice corps while serving as a vocal leader of the trial bar as head of the American Association of Justice.
- **steven pfeiffer** FULBRIGHT & JAWORSKI (WASHINGTON, DC)
Few wear two hats as naturally as Pfeiffer, who works on a wide range of complex global transactions while leading his firm through one of its most successful eras as chairman.
- **john phillips** PHILLIPS & COHEN (WASHINGTON, DC)
Influential is the word for Phillips, who in guiding the top qui tam practice in the nation has recovered billions under the False Claims Act.
- **stacy phillips** PHILLIPS LERNER (LOS ANGELES)
The divorce doyenne of the powerful and prominent is famous for representing Britney Spears' conservators and celebrity clients, but also noted for her tireless commitment to helping those in need.
- **roberta pichini** FELDMAN SHEPHERD (PHILADELPHIA)
One of the best Philly-based med-mal and product-liability attorneys has helped patients and consumers of all stripes for more than two decades.
- **regina pisa** GOODWIN PROCTER (BOSTON)
The talented banking and finance attorney and firm chairman continues to lead Goodwin Procter's global expansion, most recently opening the firm's first Asia office, in Hong Kong.
- **eric posner** UNIVERSITY OF CHICAGO LAW SCHOOL (CHICAGO)
This brilliant writer (and son of Richard) has made his own name with scholarship on the war on terror, climate change, international relations and other timely topics.
- **richard posner** 7TH U.S. CIRCUIT COURT OF APPEALS (CHICAGO)
From his legal opinions and articles to his most recent book ("How Judges Think") and the widely read becker-posner blog, Posner continues to set the highest standard for legal minds.

- **Joseph power** POWER ROGERS & SMITH (CHICAGO)
Remaining a massive force in the wrongful death arena, Power won an Illinois Supreme Court ruling that defendants who settle before trial should not be on jury forms for the apportioning of fault.
- **matthew powers** WEIL GOTSHAL (REDWOOD SHORES, CALIF.)
The patent trial lawyer of choice for Apple, Microsoft and many others also won an important patent victory for Genentech in its dispute with Human Genome Sciences over rights to DNA sequences.
- **lorna propes** PROPES & KAVENY (CHICAGO)
Propes remains equally comfortable spearheading big lawsuits, such as a nationwide class action case against makers of breast implants, and teaching the next generation of lawyers about such suits in the classroom.
- **steven quattlebaum** QUATTLEBAUM GROOMS (LITTLE ROCK, ARK.)
He won defense-side verdicts for manufacturers sued for the allegedly harmful affects of welding fumes, a dismissal of a patent trial for Alltel and a favorable settlement in a coal shipment case for Entergy.
- **james quinn** WEIL GOTSHAL (NEW YORK)
The co-chair of Weil's global litigation team won a huge victory for ExxonMobil and other oil giants against billion-dollar claims that the companies conspired to restrict the supply of gas and increase prices.
- **john quinn** QUINN EMANUEL (LOS ANGELES)
One of the nation's most fearless litigators scored a \$100M verdict and a finding of infringement for client Mattel in its copyright and trade-secrets case against Bratz doll maker MGA Entertainment.
- **gordon rather** WRIGHT LINDSEY (LITTLE ROCK, ARK.)
Rather is the king of commercial litigation, handling class action defense, products liability and toxic torts claims for clients like Baptist Health in antitrust healthcare litigation.
- **michael ratner** CENTER FOR CONSTITUTIONAL RIGHTS/NYU (NEW YORK)
This famed defender of human rights and civil liberties led the fight to demand due process for Guantanamo detainees and to oppose the use of torture.
- **harry reasoner** VINSON & ELKINS (HOUSTON)
The master litigator led the ETSI Pipeline Project team to victory, winning more than \$1B in damages for his client against railroad defendants.
- **patrick regan** REGAN ZAMBRI (WASHINGTON, DC)
This leading litigator gets millions for his injured clients, including \$15.2M in the death of a carpenter crushed by a dump truck with a defective back-up alarm and \$14M for the victim of a defective product.



rob spatt



dan webb

- **dan reidy** JONES DAY (CHICAGO)
He is more than ready to handle patent infringement claims, qui tam suits, partnership disputes, director liability litigation, theft of trade secrets or regulatory proceedings.
- **eric reifschneider** COOLEY GODWARD (PALO ALTO, CALIF.) He helped forge a 15-year licensing deal allowing cell phone giant Nokia unfettered access to all of Qualcomm's wireless networks.
- **alison resseller** SULLIVAN & CROMWELL (LOS ANGELES) Sullivan's perennial M&A star out west continued her winning ways, representing Talecris Biotherapeutics in its \$3.1B sale to Australia's CSL.
- **barry richard** GREENBERG TRAURIG (TALLAHASSEE, FLA.) Whether it's his billion-dollar deals, or the lingering effect of his work for the Bush 2000 campaign, his influence echoes through the years and across the globe.
- **peter riley** THOMPSON & KNIGHT (DALLAS) Riley has worked on many of the largest business reorganizations and will be busier than ever during the Great Recession.
- **john roberts** U.S. SUPREME COURT (WASHINGTON, DC) With quiet dignity, Roberts guided a fractious court in conservative directions on issues like affirmative action, gun control, voting rights and matters affecting Corporate America.
- **michele roberts** AKIN GUMP (WASHINGTON, DC) Roberts is one of DC's top white-collar lawyers, defending Valero Energy, DC developers and teachers union members.
- **mark robinson** ROBINSON CALCAGNIE (NEWPORT BEACH, CALIF.) This legend keeps notching wins for the Castano Litigation Group, and he's co-counsel with the Orange County DA's office against oil companies with troublesome underground storage tanks.
- **larry rogers** POWER ROGERS & SMITH (CHICAGO) His career has included Illinois' largest med mal verdict (\$55M) and a recent \$3.9M settlement in a dental sedation death.
- **anthony romero** ACLU (NEW YORK) Romero amassed greater resources to challenge Patriot Act provisions, Bush policies allowing torture, abuse of detainees and wiretapping.



bob shuftan

- **martin rose** ROSE WALKER (DALLAS)
This high-flying plaintiffs' lawyer noted for his aviation expertise is representing Raytheon in its bid to recover trade secrets against Flir, and L-3 in its dispute with Lockheed Martin.

- **harry rosenberg** PHELPS DUNBAR (NEW ORLEANS)
Formerly a U.S. Attorney, Rosenberg now coordinates his firm's commercial litigation practice and rebuffs judicial interference into the board which oversees the New Orleans public defender office.

- **robert rosenberg** LATHAM & WATKINS (NEW YORK) Even as GM teeters along the edge of bankruptcy, he continues to fight for creditors burned by GM's once-promising spinoff, Delphi.

- **eric roth** WACHTELL LIPTON (NEW YORK)
A trusted veteran of complex cases such as the World Trade Center insurance-coverage litigation, Roth represented the Treasury Department in its takeover of Fannie Mae and Freddie Mac.

- **neal roth** GROSSMAN ROTH (CORAL GABLES, FLA.)
A standout in the Sunshine State, Roth has been one of the most effective plaintiffs' side PI and med-mal attorneys for three decades.

- **paul roth** SCHULTE ROTH (NEW YORK)
This hedge-fund honcho continues to help his clients, even amid the credit crunch and the Obama Administration's post-Wall Street mindset.

- **paul rowe** WACHTELL LIPTON (NEW YORK)
A steely litigator who helps clients through complex transactions, Rowe handled Wells Fargo's contentious purchase of Wachovia.

- **peter rubin** BERNSTEIN SHUR (PORTLAND, MAINE)
For business litigation, malpractice, personal injury and product liability claims, Rubin is unrivaled in the great Northeast.

- **charles ruck** LATHAM & WATKINS (COSTA MESA, CALIF.) He advised Harrah's on a \$28B going-private deal and its \$10.3B Caesar's Entertainment acquisition, while handling ICOS' \$2.1B sale to Eli Lilly, Amgen's \$19B Immunex purchase and Morgan Stanley's \$8.1B Pacificare sale.

- **michael rudell** FRANKLIN WEINRIB (NEW YORK)
Bravo is lookin' good since this entertainment genius got the injunction preventing TWC from taking "Project Runway" to the Lifetime Channel.

- **philip ruegger** SIMPSON THACHER (NEW YORK)
As demand for M&A work slows down, this talented chairman faces a careful balancing act: how to hang onto tomorrow's mergers megastars, while not inflicting much damage to current partners' profits.
- **herman russomanno** RUSSOMANNO & BORELLO (MIAMI)
The former Florida State Bar president has his hands full defending fellow attorney Brett Rivkind, who stands accused of mishandling dozens of suits against Royal Caribbean Cruise Lines by former employees.
- **faiza saeed** CRAVATH (NEW YORK)
Ms. Deal represented JP Morgan in the Wendy's-Triarc (Arby's) merger as well as Morgan Stanley in its conversion to a bank holding company and the \$9B investment by Mitsubishi.
- **kelli sager** DAVIS WRIGHT (LOS ANGELES)
The media and First Amendment rights Queen kept the courtroom open to the media while representing E! Entertainment, Paramount, Conde Nast, Discovery Communications and Warner Bros.
- **richard sandler** DAVIS POLK (NEW YORK)
This NY Giant, formerly of the football team, now goes deep in capital markets, leading the way advising the underwriters on Visa's \$19B IPO.
- **gloria santona** MCDONALD'S CORPORATION (OAKBROOK, ILL.)
The executive VP and GC of the burger empire handles its worldwide legal, compliance, regulatory and corporate governance while promoting diversity and pro bono legal services to underserved communities.
- **richard sayles** SAYLES WEBNER (DALLAS)
This Texas trial titan is representing eTool Development in its patent infringement suit against National Semiconductor and Encore Marketing in a dispute over advertising sales for SuperPages.com.
- **antonin scalia** U.S. SUPREME COURT (WASHINGTON, DC)
Scalia is admired as the most effective articulator of originalism and also for his honesty and willingness to call out even fellow conservatives on the bench.
- **elliott scherker** GREENBERG TRAURIG (MIAMI)
Scherker has handled more than 2,000 appeals nationwide and routinely wins precedent-setting cases on behalf of clients such as Lorillard Tobacco Company, BDO Seidman, Hilton Hotels, and Brink's.
- **david schertler** SCHERTLER & ONORATO (WASHINGTON, DC)
He obtained acquittals for the former CTO of PurchasePro.com and a DC securities lawyer on fraud charges and is now defending Dustin Heard, a Blackwater guard accused in Iraqi citizens' shooting deaths.



