

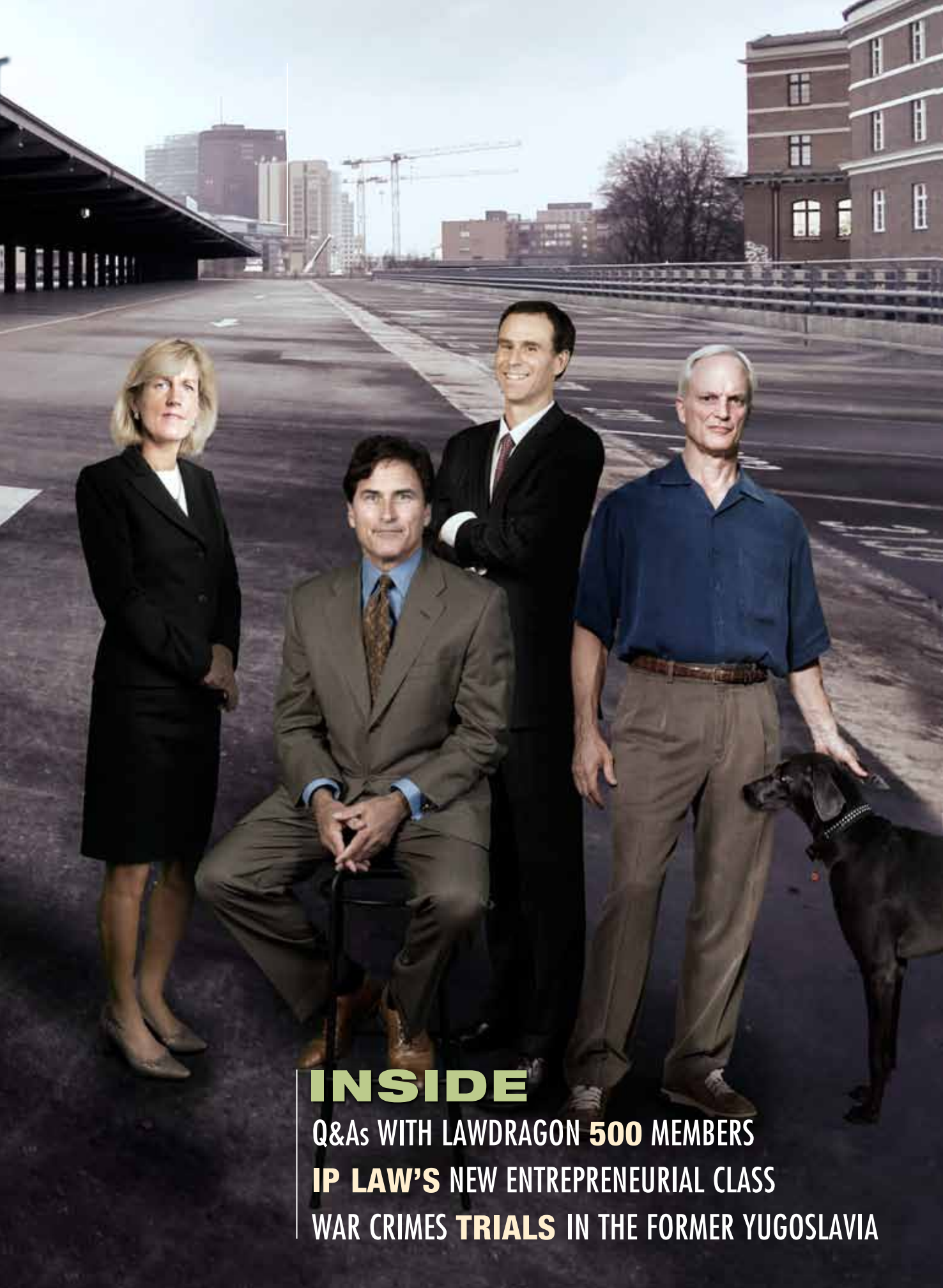


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A group of five professionals—three men and two women—standing in a parking garage. They are dressed in business attire. The background shows the structural columns and open spaces of the garage, with some buildings visible through the openings.

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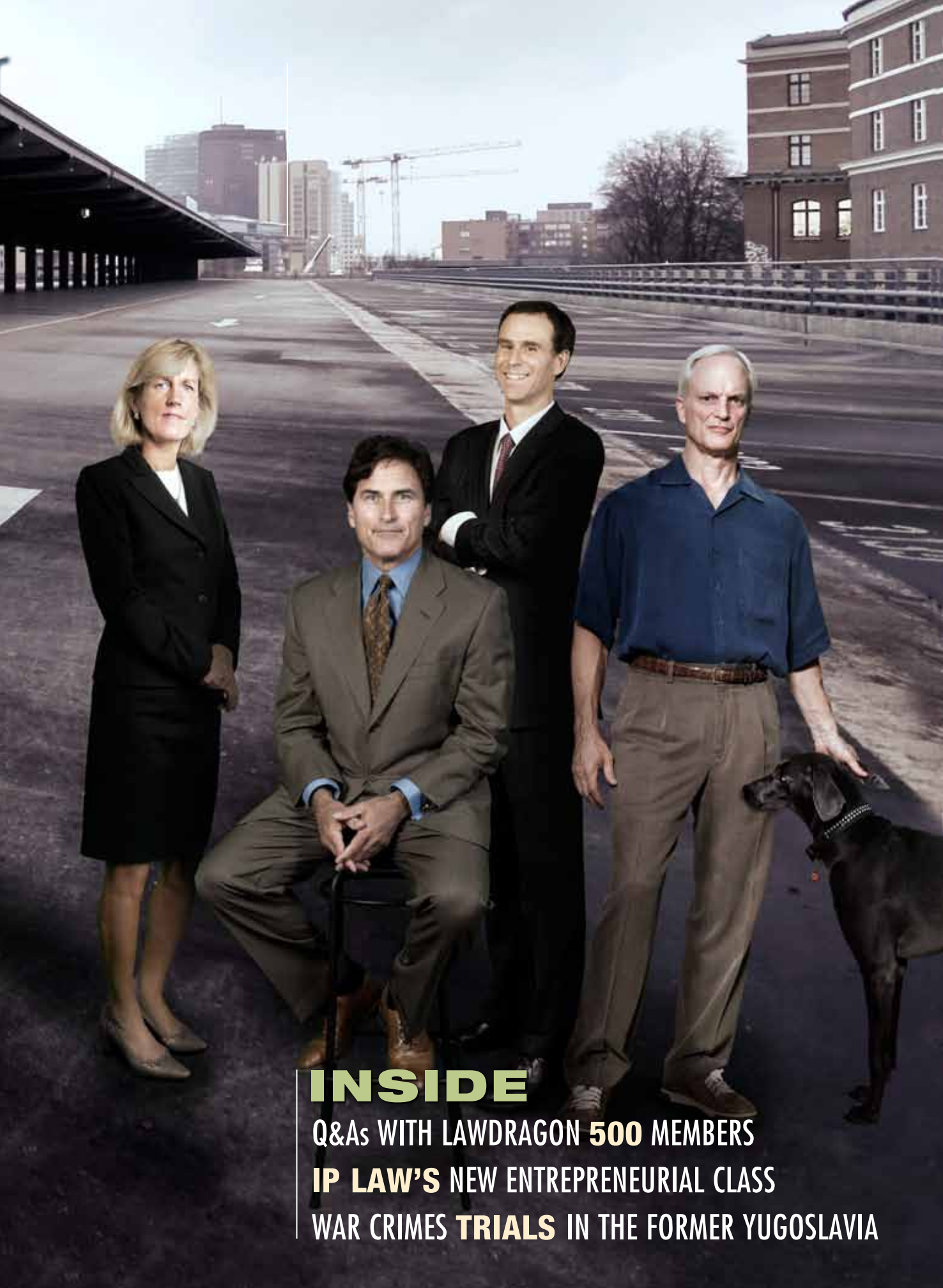


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BOX FOR COVER SPREAD, From left to right: Mel Immergut, Charles "Casey" Cogut, Aaron Podhurst (back), Stephen Herman (sitting), Larry Sonsini, Daniel Neff, Max Berger, Kim Askew, Ed Herlihy, Beth Wilkinson, Diane Sullivan, Bill Ohlemeyer, Ethan Klingsberg, Kenneth Reilly.

A man with grey hair, wearing a dark blue suit, white shirt, and blue patterned tie, is smiling and gesturing with his hands. He is standing in front of a bookshelf filled with books. The background is slightly blurred, focusing on the man.

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CHRISTOPHER A. SEEGER

A founding member of Seeger Weiss LLP, Chris Seeger is one of the nation's most accomplished attorneys in mass tort and injury litigation and has been recognized as such in publications including Lawdragon 500, Best Lawyers, and New York and New Jersey SuperLawyers.

Mr. Seeger has served as lead counsel in numerous high-profile lawsuits, such as the groundbreaking case against Vioxx ending in a \$4.85 billion settlement, and the Chinese-Manufactured Drywall litigation, which resulted in a remediation program and hundreds of millions of dollars in related settlement funds for homeowners. He was most recently appointed co-lead attorney in a prominent case against the National Football League regarding concussion injuries.

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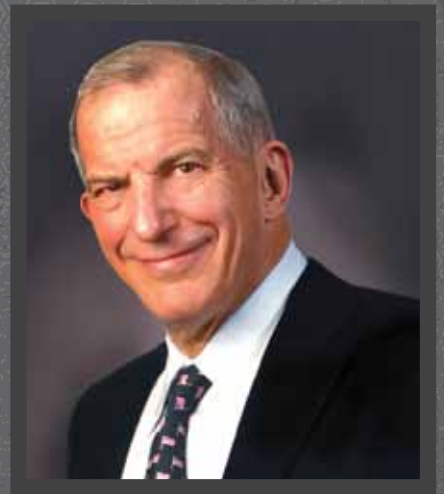
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A national reputation built on helping the little guy

Review the *National Law Journal's* list of the top 11 plaintiff's law firms in the country, *Lawdragon's* list of the nation's leading attorneys, or the *Los Angeles Daily Journal's* ranking of the city's best firms or its top 100 lawyers list, and you'll regularly find Girardi & Keese attorneys named. Recognized for their legal acumen and superb trial skills, the 38 attorneys of Girardi & Keese frequently prevail.

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Each win is important because every case represents the health and well-being of individuals in Southern California—the little guy. Individuals who have been harmed in some way are at the heart of Girardi & Keese’s practice, whether the injury was due to medical malpractice, product failure, wrongful termination, vehicle accident or similar wrongdoing.

LEADING LAWYERS | This year, three Girardi & Keese lawyers made the Lawdragon 500 Leading Lawyers in America guide—founding partner Thomas V. Girardi, David R. Lira and Amy Solomon.



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A NOTE FROM THE PUBLISHER AND EDITOR

We marvel at how much is always going on at Lawdragon. There's the magazine you are now viewing, of course, which is our most prominent calling card along with the Lawdragon 500 lawyers of the year featured in these pages.

But what's thrilling in this digital world is how much else percolates unseen as we develop Lawdragon's core mission of being the online legal news site. We undertook a complete redesign of our website in 2012 to support our growing business – helping clients better support their practices with online presence at Lawdragon.com. We also enhanced the visual presentations of our legal features and photography, including many of the images in this magazine. As you peruse these pages, we're sure you'll be captured as we were by arresting photos of Gerald Shargel, Kathleen Flynn Peterson, Leo Strine and Travis Laster, Ted Mirvis, Patrick McGroder and so many others. These lawyers are truly the face of the law today and in their eyes, you can see the passion and dedication they bring to each of their roles in the law.

Another little known feature of our site is our expanding coverage of international law, anchored by our Editor-in-Chief John Ryan. "Last Stop Belgrade" continues our focus on international justice from last year's look at South Africa and its efforts to apply post-apartheid transitional justice – mechanisms to address widespread human rights violations after a period of war or oppression. For "Last Stop," Ryan traveled to The Hague, Bosnia-Herzegovina and Serbia to explore efforts to prosecute crimes from the wars that followed the dissolution of Yugoslavia in the 1990s. Over recent decades, a consensus has emerged that accountability mechanisms may be vital to transitioning societies – but questions remain of what mechanisms work most effectively, and in what types of settings? Ryan's meticulous reporting provides insight through the lens of the International Criminal Tribunal for the Former Yugoslavia, at The Hague, and within the domestic War Crimes Chamber in Belgrade, Serbia, a nation that has been resistant to holding war crimes suspects accountable.

For a whole other take on "transitional" issues, we turn to the practice of intellectual property law and the new trend for lawyers to create new practices dedicated to monetizing intellectual property assets for their clients, as well as themselves. In "The New IP Lawyer," Contributing Editor Xenia Kobylarz explores the work of Lawdragon 500 member David Berten, co-founder of Global IP Law Group, which handled Nortel's historic \$4.5B patent auction.

And Founder Katrina Dewey sits down with the nation's leading litigation luminary, David Boies, as he prepares to celebrate Boies Schiller's 15th anniversary. Aptly, he had to take a call as we sat down to have a drink at the Four Seasons, as Al Gore was on the line. Gore is just one of the world leaders who have relied on Boies for decades for his unmatched judgment and skill, which we reminisce about while looking at what shaped this remarkable firm and its leader.

It's been a great year and, like each and every year, it's only because of you, our readers. Your support helps us achieve our vision of building an online legal news site free to all readers where anyone from a corporate counsel to an individual consumer can easily find information to help them better understand and make better choices about the law.

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MARY ALEXANDER is uniquely positioned to help people who have been wrongfully injured. She is an expert in the art of law and the science of occupational and environmental health.

“Before I was a lawyer, I was a scientist – and I use that background every day in deposing experts and cross-examination,” she says.

With more than 25 years of experience, Alexander is a seasoned litigator and nationally respected attorney who has been named to the Lawdragon 500 Leading Lawyers in America. Her expertise enables her to take on the most complex suits, such as products liability, defective medical devices, brain and spinal cord injuries and pharmaceuticals cases, which include Fen-phen, Vioxx and hormone replacement.

“Our mission is to fight for our clients with courage, conviction and integrity,” she says.

EXPERIENCE AND EXPERTISE

Alexander has won multimillion-dollar verdicts and settlements for clients who have been injured through the fault of others. Her extensive trial background gives her a decided edge in the courtroom.

“We strive to do good work for our clients – and being an experienced litigator is a definite advantage in complex, high-stakes cases,” she says.

Those high-stakes cases include a \$45 million verdict for a client made a quadriplegic in an auto accident, \$13.3 million for a bicycle injury, \$4 million for the loss of a leg in a motorcycle accident and \$4 million for injuries in a bus accident.

Alexander specializes in auto and truck accidents, defective products, dangerous roads, railroad accidents, premises liability, construction injuries, elder abuse, medical malpractice and employment disputes.

RECOGNITION

A lawyer’s lawyer, Alexander earns the respect of her peers. She helped organize the largest pro bono effort in U.S. legal history, in which thousands of attorneys provided services to victims of the September 11th, 2001 terrorist attacks.

A past president of the Consumer Attorneys of California and the Association of Trial Lawyers of America (now the American Association for Justice), she is also a past president of the Roscoe Pound Institute, a prestigious think tank dedicated to promoting access to the civil justice system.

She has been named one of the Top 10 trial lawyers in the Bay Area, one of the 500 Leading Plaintiff Lawyers in America, one of the Top 100 Most Influential Lawyers in California and a Top 30 Women Litigator in California, among other awards.

PHILOSOPHY

Skilled, diligent and committed, Alexander is an energetic advocate for truth and justice.

“In addition to helping our clients, we’re dedicated to serving the legal community,” she says. “We’re devoted to bringing excellence to both people who have been wronged and the justice system as a whole.”

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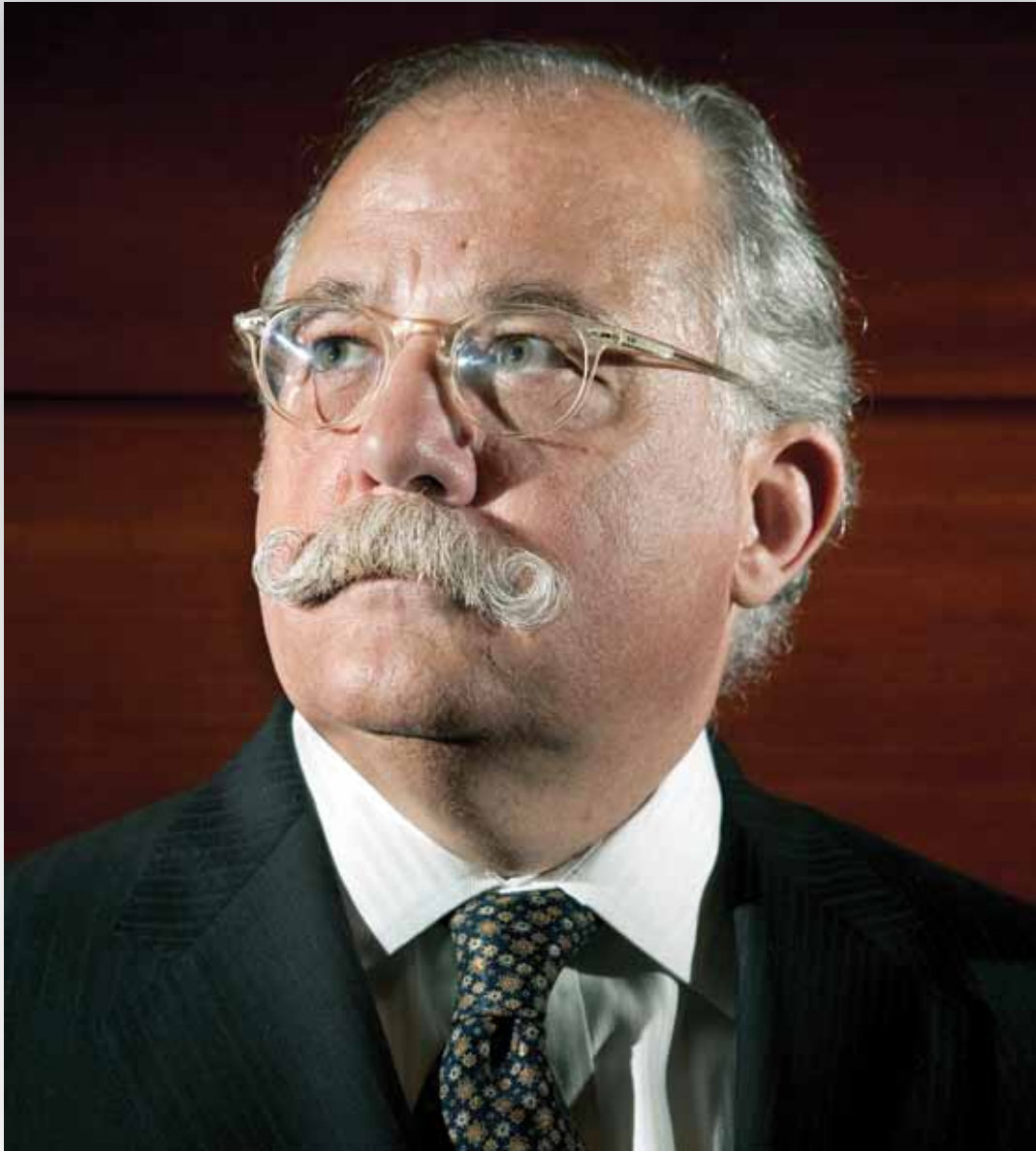
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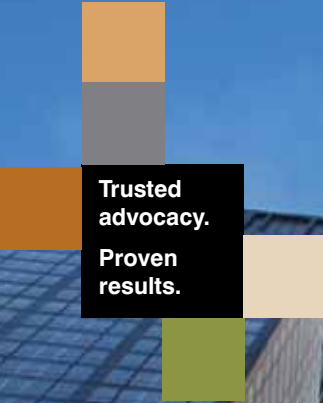
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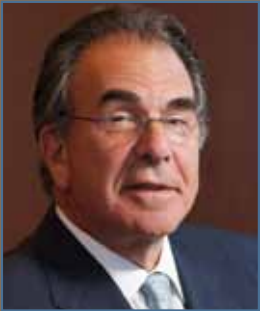
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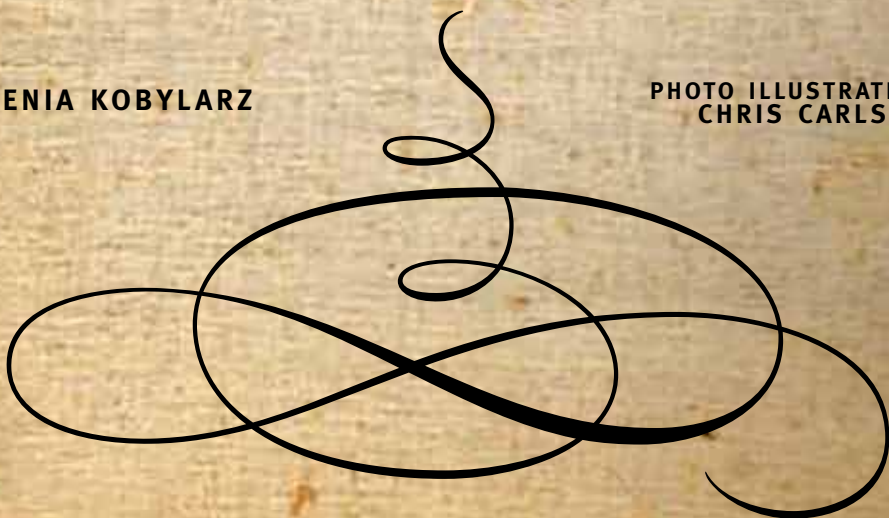
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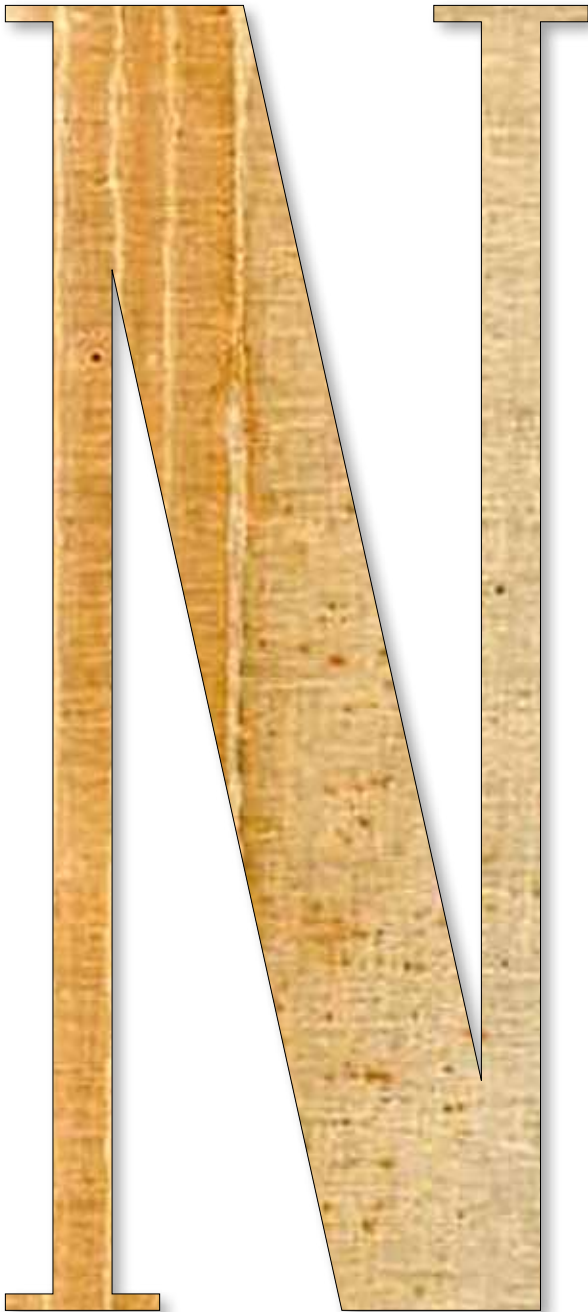
Prospector

The New IP Lawyer

BY XENIA KOBYLARZ

PHOTO ILLUSTRATION BY
CHRIS CARLSON





The founders of three-year-old Chicago-based Global IP Law Group have profited from a well-timed bet that the market for buying and selling patents has finally come of age.

structure their executive ranks: In July, Amazon announced it was looking for an “Acquisition and Investment Leader” who would advise the company in strategic patent purchases.

While the patent acquisition trend is changing the way corporations look at intellectual property assets, the trend has also helped transform the once staid practice of patent law and is creating a new generation of entrepreneurial IP legal professionals. In recent years, some top intellectual property lawyers have left their big law firms and corporations to set up their own IP shops to more creatively monetize assets for themselves and their clients. Some of these firms are playing pivotal roles in many of these big-ticket patent deals.

One law firm in particular, Global IP Law Group, has been at the center of many high-profile patent acquisitions, including Nortel. Founded by veteran patent litigator David Berten and Steven Steger, a longtime in-house IP counsel for various technology companies, Global IP Law Group began in 2009 in downtown Chicago. Today, the firm has grown from two lawyers to a dozen, operating globally with affiliate lawyers in nine countries.

According to several reports, Global IP played a crucial role in the outcome of the Nortel patent auction. Intellectual Asset Management magazine noted that “without the early and detailed input of specialist IP advisers, the Nortel auction may not ever have happened, let alone raised the amount that it did.” The article also attributed the success of the auction to Global IP’s ability to demonstrate the potential value of the portfolio to “non-IP parties” and persuade those C-level executives who know very little about patents to spend billions of dollars on them.

STARTING OUT ON HIS OWN

Four years ago, Berten was a traditional patent litigator. He began his career as an associate in 1989 at Kirkland & Ellis, where he worked under the tutelage of famed Chicago trial lawyers Fred Bartlit and Philip Beck. As a young litigator, Berten did mostly commercial litigation

Nortel Corp.’s historic \$4.5 billion patent portfolio auction in January 2011 was heralded as a tipping point for patents and how corporations value them. A few months after Google lost in the Nortel auction, they bought Motorola Mobility for \$12.5 billion. The purchase included 20,000 patents. The deals were followed by Microsoft’s acquisition of more than 800 AOL patents reportedly worth more than \$1 billion.

The corporate appetite for patents has increased exponentially in the last few years. Bloomberg Business Week recently reported that while the volume of traditional mergers and acquisitions is down 24 percent this year, patent deals have skyrocketed in the same period, to \$18.8 billion from \$450 million from the year before. The trend is reflected in how some companies

“I started thinking that there’s a real opportunity for a firm that would be organized as a law firm advising people on how to sell their patents.”

– DAVID BERTEN, CO-FOUNDER, GLOBAL IP LAW GROUP



with a heavy focus on patent litigation. When Bartlit and Beck left Kirkland to form their own firm in 1993, Berten joined them as a partner and continued doing patent litigation work for the fledgling firm, Bartlit Beck Herman Palenchar & Scott. In 1999, Berten left to focus on patent litigation and formed his own firm, Competition Law Group.

Unlike most patent litigators, Berten, 48, is a technology agnostic; he has tried all types of patent cases across a range of industries. One can navigate the growth of technological innovation in the U.S. just by reading the list of matters he has handled over his more than 20-year career, from medical devices, advanced thermal barrier coatings, financial products, vehicle navigation systems, genetic markers, machine vision systems and bar code systems to cellular-based data entry devices.

“When IP lawyers see some of the best of the best in their profession opting to move outside the traditional law firms, it will obviously impact the career planning of younger lawyers.”

– JOSEPH SIINO, FOUNDER, OVIDIAN GROUP

While Berten was litigating patent cases, around 2004, he started getting cold calls from clients asking him if he could monetize their patents. At the time, one of the biggest tech stories was the patent suit filed by NTP, Inc., a small Virginia-based patent holding company, against Blackberry maker Research in Motion. NTP, which owned approximately 50 U.S. patents, ended up collecting a \$450 million settlement in 2005.

The first call Berten got came from a client “out of the blue” asking if he could sell a patent for them.

“I thought it could be saleable, but I’ve never done it before,” Berten recalled thinking. He successfully sold the patent and the same client came back asking him to monetize 400 more patents. By 2008, Berten’s litigation practice turned into a one-man machine, 80 percent focused on patent sale and licensing transactions and 20 percent on litigation.

“I started thinking that there’s a real opportunity for a firm that would be organized as a law firm advising people on how to sell their patents,” he said.

But his former partners “just wanted to focus on patent litigation,” Berten explained. Then he met Steger in 2008 while working on a patent sale transaction. At the time, Steger, 42, was the chief IP counsel at Ygomi, a technology company that developed 4G wireless software. Like Berten, Steger started his patent career in private practice doing patent litigation, first with Brinks Hofer Gilson & Lione and then with Mayer, Brown, Rowe & Maw. As Berten described it was like meeting one’s soul mate.

“Steve and I both liked the monetization process and we felt that there really is no firm out there that combines selling, licensing and litigation,” he said. “In this space you’re either a non-lawyer broker who negotiates a sale or you have law firms that would generally focus on litigation.”

Berten left Competition Law Group to start Global IP with Steger. Shortly after, 32-year-old patent attorney

Ragnar Olson, who was a former director of Ocean Tomo’s patent transaction group, joined them. Chicago-based Ocean Tomo, an IP consulting firm, was the first to introduce the idea of selling patents to the highest bidder. The patent community greeted the firm’s first patent auction, held in 2006 at the San Francisco Ritz-Carlton, with surprise and skepticism. The auction attracted more than 300 attendees. The company managed to get about 400 patents in 77 lots, or groups of patents, on the

block; 24 of the lots were reportedly sold. To critics of the public auction, the result was tepid at best. But for the believers, the auction, which attracted enormous media coverage, opened up the IP market to the general public and presented a novel way of monetizing IP.

Berten considers Olson’s experience with Ocean Tomo “invaluable” and his addition was the last piece to complete Berten’s vision of an IP law firm whose lawyers not only know about patent law but also how to mint money out of patents.

“He knows a lot of patent buyers and sellers,” Berten explained.

Global IP could not have timed their market entry better. Nortel was selling all its operating business units in a bankruptcy auction. Included was a portfolio of approximately 7,000 patents, which created a big buzz in the high-tech industry, as it was the first time a portfolio of that size covering such a huge swath of wireless technology was available for sale. But selling the portfolio proved difficult, as Nortel’s in-house legal



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Global IP Law Group handled Nortel's \$4.5B patent auction, increasing the corporate appetite for patents.

department was no longer around to help the trustees value the company's IP assets.

The Nortel trustees put out a request for proposal to assist with the valuation and auction process. Global IP was among the firms that responded, which also included large law firms and IP licensing and brokerage firms. Maybe it was the copy of an issued patent that Berten distributed to the 25 or so trustees who were mostly investment bankers and bankruptcy lawyers that did the trick; Berten guessed correctly that most of them had not seen a real patent before. Or it could have been the tutorial Berten gave on how his group would analyze the portfolio, which contains more than 11,000 patent claims covering various types of mobile technology, and assessing the individual and collective value of the patents within the context of current market forces in the mobile industry.

"Normally, a firm our size would not have a chance to get a project this big," Berten said. "In-house counsel are known to hire big-name firms for high-profile work."

Fortunately for Global IP, Nortel no longer had an in-house legal department and investment bankers from Lazard were the ones doing the hiring. The firm got the job and the rest was patent history. Nortel's patent portfolio set off a bidding frenzy, earning the company more money than its entire operating business units, which sold for a combined \$3 billion.

Berten's phone has not stopped ringing since. The

headline-grabbing success also landed them Eastman Kodak's bankruptcy patent sale.

"We didn't initially set out to do bankruptcy work," Berten chuckled, "but like any other startup we had to tweak our business model quickly."

Since opening its doors in 2009, Global IP partners have reviewed tens of thousands of patents and have handled patent transactions involving more than 10,000 patents valued close to \$5 billion.

AN EVOLVING MARKET

The business of selling, licensing and enforcing patents has been murky. Unlike other business transactions, no one really knows how much companies pay for intangible assets like patents. Even companies looking to purchase IP find it difficult to value a patent. For years, the only straightforward way to find out the value of a patent was to sue infringers and get a settlement or a verdict. Patents changed hands between companies through licensing or acquisition but very little quantifiable data were available to determine how much patents cost. Even companies with an army of patent lawyers are still hard pressed to put a real figure on their IP portfolio.

But the litigation strategy created backlash as many big companies, often targets of multiple patent infringement suits by lone inventors or nonpracticing patent entities, viewed it as a way to extort money from legitimate businesses – those that make and sell tangible products. Technology companies have poured money into lobbying



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to curtail rampant patent rights abuse.

The push for patent monetization has continued unabated, however, and the business model has become so successful that even operating businesses with huge patent portfolios have started dusting off their unused patents to generate revenue streams and turning to their IP lawyers for help. One such company reportedly lured heavyweight patent litigator John Desmarais to leave behind “a several-million dollar partnership draw” to start a nonpracticing entity of his own, Round Rock Research. According to the Wall Street Journal, Desmarais was offered by his former client Micron Technology the opportunity to buy 4,200 patents it owns in the semiconductor space. Desmarais managed to raise enough capital to buy the patents and started his firm. The firm’s business model is straightforward enough, to strike licensing deals with companies that are infringing on the patents. If they don’t pay, they get sued. So far, his firm has reportedly settled suits against some companies and has sued companies such as Dell and Macy’s. (Desmarais declined to speak to Lawdragon for this story.)

Matthew Powers, another superstar patent litigator, left 1,200-lawyer firm Weil, Gotshal & Manges in 2011. He started Tensegrity Law Group, which has recently filed suits against Amazon and Sony and is planning to file more cases in the near future. His firm is also founded on the same premise: find valuable patents and go after infringers. The inventory of “really good” cases is enormous, he says.

“I am just astonished at the size of the potential market for something like this,” Powers said. “We vet these cases very carefully and we’re only going for very, very high quality matters.”

Like any entrepreneur, the potential for huge profits is what drew many of these IP lawyers to leave their multimillion-dollar partnerships at big firms. But Powers says it is also the opportunity for doing really interesting work that finally made him decide to leave the big firm environment.

“Most patent litigation at big firms has become more like claims processing,” Powers noted. “The cases are not going to trial and they are low-end work and mostly not interesting. If you are on the plaintiffs’ side, you can choose your cases.”

A NEW BUSINESS MODEL

Joseph Siino, founder of Berkeley-based IP consulting firm Ovidian Group and a former big-firm patent litigator and senior IP counsel at Yahoo!, says the exodus of talented IP professionals from large, general practice firms to more entrepreneurial startup environments will continue in the coming years.

“It’s a massive trend,” Siino said. “When IP lawyers see some of the best of the best in their profession opting to move outside the traditional law firms, it will obviously impact

the career planning of younger lawyers. Opportunities for IP lawyers outside of law firms are just growing and firms doing traditional IP work will have a hard time attracting and retaining the best IP lawyers.”

Berten agrees. He believes more patent lawyers are going to go the entrepreneurial route if they want to tap into the IP monetization market.

“A lot of the work we do is on a contingency basis, and for general practice firms that is still a hurdle,” he said. Berten is speaking from experience. He had to leave the firm he founded, Competition Law Group, because his fellow partners weren’t comfortable with contingency fee arrangements.

Berten wasn’t sold on the idea of contingency work until veteran Silicon Valley computer engineer and serial entrepreneur Larry Cooke called him in 2006. Cooke’s company owned nine patents on a chip technology and wanted to sell or license them to others. His company couldn’t afford to hire a lawyer so he tried to do it on his own, but it didn’t work.

“This is one marketplace where the customer does not want to see you,” Cooke said, laughing. “How can you be a salesman in that kind of marketplace?”

He knew he needed a lawyer. But finding a qualified lawyer who’d take his company as a client on a contingency basis was tougher than he realized. Cooke went through a series of lawyers. Some agreed to a contingency arrangement but didn’t understand the technology. Others couldn’t do full contingency work.

When Cooke finally connected with Berten, Berten surprised him. Berten understood enough of the technology to know the market implications. Cooke told Berten that he would get a percentage of the sale or license fees if he managed to find someone willing to buy or license the patents. If he failed, Cooke’s company would not pay.

“It took a while to hammer out the fee arrangement,” Cooke said. “I spoke to him in early 2007 and he didn’t get back to me until later that year.”

Berten finally took the case on pure contingency. Six months later, he sold the patents for an undisclosed amount and his firm got a percentage of the sale.

“Berten got a substantial share of the agreement,” Cooke says. “From our perspective it was reasonable because he managed to sell the whole lot for more than what we expected to get.”

Berten’s experience with Cooke convinced him that the IP market was ripe for the picking and that a law firm like Global IP would be very much in demand. He was right, but so far Global IP appears to be one of just a handful of firms that have tapped into the patent monetization market.

“It wouldn’t surprise me if you see more patent lawyers going this route,” Berten said. “But they’re not going to be at large general practice firms.” ■

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LAST STOP BELGRADE

BY JOHN RYAN

With the **International Criminal
Tribunal for Yugoslavia**

winding down, it has fallen to the national courts to

hold war criminals accountable for the

atrocities of the 1990s. Serbia's experience shows that

prosecuting these crimes

in resistant domestic settings takes

both **courage and patience.**



Srebrenica

juli 1995



Last Summer,

Radovan Karadzic, one of the most notorious accused war criminals to stand trial since the Nuremberg and Tokyo tribunals, cross-examined prosecution witness Milorad Davidovic, a former chief inspector for the Yugoslav Federal Secretariat of Internal Affairs.

The spectators' gallery in the trial chamber of the International Criminal Tribunal for the Former Yugoslavia, or ICTY, separated from the courtroom by a thick pane of glass, was mostly empty. A few handfuls of students and



other onlookers were monitored by a pair of security guards, who would occasionally peer over the shoulders of notetakers to make sure they were not drawing any pictures of the proceedings. (This is a matter of policy; Davidovic is not a protected witness and was testifying in open court.)

The setting was serene, even sleepy, compared to the International Criminal Court located across town in The Hague. The ICC's main gallery and public spaces were so packed with groups of visitors during the last week of June 2011 that public affairs staffers had to carefully coordinate groups of tours to avoid traffic jams within the building.

To both its critics and supporters, the ICC is the culmination of an international justice movement that began with Nuremberg and continued with the ICTY, intended to provide a forum for credibly prosecuting the worst violations of international humanitarian law. The United

Nations Security Council established the ICTY in 1993 as a temporary or "ad hoc" tribunal limited to prosecuting crimes from the wars that followed the dissolution of the former Yugoslavia. The ICC has a broader mandate: It is an autonomous, permanent tribunal established by treaty and run by its member nations, with jurisdiction beginning in July 2002 – when the treaty entered into force. Since then, the ICC has initiated proceedings for crimes committed in several of the worst conflicts of the past decade, including those in Uganda, Darfur and Democratic Republic of Congo.

As Davidovic sat in the witness chair at the ICTY, judges at the ICC were preparing to issue arrest warrants for Muammar Gaddafi, his son and an intelligence official over the conflict then unfolding in Libya. The excitement was palpable over the court taking on another high-profile conflict; the ICC was the place to be.

By contrast, the ICTY was – and remains – in the midst of its slow wind-down, with most of the cases completed or on appeal. Davidovic was one of about 200 witnesses eventually called by the prosecution in the nearly two-year-long presentation of its case against Karadzic, who is now set to present his defense. Still, for anyone who donned a headset and sat patiently through the simultaneous translations, the exchange between Karadzic and Davidovic had its share of drama. And the stakes remain high: The ICTY's cases, together with domestic justice efforts in the former Yugoslavia, will either bolster or undermine claims over the value of criminal justice responses to gross human rights violations, and may signal whether the ICC has a realistic

goal of meeting its goal to end impunity.

Karadzic served as President of the Republika Srpska, the self-declared Serb entity within Bosnia-Herzegovina, in the early to mid-1990s. He is accused of genocide, war crimes and crimes against humanity for his alleged role in the removal of Muslims and Croats from areas in Bosnia claimed by the Serbs. Prosecutors contend that he played a leadership role in the massacre in Srebrenica of 7,000 to 8,000 Muslim men and boys in July 1995 (determined by the ICTY to be an act of genocide in an earlier case), as well as the siege

PARTNERS:

The offices of Vladimir Vukcevic (right), Serbia's war crimes prosecutor, and Serge Brammertz, the chief prosecutor at the ICTY, have cooperated on war crimes investigations since 2003.

of Sarajevo that lasted from 1992 to 1995 – considered two of Europe’s worst atrocities since World War II.

Indicted in 1995, Karadzic was in hiding until his 2008 arrest. He initially boycotted his trial but later decided to represent himself. Trained as a psychiatrist, Karadzic quickly caught on to his role as defense lawyer. One of the two professional lawyers helping him with the case, the American Peter Robinson, has praised his performance.

Davidovic came to testify about coordination between Serb civilians and military and paramilitary forces in forcibly removing Muslims from Republika Srpska. However confident about what he knew, Davidovic tapped his leg furiously as Karadzic repeatedly attempted to tear into his credibility by asking him about allegations of fraud and other financial wrongdoing. Davidovic denied having a criminal record, and said that officials in Republika Srpska had been trying to cast him in “a negative light” as a result of his testimony at earlier ICTY cases. He said he would face a fresh round of “consequences” for his present testimony.

“I came here to tell the truth,” Davidovic shot back at Karadzic – “painful” truths. “Mr. Karadzic, I am a Serb, a member of the Serb people – my father, my mother, my wife – and I do not allow you to impute things of this nature to me.”

Far away, in Serbia, it remained unclear if the ICTY’s attempts at establishing the hardest truths of the wars were ever going to have the type of impact desired by tribunal proponents. Much of the fighting took place after Croatia, in 1991, and Bosnia-Herzegovina, in 1992, seceded from the Socialist Federal Republic of Yugoslavia, with Serbia in control of the Yugoslav Army and police that were aligned with various Serb paramilitary and defense units in the region. (Serbia and another republic, Montenegro, formed a new Federal Republic of Yugoslavia in 1992; they became a looser union of states in 2003, and Montenegro became independent in 2006.) The 1995 Dayton Accords concluded the war, though the ICTY later assumed jurisdiction of crimes committed during the Kosovo war between 1998 and 1999, when Albanians in that region fought for independence from Yugoslavia. (After the war, the U.N. assumed administration of Kosovo, which later declared its independence – not recognized by Serbia – in 2008.) Approximately 140,000 people died during the conflicts, with about four million displaced; rape and other forms of torture were common.

All sides committed crimes during the wars, which is reflected in the range of defendants prosecuted by the ICTY. Nevertheless, the position of the tribunal – and the international community generally – is that Serb forces, including the Yugoslav Army and police, as well as Serb defense units and paramilitaries, committed the most atrocities throughout the 1990s. In 1999, Slobodan Milosevic, the president of the Federal Republic of

Yugoslavia and before that the president of Serbia, became the first sitting head of state to be charged with war crimes. He eventually stood trial for war crimes, crimes against humanity and genocide over his plans to establish Serb dominance in the region; he died in 2006 during the course of the proceedings. Serbs have generally detested the ICTY, which is viewed as biased against their people, and the results of the cases are not trusted. Convicted Serb war criminals and the high-level remaining defendants, such as Karadzic, are still viewed as heroes by much of the population. (In a recent opinion poll, only 23 percent of Serb citizens believe that Karadzic is guilty.)

The ICTY has had other limitations. The number of war crimes suspects from the conflicts totals in the thousands, with some estimates in excess of 10,000 individuals. The ICTY ended up indicting 161 suspects, eventually developing a focus on senior or command-level defendants. That meant that the vast majority of suspects from the wars would not be prosecuted. In 2003, the ICTY adopted a “completion strategy” that has the domestic courts of the former Yugoslav republics – principally, Bosnia-Herzegovina, Croatia and Serbia – taking back a significant amount of responsibility for war crimes cases. The ICTY still has “primacy” under the tribunal’s statute, meaning it can assume jurisdiction over any case it wants from the wars, but the hope was that the domestic courts could prosecute a significant number of lower-level and mid-level offenders to fill justice gaps left by the tribunal.

As part of this effort, Serbia, in 2003, established a new War Crimes Chamber, based in Belgrade, within its national court system. The chamber is a purely domestic institution, outside the control of the ICTY or any other international agency, which are limited to monitoring and providing assistance when needed. In addition to filling justice gaps, supporters of the new court hoped it would build skills and restore trust in the judiciary. A chamber run by Serbs might also be viewed as more legitimate by the population and, therefore, do a better job than the ICTY at convincing people about the extent of atrocities committed by Serbs. This type of acceptance is often seen as a precursor to reconciliation or at least improved trust between ethnic groups in the region.

As scholars and human rights activists have come to recognize in the past few decades, few goals associated with post-conflict justice efforts are easily attainable, and expectations are increasingly tempered for particularly challenging settings like Serbia – where the legacy of Milosevic’s paranoid brand of nationalism has been powerful. Prosecutors in Serbia’s Office of the War Crimes Prosecutor, tasked with prosecuting cases before the domestic War Crimes Chamber, have faced threats for prosecuting their own citizens at home, as have the chamber’s judges and human rights advocates in the country for supporting the cases.

Vladimir Vukcevic has been the chief war crimes prosecutor in Serbia since the National Assembly elected him to the new post in 2003. Beginning in 2006, Vukcevic, a former deputy state prosecutor, also coordinated Serbia's "action team" for the arrests of the final fugitives from The Hague. The failure to arrest Karadzic and another high-profile defendant, Ratko Mladic, the Serb military leader in Bosnia during the war, had long been an embarrassment for both the Serbian government and the ICTY, as well as a source of tension between domestic officials and European leaders. The ICTY has mostly been dependent on governments of the former Yugoslavia to arrest and turn over suspects, and the European Union conditioned Serbia's candidacy for EU membership on compliance to these obligations. Last year, Serb security services arrested both Mladic and the last ICTY fugitive indicted, Goran Hadzic, a Serb leader in Croatia during the war, and transferred them to the tribunal. In February, then-President Boris Tadic presented Vukcevic and the action team with an honor on Serbia's day of statehood in recognition of their work.

In the domestic War Crimes Chamber, Vukcevic and his team of eight deputies have also notched some impressive trial victories, with final convictions of 58 individuals for a total of 668 years in prison. Most of the cases have targeted Serbs despite long-held concerns that national courts in the region might be unable to prosecute their ethnic majorities. The office has received praise from a range of international observers, including officials from the ICTY, the European Union and the U.S. But the office has also faced criticism at home for a dearth of cases against higher-level army and police officials who have political influence in Serbia; most of the defendants have been lower-level offenders or members of paramilitary and territorial defense units outside the formal state apparatus. Recent investigations have also been complicated by allegations that the witness protection unit for war crimes cases, housed within the police forces, has been pressuring witnesses not to testify.

The harshest critic of the office is Natasa Kandic, who is among the most renowned human rights advocates in Europe and the head of the Humanitarian Law Center, a nongovernmental organization in Belgrade. Kandic believes that the prosecutor's office lacks the political will to prosecute higher-ranking officials. Vukcevic's office has publically disputed this notion, contending that it resists political pressures and will bring cases against any individuals "regardless of their respective positions" if it can do so based on the evidence.

"The very fact that a number of Serbs have been convicted for war crimes against non-Serbs, that the Serbian judiciary and the state have taken a stand behind the victims in these cases and sent the perpetrators to prison, that is very important for reconciliation," Ivan Jovanovic, the Belgrade-based war crimes monitor at the Organization

for Security and Cooperation in Europe, or OSCE, said in an interview. "But certainly there will be many people who deserve to be prosecuted for what they did during the wars who will pass away in their own beds, surrounded by their family members, without spending a single day in prison. And that is not a good thing."

The mixed results and ongoing challenges in Serbia undoubtedly offer lessons for future accountability efforts in turbulent post-conflict domestic settings, particularly for efforts that may benefit from complementary relationships between international and domestic tribunals – as the ICTY and the former Yugoslav republics have attempted. Such scenarios are particularly relevant in the age of the ICC. Despite its jurisdiction over recent conflicts, the ICC is a self-described "court of last resort," with national courts obligated to try their own cases whenever possible. Just what those lessons are remains a matter of debate, both within Serbia and internationally among organizations that have a stake in promoting prosecutions for serious human rights violations.

The uncertainty of Serbia's commitment to confronting its past may have intensified with the recent election to the presidency of Tomislav Nikolic, the leader of the Serbian Progressive Party who defeated Tadic, an official widely seen as pro-Western and generally praised for prioritizing cooperation with the ICTY. Tadic had taken other steps to recognize Serb war crimes by attending ceremonies at the sites of Srebrenica and Vukovar, the site of another massacre, in Croatia. Nikolic, in contrast, was once a high-ranking member of the ultranationalist Serbian Radical Party, whose former leader, Vojislav Seselj, is also on trial at The Hague for alleged wartime crimes. Though he has softened his nationalism in recent years and favors EU integration, Nikolic immediately caused concern after his election by stating that the Srebrenica massacre did not amount to genocide. Milosevic's former spokesman, Ivica Dacic, is now Serbia's Prime Minister.

With all suspects finally in custody, the ICTY estimates that all trials and appeals will finish by 2016. In an interview, Vukcevic declined to estimate how long the domestic system will need to fulfill its mandate, though he did not think it would take decades, as some observers have thought.

"What matters most ... is the political willingness – or the readiness of society – that a consensus be reached over this issue," Vukcevic said. "I believe that, by having the ICTY indictees transferred to The Hague, we have demonstrated as a society our readiness for catharsis."

THE SREBRENICA-POTOCARI MEMORIAL AND Cemetery, in Potocari, Bosnia-Herzegovina, is a good place for visitors new to the region to begin to understand some of the unresolved facets and lingering resentments of the wars. The memorial, with significant donations from the U.S. and other foreign governments, opened in 2003 at the site of the U.N. base in Potocari, where Muslims had

unsuccessfully sought refuge. (In 2005, Bosnian police found two bombs at the site just days before a ceremony on the 10-year anniversary of the Srebrenica massacre.) The long stretches of graves are occasionally interrupted by open ditches, ready for new burials. As of this past summer, fewer than six thousand of the 7,000 to 8,000 people massacred were buried here; remains in mass graves are difficult to identify, a source of ongoing torment to the families of those killed.

A detailed explanation of the identification process is offered at the Sarajevo office of the International Commission on Missing Persons, which collects blood samples from relatives of the victims with the hopes of matching the DNA to collected bone samples. The International Committee for the Red Cross estimates that more than 13,000 people remain missing from the wars in Croatia, Bosnia-Herzegovina and Kosovo, in addition to those killed and victimized by displacement, torture and other forms of abuse.

How to address such massive crimes? Trials were not the obvious solution as Yugoslavia was being torn apart by war. Any momentum created by Nuremberg and Tokyo tribunals was halted by the divisions of the Cold War, which prevented the international community from agreeing on a new international criminal tribunal. But the field of “transitional justice” – the use of justice mechanisms in transitioning societies to address crimes from a period of war or oppression – started to solidify in 1980s and 1990s. A number of books, including Kathryn Sikkink’s “The Justice Cascade,” identify the factors involved, including the strengthening of the global human rights movement and the transitions to democracy in Latin American and Eastern European nations. Trials, truth commissions, lustration and reparation policies became increasingly common in post-conflict settings; memorials and local reconciliation rituals or programs also joined the mix of “justice” tools.

The end of the Cold War was a key factor in the U.N.’s ability to form international criminal tribunals for situations in which domestic courts were too unstable to credibly handle their own cases. (The ICTY was nevertheless an unlikely institution and struggled in its early years to become a credible court; as has been documented in

several accounts, the Western powers behind the court were themselves somewhat ambivalent about their support, mostly out of a concern for the delicate political balance required to achieve and then sustain peace in the region.) In addition to the ICTY, the U.N. created the International Criminal Tribunal for Rwanda, for the 1994 genocide, and has played a role in establishing so-called hybrid ad hoc tribunals – staffed by a mix of international and domestic professionals – to prosecute crimes from conflicts in places like Sierra Leone, Cambodia and East Timor.

The foundational theory of the field is that societies that do not account for past human rights violations are more likely to experience future turmoil and a reoccurrence of crimes, whereas transitional justice strategies can help promote democratization, victim and survivor healing, deterrence of future crimes, an accurate historical documentation of past crimes, and reconciliation, or at least a greater chance of stability in a nation or region. The varying theoretical claims are not always backed by clear empirical evidence, but few advocates or academics support a total-amnesty approach without any attempt to document or address past crimes. What is more hotly contested is which justice mechanisms work best in particular settings. While it has become more common in recent years to view the mechanisms as

complementary, debates continue over the value of “truth” versus “justice,” which often pits truth commissions against the more punitive trial approach.

Both critics and supporters of trials have relied on the ICTY to back their positions. By one assessment, the tribunal has run credible proceedings that have established important legal records of some of the worst atrocities, as well as new precedents in international criminal law. Though often criticized as a token gesture by Western nations unwilling to stop the bloodshed by intervening militarily, the tribunal’s achievements allowed proponents

THE ACTIVIST:
The Humanitarian Law Center's Natasa Kandic has earned praise for securing the participation of witnesses at war crimes trials but has butted heads with prosecutors over the targets of certain investigations.



THE MEMORIAL:
The memorial and cemetery in Srebrenica-Potocari honors the victims of the 1995 massacre. Remains are still being identified and buried.

to successfully push for the creation of a permanent ICC. But the high costs and glacial movement of the tribunal's cases, along with its inability to gain trust in resistant settings like Serbia or to measurably promote reconciliation (at times, it has seemed to do the opposite), raised concerns. Critics have used these shortcomings to argue that international tribunals are not only

divisive but a waste of resources that could be spent better elsewhere in fledgling societies.

More practically, the shortcomings also contributed to the U.N. Security Council and the ICTY developing the 2003 completion strategy that placed an increased responsibility on the national courts. The completion strategy also reflected a belief that the passage of time had stabilized national governments of the former Yugoslavia to the point where they could begin to handle their own war crimes cases. (In fact, some war crimes trials had taken place in national courts in the region, though the credibility of the proceedings were of regular concern to human rights groups.)

The situation in Serbia was nevertheless harrowing in 2003. Milosevic was ousted in 2000 by the Democratic Opposition of Serbia, a tenuous alliance between the nationalism of Vojislav Kostunica, who became president, and the more moderate and pro-West factions led by Zoran Djindjic, who became prime minister. Djindjic operated behind Kostunica's back to orchestrate Milosevic's arrest and transfer to the ICTY in 2001. In March 2003, an organized crime group assassinated Djindjic in an operation reportedly called "Stop The Hague." The tragedy not only intensified crackdowns on organized crime, which had flourished under Milosevic, but it also created increased momentum for a War Crimes Chamber. Significant domestic support already existed for the establishment of a new chamber for organized crime cases. International pressure from Europe and the U.S. along with the expectation of ICTY case transfers allowed the creation of the Belgrade War Crimes Chamber to be "folded into" the same process, according to OSCE's Jovanovic; both new chambers were created in 2003. Jovanovic also said there was a genuine desire on the part of some Serb prosecutors and judges

as well as other members of the government to prove that Serbia could handle its own war crimes cases.

Vukcevic said he accepted the job because he felt it was important and honorable work.

"We prosecute people whose hands are stained with blood and who brought shame on our country," he said. "Our children do not deserve to be left with such a heavy burden on their shoulders, and that is ... a strong motive behind one's decision to take on a duty like this."

A successful completion strategy would also require credible domestic prosecutions in the other republics. In Bosnia-Herzegovina, where the war had inflicted tremendous damage to physical and administrative infrastructures, the new domestic chamber required more formal international participation, even though there was a stronger demand for war crimes cases in that country. The U.N. Office of the High Representative for Bosnia-Herzegovina and the ICTY established a specialized war crimes chamber in Sarajevo that began operations in 2005. Though part of the domestic justice system, the court was set up as something of a hybrid with the participation of international judges and prosecutors who have been phased out of the operations over time. Like Serbia, Croatia's war crimes cases have taken place without international participation, most of them in various local courts around the country, though recent reforms are designed to funnel the cases to specialized chambers.

All of these domestic efforts have received their share of mixed reviews over the years. The dedicated chambers in Bosnia-Herzegovina and Serbia have been generally viewed as meeting international legal standards for war crimes prosecutions. The cases in Croatia, with so many tried in dispersed local courts, have received the most criticism for



perceived biases in predominantly targeting the country's Serbs, many of whom have been convicted on weak evidence and in absentia. The process has become more professionalized in recent years as the prosecutor's office has focused on more substantiated cases, including those against Croats, according to the OSCE. (The U.N. Mission to Kosovo, and more recently the European Rule of Law Mission in Kosovo, have been responsible for war crimes cases there; an OSCE report in 2010 found a systematic failure to process war crimes cases adequately.)

Though staffed only with Serbs, international assistance has played an important part in the establishment and operations of the domestic system. ICTY staff, the OSCE and the U.S. government have provided training to Serb prosecutors, judges and related personnel. The OSCE and an outside team of experts retained by the organization provided assistance in drafting the 2003 war crimes legislation, and the OSCE began monitoring all of the cases from the outset. The U.S. Marshals helped the Interior Ministry, which includes the police forces, establish a witness protection unit to protect and if necessary relocate witnesses. The chamber also has a victim and witness support unit, which coordinates logistical matters for witnesses and victims attending proceedings.

In Jovanovic's view, some of the biggest challenges in 2003 resulted from the lack of experience in "highly complex criminal cases with cross-border dimensions" that would require the participation of reluctant witnesses and the incorporation of evidence and rulings generated by the ICTY – all procedurally new in Serbia. By and large, the technical assistance and hard work by domestic actors has succeeded. Despite criticism over a lack of cases against the highest-level remaining offenders, prosecutors and judges have demonstrated their ability to process complex and unpopular war crimes cases.

"Ten or 15 years ago, the idea that Serb judges and prosecutors would be conducting credible cases against Serbs in Belgrade for crimes committed during the wars was unthinkable," said Mark Ellis, the executive director of the International Bar Association, an expert hired by the OSCE to evaluate the domestic environment in 2003 and assist with the drafting of the legislation. "I think in that historical context, you have to see it as a success."

Ellis said he saw a critical mass of political will to get the chamber off the ground in 2003, noting that Serbian officials agreed to a number of important revisions to the proposed legislation before it reached the National Assembly. Still, Ellis, like many observers, recognized a strong "culture of impunity" in Serbia, and he knew that support of the cases would not be widespread throughout the state machinery and the public.

Indeed, training and the efforts by justice advocates – including prosecutors, judges and victims' representatives – can only do so much in a setting that is extremely

resistant to accountability mechanisms. One relatively uncontroversial theory in the area of transitional justice is that prosecutions and other justice mechanisms are more likely to take hold in societies that have a clean break with the past – a complete military victory or a toppling of a government – or where incoming and outgoing regimes reach some agreement about how to address past crimes. This was not the case after the end of the Milosevic era in Serbia, which has witnessed a constant push and pull between nationalist and reformist political forces without any agreement on how to forge a full reckoning of the wars and the complicated history that preceded them.

A KEY EVENT ON THE ROAD TO WAR WAS

the 1980 death of Josip Broz Tito, the longtime leader of the Socialist Federal Republic of Yugoslavia who had held its six republics together since World War II. As recounted in many written works, including Gary Bass' popular book about war crimes trials, "Stay the Hand of Vengeance," Tito suppressed many of the ethnic divisions simmering from that war, which included massacres of Serbs by the Croatian fascists who supported the Axis powers, as well as reprisal attacks by the victors. His death led to a resurgence of nationalism and ethnic suspicions in the decentralized republic. The void also made citizens of the republics more susceptible to attaching themselves to strong-willed nationalist leaders like Milosevic and Croatia's Franco Tudjman, according to Kemal Kurspahic, whose book "Prime Time Crime: Balkan Media in War and Peace" documents Milosevic's alarming control over the public mindset. Kurspahic writes that Milosevic first used the media to help maneuver his rise to power, then kept near-total control throughout his reign over the state media and other private news outlets, which were run by ardent supporters or intimidated from straying from the nationalist line; the state-owned TV channel was known as "Slobovision." The endlessly promoted narrative was that of Serbia as the long-suffering victim that needed to defend itself against surrounding existential threats from Muslims in Kosovo and Bosnia, and Croats. (The narrative easily drowned out some of the courageous work of independent outlets.)

Drawing comparisons to Nazi Germany, one scholar, Nenad Dimitrijevic, describes the Milosevic government as "a populist criminal regime" characterized not by repression but popular support. Sabrina Ramet, who has published a number of academic works on Serbia, writes that Serbia suffers from "a denial syndrome" that when coupled with nationalist sentiments creates "a powerful concoction in which the society is able to escape into a mythic reality in which people (in this case, the Serbs) are portrayed as simultaneously heroic and victimized." Outsiders more casually familiar with Serbia's complicated history, including visiting journalists, might best avoid making such weighty assessments while at least grasping the obvious – that the carryover of nationalist sentiments was going to cause serious headaches for the ICTY. Similarly, Serbia, which is 83 percent Serb with small

minorities of Albanians and Bosniaks, was never going to have a groundswell of popular support for domestic war crimes trials.

Of course, resistance within the government is the more problematic factor in pursuing war crimes cases. Milosevic's fall did not bring a lustration or vetting policy – as seen, for example, in Eastern Europe after the dissolution of the Soviet bloc – that would have removed some of the corrupt and criminal elements from the government and mitigated the disastrous effects of his legacy. Many people in the army and the police have a vested interest in blocking cases.

"Obstruction is often inherent in these cases," Vukcevic said. "There are people within the police and military ranks who are still holding important positions in these institutions and who – directly or indirectly – were involved in war crimes. They will do anything in order to evade criminal prosecution."

One commonly cited problem, which Ellis had warned against in 2003, was the placement of the new war crimes investigations unit within the police forces, which means the unit is often investigating its own colleagues and has been viewed as traitorous. Human rights groups have questioned the unit's initiative on occasion. In 2006, the Humanitarian Law Center successfully lobbied for the removal of the head of the war crimes investigations unit and two other members by contending that they were present in Kosovo in 1999 during the commission of war crimes.

War crimes cases are almost always extremely complicated, regardless of the jurisdiction or the preceding conflict, often as a result of evidentiary challenges created by a lack of paper trails or other documentation of criminal intent. This leads to a reliance on witnesses who, whether they are victims or "insiders" with knowledge of criminal acts, will likely be reluctant to testify. In the former Yugoslavia, witnesses are scattered throughout the region, often outside the jurisdiction of the cases to which they are relevant.

The OSCE has worked to facilitate cooperation between the different domestic prosecution offices for war crimes. Cooperation has been most effective between Serbia and Croatia, which entered into an agreement in 2006 over the exchange of evidence and cases to work around each country's barring of extradition of their nationals. Serbia and Bosnia-Herzegovina have not reached a similar pact. Leaders of the three countries have also failed to iron out an agreement that would have each government focus on prosecuting its own citizens. This is desirable because the issuing of arrest warrants by one country for another country's citizens has been controversial and often criticized as politically motivated. In one well-known example, a court in London in 2010 refused Serbia's request for the extradition of Ejup Ganic, a former member of the Bosnian presidency, for his

alleged responsibility for war crimes against the Yugoslav army. In 2011, an Austrian court refused an extradition request for former Bosnia-Herzegovina General Jovan Divjak, also wanted by Serbia authorities.

Relations between Serbia and Croatia also took a negative turn last year when Croatia's parliament – in response to an indictment of Croat defendants forwarded on to Croatian prosecutors by Vukcevic's office – passed a law purporting to invalidate all laws in Serbia that deal with the prosecution of Croatian citizens from the war. (Croatia's prosecutor did not support the act and has continued to cooperate with Vukcevic's team.)

Yet Serbia's war crimes prosecution office has had some advantages, including the transfer of evidence from cases that the ICTY had already completed or initiated, giving Vukcevic's team a head start in some domestic cases. The office also had evidentiary assistance from Kandic and the Humanitarian Law Center, which has been widely praised for locating witnesses in victim populations and securing their participation at trials. (In Serbia's legal system, civil society organizations can represent victims in the trials and can file private criminal complaints in matters where the government has not acted.)

"They understood my explanation that they should fight for justice by directly participating in the trials, by testifying in court, because that means their testimony will live forever in the record," Kandic explained in an interview. "Nobody can manipulate their testimony. Every word from their testimony will be there forever. They understood why that's important."

The international assistance has also been ongoing, in Serbia and elsewhere in the region. It culminated in recent years with the War Crimes Justice Project, a four-million-Euro effort funded by the European Union and run collaboratively by the OSCE, the ICTY and the U.N.'s Interregional Crime and Justice Research Institute. According to the OSCE's website, the project provided training to 800 legal professionals in the region and produced curriculum materials on international criminal law and ICTY caselaw that are tailored to each nation's justice system. Part of the funding was used to translate tens of thousands of pages of ICTY trial transcripts and appellate decisions into local languages for use by national prosecutors and judges. The project also funded additional staff positions in the national chambers and prosecutor offices.

Perhaps more important is what this assistance has represented over the years – clear support of the domestic system by the European Union and the United States. Nationalistic politicians and media outlets have been vocal in their criticism of figures like Vukcevic and Kandic, but the importance of economic aid and the prospect of EU membership have prevented these hostile forces from shutting the domestic system down.

Vukcevic said the biggest threat came in 2004, when the justice minister and other members of the government wanted to get rid of the war crimes and organized crimes chambers and move their cases into the regular courts. He said EU support was instrumental.

"There have been pressures and threats, both from those who were in power in the early days of this office and from informal right-wing extremist groups," Vukcevic said. "At no point, however, has any such pressure or threat seriously hampered our efforts to prosecute war crimes."

Vukcevic said that he has sensed "real danger for my colleagues and myself in several situations so far," but that prosecutors do not let this interfere with the victims' right to justice. He added that his team has "complete faith in the state authorities which are responsible for our safety."

"We prosecute people whose hands are stained with blood and who brought shame on our country."

- VLADIMIR VUCKEVIC

BY SOME MEASURES, THE WAR CRIMES Chamber has served as an effective complement to the ICTY. Out of its 161 indictees, the ICTY has convicted and sentenced 64 individuals, with 13 acquittals and ongoing proceedings for another 35; the rest of the cases have been transferred to national courts or been withdrawn. The domestic system has indicted 146 individuals. In addition to its 58 final convictions and 10 acquittals, the domestic chamber has handed down another 39 convictions and nine acquittals that are on appeal, according to information provided by the prosecutor's office. Nine cases are at trial, and many more cases are in investigative stages. As a civil law country, Serbia's cases are decided by three-judge panels, not jurors. Investigative judges also played a key role in guiding investigations in the pre-trial period, until this year, when procedural reforms removed them from the process to make it more prosecutor-driven and efficient. (Vukcevic said the changes already have shown some "positive effects ... in terms of improved efficiency.")

It took several years for the final judgments to accumulate in any significant number as a result of the Supreme Court's regular overturning of convictions and ordering of retrials. Many saw political motivations in these rulings. The Supreme Court, left over from the Milosevic era, was not involved in the creation of the War Crimes Chamber, and it seemed reluctant to sign off on controversial cases. In 2010, a number of laws went into effect that restructured Serbia's judiciary and created a new network of courts. As part of the many changes, appeals from the War Crimes Chamber, now held in the Belgrade Higher Court, go to the Appellate Court in Belgrade. Jovanovic says that the judges handling

war crimes appeals are among the best in the nation.

Substantively speaking, the cases have tackled crimes related to several of the worst war crimes committed by Serbs in the 1990s, including the 1995 Srebrenica genocide; the 1991 execution of about 200 Croat prisoners of war and civilians near Vukovar, in Croatia; the massacre of an estimated 700 to 900 Bosniaks in Zvornik, Republika Srpska, in 1992; and the massacre of about 50 ethnic Albanians in the Kosovo town of Suva Reka in 1999, among many other crimes. Prosecutors also have brought cases for some of the horrors inflicted on Serb forces and civilians, including a number of crimes committed by the

Kosovo Liberation Army between 1998 and 1999. Recently concluded was the so-called "Gnjilane Group" retrial against a large group of former KLA members over the massacre of Serbs in Gnjilane, Kosovo, which resulted in 11 convictions and six acquittals. (According to a report of an incident by the prosecutor's office, the lead defendant made an ominous threat to the deputy prosecutor during closing arguments: "I shall take my revenge on you for what you are doing; should I fail to do so, my children will; in case they are not able to do it, then my grandchildren certainly will.")

The case totals become somewhat less impressive with a closer look at who has been prosecuted and convicted, however. The more senior-level officials in the police and army left within the chamber's jurisdiction – those who did not rise to the level to face ICTY prosecution – have tended to escape indictment. Prosecutors have successfully targeted commanders of Serb paramilitary and territorial defense units operating during the wars – forces that worked with but were not formally part of the Federal Republic of Yugoslavia. For example, the cases involving the Vukovar and Zvornik massacres involved the prosecutions of Serbs who were quite powerful during the wars in Croatia and Bosnia, but these individuals did not enjoy the same political clout as members of the army and police in Serbia in the years after the war.

The failure to make similar gains up the chains of command in the police and army ranks has been cited by international groups that have monitored domestic efforts, such as the International Center for Transitional Justice and Human Rights Watch, as well as local groups such

as the Humanitarian Law Center, the Belgrade Center for Human Rights and the Helsinki Committee for Human Rights in Serbia. (Most observers have also given praise for achievements in other areas.)

Vladimir Petrovic, an academic who was an analyst in the war crimes prosecutor's office when first interviewed for this article, described the problem as "the vacancy in the middle." Though the ICTY started with some relatively low-level offenders, it eventually developed a top-down strategy. Serbia's War Crimes Chamber, in contrast, could take a bottom-up approach – starting with the lowest-level offenders and moving up to the mid-level commanders outside the ICTY's range of cases.

"The hope was that we would meet somewhere in the middle," Petrovic said. If this convergence fails to take place, he added, it will create a significant hole in the legal record established by the cases.

A debate remains over the severity of this shortcoming, as well as its causes. Competing views over these issues have created tension between Vukcevic's office and Kandic's Humanitarian Law Center – two institutions ostensibly on the same side of war crimes issues, led by two individuals whose public statements about the importance of accountability efforts often echo each other.

Kandic believes that the indictments and some of the chamber's rulings show an intention to minimize the responsibility of the state of Serbia, and to focus blame instead on individual bad apples at the lower level. One of the goals of war crimes trials is to establish individual criminal responsibility for atrocities, something Kandic readily acknowledges. (One theory in the field of transitional justice is that individualizing crimes can help prevent victim populations from holding grudges against entire groups of people.) Still, she contends that indictments that more aggressively move up the chain of command and better establish the context of the crimes would place a more appropriate emphasis on state institutions. This would be more consistent with the record established by the ICTY – that much of the Serb wartime leadership engaged in a joint-criminal enterprise during the conflict.

Greater state responsibility might also support legal theories of liability that Serbia owes reparations to victims of the wars. Bosnia-Herzegovina sued Serbia before the International Court of Justice for alleged violations of the Genocide Convention. In a 2007 ruling, the ICJ held that the Srebrenica massacre amounted to genocide but that Serbia was not directly responsible for the acts carried out by the forces in the area, the Republika Srpska army. The court did hold that Serbia violated the convention by failing to stop the killings and failing to turn over key suspects. (Among the controversies of the case, the court did not require Serbia to turn over documents that might have shed more light on the alleged participation of Yugoslavia's leadership.)

Vukcevic's office has contended that Kandic, who is trained as a sociologist and not a lawyer, is incorrect in her assessments of its performance, and that cases have only been limited by the evidence available. For example, in the *Lovas* case against former army officials, among other defendants, for the killing of 70 civilians in Lovas, Croatia, in 1991, Kandic criticized the indictment for not targeting any army generals. Vukcevic issued a public response that the "the indictment included all individuals for whom it was possible to find evidence of involvement" and that "there was no evidence of [higher-ranking army officers] having any knowledge of the events in Lovas either before or during" the commission of the crimes.

In responding to questions for this article, Vukcevic said that most of the higher-ranking officials have already been indicted by the ICTY. He said his team operates by the principles of "independence, resistance to all sorts of pressures (political ones in particular), and the equality of treatment for all irrespective of their ethnic backgrounds, religious beliefs or positions in the political and command structures." He added that his office is in the early stages of potential cases against "individuals who occupied high positions in the state system" during the wars.

The Belgrade Center for Human Rights, which until recently was led by another of the region's most respected activists (and scholars), Vojin Dimitrijevic, who died Oct. 5 at the age of 81, does not believe that the prosecutor's office "is avoiding the prosecution of the topmost army and police officers," according to a report issued earlier this year. The organization instead blames obstructive forces within the government and the challenges posed by regional cooperation, with so many witnesses outside Serbia's border. The report noted a number of complications, including that a "considerable number of the Army of Serbia current command staff" fought during the Kosovo war, and that former Milosevic spokesman Dacic (now Prime Minister) had a prominent role in the government as a deputy prime minister.

One of the most high-profile and controversial of the early cases before the War Crimes Chamber was brought in 2005, after the Humanitarian Law Center acquired a tape of the notorious Scorpions paramilitary unit executing six Muslims during the time of the Srebrenica massacres in July 1995. The killings took place in Trnovo, Republika Srpska, where the unit had taken their captives. The Humanitarian Law Center made the tape available to the ICTY, which showed it at the Milosevic trial, and to the media, whose broadcasting of the footage was seen as an important first step in getting citizens to begin to accept that Serbs had committed grave war crimes. The tape also resulted in Serb police arresting the perpetrators who were visible as members of the Scorpions unit; five were indicted, including the commander, Slobodan Medic. Human rights advocates criticized the indictment for describing

“The very fact that a number of Serbs have been convicted for war crimes against non-Serbs, that the Serbian judiciary and the state have taken a stand behind the victims in these cases...that is very important for reconciliation.”

- IVAN JOVANOVIĆ

the Scorpions as a paramilitary unit operating under the Republic of Srpska Krajina's Army, as opposed to the state security services, and for characterizing the conflict itself as a “civil war” within Bosnia-Herzegovina. Kandic, as the representative of the victims at trial, said that the deputy prosecutor objected to her questioning witnesses about institutional responsibility.

In 2007, the chamber sentenced Medic and another defendant to 20 years, the maximum for war crimes against civilians under Serbia's criminal code, but gave more lenient sentences of 13 and five years for two of the younger defendants; a fifth defendant was acquitted. In reading the judgment from the bench, Judge Gordana Bozilovic-Petrvoic said that there was no evidence indicating that the victims were from Srebrenica. The ruling infuriated human rights groups and victims' family members, who saw a blatant attempt to separate Serbia from the events in Srebrenica. Vukcevic publicly criticized this determination, arguing that “the Chamber erred in giving faith to the defendants' statements, rather than to those offered by the victims' families.” He appealed the two lower sentences and the acquittal, but to no avail. (In 2008, the Supreme Court, then still reviewing chamber cases before the restructuring of the judiciary, merely reduced one sentence from 20 to 15 years and ordered a retrial for another defendant.) Kandic said the *Scorpions* trial was a wasted opportunity, and one that signaled that the domestic war crimes system would be more political than professional in its operations.

Vukcevic said that he did not think “the court ruling outweighed the good effects of the convictions.”

The OSCE's Jovanovic said he “partly shares the view” that some cases appear to shield the state from responsibility for crimes committed in Croatia and, in particular, Bosnia. However, he cautioned that there may not always be an abundance of evidence that directly links the state to some of the events in the Bosnian war.

“I don't think the prosecution is attempting to, or that it can, protect the state from responsibility in Kosovo, where there already are convictions of police officers, even if at the lower level of the police,” he added.

The Kosovo cases have been mired in controversy in recent years, which is understandable given the immense tension there. More than 80 countries, including the U.S., have recognized Kosovo's declaration of independence. Serbia is adamant in its opposition. Serbs view the Kosovo

region as an integral part of the nation's history and are concerned about the status of the Serb minority population there.

Vukcevic's office targeted a powerful figure, Radoslav Mitrovic, the commander of the 37th Battalion of the Special Police Unit, in the *Suva Reka* case, over the killing of 50 civilians in Kosovo in March 1999. Forty-eight of the victims were members of the same extended Muslim family. In announcing the case against seven defendants in 2006, Bruno Vekaric, a deputy prosecutor who also serves as an office spokesman, said that the massacred civilians included “four babies, 10 children, a pregnant woman and a 100-year-old woman.” The trial stretched over three years and included the participation of more than 100 witnesses. In April 2009, the War Crimes Chamber convicted just four of the defendants (yielding sentences of 68 years in prison), and acquitted three, including Mitrovic. The prosecution had argued at trial that Mitrovic had effective control over the police forces during the operation, and prosecutors presented corroborating witnesses who worked at the Suva Reka Police Department at the time. A Humanitarian Law Center review of the case contended that “the court protected [Mitrovic], by laying the blame and the command responsibility on the local chief of police.”

A legal technicality may have contributed to the chamber's ruling, revealing yet another challenge facing the domestic system. The criminal code that Serbia inherited from the Federal Republic of Yugoslavia was generally well-equipped to prosecute war crimes and crimes against humanity, but it had not incorporated certain provisions of the ICTY statute, including a broader definition of “command responsibility” that attaches criminal responsibility to commanders who knew of illegal conduct and failed to stop or punish it. The 2003 law establishing the War Crimes Chamber did not include the ICTY's command responsibility provisions out of a concern that retroactive application to crimes of the 1990s would not be constitutional. Prosecutors can still use existing provisions related to aiding and abetting theories to target commanders, but Jovanovic said the *Suva Reka* case might suggest the limitations of doing so.

Ongoing investigations in Kosovo have called into question the credibility of the U.S.-trained witness protection unit, which was praised during the early years of its operations. In March 2009, prosecutors initiated a new case against members of the 37th Battalion of

the Special Police Unit, including Mitrovic, after the Humanitarian Law Center filed a criminal complaint against 16 of the members. Four were arrested at the request of the prosecutor's office; Mitrovic was already in custody for the pending *Suva Reka* case. The center's complaint was based on insider witnesses from the police force in Leskovac, who then became protected witnesses

and other obstructive forces led the Belgrade Center for Human Rights to conclude that "the Serbia authorities are not prepared to confront the past and prosecute those most responsible for the grave crimes" from the wars.

The prosecutor's office has reportedly acknowledged problems with the unit, though when asked about the scandal for this article Vukcevic said his office has confidence in the witness protection services.

"Most certainly, the situation is often complicated and quite difficult at times," he added. "Still, a fact that should not be overlooked is that the effectiveness of such a protective mechanism also depends on the witnesses themselves, i.e. on their proper understanding of what their own rights and duties are within the program."

Kandic said that the unit has not behaved inappropriately towards victim or other witnesses,

who can testify safely even if they are ultimately angered by the judgments. Petrovic, the former analyst from the prosecutor's office, added that the unit has performed well in some cases, but it varies by the individuals involved with each assignment: "If it's done by normal people, it's good; if not, it can be a problem."

Tensions between the prosecutor's office and Kandic have continued to escalate. The Humanitarian Law Center's March 2011 report on the witness protection problems also alleged that the deputy war crimes prosecutor on the case, Dragoljub Stankovic, did not behave professionally and advised witnesses not to testify. Kandic also appeared on the B92 radio station that month and said her organization had information from sources who claimed that the release of Mitrovic and the other suspects involved the paying of a bribe to the prosecutor's office. Though she did not name the alleged beneficiary, Stankovic was described as such in the center's

THE PROTESTS:
Arrests and transfers of high-level ICTY fugitives, such as Ratko Mladic, the former Bosnian Serb military leader, have been met with protests by those who view the accused as war heroes.



for the prosecution's case; two of them were relocated from Leskovac. However, the witnesses claimed that the unit charged with their protection actually harassed them, pressured them to discontinue their cooperation and asked for information about other potential witnesses. According to a Humanitarian Law Center report, one witness claimed that unit members "cut off his electricity from time to time, [raided] his apartment at any time of day ... have asked him if he has engaged in sexual intercourse with Natasa Kandic, and [said] that it is better to withdraw his statement." The protected witnesses departed the case, which subsequently stalled. (The suspects were also released.)

Jovanovic said that the controversy is complicated by the possibility that, as prosecutors and members of the unit have contended, a few of the insider witnesses made inappropriate demands for their testimony. Nevertheless, he said it appears clear that the witness protection unit pressured the witnesses not to testify. This is an alarming problem for war crimes cases, which often require insider witnesses, and it has led to recommendations by European Union officials and other observers that the unit be removed from the police forces of the Interior Ministry and placed inside the Justice Ministry. The witness protection problem

report, and he filed a slander suit against Kandic. The prosecutor's office also issued an angry rebuttal and defense of Stankovic, noting that his security had been threatened for his work on several controversial war crimes cases and contending that he was not involved in the decision to release the suspects.

Kandic had been sued before for her public comments on war crimes cases, and would be again. Earlier this year, a Humanitarian Law Center report claimed that Lieutenant General Ljubisa Dikovic – whom Tadic appointed in December to head the Serbian army – was responsible for war crimes in Kosovo. Vukcevic claimed that no evidence supported the allegations, and Dikovic promptly sued Kandic for her comments, which she has continued to defend.

In recent years, Kandic and the prosecutor's office have traded criticisms through reports and public statements. In November 2011, the prosecutors office issued a detailed 15-page report to challenge three of the Humanitarian Law Center's recent reports, calling Kandic "amateurish," "ignorant" of the case files and incompetent as a victims' representative. (A recent change to the procedure code prevents non-lawyers from representing victims in the proceedings, which blocks Kandic from directly participating in the trials, leaving that role to lawyers at the Humanitarian Law Center.) The report said that "she remains invariably committed to her own interest to obtain proofs that our state is responsible for all crimes in Croatia, Bosnia-Herzegovina and in Kosovo, rather than individual perpetrators against whom proceedings are conducted."

Though the office has in the past acknowledged her crucial role in securing the participation of witnesses – the Humanitarian Law Center counted more than 70 who had testified at its invitation and assistance by the end of 2011 – Kandic believes that the office has changed its tone towards her for her heightened criticism in recent years, including what she sees as selective indictments as well as politically motivated arrests (or issuing of arrest warrants) for non-Serbs.

Vukcevic said his office has a good relationship with the human rights community and included Kandic's organization in the mix.

"Regardless of some disagreements, which are mainly of a strategic nature, we appreciate the assistance of the Humanitarian Law Center in the collection of evidence and access to war crimes witnesses," he said. "We continue to perceive them as our partners and a positive force."

In any event, there are significant payoffs for all stakeholders, not least of all the victims, as revealed in the *Lovas* case involving the killing of 70 Croatian civilians in 1991. In June, the trial chamber sentenced 14 defendants, including members of the Yugoslav army and the territorial defense unit in the area, to a total of 128 years in prison. The verdict followed 182 days in trial, including the testimony of 194 witnesses.

"Serbia's judicial authorities have sent a clear message of respect to the victims, and apologies for all their suffering in those unfortunate years," Vekaric, the deputy prosecutor and spokesperson, said after the verdict. "It is essential to make it clear that the victims will not be forgotten and that the perpetrators of such and similar crimes will be adequately punished."

Though critical of the indictment for not targeting generals, Kandic was extremely pleased with the course of the trial and the verdicts.

"I am happy because the families and the local authorities who came from Lovas are happy," she said. "It is important that they are satisfied with the trial and the work of the presiding judge, who did an excellent job."

Meanwhile, Vukcevic's team has remained in the news for several pending investigations. Prosecutors are reportedly considering a case against wartime media figures who, under some theory, may bear responsibility for inciting violence during the conflicts. The office also has opened cases against the individuals from the support networks that allowed The Hague fugitives to remain at large for so long. (Serge Brammertz, the chief prosecutor at the ICTY, had repeatedly urged for such a case.)

Another of the high-profile pending investigations focuses on whether Albanians in the KLA harvested organs from Serbs captured during the war for trafficking, which Albania and Kosovo have denied. Of particular concern to the U.S. State Department and the Embassy in Belgrade is the criminal case against two former Serb police officers for allegedly murdering three American brothers – Agron, Ylli and Mehmet Bytyqi – who reportedly had traveled to Kosovo to assist pro-independence forces. In May, the War Crimes Chamber acquitted the defendants, and Vukcevic's announced it would appeal.