sanford a:n

- **robert schick** VINSON & ELKINS (HOUSTON)
Schick's experience successfully defending huge product liability, toxic tort and other class actions will be key to his role anchoring Vinson's climate change representation of oil and gas clients.
- **frank schreck** BROWNSTEIN HYATT (LAS VEGAS)
Tops in the U.S., if not the world, this gaming and licensing champ boasts clients like Wynne Resorts, MGM Mirage, Harrah's and Pinnacle.
- **donald schiller** SCHILLER DUCANTO (CHICAGO)
This matrimonial magician brings in the big bucks for his clients, handling some of the largest and most controversial splits.
- **amy schulman** PFIZER (NEW YORK)
As Pfizer's VP and GC, she's putting to use the savvy that made her a \$60M rainmaker at DLA to settle a proliferation of claims against the pharmaceutical giant.
- **jonathan schiller** BOIES SCHILLER (NEW YORK)
He's defending Bank of New York Mellon against Russia's \$22.5B civil RICO suit, marshaled Barclays' \$7 billion recovery from JP Morgan and leads Huntsman against Hexion in New York.
- **john schulman** WARNER BROS. (BURBANK, CALIF.)
What became a legend most? A brilliant entertainment lawyer who helmed Warner Bros. legal affairs for 24 years with barely a loss while defining the leading edge of intellectual property.
- **paul schlauch** HOLLAND & HART (GREENWOOD VILLAGE, COLO.)
This mining maven privatized the Dominican Republic's Pueblo Viejo gold deposit and closed a \$1.3B coal business transaction and a \$100M-plus Chilean water rights sale.
- **victor schwartz** SHOOK HARDY (WASHINGTON, DC)
A true visionary, legal scholar and political activist, Schwartz has led Corporate America's tort reform effort.
- **clifford schoenberg** CADWALADER (NEW YORK)
This insurance/reinsurance insider is defending Gen Re's Ferguson on AIG-related securities fraud charges brought by the Justice Department.
- **christian searcy** SEARCY DENNEY (WEST PALM BEACH, FLA.)
This champion of catastrophic personal injury victims continues bringing home million dollar recoveries for his clients - recently amassing more than \$100M for four clients.

- **lawrence secrest** WILEY REIN (WASHINGTON, DC)
Got a broadcaster, cable television, satellite TV or international telecommunications client needing relief from regulations? Call on Secrest.
- **christopher seeger** SEEGER WEISS (NEW YORK)
This former boxer pummels his adversaries: He followed up the \$4.85B Vioxx deal by helping with the \$904M settlement in Bextra/Celebrex claims and leading the auction rate securities litigation against UBS.
- **joseph sellers** COHEN MILSTEIN (WASHINGTON, DC)
Wal-Mart female employees' savior in their \$11B sexual discrimination and civil rights class action is now representing African-American homeowners hit by Hurricane Katrina who were denied equal coverage.
- **r. michael senkowski** WILEY REIN (WASHINGTON, DC)
His mastery and influence on public policy issues and vast experience handling the largest telecommunications mergers in history make him the go-to telecom guru.
- **joseph shenker** SULLIVAN & CROMWELL (NEW YORK)
A veteran of billion-dollar transactions in the real estate industry, he is next in line to take over one of the nation's most elite firms as chairman.
- **leopold sher** SHER GARNER (NEW ORLEANS)
The leading light of real estate in New Orleans now teaches lawyers in other areas hard hit by disaster how to reach out to clients in their time of need.
- **robert shuftan** WILDMAN HARROLD (CHICAGO)
This impressive leader excels in court and the boardroom alike, defending leading companies on a national basis while celebrating his 10th year as managing partner by building a top-flight LA office.
- **david siegel** IRELL & MANELLA (LOS ANGELES)
Corporate executives seek out Siegel to handle their high-stakes securities defense knowing he'll get the best results.
- **earl silbert** DLA PIPER (WASHINGTON, DC)
From Watergate through Enron, this defense lawyer, a former U.S. Attorney, is tops in protecting those charged with white-collar crimes.
- **jerry silk** BERNSTEIN LITOWITZ (NEW YORK)
This young star has amassed an impressive track record, taking on AIG in a class action over subprime-related losses and Bank of America for alleged misstatements related to its acquisition of Merrill Lynch.

- **bruce silverstein** YOUNG CONAWAY (WILMINGTON)
RJR Nabisco, QVC Network and other corporate giants rely on this M&A expert, who recently prevented Hexion from withdrawing its \$10.6B merger agreement with client Huntsman.
- **stuart singer** BOIES SCHILLER (FT. LAUDERDALE, FLA.)
He drives rings around the competition for FPL Energy, Florida kids who need medical care, and, of course, NASCAR, for which he turned back claims it monopolizes top-level stock car racing.
- **richard sinkfield** ROGERS & HARDIN (ATLANTA)
A top-notch litigator and strategist, Sinkfield commands the courtroom like no other.
- **brad smith** MICROSOFT (REDMOND, WASH.)
Recession or not, Microsoft remains poised to handle business – what to do about Google, whether to do anything with Yahoo!, who’s developing the Next Next Big Thing – largely thanks to Smith.
- **bradley smith** DAVIS POLK (NEW YORK)
He helped Lyondell Chemical Company secure \$8.11B in financing and represents JP Morgan and dozens of lenders and creditors in international financing and restructuring transactions.
- **todd smith** POWER ROGERS & SMITH (CHICAGO)
This tireless advocate recovers millions for injured consumers, including \$10.6M for psychiatric malpractice, \$17.25M for medical malpractice and \$20M for a catastrophic injury case.
- **wayne smith** GIBSON DUNN (IRVINE, CALIF.)
He obtained reversal of a \$277M securities verdict against Apollo Group and defends Sony against claims of mismanagement from a \$3.2B write off, as well as Intel in its Chips and Technologies acquisitions.
- **amy fisch solomon** GIRARDI KEESE (LOS ANGELES)
Soloman obtained a \$43M settlement against The Walt Disney Co. for a 4-year-old injured on a Disneyland ride and \$35M against a supermarket for an 11-year-old struck by a poorly maintained light pole.
- **louis solomon** PROSKAUER (NEW YORK)
He obtained dismissal of the class action challenging PepsiCo’s labeling of Aquafina, helped ImClone retain all its rights to its cancer product against Merck and recovered hundreds of millions for other clients.
- **jerold solovy** JENNER & BLOCK (CHICAGO)
Stop asking Solovy when he plans to retire – he’s having too much fun, and still notching too many big wins.



jay eisenhofer

- **larry sonsini** WILSON SONSINI (PALO ALTO, CALIF.) This IPO sage is still a dominant force in Silicon Valley and the lawyer of choice for many high-tech execs and those investing in tech companies.
- **robert spatt** SIMPSON THACHER (NEW YORK) Spatt remains at the top of the dealmaking world, representing CSL in its \$3.1B acquisition of Talecris Biotherapeutics and JP Morgan as advisor to EMBARQ in its \$11.6B acquisition by Century Tel.
- **shanin specter** KLINE & SPECTER (PHILADELPHIA) He obtained a \$35M settlement in the Bridgeport Fire case while establishing state law enabling minors to pursue claims for medical expenses even if their parents failed to timely file the claims.
- **broadus spivey** SPIVEY & GRIGG (AUSTIN, TEXAS) This courtroom master has tried more than 300 cases, and represents country singer Don Walsler's family seeking royalties on his masters recorded under contract with Watermelon Records.
- **eugene stearns** STEARNS WEAVER (MIAMI) This world-class litigator is the go-to guy in South Florida for the most difficult and complex cases that will not settle and must be tried.
- **myron steele** DELAWARE SUPREME COURT (WILMINGTON) His stature as the nation's most influential jurist in corporate law matters only increased with the Delaware high court's new ability to answer questions of law put forth by the SEC.
- **john stevens** U.S. SUPREME COURT (WASHINGTON, DC) The most senior of the justices remains as nimble as always, writing the lead opinion upholding Indiana's controversial voter ID law.
- **bryan stevenson** EQUAL JUSTICE INITIATIVE OF ALABAMA (MONTGOMERY, ALA.) Stevenson has won national acclaim for securing relief for dozens of condemned prisoners, advocating for the poor and developing community-based reform litigation.
- **larry stewart** STEWART TILGHMAN (MIAMI) One of the fiercest Sunshine State consumer advocates, Stewart has earned more than 50 verdicts and settlements in excess of \$1M.
- **geoffrey stone** UNIVERSITY OF CHICAGO LAW SCHOOL (CHICAGO) One of the nation's leading legal minds served as an adviser to candidate Obama and is a prolific contributor to the national debate on constitutional issues such as privacy.



floyd mandell

- **leo strine** DELAWARE CHANCERY COURT (WILMINGTON)
His reputation as the sharpest mind in the profession seems to just grow with each corporate meltdown, recently approving a \$115M settlement between shareholders and former AIG officials.
- **paul stritmatter** STRITMATTER KESSLER (HOQUIAM, WASH.)
Tops for trial lawyers in Washington state, Stritmatter has scored multi-million dollar verdicts for plaintiffs in personal injury, productive liability, wrongful death and workplace injury cases.
- **neil sugarman** SUGARMAN AND SUGARMAN (BOSTON)
This East Coast PI giant consistently brings in big recoveries for his clients, including \$4M for a construction worker crushed in a crane collapse.
- **brendan sullivan** WILLIAMS & CONNOLLY (WASHINGTON, DC)
The legendary leader of a legendary firm takes on the toughest cases, including the defense of Senator Ted Stevens.
- **diane sullivan** DECHERT (PRINCETON, N.J.)
Ferocious, astute and savvy, Sullivan handled the Merck Vioxx defense and settlement.
- **neal sullivan** BINGHAM (WASHINGTON, DC)
He heads up Bingham's busy broker-dealer group and is one of the most sought-after attorneys for regulatory matters before the SEC and FINRA.
- **scott summy** BARON & BUDD (DALLAS)
His enormous \$423M settlement for an Illinois public drinking water provider whose supplies were contaminated with Atrazine will be a harbinger for detection and clean-up of America's public water supply.
- **cass sunstein** THE WHITE HOUSE (WASHINGTON, DC)
A core member of team Obama, this Chicago turned Harvard professor now heads the White House Office of Information and Regulatory Affairs.
- **dennis suplee** SCHNADER HARRISON (PHILADELPHIA)
This bet-the-company litigator defended a \$150M hedge fund fraud case and handled class action suits for Rohm and Haas while continuing his representation of UPS.
- **stephen susman** SUSMAN GODFREY (NEW YORK)
Susman continues to reign supreme as a pioneer in global warming litigation, going after emitters for coastal destruction in Kivalina and conspiracy to conceal threats of man-made climate change.



victor schwartz

- **charles swift** EMORY LAW/U.S. NAVY, JUDGE ADVOCATE GENERAL'S CORPS (ATLANTA) This hero of Guantanamo and former military defense lawyer gave the justice system a voice against the use of torture to obtain terrorist convictions.
- **richard taffet** BINGHAM (NEW YORK) This IP star obtained a unanimous verdict of non-infringement in *Broadcom v. Qualcomm* and helped settle the Qualcomm/Nokia patent war.
- **john tarantino** ADLER POLLOCK (PROVIDENCE, R.I.) He won the only "not guilty" verdict in the ground-breaking Rhode Island lead paint case while continuing his leadership of his state's bar.
- **william taylor** ZUCKERMAN SPAEDER (WASHINGTON, DC) The white-collar wizard is representing former Wal-Mart vice chair Thomas Coughlin on wire-fraud and tax-evasion charges and led Milberg Weiss' defense.
- **g. irvin terrell** BAKER BOTTS (HOUSTON) Terrell triumphed for American Airlines with a jury verdict that extinguished Continental and Northwest Airlines' antitrust suit.
- **b. lawrence theis** HOLME ROBERTS (DENVER) When New York firms see calamity, Theis sees opportunity to pick up Wall Street business, as well as formerly high-flying Big Apple attorneys.
- **daniel thomasch** ORRICK (NEW YORK) From patent protection to product liability, he champions the rights of the big pharmaceuticals, including Wyeth, Dow AgroSciences and Alcon.
- **james thompson** HARE WYNN (BIRMINGHAM, ALA.) This trial lawyer has successfully repped nearly every type of plaintiff and is now leading a class-action suit over alleged mismanagement by ANB Bank, which was closed by the feds in 2008.
- **eric tirschwell** KRAMER LEVIN (NEW YORK) A pro bono titan, he obtained the release of Uighurs wrongfully imprisoned at Guantanamo and overturned the wrongful conviction of a man who was imprisoned 12 years for robbery.
- **steven toll** COHEN MILSTEIN (WASHINGTON, DC) Toll is a plaintiff-side class-action master who handles some of the most highly publicized cases, including the case against Parmalat.

- **michael torpey** ORRICK (SAN FRANCISCO)
The head of Orrick's vaunted securities litigation group has carved out quite the niche, representing Silicon Valley giants.
- **paul tosetti** LATHAM & WATKINS (LOS ANGELES)
With some of the biggest M&A deals around, Tosetti counts Oracle, URS, Allergan and Hilton Hotels among his clients.
- **terry tottenham** FULBRIGHT & JAWORSKI (AUSTIN, TEXAS)
If you're confronting a crisis - whether an international pharmaceutical company facing AIDS/hemophilia litigation or a hospital system facing a class action - Tottenham's the lawyer to call.
- **robert townsend** CRAVATH (NEW YORK)
Deals weren't dead for him, evidenced by his representation of EMBARQ in its acquisition by CenturyTel, Johnson & Johnson in its \$438M acquisition of Omrix Biopharmaceuticals and Nestlé's \$39B sale of Alcon.
- **david tulchin** SULLIVAN & CROMWELL (NEW YORK)
One of the top antitrust litigators in the world has scored dozens of victories and favorable settlements for client and frequent target Microsoft.
- **jonathan turley** GEORGE WASHINGTON UNIVERSITY LAW SCHOOL (WASHINGTON, DC) This superstar in academia, blogging and an expert in executive privilege and national security may have the final say after years of demanding that Bush Administration officials should be prosecuted for their role in U.S. torture.
- **daniel tyukody** ORRICK (LOS ANGELES)
This securities defense giant nearly got Indymac off the hook on securities claims and is among the few lawyers in the U.S. who has successfully defended a securities class action trial.
- **chilton varner** KING & SPALDING (ATLANTA)
One of the top defense lawyers in the South, she is handling OxyContin, defending GlaxoSmithKline in defense of Paxil and against claims of overcharging the Medicaid system.
- **donald verrilli** U.S. JUSTICE DEPARTMENT (WASHINGTON, DC)
The leading indicator for Obama's stance on copyright protection is his selection of this zealous defender of copyright holders - RIAA, Viacom and many others - for a top Justice Department post.
- **patricia villareal** JONES DAY (DALLAS)
This securities litigation standout vanquishes opponents of ACI Worldwide, Electronic Data Systems, and most recently Dell, for which she won dismissal of a major class action.

● **cynthia vreeland** WILMERHALE (BOSTON)

No one is better at preserving patents and preventing infringement for clients ranging from fruit juice companies to wireless devices and everything in between.

● **mary kay vyskocil** SIMPSON THACHER (NEW YORK)

One of the nation's top reinsurance litigators, she proved her mettle winning dismissal of claims that client Equitas violated NY antitrust law by conspiring with certain Lloyds of London underwriters to the detriment of the Global Reinsurance Corp.

● **chaim wachsberger** CHADBOURNE & PARKE (NEW YORK)

This financial whiz represented Tenaska Power Fund in its \$1.65B acquisition of 3,000 megawatts from Constellation Power; Credit Suisse as an underwriter of the Yam Tethys gas field development and Duke Energy Capital in the \$1B structured financing of seven power projects.

● **john walker** GOOGLE, INC. (MOUNTAIN VIEW, CALIF.)

You could search long and hard to find a general counsel more critical to defining what our future will look like.

● **james wallace** WILEY REIN (WASHINGTON, DC)

From tech to pharmaceuticals, Wallace protects his clients' patent rights, recently securing for client NTP a \$612.5M patent infringement settlement with Blackberry's maker, Research in Motion.

● **leigh walton** BASS BERRY (NASHVILLE)

This dealmaking dynamo stands out for healthcare clients, leading IASIS Healthcare's \$81M acquisition of Glenwood Regional Medical Center.

● **paul ware** GOODWIN PROCTER (BOSTON)

One of Goodwin's biggest guns, he's regularly called upon by General Electric, Eli Lilly, Pyramid Corporation and Harvard University.

● **richard watt** WATT BECKWORTH (HOUSTON)

His decades-long insight into what's what in the energy industry remains potent.

● **seth waxman** WILMERHALE (WASHINGTON, DC)

Acclaimed as the nation's top Supreme Court advocate, this former Solicitor General almost wins 'em all, taking *Boumediene v. Bush*, though coming up short on FDA preemption in *Wyeth v. Levine*.

● **dan webb** WINSTON & STRAWN (CHICAGO)

He's on speed dial for those involved in high-stakes litigation, including former Detroit Mayor Kwame Kilpatrick and Verizon, for which he won \$58M in a patent infringement victory over Vonage.



wayne outten

- **robert weiner** ARNOLD & PORTER (WASHINGTON, DC)
He's got 'em covered whether it's a congressional investigation, product liability cases on diet drugs, heart valves or Israel's national security policies.
- **marc weingarten** SCHULTE ROTH (NEW YORK)
My, what a difference a year makes. He was deal-maker of the year (2007) for helping longtime client Cerberus buy control of GMAC from GM. Now he's trying to keep GMAC and Chrysler alive.
- **reid weingarten** STEPTOE & JOHNSON (WASHINGTON, DC)
This scrappy white-collar defender is now riding point for Arizona representative Rick Renzi, while watching his co-founder of the See Forever Foundation, Eric Holder, become AG.
- **harvey weitz** WEITZ & ASSOCIATES (NEW YORK)
A Big Apple litigation legend who's brought in hundreds of millions for consumers harmed by medical malpractice and other malfeasance.
- **w. scott welch** BAKER DONELSON (JACKSON, MISS.)
This Mississippi marvel defended State Farm in massive Hurricane Katrina litigation brought by 32,000 claimants.
- **theodore wells** PAUL WEISS (NEW YORK)
Wells gave Citi some of its only good news of the year with a \$364M counterclaim verdict against Parmalat, which had sued the bank for \$2B.
- **mark welshimer** SULLIVAN & CROMWELL (NEW YORK)
One of the star receivers on Team Cohen's monopoly on the Wall Street collapse, he's helping out on National City's \$7B raise, Fannie's rescue and AIG's \$20B infusion.
- **mark werbner** SAYLES WERBNER (DALLAS)
This top trial lawyer is equally adept taking on international terror financing, Sears Roebuck and medical malpractice.
- **d. anthony west** U.S. JUSTICE DEPARTMENT (WASHINGTON, DC)
The former MoFo star and "closer" for Obama's California fundraising is now head of the Justice Department's Civil Division.
- **mary jo white** DEBEVOISE & PLIMPTON (NEW YORK)
She cleans up the biggest fiascoes, from UBS' \$19B buyback of failed auction rate securities to Siemens' internal investigation of a corporate bribery scandal.