GIVEN ITS HEADLINE-GRABBING CASELOAD, the ICC regime might not appear to the casual observer to favor domestic prosecutions. Under Article 17 of the governing Rome Statute, however, the ICC can only exercise jurisdiction if national courts are "unwilling or unable genuinely" to prosecute crimes falling under the statute. The principle is known as "complementarity," the exact meaning and implementation of which is the subject of much debate and analysis among scholars and advocates who follow the court. But most agree that domestic courts should handle their own cases if doing so is possible. States that ratify the treaty (121 have so far) are required to incorporate ICC crimes into their domestic legislation.

The ICTY has continued to assert its primacy over its pending cases, such as those of the recently arrested high-level fugitives. Nevertheless, some of the reasoning behind the push for domestic participation in the former Yugoslavia was based on complementarity principles – namely, that domestic cases are closer to those most affected by the

“Trials deal with facts and the testimony of witnesses. This is better than a climate without trials.”

- NATASA KANDIC

proceedings and can restore trust and develop skills in national justice systems. Writing in 2009 about the ICTY’s completion strategy, then-President of the ICTY Fausto Pocar said that “primacy” and “complementarity” were actually “two sides of the same coin” – the ICTY had assumed jurisdiction over cases because of the inability of national courts to do so, and now the tribunal could send cases back to their rightful jurisdictions. (This puts a somewhat positive spin on the motivations behind completion strategy, which was also hastened by concerns about the costs of international tribunals.)

Seen this way, the mix of international and domestic cases that have emerged in response to war crimes in the former Yugoslavia may suggest tandem responses to future atrocities falling under the jurisdiction of the Rome Statute. The ICC may need to exercise jurisdiction in particularly unstable situations, but both the court and international community at large will expect domestic courts to begin processing cases as soon as possible. For those who favor prosecutions after conflicts, this may be crucial to fill justice gaps left by international tribunals, as the ICC has tended to target only a handful or so of high-level suspects in its early cases. The experience of the former Yugoslavia is also likely relevant to accountability efforts that do not involve any international cases, but where domestic courts need significant international assistance. In a presentation last year, David Tolbert, the president of the International Center for Transitional Justice, said that the future of international justice would rely on “nationally-based courts which utilize the support and expertise of international experts,” with a focus on capacity building.

Serbia’s experience provides an opportunity to evaluate such relationships between international and domestic institutions. The domestic system has clearly performed well under certain principles of complementarity. Most sources agree that the war crimes effort has strengthened Serbia’s justice system. Jovanovic said that the skills associated with complex cross-border war crimes cases have been put to use in other criminal matters. The cases have begun to fill justice gaps by prosecuting individuals untouched by the ICTY, however much that effort remains a work in process. Vukcevic said the improvement of the “national justice system is an undeniable fact.”

Public opinion polls conducted by the OSCE and partnering organizations in recent years also show that the domestic system enjoys greater legitimacy in Serbia than the ICTY. Granted, the bar was extremely low: In results from the 2009 poll, 78 percent of Serbs had a very

negative or mostly negative view of the ICTY (while majorities of Albanian and Bosniak citizens in Serbia had positive views). The domestic system has not necessarily received glowing reviews. In surveys from recent years, only about a third of the respondents believed that

the prosecutor’s office had the courage to prosecute high-ranking state officials, and a quarter or less have believed that prosecutors and judges act independently of pressure from state authorities and the public.

Still, only 8 percent from the 2009 survey believed that the point of the domestic system is to “place guilt of wartime sufferings on the Serbs.” That report concluded that, when finding Serbs guilty, respondents believed that “the court reached the decision solely on basis of evidence and hence accept what has been determined,” though the percentage holding that opinion dipped from 57 to 50 percent between the 2009 and 2011 polls. The sizeable acceptance of case results involving Serbs would seem to constitute a notable achievement.

Yet transitional justice efforts are intended to contribute to more transformative goals related to the long-term health of a society or region. The most cherished goal, reconciliation, is also the most fraught with complexity: It can mean individual victim-to-perpetrator forgiveness or improved trust and peaceful co-existence between previously combative ethnic groups or political parties, among other interpretations. In interviews at The Hague and in the former Yugoslavia, the most common theme to emerge regarding transitional justice was that the processes of reconciliation can last decades or longer, and still may never reach satisfying conclusions for the wartime generation. The anticipated benefits of “reconciliation” were tossed around rather easily during the early years of the ICTY, burdening the institution with enormous expectations that led to disappointment among its supporters and constituencies.

Skeptics of punitive approaches do not limit their criticisms to the ICTY or international tribunals generally. Indeed, many lament the emerging consensus over an interpretation of complementarity that requires ICC states to prosecute offenders at home, when truth commissions and other locally developed mechanisms might be more constructive while also satisfying the ICC’s desire to end impunity. A widely shared view is that truth commissions will almost always have a better chance at establishing the historical causes and full range of crimes and victim experiences of any given conflict or period of oppression; trials are necessarily narrow by focusing on individuals, however well the crimes are contextualized.

Serbia has yet to benefit from such a truth initiative. Kostunica, with questionable motivations, attempted to form a truth commission in 2001 whose composition was not considered credible and the process died before

implementation. An impressive effort composed of many organizations is underway throughout the entire former Yugoslavia to push for a regional truth commission, known as RECOM. Advocates of the process want RECOM to include the participation of victims, civil society organizations and all of the governments of nations that were party to the conflicts. Though doubts remain about the chances of securing formal support from the governments, Croatian President Ivo Josipovic has been public in his support of the initiative and suggested his counterparts also look into possible means of implementation.

It is often unclear what trials can accomplish on their own. At times, trial proponents in the field of transitional justice have scaled back expectations in recent years, in no small part due to the mixed performance of the ad hoc tribunals. They have the luxury of falling back on a legalistic premise – that the prosecution of many cases should not be viewed as an option but as required by international law, given that the Genocide Convention, the Torture Convention and “grave breaches” provision of the Geneva Conventions require states to prosecute or extradite offenders. (A more controversial argument is that customary international law now requires nations to prosecute gross human rights violations.) Still, there remains a belief that war crimes cases, when well conducted, can help promote the rule of law, protect and elevate the rights of victims, remove dangerous criminals from the streets and establish a credible legal record of atrocities. Such a legal record can at least contribute to an accurate understanding of past crimes that is shared among different ethnic groups.

That last development would surely be transformative in Serbia, as elsewhere in the region, but it has yet to materialize. Serbs may accept the results of individual domestic cases, but not the truth about the broader patterns of atrocities. In the 2011 OSCE public opinion poll, 69 percent of those interviewed believed that Serbs suffered the most during the wars. The respondents believed that Croats, Albanians and Bosniaks (in that order) committed the most crimes during the wars, with Serbs committing the fewest. In addition, 52 percent either did not know what happened in Srebrenica, thought the crimes were made up or that there were casualties in battle but no executions; only 15 percent believed the truth of what actually happened, that more than 7,000 Bosniaks were executed. From those measures, neither the ICTY nor the domestic War Crimes Chamber appear to have contributed to a shared, accurate understanding of the events of the wars.

At least part of the explanation for the ICTY’s failure in this area is presented in Jelena Subotic’s highly regarded book, “Hijacked Justice,” which offers a negative

assessment of transitional justice efforts in the former Yugoslavia. Her chief contention with Serbia is that the use of conditionality – the lure of economic aid and EU membership to secure cooperation with the ICTY, specifically, the arrests of suspects – turned war crimes accountability into a “business transition” that avoided any true national reckoning of the past. Subotic recounts how the post-Milosevic Kostunica government orchestrated a series of “voluntary surrenders” that had ICTY indictees transferred amidst praises for their patriotism and sacrifice – without mentioning the nature of the alleged crimes or the victims. The prospect of EU membership clearly contributed to the May 2008 election of Boris Tadic’s Democratic Party, which created a more favorable environment for war crimes accountability efforts. Subotic nevertheless contends that the EU and Serbia’s numbers-based approach to compliance limited the positive effects that a more genuine transitional justice strategy might have had on Serbian society and governmental institutions.

The prevailing wisdom also places blame on the ICTY itself for failing to invest enough resources into outreach activities to explain its mission and the composition of the cases, in effect allowing its message to become “hijacked” by nationalist politicians. In fact, the ICTY has arranged a number of impressive outreach activities throughout the region, but these efforts are seen as too little, too late. The domestic system has received praise for its public information efforts and proactive relationship with the media. In surveys of journalists in Serbia, Vukcevic and his deputy Vekaric have been named the “most communicative state officials.” However, there is limited media or public interest in the cases. In the OSCE polls, very few Serbs could identify any specific cases that have occurred in the domestic chamber. (Most observers agree that televising chamber proceedings would help.)

Nevertheless, Vukcevic believes that the domestic cases have been contributing to reconciliation.

“In my view, the greatest paradox lies in the fact that cases against individual perpetrators do more for the process of reconciliation than those against top-level indictees,” he explained. “Namely, it is generally easier for people to identify themselves with the victim when they hear that he or she was killed, raped or tortured by a concrete individual. Cases against the highest government officials are complicated and remote from ordinary people.”

In addition, the legal records of both the ICTY and Serbia’s War Crimes Chamber – the most tangible outcomes under their control – continue to grow. How that record is used may be largely out of the courts’ control, but its development is consistent with any number of worthwhile transitional justice goals. A more critical interpretation of the domestic cases might question whether their cumulative effect would unduly minimize state complicity. But even Kandic does not qualify her support for the existence of the system itself.

“Trials are very important, even the bad ones, because they establish the facts, and the facts are different than the judgments and the verdicts,” she said. “In 10 years, we might have more professional institutions, and we might have historians who will take all the facts established by the trials and start to discuss them. Trials deal with facts and the testimony of witnesses. This is better than a climate without trials.”

TIME HAS A COMPLICATED RELATIONSHIP

with war crimes trials. On the one hand, evidence disappears, witnesses die and memories fade, all of which can thwart or complicate cases. But the passage of time can also reduce the influence of obstructive forces, who themselves may die or at least retire – what Petrovic refers to as “lustration by biology.” This may make certain cases less politically challenging, and it clearly contributed to the weakening of fugitive support networks for ICTY indictees like Mladic.

At the same time, Mladic’s arrest and extradition was met with protests in Serbia with accusations of treason against the Tadic government. The protests were reportedly less intense than those in reaction to Karadzic’s arrest and transfer, but they nevertheless reveal how difficult it may be to prosecute any popular, high-ranking officials domestically. The OSCE polls also showed increases between 2009 and 2011 in the number of respondents who believe that Serbia should not cooperate with the ICTY, and in those who do not believe the domestic cases are contributing to reconciliation. The 2011 U.S. State Department human rights report for Serbia noted that judges and prosecutors for war crimes cases (as well as those for organized crime cases) continue to receive death threats, and that some personnel require full-time police protection.

At this early stage, it is unclear what effect, if any, the new Nikolic regime will have on the operations of the domestic war crimes system. Nikolic’s Serbian Progressive Party supports EU integration, and so it also supported Mladic’s arrest and extradition as necessary to fulfill Serbia’s obligations. Dissatisfaction with state corruption and the poor economy are the most common explanations for his victory. The news website Balkan Insight recently reported that ICTY chief prosecutor Brammertz had a positive meeting with Prime Minister Dacic about continued cooperation on war crimes cases.

Yet Jovanovic nevertheless worries that the passage of time could weaken the resolve to zealously pursue the most controversial cases, especially as the EU, largely satisfied with Serbia’s performance, scales back oversight and pressure. Bringing war crimes cases in Serbia, he said, does not come with a political payoff, unlike organized crimes cases, which are widely believed to threaten the state.

“It will very much depend on the personal ability, persistence, courage and determination of the investigators and prosecutors to produce some serious results, to take some personal risk and to make some unpopular moves,” he said.

If anything, the experience of Serbia and the former Yugoslavia generally suggests that a long-term commitment from both domestic and international institutions will likely be required develop a credible and constructive war crimes system in particularly resistant settings. That might be the most obvious lesson for justice advocates who interpret complementarity as mandating post-conflict trials in the image of the ICC. The International Bar Association’s Ellis, who is working on a book about complementarity, said that the lingering question in the ICC regime is who exactly will provide this training and assistance, given that the court itself has said it will not have the resources to do so.

“That is the gap in the paradigm of the Rome Statute,” Ellis said.

Serbia’s experience similarly suggests that fairly assessing societal outcomes will require a great deal of patience. It is probably unrealistic to have expected public opinion about the wars to have changed dramatically by now, given the powerful historical forces at play and the relative recency of Milosevic’s rule. Despite limited public engagement with the domestic cases, interviews with a range of stakeholders suggest that the cases have made it more common to talk about war crimes in Serbia. Stakeholders also suggest that a more realistic initial goal might be an increased acceptance among Serbs of some of the basic truths about the wars, rather than a shared understanding about the patterns of atrocities among different ethnic groups.

For example, Petrovic sees “a social consensus” developing in Serbia about the fact that many crimes were committed during the wars, and that something should be done in response.

“The term ‘war crimes’ used to be oxymoronic here,” Petrovic said. “People used to think, ‘If you’re waging war, nothing you do is a crime because it’s war.’ It sounds crazy. But the idea that something in war is not lawful is new here.”

Vukcevic similarly believes that the domestic cases, benefiting from greater legitimacy and a closer connection to the people, have contributed to a growing realization that criminal charges against Serbs result from “horrible crimes” and not from political motivations – the most frequent criticism of the ICTY.

“Afforded personal insight into the case proceedings, people will soon realize that the accused are not heroes but infamous criminals,” Vukcevic said. “Once aware of that, people will easily come to terms with the fact that crimes were not committed only by people of other nationalities, but also by their compatriots – in this particular case, people of Serbian nationality.” ■

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KIM ASKEW

KIM ASKEW'S RECOGNITION in our Guide to World-Class Employment Lawyers, published in partnership with Human Resource Executive, as well as in our 2011 Lawdragon 500 Leading Lawyers in America, are just a few recent bullet points in what is undoubtedly one of the most award-laden careers of litigators in her generation.

Recent recognitions also include the Dallas Bar Association's Martin Luther King, Jr. Justice Award, in 2010, and her placement on Texas Lawyer's list of the 25 Greatest Texas Lawyers of the Past Quarter Century, also awarded in 2010. In 2012 Askew received the State Bar of Texas Section of Litigation's Luther (Luke) Soles III Award.

Though she is a force in the employment arena, the K&L Gates partner handles a range of high-stakes commercial disputes for her clients, including many Fortune 500 companies. She has also been extremely active in professional associations and was the first person of color to serve as chair of the Section of Litigation of the American Bar Association.

LAWDRAGON: Can you tell our readers why you wanted to become a lawyer?

KIM ASKEW: My role models were the lawyers who helped our community during the civil rights struggles of the early '70s in Savannah, Georgia, where I grew up. As our community confronted issues with busing and the desegregation of schools and neighborhoods, I witnessed the leadership of local minority lawyers. Many of these lawyers were great orators. They explained rights and opportunities in ways that empowered people and made them less fearful.

I did not always understand what was going on, but they absolutely mesmerized me. As I reflect on the skills they so ably demonstrated in churches and social halls, I can only imagine what they were like before juries. I knew then that I would be a lawyer. I did not see any women lawyers in those days, but I decided I would change that as well.

LD: Much has been written about how challenging it is for women and minorities to enter into what have been white-male dominated partnerships. It remains challenging of course, but it was even less common in prior decades.

KA: You are right. It is still a challenge, but I am pleased to see more successful lawyers of color. I spent twenty-four years of my practice at Hughes & Luce, LLP, which merged into K&L Gates in 2008. Like

many great firms, it had a stellar client list, interesting work, and opportunities for advancement, but the firm was unique in some ways.

First, the firm valued lawyers as individuals and understood that I wanted to be a lawyer and a leader in the bar and community. I was able to chart the career I wanted, not the one someone else wanted for me. Race and gender were never issues in the firm. When I confronted them in the practice, the firm always stood up to opposing counsel and, when necessary, a judge or two. I wanted an equal playing field and I got it.

Second, the firm promoted clients above all else. It exposed young lawyers to clients and inculcated the bedrock principal that lawyers had to truly understand the client's business and legal problems. We prided ourselves on client service, novel approaches to practice, and out-of-the box thinking. That belief in the client encouraged the practice of great law over the years.

Third, I understood the importance of business development and co-chaired business development activities for the firm early on as a partner.

Finally, mentors made a difference. Skilled lawyers and judges offered guidance to me throughout my career and they still do. Of course, I have become a mentor to many because mentoring certainly helped me. The support and opportunities provided by mentors can make or break a career.

LD: To what do you explain your success in the courtroom over such a long list of cases?

KA: Cases, clients, legal theories, and courtroom practice may change, but the fundamentals of success in a courtroom do not. It is always all about the people. I relate to people. Whether a judge or jury, it is always about relating to and persuading the trier of fact as to why your client should win.

LD: What key lesson or lessons do you try to instill in younger litigators who look to you as a role model?

KA: Number one, be prepared, be prepared, be prepared! Second, know your case inside and out – all the details and the strengths and weaknesses of every theory and every aspect of the case. More importantly, understand the opposing side's case better than your opposition. Third, be a good storyteller. Learn to simplify the most complex cases in ways that everyday jurors can understand. And finally, winning lawyers are authentic before juries. They are comfortable in their own skins. They trust juries.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/kim-askew.

Kim Askew
K&L GATES (DALLAS)



Paul Clement
BANCROFT (WASHINGTON, DC)



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Rosemary Alito K&L GATES (NEWARK, N.J.) As lead counsel, she is a passionate and successful defender of class actions under ERISA and the LMRA involving multiple-employer welfare and pension trust funds.

Samuel Alito U.S. SUPREME COURT (WASHINGTON, DC) His Supreme Court jurisprudence matches closely with that of the Chief Justice (Obamacare aside), hews strongly toward privacy and is hard line on criminal law, including his dissent that would allow life imprisonment for juveniles.

Kenneth Allen KENNETH ALLEN & ASSOCIATES (VALPARAISO, IND.) A media-savvy leader of the Indiana plaintiff bar, he has appeared on most major news shows, yet remains most committed to obtaining significant awards for individuals who are severely injured.

Riley Allen RILEY ALLEN LAW (ORLANDO) A standout plaintiffs lawyer, Allen has won tens of millions of dollars for individuals who have been injured or denied insurance coverage - including netting \$30M on a bad faith claim and holding a medical device manufacturer liable for fraud in a whistleblower matter.

Joseph Allerhand WEIL GOTSHAL (NEW YORK) This securities litigation major domo is noted for his fabulous results in the toughest cases, recently winning dismissal of shareholder derivative claims against AIG stemming from the financial meltdown.

David Anders WACHTELL LIPTON (NEW YORK) After making his reputation prosecuting WorldCom and Bernard Ebbers, he now provides incisive counsel to Fortune 500 companies and executives in regulatory, white-collar criminal and internal investigations and corporate governance matters.

Jeff Anderson JEFFREY ANDERSON & ASSOCIATES (ST. PAUL, MINN.) In the forefront of child sex abuse cases, he is now an advocate for a victim in one of the civil lawsuits against Penn State University.

Bruce Angiolillo SIMPSON THACHER (NEW YORK) A securities litigator of the highest order, Angiolillo most recently protected SiriusXM and Morgan Stanley, Blackstone and Royal Bank of Scotland affiliates from high-stakes litigation asserting financial malfeasance.

Francis Aquila SULLIVAN & CROMWELL (NEW YORK) A top dealmaker who's currently helping client Anheuser-Busch InBev in its pending \$28.5B acquisition of Grupo Modelo and a host of other transactions.

Lyle Ganske
JONES DAY (CLEVELAND)



Stephen Arcano SKADDEN (NEW YORK) In one of his most high-profile deals, Arcano advised Gilead Sciences in its \$11B acquisition of Pharmasset, developing a new approach to material adverse event clauses in accelerating the company's efforts to produce the first all-oral treatment for hepatitis C.

Cris Arguedas ARGUEDAS CASSMAN (BERKELEY, CALIF.) This criminal defense attorney adroitly handles a full range of criminal cases, from less serious offenses to complex white-collar crimes and high-profile murders.

Paul Aronzon MILBANK (LOS ANGELES) With more than 30 years experience in restructurings and corporate reorganizations, he facilitated Station Casinos' emergence from bankruptcy.

Gregory Arovass KIRKLAND & ELLIS (NEW YORK) An expert IP and litigation lawyer, he won a ruling in favor of Apple in its first trial over smartphone technology that found HTC infringed upon two Apple patents.

Kevin Arquit SIMPSON THACHER (NEW YORK) He's a magic bullet against anti-trust and other claims of compromising competition, assisting Fidelity's Title Insurance companies and Equitas while making time to represent pro bono a client sexually assaulted in a drug rehab facility.

Kim Askew K&L GATES (DALLAS) An inspirational leader and one of the finest lawyers in the land for turning back mass employment claims that could entail hundreds of millions of dollars in liability.

David Asmus MORGAN LEWIS (HOUSTON) Asmus' expertise in energy served him well as co-counsel for BHP in its \$12.1B acquisition of Petrohawk.

William Baer ARNOLD & PORTER (WASHINGTON, DC) The brilliant Baer got the call from President Obama to head his re-energized Antitrust division; his recent experience advising GE, Intel, Monsanto and Visa will come in handy.

Jan Baisch LAW OFFICE OF JAN BAISCH (PORTLAND, ORE.) The top Oregon plaintiffs lawyer, joined recently by his son, has successfully represented thousands of individuals who have been injured and often denied insurance coverage, returning jury verdicts in excess of \$1 million on 12 cases.

C. Mark Baker FULBRIGHT & JAWORSKI (HOUSTON) Baker is armed with global insight as a result of his work in ADR and energy that has taken him around the world, to Israel, China, the Ivory Coast, Peru, Argentina, Russia and Turkey.

Corinne Ball JONES DAY (NEW YORK) How to follow up an impressive act as Chrysler's restructuring guru? How about advise the firm's European clients on resolving staggering debt issues - and advise Hostess on how to make more dough.

Thomas Banducci BANDUCCI WOODARD (BOISE, IDAHO) He won \$4M, one of the largest recoveries in the history of the Fair Housing Act, against Boise County and a \$52M verdict against a regional medical center for breach of fiduciary duty.

Charles “Casey” Cogut
SIMPSON THACHER (NEW YORK)



CHARLES “CASEY” COGUT

IF ANYONE NEEDS ADVICE on how to be a successful corporate lawyer and still find time to watch “Mad Men” and read thick biographies of historical figures, Charles “Casey” Cogut, Simpson Thacher’s most senior M&A partner, may have the answer. Considered one of the nation’s most prominent and prolific corporate lawyers, Cogut has been doing deals since 1973 and he hasn’t slowed down a bit.

Last year, Cogut, 65, took part in several major multibillion-dollar deals. But in between deals, he still manages to squeeze in vacation time, golf and tennis games, and passionately follow his favorite sports teams.

“The ‘heavy lifting’ on all of these transactions was handled by various younger M&A partners, specifically Alan Klein, Patrick Naughton, Eric Swedenburg, Mario Ponce and associates at Simpson Thacher who were working with me on these deals,” Cogut, who was voted one of the top New York partners to work for by Above The Law readers, modestly explains.

LAWDRAGON: You’ve been practicing in the M&A area since 1973. Has there been a significant change in the practice from when you were a young associate at the firm to now being one of its most senior partners?

CHARLES COGUT: When I started practicing in 1973, the M&A specialty practice didn’t exist. Corporate lawyers generally worked on client teams, doing whatever corporate work was required for a company – credit agreements, securities offerings, M&A. We also did credit agreements for banking clients and underwritings for investment banks.

As the M&A specialty started to develop at investment banks and other law firms in the late ‘70s and ‘80s, a few of us at STB started to specialize in M&A. However, we didn’t formally establish our separate M&A practice group until the mid-’90s. Today it is one of the firm’s most important practice areas with a global reach and approximately 55 partners specializing in M&A throughout our 10 offices.

LD: What’s the secret to maintaining client relationships at the corporate level, when oftentimes there’s a revolving door in terms of in-house executives?

CC: I’ve been very fortunate to have a great relationship with KKR for almost 30 years. Henry Kravis and George Roberts have been sensational clients and great friends and supporters over that period. I can’t imagine a better client to be working with over the course of a career. Along with STB’s Chairman, Dick

Beattie, we’ve built a superior team of lawyers to service KKR as it has grown from a small firm to a global enterprise with hundreds of employees in numerous lines of business.

In general, private equity firms have less of a “revolving door” than banks and many corporations. In addition to KKR, my relationships with other PE firms are usually with the founders whose names are on the door, so it is less likely that they will leave and it is easier to maintain a relationship. Wyeth (previously American Home Products) was a very important client relationship of mine from 1994 until its acquisition by Pfizer in 2009. I was fortunate to have great relationships with three successive CEOs and CFOs, in addition to two GCs.

Like any relationship, in order to maintain a long-term relationship with a client you have to work at it.

LD: What do you consider the most interesting deal you’ve ever handled in your career? Do you have a favorite?

CC: KKR’s acquisition of RJR in 1989 was probably the most important transaction in my career because of all of the attention it received. However, I think that the deal that is my favorite and was also the most important to my development as a transactional lawyer was KKR’s \$6-billion acquisition of Beatrice Companies in 1986, and the divestitures and spin-offs from Beatrice that followed over the next few years.

In 1984, KKR had a deal to acquire Esmark Inc., which was “jumped” by Beatrice. After acquiring Esmark, Beatrice was in disarray, with its stock price languishing, and in November 1985 KKR proceeded with one of the few unsolicited LBOs in history. It was also the largest LBO up until that time, and in many ways more difficult to finance than the RJR deal two years later that was five times its size.

KKR brought in Don Kelly and his management team to run Beatrice. Don had been the CEO of Esmark and had left after Beatrice ruined his LBO with KKR, so it was sweet revenge. Beatrice was a conglomeration of many different businesses and KKR and Kelly devised a very successful strategy of dismantling these operations, in what turned out to be a very successful deal. Working with the KKR team and Don Kelly and his team in addition to many other STB lawyers on these transactions was a great experience and probably the most interesting set of deals I ever handled.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/charles-casey-cogut.

Roy Barnes BARNES LAW GROUP (MARIETTA, GA.) The former Georgia governor is the champion for American soldiers returning home, as he represents veterans against predatory lenders.

Robert Barnett WILLIAMS & CONNOLLY (WASHINGTON, DC) Blessed with brilliance and judgment, he counsels current and former presidents in book deals and life, brokers best sellers for Patterson and Silva and soon Amanda Knox - and uses his platinum Rolodex to counsel Corporate America.

Neil Barofsky NEW YORK UNIVERSITY SCHOOL OF LAW (NEW YORK) This ex-TARP prosecutor and NYU professor has penned "Bailout," which has been called the one book that makes some sense of the government's response to the financial meltdown.

Randall Baron ROBBINS GELLER (SAN DIEGO) A former L.A. prosecutor, Baron turned his sites to securities litigation fraud and has helped achieve billions in settlements, including \$89.4M for shareholders of DelMonte who challenged staple financing practices of Barclays Capital.

Robert Baron CRAVATH (NEW YORK) One of the nation's top litigators, Baron has handled some of the most prominent, high-stakes commercial and securities disputes in the past decade, including for JPMorgan Chase, Deutsche Bank, Deutsche Telekom, Goldman Sachs and Merck.

Ken Baronsky MILBANK (LOS ANGELES) He spearheaded the emergence of Station Casinos from the largest-ever in-court restructuring of a gaming company, keeping all 18 casino and hotel properties intact.

Francis Barron CRAVATH (NEW YORK) Before rejoining the firm, Barron advised Morgan Stanley's senior management on navigating a wide range of critical issues, including a complex and constantly evolving legal and regulatory environment.

Scott Barshay CRAVATH (NEW YORK) This head of Cravath's Corporate Department certified his reputation as an elite legal innovator on major deals with his representation of Deutsche Borse AG in its proposed \$9.53B merger with NYSE Euronext and Nalco in its \$8.1B merger with Ecolab.

Daniel Bartfeld MILBANK (NEW YORK) The firm is making inroads to Mexico through a natural gas transmission pipeline with an interconnection point at the US-Mexico border, thanks to his project finance expertise.

George Bason DAVIS POLK (NEW YORK) He is a formidable mergers and acquisitions attorney, facilitating VF's \$2B purchase of Timberland Co. and ConAgra's \$4.9B offer for Ralcorp.

Hilarie Bass GREENBERG TRAURIG (MIAMI) Global operating shareholder of her firm, immediate past chair of the ABA Litigation Section and lead counsel for the Homebuilder Group in the Chinese Drywall Litigation - it's not easy, but you can have it all.

Ora Fisher

LATHAM & WATKINS (MENLO PARK)



Ed Herlihy

WACHTELL LIPTON (NEW YORK)



Steven Bauer LATHAM & WATKINS (SAN FRANCISCO) This tough litigator won a complete defense verdict for Marvell Semiconductor over evidence of its general counsel musing about taking the plaintiffs technology and is also defending PG&E in the horrendous San Bruno fire cases.

John Baughman PAUL WEISS (NEW YORK) He's got the hot hand for Citigroup, facing down two lawsuits - Terra Firma and Parmalat - each seeking more than \$2B in damages; he defended both cases and tacked on a \$364M counterclaim victory for Citi in Parmalat, just for good measure.

Samuel Baxter MCKOOL SMITH (DALLAS) His unique ability to connect with jurors and skillfully cross-examine witnesses has solidified his reputation as numero uno for patent litigation, in which most recently he defended claims by Cordis and Wyeth to a stent patent on behalf of Medtronic.

Richard Beattie SIMPSON THACHER (NEW YORK) The insider's insider has given his counsel and strategic advice on the biggest deals, including J.P. Morgan Chase's \$58 billion acquisition of Bank One Corporation, the merger of America Online and Time Warner and the merger of WellPoint Health Networks with Anthem Inc.

John Beisner SKADDEN (WASHINGTON, DC) Pfizer, Johnson & Johnson, Merck, Electrolux, Toyota and Nissan, among others, turn to Beisner when navigating complex, multidistrict cases.

Leora Ben-Ami KIRKLAND & ELLIS (NEW YORK) Considered a preeminent life sciences IP attorney, she is currently lead counsel representing Dupont against Monsanto's claims of patent infringement related to Roundup Ready seeds as well as lead counsel for Butamax in a series of biofuels patent litigations.

James Benedict MILBANK (NEW YORK) Without peer as a defense lawyer for the mutual fund industry, as proven by his defense win of a \$15B excessive fees case against Capital Research, as well as for securities litigation defense, for which he has helmed hundreds of claims.

Bruce Bennett JONES DAY (LOS ANGELES) Calmly sailed through the fracas surrounding the troubled ownership of the LA Dodgers, to help Frank McCourt emerge from bankruptcy court having sold the team for \$2B.

Rebecca Berch ARIZONA SUPREME COURT (PHOENIX) Arizona's Chief Justice is a model of leadership and commitment, having developed a financial scholarship program at ASU law school and now working to improve protections for society's most vulnerable through fees charged by guardians and fiduciaries.

Max Berger BERNSTEIN LITOWITZ (NEW YORK) This securities class action titan's firm remains #1 with a \$1.4B year in 2011, including the largest subprime related recovery ever: \$627M for Wachovia bondholders.

ETHAN KLINGSBERG

AS AN ASPIRING ultra-marathon runner, Cleary Gottlieb partner Ethan Klingsberg has a taste for speed. But when it comes to his M&A practice he longs for the days when people would sit down and negotiate deals in the same room, or at least the same time zone.

“I’ve done a half-dozen deals with some firms and never met a single lawyer from these firms in person,” Klingsberg said. “I try to encourage boards to meet in person as much as possible. But, due to the speed of deals and the ability to connect virtually, even key board meetings are not always in person. This trend puts a lot of pressure on counsel to communicate well and build trust.” Klingsberg, however, appears to be impervious to the deal-making pressure as he managed to execute about two dozen deals in 2011 and early 2012, including Google’s \$12.5 billion acquisition of mobile-device maker Motorola Mobility Holdings.

LAWDRAGON: Last year, your firm had a role in two of the largest deals in the technology industry. Are we going to be seeing more such deals?

ETHAN KLINGSBERG: We’re also handling SONY’s buy-out of Ericsson’s mobile handset business. We’re hoping the big tech deals will keep coming. Large tech companies are generally cash-rich and have investors and boards that are more interested in seeing this cash used to grow the company’s prospects, as opposed to the dull and depressing alternative of special dividends and share buybacks. The other driver is the value attributed to speed and being the first mover in this sector. Many of the products and operations that are being bought in tech could be developed in-house over time, but it’s not necessarily worth waiting and the first entrants in a space can have a benefit that organically developed alternatives may have trouble competing against. Take these factors, together with a very healthy dose of desire to be the best, and you end up with a hot M&A market.

LD: Even with the bad economy (or maybe because of it), many companies are sitting on piles of cash. What impact does this have on your practice, if any?

EK: We spend a lot of time working with boards of directors on this issue. For example, the excellent condition of the balance sheet at our client, Family Dollar Stores, was a primary reason that the hedge fund, Trian Partners, came in attacking the board and announcing an unsolicited takeover offer. A common misconception is that hedge fund insurgents target only underperforming or distressed companies. In fact,

the boards and managements that are most frequently attacked by activists are those overseeing companies characterized by steady cash flows and healthy balance sheets. In the mid 2000s, healthy balance sheets often signaled likelihood for being an LBO target. Now this state tends to signal a need to prepare for a hedge fund insurgency.

Generally, we counsel that boards should explore, and push outside advisors and management to help them understand, whether more aggressive uses of excess cash may be appropriate and communicate their conclusions and reasoning to investors. This effort can do more than traditional anti-takeover mechanics to protect a company from interference by an activist who purports to know more than the incumbent directors and management about what to do with the excess cash and who, in the face of a seemingly passive board, could generate enough momentum to steer the company in radical directions that are not prudent.

LD: What do you consider is the most interesting deal you’ve handled in your career?

EK: In 1998, I spent months in South Korea working on the first foreign investment in its banking system — a seminal transaction by Goldman Sachs. The government was giving us a hard time, the target, Kookmin Bank, was giving us a hard time, and there were lots of cultural rules that we were expected to follow. We had a great team there from Cleary and Goldman, lots of camaraderie. In the end, we broke some of the cultural rules, but that was the right thing to do to get the deal done. There’s a time to play along and there’s a time to disrupt in the deal-making business.

LD: For an M&A lawyer, you actually have a highly diversified practice.

EK: Client relationships are a great way to become aware of industries, business lines and organizations. You’ve got to start with the premise that you are advising people and, once you have that awareness, you can expand into multiple sectors if you have the patience to do your homework.

LD: What do you do for fun?

EK: Mostly, my kids and I try to figure out ways to go on adventures together. In addition, I’ve got the running bug. I ran the NYC Marathon, NYC Half Marathon and two 10Ks (not the Exchange Act form) races in the last six months. I aspire to ultra-marathons over the next decade to affirm that life really is absurd.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/ethan-klingsberg.



Ethan Klingsberg
CLEARY GOTTLIEB (NEW YORK)

Martha Bergmark MISSISSIPPI CENTER FOR JUSTICE (JACKSON, MISS.) She aggressively advocated the Campaign for Fair Lending to shut down or restrict payday lending practices in Mississippi in her continued quest to improve civil rights and alleviate poverty.

Steve Berman HAGENS BERMAN (SEATTLE) Among the elite plaintiff lawyers of the Northwest, he recently settled a case brought by a Countrywide whistleblower whose information led to a \$1 billion settlement between the DOJ and Bank of America.

David Bernick BOIES SCHILLER (NEW YORK) Watch out world. In a rare lateral move, Boies Schiller added Bernick, one of the premiere aces of the trial bar (and former general counsel of Philip Morris International), turning up the power of its litigation turbine.

Donald Bernstein DAVIS POLK (NEW YORK) He is at the helm of JP Morgan-related bankruptcies as one of the U.S.' premier restructuring talents.

Stanley Bernstein BERNSTEIN LIEBHARD (NEW YORK) He finalized the 11-year IPO litigation saga against over 50 investment banks and 300 public companies, and - with dismissal of the remaining objector-appeal - the \$586M settlement can soon be distributed to class members.

David Berten GLOBAL IP LAW GROUP (CHICAGO) This IP attorney monetized Nortel's patent trove, helping obtain a record-setting \$4.5B bid.

Preet Bharara U.S. ATTORNEY, SDNY (NEW YORK) His Manhattan team constructed a genius case against Raj Rajaratnam, the former hedge fund manager of the Galleon Group, who was convicted on conspiracy and securities fraud.

Peter Bicks ORRICK (NEW YORK) The highly respected litigator won before the International Trade Commission on behalf of Nintendo in a patent case brought by Motiva involving the Wii video game system.

Mike Bidart SHERNOFF BIDART (CLAREMONT, CALIF.) Bidart has developed the firm's health insurance practice by successfully prosecuting bad faith disputes against insurers and HMOs.

Martin Bienenstock PROSKAUER (NEW YORK) The legendary bankruptcy lawyer in GM, Texaco, Owens Corning and now MF Global, finally found an organization he couldn't fix - his former firm, Dewey LeBoeuf.

Sheila Birnbaum SKADDEN (NEW YORK) Nicknamed "The Queen of Torts," Birnbaum's recent appellate victory for Pfizer significantly could impact more than 100 pending hormone therapy cases.

Roy Black BLACK SREBNICK (MIAMI) The man to call if you're in trouble in Florida, whether you're a corporation or a world-famous race car driver.

Leo Strine
COURT OF CHANCERY (WILMINGTON)





Kathy Patrick
GIBBS & BRUNS (HOUSTON)

Dennis Block GREENBERG TRAURIG (NEW YORK) This mergers and acquisitions attorney represented DPL in its \$4.7B sale to AES and Pfizer in its \$2.38B sale of Capsuget unit to KKR.

Steven Bochner WILSON SONSINI (PALO ALTO) The Silicon Valley dealmaker served on the IPO task force which recommended improving access to capital markets for emerging growth companies.

David Boies BOIES SCHILLER (ARMONK, N.Y.) Boies has surpassed every superlative, winning billions for his clients, creating the path to legalize same-sex marriage with the Perry case and now taking on the federal government claiming its takedown of AIG violated the U.S. Constitution, not to mention basic fairness.

David Boston WILLKIE FARR (NEW YORK) He helped pave the way for Level 3 Communications' \$3B acquisition of Global Crossing and assisted healthcare REIT Ventas in more than \$2B in deals.

Andre Bouchard BOUCHARD MARGULES (WILMINGTON) He heads one of the most respected Delaware firms, handling securities class actions and providing corporate governance counseling.

Ray Boucher KIESEL BOUCHER (BEVERLY HILLS, CALIF.) Boucher is at the helm of a high-profile case against the LA Unified School District on behalf of young sex abuse victim in one of its schools.

Theodore Boutros GIBSON DUNN (LOS ANGELES) This highly-skilled litigator won a unanimous U.S. Supreme Court ruling, throwing out class certification for WalMart workers, has been a strategic lynchpin in the successful Perry litigation over same-sex marriage and represents Chevron and Dole in toxic tort claims.

David Bradford JENNER & BLOCK (CHICAGO) He won an appeal upholding a \$102M verdict for Ventas against rival HCP for "Project Show Me What You Got, Mama" as well as a ruling that his client could seek punitive damages.

Kevin Brady ECKERT SEAMANS (WILMINGTON) Brady brought his corporate litigation talents - and vast experience in e-discovery - to help Eckert build its Delaware presence.

James Brady Jr. DICKSTEIN SHAPIRO (WASHINGTON, DC) He has won more than \$1B in awards since 2008, including 10 of the largest awards in the history of U.S. patent law.

David Braff SULLIVAN & CROMWELL (NEW YORK) He's the main man for Goldman Sachs and Barclays in government investigations and other claims, helping broker a \$450M settlement over LIBOR on behalf of the British bank with U.S. government agencies.

GERALD SHARGEL

WHO WOULD YOU HIRE if caught up in a complex criminal case – murder, racketeering, bribery, any type of fraud – facing the prospect of spending the rest of your life, or too much of it, in prison? Take that question to New Yorkers familiar with the city’s legal elite, and Gerald Shargel’s name might be the most common response.

The trial lawyer’s trial lawyer – who in the early years was known more as an appellate star (see the 1972 Supreme Court case *Giglio vs. U.S.*) – always seems to find himself in the news, and now on film. Shargel guided Dave Letterman blackmailer Joe Halderman to a guilty plea, and he did the same for disgraced Dreier LLP head Marc Dreier, which earned Shargel a supporting role in the documentary *Unraveled*. Of course, he is best known for defending mobsters like Hell’s Kitchen’s James Coonan and the Gottis of the Gambino crime family. In one case against John Gotti Sr., U.S. District Judge Leo Glasser referred to Shargel and partner Bruce Cutler as “house counsel” for the Gottis and removed them from the case; Shargel himself was the target of a multi-year federal investigation into his relationship with the mob – no charges were brought.

That colorful history sometimes obscures the diversity of his consistently successful criminal defense practice; Shargel generally does not discriminate against certain types of defendants as long as the stakes are high.

LAWDRAGON: In the documentary *Unraveled*, Marc Dreier seemed torn between accepting what he did and trying to minimize his crimes. Did you sense a certain amount of denial on his part?

GERALD SHARGEL: Well, he’s not in denial about his predicament. He’s accepted the reality that he’s serving a 20-year prison term as well as anyone could expect, and in a certain sense, he’s in a state of grace. He realized from the moment he was arrested – I think it’s clear in the film – that life as he knew it was over, or at least over for a very long time. The film was shot over 60 days, and I think that by the end he was fully remorseful and accepting of responsibility for what he did.

LD: With your cases defending Mafia figures, some of your fellow lawyers have wondered why you would handle those types of cases given that you could remain busy without them.

GS: I don’t apologize for any of that. I’m a criminal defense lawyer. That means I represent people charged with serious crimes and do my level best to raise rea-

sonable doubt, and to see that they are acquitted. It doesn’t always work. But I don’t look down my nose at any particular kind of case. Even in the last few years, I’ve represented a number of people that the government calls mobsters.

LD: You’ve been quoted before as saying you like “the action.” What do you mean by that?