scott edelman

- **william whitehurst** WHITEHURST HARKNESS (AUSTIN, TEXAS) He lives his philosophy of access to justice, obtaining verdicts for military families of \$44.7M and \$32.7M in recent years for birth injuries.
- **richard wiley** WILEY REIN (WASHINGTON, DC) Mr. Telecommunications set the stage for the HDTV revolution and helps ensure full market competition for the world's communication.
- **p. sabin willett** BINGHAM (BOSTON) This bankruptcy litigator appeared in Chapter 11 cases such as Mirant, Refco, and Lehman and then led a pro bono effort on behalf of 17 Uighurs imprisoned at Guantanamo.
- **greg williams** RICHARDS LAYTON (WILMINGTON) This top Delaware counselor turned back efforts to enjoin the acquisition of Checkfree by Fiserv and WCI Steel by Severstal.
- **lloyd williams** WILLIAMS MONTGOMERY (CHICAGO) A major defense standout, he has a 90 percent success rate in more than 250 jury trials, recently earning dismissal of professional negligence claims against Werner Sobek.
- **thomas wilner** SHEARMAN & STERLING (WASHINGTON, DC) The international trade counsel to Mexico, Venezuela and Kazakhstan won two huge Supreme Court decisions upholding the right of habeas corpus for Guantanamo detainees.
- **michael wiseman** SULLIVAN & CROMWELL (NEW YORK) In the year of banking, he's #2 only to his partner, Rodgin Cohen, in saving AIG, Goldman Sachs and UBS.
- **phil wittmann** STONE PIGMAN (NEW ORLEANS) He excels defending huge corporations, such as Conoco Phillips, Dole Foods and ExxonMobil, and local institutions like the New Orleans Saints.
- **donald wolfe** POTTER ANDERSON (WILMINGTON) A standout firm chairman and litigator, he defended BofA's \$50B buy of Merrill Lynch and Hexion's abandonment of its Huntsman acquisition.
- **michael woronoff** PROSKAUER (LOS ANGELES) He's built Proskauer's L.A. office into a transaction powerhouse by representing PE firms, investment banks in M&A and finance deals, and families of mega celebrities in monetizing their estates.

- **robert wyman** LATHAM & WATKINS (LOS ANGELES)
The leading light on clean air and climate change organized the California Climate Coalition, bringing together Shell, Chevron and GE with start-up clean tech companies.

- **thomas yannucci** KIRKLAND & ELLIS (WASHINGTON, DC)
He's overseen Kirkland's ascension to the top ranks of American law while defending clients like Hershey over claims of price fixing.

- **c. steven yerrid** THE YERRID LAW FIRM (TAMPA)
Some insurers never learn. After snaring a record \$217M med-mal verdict in Tampa, Yerrid was rebuffed by the same insurer for a woman who suffered a quadruple amputation from medical negligence. He went back to the same court, judge and defense lawyer and won \$30M.

- **michael young** WILLKIE FARR (NEW YORK)
Young is defending senior officials from Merrill Lynch and Bear Stearns in connection with the writedowns of subprime-related financial instruments while releasing his updated treatise on financial fraud.

- **richard young** HOLME ROBERTS (COLORADO SPRINGS, COLO.)
Young is one of the "lawyers of the year" for his work representing anti-doping agencies around the world in cases against athletes using banned performance-enhancing drugs.

- **alfred youngwood** PAUL WEISS (NEW YORK)
Nothing's too taxing for this outgoing firm chairman, who handles Time Warner's cable moves, as well as Triarc's merger with Wendy's.

- **kenneth ziffren** ZIFFREN BRITTENHAM (LOS ANGELES)
The most powerful lawyer in Hollywood. Period.

- **jay zimmerman** BINGHAM (BOSTON)
The zeitgeist of Zimmerman has transformed a 200-lawyer Boston mainstay into an international force that's taken the legal world by storm.

- **bruce zirinsky** CADWALADER (NEW YORK)
Zirinsky's the restructuring lawyer of choice for distressed banks (Bear Stearns), cars (creditors of Heartland Automotive Holdings) and real estate (Barclays for Landsource Communities).

- **gerson zweifach** WILLIAMS & CONNOLLY (WASHINGTON, DC)
He KO'd New York authorities' attempt to reclaim part of the \$187.5M compensation package of former NYSE chief Richard Grasso and helped MedImmune extend a valued patent.

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- \$128 million jury verdict against Ford for the fuel tank design on the Ford Pinto.
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[Need to Know] SERIES

Lawdragon launched a new online series in 2008 featuring 100 professionals you "Need to Know" in specific practice areas and segments of the legal industry. Each guide features an extended interview with an industry leader and biographical questionnaires completed by list members. Check out Lawdragon.com for the full package.

Picking Bob Dell's Brain By John Ryan



DECIDING WHOM TO INTERVIEW for our first managing partner guide wasn't too difficult. As Lawdragon researched this guide through submissions from firms and phone calls with our most trusted sources, Bob Dell's name came up more than any other managing partner or chair. If not the most admired law firm leader in the country, Dell is certainly near the very top. ~ And for good reason. He became managing partner of Latham in 1994, when the Los Angeles-based firm had 600 attorneys and was a respected regional power with national aspirations. Under Dell's guidance the firm has become a global powerhouse, with 2,100 attorneys in 26 offices across the United States, Europe, Asia and the Middle East. Last year it raked in \$2 billion in revenues, second only to Skadden, and boasted profits per partner of \$2.2 million. Dell, who is based in San Francisco, is now in his third five-year term as managing partner.

ROBERT DELL, LATHAM - SAN FRANCISCO, CALIFORNIA

Lawdragon: Let's start with how you came to California. In 1990, you left Latham's Chicago office to open and run the firm's San Francisco office. Why did you make that move? Was that something you were interested in?

Bob Dell: I was not looking to do it. I had a litigation practice in Chicago and was quite happy with my place there. I was approached by the managing partner at the time to do this move to San Francisco and open the office. I initially declined, but he came back and asked me to give it some more thought. My wife and I discussed it and decided that it might be an interesting challenge. We knew if we didn't do it, we'd spend the rest of our lives in Chicago, and we just decided it was the time to take on this challenge.

LD: How about the managing partner position? Was that something you wanted?

BD: The managing partner was stepping down in 1994. The firm had put together a succession committee to interview all of the partners and make a list of candidates, and then to narrow that list through further discussions with the goal of presenting the partners with two or three candidates to vote on. I was surprised that they came to me to say that I was on the initial list of 12 candidates,

and it kind of went from there. It was up to a vote of the partners. In my personal view at the time, I guess, I was very honored that my partners might consider me for that role. I found my leadership in San Francisco to be very interesting. I also knew that the broader role would tilt my efforts dramatically in the management and leadership area and less in practicing law. But I thought, "I can do it, and if I don't enjoy it, in five years I can return to my practice."

LD: You obviously enjoyed it.

BD: I came to enjoy it significantly more than I thought I would. I really enjoyed the concept of building something, of moving the institution strategically in the right direction, trying to create something that would allow my partners to succeed. I ended up enjoying that tremendously.

The biggest change for me – a negative change – was way, way more time on airplanes. One of the biggest challenges in growing, in my view, is communicating effectively with everyone in the firm. Some of that can be done by phone and videoconferencing, but inevitably it requires physical presence in a variety of locations.

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100 Managing Partners You Need to Know

All “Need to Know” list members are selected through a combination of submissions from firms and Lawdragon’s editorial research. For each guide, we contact more than 50,000 legal professionals for their input.

REGINA PISA



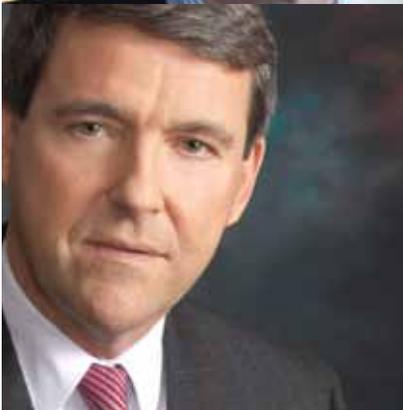
ELLIOTT PORTNOY



H. RODGIN COHEN



STEVEN PFEIFFER

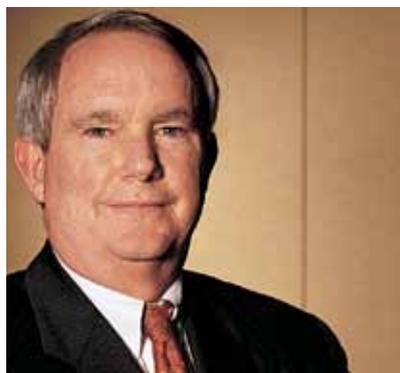


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 CESAR ALVAREZ [GREENBERG TRAUIG - MIAMI]
 DENNIS ARCHER [DICKINSON WRIGHT - DETROIT]
 DAVID BACA [DAVIS WRIGHT (PORTLAND - ORE.)]
 RALPH BAXTER [ORRICK - SAN FRANCISCO]
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 KEN DORAN [GIBSON DUNN - LOS ANGELES]
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 TIMOTHY HESTER [COVINGTON & BURLING - WASHINGTON, DC]
 DAVID HOOKER [THOMPSON HINE - CLEVELAND]
 MEL IMMERGUT [MILBANK - NEW YORK]

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BRUCE JAMES [BROWNSTEIN HYATT - DENVER]
 GREG JORDAN [REED SMITH - PITTSBURGH]
 PETER KALIS [K&L GATES - NEW YORK]
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JOE DILIG



MITCH EVALL



ALLEN FAGIN



EVAN CHESLER



KEITH WETMORE

Lawdragon's 100 Managing Partners You Need to Know Questionnaire

Picking Bob Dell's Brain *continued from page 132*

LD: What was your strategic goal when took the position?