GS: I like the action of high-profile cases. I’ve been fortunate to have a disproportionate number of high-profile cases. You know, walking into a packed courtroom, or walking into a courtroom where another room has a closed-circuit feed because the first room has filled up, to cross examine somebody under those circumstances – well, if you don’t like that, you don’t want to be a trial lawyer. I like the public attention, the scrutiny; I like it when the press section is full. I think any trial lawyer would welcome that. It’s what I live for.

LD: Have you ever had any second thoughts about the mix of cases? After all, in a wiretapped conversation, John Gotti threatened to kill you.

GS: I never believed that he meant it. I was in the process of trying to win an acquittal for him. He was an operatic person. I actually think that matrimonial lawyers are more at risk. This is not a practice for the thin skinned, but after 42 years I am still chugging along.

LD: How about the federal government’s investigation of you? That must have been incredibly frustrating and nerve-wracking and threatening to your practice.

GS: I would have preferred that it never happened. But going back to what I said, it is not a practice for the thin skinned. If I look back at the trajectory of my practice, the bar in the graph goes up during those years. The adverse publicity did not stop my practice from growing.

LD: Has your courtroom style changed over the years?

GS: Trial lawyers are like folk singers: They don’t copy other styles that came before, but they are influenced by them. I had a lot of influences from older lawyers who practiced in a different era. For a while I was probably more dramatic than I needed to be. I think over the years that’s quieted down. My approach to trials is not kicking and screaming and calling the government the Evil Empire. My approach is, “Let’s all reason together,” and I try to persuade the jury I have a more reasonable interpretation of the evidence.

Sometimes you are more effective with a softer approach. But if a situation calls for sarcasm, I’ll be as sarcastic as anyone else. **See the full Q&A at www.lawdragon.com/lawyer-limelights/gerald-shargel.**

ANDRÉ RENAUD

Gerald Shargel
SHARGEL LAW (NEW YORK)



Frank Branson LAW OFFICE OF FRANK BRANSON (DALLAS) One of Dallas' most committed public servants, Branson and his firm continue to win millions for consumers who have been injured, including \$8M for a woman who suffered burns from a defective product and \$10.66M for a doctor who suffered financial losses after being defrauded by medical device companies.

Stephen Breyer U.S. SUPREME COURT (WASHINGTON, DC) In his 18th term on the high court bench, the thoughtful jurist continues to define much of the court's more liberal jurisprudence, as well as numerous business and IP disputes.

Brad Brian MUNGER TOLLES (LOS ANGELES) Brian is tough as nails, which he's proving in his defense of Halliburton in conjunction with the Gulf Oil Spill and showed in his representation of a former Trust Company of the West bond trader, who avoided damages for breach of fiduciary duty and won \$67M on a cross complaint for unpaid wages.

Reed Brodsky U.S. ATTORNEY'S OFFICE, SOUTHERN DISTRICT OF NEW YORK This prosecutor's hard-nosed strategy was perhaps the tipping point that led to the convictions of financial kingpins Raj Rajaratnam and Rajat Gupta.

Juanita Brooks FISH & RICHARDSON (SAN DIEGO) She is the lead counsel for Microsoft, who has managed to shave damages against the tech giant in its long-running battle with Lucent.

Martin Buchanan LAW OFFICE OF MARTIN BUCHANAN (SAN DIEGO) He expertly won a unanimous U.S. Supreme Court decision in *Williamson v. Mazda*, which created new law on preemption, allowing plaintiffs to sue in state court for failure to provide lap and shoulder belts.

Susanna Buergel PAUL WEISS (NEW YORK) An up-and-coming star, Buergel has won major matters for Ericsson, Viking Global and Citigroup, for which she is handling massive subprime and credit-crisis related litigation.

Donald Bussard RICHARDS LAYTON (WILMINGTON) The talented Delaware dealmaker represented Pharmasset Inc. in its acquisition by Gilead Sciences Inc. for \$11 billion.

Elizabeth Cabraser LIEFF CABRASER (SAN FRANCISCO) As good as they come in complex class actions, this fearless advocate is serving as co-lead counsel for plaintiffs in cases involving injuries and death from Toyota's sudden acceleration accidents.

Tim Cameron CRAVATH (NEW YORK) One of the few lawyers to have defended a client - Vivendi, S.A. - in two securities jury trials, Cameron continues to be a leader in securities litigation, while also advising across a broad spectrum of frequently international complex litigation and arbitration matters.



Rollin Chippey
MORGAN LEWIS (SAN FRANCISCO)

Reed Brodsky

U.S. DEPARTMENT OF JUSTICE (NEW YORK)



Joshua Cammaker WACHTELL LIPTON (NEW YORK) He successfully represented United Technologies in its \$18.4B purchase of Goodrich Corp.

Tani Cantil-Sakauye CALIFORNIA SUPREME COURT (SAN FRANCISCO) With 20 years on the bench, the new head of the California judiciary is also a strong critic of the death penalty.

David Caplan DAVIS POLK (NEW YORK) Caplan represented Comcast in the sale of its advanced wireless spectrum to Verizon for \$3.6B.

Bill Carmody SUSMAN GODFREY (NEW YORK) One of the nation's top trial lawyers, Carmody was appointed as co-lead in LIBOR – the biggest financial litigation ever – which is not surprising given his sterling track record for financial titans in bet the company litigation.

James Carroll SKADDEN (BOSTON) His recent victory for a large Boston-based mutual fund was not just huge for his client, it was one of the largest multi-district litigations in U.S. history.

Judy Cates CATES LAW FIRM (SWANSEA, ILL.) The local counsel for Ashley Alford won \$95M in what is believed to be the largest sex harassment verdict for an individual in U.S. history.

William Chandler III WILSON SONSINI (GEORGETOWN, DEL.) After more than two decades on Delaware's Chancery Court, the Chancellor brought his expertise from cases such as Disney, Microsoft, Dow Chemical and AirGas to Wilson Sonsini.

Evan Chesler CRAVATH (NEW YORK) Cravath's longtime leader scored a major victory in a one-week bench trial in Wisconsin federal court holding that client NCR Corporation was not liable for environmental remediation costs as an "arranger" under the federal Superfund statute.

Rollin Chippey II MORGAN LEWIS (SAN FRANCISCO) He represented Japanese pharmaceutical maker, Asahi Kasei, winning \$577M in a high-stakes licensing trial.

Michael Ciresi ROBINS KAPLAN (MINNEAPOLIS) Robins Kaplan's longtime leader was instrumental in a jury award of \$30.1 million to four Minnesota non-profits in an action against Wells Fargo Bank, N.A.

Richard Clary CRAVATH (NEW YORK) This highly admired securities litigation attorney is entrusted with defense of numerous financial institutions, as well as IBM, INEOS, Schering AG and Berlex.

Robert Cleary PROSKAUER (NEW YORK) Cleary is using his outstanding prosecutorial background to unravel numerous civil lawsuits and government investigations relating to the demise of Lehman Brothers.

GREGORY MARKEL

CADWALADER, Wickersham & Taft has “changed dramatically” in recent years as a result of the financial crisis, according to Gregory Markel, a member of the firm’s management committee. Though it remains one of the top firms in the area of securitizations, the reduction in the volume of such work has led to a greater diversification of practices within the firm. One key mainstay of Cadwalader, however, is Markel himself, one of the nation’s leading practitioners in securities, antitrust, banking and other complex commercial litigation.

LAWDRAGON: What are you seeing now in types of securities cases?

GREGORY MARKEL: What has happened in securities litigation generally, as I see it, is that there has been a shift in recent years from the old stock-drop cases. There just aren’t as many as there used to be. But what have become much more prevalent are merger cases. Almost every merger is attacked by some plaintiffs’ lawyer, where the theory is often a breach of fiduciary duty.

LD: Did you always know you wanted to practice in this area of law?

GM: No, I didn’t. It was not clear what area I wanted to practice in when I was in law school. I had an undergraduate degree in economics and an MBA before law school. My thought was that I should make use of that understanding of business and economics as part of my law practice, but I was not exactly sure how I would go about it. As a matter of fact, my first year out of law school, I was working at Cravath, Swaine & Moore, and they put me in the corporate department – and that’s where I thought I would fit in. After a year or two, I hated it and thought, “Let me try some litigation,” and I loved it. I was exposed to the significant practice that Cravath has in complex cases, and it was just something that I loved and thrived on.

LD: What exactly do you like about it?

GM: I think there are at least three factors. One is that you can have a very varied practice; you learn a lot of things about companies and how businesses operate. You’re continually learning, and I think it is fair to say that I have an inquiring mind. Second, I enjoy competition. It’s not so much about financial competition, but I’ve always liked sports and to me with litigation you’re competing to win on both a micro-level – with a motion to dismiss or a discovery motion – and on the macro-level of trying to win the case. That appeals to me,

given my personality, as opposed to being a corporate lawyer, where you are trying to get a document or a deal to work. I have nothing against that, it takes great skill, but it didn’t have that certain aspect of competition that I like.

And third, and probably the most significant part, is that in litigation you spend your time trying to figure out a strategy to get a successful result for your client. It could be going to trial, prevailing on summary judgment or positioning for a settlement. There are lots of different ways, given the facts of a situation or case, to get a successful result. You have to come up with the right strategy, and you’re constantly revising it based on changes in facts or what you learn about the case. It’s fun and intellectually challenging.

LD: What would you describe as the new state of the firm, given the recent changes?

GM: The firm has changed dramatically, and a whole lot of the credit goes to [chairman] Chris White. We had well over 200 lawyers in structured finance and over 100 in real estate finance at the end of 2006. Today there are 90 to 100 top lawyers working in securitization. On the other hand, we have expanded many practices from late 2007 to today. We added a great energy practice, significantly increased our antitrust group in Washington – they’re exceptional – and we have top white-collar lawyers in litigation. We also brought in people in areas of structured finance we didn’t do before. We have lawyers in private equity that are outstanding and in M&A, and we have a terrific group of regulatory lawyers under the leadership of Steve Lofchie who also came in during the same period.

LD: What do you do for fun outside the law?

GM: I’m pretty much addicted to exercise. We have a gym in the first floor of the building that I use early in the morning. That helps me clear my head. I spend a great deal of time with my wife, Belinda. We’ve been married for 31 years, we are best friends and really spend a lot of time together. My kids are in their 20s and close by and that is great....

We also are both interested in art and have a bit of an art collection. We don’t buy million-dollar paintings, but we both enjoy spending time looking at art. Most of the time we don’t buy, but it’s rewarding looking at art and occasionally finding something that we like and can afford. That’s a lot of fun.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/gregory-markel.



Gregory Markel
CADWALADER (NEW YORK)

RATON OF JUSTICE IS THE FIRMEST PILLAR OF

Paul Clement BANCROFT (WASHINGTON, DC) The ‘anti-Solicitor General’ is considered the best lawyer in the land by some for his ability to take the politics out of divisive issues like healthcare, immigration reform and gay marriage.

Richard Climan WEIL GOTSHAL (EAST PALO ALTO) Climan negotiated huge deals for Dell and represented Lazard as financial advisor to Google in the Motorola acquisition.

Ty Cobb HOGAN LOVELLS (WASHINGTON, DC) A Hall of Famer in every regard, Ethisphere magazine added him to its list of 10 Legends this year for his extraordinary ability to help clients from AIG to princes and kingdoms to Dell executives facing Congressional committees, investigations and ethical compliance issues.

Charles Cogut SIMPSON THACHER (NEW YORK) This M&A attorney turned out a monster dealmaking year, including Sealed Air’s acquisition of Diversey, Microsoft’s acquisition of Skype Global and Cargill’s spin off of Mosaic.

H. Rodgin Cohen SULLIVAN & CROMWELL (NEW YORK) A one-man monopoly of legal advice to the world’s financial sector is advising Standard Chartered in \$250B claims of Iranian money laundering, Barclays in the LIBOR conflagration and advising world banks, such as China Merchants Bank Co. to establish a U.S. presence.

Jay Cohen PAUL WEISS (NEW YORK) While Cohen is known for his litigation and counseling of Warner Bros., ASCAP and other media entities, he recently scored several enormous wins in the business arena, saving Citigroup’s \$7.5B investment from the Abu Dhabi Investment Authority and protecting a \$8B challenge to the sale of EMI.

Robin Cohen KASOWITZ BENSON (NEW YORK) In the arcane and critical area of policyholder insurance coverage, Cohen is at the top for clients like Visa as well as companies who invested in Madoff funds and are now seeking coverage for their losses.

R. Scott Cohen JONES DAY (DALLAS) A longtime advisor to Texas Instruments, he forged its \$6.5B purchase of National Semiconductor, then helped Taiwan Semiconductor structure its \$1.37B investment in next generation technology.

Dean Colson COLSON HICKS (CORAL GABLES, FLA.) Colson and his firm are passionate advocates for consumers, as seen in their work for BP Oil Spill victims, on the Chinese Drywall litigation and now against Ford Motor Co. for defective spark plugs.

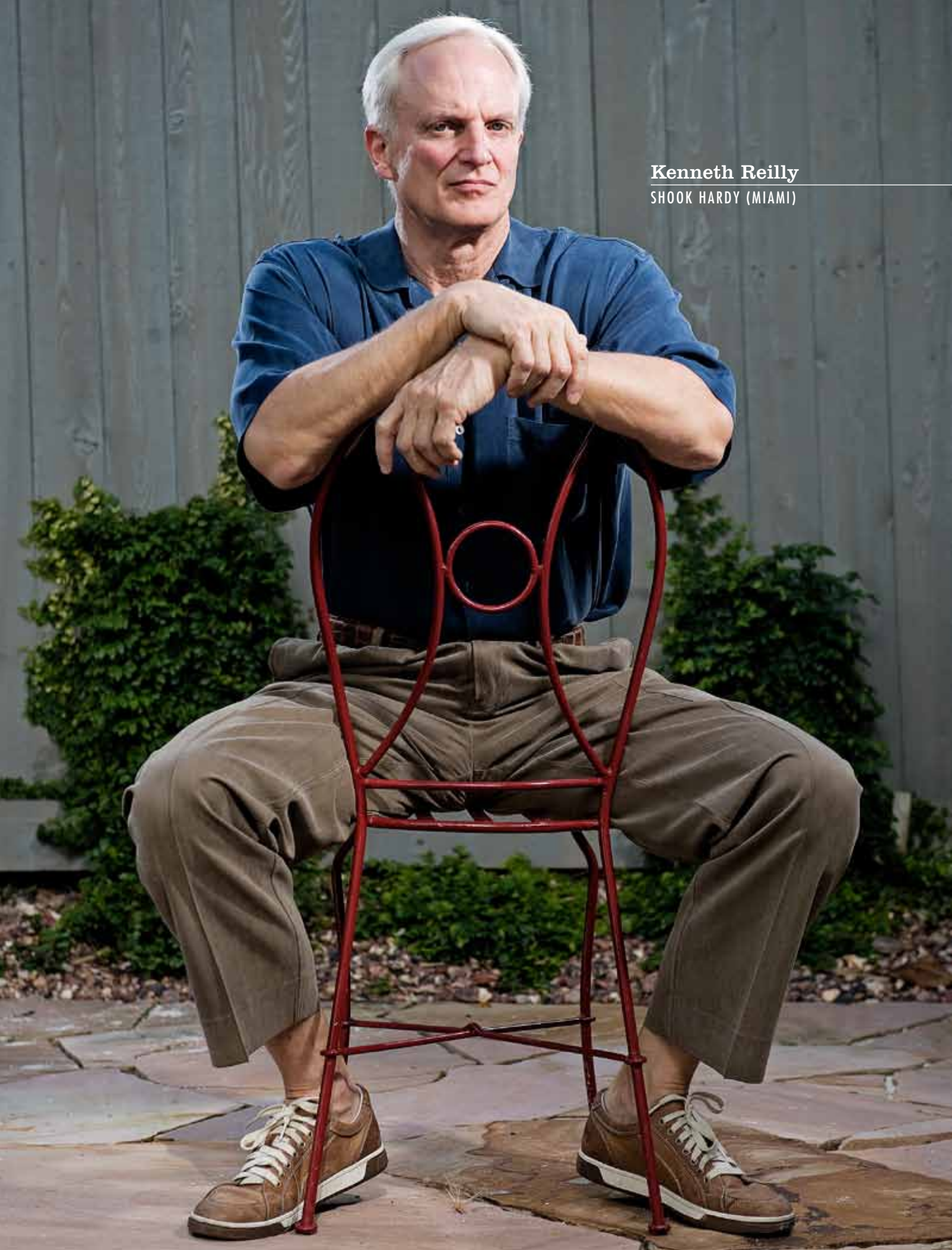
James Conlan SIDLEY AUSTIN (CHICAGO) A world leader in cross-border restructurings, Conlan represented banks and Dynegy subsidiaries in Chapter 11 to reduce their debts and bondholders’ exposures.

Joe Conner BAKER DONELSON (CHATTANOOGA, TENN.) His efforts snared Tower Music \$30.4M in an eminent domain jury trial against the Metropolitan Development & Housing Authority, which had offered \$16.1M for the property.

Christine Varney
CRAVATH (NEW YORK)



Kenneth Reilly
SHOOK HARDY (MIAMI)



Richard Cordray U.S. CONSUMER FINANCIAL PROTECTION BUREAU

(WASHINGTON, DC) I'll take consumer reform for \$100B, Alex. The former Ohio AG and Jeopardy standout has proposed no-fee, no-points mortgages and fined Capital One \$210M in his opening act as chief of the Consumer Financial Protection Bureau.

Joe Cotchett COTCHETT PITRE (BURLINGAME, CALIF.) The bigger they are, the harder they fall could be the motto of this consumer hero who has spent four decades taking on the Enrons and WorldComs and now Goldman Sachs while building a firm that nets hundreds of millions each year against Silicon Valley companies that break antitrust laws and medical labs that overcharge for tests.

Evan Cox COVINGTON & BURLING (SAN FRANCISCO) A pioneer in digital rights management and software copyright licensing, Cox is Microsoft's attorney of choice in the DRM arena.

Lucia Coyoca MITCHELL SILBERBERG (LOS ANGELES) One of Hollywood's litigators of choice, Coyoca represented a film financier in a sensational, high-stakes case involving a dispute with an entertainment hedge fund.

Gregory Craig SKADDEN (WASHINGTON, DC) The former Obama White House counsel is called upon to handle sensitive matters worldwide, most recently working with the Ukrainian government to improve its criminal justice system.

Mary Cranston PILLSBURY (SAN FRANCISCO) A role model for female lawyers, she was the first woman head of litigation at her firm, its first chairperson and now advises on how women can - and should - take more seats on corporate boards.

Frank Darras DARRAS LAW (ONTARIO, CALIF.) A passionate advocate in court, boardrooms and state capitols for the rights of insureds, he has won more than \$750M in coverage and worked with insurers to ensure they respect consumer rights.

Luke Dauchot KIRKLAND & ELLIS (LOS ANGELES) This top IP litigator won two hotly contested trials last year, taking \$101.2M for Medtronic in a split verdict over a patent infringement and \$70M for Alcatel-Lucent in its long-running battle with Microsoft.

Cari Dawson ALSTON & BIRD (ATLANTA) Dawson is a favorite of corporate counsel, having defended 100 class actions nationwide, many of them as lead counsel.

Morris Dees SOUTHERN POVERTY LAW CENTER (MONTGOMERY, ALA.) Dees' historic organization facilitated a settlement agreement to improve conditions and stop abuses at Mississippi's Forrest County Juvenile Detention Center.



Jennifer Keller

KELLER RACKAUCKAS (IRVINE, CALIF.)

JENNIFER KELLER

VETERAN TRIAL LAWYER

Jennifer Keller, the founder of Keller Rackauckas in Irvine, Calif., is no stranger to high-stakes cases, whether criminal or civil. The former public defender has successfully represented individuals accused of murder and is a recognized expert in white-collar civil matters.

In 2011, Keller's client MGA faced a bet-the-company case in the "Barbie v. Bratz" retrial, which followed a decision by the 9th U.S. Circuit Court of Appeals to overturn the first verdict against MGA – \$100 million for copyright infringement over the company's popular Bratz dolls. Keller did not work on the first trial and had only two weeks to prepare for the second, as she had to replace another prominent trial lawyer, Patricia Glaser, whom Mattel lawyers had fought to disqualify from the case.

In what was widely hailed as a stunning reversal of fortune, a federal jury in California found that Mattel had failed to prove its claims of copyright infringement and instead found that the company had misappropriated MGA's trade secrets, awarding MGA \$88.4 million in damages. The trial court then added another \$85 million in punitive damages and \$137.4 million in attorneys' fees and costs. Keller's performance added to her reputation as one of the most versatile and toughest trial lawyers in the nation.

LAWDRAGON: How did you transition from being a high profile criminal defense attorney to trying bet-the-company cases?

JENNIFER KELLER: My first big civil trial was the defense of Chapman University, which had been sued by students in its inaugural law school class for fraud and misrepresentation about the school's prospects of ABA accreditation. The founding dean wanted me to represent him as an individual because he thought I was the best trial attorney he'd seen. He didn't care what my field of specialization was. Then the university asked me to take over as lead counsel right before the five-month jury trial, which I won. Other civil cases followed, and I've since come to see that the dean was right: A good trial attorney can handle any subject matter. Trial skills are eminently transferable.

LD: How old were you when you tried your first criminal defense case? What lessons did you learn during your rookie years?

JK: I was sworn in as an attorney on Friday and tried my first case the following Monday, which I won. I was 25. I tried my first murder case at 27. That's how it was in the

Public Defender's Office in those days. One enduring lesson I learned was that every clerk, bailiff, court reporter and staffer is part of the "court family" and can have great influence on how your judge perceives you, your character and your case. Be nasty or oblivious to them at your peril. Another lesson is that a case can look great or terrible on paper, and become a completely different animal in an actual trial. Trials are living, breathing, organic creatures with their own special gestalt – which you can't experience completely until you get there, no matter how many mock trials you conduct.

LD: What do you consider the most challenging case you've ever handled in your career as a lawyer?

JK: MGA v. Mattel was the most challenging. The subject matter – copyright and trade secrets – was brand new to me and I had no time to learn either the law or the facts. We had the hardest-working judge you can imagine; he brought us in all day almost every weekend, kept us working at night after the jury went home – sometimes until midnight – and generally maintained the most punishing schedule I've ever seen. This meant I couldn't repair to the office after court to read depo transcripts, look at exhibits or read briefs. I had to do everything on the fly, and if my colleague Allison Shalinsky hadn't spent months pulling all-nighters to prepare witness exam outlines for me, I would have been cooked. The night before closing argument I had no sleep whatsoever. But after four months of that grind I managed to limp across the finish line, 25 pounds lighter. We didn't have much time to eat.

LD: Who is Jennifer Keller when she's not practicing law?

JK: Well, for openers, I'm the mom of a son who just finished his first year at UCLA Law School. I'm betting that he'll be a better trial lawyer than I've ever been – he just "has it." I'm an avid golfer when I get the time; it may be the realm of masochists but I'm addicted. I have season tickets to two live stages and also love movies. I'm a patron of LA Opera, to which I also have season tickets. Love to travel. I'm a trustee of Chapman University and a trustee of the UC Hastings Foundation. And I have a second home on California's wild North Coast, up by the Oregon border, in a little town called Trinidad. I try to get up there whenever I can, do a little hiking, play golf in the redwoods and hang out on my deck overlooking the ocean. And I'm a promiscuous reader who always has two or three books going at once. So I'm never bored.

See the full Q&A at www.lawdragon.com/lawyer-limlights/jennifer-keller.

Thomas Demetrio CORBOY & DEMETRIO (CHICAGO) Illinois' top plaintiff lawyer, along with New York's Tom Moore, successfully took on Bravo and the Real Housewives franchise for their egregious behavior, while also suing the NFL on behalf of the family of former Chicago Bear Dave Duerson, who committed suicide and asked that his brain be studied for the impact of long-term head injuries, in addition to other NFL players.

Bruce Deming COVINGTON & BURLING (SAN FRANCISCO) Deming has represented Microsoft in some of its largest acquisitions to date, including its \$1.1 billion acquisition of AOL's patent portfolio and its \$8.5 billion purchase of Skype.

Robert Denham MUNGER TOLLES (LOS ANGELES) It's good to be Warren Buffet's favorite dealmaker: Denham has represented the legendary investor in billions of dollars of deals, most recently his \$5B investment in Bank of America.

Otway Denny FULBRIGHT & JAWORSKI (HOUSTON) The global chair of Fulbright's litigation department is the go-to defense litigator for the Energy industry when catastrophes occur.

Kelly Dermody LIEFF CABRASER (SAN FRANCISCO) Dermody delivers for employees and consumers, taking on Abercrombie & Fitch, Home Depot and SmithBarney over employment practices and Provident for credit card claims.

John Desmarais DESMARAIS LAW FIRM (NEW YORK) After winning billions in verdicts at K&E for IP clients, he is in the forefront of monetizing patent portfolios with auctions of covenants not to sue.

Marshall Doke GARDERE (DALLAS) The brilliant and remarkable Doke is the nation's leading authority on government contracts - a skill he's putting to use as auditor of the ABA.

Don Downing GRAY RITTER (ST. LOUIS) Winning million-dollar awards from five jury trials for rice producers, Downing couldn't have planned it better as Bayer Crop Sciences eventually agreed to a \$750M settlement for contaminating rice through genetic engineering.

Conal Doyle WILLOUGHBY & DOYLE (OAKLAND) This plaintiff lawyer has a natural passion for the underdog as a right-leg amputee, which he used to fuel his advocacy for an immigrant detainee who died of penile cancer after he was denied a biopsy for a lesion; Doyle won his survivors \$4M.

David Drummond GOOGLE (MOUNTAIN VIEW, CALIF.) Google's chief legal officer is coming out ahead in the legal battles over smart phones, facing down billions of dollars in claims, while working with governments worldwide to deflate claims of anti-competition.

Ted Boutros
GIBSON DUNN (LOS ANGELES)



Shanin Specter

KLING & SPECTER (PHILADELPHIA)



Dennis Dunne MILBANK (NEW YORK) Dunne gets it done in the most complex and weighty restructuring matters, including Vitro SAB de CV, Lehman Brothers, A&P, Nortel, New Page, TXU and Dynegy, and hit it out of the park for the Texas Rangers.

Marc Dworsky MUNGER TOLLES (LOS ANGELES) The litigator tapped to lead Wells Fargo's defense of reverse mortgage backed securities claims helped negotiate the first settlement by any major originator - a \$125M resolution of omnibus securities lawsuits against it as originator of tens of billions of dollars of tainted deals.

Karen Dyer BOIES SCHILLER (ORLANDO) A dynamic trial lawyer, Dyer upheld the constitutionality of two recent amendments to the Florida Constitution governing legislative redistricting while continuing her litigation on behalf of Starr International and major European investment funds.

Scott Edelman MILBANK (NEW YORK) The future leader of Milbank is one of the most respected securities litigators around, winning a ruling for Regions Financial that a company's valuations of goodwill and loss reserve are not subject to strict liability under the Securities Act of 1933.

W. Neil Eggleston DEBEVOISE & PLIMPTON (WASHINGTON, DC) A Washington insider, Eggleston helps corporations and politicians navigate Foreign Corrupt Practice Act and other investigations, most recently representing then-White House Chief of Staff Rahm Emanuel in conjunction with the Senate-seat selling allegations against former Illinois Governor Rod Blagojevich.

Lewis Eidson COLSON HICKS (CORAL GABLES, FLA.) One of Florida's top plaintiff lawyers, he helped engineer a settlement of Chinese drywall claims that could reach \$1B, and is overseeing significant air crash litigation and a class action against Ford for defective spark plugs.

Jay Eisenhofer GRANT & EISENHOFER (WILMINGTON) He leads a team of consumer advocates with billions in settlements to their name, including a \$1.6B settlement with Abbott Labs over off-label marketing; the firm has now turned its sites on JPMorgan for brokerage and investment management.

Mitchell Eitel SULLIVAN & CROMWELL (NEW YORK) A Rodgin Cohen protégé, Eitel advised Regions Financial in its \$1.1B sale of Morgan Keegan and is counseling HSBC in its pending business unit sales to Capital One and First Niagara.

Dianne Elderkin AKIN GUMP (PHILADELPHIA) She's one of the most respected and sought-after defense lawyers for pharmaceutical and life sciences patent disputes.

Michael Elkin WINSTON & STRAWN (NEW YORK) This tough litigator has proven to be one of the most elite new media advocates around with victories for Veoh over the reach of the DMCA safe harbor and will almost certainly be one of the leading voices in determining how far Internet companies must go to police user-generated content.

NANCY ABELL

PAUL HASTINGS PARTNER

Nancy Abell is on the speed dial of many in-house counsel at Fortune 100 companies. Abell is the global chair of Paul Hastings' 152-lawyer employment law department, considered one of the best labor and employment practices in the country. In 2010, her group won the prestigious American Lawyer Litigation Department of the Year Award for chalking up a 12-1 record in court trials and a 14-0 record in arbitrations in 2009 and 2010. The same year, The National Law Journal singled her out as one of the 40 most influential lawyers of the decade in the area of labor and employment law.

LAWDRAGON: What impact has the 2011 Walmart v. Dukes Supreme Court ruling have on your practice?

NANCY ABELL: The U.S. Supreme Court's ruling in Walmart has helped employers defeat a greater proportion of class cases at the pleading stage and at class certification – particularly discrimination class actions and wage-hour actions that challenge the exempt status of a class of employees. Civil rights lawyers appear to be focusing more of their discrimination class actions on disparate impact claims, rather than intentional discrimination claims. For employers this means greater emphasis on statistics and establishing that employment practices are job-related and consistent with business necessity.

LD: We hear a lot about the impact of the U.S. Supreme Court on labor and employment law. What's going on in the arbitration area?

NA: Each year it appears that more employment disputes proceed to binding arbitration. Some employers have been able to preclude litigation of class and collective actions by moving to compel arbitration of individual claims under arbitration agreements that are silent on class arbitration or prohibit it. Other employers continue to find arbitration unattractive because appellate rights are limited and they believe that arbitrators are more likely to "split" their rulings to make both sides happy.

LD: What is the most pressing legal issue on your clients' minds right now?

NA: In the employment arena the most pressing litigation issue across industries continues to be the threat of wage-hour class and collective actions.

LD: Can you talk about a recent litigation victory?

NA: Most litigation victories come when a motion is granted, class certification is defeated, or a trial or appeal is won. One is prepared for those milestones.

Recently I associated in as lead trial counsel for a case with industry-wide ramifications. It sought injunctive relief that would have been cost-prohibitive and would have had severe adverse consequences for our client's operations. The case had been going on for years. There was no choice other than to win it. Settlement was not an option. We quickly conducted a meticulous up-from-the-ground investigation, designed a motion and trial strategy, used both offensive and defensive discovery effectively, and finally convinced our opponent to throw in the towel and dismiss.

LD: What led you to practice in this area of law?

NA: As the manager of the City of Los Angeles Affirmative Action Program and a member of Mayor Tom Bradley's Affirmative Action Task Force, I became fascinated with the evolving employment discrimination laws, the onslaught of class action litigation and the realization that management employment lawyers played a significant role in driving change within corporations. This prompted me to leave a job I loved to pursue a legal education and to seek a job at Paul Hastings Janofsky & Walker, the firm whose employment lawyers most impressed me.

LD: There is a lot of talk about women initiatives at law firms and how ineffective they are. How can firms do better?

NA: Initiatives to foster a climate of inclusion attract and help firms retain diverse lawyers. Prominent women in leadership help attract aspiring female stars. But, one earns election to the partnership based upon the skills she develops, the results she obtains, and the business she brings in. Thus, it is critical for firms to look carefully at the staffing of major matters to ensure that women get optimal experience as they come up the ranks, include them early on in pitches and presentations to clients, and openly encourage clients to look to more women as matter leaders and relationship leaders.

LD: What interests do you have outside of law that you like to pursue when you have time?

NA: My number one priority outside of work is spending time with my precious family, particularly my adorable grandchildren. I am active on several boards and was privileged to co-chair The Exceptional Children's Foundation's recent gala that raised \$1.25 million to support programs for individuals with developmental disabilities.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/nancy-abell.



Nancy Abell
PAUL HASTINGS (LOS ANGELES)

Howard Ellin SKADDEN (NEW YORK) Ellin regularly leads billion-dollar-plus transactions - most recently Express Scripts' \$29B acquisition of Medco, the second-largest deal of 2011, and NDS and its owners, Permira and News Corp., in its \$5B sale to Cisco.

Adam Emmerich WACHTELL LIPTON (NEW YORK) Emmerich has emerged as one of the top powerbrokers of the new generation, trusted by Google, GlaxoSmithKline and Warren Buffett for his advice and counsel on sophisticated M&A deals.

Leslie Gordon Fagen PAUL WEISS (NEW YORK) A versatile litigator at home in every court and jurisdiction, Fagen helped protect Nielsen's new TV ratings system, Viacom's payout system to the developers of Guitar Hero and Huffington Post's co-founder in its sale to AOL.

Kenneth Feinberg FEINBERG ROZEN (WASHINGTON, DC) Fabulous Feinberg facilitated the resolution of more than 1 million claims by the Gulf Coast Claims Facility, the resolution mechanism established to help victims of the oil spill in the Gulf of Mexico, funding more than 500,000 claims totalling \$6.5 billion in just 18 months.

Nancy Fineman COTCHETT PITRE (BURLINGAME, CALIF.) She won a \$100M settlement that fostered a guilty plea, as she represented the California Teachers Retirement System against Homestore CEO Stuart Wolf.

John Finley BLACKSTONE (NEW YORK) The Chief Legal Officer of one of the world's most respected investment firms joined after nearly three decades as a leading dealmaker at Simpson Thacher, where he facilitated the sale of the remaining half of Universal Orlando to NBC Universal for \$1B before moving in-house.

Ora Fisher LATHAM & WATKINS (MENLO PARK, CALIF.) One of Latham's top talents, Fisher has made her mark as a Silicon Valley dealmaker, representing National Semiconductor in its \$6.5B sale to Texas Instruments.

Michael Fitzgerald PAUL HASTINGS (NEW YORK) The international project finance standout represented Ipek, S.A.B. de C.V., one of the largest chemical companies in the world, in connection with its \$900 million IPO, the largest IPO by a Mexican company in many years.

Keith Flaum WEIL GOTSHAL (EAST PALO ALTO) One of the hottest dealmakers going, he represented eBay in a suite of deals, including its \$2.4B acquisition of GSI Commerce, and helped Illumina turn back a \$6.2B hostile takeover attempt by Roche.

Donald Flexner BOIES SCHILLER (NEW YORK) The antitrust ace helped client Delta Airlines withstand reviews of its merger with Northwest Airlines by the Department of Transportation and Department of Justice and is representing DuPont in claims Monsanto monopolized the market for genetically modified soybeans and corn.



Travis Laster
COURT OF CHANCERY (WILMINGTON)



Mary Cranston
PILLSBURY (SAN FRANCISCO)

Jodi Flowers MOTLEY RICE (MOUNT PLEASANT, S.C.) Flowers is defining a new type of international justice advocate, advancing litigation against global terror financing on behalf of 9/11 survivors and taking on toxic environmental damage in the Virgin Islands and the Gulf.

Laura Foggan WILEY REIN (WASHINGTON, DC) With one of the best analytical minds, Foggan has made significant contributions to the development of key insurance law precedents across the country.

David Frederick KELLOGG HUBER (WASHINGTON, DC) The go-to Supreme Court litigator for plaintiffs, he won a unanimous decision in *Matrixx*, allowing investors to sue a drug manufacturer for failure to disclose harmful side effects, and *CSX*, in which the court ruled, 5-4, that a railroad engineer was protected by FELA and did not need to prove the railroad's negligence caused his hand injury.

Joseph Frumkin SULLIVAN & CROMWELL (NEW YORK) He's the MP of the nation's top dealmaking practice, which notched \$325.7B in deals last year.

Agnieszka Fryszman COHEN MILSTEIN (WASHINGTON, DC) Her stellar pro bono work on behalf of Nepali laborers injured or killed at U.S. military bases in Iraq and Afghanistan resulted in judgments and significant settlements on behalf of the families.

Sergio Galvis SULLIVAN & CROMWELL (NEW YORK) His path-breaking deals include the LAN-TAM airline merger, crisis-management and resolution involving a principal Latin American client in a Foreign Corrupt Practices Act matter.

Lyle Ganske JONES DAY (CLEVELAND) One of the preeminent dealmakers at Jones Day, Ganske represented Goodrich Corp. in its \$18.4B sale to United Technologies and Lubrizol in its \$9.7B acquisition by Berkshire Hathaway.

Howard Ganz PROSKAUER (NEW YORK) His firm rescued the recent pro basketball season by facilitating a new long-term collective bargaining agreement between the NBA and NBPA.

James Garner SHER GARNER (NEW ORLEANS) A leading litigation light in embattled New Orleans, he moved from helping homeowners harmed by Hurricanes Katrina and Rita to serving on the front line of individuals who have suffered from the BP oil spill in moratorium-related claims.

Steve Gavin WINSTON & STRAWN (CHICAGO) With a client roster that includes Jim Beam Brands Co., Morningstar, Inc., Nuveen Investments, Inc. and Luxottica, Inc., Gavin advised Groupon on its \$750M IPO.

David Gelfand CLEARY GOTTlieb (WASHINGTON, DC) The emerging antitrust force has the trust of Google, which turned to him for its acquisitions of AdMob, DoubleClick and most recently Motorola Mobility.

Steve Berman
HAGENS BERMAN (SEATTLE)



STEVE BERMAN

HAGENS BERMAN CO-FOUNDER

Steve Berman often refers to his work as a plaintiffs' lawyer as playing David against the Goliaths of corporate America. The work, he says, is not for the faint hearted. And he's not kidding. Since opening his firm in Seattle in 1993, he has gone to battle in court and won record-breaking settlements against Wall Street, Big Oil, Big Pharma and Big Tobacco.

These days, the veteran trial lawyer has expanded his practice beyond class action to intellectual property litigation, filing cases against tech giants such as Apple, Nintendo and Samsung. He also is co-lead plaintiffs' counsel in class action claims against Toyota over sudden-acceleration problems.

LAWDRAGON: You have a pretty diverse practice for a plaintiffs' attorney. How hard is it to shift practice areas or do you consider all cases the same?

STEVE BERMAN: There is a common DNA that connects all of our work. First, we look for plaintiff work that rewards our ability to bring thoughtful, innovative legal approaches to cases coupled with an aggressive, smart approach to litigation. Second, as an organization, we always look for cases that benefit the public good in a meaningful and measurable way, including cases that represent consumers, retirees, investors, inventors, workers and others who ordinarily would not have the resources to challenge large, well-financed entities.

LD: Knowing how to vet cases is critical to the success of all plaintiffs' firms and so far you've had a pretty good run in picking really big cases. Is there a formula to that?

SB: To be successful, you must be willing to invest – invest in recruiting and hiring the sharpest and most intellectually nimble minds in the legal community. Second you need to be willing to invest the time and resources it takes to properly vet and assess very complex cases and legal issues. That includes putting a team of attorneys, researchers and experts on an issue, sometimes for months, before we make a determination that a plaintiff's case is something we could take on. We also have a deep bench of incredibly talented attorneys that routinely develop innovative legal theories and who are not afraid to apply the law in ways that have not yet been tested in court.

Finally, we have a very flat organizational structure – when we've decided a plaintiff's case has merit, we can say yes fast – we don't wallow in endless committee-meeting approval processes. We've been success-

ful in identifying the right cases through a combination of all of these assets.

LD: How did the Apple e-book antitrust case develop?

SB: I am an avid reader and I noticed my eBooks were costing me more. We then did some research and found Steve Jobs' assertion in an interview that prices would be the same across various platforms, including Kindle and iPad. Then, when we saw that several publishers changed their business model at the same time, that raised our eyebrows.

We continued to investigate the issue to determine whether there was collusion between Apple and the publishers. We spent a lot of time and resources on this investigation because unlike the Department of Justice we do not have subpoena power. We ultimately concluded that Apple and the publishers were in violation of the antitrust laws and filed a class-action lawsuit on behalf of consumers.

LD: What's your most memorable case and why?

SB: First was the landmark tobacco case we brought on behalf of the Attorneys General of thirteen states, which ultimately led to the largest civil settlement of all time. But everyone knows that, so the case I turn to involves the residents of the island of Bougainville in Papua New Guinea who claim that mining company Rio Tinto dumped billions of tons of toxic waste on the island. This dispossessed the residents of the island of their land and destroyed their culture, so they fought back, forcing Rio to close its mining operations. We allege that Rio and the Papua New Guinea government then brought in troops to reopen the mine. When that failed, they instituted a military blockade that lasted ten years and we believe caused the deaths of at least 10,000 people because Rio blocked medicine and food aid. As one manager at Rio put it, they were "starving the bastards out." We sued Rio and the legal battle has lasted nearly 12 years and has gone back and forth to the U.S. Supreme Court. Some articles say the movie Avatar was based on this story.

LD: The competition for lead plaintiffs' counsel has become really heated in recent years and you've won several lead roles in some major cases. How do you prepare for that phase of litigation?

SB: I try to ask myself, what would a judge want in a lawyer for a class? A proven track record, tenacious, not afraid to try cases, delivers real results, is not greedy and is always honest with the Court. These are my themes in lead counsel fights.

View all Q&As at www.lawdragon.com/news-features.

Paul Geller ROBBINS GELLER (BOCA RATON, FLA.) He's one of the leaders of the nation's #2 securities class action firm, which brought in \$1.1B in settlements in 2011.

Glenn Gerstell MILBANK (WASHINGTON, DC) The standout project finance specialist was appointed by President Obama to the National Infrastructure Advisory Council to advise the president on the security of the nation's infrastructure.

Robin Gibbs GIBBS & BRUNS (HOUSTON) Always at the top of Texas' leading litigators list, Gibbs won \$116M for Dr. Bobbitt Noel, who was duped into selling shares in an investment.

James Giddens HUGHES HUBBARD (NEW YORK) The lord of liquidation for recent disasters, including MF Global and Lehman Bros.

Lorie Gildea MINNESOTA SUPREME COURT (ST. PAUL, MINN.) The Chief Justice of the Minnesota Supreme Court has been a prosecutor and in-house counsel to the University of Minnesota before her appointment by Governor Tim Pawlenty.

Ruth Ginsburg U.S. SUPREME COURT (WASHINGTON, DC) The liberal doyenne of the High Court showed her intellect and skill penning a presumed dissent on Obamacare that may have prompted Roberts' realignment.