BD: Back then, the focus was more broadly on improving our position in a wide array of practice areas and, importantly, diversifying our practice areas and our client base – basically positioning us to be a much more stable institution. Coming out of the early 1990s recession, I felt that had we been positioned with more diversity in our client base and practices we would have been burdened less during that recession than we were. Back then we were, in my view, too dependent on a small number of our largest clients, and while they were great clients and gave us terrific and high-profile work, it was clearly dangerous in my mind to have too much reliance on them.

In what became the perfect storm, our largest client at the time was Drexel Burnham, which imploded. Another large client, KKR, was a great client but during the recession – like a lot of other private equity shops – was essentially dormant. Another was Hughes Aircraft, which again was a great client over a number of years but was taken over by GM, and we lost that client. The impact of those things on the firm, which at the time was a much smaller firm, was quite dramatic.

LD: Latham endured some of the highest profile layoffs during that recession. Did you and the firm draw any lessons from that?

BD: The reality was that many firms were laying off people before we did. We were the first to be open about it and that we were doing it for economic, not performance reasons. One good thing about our doing it that way is that some firms doing layoffs now are being more open about it.

But did we learn lessons from that? Absolutely. Looking back, and I was in the management group at the time as managing partner of the San Francisco office, I think we looked at that whole issue in the wrong way, which was that we saw short-term benefit to doing a layoff. We had people not engaged professionally and not enough opportunities for them, and that justified the layoff in our minds. But we did find that in a very short time frame, as little as 18 months, we were back looking for more people, and we had a gap in the expertise of our associate ranks that lasted for three or four years. Was it worth it? Was it a good decision? Pretty clearly in my mind it was not a good decision, and we learned that lesson.

BIOGRAPHY: Gordon Davidson

TITLE: Chairman

FIRM: Fenwick & West LLP

LAW SCHOOL: Stanford

GRADUATION: 1974

YEAR YOU BECAME MP: 1995

LIST:

Lawdragon's 100 Managing Partners You Need to Know

FIRM PRACTICE GROUP (IF ANY) YOU BELONG TO:

Corporate

PERCENTAGE OF TIME YOU SPEND ON MANAGEMENT VS. PRACTICING LAW:

¼ management; ¾ practicing law

BEST MOMENT OF CAREER:

Each time I receive a message from a client praising the work of one of our lawyers or staff.

WORST MOMENT OF CAREER:

The untimely death of my best friend and our firm's then managing partner, Ed Gregorian, in 1991.

ATTORNEY YOU MOST ADMIRE:

Atticus Finch

FAVORITE ACTIVITIES (BESIDES THE LAW):

Spending time with family, travel, hiking, skiing and golf.

FAVORITE SPORTS TEAM (IF YOU HAVE ONE) OR FAVORITE THEATER OR MUSEUM, ETC:

My wife and I have been season subscribers to TheatreWorks for over 25 years and to the San Jose Sharks for 15 years.

WHAT IS YOUR PROUDEST

ACCOMPLISHMENT ON BEHALF OF YOUR FIRM:

Being named to Fortune Magazine's 100 Best Places to Work four years in a row, ranking as high as #7

IF THERE IS ONE THING YOU COULD DO OVER AS MANAGING PARTNER/CHAIRPERSON, WHAT IS IT:

I would have pinched myself during the Internet bubble of 1999.

IS THERE ANYTHING - AN INDIVIDUAL, A DOUBLE ESPRESSO, A GOOD 4:30 A.M. WORKOUT - YOU CONSIDER ESSENTIAL TO YOUR SUCCESS:

My assistant of 28 years, Barbara Barron.

100 Legal Consultants You Need to Know

The consultants guide is our first-ever editorial package devoted to professionals providing consulting services to law firms. Here we showcase the leading providers of strategic and leadership advice, marketing consulting and recruiting.

BRAD
HILDEBRANDT

KAY HOPE



ED POLL



CARI BRUNELLE



MIKE ANDROVETT [ANDROVETT LEGAL CONSULTING - DALLAS]
 MARK BEESE [LEADERSHIP FOR LAWYERS - DENVER]
 JONATHAN BELLIS [HILDEBRANDT - SOMERSET, N.J.]
 BURKEY BELSER [GREENFELD BELSER - WASHINGTON, DC]
 ELLEN BLATTEL [ELLEN BLATTEL ASSOCIATES - SAN FRANCISCO]
 MEG BLOCK [BAKER ROBBINS & COMPANY - LOS ANGELES]
 MARCUS BLUESTEIN [PACIFIC SEARCH INTERNATIONAL - NEW YORK]
 ANNE BOTHWELL [BOTHWELL MARKETING - EMERYVILLE, CALIF.]
 WARD BOWER [ALTMAN WEIL - NEWTOWN SQUARE, PENN.]
 LIAM BROWN [INTEGREON - LOS ANGELES]
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 DAVE CUNNINGHAM [BAKER ROBBINS & COMPANY - LOS ANGELES]
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 CORRI GOLDMAN [JAFFE ASSOCIATES - WASHINGTON, DC]
 RAE DAWN [HADINGER SIDEBAR LEGAL RECRUITING - BURBANK, CALIF.]
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 DIANE HARTLEY [GREENFELD BELSER - CHAPEL HILL, N.C.]
 MARK HENLEY [SMYTHE MASTERTSON - NEW YORK]
 JUDITH HERRMANN [HERRMANN ADVERTISING - ANNAPOLIS, MD.]
 BRAD HILDEBRANDT [HILDEBRANDT - SOMERSET, N.J.]
 KAY HOPPE [CREDENTIALIA - CHICAGO]
 MARCIA HOROWITZ [RUBENSTEIN - NEW YORK]
 ANNIKA HYLMO [THE INTERCHANGE GROUP - LOS ANGELES]
 TERRY ISNER [JAFFE ASSOCIATES - WASHINGTON, DC]
 JAY JAFFE [JAFFE ASSOCIATES - WASHINGTON, DC]
 MICHAEL JEFFERY [LECG - EMERYVILLE, CALIF.]

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Avoiding Complacency:

A CHAT WITH TOM CLAY

By John Ryan

A LOT HAS CHANGED OVER THE 30 YEARS Tom Clay has provided consulting services to the legal industry. But one fact remains: Trying to get lawyers to adopt more business-savvy and efficient means of managing their firms and practices is a difficult challenge.

The Altman Weil principal, who is based out of the firm's office in Newtown Square, Pa., has an advantage. In addition to his stellar reputation, Clay has worked with some of the same clients, mostly large law firms, for 10 or 20 years. He provides a range of high-end strategic planning services, including a hefty amount of advice related to law firm mergers and acquisitions. If there's a thread to Clay's work – and a lesson from his decades of success in the industry – it's the need for law firms to avoid complacency. Even the most profitable firms need to constantly change and improve to remain competitive in an increasingly challenging marketplace.

TOM CLAY, ALTMAN WEIL - NEWTON SQUARE PHILADELPHIA



Lawdragon: You've been doing this for a long time, so I take it you enjoy working with lawyers.

Tom Clay: I appreciate the fact that the work and people are interesting, and that it's challenging all the time. I work with good people. Law firms and lawyers are generally good to work with. And the environment has changed so much over 30 years that it's just made it so much fun.

LD: What's one of the biggest changes you've seen over the past 30 years?

TC: Clearly one of the broader changes, and what many of the more senior lawyers lament, is the change from a profession to more of a business. That's something that's been at the center of what we do. We try to bring business thinking and strategies to the profession to make it more efficient and more effective. Most lawyers recognize the need for this approach because it's a competitive market these days, but some really don't like it.

LD: Is that frustrating?

TC: The practice of law is what I call "a very mature profession and an immature business." That's been not so much a frustration as much as a challenge that's always been there -- the resistance to want to make change. The challenge is getting them to the "why" of it: "Why should I do this?" To be honest, the legal profession was, and is, a very lucrative profession. Lawyers make

lots of money, so why should they do anything different when they're doing so well?

LD: How do you answer that? Many of your clients are law firms where partners earn well in excess of a million dollars a year. So why change?

TC: That's a hard question to answer. There's the old Satchel Paige quote, "Don't look back; they might be gaining on you." You can't be satisfied with where you are. The market is dynamic and always moving. You might be in good shape, but you never want to get caught or passed. There's another saying, "You may be on the right track when the train runs over you." You need to be asking how we can do what we do better every day. You can't just sit there. That to me is the "why" of it. If you're not getting better each day, the market just might blow right by you.

LD: It seems like we still read about firm mergers or proposed firm mergers almost every day. Will this continue?

TC: We don't see any slowing right now. The market is still of the mind that bigger -- and getting bigger more quickly -- is generally a good thing. We track this information quarterly, but even just using our consulting practice as a barometer, we don't see anything slowing at all. We see the merger and acquisitions trend as having least another four to five years to run, then maybe it will taper off if firms get to the position where they think

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KEIKO JOHNSON [JURIS PRODUCTIONS - PASADENA, CALIF.]
 EVAN JOWERS [KINNEY RECRUITING - NEW YORK]
 MARY KACZMAREK [SKILLFUL MEANS MARKETING - CHARLOTTE, N.C.]
 LARRY KANAREK [MCKINSEY - NEW YORK]
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 RICK KRAEMER [EXECUTIVE PRESENTATIONS - LOS ANGELES]
 SCOTT KROWITZ [LEXOLUTION - NEW YORK]
 DAVID LACOB [PACIFIC SEARCH INTERNATIONAL - SANTA MONICA, CALIF.]
 RICHARD LEVICK [LEVICK STRATEGIC COMMUNICATIONS - WASHINGTON, DC]
 LIZ LINDLEY [JAFFE ASSOCIATES - WASHINGTON, DC]
 JONATHAN LINDSEY [MAJOR LINDSEY & AFRICA - NEW YORK]
 DAVID MAISTER [HARVARD BUSINESS SCHOOL - BOSTON]
 ROBERT MAJOR [MAJOR LINDSEY & AFRICA - HOUSTON]
 JAMES MALERNEE [CORNERSTONE - NEW YORK]
 FREDERICK MAREK [THE VORTEX GROUP - NEW YORK]
 BRUCE MACEWEN [ADAM SMITH ESQ. - NEW YORK]
 PATRICK MCKENNA [EDGE INTERNATIONAL - EDMONTON, ALBERTA]
 BOBBIE MCMORROW [MCMORROW SAVARESE - SANTA YNEZ, CALIF.]
 DEBORAH MCMURRAY [DEBORAH MCMURRAY ASSOCIATES - DALLAS]
 LYNN MESTEL [MESTEL & COMPANY - NEW YORK]
 LAWRENCE MULLMAN [MAJOR LINDSEY & AFRICA - NEW YORK]
 CHRISTINE NELSON [CORNERSTONE - BOSTON]
 NOELLE NELSON [MALIBU, CALIF.]
 J. DUROSS [O'BRYAN ALIX PARTNERS - LOS ANGELES]
 RICHARD OSMAN [LEXOLUTION - NEW YORK]
 CHRIS PETRINI [POLI HILDEBRANDT - SOMERSET, N.J.]
 LINDA GREEN [PIERCE NORTHWEST LEGAL SEARCH - PORTLAND, ORE.]
 NORA PLESENT [LEXOLUTION - LOS ANGELES]
 PETER POCHNA [RUBENSTEIN - NEW YORK]
 ED POLL LAWBIZ [MANAGEMENT - VENICE, CALIF.]
 BLANE PRESCOTT [HILDEBRANDT - SAN FRANCISCO]
 KATHERINE RAGSDALE [RUBENSTEIN - NEW YORK]
 ANDREW REGAN [EMPIRE SEARCH - NEW YORK]
 MILTON REGAN [GEORGETOWN LAW - WASHINGTON, DC]
 SUE REMLEY [JAFFE ASSOCIATES - WASHINGTON, DC]
 BOB REVILLE [RAND - SANTA MONICA, CALIF.]
 LARRY RICHARD [HILDEBRANDT - SOMERSET, N.J.]
 AMY HIRSCH [ROBINSON THE INTERCHANGE GROUP - LOS ANGELES]
 RALPH SAVARESE [MCMORROW SAVARESE - SANTA YNEZ, CALIF.]
 JULIE SAVARINO [BUSINESS DEVELOPMENT INC. - ANN ARBOR, MICH.]
 SALLY SCHMIDT [SCHMIDT MARKETING - SAINT PAUL, MINN.]
 MADELEINE SELTZER [SELTZER FONTAINE BECKWITH - LOS ANGELES]
 MIKE SITRICK [SITRICK & ASSOCIATES - LOS ANGELES]
 NAT SLAVIN [WICKER PARK GROUP - CHICAGO]
 LISA SMITH [HILDEBRANDT - WASHINGTON, DC]
 KAREN STEMPEL [LEXOLUTION - NEW YORK]
 JAMES STREET [THE JAMES STREET GROUP - AUSTIN, TEXAS]
 JOHN SWEENEY [THOMSON LITIGATION CONSULTING - WASHINGTON, DC]
 ROBIN WAGGE [RUBENSTEIN - NEW YORK]
 PAUL WILLIAMS [MAJOR LINDSEY & AFRICA - CHICAGO]
 TONY WILLIAMS [VJOMATI - LONDON, ENGLAND]
 MARY YOUNG [THE ZEUGHAUSER GROUP - CABIN JOHN, MD.]
 CINDY ZOLLINGER [CORNERSTONE - SAN FRANCISCO]



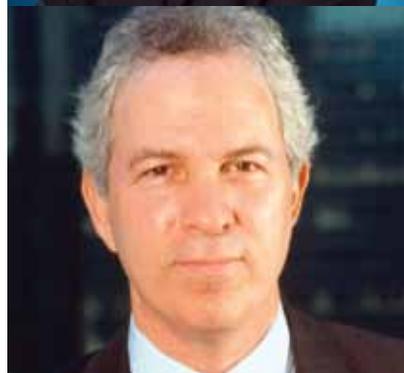
MIKE ANDROVETT



ROB FEIDMAN



MARY KACZMAREK



JON LINDSEY



R.D. HADRINGER

Lawdragon's 100 Legal Consultants You Need to Know Questionnaire

BIOGRAPHY: Anne Brothwell



FIRM: Bothwell Marketing, Inc.

DEGREE(S) AND YEAR OF GRADUATION:

B.A. Business Management

LIST:

Lawdragon's 100 Legal Consultants You Need to Know

CONSULTING SERVICES YOU PROVIDE:

A full service strategic marketing agency. In addition to working with clients to develop integrated marketing plans and strategic business development initia-

tives, we have created powerful identity and branding programs for clients throughout the country. We combine two distinct types of expertise: strategic consulting services and creative capabilities. The advantage to clients is access to comprehensive marketing solutions within one organization.

HOW DID YOU COME TO HOLD YOUR PRESENT POSITION (SPECIFICALLY, WHAT LED YOU TO BECOME A LEGAL RECRUITER, MARKETING CONSULTANT, ETC.)?

I moved to the United States from Scotland in the eighties. I consulted with a law firm regarding my immigration status and they offered me a job! My association with law firms began. My background and education was in H.R. and for several years I was a Recruiting Director before assuming marketing responsibilities. After serving as Director of Marketing for three prominent California law firms, I launched Bothwell Marketing in 1997.

WHAT IS THE BEST THING ABOUT WORKING WITH LAWYERS?

They are smart, interesting, have high standards and they tend to challenge and test the validity of ideas and concepts. That keeps us on our toes and encourages the most creative solutions. There is never a dull moment!

WHAT IS THE WORST THING ABOUT WORKING WITH LAWYERS?

Hurry up and wait!

WHAT HAS BEEN THE MOST SATISFYING MOMENT OF YOUR CAREER THUS FAR?

My first day owning my own business.

WHAT ARE YOUR FAVORITE ACTIVITIES OUTSIDE THE LAW?

Snow skiing, hiking, yoga, reading and spending time with family and friends.

Avoiding Complacency: A Chat with Tom Clay

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that want to be.

LD: Why so many? It seems like lots of them don't work too well.

TC: The statistics, at least in the business world of M&As, really are poor. Every study indicates that far fewer than 50 percent of mergers meet their objectives, such as increasing value for shareholders. It's a different measure with law firms. When two firms merge, what is the definition of success? Are we making more money? Is it better for our clients? There's not really a key definition out there.

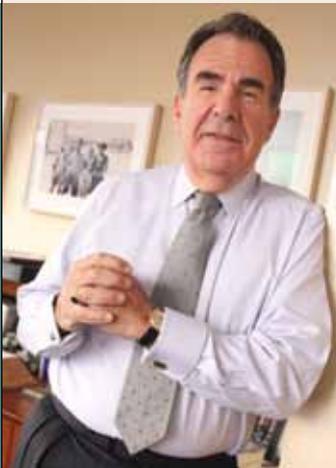
You might just be a bigger version of the same thing after a merger. You have to ask yourself, "Is that any better?" Just being bigger and doing the same sort of thing, in terms of the economics and whom you represent, doesn't make a lot of sense to us.

LD: How close are we to seeing law firms really run like corporations?

TC: For a long time, we've seen firms make progress, but we also see them continue to operate differently from ways that corporations and businesses are run. Lawyers in their practices tend to be very independent in their thinking, both in handling legal matters and in their relationships with clients. There are a lot of relationship dynamics that push back against it being a purely business-driven model. If firms were run like corporations, there a lot of things lawyers would hate. Getting to more of pure corporate model, it's just hard to see that happening very quickly.

In Australia we have seen firms go public. Some people are looking at that. If law firms do go public and sell stock, you now have enormously different dynamics, with boards of directors and concerns about proper returns to investors. That's would change a lot, and it would be interesting to see if lawyers would want to work in that environment. I happen to think a lot would not.

[Q & A]

with Max and Jay By John Ryan

MAX AND JAY: The two men share short names and long histories in securities litigation, though from fiercely opposing sides. Max Berger, a founding partner of his own litigation boutique of Bernstein Litowitz Berger & Grossmann, has devoted his entire 37-year career to representing plaintiffs, most of them investors alleging corporate wrongdoing. Jay Kasner, in sharp contrast, is a litigation veteran of corporate giant Skadden Arps Slate Meagher & Flom, where much of his time is spent defending America's corporate powers against fraud allegations.

**MAX BERGER** [BERNSTEIN LITOWITZ - NEW YORK]

Lawdragon: How long will the subprime-related cases play out?

Max Berger: It's going to be several years. I don't know how long it's going to take to discover everything that has happened, but we're seeing the effects on investment banks, insurance companies, rating agencies, originators and lenders and we're clearly seeing the effects on consumers, so it's going to last for a long time. How many new cases will be filed two years from now, I don't know.

LD: What's the longterm impact of pro-defendant Supreme Court decisions in recent years, starting with *Dura* and going through *Stoneridge*? Will we on average see fewer securities filings as a result, regardless of the occasional uptick?