Tom Girardi GIRARDI & KEESE (LOS ANGELES) This storied plaintiffs' lawyer is busier than ever as the lead lawyer on the NFL concussion litigation and on claims against the Los Angeles Dodgers over the beating of a Giants fan, all while securing massive settlements for those injured by Avandia and other bad drugs.

Robert Giuffra SULLIVAN & CROMWELL (NEW YORK) A top securities litigator, Giuffra knocked out two huge wins last year, persuading a judge to trim billions from a class action against UBS for mortgage backed securities, and an appeals court to allow a consortium of banks to bring \$5B worth of claims that MBIA defrauded them when it restructured its holdings.

Patricia Glaser GLASER WEIL (LOS ANGELES) Glaser remains an unstoppable trial force, winning a trio of trial victories for Indiana Pacers owner Herbert Simon and his wife.

Jay Goffman SKADDEN (NEW YORK) The master of prepackaged bankruptcies, Goffman restructured MGM in fewer than 30 days and is handling matters for American Airlines, Syms, DSW and Travelport while counseling other corporations who value his ability to keep them out of bankruptcy court.

Craig Goldblatt WILMERHALE (WASHINGTON, DC) An uncommon talent in bankruptcy-related trial and appellate work, Goldblatt is representing parties in Lehman while helping secure a \$62M settlement from HUD over discrimination in the awarding of homeowner grants after Hurricanes Katrina and Rita.



Joseph Leccese
PROSKAUER (NEW YORK)



Pat McGroder

GALLAGHER & KENNEDY (PHOENIX)

PAT MCGRODER

PATRICK MCGRODER still “lives and dies” with the Buffalo Bills and Sabres, which is understandable. His dad Patrick is on the Bills’ Wall of Fame for his work in bringing football to the city and serving as team vice president for more than 20 years. But McGroder quickly developed a love for Arizona after moving to attend the University of Arizona Law School and has stayed since getting his degree in 1970.

McGroder started his career as a jack-of-all trades lawyer in Phoenix, handling a range of criminal, civil, and trusts and estates matters, then worked a stint at the Arizona Attorney General’s organized crime task force before being recruited by a personal injury firm. The rest is history. McGroder launched his own practice after a few years and has since handled much of the region’s highest-profile plaintiffs’ cases. He joined Gallagher & Kennedy in 2001.

McGroder now is representing the family of Border Patrol Agent Brian Terry, who was killed in a 2010 attack by individuals using weapons from the tragically botched “Operation Fast and Furious,” in their wrongful death lawsuit against the U.S. government.

LAWDRAGON: Aside from getting a full accounting, what else does the family want?

PATRICK MCGRODER: As a tribute to Brian’s life and legacy, the Terry family has established the Honor of Brian Terry Foundation, which is a nonprofit organization that will be geared towards helping other Border Patrol agents and their family members who find themselves in harm’s way, as well as a number of other charitable causes. The Terrys have dedicated their lives now to this foundation, and it’s quite an honor to be a part of that.

LD: What drew you to plaintiffs’ work?

PM: What I am most proud of in my career is making the world a better place, helping my clients make their lives a little bit better and adding a modicum of dignity to their lives. But I am also proud of how we’ve done some social designing in virtually all of our cases to ensure that these types of things don’t happen again, whether it’s HMO reform, insurance reform, aviation, road design, whatever, these cases all involve some type of social architecture component, and I’m very proud of our record in that regard. I’m not fed by ego or money but by solving problems and making the world a better place. That’s my philosophy of life, and my philosophy of being a trial lawyer. It’s what my father taught me.

LD: What about the trial process do you like?

PM: Other than the birth of my children, I don’t think there is a greater thrill than a jury verdict coming back in favor of my client. It is most satisfying on a couple of planes. Number one, for my clients of course, which is the most important thing. And number two, for what the verdict stands for. On a personal level, I am driven by the idea that no one can outwork me – it’s that work ethic that my parents instilled in me. I just assume the other guy or woman is a lot smarter than I am, and the only way I am going to win a case is if I can outwork the other side. That’s been a mainstay in my practice. Working is my hobby. It sounds kind of sick, but I really do enjoy the trial work.

LD: Given your track record, are trials easier now? Are you more relaxed or confident in any way that shows up?

PM: I started practicing law at 215 pounds, and I’m now 170. I operate on nervous energy. A great motivator for me is always fear – fear of forgetting something, fear or losing, fear of not doing everything possible for my client. During the course of trial, I’ll probably lose anywhere from five to 10 pounds. I operate on adrenaline and nervous energy.

LD: Any rituals?

PM: Not many. I never drive to court when I’m in trial. I always have a driver because I don’t want to have to worry about traffic or getting there, or parking when I arrive. I also always take one or more of my kids with me for the verdict. Other than that, I train for trials. I know that sounds kind of funny, but I physically train for trials. I’m a health nut and workout freak anyway. I cut my sleep hours way down and train harder to have more endurance for the trial. I don’t take a lot of cases so I never have more than 10 files at any one time. I start preparing six to nine months before trial.

LD: How would you describe your courtroom style?

PM: I would characterize it as pure and natural. I’m a product of my upbringing. I am a passionate and emotional Irish Catholic guy who is family- and friend-oriented – those relationships are as important to me as anything in my life. I think because of the way I was raised I have a natural appreciation for the human condition. People tell me that it’s very evident in the courtroom. I don’t think about being emotional, it just seems to me to be entirely natural – it just comes and flows.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/patrick-mcgroder.



Steven Molo
MOLOLAMKEN (NEW YORK)

David Goldschmidt SKADDEN (NEW YORK) Handling diverse offerings for REITS, Israeli companies and high-tech businesses, Goldschmidt remains hot in any economy as one of the go-to experts on navigating the IPO process.

Jane Goldstein ROPES & GRAY (BOSTON) The firm's M&A practice co-head advised Green Mountain Coffee Roasters on its \$915M Van Houtte acquisition and Timberland in its \$2B sale to V.F. Corp.

Marcia Goldstein WEIL GOTSHAL (NEW YORK) The noted bankruptcy counsel added the role of U.S. counsel for the MF Global UK meltdown to her oversight of restructuring by AIG, Kaupthing Bank and General Growth Properties.

Sandra Goldstein CRAVATH (NEW YORK) Head of Cravath's Litigation Department, she excels in handling disputes arising out of multibillion-dollar business transactions, representing clients including Barnes & Noble, Nalco, the special committee of J.Crew, IBM, Par Pharmaceuticals, Morgan Stanley and The Williams Companies.

Tom Goldstein GOLDSTEIN HOWE (WASHINGTON, DC) Now at his own smaller shop, Goldstein argued a steady stream of cases before the Supreme Court - while solidifying his Scotusblog as the media of choice by gaining more than 700k hits when the Obamacare decision was announced.

Arturo Gonzalez MORRISON & FOERSTER (SAN FRANCISCO) Trade secrets, banking, fraud, civil rights, wrongful death, charter school rights – whatever the industry or dispute, plaintiff or defense, Gonzalez has prevailed.

Jamie Gorelick WILMERHALE (WASHINGTON, DC) A go-to lawyer for a wide range of complex civil and criminal cases, Gorelick also drafted the legislative language and helped the Center for American Progress in the push to repeal the “Don't Ask, Don't Tell.”

David Grais GRAIS & ELLSWORTH (NEW YORK) Grais is among the leaders in pursuing claims against banks over mortgage-backed securities, representing the FDIC, among others, in litigation.

Stuart Grant GRANT & EISENHOFER (WILMINGTON) Grant won an \$89.4M settlement from Barclays over the DelMonte LBO, a major victory for shareholders that exposed conflicts of interest among banks that advise sellers while providing financing to buyers.

Nicholas Gravante BOIES SCHILLER (NEW YORK) He won a major appellate ruling for one of the AriZona Iced Tea co-founders who was sued by his business partner for \$287M, won another case for the Warhol Foundation and is defending a New York art-world doyenne accused of selling fake Abstract Expressionist masterpieces.

JONATHAN STREETER

IT'S ALWAYS NICE to go out – or at least make a career change – on top, which defines the recent professional life of Jonathan Streeter. The new Dechert partner was the government's trial counsel against Galleon Group head Raj Rajaratnam, the centerpiece of U.S. Attorney for the Southern District of New York Preet Bharara's highly publicized campaign against insider trading. Rajaratnam received an 11-year sentence for netting tens of millions of dollars from illegal trades.

As an assistant U.S. attorney, Streeter scored other high-profile trial victories, including fraud convictions against the former Duane Reade CEO and CFO, and against Ernst & Young partner James Gansman. He also was the government's lawyer in the case against Marc Dreier, who took down his own firm (Dreier LLP) in an epic fake securities scheme that led to a guilty plea and 20-year sentence.

LAWDRAGON: Why did you make the move to private practice at this time?

JONATHAN STREETER: I had an incredible job at the U.S. attorney's office, but I felt like I had done everything I hoped to do there – I was able to work on a lot of great cases. I just felt like it was time for me to move on to the next challenge.

LD: You must have had some options in terms of firms that would be interested. Why choose Dechert?

JS: I was looking for a place that had two different things. Number one was an established practice in the space I want to work in, but number two was a kind of entrepreneurial spirit – a place that wanted me to grow my own practice within the law firm. Dechert is the best of both of those worlds. They have what I do in white collar and securities litigation, but at the same time it's a place where they don't just want me to show up and do the work that's already there. They want me to develop my own practice.

LD: Do you think you will have any regrets leaving behind a job that was viewed as something of a public crusader?

JS: Well, you know, it's funny. A lot of criminal defense lawyers think that what they are doing is just as important as prosecutors because the government is an incredibly powerful force, and there is a great benefit to the public in making sure the government is not overstepping its bounds. It's just as important as having capable people in the government. I can't deny that for me an important part of working at the U.S. attorney's office was the public service part of it. But I

don't feel any hesitation in what I do now. I had a great run as a public servant, and I wouldn't be surprised if years from now I do something again in public service. But I don't feel any hesitation in what I do now. There is a real social value to it.

LD: Given the public's anger at Wall Street, there seemed to be a huge desire for a high-profile fraud conviction, as well as a tremendous amount of scrutiny of the Rajaratnam case. What was it like to have all that pressure?

JS: It was a thrill to have all the media attention on the case. I can't deny that it was exciting to be able to read about your case in the newspaper every day. And I was certainly aware of its importance to the U.S. attorney, that we win the case. The fact that there was so much media attention, it probably raised the stakes compared to if no one had been watching. But in a lot of ways, we kind of blocked it out when we were in the courtroom and working on the trial. In terms of the day-to-day pressure, once we got going, I was so focused on what I was doing, it didn't alter my courtroom approach to anything.

LD: Media attention aside, what are the challenges of bringing a complicated financial case like that to a jury?

JS: Candidly, it was a little bit easier with this case because the facts, the characters and the evidence were so interesting – we had the wiretaps, colorful characters and witnesses who were prominent people. It was a little bit easier than in other financial fraud cases. But with financial fraud cases generally, you have to take incredibly complicated subject matter and break it down into simple parts. It's doing that while also keeping the subject matter somewhat interesting for the jury. You have to have a real understanding of your audience, what they're going to understand and not understand, what you need to really explain and what you don't need to explain.

In the Rajaratnam case, we were constantly cutting and simplifying our evidence. We had six cooperating witnesses and only put three on; we had thousands of wiretap recordings and narrowed that down to 45 that we played; we had 40 stock transactions in play at the trial and used a little less than half in our case. We kept cutting away to get to the core stuff that we absolutely needed to tell the story. We put on the government's case in about a month, and I was quite proud of that.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/jonathan-streeter.

A professional portrait of Jonathan Streeter, a man with dark hair, wearing a grey suit, white shirt, and red tie. He is sitting outdoors, leaning on a black metal table, with a background of lush green trees and foliage. The lighting is bright and natural, suggesting a sunny day.

Jonathan Streeter
DECHERT (NEW YORK)



Max Berger

BERNSTEIN LITOWITZ (NEW YORK)

Sal Graziano BERNSTEIN LITOWITZ (NEW YORK) One of Bernstein Litowitz's star securities litigators scored a major victory in the class action against Merck over the Vioxx drug by convincing a federal court to sustain the majority of the plaintiffs' securities claims.

Mark Greene CRAVATH (NEW YORK) This international dealmaker represented Linde in its \$4.6B acquisition of Lincare Holdings and Unilever in its \$265M cash sale of its frozen foods group to ConAgra Foods, adding another major deal to a long list of transactions in his representation of the British consumer products titan.

Alan Greer RICHMAN GREER (MIAMI) Greer showed his litigation prowess winning an award of legal fees from the U.S. Court of Appeals for the DC Circuit after his successful defense of banking lawyer Carlos Loumiet against an action brought by the Office of the Comptroller of the Currency, finding the OCC was not justified in bringing its action.

Joseph Gromacki JENNER & BLOCK (CHICAGO) Jenner's corporate chair handled billions in deals for General Dynamics and represented GM in its historic \$23B IPO.

Stuart Grossman GROSSMAN ROTH (CORAL GABLES, FLA.) Grossman is serving on the plaintiffs' executive committee of the bank overdraft cases, which have been producing big settlements - including the \$410M deal reached with Bank of America.

Daniel Grunfeld KAYE SCHOLER (LOS ANGELES) This gifted strategist has done it all, from public interest law to government service and now as leader of his firm's California practice.

Nina Gussack PEPPER HAMILTON (PHILADELPHIA) Tops in pharmaceutical cases, Gussack is lead for GlaxoSmithKline in the Avandia litigation and won a federal court ruling dismissing claims by insurers acting as Medicare Advantage Organizations.

Horacio Gutierrez MICROSOFT (REDMOND, WASH.) This Deputy GC wins praise for his management of Microsoft's worldwide IP and licensing group, leading the company's charge against Google's Android in the smartphone wars.

Randall Guynn DAVIS POLK (NEW YORK) Hard to find better counsel for regulatory-reform matters than Guynn, who has advised the nation's largest banks and its trade organization on Dodd-Frank implementation.

Richard Hall CRAVATH (NEW YORK) Cravath's M&A head continues to prove himself nonpariel on big transactions: he handled Linda's \$4.6B acquisition of Lincare Holdings and acted as counsel for The Williams Companies in its proposed \$8.7B purchase of Southern Union.

John Halvey NYSE (NEW YORK) The brilliant legal leader of NYSE Euronext worked through the failed merger with the Deutsche Boerse while continuing to steer his company through turbulent times.

Dan Hargrove WATERS & KRAUS (DALLAS) A qui tam expert and Lieut. Col. in the JAG Corps Reserve, Hargrove helped secure \$25M from NovoNordisk for off-label marketing of a blood-clotting drug that led to its use in huge numbers of trauma situations in Iraq and Afghanistan.

Kamala Harris CALIFORNIA ATTORNEY GENERAL (SACRAMENTO) California's people and resources have a stellar advocate in Harris, who is leading the state's litigation against financial institutions and finalized a \$22.5M settlement from Target over environmental violations.

Michael Hausfeld HAUSFELD (WASHINGTON, DC) One of the nation's best litigators is playing lead roles for retired NFL players in the head-trauma litigation and in the class action forming over the alleged LIBOR manipulations.

Mark Hebert FISH & RICHARDSON (BOSTON) This former nuclear engineer is among the nation's leading litigators for patent disputes involving medical devices and has handled many recent cases for client Smith & Nephew Inc.

Kris Heinzelman CRAVATH (NEW YORK) This esteemed securities chief represented the underwriters in Hewlett-Packard's \$2B registered debt offering and in food company Annie's IPO and counseled Credit Suisse as lead arranger in financing Reynolds' \$4.5B acquisition of Graham Packaging.

Edward Herlihy WACHTELL LIPTON (NEW YORK) Wachtell's co-chairman orchestrates the biggest financial deals, representing PNC in its \$3.45B purchase of RBC's U.S. retail bank operations and Capital One in its \$30B-plus acquisition of HBSC's U.S. credit card and retail services business.

Russ Herman HERMAN HERMAN (NEW ORLEANS) The New Orleans legend maintained his winning ways as plaintiffs' liaison counsel in the Chinese drywall litigation, adding hundreds of millions of dollars in settlements and reaching a global deal.

Steve Herman HERMAN HERMAN (NEW ORLEANS) Like father, like son: Herman had his biggest year yet as co-liaison counsel in the \$7B BP oil spill settlement and in helping to secure approval of the \$300M cessation program for smokers in his state.

Renata Hesse FCC (WASHINGTON, DC) The FCC appointed this acclaimed Wilson Sonsini antitrust partner as Senior Counsel to the Chairman for Transactions to head the review of the AT&T/T-Mobile megadeal.

William Hinman SIMPSON THACHER (PALO ALTO) Hinman handled more than \$2B in Silicon Valley financing for clients like Seagate and represented the underwriters in the historic \$16B Facebook IPO.



Dan Hargrove
WATERS & KRAUS (DALLAS)

Greg Williams

RICHARDS LAYTON (WILMINGTON)



GREG WILLIAMS

GREG WILLIAMS, past president and head of the corporate department, which includes the corporate litigation practice, at Wilmington, Del.-based Richards Layton & Finger, built his reputation as one of the country's top corporate litigators without ever needing to leave his home state. Born, raised and educated in Delaware, Williams cut his litigation teeth trying cases in the Delaware Court of Chancery during the corporate litigation boom in the early 1980s, when every company seemed to be the target of a hostile takeover. Since then, he has represented some of the largest corporations in the world, from Citigroup to Walt Disney.

LAWDRAGON: Can you describe the kind of work your group does and how you differentiate yourself from the marketplace?

GREGORY WILLIAMS: Much of the work of our corporate department is focused on advising our clients with respect to transactions and then representing those clients in any litigation relating to the transactions. We also frequently represent investigatory and transactional special committees of directors. In my view, the depth of our team distinguishes our firm in the marketplace. We have transactional lawyers who have extremely strong practices and our litigation group is, in my view, second to none in Delaware.

LD: What advantage, if any, do you see in staying put in Delaware when other firms are going global?

GW: We are very good at what we do -- representing Delaware businesses. There is no better place to do so than right here in Wilmington. By keeping all of our lawyers under one roof, we've been able to maintain a bit of a small-firm culture, despite our size. Our practice is very team oriented, and I think the fact that we are all here together helps those teams to operate smoothly.

LD: You've been practicing in Delaware for more than 30 years now and have become a courtroom fixture. How has the practice of law changed over the years?

GW: The fundamentals of my practice have remained largely unchanged. I am very fortunate to spend most of my courtroom time in the Court of Chancery. You get very spoiled in Chancery -- you know you will have a very capable, prepared judge every time you walk into the courtroom.

One of the biggest changes in the practice is the fact that almost all mergers and acquisitions now draw stockholder litigation. The quality of the stockholder

plaintiffs' bar has greatly improved over the course of my career.

LD: It appears, at least when you read the papers, that there is a lot more shareholder activism going on these days than in the past. Do you see any impact of that in your practice and how have company boards responded to this perception?

GW: Corporate boards do a much better job today than they did when I started practicing. The days of "country club boards" are over. Directors pay attention now -- which certainly makes defending them in litigation much easier.

LD: What is your case docket like these days? What companies are you currently representing?

GW: I am currently representing in Delaware litigation, among others, Dell, Bristol-Meyers, JP Morgan, Monsanto, Len Riggio (the Chairman of Barnes & Noble), and US Cellular. I also am advising special committees of a couple of boards. I also am a AAA neutral and am serving as an arbitrator in a couple of matters.

LD: If you have to choose one lesson that you learned in law school that has helped you a lot in your practice, what would that be?

GW: For me, the most important lessons I learned in law school had nothing to do with the law itself. In law school you had to learn to develop relationships with people that were able to withstand the pressures of a difficult workload, anxiety, etc. That skill is also extremely important in a law firm.

You also had to learn how to pace yourself in order to be ready for that one exam at the end of the semester -- not unlike pacing yourself and getting ready for a trial.

LD: Have you always wanted to be a lawyer?

GW: No, I wanted to be a doctor. An advisor told me that you needed a 4.0 grade point average to get into a domestic medical school. I thought the chances of my achieving a 4.0 with a pre-med major were slim to none, so I literally walked over to the pre-law office and looked around. I liked what I saw and decided to go to law school.

LD: What is the first thing you do when you wake up in the morning?

GW: We live in the country and, whenever I have time to do so, I do some type of chore outside before heading to the office. Doing so somehow seems to get me off to the right start for the day. See the full Q&A at

www.lawdragon.com/lawyer-limelights/greg-williams.

Robin Cohen
KASOWITZ BENSON (NEW YORK)



Christopher Hockett DAVIS POLK (MENLO PARK, CALIF.) Davis Polk's global antitrust head guided Chimei Innolux to a settlement in the flat panel LCD litigation and won dismissal of Samsung's antitrust claims against joint venture SD-3C.

Gary Hoffman DICKSTEIN SHAPIRO (WASHINGTON, DC) Hoffman and his Dickstein colleagues scored a \$595M patent infringement judgment for client Dr. Bruce Saffran against Johnson & Johnson.

Eric Holder U.S. DEPARTMENT OF JUSTICE (WASHINGTON, DC) The Fast and Furious setbacks have not prevented his office from making gains in the areas of consumer fraud, civil rights and crime reduction and taking strong stands against state anti-immigration and voter ID laws.

Shawn Holley KINSELLA WEITZMAN (LOS ANGELES) No one is better at helping celebrities navigate criminal woes (longtime client Lindsay Lohan made it through her probation) or messy civil disputes arising from alleged misbehavior in public (Mike Tyson at an airport, Khloe Kardashian in a nightclub).

James Horwitz KOSKOFF KOSKOFF (BRIDGEPORT, CONN.) One of the leading legal minds in medical malpractice, Horwitz won a \$58M verdict for a Connecticut family whose son suffered a birth injury – the largest medmal verdict in state history.

D. Allen Hossley HOSSLEY & EMBRY (DALLAS) A Miss. jury awarded Hossley's asbestosis –plagued client a whopping \$322M against Chevron Phillips Chemical and Union Carbide – believed to be the biggest asbestos verdict in U.S. history.

Geoffrey Howard BINGHAM (SAN FRANCISCO) One of the nation's best IP litigators, Howard helped Oracle win its eye-popping \$1.3B verdict against SAP AG.

Beryl Howell U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA (WASHINGTON, DC) This Obama appointee and commissioner on the U.S. Sentencing Commission has made her presence felt quickly, blocking H&R Block's proposed buyout of a rival on the grounds that it would harm consumers.

Matthew Hurd SULLIVAN & CROMWELL (NEW YORK) Sullivan's healthcare and life sciences co-leader represented Pharmasset in its \$11B acquisition by Gilead, and Medco in its \$34B purchase by Express Scripts – the two largest M&As in the healthcare arena.

Annette Hurst ORRICK (SAN FRANCISCO) Hurst excelled in the suit between MGA and Mattel over the Bratz brand – successfully appealing Mattel's initial \$100M verdict; winning a new one for MGA to the tune of \$88.4M; and then an award of \$140M in attorney fees.

James Hurst WINSTON & STRAWN (CHICAGO) Winston's IP practice leader is one of the toughest trial lawyers in the nation; among many recent successes, he beat back GlaxoSmithKline's \$1.7B antitrust suit for client Abbott Laboratories over HIV drug pricing.

ED MOSS

ALTHOUGH ED MOSS admits he misses representing plaintiffs (he was good at it), a whole slew of corporations are happy he made the switch to defense-side work permanent. He stands as a titan in the area of products liability and other complex commercial cases nationally, and is easily one of the most admired litigators in the state of Florida, where he has practiced his entire career.

The Shook Hardy & Bacon partner has emerged as a popular figure while representing some pretty unpopular clients. Perhaps most famously, Moss has defended Brown & Williamson in major tobacco litigation, including the class action brought by flight attendants over second-hand smoke, which went through months of trial before ending in a landmark settlement. Other clients have included Texaco, Hartford Insurance, Boeing, Westinghouse, Home Depot and American Home Products, among many others.

LAWDRAGON: You did well with plaintiffs'-side work. How did you come to move to defending cases?

ED MOSS: We were quite successful [at the plaintiffs' firm], we had a very vigorous practice with some very impressive results. When I decided to leave and start what became Anderson & Moss, our goal was to fill a niche. We knew that, at that time, there were not an abundance of lawyers in South Florida who had real trial experience and who really tried complex commercial cases. Senior partners at large firms were responsible for those types of cases and clients, and Miami-Dade County was not heavy on that type of trial lawyer. We thought that this could be a void we could fill, and it worked. Anderson & Moss began with a fair number of plaintiffs' cases and it continued that way for a while, but the plaintiffs' cases kind of dropped off. More and more clients called on us to defend cases and other personal injury and complex commercial matters. By the time we merged into Shook Hardy, we weren't doing any plaintiffs' work to speak of.

LD: Do you miss the plaintiffs' practice?

EM: To this day, there are some things about plaintiffs' work that, if you've done it and done it reasonably well, there has to be something wrong with you if you don't miss it. A lot of the practice involves getting good results or verdicts for some very nice people – that part of it, sure, I miss. But I've become known as a defense lawyer, and there's nothing wrong with that. I enjoy what I do.

LD: What's different about trial work now? What have you noticed changing over the years?

EM: Jurors are much better informed than when I began. The amount of publicly available information and the manner and means by which people are becoming informed are much different. When you walk into a courtroom and represent a chemical or oil company, or a tobacco company, jurors unquestionably arrive with some pretty strong opinions. Hopefully those opinions are not fixed, but sometimes they are. Over time that's become a much more difficult situation. You must deal with it upfront, in voir dire. You can't go in there with your head in the sand; you have to face it head on. Except for some pure commercial cases, most of the cases that I now handle involve serious claims of personal injury, or are class actions or mass torts.

LD: What is a key ingredient to defending clients that may be unpopular, when the plaintiffs' experience will almost surely be grounds for some sympathy?

EM: Well, first of all, you need the ability to talk and reason with people. With jurors, your task as a lawyer is for them to at least be impressed that you are someone who will give us a straight story. You're talking about a feeling of trust. That is an essential element that some lawyers can engender, and others do not. If you can't command that type of reaction from jurors, then this is not the profession you ought to be in; at least, you shouldn't be trying cases.

LD: What do you think is the toughest or most challenging case of your career?

EM: My very toughest case I can't talk about, because the client would not appreciate it. But another memorable one was years ago, when I was hired to become one of the lead counsel in defending the 1986 San Juan Dupont Plaza fire. There were 108 deaths and hundreds of horrible injuries. The case was tried in federal court in San Juan, Puerto Rico. The trial went on pretty much for a year and was interrupted by a huge hurricane – Hugo. For those of us who stayed the course in San Juan, the amazing thing was that the jurors never missed a day. When they were supposed to come back after the hurricane, they came back. That is a monumental case in my memory, spending two-and-a-half years in San Juan – a year and a half in San Juan preparing and another year trying the case. To say that the hotel was grossly underinsured doesn't capture it – it had only a million dollars in coverage.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/ed-moss.

Ed Moss
SHOOK HARDY (MIAMI)



Mel Immergut MILBANK (NEW YORK) Iconic Immergut has been at Milbank for 40 years, 18 of them as chairman while serving as a key dealmaker for the firm's most important clients and instituting innovations like the new Milbank at Harvard program for associates.

William Isaacson BOIES SCHILLER (WASHINGTON, DC) This rarefied plaintiffs' litigator has a long record of success and recently broke new ground with antitrust litigation against Vitamin C cartels in China, earning the first settlement (\$10M) of civil antitrust claims in the U.S. by a Chinese company along with an additional over \$80 million in settlements in other actions this year.

Jesse Jenner ROPES & GRAY (NEW YORK) Among the nation's best in high-tech IP disputes, Jenner is Motorola's counsel of choice in the company's numerous legal battles with Microsoft, including patent infringement and contract disputes.

Peter John WILLIAMS MONTGOMERY (CHICAGO) John is among the nation's most accomplished trial attorneys in the area of commercial litigation, regularly winning multimillion-dollar verdicts and making his firm one of the most called upon for businesses in the region.

Alan Kaden FRIED FRANK (WASHINGTON, DC) Kaden represented Cargill in its \$24B tax-free split-off of its interest in The Mosaic Company, allowing his client to remain privately owned.

Elena Kagan U.S. SUPREME COURT (WASHINGTON, DC) The former Dean of Harvard and Solicitor General is making her mark as both Roberts' doppelganger and Scalia's twin wit while forging a thoughtful jurisprudence, including *Miller v. Alabama*, in which she wrote for a majority finding unconstitutional life in prison without parole for juveniles.

Harvey Kaplan SHOOK HARDY (KANSAS CITY, MO.) Kaplan's expertise with bet-the-company litigation helped him prevail on summary judgment for Mylan in West Virginia federal court on claims stemming from heart medication Digitek.

Stephen Karotkin WEIL GOTSHAL (NEW YORK) A master of massive bankruptcies, Karotkin moved from a lead role in GM to representing AMR Corp. and its U.S. subsidiaries, including American Airlines and American Eagle.

Brad Karp PAUL WEISS (NEW YORK) Karp is at the peak of the the profession as Paul Weiss' popular leader and one the nation's very top litigators for high-stakes cases, winning dismissal of securities and ERISA claims facing Citibank and handling lawsuits targeting longtime client NFL over head injuries.

David Karp WACHTELL LIPTON (NEW YORK) One of Wachtell's many M&A standouts, Karp advised NYSE-Euronext on merger talks with Deutsche Borse and represented Motorola Mobility Holdings' in its \$12.5B sale to Google.

John White
CRAVATH (NEW YORK)



NICHOLAS GRAVANTE

HIS LINEAGE IS one of the most important things to know about Nick Gravante. Certainly, his Italian-American heritage from Brooklyn, but also his pristine credentials as a trial lawyer. Not too many lawyers have been mentored by David Boies, Gerald Shargel, Charles Ogletree and, for good measure, Duke basketball coach Mike Krzyzewski.

It's not just luck that led to that cast of all-star mentors. Gravante is one of the hardest-working lawyers around, and has made a career of taking risks to ensure he learned every skill possible and made every connection along the way. As a result, he's become the counsel of choice for the Andy Warhol Foundation; John Ferolito, the co-owner of AriZona Iced Tea in his \$5B partnership dispute; author Mary Higgins Clark; and Ann Freedman, former president of Manhattan's oldest art gallery in several art authenticity claims.

He sat down to reflect on the making of a trial lawyer after a late night with summer associates at Tiro a Segno, the oldest private rifle club in the U.S., in the West Village, where you can have cocktails and take target practice. To him, nothing is more important than the tried and true values of doing your own work, meticulous preparation and the art and craft of the trial.

LAWDRAGON: So what did you think of this year's summer associates? They must have loved the rifle club.

NICK GRAVANTE: It's always their favorite event, they all took home their targets to show how well they did! It's scary how good they are as young lawyers, much better than we were. I asked one of them to research and write a letter seeking indemnification for a client's legal fees – would have taken me two days as a summer associate – I got back a perfect letter in 2 hours.

LD: Do they remind you of the “best and the brightest,” much like those you started with at Cravath?

NG: When I graduated from law school in 1985, there was no question the best and the brightest went to Cravath. David Boies had the CBS v. Westmoreland case, Tom Barr had the Ariel Sharon v. Time case.

You'd go home after getting out of the library, turn on Nightline and there was David with Ted Koppel. Cravath was the center of the universe in terms of litigation.

LD: And you left Cravath for criminal defense?

NG: I learned so much at Cravath, from David, from Frank Barron. But Gerry Shargel is where I learned to try cases. In two years, we must have tried 12 cases together. You learned not only how to try a case from Gerry, but everything to do in front of a jury. How to

act, how to walk, how to stand, how to own the courtroom, how to project confidence even when evidence is pouring in against your client and you're getting killed.

With David, I learned from the best civil litigator in the country and, with Gerry, the best criminal defense lawyer. If you can't learn how to litigate effectively and try cases from those guys, you're not going to learn from anyone.

LD: What have been some of your favorite cases at Boies Schiller?

NG: Defending Otto Penzler in Los Angeles federal court. Penzler owned the Mysterious Bookshop on 57th. And this publisher, Michael Viner, who had a lot more money than Otto, just kept suing him. Otto had agreed to compile certain sports anthologies, commercial disputes kept arising and it was obvious that Otto didn't have the money or wherewithal to constantly fight this guy over every little thing in California.

That trial was great because Viner was a bully and Otto finally stood up to him. Viner lost all of his claims against Otto, we filed and won counterclaims against Viner--winning large dollar amounts, and, because of that trial, Viner had to file for bankruptcy. The bully got his just due.

LD: Weren't you also successful defending the teenager charged with setting the fire at Bergen Beach Stables that killed 21 horses?

NG: Yes, he had confessed on videotape, but was actually innocent. Thank goodness he was acquitted! He's not the first person, nor will he be the last, to give a false confession. But to win that case I had to make the jury understand the psychology of false confessions. And to do that, I actually had to employ strategies that everyone thought were crazy, like moving into evidence the otherwise inadmissible results of a polygraph test that my client took and, according to the DA, failed. In proper context, however, the videotaped confession became our best piece of evidence; the DA played it in opening statement, but never played it again.

It was an unusual case for Boies Schiller, but I took it on because my client told me he would plead guilty to possessing marijuana, which the police found in his knapsack on the day of his arrest, and go to jail for a year--but would not plead guilty to the arson even if he were promised probation. That meant a lot to me. I went to Boies and said 'I believe this kid is innocent;' he said then do what you have to do. **View all Q&As at www.lawdragon.com/news-features.**

Nicholas Gravante
BOIES SCHILLER (NEW YORK)





Beth Wilkinson

PAUL WEISS (WASHINGTON, DC)

Jay Kasner SKADDEN (NEW YORK) Kasner's recent hat trick of MBS-related victories in a single week included a rare interlocutory appeal for UBS in litigation brought by the FHFA.

Marc Kasowitz KASOWITZ BENSON (NEW YORK) Kasowitz has earned much-deserved recognition for building one of the country's best litigation firms while succeeding with his own gritty caseload of the world's biggest matters.

Neal Katyal HOGAN LOVELLS (WASHINGTON, DC) The government's loss is Hogan Lovells' gain: Katyal's impressive tenure as Acting Solicitor General will make him one of the most trusted high-stakes appellate and Supreme Court advocates in private practice.

David Katz WACHTELL LIPTON (NEW YORK) Few M&A lawyers are busier with billion-dollar deals, his representation of Chesapeake Energy Co. in its \$4.75B sale of Arkansas Shale Assets to BHP is but one example.

Skip Keesal KEESAL YOUNG & LOGAN (LONG BEACH, CALIF.) This veteran trial lawyer is one of the most feared courtroom advocates with 75 jury trials under his belt in commercial litigation, products liability, employment and maritime law.

Jennifer Keller KELLER RACKAUCKAS (IRVINE, CALIF.) A diversely talented litigator, Keller took center stage in the MGA-Mattel battles over the Bratz products, scoring an \$88.4M verdict and a total award of \$309M for client MGA in the closely watched retrial.

Michael Kelly KIRTLAND & PACKARD (EL SEGUNDO, CALIF.) Kelly is an unstoppable courtroom force with a diverse range of cases for plaintiffs, including culinary students allegedly misled over loan payments and job opportunities.

David Kendall WILLIAMS & CONNOLLY (WASHINGTON, DC) This W&C mainstay boasts an unbeatable track record in criminal and civil litigation for politicians, entertainment companies, financial institutions, media clients and everybody in between.

Anthony Kennedy U.S. SUPREME COURT (WASHINGTON, DC) Perhaps the most important lawyer in the country, Kennedy was in the majority in 93 percent of last year's decisions; the exception, of course, being where he most publicly parted ways with his Chief in Obamacare.

Robert Kerrigan KERRIGAN ESTESS (PENSACOLA, FLA.) One of Florida's most powerful advocates in serious personal injury cases and a broader force for justice in civil cases in the area of international human rights.

David Kessler KESSLER TOPAZ (RADNOR, PENN.) This star of the plaintiffs' securities litigation bar has played a big role in recoveries after the financial crisis, having his hand in the \$626M settlement in *Wachovia* and the \$507M settlement in *Lehman Brothers*.

Jeffrey Kessler WINSTON & STRAWN (NEW YORK) Winston & Strawn scored big with the acquisition of Kessler, one of the top sports lawyers in the world for players and players' unions and an all around outstanding litigator.

Robert Khuzami SEC (WASHINGTON, DC) The SEC's enforcement chief has warded off complaints about a lack of cases against senior Wall Street executives by pursuing major investment banks and senior-level officials at lending institutions.

Paul Kiesel KIESEL BOUCHER (BEVERLY HILLS, CALIF.) A prominent leader of the L.A. trial bar, Kiesel is playing a lead role on the plaintiffs' side in the Avandia litigation against GlaxoSmithKline and is suing CARRIER IQ for alleged privacy law violations.

Kenton King SKADDEN (PALO ALTO) One of Silicon Valley's top lawyers, King led Japan-based Advantest in its unsolicited cross-border \$1.1B acquisition of Verigy and advised longtime client Yahoo! In selling back half of its stake in Alibaba.

Jeffrey Klein WEIL GOTSHAL (NEW YORK) Mastercard, Avon, UnitedHealth and many others call on Klein for their most important and sensitive employment matters, including trade secrets, discrimination and ERISA.

Thomas Kline KLINE & SPECTER (Philadelphia) The ever influential and zealous advocate is leading the litigation against Penn State for Sandusky's sex abuse after winning a \$14M verdict for a girl who suffered an amputation after a school bus accident that will be used to challenge the constitutionality of damage caps against Pennsylvania municipalities and school districts.

Lou Kling SKADDEN (NEW YORK) Kling's book of multibillion-dollar deals includes representing Express Scripts in its \$29.1B acquisition of Medco Health; NDS and its owners, Permira and News Corp., in its \$5B sale to Cisco; and DuPont in its \$7.4B acquisition of Danisco.

Ethan Klingsberg CLEARY GOTTlieb (NEW YORK) He represented Google in its \$12.5B acquisition of Motorola Mobility and helped the board of Family Dollar protect the interests of their public shareholders by fending off an unsolicited \$7.7B takeover.

Daniel Kramer PAUL WEISS (NEW YORK) Part of Paul Weiss' outstanding litigation corps, Kramer helped end a series of derivative actions against AIG that resolved the company's disputes with Maurice Greenberg, dismissed all claims against company officers and directors and brought in \$60M.

Scott Krist THE KRIST LAW FIRM (LEAGUE CITY, TEXAS) Krist earned the largest known verdict in a Texas maritime case by netting \$15.1M for a 19 year old hit in the head while working as a mooring lineman.

Robert Krupka KRUPKA LAW GROUP (LOS ANGELES) This highly regarded IP litigator represented Apple in the first successful trial against HTC for infringement of Smartphone technology.



Tom Kline
KLINE & SPECTER (PHILADELPHIA)

Daniel Neff

WACHTELL LIPTON (NEW YORK)



DANIEL NEFF

THE THING ABOUT the attorneys at Wachtell Lipton that often goes unsaid is that they may be better at corporate law than anyone else. It's not that their attorneys earn more than any other firm and have the lion's share of the claim to being the most successful corporate firm in the world. They pick and choose the deals and clients whose matters arise to being the most critical, and then execute those matters with a nuance that's rare. They're a bit like the Warren Buffett or Bill Gates of corporate law.

It's the understated nature of how incredibly good they are that always surprises. That comes through when you talk to Daniel A. Neff, the firm's co-chairman of the executive committee. He is a quiet icon of the dealmaking world with his name attached to many of the trademark matters of the last three decades: Unocal's merger with Chevron, which was contested by China's CNOOC, El Paso's merger with Kinder Morgan, Rohm and Haas in its sale to Dow Chemical. And, of course, and most recently, Airgas in its defense against a \$5.8B hostile takeover bid by Air Products and Chemicals.

LAWDRAGON: Tell me a little about the firm's history.

DANIEL NEFF: We were founded at Christmas in 1964. The founding generation provided and continue to provide incredible leadership. My generation is comprised of people like me and Ed Herlihy, the other co-chair of the Executive Committee, who bought into why the firm is different. It's both a great opportunity and enormous responsibility to perpetuate a culture and approach to being a law firm that's always been part of the fabric of the firm. And so I guess we're the second full generation, and at this stage we're guiding the firm.

But I can't underestimate the value of having Marty [Lipton] and Herb [Wachtell] coming to work every day and continuing to make enormous contributions as practicing lawyers and mentors. They are amazing people. So we fully believe in what the founders tried to do and succeeded beyond their wildest dreams and believe we have a duty to pass on what we've inherited in the best shape we possibly can.

LD: Who do you consider your mentor?

DN: Well, start with Marty as a visionary, a great technical lawyer – something people don't appreciate. They know he's a scholar of the law, which he is. But in addition to all that he literally ran the firm for decades. He's a unique individual. And you can copy only so much of Marty because he's such a forceful

personality and legendary figure.

In terms of lawyering and judgment, in addition to Marty, I've had a number of extremely, extremely good mentors. One who comes to mind is Jim Fogelson, who died in Sept. '91. He was 48-years old. He was the hiring partner and would have been head of the firm for the last 20 years. Jim was a tremendous blend of all good things in a business lawyer. ... His was an enormous loss to the firm, but he had been such a great mentor to so many of us in addition to having hired us that, in a way, we are a big chunk of his professional legacy. Quite a number of us of my vintage in the firm, the people leading many of the big deals, are Jim's trainees. Another partner who has been an important mentor is Dick Katcher, who was managing partner for seven years, and a great lawyer. ...

LD: What do you consider the biggest lesson you've learned as a lawyer?

DN: That's a hard question. Let me throw out some thoughts. A big part of what we do is really listen, listen and anticipate. I find clients really appreciate it when you tell them what's going to happen before it happens which enables them to be prepared for developments as they occur.

Another skill which is appreciated is to reflect and continually grapple with issues clients present. With some frequency – and realizing the issues I'm now asked about are often very challenging – I will not respond immediately. Instead, I just listen and think about why a certain issue is important, consider whether there is another way. And then ultimately if you believe you're right, tell clients "yes" or "no," as the situation warrants, or you tell them, "I wouldn't do it this way, but here's an idea."

Ultimately, it's taken me a long time to figure out what it is that lawyers should do and what they should not do. When you're asked for pure business advice, it's ok to give it. But when you're not asked for it, it's probably wise to defer to those who've spent their careers in a particular industry.

As lawyers, we know a lot about the law and human behavior, but on particular industry dynamics, although we are involved in many situations and hear numerous management and board presentations, you need a sense of humility. Because it's not really our knowledge, it's what we're hearing from people who've spent their lifetimes in particular careers and industries. **View all Q&As at www.lawdragon.com/news-features.**

Bill Ohlemeyer
BOIES SCHILLER (NEW YORK)



Michael Kump KINSELLA WEITZMAN (LOS ANGELES) He represented Jamie McCourt in her dispute with husband and former Dodgers owner Frank, convincing the court to invalidate their property agreement and securing for his client a \$131M payment and property worth about \$50M.

Walter Lack ENGSTROM LIPSCOMB (LOS ANGELES) Few lawyers are as respected as the straight-shooting Lack, who has an enormous record of success winning hundreds of millions for environmental torts and aviation crash victims and, most recently, \$455M for Farmers Insurance policyholders.

William Lafferty MORRIS NICHOLS (WILMINGTON) The Delaware Court of Chancery and Supreme Court seldom see more talented litigators than Lafferty for complex cases involving shareholder claims, proxy contests and M&As.

Stephen Lamb PAUL WEISS (WILMINGTON) The former Delaware vice chancellor continues to thrive in private practice, representing Emdeon in its \$3B sale to Blackstone.

Richard Laminack LAMINACK PIRTLE (HOUSTON) He notched one of the year's biggest verdicts, winning \$94.3M for Wellogix against Accenture for misappropriating trade secrets.

Jeffrey Lamken MOLOLAMKEN (WASHINGTON, DC) Lamken continues to be one of the nation's most in-demand appellate practitioners, boasting Supreme Court experience across a diverse range of complex legal issues, including last term's representation of a homeowner who claimed damages from an illegal kickback.

Carolyn Lamm WHITE & CASE (WASHINGTON, DC) At the very top of the profession for representing foreign governments and companies involved in complex disputes before international commercial panels and federal courts.

Steven Lane HERMAN HERMAN (NEW ORLEANS) One of the most highly respected lawyers in the region, Lane helped secure a \$100M judgment for victims of Hurricane Katrina.

Travis Laster DELAWARE COURT OF CHANCERY (WILMINGTON) The upstart of the Delaware Court of Chancery is emerging as one of the nation's sharpest legal minds who is unafraid of controversial decisions, such as his delay of KKR's purchase of Del Monte.

Mark Lebovitch BERNSTEIN LITOWITZ (NEW YORK) Tops in plaintiff-side corporate governance, Lebovitch pushed the Pfizer Derivative Litigation to result in a new regulatory oversight committee supported by a dedicated \$75M fund - a new standard in the industry.

Joseph Leccese PROSKAUER (NEW YORK) Leccese has led Proskauer to new heights (and regions, in Beijing) as chairman while guiding the nation's most powerful sports practice on the league, team and owner side.

William Lee WILMERHALE (BOSTON) The nation's top IP litigator convinced the Federal Circuit to knock down Centocor Ortho Biotech's \$1.67B verdict against Abbott and has also represented Apple in the smartphone litigation.

C. Ray Lees COMMERCIAL LAW GROUP (OKLAHOMA CITY) This skilled dealmaker has represented Chesapeake Energy Co. in a series of deals, including the \$4.75B sale of its Arkansas shale assets to BHP.

Andrew Levander DECHERT (NEW YORK) On the shortest of lists for sensitive white-collar matters, Levander added former MF Global CEO Jon Corzine to his post-financial crisis client roster.

Arnold Levin LEVIN FISHBEIN (PHILADELPHIA) One of Philadelphia's most accomplished litigators, Levin played a lead role in the \$800M settlement on behalf of homeowners in the Chinese drywall litigation.

Adam Levitt WOLF HALDENSTEIN (CHICAGO) A standout in agricultural cases and other class actions, Levitt negotiated a \$750M settlement for long-grain rice producers over contamination from genetically-modified seed traits.

Jeffrey Lewis CLEARY GOTTLIEB (NEW YORK) This transactional whiz worked on client Alpha Natural Resources' \$8.5B acquisition of Massey Energy, which also had a rival offer from Arch Coal.

Victor Lewkow CLEARY GOTTLIEB (NEW YORK) Cleary's M&A powerbroker has had his hand in recent multibillion-dollar deals for clients Google, GlaxoSmithKline and Alpha Natural.

Burton Lifland U.S. BANKRUPTCY COURT (NEW YORK) The bankruptcy litigation and liquidation surrounding Bernie Madoff's defunct firm is in good hands with this veteran judge.

David Lira GIRARDI & KEESE (LOS ANGELES) Corporations may fear the Girardi name most, but Lira is close behind with an amazing track record of multimillion-dollar verdicts and settlements over the past several years.

Judith Livingston KRAMER DILLOF (NEW YORK) Livingston has netted yet another impressive medical malpractice verdict, this time \$7.6M for the family of a man who died after a Queens hospital delayed his operation.

Gary Long SHOOK HARDY (KANSAS CITY, MO.) One of the nation's top litigation strategists, Long succeeded in earning dismissals in major medical monitoring class actions in various federal courts around the nation.

Simon Lorne MILLENNIUM PARTNERS (NEW YORK) Lorne remains one of the most respected chief legal officers in the nation and a leading legal mind on regulatory challenges facing the hedge fund industry.



James Garner
SHER GARNER (NEW ORLEANS)

MEL IMMERGUT

“LEGEND” GETS tossed around quite a bit these days in the legal field, however, it’s the rare attorney who actually measures up. Mel Immergut is one of those who does: He’s been the chairman of Milbank for an unprecedented 18 years, building the firm into an international powerhouse while maintaining his stature as a top dealmaker and quiet powerbroker.

There’s much to discuss with Immergut – he’s Vice Chair of the Intrepid Sea, Air & Space Museum and active in the U.S. Military; represents Anheuser Busch, NASCAR, MasterCard and many others; has seen the law and his firm transform from a far different time; serves on the board of and teaches at Columbia Law School; recently received the Servant of Justice Award from the Legal Aid Society; and created a visionary education program for his firm’s associates at Harvard.

LAWDRAGON: You’ve accomplished so much and rightly been recognized for all you’ve done. If you had to pick one accomplishment of the past year of which you’re most proud, what would it be?

MEL IMMERGUT: That’s easy. We’re most proud of our Milbank at Harvard program. This is a concept where we are sending about 400 of our associates, the vast majority of them, to Harvard for one week a year for four years in succession. We’re bringing everyone in from all over the world, so, for example, all of our Singapore associates will do this. It’s a course that was in equal measures come up with by us, Harvard Business School and Harvard Law School. And it emphasizes business concepts more than legal concepts.

LD: That’s fascinating. Can you tell me more about it?

MI: It took about a year of hard work between Milbank, HLS and HBS, led by Professor Ashish Nanda at Harvard, to do the design work. We’ve had three groups - about 120 associates - go through so far and it’s gotten the best reviews of any project vis-a-vis associates that I’ve seen ever at the firm.

LD: What do they say? Also can you explain a bit about the purpose of the program?

MI: Well, they all come back saying it’s amazing and the best learning experience they’ve ever had.

The purposes of it are first, greater retention; we hope associates will be so enthusiastic about this it will be a factor in determining how long they stay with us. Second, better recruiting. And it certainly has gotten a lot of buzz in the law schools. Third, it’s better for our clients because it’s turning out better associates, better trained people. And also better for the firm as a whole for those

three reasons but also because it’s being talked about so much in the legal and business community.

LD: Are you looking for this to change the model of bringing in associates, winnowing them out and only admitting a very few to partnership?

MI: This is an investment we’re making. We know that still only a relatively small percentage of people that start out with us are going to make partners and that most of them will not stay the full term to see if they do or not. But our feeling is that the benefits we will get with better-trained lawyers, lawyers that will stay with us longer, attracting better lawyers and just having better morale and having this as something we can offer is worth the considerable investment in both out-of-pocket expense and, more importantly, taking a week out of everyone’s busy schedule. We also have partners that attend this as, I would say, minor presenters, because most of the work is done by the professors.

LD: I’m also curious where you learned the leadership abilities for which you’re so well known. Who do you consider your mentor or role model in the practice?

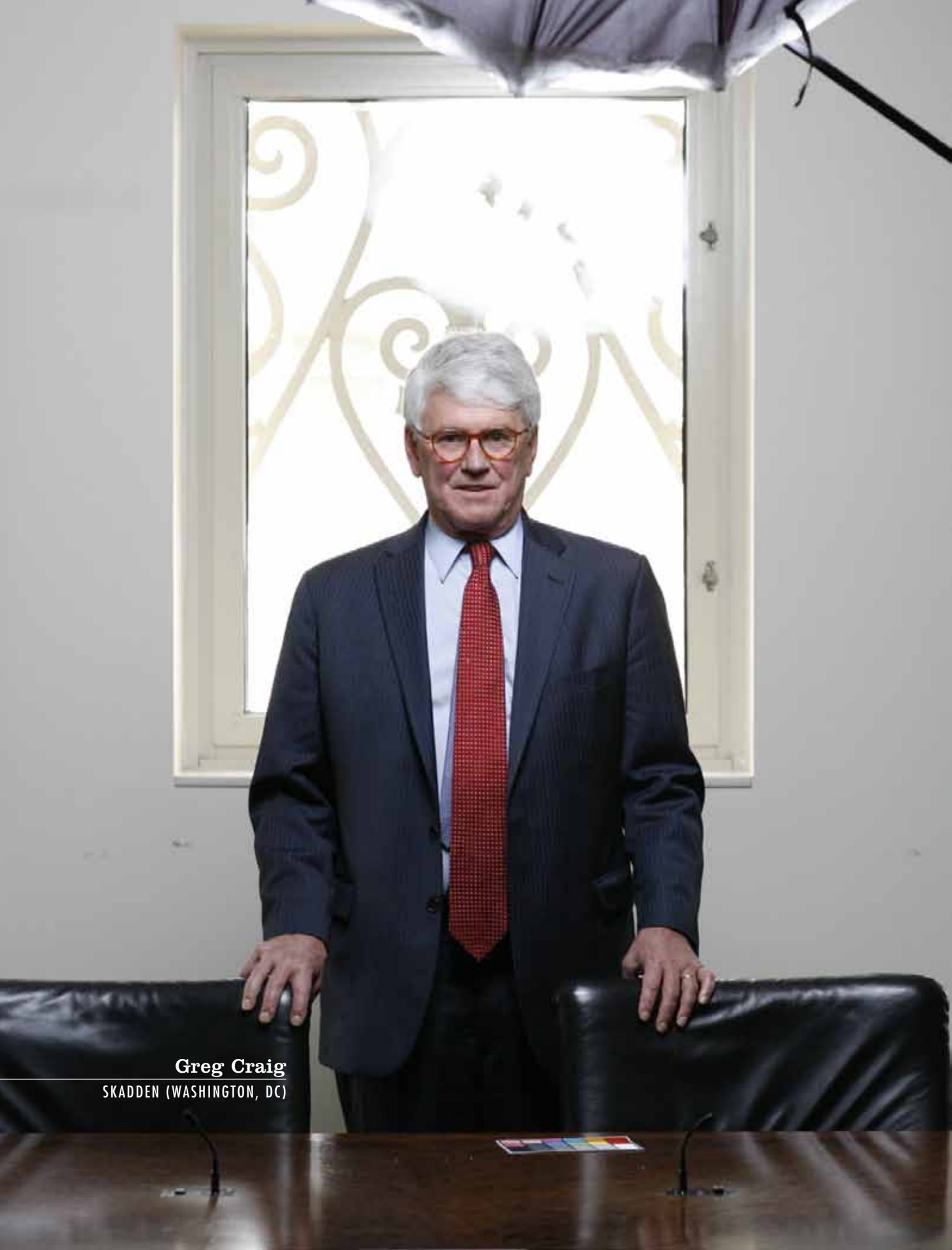
MI: Interesting question. Certainly not a law firm chair. I have learned over the years that there is nothing rarer in the legal profession than someone who can effectively lead a law firm. I generally say that a law firm is blessed if it has one person who can be the chairman and another person who is ready to assume that job when he or she retires. Having done this job for 18 years as chairman of Milbank, I’ve gotten to know the managing partners of many law firms, and there are some very good ones out there, but I think it’s a fairly rare commodity at law firms.

So in thinking about who I would put forth as a role model, I think I would pick my very close fishing friend Don Tyson who was the chairman and CEO of Tyson Foods, the largest protein producer in the world. I had the privilege of working with Don and being his friend for the better part of 30 years, watching him both running his very large company and fishing with him all over the world. He taught me many lessons about managing an operation that have worked well for me and also make me what I think is a person who has maintained a reasonable balance between work, which I think about 24 hours a day, but also other things in life, which I can do while almost always thinking about work.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/mel-immergut.

Mel Immergut
MILBANK (NEW YORK)





Greg Craig
SKADDEN (WASHINGTON, DC)

Martin Lueck ROBINS KAPLAN (MINNEAPOLIS) He added an exclamation point to his recent track record with the largest antitrust settlement in history with Mastercard, Visa and the nation's largest banks over swipe fees charged to merchants.

Arthur Luxenberg WEITZ & LUXENBERG (NEW YORK) This highly influential attorney manages one of the most active and aggressive practices on behalf of plaintiffs across a range of mass torts.

Lisa Madigan ILLINOIS ATTORNEY GENERAL (CHICAGO) One of the most respected Attorneys General in the nation, Madigan has made great gains in consumer protection in subprime lending and elsewhere and is generating billions for her state.

Kevin Madonna KENNEDY MADONNA (HURLEY, N.Y.) Madonna helped secure a \$26.5M settlement for St. Louis with Velsicol Corp., its successor and insurer over contamination of water wells.

Barbara Madsen WASHINGTON SUPREME COURT (OLYMPIA, WASH.) This veteran judge is widely respected in the legal profession and the public at large, having been the first woman popularly elected to the state's high court.

Colleen Mahoney SKADDEN (WASHINGTON, DC) A former SEC attorney, Mahoney is sought after to handle the most high-profile and sprawling law enforcement investigations for corporations and their officers, directors and employees around the globe.

Neal Manne SUSMAN GODFREY (HOUSTON) Susman's new co-managing partner tried the first employment law class action to verdict in a Kentucky state court, netting a defense victory for client The Rawlings Company.

Gregory Markel CADWALADER (NEW YORK) Markel has continued to toil in the mortgage-backed securities cases for Bank of America while also defending securities class actions for clients like Morgan Stanley and taking on BP's contract dispute with Bidas Corp. in Argentina.

Richard Marmaro SKADDEN (LOS ANGELES) Highly lauded for his representations of William Ruehle and Greg Reyes, Marmaro is now defending Advanced Medical Optics former CEO James V. Mazzo on insider trading charges brought by the SEC.

David Marriott CRAVATH (NEW YORK) One of Cravath's stalwarts, Marriott is admired for his skill as a trial lawyer and his ability to handle high-stakes business cases of any sort, whether antitrust, securities, IP, M&A or complex commercial.

Katharine Martin WILSON SONSINI (PALO ALTO) Martin represented professional networking site LinkedIn Corp.'s highly successful IPO, leading to a company valuation of about \$10B, and its follow-on offering.

Paul Singerman
BERGER SINGERMAN (MIAMI)



Terri Mascherin JENNER & BLOCK (CHICAGO) Mascherin added to her reputation as a top commercial litigator by her pro bono work for Juan Rivera, who served 19 years for a murder he did not commit; she won his exoneration.

Garry Mathiason LITTLER (SAN FRANCISCO) Who could be more influential than Littler's chairman of the board? An accomplished litigator, Mathiason has worked to reinvent the delivery of employment law services, improving the efficiency of the practice to benefit countless clients.

Colette Matzzie PHILIPS & COHEN (WASHINGTON, DC) A standout in the nation's top whistleblower firm, she joined forces with the U.S. Attorney in DC to win a \$93.5M settlement against Verizon for masking surcharges as taxes.

Michele Coleman Mayes NEW YORK PUBLIC LIBRARY (NEW YORK) Known as one of the sharpest in-house minds in the business, she checked out of Allstate and deposited her talents at the New York Public Library.

Brian McCarthy SKADDEN (LOS ANGELES) McCarthy added to his impressive deal roster by representing NHP in its \$7.4B acquisition by Ventas, Gen-Probe in its \$3.8B acquisition by Hologic and Westwood One in its merger with Dial Global.

Niall McCarthy COTCHETT PITRE (BURLINGAME, CALIF.) This friend to the taxpayers negotiated the largest False Claims Act settlement in California history, a total of \$301M in the Hunter Labs litigation.

Harold McElhinny MORRISON & FOERSTER (SAN FRANCISCO) This IP litigation standout successfully represented Apple in patent and trademark litigation against Samsung and was successful in a writ petition for client Link-A-Media Corp., leading to a transfer of the case from Delaware to California.

Andrew McGaan KIRKLAND & ELLIS (CHICAGO) McGaan achieved one of the biggest defense verdicts of 2011 for clients R.J. Reynolds and Brown & Williamson against claims by the City of St. Louis and many hospitals for the costs to treat indigent smokers.

Martha McGarry SKADDEN (NEW YORK) Regularly represents Coca-Cola, including in the \$13B acquisition of its largest bottler, and American Express, most recently in introducing its digital payments platform in China.

Patrick McGroder GALLAGHER & KENNEDY (PHOENIX) The lion of the trial bar in the Southwest is handling the wrongful death suit against the U.S. government for the family of Border Patrol Agent Brian Terry, killed by a gun from the Fast and Furious program.

Mike McKool MCKOOL SMITH (DALLAS) Amazing McKool continues to build one of the nation's best trial practices while handling high-stakes business cases for clients across a range of industries.



Kathleen Flynn Peterson

ROBINS KAPLAN (MINNEAPOLIS)

KATHLEEN FLYNN PETERSON

KATHLEEN FLYNN PETERSON may have had an easier time than many top lawyers adjusting to the time, stress and dedication required to build a successful law practice. After all, she secured her law degree from the William Mitchell College of Law (1981) while working full-time as a nurse. The combination of professional skills has paid off hugely for Peterson and Robins Kaplan Miller & Ciresi, where she chairs the personal injury and medical malpractice group.

The biggest beneficiaries are her clients – families coping with the loss or serious injury of a loved one as a result of medical mistakes. Last year, she won a \$4.6M verdict against a Monticello hospital for the husband and son of a woman who died in childbirth. Peterson is herself married with two grown sons, which has not only made her something of a trailblazer in the trial bar but also helped her better connect with jurors in courtrooms.

LAWDRAGON: What first led you into nursing?

KATHLEEN FLYNN PETERSON: I had a strong interest in science. My interest in science and medicine really channeled me into looking at nursing. About half way through my nursing program I attended some lectures in which I learned about individuals who had combined nursing careers with public health or governance, or administration or law. And at about the same time I was empanelled on a jury of a major criminal trial in Minnesota state court for two weeks and enjoyed the experience of seeing the judicial system. That's how I began to become more interested in pursuing a combination of nursing with the law.

LD: What about the trial had that effect on you?

KFP: It was an opportunity to see more clearly that several skill sets could be used together, and I was fascinated with the whole advocacy process. If I hadn't already been thinking about combining nursing with something else it may not have been as transformative. It was the right experience at the right time for me.

LD: Working as a nurse and attending law school sounds almost impossible. How were you able to do that?

KFP: I was young, I was single and had a lot more energy. And it was also because I so much enjoyed my education. But I had a goal to try to get as much clinical nursing experience as I could get, so it was exhausting. I would be in school from three in the afternoon to later at night, then start my shift at 11 o'clock and work all night. Then I would sleep for a few hours and start it all over again. I really enjoyed the work, and I felt it was a great opportunity to be able to get a legal

education at a reputable school and at the same time gain clinical nursing experience which has been invaluable in my career.

LD: How difficult was it to switch professions?

KFP: Many people asked me why I would turn my back on the profession or switch sides, but to me it was a natural transition. In my job, the nurse was the person most clearly aligned with the patient in the health care system, so it was a natural progression to represent patients with health care issues and be their advocates. It always felt easy and was the best fit for me.

LD: What were your first years like at the Robins firm?

KFP: I had a great experience at Robins Davis & Lyons. The firm was much smaller then. It is about 260 lawyers now, at the time it was more like 50. I worked at a small office in St. Paul where I practiced with Solly Robins, who was a great trial lawyer and a great boss, and John Eisberg, who was also a great mentor. I got to work with some extraordinary trial lawyers at the very start of my career.

LD: There must have been challenges specific to being a female trial lawyer back then.

KFP: I remember trying a case when I was pregnant, when the style of maternity clothes were not as "normal" as they are today. The lawyers were not used to seeing a woman in a dress, especially a pregnant one. Certainly women today deal with some of the same issues, if not in an overt way then at least a subtle way. I think it's safe to say that even in the early years I was trying more cases than any woman in the firm, and on the plaintiffs' side in this area generally, so you did feel a bit like a pioneer. The only way it worked was that my husband took on the primary role of the parenting of our two sons, and I was able to continue to put a focus on my career in addition to the family. We made the decision that worked best for our family.

In my career I have been very involved in different professional organizations, and one of the reasons I felt it so important to play a leadership role in the plaintiffs' bar was to show other women that they can have that balance in their life over the long term. You can have a marriage and children and good relationships with them and still work and have a successful career. And you can have times where you spend more time with your family, even if you have years where you have to focus more on your career. You just have to see the whole thing on a larger spectrum, over the longer term.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/kathleen-flynn-peterson.

William McLucas WILMERHALE (WASHINGTON, DC) The absolute leader in complex internal investigations, McLucas has handled recent internal reviews for the boards of Best Buy, Nortel Networks, JPMorgan and UnitedHealth Group.

John Mead SULLIVAN & CROMWELL (NEW YORK) A quiet power behind the long, illustrious and remarkable pairing of Goldman Sachs with Sullivan & Cromwell, he's also a go-to corporate lawyer for Madison Square Garden and CIT Group.

Mark Mendelsohn PAUL WEISS (WASHINGTON, DC) The nation's leading Foreign Corrupt Practices Act lawyer and former Justice Department deputy chief showed what he can do in private practice by successfully representing a large humanitarian-assistance nonprofit in an FCPA investigation ending in a declination letter.

Ronald Mercaldo MERCALDO LAW FIRM (TUCSON) His firm added to its excellent track record for plaintiffs, netting a trio of multimillion-dollar settlements in cases involving catastrophic injury and medical malpractice.

Lee Meyerson SIMPSON THACHER (NEW YORK) Meyerson has almost too many multi-billion-dollar deals to keep track of, an example being Petrohawk Energy's \$15.1B acquisition by BHP Billiton.

Andrew Michaelson BOIES SCHILLER (NEW YORK) This young gun from the SEC will do wonders in private practice after his key role in the government's inside-trading probes and work as a special assistant U.S. attorney in the Raj Rajaratnam case.

Harvey Miller WEIL GOTSHAL (NEW YORK) Who else would the last of the big airlines call? Miller is at the controls for AMR Corp.'s multifaceted bankruptcy.

Ted Mirvis WACHTELL LIPTON (NEW YORK) Bank of America made the obvious call in tapping this litigation legend to defend the bank's \$8.5B mortgage bond settlement.

Steven Molo MOLOLAMKEN (NEW YORK) Molo continues to score wins for clients caught in complex cases while building one of the country's most prestigious litigation boutiques with cutting-edge litigation like that on behalf of three Groupon salesmen sued for going to work for Google.

Thomas Moloney CLEARY GOTTlieb (NEW YORK) An outstanding litigator kept busy in recent years by proceedings related to Lehman and Madoff, Moloney won a dismissal of claims worth billions against client HSBC filed by the Madoff trustee.

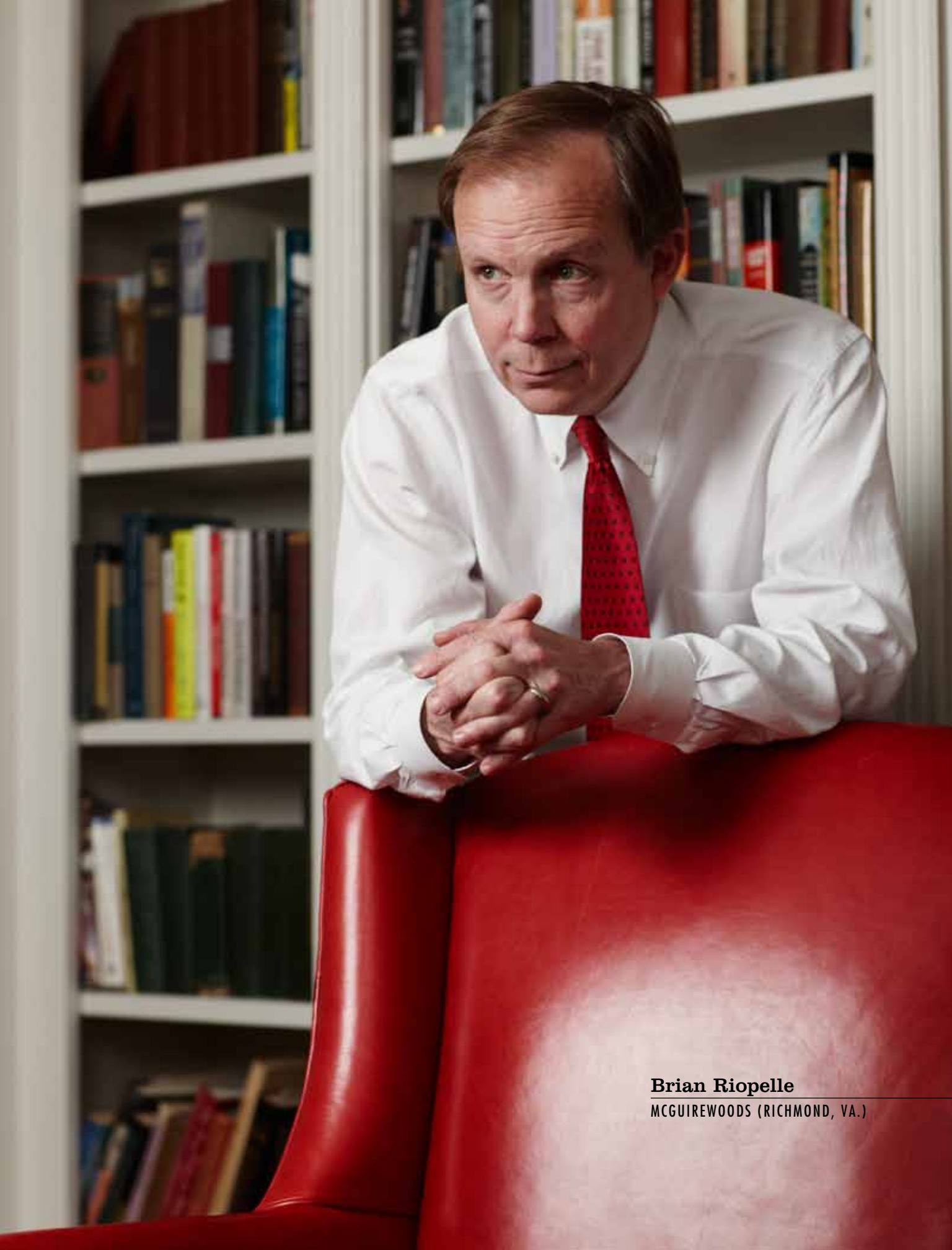
C. Barry Montgomery WILLIAMS MONTGOMERY (CHICAGO) Always a mainstay among top defense verdicts, Montgomery turned the tables to secure a \$91M settlement from Medline Industries in a qui tam lawsuit.

Thomas Moore KRAMER DILLOF (NEW YORK) New York's top plaintiff attorney convinced a Bronx jury to award \$120 million to a woman who suffered brain damage after three area hospitals committed medical malpractice.

Mary Alexander

MARY ALEXANDER & ASSOCIATES (SAN FRANCISCO)





Brian Riopelle
MCGUIREWOODS (RICHMOND, VA.)

Benedict Morelli MORELLI RATNER (NEW YORK) Won \$95M for Ashley Alford in the largest sex harassment verdict ever for a single plaintiff.

James Morphy SULLIVAN & CROMWELL (NEW YORK) One of Sullivan's most storied dealmakers, Morphy handled client BHP Billiton's \$15B acquisition of Petrohawk Energy Corp. and Medco Health's \$29B merger with Express Scripts – both deals announced in the same 10 days.

Mark Morton POTTER ANDERSON (WILMINGTON) As crafty a dealmaker as they come, this top Delaware corporate counselor represented a special committee of Quest Software in its \$2B privatization by Insight Venture Partners.

Edward Moss SHOOK HARDY (MIAMI) The Shook Hardy stalwart and one-time plaintiffs' lawyer has long since earned his status as the dean of Miami's defense bar.

Ronald Motley MOTLEY RICE (MOUNT PLEASANT, S.C.) A fearless and innovative advocate for a wide range of plaintiffs, Motley helped negotiate multi-billion settlements with BP over the oil spill.

Francis Patrick Murphy CORBOY & DEMETRIO (CHICAGO) The expert when it comes to personal injury cases, Murphy has won numerous multi-million dollar settlements for victims of porch collapses and product defects.

Sean Murphy MILBANK (NEW YORK) The nation's biggest financial institutions facing complex securities cases all call on this star litigator, who continued his winning ways.

Scott Musoff SKADDEN (NEW YORK) He has been involved in a wide variety of credit crisis-related matters, representing not only financial institutions and underwriting syndicates, but also numerous corporations from around the globe.

Toby Myerson PAUL WEISS (NEW YORK) A veteran of client Nextel's \$35B merger with Sprint, Paul Weiss' M&A co-head has handled transactional work for Citigroup, The Chubb Corp., NEC Corp. and Morgan Stanley, to name just a few.

Kenneth Nachbar MORRIS NICHOLS (WILMINGTON) A key player in cases including *Unocal v. Mesa Petroleum Corp.* and *Yucaipa v. Riggio*, Nachbar has attained prominence and respect for his handling of M&A and corporate disputes..

Gary Naftalis KRAMER LEVIN (NEW YORK) Nearly unrivaled in the white-collar arena, Naftalis is defending Rajat Gupta in the Galleon Group case as well as the former president and COO of MF Global.

Kathleen Nastri KOSKOFF KOSKOFF (BRIDGEPORT, CONN.) This talented trial lawyer helped win a \$58M medical malpractice verdict over a birth injury resulting in cerebral palsy, the largest medmal verdict in Connecticut history.

BRIAN PASTUSZENSKI

COMPANIES FACING complex securities litigation and SEC enforcement actions would be hard pressed to find better legal counsel than Brian Pastuszenski, one of the most trusted and undisputed leaders in his field as identified by our reporting for the Lawdragon 500. The Boston-based Goodwin Procter partner was drawn to his practice area by the intellectual demands and high stakes of the cases; it's safe to say he has built a satisfying practice.

In recent years, Pastuszenski has defended a large number of securities litigation matters for Countrywide Financial (now part of Bank of America) for claims arising from the financial crisis. He has won dismissals of putative class actions and other investor suits in jurisdictions around the country, limiting the extent to which investors of mortgage-back securities can recoup losses through litigation. (Pastuszenski said he could not comment on pending cases.)

LAWDRAGON: How did you come to focus on your particular type of practice? What about it has kept you passionate over the course of your career?

BRIAN PASTUSZENSKI: I was attracted to securities and shareholder litigation defense by the complexity of the legal concepts and the high stakes these matters typically involve. In my experience, securities litigation is among the most intellectually demanding areas of the law. These cases challenge a lawyer to use his or her full set of intellectual skills and use them in creative ways as financial instruments (such as CDO squared securities and other asset-backed securities) become more complex.

As for the high stakes, it is not so much the very large dollar amounts these cases involve that keep me energized, but the importance of these matters for senior management, senior in-house legal counsel, and boards of directors (or, in the investment-fund space, boards of trustees). These matters are often headline-grabbing, and the events that spawn these matters can cause a public company's market cap to drop precipitously when announced. It is a significant – and personally satisfying – responsibility to advise senior officials about how to defend and resolve these cases. That advice requires me not simply to identify legal issues and formulate the most effective litigation defenses, but also suggest thoughtful, sound, and practical recommendations that will enable the client to assess the risks and benefits of different possible paths and help the client achieve its business goals.

The same need for sound judgment exists when advising a client about how best to prepare for potential future litigation or appropriately sizing an internal investigation that may need to be conducted into possible misconduct. Although it is always possible to read every internal email and interview every potential witness no matter how peripheral when undertaking an internal investigation, sound judgment may suggest that a reasonable and appropriate inquiry will involve a more focused approach.

LD: Can you share a key lesson you try to instill in younger litigators who look to you for guidance?

BP: I have a handful of suggestions for younger litigators. First, all lawyers – not just securities litigators – are in the service business. Our clients are entitled to utmost responsiveness from us, which often may interfere with our personal lives. Clients, however, cannot control when problems will occur or when the need for our legal advice and our sound recommendations will arise. Younger lawyers especially must hardwire this responsiveness – no workday should end without each client phone call being returned and each e-mail being responded to, and those calls should be returned and emails responded to as promptly as possible consistent with delivering thoughtful, helpful advice. Clients want to read today's news today, not tomorrow. This is a simple truth, but a very important one.

A second suggestion is not to forget that we ultimately are advisors, not just lawyers. What separates a good lawyer from a good litigator is sound judgment. Identifying a long list of legal issues (or worse a long list of reasons why the client may not be able to accomplish what it wants to accomplish) does a client no good. We lawyers must remember that our clients live in the business world – not in the ivory tower of the law school class room. Too many lawyers forget that. Our job is not only to identify problems but also to recommend paths around those problems that our clients can then assess as a business matter, taking into account the legal risks and potential costs of each path that we have identified.

At the end of the day, the choice of which path to take is our clients to make, not ours, but they can intelligently make that choice only if we have done our job of identifying the practical risks and costs and have made our best recommendation given the mix of considerations.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/brian-pastuszenski.

Brian Pastuszewski
GOODWIN PROCTER (BOSTON)



Patrick Naughton SIMPSON THACHER (NEW YORK) Recently back from Hong Kong, this prolific dealmaker handled Sealed Air's \$4.3B acquisition of Diversey Holdings.

Daniel Neff WACHTELL LIPTON (NEW YORK) A dealmaker's dealmaker, Wachtell's co-managing partner handled client Temple-Inland's merger with International Paper, and represented El Paso in the Kinder Morgan merger – just a few of his recent multibillion-dollar deals.

Sharon Nelles SULLIVAN & CROMWELL (NEW YORK) While handling a docket brimming with financial crisis litigation, Nelles defended Microsoft against anti-trust claims brought by Novell in an eight-week trial in Utah federal court.

Larry Nettles VINSON & ELKINS (HOUSTON) Always on the cutting edge of environmental law, Nettles has taken the lead advising energy companies on the evolving legal issues related to hydraulic fracturing.

Steven Newborn WEIL GOTSHAL (WASHINGTON, DC) Newborn handled the antitrust side of Kinder Morgan's \$38B acquisition of El Paso Corp. and the sale of El Paso's exploration and production business for \$7.15B.

Blair Nicholas BERNSTEIN LITOWITZ (SAN DIEGO) Nicholas can achieve massive settlements in securities class actions or take the firm's clients out of a settlement to pursue direct litigation, as he did successfully with investors of Countrywide Financial Corp.

Kenneth Nissly O'MELVENY (MENLO PARK, CALIF.) He notched one of the top defense verdicts in recent years in a six-month jury trial for SK Hynix Inc. against Rambus, which had sought nearly \$3.85B in damages, even though his client had entered a guilty plea for price-fixing on related products.

Thomas Nolan SKADDEN (LOS ANGELES) One of the go-to litigators on the West Coast, Nolan leads the team defending Toyota in connection with the unintended acceleration of its cars and continues to represent MGA in the Bratz "doll wars."

Eileen Nugent SKADDEN (NEW YORK) Known for her innovative deal strategies, she led Cephalon's takeover defense against Valeant, negotiated its \$6.8B sale to Teva, and also fronted Endo's \$2.9B acquisition of American Medical Systems.

David O'Keefe BONNE BRIDGES (LOS ANGELES) A pro in the field of medical malpractice and professional liability, O'Keefe is a mentor in L.A. and a shining example of how a lawyer should approach medical malpractice defense.

Terry O'Reilly O'REILLY & COLLINS (SAN MATEO, CALIF.) One of the nation's top plaintiffs' lawyers worked his magic again by settling the claims over the air disaster of Ethiopian Airlines Flight 409 in less than two years.

Bill Ohlemeyer BOIES SCHILLER (NEW YORK) Ohlemeyer has a platinum resume for mass-tort litigation including directing “big tobacco” litigation before joining BSF; clients including Pfizer, Merck, and others increasingly thank him with their tough commercial problems as well.

Ronald Olson MUNGER TOLLES (LOS ANGELES) As the firm he built enjoys its heyday, so does Olson, who in addition to his regular practice is representing homeless veterans in Los Angeles in claims against the federal government to get access to mental health and other services.

Ted Olson GIBSON DUNN (WASHINGTON, DC) Simply the best, Olson notched a follow-up victory in *Perry V. Brown* before the 9th Circuit, which held the Prop. 8 gay-marriage ban unconstitutional, while continuing his caseload before the U.S. Supreme Court.

Jerold Oshinsky JENNER & BLOCK (LOS ANGELES) The ever estimable Oshinsky is representing Penn State in claims against its insurer over costs related to the sex-abuse matters and succeeded in expanding Jenner’s insurance team with new partners.

Barry Ostrager SIMPSON THACHER (NEW YORK) Ostrager has great range, winning \$28.8M for Mohammad Al-Saleh, brother in law of the King of Jordan, in a Foreign Corrupt Practices Act-related case, against business partners in a deal to supply jet fuel to troops in Southern Iraq, while defending title insurers including Fidelity National against mounting antitrust claims under the Real Estate Settlement Procedures Act.

Wayne Outten OUTTEN & GOLDEN (NEW YORK) Outten does it all for professional employees, helping them sign the best deals, transition to new positions and litigate their disputes if necessary.

Keith Pagnani SULLIVAN & CROMWELL (NEW YORK) This savvy dealmaker represented the independent directors committee of Alcon in the company’s purchase by Novartis AG and handled UnitedHealth Group’s acquisition of XLHealth.

Brian Panish PANISH SHEA (LOS ANGELES) One of the top plaintiff lawyers in Southern California, Panish has a passion for consumers, representing a blind man killed on a badly designed Blue Line train platform, and winning millions for individuals injured in auto accidents.

Robin Panovka WACHTELL LIPTON (NEW YORK) Panovka brokered a \$7.4B stock deal for Ventas to create the nation’s largest health care REIT and represents World Trade Center owners Silverstein Partners in the site’s resurgence.

Kenneth Parsigian GOODWIN PROCTER (BOSTON) As a regular outside counsel to Philip Morris, this defense dynamo dashed a \$455M claim of 37 St. Louis hospitals against the tobacco giant seeking to cover the costs of treating indigent smokers.



Kelli Sager

DAVIS WRIGHT (LOS ANGELES)



Brian Pastuszewski GOODWIN PROCTER (BOSTON) This top defense litigation star is the lead counsel for Countrywide Financial Corp. in numerous securities class action, shareholder derivative and institutional investor cases as a result of the capital markets crisis in 2008.

Kathy Patrick GIBBS & BRUNS (HOUSTON) Don't mess with Patrick, who won an \$8.5B settlement, one of the largest ever, for a group of mortgage bond investors - including BlackRock, PIMCO and the Federal Reserve Bank of NY - against Bank of America.

Cliff Pearson PEARSON SIMON (SHERMAN OAKS, CALIF.) Pearson was co-lead counsel on a \$388M class action settlement on behalf of direct purchasers of TFT-LCD products.

Gerard Pecht FULBRIGHT & JAWORSKI (HOUSTON) This litigator obtained dismissal with prejudice of a Fortune 100 company in a tortious interference case alleging over \$600 million in damages.

Mark Perry GIBSON DUNN (WASHINGTON, DC) Perry won *Janus Capital*, a 5-4 U.S. Supreme Court decision in a private securities fraud lawsuit, finding the ultimate responsibility for misstatements in a prospectus is the person or entity issuing them and not the asset management fund that was advising it.

Kathleen Peterson ROBINS KAPLAN (MINNEAPOLIS) One of the nation's leading trial lawyers, the former nurse has won hundreds of millions of dollars for patients injured by medical malpractice, most recently \$4.6M for the family of a 36-year old wife and mother who died.

Steven Pfeiffer FULBRIGHT & JAWORSKI (WASHINGTON, DC) Pfeiffer led the firm through a year of significant investment, including an office in Pittsburgh-Southpointe for its energy practice and adding 27 new partners, 10 of whom are women.

Bradley Phillips MUNGER TOLLES (LOS ANGELES) This leading litigator protected Dick Clark Productions' rights to continue producing the Golden Globes, while upholding California's decision to charge reduced in-state tuition to the children of illegal immigrants.

Carter Phillips SIDLEY AUSTIN (WASHINGTON, DC) Co-chair of the firm's executive committee, he has argued 76 cases in the U.S. Supreme Court (more than any other lawyer in private practice) and is recognized as one of the Court's premier practitioners.

Stacy Phillips PHILLIPS LERNER (LOS ANGELES) When it comes to divorce and family law, celebrity glitterati and high-powered executives turn to her.

Irving Picard BAKER HOSTETLER (NEW YORK) The court-appointed trustee in the \$7.2B Madoff case has had success clawing back illegally gotten gains and contributing to his firm's bottom line.



Aaron Podhurst
PODHURST ORSECK (MIAMI)

AARON PODHURST

MR. MIAMI HAS DONE IT all and seen it all. The young man who grew up in the Catskills where his parents repaired mattresses found his way to the University of Michigan, where he played basketball and won the heart of Dorothy, who had grown up in the Sunshine State. After law school in New York and a stint in the military, the couple returned to Miami. They've never looked back. After a stint at a standout local firm, Podhurst opened the doors of Podhurst Orseck, with Bobby Orseck in 1967. Just five years later, he was appointed lead counsel for litigation over the crash of Eastern Airlines Flight 401, which crashed in the Florida Everglades on Dec. 29, 1972, killing 101.