MB: Those rulings served to curtail the prosecution of otherwise legitimate securities class actions in federal courts. No question. Having said that, they did not sound the death knell of this litigation. So many frauds are so bold that judges have enough room to take a look at them and say, 'This is a case, and I'm going to let it proceed.' Also, many institutional investors are going from federal court to state court in opt-out litigation. That's becoming much more popular. What we're seeing is a good deal more splintering of litigation.

JAY KASNER [SKADDEN - NEW YORK]

Lawdragon: Plaintiffs' lawyers are pretty critical of recent Supreme Court decisions, starting with *Dura*. What's the meaning behind them?

Jay Kasner: What we're seeing now is that the appellate courts and the Supreme Court have put some teeth behind what Congress intended [with the Private Securities Litigation Reform Act in 1995 and the Securities Litigation Uniform Standards Act of 1998], which was to give district courts a more active role in deciding whether these cases could go forward. These cases reflect a trend of courts more carefully scrutinizing allegations and applying more rigorous standards to the complaints.

LD: You made your own big contribution to this trend by winning the *Dabit v. Merrill Lynch* case before the Supreme Court. What are the practical implications of the victory?

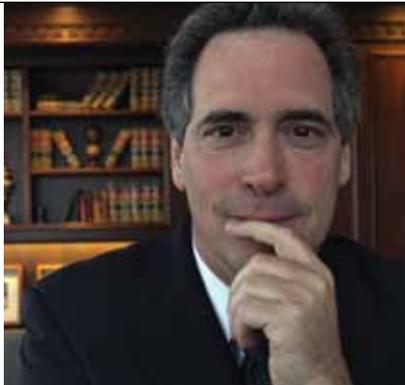
JK: In that case, the issue before the Supreme Court was whether holders of securities who refrained from selling based on misleading information could bring securities class actions in state courts. The court ruled that the Securities Litigation Uniform Standards Act of 1998 preempts such claims. The practical implication of the case is that it shut down state law securities class

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100 Lawyers You Need to Know in Securities Litigation

Whether the economy is good or bad, there seems to be no hotter field than securities litigation. Our “Need to Know” guide features the top plaintiff- and defense-side lawyers litigating private shareholder actions, as well as select academics and researchers.

DAVID SIEGEL



DANIEL TYUKODY



GANDOLFO DIBLASI



ADAM SAVETT



TOM AJAMIE [AJAMIE LAW FIRM - HOUSTON]
 JOSEPH ALLERHAND [WEIL GOTSHAL - NEW YORK]
 SETH ARONSON [O'MELVENY & MYERS - LOS ANGELES]
 ROBERT BARON [CRAVATH - NEW YORK]
 FRANCIS BARRON [CRAVATH - NEW YORK]
 STUART BASKIN [SHEARMAN & STERLING - NEW YORK]
 STEPHEN BASSER [BARRACK RODOS - SAN DIEGO]
 JAMES BENEDICT [MILBANK TWEED - NEW YORK]
 MAX BERGER [BERNSTEIN LITOWITZ - NEW YORK]
 STANLEY BERNSTEIN [BERNSTEIN LIEBHARD - NEW YORK]
 PAUL BESSETTE [AKIN GUMP - AUSTIN, TEXAS]
 JEROME BIRN [WILSON SONSINI - PALO ALTO, CALIF.]
 ANDRE BOUCHARD [BOUCHARD MARGULES - WILMINGTON]
 DAVID BRAFF [SULLIVAN & CROMWELL - NEW YORK]
 TIM CAMERON [CRAVATH - NEW YORK]
 DAVID CARDEN [JONES DAY - NEW YORK]
 WILLIAM CARMODY [SUSMAN GODFREY - NEW YORK]
 JAMES CARROLL [SKADDEN - BOSTON]
 MICHAEL CARROLL [DAVIS POLK - NEW YORK]
 MICHAEL CHEPIGA [SIMPSON THACHER - NEW YORK]
 RICHARD CLARY [CRAVATH - NEW YORK]
 TY COBB [HOGAN & HARTSON - WASHINGTON, DC]
 JOHN COFFEY [BERNSTEIN LITOWITZ - NEW YORK]
 JOE COTCHETT [COTCHETT PITRE - BURLINGAME, CALIF.]
 PATRICK COUGHLIN [COUGHLIN STOIA - SAN FRANCISCO]
 MICHAEL DAGLEY [BASS BERRY - NASHVILLE]
 THOMAS DAHLK [HUSCH BLACKWELL - OMAHA, NEB.]
 GREGORY DANILOW [WEIL GOTSHAL - NEW YORK]
 GANDOLFO DIBLASI [SULLIVAN & CROMWELL - NEW YORK]
 JONATHAN DICKEY [GIBSON DUNN - NEW YORK]
 JOHN DWYER [COOLEY GODWARD - PALO ALTO, CALIF.]
 SCOTT EDELMAN [MILBANK TWEED - NEW YORK]
 KEITH EGGLETON [WILSON SONSINI - PALO ALTO, CALIF.]
 JAY EISENHOFER [GRANT & EISENHOFER - WILMINGTON]
 JORDAN ETH [MORRISON & FOERSTER - SAN FRANCISCO]
 BORIS FELDMAN [WILSON SONSINI - PALO ALTO, CALIF.]
 RALPH FERRARA [DEWEY LEBOEUF - WASHINGTON, DC]
 N. SCOTT FLETCHER [VINSON & ELKINS - HOUSTON]
 PAUL GELLER [COUGHLIN STOIA - BOCA RATON, FLORIDA]
 ROBIN GIBBS [GIBBS & BRUNS - HOUSTON]
 ROBERT GIUFFRA [SULLIVAN & CROMWELL - NEW YORK]
 SANDRA GOLDSTEIN [CRAVATH - NEW YORK]
 STUART GRANT [GRANT & EISENHOFER - WILMINGTON]
 BILL GRAUER [COOLEY GODWARD - SAN DIEGO]
 JOSEPH GRUNDFEST [STANFORD UNIVERSITY - STANFORD, CALIF.]

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CHRISTOPHER HALL [MORGAN LEWIS - NEW YORK]
 JONATHAN HOFF [CADWALADER - NEW YORK]
 MARK HOLLAND [CLIFFORD CHANCE - NEW YORK]
 BRAD KARP [PAUL WEISS - NEW YORK]
 JAY KASNER [SKADDEN - NEW YORK]
 DANIEL KRAMER [PAUL WEISS - NEW YORK]
 WILLIAM LAFFERTY [MORRIS NICHOLS - WILMINGTON]
 ERIC LANDAU [JONES DAY - IRVINE, CALIF.]
 JONATHAN LERNER [SKADDEN - NEW YORK]
 ANDREW LEVANDER [DECHERT - NEW YORK]
 NICKI LOCKER [WILSON SONSINI - PALO ALTO, CALIF.]
 MITCHELL LOWENTHAL [CLEARY GOTTLIB - NEW YORK]
 COLLEEN MAHONEY [SKADDEN - WASHINGTON, DC]
 GREGORY MARKEL [CADWALADER - NEW YORK]
 ROBERT MCCAWE [WILMERHALE - NEW YORK]
 WILLIAM MCLUCAS [WILMERHALE - WASHINGTON, DC]
 TED MIRVIS [WACHTELL - NEW YORK]
 SEAN MURPHY [MILBANK TWEED - NEW YORK]
 SCOTT MUSOFF [SKADDEN - NEW YORK]
 KENNETH NACHBAR [MORRIS NICHOLS - WILMINGTON]
 LYNN NEUNER [SIMPSON THACHER - NEW YORK]
 BLAIR NICHOLAS [BERNSTEIN LITOWITZ - NEW YORK]
 TRACY NICHOLS [HOLLAND & KNIGHT - MIAMI]
 GERARD PECHT [FULBRIGHT & JAWORSKI - HOUSTON]
 C. WILLIAM PHILLIPS [COVINGTON & BURLING - NEW YORK]
 JOSEPH REBEIN [SHOOK HARDY - KANSAS CITY, MO.]
 WILLIS RICCIO [ADLER POLLOCK - PROVIDENCE, R.I.]
 DARREN ROBBINS [COUGHLIN STOIA - SAN DIEGO]
 DAVID ROSENBAUM [OSBORN MALEDON - PHOENIX]
 ERIC ROTH [WACHTELL - NEW YORK]
 SAMUEL RUDMAN [COUGHLIN STOIA - MELVILLE, N.Y.]
 MILES RUTHBERG [LATHAM & WATKINS - LOS ANGELES]
 GARY SASSO [CARLTON FIELDS - TAMPA]
 ADAM SAVETT [RISKMETRICS - ROCKVILLE, MD.]
 SHERRIE SAVETT [BERGER MONTAGUE - PHILADELPHIA]
 MARC SELTZER [SUSMAN GODFREY - LOS ANGELES]
 KAREN SEYMOUR [SULLIVAN & CROMWELL - NEW YORK]
 DAVID SIEGEL [IRELL & MANELLA - LOS ANGELES]
 GERALD SILK [BERNSTEIN LITOWITZ - NEW YORK]
 DANIEL SLIFKIN [CRAVATH - NEW YORK]
 DICK SMITH [SHOOK HARDY - MIAMI]
 JOHN SPIEGEL [MUNGER TOLLES - LOS ANGELES]
 WARREN STERN [WACHTELL - NEW YORK]
 STEVEN TOLL [COHEN MILSTEIN - WASHINGTON, DC]
 MICHAEL TORPEY [ORRICK HERRINGTON - SAN FRANCISCO]
 DANIEL TYUKODY [ORRICK HERRINGTON - LOS ANGELES]
 ROBERT VARIAN [ORRICK HERRINGTON - SAN FRANCISCO]
 PAUL VIZCARRONDO [WACHTELL - NEW YORK]
 STANLEY WAKSHLAG [KENNY NACHWALTER - MIAMI]
 PETER WALD [LATHAM & WATKINS - SAN FRANCISCO]
 ROBERT WALLNER [MILBERG - NEW YORK]
 IRWIN WARREN [WEIL GOTSHAL - NEW YORK]
 PERRIE WEINER [DLA PIPER - LOS ANGELES]
 SHIRLI WEISS [DLA PIPER - SAN DIEGO]
 ROBERT WISE [DAVIS POLK - NEW YORK]



DANIEL KRAMER

SANDRA
GOLDSTEIN

ROBERT WALLNER

CHRISTOPHER
HALL

SCOTT EDELMAN

Lawdragon's 100 Legal Consultants You Need to Know Questionnaire

BIOGRAPHY: William Carmody

TITLE: Partner

FIRM: Susman Godfrey

LAW SCHOOL: The University of Tulsa - College of Law

GRADUATION: 1988

LIST: Lawdragon's 100 Lawyers you need to know in Securities Litigation

NOTABLE CASE(S), PAST OR PRESENT (INCLUDE DATE IF POSSIBLE):

Lauren Beller, et al. v. William Penn Life Insurance Company of New York (2007)

Compton, et al. v. Alex Brown, et al. (2006)

Shockey, et al. v. Chevron USA Inc. (2005)

Joseph Vecchio, et al. v. Waste Management, Inc., et al. (2005)

Janay Cargile, et al. v. Baylor Health Care System, et. al. (2005)

IMCO Recycling, Inc. v. Zurich Insurance and Twin City Fire Insurance Company (2004)

Obtek L.P., et al v. Lucent Technologies, Inc. (2003)

Heather H. Appel, et al v. SOS Industries, Inc., William Kane, Champaign National Bank and Trust (2002)

Kelly v. National Medical Enterprises, Inc. (1999)

Caspary v. Wm. K. Woodruff and Co. (1997)

AltairStrickland, Inc. v. Chevron USA Inc. (1996)

SELECTED CLIENTS:

None

BEST MOMENT OF CAREER:

A jury victory last year where we were hired just 6 days before trial -- and successfully defended an insurance company in a class action where the plaintiff sought over \$100 million in damages.

WORST MOMENT OF CAREER:

Being on the plaintiffs' -- and losing side -- of the NME jury trial which the National Law Journal characterized as the 1999 defense win of the year.

ATTORNEY YOU MOST ADMIRE:

I can't decide between Steve Susman and Lee Godfrey.

FAVORITE ACTIVITIES (BESIDES THE LAW):

Traveling and dining - not necessarily in that order.



Q&A with Max Berger

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LD: Why'd you get into this line of work? Would you ever do anything else?

MB: I was an accounting major at City College [and later] got a scholarship at Columbia, and my plan was to become a tax lawyer. It was the time of the Vietnam War and I was reasonably active in the antiwar movement and decided that I didn't really want to get a law degree and use my talent to help rich people save money on their taxes... This is the only job I've had in my 37-year career, so to do that it has to be something you enjoy. My family will tell you that there's never been a day where I haven't been energized by what I do. I've had my bad days but there's never been a day when I've thought about doing something different professionally than what I do.

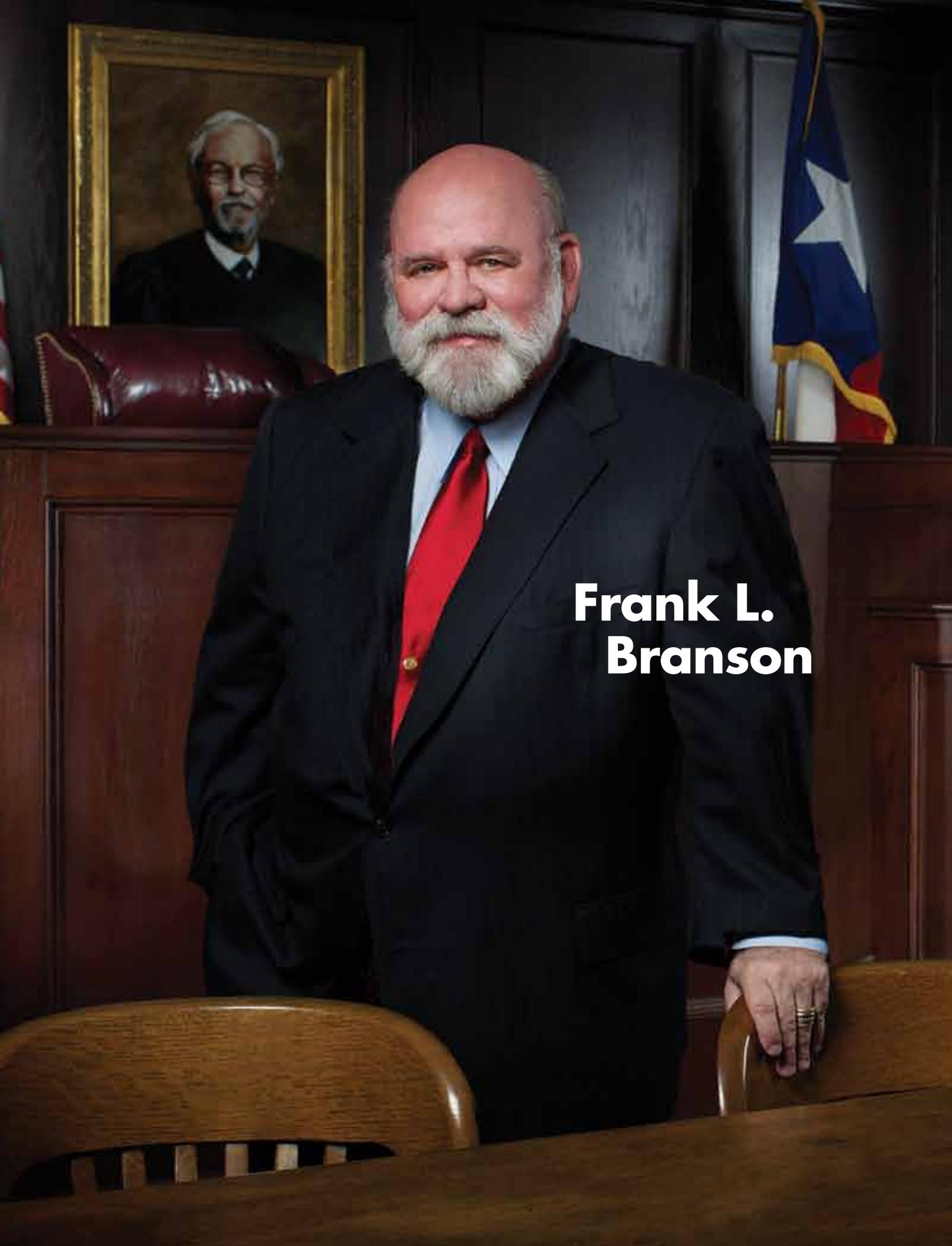
Q&A with Jay Kasner

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actions. The number of filings has basically been eliminated, and it's been a huge boon to Corporate America. Companies no longer have to simultaneously worry about federal law and the 50 different state laws that vary state-by-state.

LD: What is it about securities litigation that you like?

JK: What has been most of interest to me in these kinds of cases is the ability to apply overarching legal principles and experience to different businesses in different industries with different problems. The functional principles on which these cases are based are essentially the same, even as the law changes over time. But the same core legal principles remain and now are being applied to the subprime area.



**Frank L.
Branson**

The Quintessential Texas Trial Lawyer

Frank L. Branson is the quintessential Texas trial lawyer and a formidable courtroom talent. With more than three decades of trial experience, his work has improved clients' lives and spurred change by those at fault.

Ask Texas attorneys and judges to name the state's top civil attorneys, and Branson's name is sure to surface. He has consistently forged a reputation for excellence, including being named to the prestigious "Best Lawyers in America" list for nearly 20 years. *Forbes* magazine called Branson one of the most successful trial lawyers in the country, and *Texas Super Lawyers* named him among the Top Ten Lawyers in Texas.

Branson and the attorneys at The Law Offices of Frank L. Branson in Dallas offer the resources and legal talent that can help turn the tables in important litigation while placing the power in the hands of the underdog. It is this kind of aggressive and powerful representation that makes defendants sit up and take notice.

Always a leader in the use of cutting-edge trial science and courtroom technology, Branson relies on the latest innovations to help bring justice for those injured by dangerous products, medical negligence, trucking accidents and industrial catastrophes. He also is regularly called on by business clients in litigation involving intellectual property, contracts, and professional liability disputes.

The Law Offices of Frank L. Branson boasts a team of eight accomplished attorneys, five of whom were named *Texas Super Lawyers* in 2008. The firm's hard-won reputation has been built in significant court battles against major automakers, tire manufacturers, trucking companies and other big corporations. Along the way, Branson's work in these cases has forced companies to improve the design and safety of their products, supply warnings to patients about dangerous medications, and provide important safety protection for workers in a variety of industries.

Some of the firm's recent jury verdicts and settlements include:

- \$15 million settlement against the nation's largest trucking company following a three-fatality wreck involving an 18-wheeler.
- \$21 million unanimous verdict for the widow of a 77-year-old man who was killed in a wreck caused by a tractor-trailer driver who tested positive for crack cocaine use. This case was reported to be the eighth largest in Texas in 2007 and among the Top 100 nationwide for the year.
- \$7 million landmark negligence verdict against Mitsubishi Motors when federal jurors determined for the first time that the Montero Sport SUV was unreasonably dangerous.

Branson is the 2007 recipient of the Belli Award recognizing creativity and innovation in the courtroom, as well as numerous other prestigious awards. A *Forbes* magazine profile described Branson as a legal "pioneer," and he has been featured on *NBC Dateline*, *The Larry King Show*, *NBC Nightly News* and *20/20*.

The Law Offices of Frank L. Branson

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