That starring role led to many others. His firm is one of the standout aviation litigation practices in the world, which, increasingly, is the locale of air crash cases given the globalization of the practice. He's also had the opportunity to counsel leaders at the highest levels, including serving as the unofficial mediator in the tense standoff over Elian Gonzalez, the young boy whose mother drowned in November 1999 as she attempted to escape Cuba and take Elian to Florida in a small aluminum boat.

LAWDRAGON: I'd love to hear a little bit more about your background.

AARON PODHURST: I grew up in the Catskill Mountains of New York State. I was a little boy and worked in the hotels during the summer and in high school.

Then, believe it or not, I got a basketball scholarship to the University of Michigan. And that was my first time away from home. My folks renovated mattresses for the hotels. We always had food, but we were relatively poor and so this was a great opportunity to go to college. I had very good grades. And so the basketball scholarship got me to the University of Michigan. I have two older brothers and I was the first of my family to go to college.

LD: It's a long ways from the Catskills to Michigan to Miami.

AP: While I was a senior at the University of Michigan, I met my wife, Dorothy, who was a freshman. She was from Miami Beach, and that's the reason I'm down here. I went to Columbia Law School and then we ended up down here. I thought it would be easier to raise a family in Miami than it would be in New York City. So she actually was not the pusher, I was, and I've loved being down here. After law school, I was in the service and then came to Miami. I didn't know any-

body. I worked for an appellate judge for one year as a clerk, and then I went to a very well-known firm started by a guy named Perry Nichols, who was like the father of demonstrative evidence. I actually learned how to try cases as a young associate with him.

LD: What led you to start your own firm?

AP: The Nichols firm basically was splitting up because the then-senior partner, Perry Nichols, wanted to go practice with his son. And so it was an opportunity to start my own firm with the fellow who was the appellate lawyer for the firm, Bob Orseck. Bob tragically drowned in Israel in 1978, but he and I were very close friends and it's been a great ride.

LD: Were you scared when you went out on your own?

AP: Yes, I was very scared when we opened our own firm. We didn't have two pennies to put together. We got some business in the dissolution of the old firm. And Bob did some appellate work for them as they were dissolving. And then one thing led to another and we developed business until he died. We were together 11 years. And the firm has done very well.

We have sort of a specialty in aviation work, plaintiffs' aviation work, in addition to many other things. So in 1972 was the crash of the first wide-bodied jet, an L1011 aircraft in the Everglades, Eastern 401. I got one case, and I'd never really been involved in aviation particularly. There were many cases, several hundred on that crash; one-third of those on the plane walked away, one-third were killed and one-third seriously injured. And all of the big-shot plaintiffs lawyers had cases, they all came down before U.S. District Judge Peter Fey, who's now a retired senior 11th circuit appeals judge.

All of these big lawyers were vying to be the chairman of the plaintiffs' executive committee, the lead counsel. And they're all fighting - all these guys with reputations from all over the country - and he listened and he listened, and my application was just to be on the committee. I didn't have the daring to even ask him as a young lawyer to be the lead. And he says, "You know, we're in Miami, I think I'm going to appoint Mr. Podhurst as the lead counsel." To make a long story short, that was my breakthrough, because of that judge. From there, I got other cases, and on and on. Everybody gets a break along the way and that was mine. The entire case was handled within a year, which was unheard of, for multidistrict litigation, and it was a successful result for our clients. **View all Q&As at www.lawdragon.com/news-features.**

Roberta Pichini FELDMAN SHEPHERD (PHILADELPHIA) Successfully prosecuting product liability actions is her game, one of particular note being a suit against a major manufacturer of children's cribs that uncovered a defect found to have caused the strangulation of many babies.

Tom Pirtle LAMINACK PIRTLE (HOUSTON) Pirtle won \$94.3M for Wellogix in a misappropriation of trade secrets case against Accenture.

Aaron Podhurst PODHURST ORSECK (MIAMI) The gentleman giant of Florida's plaintiffs' bar is taking on banks for their financial abuse of consumers, recently securing a \$410M settlement in a class-action lawsuit of more than 13 million Bank of America customers who had debit card overdrafts during the past decade.

Jonathan Polkes WEIL GOTSHAL (NEW YORK) Polkes is on speed dial for executives facing the toughest securities litigation and investigations, turning back an array of actions stemming from Tishman Speyer's acquisition of Archstone and protecting Willis Group from the Stanford Financial claims.

Glenn Pomerantz MUNGER TOLLES (LOS ANGELES) A top media and entertainment litigator, Pomerantz spent part of 2011 leading the Justice Department Antitrust Division's take-down of the AT&T and T-mobile merger.

Richard Posner 7TH U.S. CIRCUIT COURT OF APPEALS (CHICAGO) The only problem with the description of Posner as "probably America's greatest living jurist" is the word probably.

Joseph Power POWER ROGERS & SMITH (CHICAGO) Among the best plaintiff firms in Illinois, his firm eclipsed \$300M in recoveries in 2011.

James Pratt III HARE WYNN (BIRMINGHAM, ALA.) A distinguished trial lawyer in one of Alabama's most elite firms, he added to his resume of outstanding results in car and aviation cases - including one of the largest wrongful death verdicts in state history - by becoming president of the State Bar, where he promptly mediated a long drawn-out battle over Jefferson County's occupational tax.

William Price QUINN EMANUEL (LOS ANGELES) Price successfully defended Micron Technology in a bet-the-company antitrust case involving random access memory chips during a three month jury trial against Rambus.

Gilbert Purcell BRAYTON PURCELL (NOVATO, CALIF.) Purcell won a \$41M claim for a mesothelioma victim against Phillip Morris, in which the California Supreme Court ruled earlier diagnosis of smoking-related illness did not trigger statute of limitations for later discovered lung disease.

Peggy Ann Quince FLORIDA SUPREME COURT (TALLAHASSEE, FLA.) An extraordinary role model, Quince was raised by her father, a civilian employee of the Navy, attended segregated schools and ascended to the state's highest court, where she has served as the state's first African-American and female Chief Justice.

James Quinn WEIL GOTSHAL (NEW YORK) The legendary litigator continued his winning ways for illustrious media clients, while bringing a gravitas for NBA and NFL players that helped get both seasons back on track.

John Quinn QUINN EMANUEL (LOS ANGELES) Quinn is in the spotlight for good reasons and bad with his advocacy on behalf of Samsung in its litigation with Apple.

Jed Rakoff U.S. DISTRICT COURT, MANHATTAN (NEW YORK) He's loved and hated, but respected by most for his straightforward take on everything from the federal death penalty (unconstitutional in his eyes) to the SEC's treatment of Bank of America and Citibank (which he considered generous, to be generous).

Gordon Rather WRIGHT LINDSEY (LITTLE ROCK, ARK.) The always distinguished Rather is the lead trial counsel for the largest hospital system in Arkansas, defending an antitrust action brought by a group of physicians, and the state's largest health insurer over claims under the Arkansas 'any willing provider' law.

David Ratner MORELLI RATNER (NEW YORK) This plaintiffs' attorney and his partner won \$95M for Ashley Alford in the largest sexual harassment jury verdict ever.

Harry Reasoner VINSON & ELKINS (HOUSTON) While his success in appellate and complex civil litigation has involved billions of dollars in claims and multimillion-dollar verdicts, he is also a big proponent of pro bono work.

Daniel Reidy JONES DAY (CHICAGO) A top litigator for all nature of cases, Reidy won dismissals for Midwest Generation in class actions alleging environmental harm, while winning a defense verdict for Abbott Labs in the first pharmaceutical liability test over Lupron.

Kenneth Reilly SHOOK HARDY (MIAMI) Masterful in the courtroom, Reilly is becoming legendary for his defense wins in the toughest of cases.

Alison Ressler SULLIVAN & CROMWELL (LOS ANGELES) Sullivan's California leader represented Skype and Silver Lake Partners in Microsoft's \$8.5B acquisition of the Internet voice and video chat service.

R. Bruce Rich WEIL GOTSHAL (NEW YORK) Rich's mastery of intellectual property litigation is demonstrated in his recent victory for DMX in its licensing rights with ASCAP and BMI and on behalf of Marvel, whose ownership of the Fantastic Four and Iron Man he confirmed.

Brian Riopelle MCGUIREWOODS (RICHMOND, VA.) He won a monster \$919M trade secret case against Kolon Industries over the material used to manufacture Kevlar bullet-protection vests, helping the jury find Kolon stole 149 trade secrets.

Darren Robbins ROBBINS GELLER (SAN DIEGO) His firm has recovered billions of dollars for shareholders while serving as lead counsel in numerous securities class actions.

JAMES GIDDENS

IF A BROKERAGE FIRM is in bankruptcy trouble, James Giddens, head of Hughes Hubbard's corporate reorganization and bankruptcy group, usually finds himself in the middle of it. In recent years, with financial titans such as Lehman Brothers falling prey to the global financial crisis, Giddens' services have been in high demand.

The Securities Investors Protection Corporation (SIPC) has selected Giddens to be Trustee on several of the largest liquidations in history. For example, when Lehman Brothers filed for bankruptcy in 2008, he was appointed by the SIPC to oversee the liquidation of the investment bank's assets, worth more than \$117 billion.

Lehman's complex liquidation work involved transferring more than 110,000 accounts with an aggregate value of \$92 billion and analyzing over 14,000 customer claims in excess of \$50 billion. Giddens also has to oversee multiple U.S. lawsuits arising from customer claims of approximately \$17 billion and all of the Lehman-related proceedings in 16 countries. He obtained a favorable ruling from the U.K. Supreme Court that should lead to greater recoveries for the investment bank's customers. In June 2011, Giddens' legal team managed to wrestle back an estimated \$4.8 billion in assets from Barclays.

In addition to all the liquidation-related work, Giddens' team conducted the statutory investigation of the probable cause that led to Lehman's demise and lessons that may be learned from a regulatory and legislative perspective. The Trustee's preliminary report regarding the collapse of Lehman was submitted to the U.S. Congress, regulators and the Bankruptcy Court in August 2010. The SIPC appears to be pleased with Giddens' handling of the Lehman work. Recently, the SIPC appointed him to handle the liquidation of yet another headline-grabbing case, MF Global Inc.

LAWDRAGON: You've been appointed as trustee in some of the largest corporate bankruptcy cases in history. What is the secret to being successful in this area?

JAMES GIDDENS: Expertise in broker-dealer and financial service firm liquidations. I have been involved with the Securities Investor Protection Corporation since its creation in 1970 and the enactment of the Securities Investor Protection Act. I recently served as a member of the "SIPC Modernization Task Force," whose report was submitted to the Board of Directors of SIPC and the public in February 2012.

LD: What makes some bankruptcy cases more compli-

cated and challenging than others?

JG: I am the Trustee for the liquidation of MF Global, Inc., the broker-dealer, and Lehman Brothers, Inc., the broker-dealer. As Trustee, I manage the conduct of the liquidations, including marshalling assets and paying creditors. Both these cases involve separate and distinct proceedings in multiple jurisdictions world-wide with different legal approaches to insolvency. I find these cross border issues among the most challenging, and fascinating, areas of the practice today.

LD: In litigation over commercial disputes there are clear winners and losers. In your view, what would you consider a successful bankruptcy case?

JG: A successful bankruptcy case is one in which creditors realize the maximum value that is possible for their claims in a reasonable time, be it through liquidation, a sale of assets or a successful, reorganized ongoing business. Litigation in my view is not necessarily zero sum; in bankruptcy the effort is often best spent for creditors making the best of a bad situation, and preserving value for all stakeholders.

LD: What's the most frustrating aspect of your job?

JG: The "gamesmanship" of some parties seeking to elevate their interests at the expense of others without recognition that a fair solution might require some consideration of public interest or compromise.

LD: Do you consider the Lehman bankruptcy one of the more unique or challenging cases you've handled? If so, in what respect?

JG: Yes, absolutely. The liquidation of Lehman Brothers, Inc. involved the administration of more than \$140 billion in assets and the analysis and adjudication of claims involving virtually every major financial institution in the world.

LD: What skills are important for bankruptcy lawyers?

JG: Patience, intelligence and empathy for the divergent stakeholders.

LD: Do you have any advice for young lawyers embarking in this field?

JG: Enrich your education and networking opportunities by joining national and international bankruptcy professional groups such as the ABI, INSOL or IBA.

LD: How do you establish a reputation in this area of law?

JG: By excellent work and results.

LD: What is the most pressing legal concern your clients have these days?

JG: Achieving cost-effective results. **See the Q&A at www.lawdragon.com/lawyer-limelights/james-giddens.**

James Giddens

HUGHES HUBBARD (NEW YORK)





Linda Addison

FULBRIGHT & JAWORSKI (NEW YORK)

John Roberts U.S. SUPREME COURT (WASHINGTON, DC) The switch in time that saved this nine saw Roberts see things differently between argument and decision to rule in favor of Obamacare, solidifying his position as the leader in chief of the nation's highest court.

Thomas Roberts WEIL GOTSHAL (NEW YORK) Roberts represented Kinder Morgan in one of the deals of the year - the \$37.8B purchase of rival oil company El Paso Corp., and also counsels AMR in its Chapter 11.

Mark Robinson ROBINSON CALCAGNIE (NEWPORT BEACH, CALIF.) A magnificent and dedicated consumer advocate, Robinson is lead counsel against Toyota on their sudden acceleration lawsuits, while being inducted into the California Trial Lawyer Hall of Fame for his decades of achievement.

Bruce Rogow LAW OFFICE OF BRUCE S. ROGOW (FT. LAUDERDALE) One of Florida's best legal minds, Rogow helped obtain a \$410M settlement for consumers in a class action against Bank of America overdraft fees.

Pete Romatowski JONES DAY (WASHINGTON, DC) Wal-Mart was smart to hire one of the nation's top white-collar and FCPA practitioners to combat allegations it paid \$24M in bribes in the early '80s to ease its way into Mexico.

Steven Rosenblum WACHTELL LIPTON (NEW YORK) Another member of Wachtell's all-star line-up, Rosenblum handled the \$13B merger of Duke Energy & Progress.

Joshua Rosenkranz ORRICK (NEW YORK) One of the nation's leading appellate talents convinced the 9th Circuit to overturn the disastrous initial verdict for client MGA Entertainment in the "Barbie v. Bratz" dispute with Mattel.

Neal Roth GROSSMAN ROTH (CORAL GABLES, FLA.) The civilian staff and crew of Vision Airlines picked the right leader for their claim of hazardous duty pay for flights operated in such hotspots as Kabul and Baghdad; his firm garnered \$5M.

Paul Rowe WACHTELL LIPTON (NEW YORK) This first-rate securities litigator routinely makes hay where M&A's allegedly don't shine, including for Penn National Gaming against claims from its failed leveraged buyout and for Novartis in conjunction with its purchase of Alcon.

Pete Ruegger SIMPSON THACHER (NEW YORK) The leader of one of New York's best firms expanded its imprint to Houston and Hong Kong, while continuing to counsel leading corporations like Blackstone, Travelers and Accenture.

Charles Rule CADWALADER (WASHINGTON, DC) Rule has dedicated his career to becoming the nation's leading antitrust counsel, which he is accomplishing as the lawyer for Google and Microsoft, among many, many others.

VICTOR SHER

MANY LAWYERS ENTER the legal profession “to make a difference,” as is Victor Sher’s explanation for his decision to attend law school. But few lawyers can claim to have made such a massive impact through litigation, particularly in the area of environmental law.

Sher of Sher Leff has devoted his life to protecting the environment, unafraid of taking on large corporations and governmental agencies. He practiced at Earthjustice (previously known as the Sierra Club Legal Defense Fund) for more than a decade and served as its president from 1994 to 1997, where he litigated and managed a staggering array of cases and campaigns. In private practice, he has focused his work on water contamination cases. Sher won a \$104.7M verdict in 2009 for the City of New York against Exxon Mobil for contamination by MTBE.

LAWDRAGON: When and why did you decide you wanted to devote your legal career to environmental law, as opposed to another type of practice?

VICTOR SHER: I went to law school to make a difference, and started out working on a variety of public interest issues. I handled several pro bono cases in my first few years of practice involving civil rights, fair housing and police misconduct. Then, in 1984, I represented a family farm in northern California that faced losing its organic certification - the foundation of their business - because the State of California intended to spray every apple, crabapple, and hawthorn tree or bush in six counties with a derivative of German nerve gas. Of course, there was an equally effective non-chemical alternative. The case had everything that appealed to me: interesting legal and factual questions, challenging scientific issues, David v. Goliath, lots of media attention and high drama. We got an injunction literally as the spray trucks were about to roll. I was hooked.

LD: How did you come to get the job at Earthjustice? And what about the job kept you there for more than a decade?

VS: I originally volunteered to handle some overflow environmental cases out of the San Francisco office, while the organization was still known as the Sierra Club Legal Defense Fund (although it was always independent from the Sierra Club). One of these cases led to an injunction that preserved thousands of acres of open space on the coast from development; the property later became a state park. I got to know some of the senior management in San Francisco from working on this and other cases. In 1986, the organization decid-

ed to open a new office in Seattle. I applied for and got the job as managing attorney. Then, following Rick Sutherland’s untimely death in 1991 and an interregnum period, in 1993 I was drafted to become President and moved back to San Francisco. In mid-1997 I resigned to move into private practice.

I spent seven years in Seattle litigating cases for clean water, clean air, and to preserve the ancient forests of the Pacific Northwest, among other cases. These were complex, high-profile cases, and they were exciting and satisfying to litigate. As President of the organization from 1993 to 1997, I was the CEO of a 50-lawyer law firm with 10 offices around the country - the largest public interest environmental law firm in the world. I worked to increase our effectiveness by promoting proactive litigation campaigns (rather than just individual cases) and expanding our capacity to be effective political advocates in support of litigation. During my watch, we also adopted the Earthjustice name. The challenges of building an institution and running an organization were new to me and quite different from litigating cases. But ultimately I missed the courtroom and left to do environmental tort cases.

LD: Obviously, there were many cases you worked on at the organization, as you just discussed. Nevertheless, is there a case or type of litigation you handled that you think really stands out in terms of the legacy you left for the organization, a particular region or the environment generally?

VS: Probably the best known of my Earthjustice cases were the multiple series of lawsuits my colleagues and I brought over the northern spotted owl, which was a key indicator species for the health of the ancient forests of the Pacific Northwest. These cases exposed what one court called a remarkable series of violations of the federal environmental laws by the federal agencies charged with protecting these lands and species, and led to a series of injunctions issued by multiple courts under several laws that changed logging practices on millions of acres. The American Lawyer called these cases among the most significant public lands cases in the nation’s history, and they led to a wholesale revision of the way the U.S. Forest Service and the Bureau of Land Management manage biodiversity on federal lands.

I found litigating these cases fascinating both because of the important legal and biological issues, and also because they played out on multiple legal and political levels. **See the full Q&A at www.lawdragon.com/lawyer-limelights/victor-sher.**

Victor Sher
SHER LEFF (SAN FRANCISCO)



Maritza Ryan U.S. MILITARY ACADEMY (WEST POINT, N.Y.) Colonel Ryan is the Head of the Department of Law of the U.S. Military Academy, and has used her platform as the first woman and Hispanic West Point department head to advocate against discrimination toward women in combat zones.

Faiza Saeed CRAVATH (NEW YORK) In a banner year, she represented Pentair in its massive \$10B “reverse Morris Trust” combination with Tyco Flow Control and provided counsel to Starbucks in its groundbreaking investment in Square, a widely publicized landmark technology deal.

Kelli Sager DAVIS WRIGHT (LOS ANGELES) She’s magnificent for media, successfully representing the Los Angeles Times seeking to disclose the names of peace officers who shoot and kill people while on duty, obtaining an appellate decision allowing disclosure and publication of their names.

Gloria Santana MCDONALD’S (OAK BROOK, ILL.) The head of McDonald’s legal affairs department has helped her company make tremendous strides against claims it causes obesity and is now moonlighting on a panel to help the legal profession determine ways to provide more pro bono legal services to victims of domestic violence and others in need.

Jeff Saper WILSON SONSINI (PALO ALTO) A top Wilson Sonsini dealmaker for emerging growth companies, he closed seven IPO’s last year, including that of LinkedIn.

Leigh Saufley MAINE SUPREME COURT (PORTLAND, MAINE) Maine’s first female Supreme Court chief justice is well-primed as a prosecutor and lawyer for her role leading Maine’s judiciary.

John Savarese WACHTELL LIPTON (NEW YORK) This former assistant U.S. Attorney handles some of the biggest litigations afflicting Corporate America, and advised Eastman Kodak to adopt a poison pill not only to avoid a potential takeover, but also to proceed with a sale of patents in hopes of obtaining more revenue.

Antonin Scalia U.S. SUPREME COURT (WASHINGTON, DC) Reliably right of center, he remains an emotional and intellectual center of the High Court, where he can be counted on to speak his mind from the bench and the bookshelf.

Jonathan Schiller BOIES SCHILLER (NEW YORK) His winning defense of Barclays against \$13 billion in Trustee and creditor claims after its purchase of Lehman Brothers demonstrates what he does best in the courtroom and for the client.

Allison Schneirov SKADDEN (NEW YORK) Her latest deals include Dell in its \$2.4B acquisition of Quest; NDS and its owners, Permira and News Corp., in its \$5B sale to Cisco; and Blackstone in the \$1B sale of its stake in Universal Orlando to NBCUniversal.

Paul Schnell SKADDEN (NEW YORK) He's handled more than 90 major transactions, including 25 deals each valued at more than \$1B - most recently Anheuser-Busch InBev's \$20.1B acquisition of Grupo Modelo and Amerigroup's \$4.9B acquisition by WellPoint.

Rod Schreiber SKADDEN (CHICAGO) Schreiber has guided CME in deals totaling more than \$20B, Diversey Holdings in its \$4.3B acquisition by Sealed Air and Sara Lee in its \$13B spin-off of its coffee and tea business.

Amy Schulman PFIZER (NEW YORK) Eschewing the billable hour, she created an alliance of 19 law firms and insisted they find new ways to go after her half-a-billion budget, saving 15 percent.

Robert Schumer PAUL WEISS (NEW YORK) The hits kept on coming from this perennial dealmaker, representing Warner Music Group in its \$3.3B sale to Access Industries.

Ronald Schutz ROBINS KAPLAN (MINNEAPOLIS) This elite IP advocate has won hundreds of millions of dollars for all matter of IP claims, while serving his community in numerous leadership capacities.

Christian Searcy SEARCY DENNEY (WEST PALM BEACH) The major force in Florida plaintiff claims is taking on pharmaceutical companies for side effects of Yaz and Padaxa drugs.

Christopher Seeger SEEGER WEISS (NEW YORK) After successfully settling the Chinese drywall claims, Seeger turned to the NFL head injury case, in which he represents 11 former NFL players alleging that the NFL failed to take the necessary precautions to protect them from long-term brain injuries.

Joseph Sellers COHEN MILSTEIN (WASHINGTON, DC) He represented Greater New Orleans Fair Housing Action Center in a \$62M settlement with HUD over mismanagement of \$11B in hurricane-related housing funds.

Bruce Sewell APPLE (CUPERTINO, CALIF.) While Sewell is enjoying high times with the hugely profitable tech company, he is also overseeing a fleet of lawsuits challenging Apple's preeminence.

Kannon Shanmugam WILLIAMS & CONNOLLY (WASHINGTON, DC) Only Edward Bennett Williams has argued more High Court cases from Williams & Connolly, as Shanmugam notched his 11th last year, winning a new trial for death-row inmate Juan Smith in *Smith v. Cain* based on the New Orleans DA's office's prosecutorial misconduct.

David Shapiro BOIES SCHILLER (OAKLAND) The estimable former US Attorney for Northern California recently tried a major commercial real estate foreclosure set-aside case involving Rincon Towers in San Francisco, helped obtain a large settlement from Amway for its distributors in a RICO lawsuit, and continued his post-Skilling appeals on behalf of a wrongly-convicted executive.

Neil Manne

SUSMAN GODFREY (HOUSTON)



NEAL MANNE

WHEN NEAL MANNE, 56, was formally introduced as co-managing partner of Houston-based Susman Godfrey in September 2011, the legal press more than took note. Steve Susman and Lee Godfrey are the only lawyers at the 32-year-old world-class boutique to hold the title of managing partner. As both are now in their 70s, adding Manne as a third managing partner effectively anointed him the heir apparent. So it's not surprising the news of his ascendancy to the helm of the litigation powerhouse known for multimillion-dollar verdicts and six-figure associate bonuses was treated as something like a coronation

Manne wasn't plucked from the firm's obscure partner ranks. He joined the firm in 1988 after spending several years in Washington, DC, as chief of staff for U.S. Senator Arlen Specter and chief counsel to the U.S. Senate Judiciary Committee's subcommittee on juvenile justice. Since then, Manne has made a name for himself as a star litigator as deserving of the spotlight as Susman, one of the most famous trial lawyers in the U.S. and the colorful half of the firm name. He's won major trials for both plaintiffs and defendants, representing a varied array of clients from energy companies to modern art icon Robert Rauschenberg.

Manne's reputation extends beyond his private practice to his pro-bono work. In 1994, the National Women's Political Caucus named him as the national "Good Guy of the Year," along with then Vice-President Al Gore, for his successful representation of Planned Parenthood and other women's health clinics.

LAWDRAGON: What made you decide to take on the managing partner role at this time?

NEAL MANNE: I've spent most of my career practicing law at Susman Godfrey, and I deeply appreciate the opportunities I've been given here, including the opportunity to serve as a managing partner. I have been involved in firm management, both formally and informally, for many years, so perhaps I was a natural choice. But I'm very glad my partners elected me, and I will do what I can to ensure that we all work together for many years to come. That said, Susman Godfrey has never spent a huge amount of time on firm management. Serving as managing partner really won't affect my own litigation practice.

LD: How has it been since you officially took over as managing partner? What's the biggest adjustment for you?

NM: Actually, there hasn't been much of an adjustment. I recognize that my partners are essentially unmanage-

able, because we have a very democratic system in which every lawyer has an equal vote on almost all issues of firm governance, and anything "decided" by the managing partners can be reconsidered at our weekly meeting of all our lawyers. Recognizing this helps me avoid most of the frustrations one could have as managing partner. We've also got guys named Godfrey and Susman who are also still managing partners and very much involved in running the firm.

LD: What skills as a litigator do you think serve you well in your current position?

NM: Good trial lawyers are problem solvers. They are able to identify what is important and what is unimportant. They focus on the end-game. They are persuasive advocates. I use each of those skills in my trial practice, and I use each of them to some extent as managing partner.

LD: Tell us about business development or marketing plans that Susman Godfrey is planning to undertake, or is currently undertaking, in your first year at the helm. Are you planning to just stay the course or go color outside the lines?

NM: For our entire 32 years as a firm, our very best method of business development and marketing has been to win cases. That's still the plan. The headline on our website says it all: "Susman Godfrey: The Way To Win." We've targeted some new types of cases, and offered even more attractive alternative fee arrangements to clients. But the bottom line remains the same: Win. We also have undertaken a major initiative to increase the number of female and minority lawyers (including partners) at our firm. We're already seeing progress. By the end of the year, 50% of the lawyers in our Los Angeles office will be women.

LD: With all the doom-and-gloom about firms' prospects these days, what makes you optimistic about the future of your own firm and the market in general?

NM: Our firm always has been extremely nimble in adapting to changing market conditions, and in offering clients the financial benefits of our efficiency and skill. We're trial lawyers who can try any type of case, anywhere. That's what we do, and that's all we do. By consistently winning verdicts or big settlements in major cases, we have developed a very strong and resilient brand. Consequently, our firm has done extremely well even during the last years of instability in the legal profession.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/neal-manne.

Gerald Shargel LAW OFFICES OF GERALD SHARGEL (NEW YORK) Without peer as a trial lawyer, particularly for criminal cases, he legendarily had to be removed as counsel for the Feds to secure a conviction of John Gotti, and has also represented Mark Dreier, Jeffrey Chodorow and the CEO of Czar Entertainment.

Joseph Shenker SULLIVAN & CROMWELL (NEW YORK) He's managing partner of one of the U.S.' most iconic law firms and continues to helm sensitive deals, like the \$2B sale of the Los Angeles Dodgers out of bankruptcy to Guggenheim Baseball Management, the largest transaction for a sports franchise.

Leopold Sher SHER GARNER (NEW ORLEANS) His real estate expertise is critical for the redevelopment of New Orleans, lending advice on the expropriation of properties by the State to make way for multibillion dollar construction of the new Charity and VA Hospitals in the Mid City.

Victor Sher SHER LEFF (SAN FRANCISCO) The former president of Earthjustice has become Mr. Clean Water, suing municipalities nationwide for the toxics infecting residents' water supply, most recently winning a \$26.5M settlement for contamination of water by Fruit of the Loom in St. Louis, MO.

David Sherbin DELPHI (TROY, MICH.) This general counsel navigated Delphi through a 4-year Chapter 11 bankruptcy, shedding \$6B in debt and \$22B in liabilities.

Nancy Shilepsky SHILEPSKY HARTLEY (BOSTON) She negotiated for fair market pay for a female C-level executive and implemented ERISA 'top-hat' law to challenge the denial of severance to a former company president.

Roman Silberfeld ROBINS KAPLAN (LOS ANGELES) One of Los Angeles' most winning lawyers, he followed up his \$320M 'Who Wants to Be A Millionaire' verdict with a class action against makers of chocolate for price fixing, while representing Medtronic, Best Buy and numerous others.

Gerald Silk BERNSTEIN LITOWITZ (NEW YORK) Directs the client advisory group of Bernstein Litowitz's industry-leading securities fraud practice, including representing prominent institutions worldwide in litigations arising from the sale of toxic residential mortgage-backed securities by major banks.

Robert Silver BOIES SCHILLER (NEW YORK) Special forces on Boies Schiller's tried and tested brain trust, Silver is called upon routinely to help solve, behind the scenes, the most complex, difficult legal matters, and he delivers for American Express, C.V. Starr, PIMCO and Sony to name a few.

Bruce Simon PEARSON SIMON (SAN FRANCISCO) As co-lead counsel, this veteran class action plaintiff lawyer obtained a \$388M settlement on behalf of a class of direct purchasers of TFT-LCD (flat-screen TV) products.

Diane Sullivan

WEIL GOTSHAL (NEW YORK)



Joe Sims JONES DAY (WASHINGTON, DC) This antitrust ace showed his finesse and knowledge of DC and the DOJ, securing approvals for two mergers last year: Comcast's joint venture with GE to create NBCUniversal and ABB Ltd.'s \$4.2B acquisition of Baldor Electric.

Stuart Singer BOIES SCHILLER (FT. LAUDERDALE) An advocate for the biggest corporations as well as the most vulnerable in the Sunshine State, he represented 1.7 million Florida children suing the state for healthcare, asking it to meet federal Medicaid Act requirements.

Paul Singerman BERGER SINGERMAN (MIAMI) He's on a roll, helping to lead one of Florida's most successful business law firms and its deepest restructuring and workout team, which is representing fiduciaries in the Sunshine State's two largest billion-dollar-plus fraud cases (Taylor Bean & Whitaker and Rothstein Rosenfeldt & Adler), as well as other high-profile restructurings both in and out of court.

Pankaj Sinha SKADDEN (WASHINGTON, DC) He led several deals transforming the energy sector, including Entergy's \$6B divestiture via tax-free spin-off and merger of its transmission business into ITC and AES Corp.'s \$3.5B acquisition of DPL.

John Skenyon FISH & RICHARDSON (BOSTON) This leading IP attorney has handled more than 100 IP lawsuits, winning one of the largest patent infringement verdicts ever in Massachusetts.

Daniel Slifkin CRAVATH (NEW YORK) He has tremendous trial expertise and handles a broad array of matters, including bankruptcy, commercial, employment and securities, recently winning rulings that saved JPMorgan Chase from class claims on nearly \$40B worth of mortgage-backed securities.

Bradford Smith MICROSOFT (REDMOND, WASH.) As the battle for patents among high-tech companies heats up, Microsoft's general counsel is also focused on establishing legal underpinnings for the cloud and next-generation technology.

Bradley Smith DAVIS POLK (NEW YORK) An outstanding finance counselor, he represented J.P. Morgan, Merrill Lynch and Citigroup in lending Cliffs Resources \$4B to finance its acquisition of Consolidated Thompson Iron Mines as well as JP Morgan and Merrill Lynch as lead arrangers of \$2.5B in credit for Johnson Controls.

Paul Smith JENNER & BLOCK (WASHINGTON, DC) Scoring big in the U.S. Supreme Court in *EMA v. Schwarzenegger*, he established that video games enjoy full constitutional protection from content-based regulation of their expression.

J. Sedwick Sollers KING & SPALDING (WASHINGTON, DC) Sollers showed his ability to handle the toughest situations, taking on representation of the late Penn State coach Joe Paterno as the university's child sex abuse scandal came to light.

Amy Solomon GIRARDI & KEESE (LOS ANGELES) She's tops in class for her passionate advocacy for California consumers injured by medical malpractice and bad products - and a role model for what a lawyer should be.

Michael Songer CROWELL & MORING (WASHINGTON, DC) As co-lead counsel in *DuPont v. Kolon*, he won \$919M, the largest jury trade secret verdict, for DuPont regarding the company's product Kevlar, used to create bullet-proof vests.

Larry Sonsini WILSON SONSINI (PALO ALTO) Sonsini remains Prince of the Valley he helped create through early advice to companies like HP, Apple and Google and last year celebrated his firm's 50th anniversary.

Sonia Sotomayor U.S. SUPREME COURT (WASHINGTON, DC) She's made her presence on the High Court known early on with assertive questioning and insightful analysis, as seen in her 9-0 *Matrixx* decision, making it easier for securities fraud plaintiffs suing drug companies to overcome dismissal motions.

Christine Spagnoli GREENE BROILLET (SANTA MONICA) For this product liability plaintiff attorney, the \$73M Mauro victory was déjà vu including two deaths that should never have happened - she litigated against Ford Motor Co. and the exact same tires over tread separation a decade earlier.

Robert Spatt SIMPSON THACHER (NEW YORK) A master dealmaker, Spatt represented Kinetic Concepts in its \$6.3B sale to Apax Partners, as well as JP Morgan as advisor to United Technologies in its \$18.4B acquisition of Goodrich Corp. as well as the Board of Directors of Merchant eSolutions in its \$670M sale to Cielo.

Shanin Specter KLINE & SPECTER (PHILADELPHIA) The top Philadelphia plaintiff lawyer has taken on Penn State for victims of the abuse by Jerry Sandusky and the university's role in the scandal.

Gerry Spence SPENCE LAW OFFICE (JACKSON, WYO.) The legendary trial lawyer of Silkwood fame is instilling hundreds of attorneys with his methods through his Trial Lawyers College while his law firm advocates for workers and those injured in Wyoming and surrounding areas.

James Sprayregen KIRKLAND & ELLIS (CHICAGO) He's one of the best in the business for bankruptcy, as seen in his counsel for Corus Bankshares, a complex bankruptcy case in which he helped transform Corus from a bank holding company to a real estate and financial services business.

PERRIE WEINER

PERRIE WEINER first took an interest in the securities markets at the age of 13, when he would listen to his father and older brother (both lawyers) talk shop. It's an interest that has served him well: Weiner is international co-chair of the securities litigation practice at DLA Piper, where he also serves as managing partner of the Century City office and as a member of the firm's executive and policy committees.

Weiner is kept busy and energized jumping from one cutting-edge trend of securities litigation to the next. In recent years, Weiner played a lead role in defending class-action suits and regulatory actions against Chinese-based companies that entered the U.S. markets through "reverse mergers" – a controversy that has received significant news coverage.

LAWDRAGON: Why have reverse mergers posed these regulatory complications?

PERRIE WEINER: While there is nothing inherently problematic with Chinese Reverse Mergers, indeed the vast majority of them are sound, the U.S. Securities and Exchange Commission (SEC) has identified two primary regulatory complications. The first relates to the quality of the auditing and financial reporting. In particular, according to a report by the staff of the Public Company Accounting Oversight Board (PCAOB), there is a concern that U.S. auditing firms in certain instances may be issuing audit opinions on the financials of these companies, but not engaging in much or any of their own work. Instead, the U.S. firms may be issuing an opinion based almost entirely on work performed by Chinese audit firms....

The other regulatory complication, raised and acknowledged by the SEC, is that even though these companies are registered in the U.S., there are limitations on the ability to enforce securities laws, and for investors to recover their losses if disclosures are ever found to be untrue.

LD: Why has there been such an uptick in the lawsuits filed against these types of defendants?

PW: The primary reason for the uptick in lawsuits is simply this – the intentionally false or reckless negative analytical reports being publicly disseminated by self-proclaimed "analysts" who are shorting the stock in the very companies about which they are reporting.

Plaintiffs' class action lawyers, then, essentially republish those reports by cutting and pasting them into securities class action or derivative action complaints. Those unverified accusations and conclusions common-

ly form the basis of the purported fraud allegations in the complaints. It's a very profitable cottage industry that has developed over night, for both analysts and plaintiffs' class action lawyers, alike.

LD: What are the challenges of these cases separate from other securities litigation cases?

PW: Perhaps the greatest challenge is the need to bridge the cultural divide. And, that applies equally with respect to our China-based clients, as well as with the SEC, FINRA and plaintiffs' counsel that we interface with.

Many China-based companies, and their management teams, didn't undergo the learning process of what it means to be a public, reporting company in the U.S. before they became public. Moreover, U.S. based litigation appears to China-based companies to be incredibly invasive. Many companies in China do not understand the discovery process of U.S. based litigation, and what it takes to defend a U.S. securities class or derivative action successfully, much less an SEC and/or FINRA investigation.

The more I explain the process to new clients and hear myself speak, the more I've come to realize how truly invasive and burdensome the U.S. litigation process is. Too many lawyers lack the necessary empathy.

LD: Have you always practiced in securities litigation?

PW: My earliest years, following a federal judicial externship and then clerkship in the central district of California, involved handling a wide variety of cases including complex commercial, banking, products liability as well as the more traditional forms of securities litigation. I soon narrowed my focus, primarily, to securities litigation. To keep things interesting and fresh, I carved several niches in this practice area along the way, and have enjoyed an extremely diversified, broad based securities practice, including hedge fund litigation, options back dating litigation, mortgage backed securities litigation, Reserve Fund litigation, Auction Rate Securities litigation, "pay to play" litigation, as well as the more traditional "stock drop" types of securities cases, etc.

There is a very strong regulatory component to my securities practice, as my team and I handle a large number of cases opposite the SEC, U.S. Attorneys' Office, A.G.'s office, FINRA, etc. I also balance this with a fairly large consumer class action practice on behalf of a number of institutional clients. It's incredibly diversified, and a true international practice.

See the full Q&A at www.lawdragon.com/lawyer-lights/perrie-weiner.

Perrie Weiner
DLA PIPER (LOS ANGELES)



Sri Srinivasan OFFICE OF U.S. SOLICITOR GENERAL (WASHINGTON, DC) This nominee to the U.S. Court of Appeals for the D.C. Circuit embodies excellence in all he does, from his time as an O'Melveny partner, where he began to amass his record of 18 High Court appearances, to his selection by Solicitor General Donald Verrilli as his deputy.

Richard Stark CRAVATH (NEW YORK) He secured a permanent injunction in favor of IBM against Neon Enterprise Software's zPrime products, was co-lead counsel in a \$442M patent infringement win for Sanofi-Aventis and Bristol-Myers Squibb and won dismissals of four related antitrust actions brought against the drug companies.

Myron Steele DELAWARE SUPREME COURT (DOVER, DEL.) A judicial role model for his unflinching commitment to his state's outstanding judiciary, which he played no small part in raising to its rare level of excellence.

Laura Stein THE CLOROX COMPANY (OAKLAND) An in-house leader and role model for her oversight of the company's worldwide legal, ethics and compliance functions, she established pro bono as an in-house imperative, providing counseling to the Family Violence Law Center of Oakland.

David Stern KLEE TUCHIN (LOS ANGELES) His quiet petition in LA Bankruptcy Court (with Robert Pfister) provided the platform for a ruling that the Defense of Marriage Act is unconstitutional and allowed gay couples to jointly file bankruptcy petitions.

Larry Stewart STEWART TILGHMAN (MIAMI) His commitment to the consumer has helped him win more than 50 million-dollar-plus verdicts and settlements and create volumes of appellate precedent.

Aaron Stiefel KAYE SCHOLER (NEW YORK) Gentlemen of America, thank Stiefel, who protected Pfizer's patent on Viagra.

Jonathan Streeter DECHERT (NEW YORK) The tenacious former prosecutor convicted Galleon's Raj Rajaratnam on 14 counts of securities fraud, the largest insider trading case in history, and successfully prosecuted the CEO of Duane Reade, Ernst & Young partner James Gansman and former lawyer Marc Dreier.

Leo Strine DELAWARE COURT OF CHANCERY (WILMINGTON) The brilliant overseer of Corporate America's litigation has become its Chancellor and commemorated the event by shredding Goldman Sachs (while allowing the acquisition of El Paso by Kinder Morgan) and awarded \$304M in attorney fees to plaintiff lawyers who brought the Southern Copper litigation.

Paul Stritmatter STRITMATTER KESSLER (SEATTLE) A leading plaintiff lawyer for consumers in the Northwest, he has reached dozens of multimillion-dollar verdicts and settlements, including, most recently, for a family whose child contracted E-coli at a daycare center.

Brendan Sullivan WILLIAMS & CONNOLLY (WASHINGTON, DC) One of the most esteemed lawyers of this generation has elevated his profile even more (if that's possible) with News Corp. hiring him to sort out its legal troubles from the phone-hacking and bribery scandal.

Diane Sullivan WEIL GOTSHAL (PRINCETON, N.J.) She's the mass tort defense lawyer du jour, winning a defense verdict for Philip Morris in a \$455M lawsuit brought by 37 St. Louis hospitals for the cost of treating indigent patients with tobacco-related illnesses.

Steve Susman SUSMAN GODFREY (HOUSTON) Recognized as one of the most successful plaintiff's attorneys of all time, Susman and his firm specialize in bet-the-ranch commercial litigation.

R. Jay Tabor WEIL GOTSHAL (DALLAS) The longtime advisor to Kinder Morgan pulled off the deal of the year with its \$37.8B acquisition of El Paso Corp. and subsequent transactions including a \$7B sale of assets.

Ariana Tadler MILBERG (NEW YORK) There's always room for innovation. Tadler, a talented securities litigator, created an E-Discovery practice with a team of lawyers and technologists armed with the necessary hardware and software to provide a solid and reliable service.

John Tarantino ADLER POLLOCK (PROVIDENCE, R.I.) Mr. Rhode Island has the trust of the state's corporate and government elite, having successfully defended Atlantic Richfield Co. in landmark lead paint litigation and is now battling the state's unions on behalf of the Governor, state treasurer and Employees' Retirement fund to defend against constitutional challenges to the state pension system.

Paul Taskier DICKSTEIN SHAPIRO (WASHINGTON, DC) Two years after his \$431M IP jury verdict for Saffran against Boston Scientific, he followed it up with a \$482M victory for Saffran vs. Johnson & Johnson.

G. Irvin Terrell BAKER BOTTS (HOUSTON) This top trial lawyer just keeps getting better; he advised George W. Bush in the presidential election litigation and, more recently, represented Texas Republicans in redistricting litigation, as well as ASARCO in its \$5B victory against Americas Mining and subsequent successful emergence from bankruptcy and purchase by Grupo Mexico.

Stephen Herman

HERMAN HERMAN (NEW ORLEANS)



STEPHEN HERMAN

ASKED WHETHER he considers the \$7.8 billion settlement he helped obtain as co-lead counsel in the 2010 BP Gulf of Mexico class action a defining moment in his legal career, Stephen J. Herman hesitates. “It’s certainly the largest case where I’ve played a primary role,” says the 43-year-old partner at Herman, Herman, Katz & Cotlar in New Orleans. “[But] the Scott v. American Tobacco case is certainly the greatest accomplishment that I have been associated with. I was one of many, but I played a significant role.”

The Scott case is considered a seminal case for tobacco class-action litigation. The case was first filed by Herman’s father, the legendary Russ M. Herman, in 1996 when Steve Herman was in law school, working as a paralegal at the historic firm founded by his grandfather. The case concluded in 2011 with a U.S. Supreme Court ruling affirming the \$240 million award against major tobacco companies to cover the cost of helping qualified smokers in Louisiana quit smoking. “It took us a total of about three years to try, 18 months to pick a jury; it’s one of the few class action cases against tobacco to go to trial, and it’s the only class action verdict that has withstood appeal all the way to the U.S. Supreme Court,” Herman says. The case not only defined his career path, but it also became a chapter in a book he wrote while in law school published in 1998, “America and the Law: Challenges for the 21st Century.”

“The BP oil spill case really presents a very broad challenge because you’re dealing with a very broad number of people across a fairly significant geography, and it’s an intersection of a lot of different laws. So it’s challenging for all those reasons,” Herman concedes. Still, he believes, it was the tobacco litigation and past high-profile cases such as the Chinese dry-wall litigation, the Schultz v. Texaco case, and the Marchesani v. Pellerin-Milnor Fifth Circuit decision that really solidified his career as a plaintiffs lawyer.

“I was lucky enough to be involved in a number of high-profile and complex cases and all of that experience prepared me to deal with the things that I had to deal with in the BP oil case,” he says. “All that experience put together was all the preparation I needed for this case.”

LAWDRAGON: How has the BP oil spill case affected your practice and your personal life, or has it?

STEPHEN HERMAN: It has been all-consuming. As my wife and kids will attest, I have never really had a “day off” since early May 2010. Even when not physically

doing work, I am always pre-occupied with issues, forming to-do lists in my head, drafting would-be filings, or responding to e-mail, (which I check constantly).

LD: Anything interesting in the case that you can share that hasn’t been written about?

SH: I’m not sure if it is really a “secret,” but the framing of BP’s failure to maintain source control as a separate quantification of fault was, in my opinion, critical to shifting the focus from errors on the rig in the heat of the moment to systemic failures by management.

LD: What was the first thing you did that you couldn’t do while you were immersed in this case?

SH: I cleaned up my yard, in anticipation of a party that my wife and I threw the next weekend for all of the attorneys and staff who had been working so hard preparing for trial.

LD: Like many other massive plaintiffs cases, there was an intense battle to win lead-counsel. How do you think you earned your spot on this one?

SH: I’m not sure, exactly. I think the Court likely recognized that Jim Roy and I would work well together, and there was a fairly broad consensus among the lawyers involved for Jim and I to serve as co-liaison counsel fairly early on. After the Multidistrict Litigation (MDL) Panel transferred the case to New Orleans, we were fortunate enough to have an all-star Plaintiffs Steering Committee appointed, as well as the cooperation of almost 100 additional firms contributing to the common benefit effort.

LD: What do you consider the most challenging aspect of being a plaintiffs attorney?

SH: Trying to keep your head up, take the long view, and not get sucked into a battle over something that’s not worth fighting about.

LD: How did you end up in this area of law?

SH: When I finished clerking for [former Louisiana Supreme Court] Justice [Harry T.] Lemmon, the firm was involved in a number of class actions. I worked on those, with some success, and then began teaching complex litigation at both Tulane and Loyola. Because of our experience in Propulsid, Vioxx and Chinese Drywall, our firm had demonstrated an ability to manage these larger multi-district cases.

LD: Do you have a hobby or something you do for fun outside of work?

SH: I used to write a lot, but now I am mostly reduced to e-mails and briefs. See the full Q&A at www.lawdragon.com/lawyer-limelights/stephen-j-herman.

Clarence Thomas U.S. SUPREME COURT (WASHINGTON, DC) Thomas remains solidly on the High Court's right, penning the *Janus* decision limiting liability in securities fraud claims to the person or entity ultimately responsible for issuing misstatements on its prospectus, shielding from liability the asset management fund that advised it.

James Thompson HARE WYNN (BIRMINGHAM, ALA.) A top trial lawyer in a firm flush with them, he helped win the \$750M settlement for Arkansas rice farmers against Bayer Cropscience over crops contaminated by genetically-engineered strains of rice after winning a jury verdict of \$48M, which reversed the Arkansas damages cap.

Jean Toal SOUTH CAROLINA SUPREME COURT (COLUMBIA, S.C.) When she joined South Carolina's bar in 1968, fewer than 1 percent of its members were women; that number is now past 20 percent and she is the leader of its Supreme Court.

Mary Ann Todd MUNGER TOLLES (LOS ANGELES) She brokered Warren Buffet's \$5B investment in Bank of America and Vivendi's \$1.9B purchase of EMI's Recorded Music Division.

Robert Townsend CRAVATH (NEW YORK) This top dealmaker represented Johnson & Johnson in its \$21.3B acquisition of Synthes, the largest deal in J&J's history, and acted as counsel to Arch Chemicals in its \$1.4B acquisition by Lonza.

David Tulchin SULLIVAN & CROMWELL (NEW YORK) One of Sullivan's top trial talents saw the end of Microsoft's 30 years of antitrust litigation, for which he served as national lead counsel, while winning dismissal of an informant's class action against Boeing on Dreamliner planes.

Jonathan Turley GEORGE WASHINGTON LAW SCHOOL (WASHINGTON, DC) The brilliant George Washington law professor provides a breath of fresh air to the often inane legal punditocracy and pens one of its best blogs while advocating on behalf of older prisoners and environmental protection.

James Tyrrell Jr. PATTON BOGGS (NEW YORK) The Master of Disaster, who defended Agent Orange and more recently the City of New York in toxic effects of 9/11, has switched sides to take on Chevron on behalf of thousands of Ecuadoreans who have suffered severe damage in what one expert has estimated could be a \$113B case.

Ted Ulyot FACEBOOK (PALO ALTO) The prior experience of the extraordinarily talented lawyer who served as assistant counsel to President George W. Bush in the Valerie Plame imbroglio and Chief of Staff in the Justice Department could come in handy as the social network gets defriended of billions of dollars and faces waves of shareholder litigation and business challenges.

Garry Mathiason
LITTLER (SAN FRANCISCO)



KENNETH ECKSTEIN

KENNETH ECKSTEIN of Kramer Levin Naftalis & Frankel is one of the nation's leading bankruptcy attorneys. He was in the eye of the storm heading teams for creditors in both the GM and Chrysler bankruptcies, and he also represented St. Vincent's Catholic Medical Centers in New York in a creative solution to its bankruptcy that will lead to the creation of a 24-hour emergency facility. He serves as co-chair of Kramer Levin's 40-attorney corporate restructuring and bankruptcy practice.

LAWDRAGON: Can you describe your practice to our readers, including what type of clients you tend to represent?

KENNETH ECKSTEIN: I have a diverse practice cutting across all aspects of the bankruptcy and restructuring world. Most of my work is creditor-based, but I have a significant company-side component to my practice as well. I have had a leading role in many of the highest-profile bankruptcy cases over the past 30 years, starting in the 1980's with Texaco and Eastern Airlines. I've been involved in some of the largest mass tort bankruptcy cases, including the Dow Corning bankruptcy stemming from the breast implant litigations as well as the Owens Corning asbestos case.

I represented the creditors' committees for General Motors and Chrysler and represented bondholders of Adelphia. On the company side, I recently represented St. Vincent's Medical Center and Bally Total Fitness, the health club chain. I have had an interesting and diverse practice, and have been fortunate to be on the front lines dealing with some of the most cutting-edge issues that have defined bankruptcy law.

LD: What was 2009 like after being selected as counsel in both the GM and Chrysler bankruptcies?

KE: Being selected within six weeks for both the Chrysler and General Motors creditors' committees was a tremendous achievement for the bankruptcy department and the entire firm. It was a fantastic opportunity for Kramer Levin to play a major role in a historic period in financial restructurings. This was a very intense period for our entire department. Both cases proceeded on an extraordinarily expedited basis. Chrysler was accomplished essentially in 60 days. GM required about 90 days. There was about a month of overlap.

Our teams were working essentially around the clock to deal with all the issues and the time table being imposed for the transactions. We mobilized large teams from throughout the firm – corporate, tax, litigation, pensions. It's a good example of how our firm

deals with complex restructuring cases. A lot of lawyers throughout Kramer Levin, including many of our top partners, are accustomed to working on these types of cases. So we were able to mobilize people quickly and efficiently. Obviously, many, many parties were involved in these transactions, but we are proud we were able to make an important contribution to the restructuring of the auto industry in this country.

LD: What do you think makes your group attractive to prospective clients?

KE: Well, with me and my co-chair, Tom Mayer, you have two very experienced, recognized leaders in the practice area, and we have many other experienced partners and a deep and talented group of associates. Together we have cutting-edge experience in the widest spectrum of cases on both the company and the creditors' side and a tremendous track record in court. We have a very pragmatic, solutions oriented approach, and time and again we've delivered. And since we are such a significant part of Kramer Levin, we can draw on the best talent throughout the firm's practice areas. We assemble the A team for every one of our cases.

LD: How did you come to focus on bankruptcy matters in your career?

KE: Like most law students, bankruptcy was not something I was familiar with. My involvement in the practice is a fortuitous story. When I was a law student, bankruptcy judges did not have permanent law clerks. They had part-time law clerks. I was at NYU and knew somebody completing a clerkship for Judge John Galgay in the Southern District of New York. My friend asked if I was interested in interviewing for the position. I was hired to be a part-time clerk during law school – Fridays and two afternoons a week. This was my introduction.

When I applied for permanent jobs, I was one of the few candidates with any exposure to bankruptcy, so I was encouraged to try it. I began my career at Weil Gotshal, which had the largest bankruptcy practice at the time. I started in 1979, just when the new bankruptcy code was going into effect. The new code introduced a new era of bankruptcy as a strategic corporate tool. I was fortunate to enter on the ground floor of a growing practice area that has become one of the high-profile practice areas of the last 30 years. I moved to Kramer after a few years at Weil to take advantage of a great opportunity, and I never looked back.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/kenneth-eckstein

Kenneth Eckstein

KRAMER LEVIN (NEW YORK)



Andrew Michaelson
BOIES SCHILLER (NEW YORK)



Anton Valukas JENNER & BLOCK (CHICAGO) This top-notch litigator's powerful special report as Examiner in the Lehman Bros. bankruptcy has led to sweeping financial reforms following his testimony before the U.S. Senate.

Christine Varney CRAVATH (NEW YORK) This competition expert headed the Antitrust Division of the Department of Justice which she guided to victory in its case against H&R Block and clarified the antitrust review process through revised merger and remedy guidelines before joining the firm last year.

Donald Verrilli OFFICE OF SOLICITOR GENERAL (WASHINGTON, DC) He won Obamacare. So there.

Patricia Vlahakis WACHTELL LIPTON (NEW YORK) Among many deals, this corporate star advised Motorola in Google's \$12.5B acquisition of the mobile device company.

Karen Wagner DAVIS POLK (NEW YORK) When the Madoff trustee sought \$1B from her client, Sterling Equities, owners of the Mets, she fought back hard, winning a ruling that threatened the entire clawback enterprise, which she used to negotiate a settlement that explicitly recognized her clients were not willfully blind to the Madoff fraud and that could result in no payment by Sterling.

Helgi Walker WILEY REIN (WASHINGTON, DC) This top appellate and telecommunications lawyer has played a critical role in forming policy on digital access, representing Verizon and the National Association of State Utility Consumer Advocates on the FCC's high-cost universal service support mechanism.

John Walker GOOGLE (MOUNTAIN VIEW, CALIF.) Google and its general counsel are showing some real chops in the mounting patent and copyright battles in Silicon Valley, most recently turning back two claims brought by Oracle.

Daniel Wall LATHAM & WATKINS (SAN FRANCISCO) Wall has an increasingly powerful practice as antitrust becomes a focal point in Silicon Valley; he represents Apple as well as Oracle, for which he recently litigated the Itanium case against HP.

Leigh Walton BASS BERRY (NASHVILLE) This talented Tennessee dealmaker has a special affinity for representing medical providers, advising HCA Inc. in its \$3.79B public offering last year, the largest private-equity backed IPO in history.

Elizabeth Warren HARVARD LAW SCHOOL (CAMBRIDGE, MASS.) After it became politically not viable for this Harvard Law professor to head the agency she created (the Consumer Financial Protection Bureau), she packed up her white-hot political cachet and set her sights on U.S. Senator Scott Brown's seat.

Dennis Wasser WASSER COOPERMAN & CARTER (LOS ANGELES) Like daughter, like father: Wasser represented Tom Cruise in his negotiations with Katie Holmes just one year after representing Jamie McCourt in her divorce from Frank.



Wayne Outten
OUTTEN & GOLDEN (NEW YORK)

WAYNE OUTTEN

WAYNE OUTTEN, founder and managing partner of employment and labor firm Outten & Golden in New York City, was pretty sure of what he wanted to do after law school. He wanted to make a living doing something that is socially useful, so he decided to become a civil rights attorney. But after being asked by his mentor, Norman Dorsen, then president of the American Civil Liberties Union, to write a volume in a book series on employee rights, he got sidetracked.

By the time his book, "The Rights of Employees and Union Members," was published in 1984, he was already successfully representing employees in employment disputes. Today, his firm, which he started with partner Anne Golden in 1998, has 35 lawyers with satellite offices in Stamford, Conn. and Chicago, and is reputedly the largest firm in the country that represents only employees.

"Twenty, thirty years ago, I sort of envisioned much of what I'm doing now, which is basically helping people," Outten says. "But I honestly didn't envision founding a firm and building such a large practice."

LAWDRAGON: You're the co-chair of your firm's Executives and Professionals Practice Group. Can you describe that practice group?

WAYNE OUTTEN: Our firm has a broad-based practice with two main parts – the individual side and the class side. The latter category, which represents a substantial part of our practice, consists of large class and collective actions, including discrimination cases, wage-and-hour cases, and WARN Act cases. Of course, that practice area is focused mainly on litigation. I personally don't do those cases. I spend all of my time on the individual side. For the past 15 years or so, I've focused mainly on representing executives, bankers, and professionals.

Our Executives and Professionals Practice Group represents executives, managers, and bankers, in all aspects of their employment – from negotiating an employment agreement or offer letter at the front end, to negotiating a severance package at the back end, and everything in between (including compensation issues and non-competition issues). Within that practice area, we have a niche practice representing expats – U.S. employees working abroad.

We do the same kind of work for professionals, particularly lawyers, doctors, accountants, and consultants. For example, we represent lawyers who are changing jobs, including advising them about their

rights and responsibilities as partners. Although our Executives and Professionals Practice Group focuses on transactional matters, it also asserts and prosecutes claims when appropriate, whether based on breach of contract or on discrimination or retaliation. That practice has grown steadily to the point that we are one of the largest groups in the country on the employee side with a focus on representing executives and professionals.

LD: What skills are required for this kind of practice?

WO: The most important skills are negotiating, strategizing, and understanding the personal and business dynamics in any employment transaction. The employee's lawyer needs to be able to determine the wants, needs, and interests of both the employee and the employer in a transaction, whether the employee is joining or leaving the employer. I spend a great deal of time counseling and coaching. Frankly that involves a lot of psychology. I've been "accused" on occasion of being an amateur psychologist.

I try to identify who the decision makers are, what pushes their buttons, whether they feel guilty for what they did to my client, etc. I often work with my client on identifying which people in the company have the disposition to help them and/or the power to help. Those same principles can apply not only when the client has been terminated or is having problems at work, but also when the client is negotiating a new job offer.

I've been honing these skills for more than 30 years now. I think I'm a very good problem solver and a good strategist; and, of course, I have a foundation of substantive knowledge of the law.

LD: How do you hire and train new lawyers in this area?

WO: We have an extraordinarily talented workforce. We usually hire two to four lawyers each year. We look for lawyers who have three traits. First, a candidate must be a star or a star in the making; we want people who have all the skills required to succeed in the legal profession – having good grades, being smart, having leadership experience, being willing to work hard, and having the drive to excel. Many of the traits and skills that enable people to succeed in college and in law school will enable them to succeed in the practice of law also. The main things we're looking for are leadership skills, the ability to learn, and the drive to excel. Our firm's goal is to provide excellent service to every client or matter all the time.

See the full Q&A at www.lawdragon.com/lawyer-lime-lights/wayne-outten.

Laura Wasser WASSER COOPERMAN & CARTER (LOS ANGELES) She's TMZ's dream lawyer, representing Maria Shriver, Kim Kardashian, Heidi Klum, Vanessa Bryant, Britney Spears, Angelina Jolie and Stevie Wonder.

Seth Waxman WILMERHALE (WASHINGTON, DC) The wisdom of Waxman continues to prevail: his Supreme Court team won a ruling for ABC and other broadcasters that the FCC's rule regime on fleeting nudity and profanity was impermissibly vague, while also winning a complete reversal for former Network Associates CFO Prabhat Goyal's securities fraud convictions.

Joseph Wayland U.S. DEPARTMENT OF JUSTICE (WASHINGTON, DC) The former Simpson Thacher partner won the first merger injunction in eight years, blocking H&R Block's acquisition of TaxAct, before killing AT&T's acquisition of T-Mobile. Yep, antitrust is back.

B. Trent Webb SHOOK HARDY (KANSAS CITY, MO.) Keep an eye on Webb, who's handled more than 100 IP cases for clients including Microsoft, Nike and Sprint, for which he won the largest jury verdict in Kansas history, \$69.5M, involving voice over packet patents against Vonage.

Dan Webb WINSTON & STRAWN (CHICAGO) The iconic former prosecutor and firm chairman has been tapped to defend Archer Daniels Midland and the Corn Refiners Association in escalating legal battles over false advertising claims related to corn syrup.

Perrie Weiner DLA (LOS ANGELES) This securities litigation attorney handles Death Spiral/Pipes, Naked Shorting cases and represents reverse-merger companies in regulatory disputes, generally foreign companies trying to gain entry to U.S. stock exchanges.

Reid Weingarten STEPTOE & JOHNSON (WASHINGTON, DC) The white-collar lawyer of choice if you're in deep s--t, he represented Bernard Ebbers and Roman Polanski and is reportedly counsel to Goldman chief Lloyd Blankfein; recently, he won acquittal for former GlaxoSmithKlein Associate GC Lauren Stevens, charged with lying to the government on off-label promotion of Wellbutrin.

Perry Weitz WEITZ & LUXENBERG (NEW YORK) Weitz is a leader of the pack in securing awards and settlements for mesothelioma and medical malpractice cases.

Edward Welch SKADDEN (WILMINGTON) His team secured a victory on behalf of Human Genome Sciences and its board, thwarting a shareholder attempt to block GSK's \$3.6B acquisition of the company.



Christian Searcy
SEARCY DENNEY (WEST PALM BEACH)

Theodore Wells PAUL WEISS (NEW YORK) Wonderful Wells is easily one of the top trial lawyers in the U.S., which he showed again in the SEC's decision to forgo charges against Goldman, his Terra Firma victory and his work for Harlem Success Academies 1 and 4, protecting students who attend charter schools, which faced shut-down if they had to pay rent.

John White CRAVATH (NEW YORK) White's monumental stint as director of the SEC's division of corporation finance has made him the go-to advisor for public companies on corporate governance matters, public reporting obligations, challenging disclosure issues, restatements and financial crises.

Mary Jo White DEBEVOISE & PLIMPTON (NEW YORK) The indomitable former U.S. Attorney for New York was tapped to represent independent directors of News Corp. in the phone-hacking scandal while succeeding in making it safe for an author and Hachette Publications to publish TrumpNation, which allegedly underestimated The Donald's worth.

Richard Wiley WILEY REIN (WASHINGTON, DC) Without peer in the telecommunication arena, Wiley added the title of chairman to his resume and was tapped by presidential hopeful Mitt Romney for his Justice Advisory Committee.

Beth Wilkinson PAUL WEISS (WASHINGTON, DC) The superstar Army Captain hired by the FTC to investigate Google for anti-competitive behavior is one of the most coveted and accomplished lawyers in the nation, defending the NFL in concussion litigation, Phillip Morris in new tobacco claims and Activision in its trial against developers of the 'Call of Duty' franchise.

Ann Claire Williams 7TH U.S. CIRCUIT COURT OF APPEALS (CHICAGO) The highly respected Chicago jurist took her justice advocacy to Kenya where she worked to enlighten lawyers handling domestic violence trials after changes in the country's constitution overhauling the Kenyan judiciary.

Gregory Williams RICHARDS LAYTON (WILMINGTON) At the top of the Delaware litigators of choice, Williams helped Leonard Riggio and Barnes & Noble beat back a hostile takeover attempt by Ron Burkle and The Yucaipa Co.

Michael Wiseman SULLIVAN & CROMWELL (NEW YORK) The managing partner of Sullivan's vaunted financial institutions group wrangled the \$85B government takeover of AIG and subsequent \$30B capital commitment, while also representing Goldman Sachs, UBS and now BP.

Donald Wolfe POTTER ANDERSON (WILMINGTON) Wolfe may be the leading Delaware counsel of choice for Chancery battles after helping Wachtell win Airgas and winning approval for Liberty Media Corporation to spin off two divisions.

Marc Wolinsky WACHTELL LIPTON (NEW YORK) Wolinsky has become corporate kryptonite for companies engaged in life-and-death struggles, preserving the poison pill in the hard-fought Airgas war and forcing Dow Chemical to close on its acquisition of Rohm and Haas.



Jonathan Turley

GEORGE WASHINGTON LAW SCHOOL (WASHINGTON, DC)

A professional portrait of Peter Bicks, a man with glasses wearing a dark pinstriped suit, a light blue shirt, and a patterned tie. He is standing in a modern office space with a large window on the left showing a grid pattern and some lights. Four cylindrical pendant lights hang from the ceiling. A curved wooden desk is visible in the bottom left corner.

Peter Bicks
ORRICK (NEW YORK)

PETER BICKS

THE TYPE OF LITIGATOR who makes the Lawdragon 500 guide varies, but inevitably that person brings a certain extra quality or characteristic that makes him or her deserving of the elite distinction. For Peter Bicks, who also heads Orrick's New York office, it's an impressive track record of winning cases or earning favorable settlements in a range of high-stakes commercial, mass tort, product liability and intellectual property disputes – regardless of the jurisdiction in which he may find himself.

Bicks first captured our attention with his work for one of his regular clients, Union Carbide Corp.; his defense in 2004 against billions of dollars of claims brought by the Kelly-Moore Paint Co. in a Texas state court trial was among the most highly touted defense verdicts of the past decade.

More recently, he successfully defended Nintendo against patent infringement claims by Motiva over the popular Wii game system. That case originated in federal court in the Eastern District of Texas but landed before the International Trade Commission, where Bicks prevailed in a 2011 bench trial against storied trial lawyer Mark Lanier (who was also the plaintiffs' lawyer in the Kelly-Moore case).

LAWDRAGON: You've had experience in a wide range of jurisdictions, but had you been before the ITC before? And did you find any aspect of the process particularly challenging or enjoyable?

PETER BICKS: I had never tried a case before the ITC until last summer and I loved it. Winning is always a thrill, particularly when you have a great client, high stakes, and a great Orrick team behind you, as I did. The ITC does present unique challenges: The judge manages the clock to the minute, so wisely using time is absolutely essential. In a five-day trial, 15 live witnesses were presented. The direct testimony is presented in writing, so a premium is placed on cross-examination skills and efficiency. And the procedural rules are strictly enforced so I had to learn a whole new set of rules. Fortunately, I was able to draw on the client's and Orrick's deep experience at the ITC which was a great benefit.

LD: How do you explain your success across multiple jurisdictions and types of trials? Can you discuss a core skill that is equally relevant regardless of the venue?

PB: Success across multiple venues and types of trials is a function of preparation and organization: mastering the audience, the story, the adversary, and ulti-

mately having a great team both at the client end and at Orrick. Getting to know and respecting your audience is critical because each venue is so different. At the ITC, the judge was very focused on the ground rules and making sure every second of courtroom time was used wisely. When I picked a jury in Tuscaloosa, Alabama, in a major mass tort case two years ago, it was useful to make analogies to the Crimson Tide football team. When I was in Texas state court, it was important to know when the local high school football team was playing because I didn't want to make the jurors late for the game.

LD: Do you have a favorite case from your career, even if it's not one of the highly covered cases?

PB: This is a tough one as I have been a part of some great trials involving everything from worldwide rights to airbag royalties, accountant's liability, mass tort, and intellectual property. But my favorite has to be the win for Union Carbide against Kelly Moore in Brazoria County, Texas state court. The stakes were huge (multi billions), the adversary was great (Mark Lanier), and for a "New Yorker" to win in Texas was really fun. I had a great team who worked with me and we lived together at an empty golf resort in Columbia Lakes, Texas. The heat was so intense, no one was playing golf.

On the way back from the war room to our bedrooms at night there were all sorts of wild animals accompanying us. As much as the victory, the experience of going through a demanding trial as a group was truly rewarding. We always managed to have some fun and hang out together even though we prepared around the clock. I can still remember getting the call from the judge that the jury had returned a verdict within a day after the closing arguments – which is generally a good sign for the defense.

LD: Is there a key lesson you try to instill in aspiring trial lawyers at Orrick?

PB: There are two lessons. The first is that our job is to serve the interest of our clients no matter what, and to make sure they look good to a jury or judge, to the media, and to their peers. The second is to be yourself. I have had the great fortune of being around and going up against great trial lawyers so I have been able to see a wide range of effective styles and to then mesh them with my own personality. Don't try to imitate someone else in a way that is not who you are. Study the style and tactics of other great lawyers and pick and choose what works for you. See the full Q&A at www.lawdragon.com/lawyer-limelights/peter-bicks



Terry O'Reilly

O'REILLY COLLINS (SAN MATEO, CALIF.)

Nicole Wong GOOGLE (MOUNTAIN VIEW, CALIF.) When Turkey shut down YouTube as a result of images the government deemed offensive, it fell to Wong to separate hate speech from free expression and manage other issues regarding online content.

Diane Wood 7TH U.S. CIRCUIT COURT OF APPEALS (CHICAGO) She continues to serve the 7th Circuit as one of its most brilliant jurists, though her opportunity for High Court advancement may have passed.

Chris Wray KING & SPALDING (WASHINGTON, DC) The former top DOJ official is widely respected for his FCPA knowledge and counsel to the targets of high-profile criminal investigations for clients including Bank of America and Allergan.

C. Steven Yerrid THE YERRID LAW FIRM (TAMPA) One of the elite Florida plaintiff lawyers, he won a \$10M jury verdict for the family of UCF football player Ereck Plancher in a wrongful death suit.

Michael Young WILLKIE FARR (NEW YORK) No one has more knowledge about securities regulation and accounting irregularities - knowledge he wields on behalf of top executives and corporations like AIG who fall under investigation and are targeted with lawsuits.

Stephen Zack BOIES SCHILLER (MIAMI) This well-known and highly-regarded litigator is sought after for his advice and counsel by clients in the United States and around the world, keeping him busy litigating the most complex and novel cases.

Kenneth Ziman SKADDEN (NEW YORK) He advised MF Global in its Chapter 11, Barclays in its \$1.45B DIP facility for ResCap, Vertis Holdings in a 30-day pre-packaged bankruptcy and DISH Network in a \$1B acquisition of bankrupt satellite operator DBSD.

David Zornow SKADDEN (NEW YORK) He helped PokerStars navigate its resolution with the DOJ and continues to represent a variety of individuals and corporations in connection with the government's sprawling insider trading crackdown.

Damien Zoubek CRAVATH (NEW YORK) This rising M&A star has ascended quickly thanks to deals like Burlington Northern's \$4B sale to Berkshire Hathaway, Johnson & Johnson's historic \$21.3B purchase of Synthes and his lead role in Qualcomm's \$3.1B acquisition of Atheros Communications.

Gerson Zweifach NEWS CORP. (NEW YORK) After defending the National Enquirer, former NYSE chief executive Richard Grasso and New York attorney general Eliot Spitzer, the Williams & Connolly partner took the post of general counsel in Rupert Murdoch's embattled News Corp.

you are cordially invited to

*Cocktails
With
David*

location
FOUR SEASONS

time
5:00 PM

host
KATRINA DEWEY



IT'S 4:58 WHEN DAVID BOIES WALKS

up the steps to the Four Seasons bar in Midtown Manhattan and orders a Screwdriver in a tall glass. It's a plush place and Boies' favorite watering hole, just steps from his firm's New York office.

As ever, he's juggling nine million things. Al Gore is on the phone, he's just returned from a trial over a \$400M real estate foreclosure in San Francisco, settled the Oracle-SAP case for \$306M, is taking on the federal government for wrongfully overtaking AIG during the financial crisis and is preparing to celebrate his firm's 15th anniversary and its record ascent to the most elite ranks of U.S. law firms.

He's also looking forward to the next chapter of *Perry*, the seminal case that re-cast the issue of gay marriage. In 2009, he and Ted Olson signed on to not just overturn California's Proposition 8, but also to legalize gay marriage through a courtroom trial. They faced skepticism and criticism not just from those who opposed marriage equality, but also from leaders of the public interest community, who questioned the role of star private lawyers on the battlefield they had tended for so long.

Which is where vintage Boies comes in: when in doubt, hold a trial. And that's where the facts are parceled, tossed and challenged and the truth emerges.

Boies watched the civil rights movement from Southern California, where his parents had moved the family from Marengo, Ill., when he was 13. He attended junior high school in Compton, and was president of the University of Redlands Young Republicans Club while a married father of two children at 19-years old. Over the next decade, he would work a construction crew, teach journalism at Patton State Mental Hospital for the Criminally Insane, become a single dad of four children, and an attorney at Cravath.

He appreciated exquisitely the role law was beginning to play in changing lives, including his. That philosophy – of law as a tool to protect and better lives – has been the stream that flows through his career, whether representing civil rights volunteers in Mississippi or defending CBS and Mike Wallace over the Westmoreland case; the government in its efforts to contain Microsoft or the Democratic National Committee winning a permanent injunction against the Republican National Committee's

efforts to disenfranchise African-American voters.

And now *Perry* and the rights of everyone to marry. A doting father of six and married for 30 years to Mary, it took less than two seconds for him to sign on with Olson to represent Kris Perry in her lawsuit to wed Sandy Stier, her partner with whom she has four boys. Since they filed the suit in 2009, public support for gay marriage has ascended from 37 to 48 percent, with a corresponding drop in those opposed. And in the *Perry* case itself, the 9th U.S. Circuit Court of Appeals found that California could not deny same-sex couples the right to marry.

LAWDRAGON: And they said it couldn't be done.

DAVID BOIES: Well, we're not done yet. We're still waiting on the Supreme Court. But you're right. We've changed the lives of not just our clients, but of couples and individuals everywhere who deserve equal dignity in their personal choices.

LD: Beyond whether or not the U.S. Supreme Court takes the *Perry* case, there's been a huge shift in public opinion in favor of marriage equality of the type that makes the outcome simply a matter of when, not if.

DB: Well, you know, that's what a trial does. It exposes the truth. You can't hide from the truth on a witness stand. And when you put up a witness – who is really the only person opposing gay marriage at the trial – and ask him what is the harm from allowing gay couples to wed and he says, "I don't know," well, that exposes the truth.

LD: It was courageous of you and Ted to take on that case. You had to battle not just uninformed gay marriage opponents, but also much of the public interest community, which thought you were taking too big of a risk.

DB: Well, I'll say this. We have a lot of admiration for everyone who played a role in this. But what's important isn't who wins the battle, it's winning the war. It's ensuring that everyone has the right to marry the person they love.

LD: I'm curious how you became you. You're from Marengo, Illinois, which is a small farming community outside Chicago. Were your parents liberal? That would be unusual for those times and that area.

DB: I actually grew up a Republican. I was president of the University of Redlands Young Republican Club. My father was Republican. His grandfather had been the publisher of a newspaper in Sycamore, Illinois, called *The True Republican*. I was a Republican through college.

But I really changed with the civil rights movement, where, like a lot of people in those days, I grew up really naïve about race relations. As I began to confront the real extent of discrimination and became actively involved in the civil rights movement, what I found was that in those days – not all Republicans – but the Republican Party in general was on one side of that struggle. There were a lot of racist Democrats and there were a lot of Republicans who made enormous contributions to the



civil rights movement. But on the whole, the Democratic Party led the charge for civil rights and had begun to do so with Roosevelt and Truman. And the Republicans were fighting the rear guard.

LD: Why did you care?

DB: When my family left Illinois, before we moved to Fullerton, which is a fairly nice Orange County suburb, we moved to Compton. And I went to junior high school in Compton, California. That was a sea change.

LD: Were you in shock wondering what happened or did you embrace it?

DB: I embraced it. It was interesting. It was different. Compton at that point was a very racially integrated town and the relationships between races were not always smooth.

But there were things you learned when you grow up with

“What I have to do is change people’s minds. You very rarely change people’s minds yelling at them. ... You have to talk to them. That’s one of the things I do, I talk to the jurors.”

people I think of any race, or any group of human beings. You realize how much they are like you and you are like them. And how really insignificant the differences are. And then you grow up playing, going to school with, fighting African-Americans, you just naturally accept their equality.

LD: Were there any specific instances that led to your awakening on the issue of civil rights?

DB: Sometimes things happen that you remember extremely well years later. I was on the debate team and we had a debate tournament. We drove 20,000 miles debating in two years, almost all of it by car. And at the school there were all races. And everyone was integrated, I don’t think anyone felt discriminated against. It was California, things were different.

And we were driving back from a debate tournament in Albuquerque, New Mexico. And we stopped to get something to eat in Arizona on old Route 66. And this café, we were walking up and they had in the window these red, white and blue posters extolling the spirit of ‘76, warning about the dangers of international Communism, and then you come to the door and over the door there’s a wooden sign that says “No colored trade solicited.”

LD: That must have come as a shock to you after your years in California.

DB: I knew that in the South things were still segregated, there was racial tension and racial discrimination. But I always associated that with the South. I didn’t associate that with the West. That was in the spring of 1962. And then that fall, I left to go to law school. I started law school at Northwestern.

I drove my wife and two children from Redlands to Chicago nonstop because we didn’t have enough money for a hotel room. And by the time we got to Chicago, we were a little disheveled. One of the professors who had interviewed me had arranged an apartment for me to rent at the Old Towns Gardens. So I went to the rental office, to sign the papers, and Caryl stayed in the car with the children because A, she didn’t want to wake the children, and B, she didn’t feel she looked all that presentable after 40 hours in the car.

So I went in and said I was there for the apartment. And the rental agent starts to talk and talk, asks if my wife is OK, I say, “She’s fine, she’s with the children.” They ask if she would like to come in for a cup of coffee. And it went on like that for eight or 10 minutes. “Would you like me to go out and see how she is?”

And, you know, I’m thinking I just need to get my kids to bed. So finally, she says, “I hate to have to ask this, and if it was just me I wouldn’t ask, but I have to ask is your wife colored?”

And I said, “Why do you ask?” And she said, “I really need to ask.” And I said, “Does that mean if she is colored we can’t rent the apartment?” She replied, “I really need to ask if she’s colored or not.”

You sort of think about all sorts of responses, whether you want to stand on principle. I had two small children and a very tired wife, so I said, “No she’s not,” and they gave me the apartment.

That in combination with what had happened in the spring in New Mexico really got me thinking. This wasn’t even Arizona, this was in Illinois. I’d grown up in Illinois, the Land of Lincoln. I didn’t expect to find that. Now, once you learn more about the world you expect to find these things. But in those days I was naïve enough to think that kind of racism was limited to particular parts of America.

I began to get active in the civil rights movement when I was at Northwestern and continued at Yale. By the time I went down to Mississippi later in the ‘60s, I just didn’t feel comfortable in the Republican Party.

LD: During those years, there was an interesting transformation in the view of the role of law. I’m curious to hear about the development of your belief that you could use the law as a tool to bring about social change and better your

life. It sounds like that view – and your career – is very firmly rooted in the civil rights movement.

DB: It was a tool. It was something to use. Years ago someone was writing about me and managed to go back and get the Yale Law School to look at a copy of my application, and there was a question why I wanted to go to Yale Law School. And I said I want to go to law school because I want to be a lawyer and I can't be a lawyer unless I go to law school. And I want to be a lawyer because law is the way you we change society. Law determines who you can marry, where you can live, what kind of jobs you can do. If you want to make changes there, you've got to be a lawyer.

I've always believed that one of the great things about being a lawyer is you have an opportunity to really make a very comfortable living. At the same time, it allows you to make a real contribution to society and really make change. The opportunity is there.

LD: Do you think that was a new perspective starting in the '60s or it became more heightened?

DB: It's become more heightened. There were always people who had that view, but I think it became more heightened. When I was growing up in the '50s, Perry Mason was a lawyer. You weren't doing social engineering. By the time I got out of law school I was very much committed to using the law, and it's proven to be a very powerful tool.

There were a lot of failures on the way, but civil rights could not have succeeded without law, without lawyers and the courts. In 1986, I sued the Republican National Committee on behalf of the DNC and got a permanent injunction against the RNC targeting minorities. Those things make a difference.

LD: You've done so much for a kid from Marengo because of your ability to understand the law and use it to shape change in the lives of people. Think of this: Gay marriage will be legal in our lifetime – and is now in a lot of places. And that is directly because of your willingness to challenge the government when appropriate and defend it when that's appropriate. You have created a broader definition of what it is the law is intended to do.

DB: I think that's right. It's very rewarding to see the lives of people that are changed. Sometimes like the Prop. 8 case, and the work in Mississippi, you see a real human face. Sometimes like with the injunction, you don't see the effect on an individual, but you see the ability to preserve fairness in the election process. Sometimes like in the case where we're suing the government on behalf of Starr International, a landmark case on behalf of Starr as a shareholder of AIG claiming the government wrongfully took over the company during the financial crisis, what we're really saying is the government is not above the law. That is a proposition that while you don't see a human face immediately, it affects the relationship of the government to all citizens. And it says every single citizen has the legal right to protect

their property. And no matter how well meaning, the government can't go around that.

In the *Westmoreland* case, we defended Mike Wallace and CBS against a libel claim from General Westmoreland who, their reporting showed, had not accurately reported the situation in Vietnam in order to maintain public support for the war. That was a case at the time it was brought that if you go back and look at the attacks on the media, the Accuracy in Media group had drawn a huge map on the media and funded all these lawsuits, libel lawsuits. And it all stopped after we won the *Westmoreland* case.

LD: That's similar to what we've seen with gay marriage.

DB: Well, a lawsuit can do that. It can pull something out, expose it. And it requires people to get up on the witness stand and be cross examined, calls them to account. Like David Blankenhorn, who was the only witness in support of Prop. 8, yet he couldn't even say what the harm was of allowing gay couples to marry. Did you read his op-ed in the New York Times? He wrote about now he supports gay marriage and the good it can do.

LD: After you destroyed him on cross-examination.

DB: And that is a transformation. And it is going to effect people. The more people come out like that, the more other people begin to rethink their positions.

LD: Hopefully there will be far fewer instances of people asking if there's a man or woman waiting for you in the car.

DB: That's right. What's the sex, what's the race, what's the religion? All the kind of things that distinguish human beings, which do not effect or limit their humanity.

LD: One of the things that's so touching about you and your approach to the law: You always at the end of the day say lets bring this to court, put aside the craziness and let's talk about what this is really about.

DB: That's absolutely right. Particularly in the kind of cases that I bring. If I were a screamer kind of guy, it would be very hard to do what I have to do. What I have to do is change people's minds. You very rarely change people's minds yelling at them. You can excite your base by yelling. But you can't change people's minds. To change people's minds, you have to talk to them. That's one of the things I do, I talk to the jurors.

Adlai Stevenson, when he was running for president, said he was going to talk sense to the American people. That didn't work probably because he was against the most popular person in the country, but that has always been my goal: to talk sense to whoever you're talking to. And what you find is if you trust people., a remarkable number of them actually respond to you. People actually like to be treated like thinking adults, even people who start off very antagonistic, you talk sense to them. You can slowly – not always, it's not perfect, it's a process, but one that succeeds remarkably often.

LD: So much has been made of your command of working with judges and other lawyers. I remember talking to Mary

in the hallway during the *McCourt* divorce trial, about this respect or regard you give to others. You take everything down to a level where we're not talking about esoteric issues, we're talking about simple issues we can all resolve.

DB: If you just think about these issues, you can find common ground. If you really think through what you're trying to accomplish, think it through, and you find the ground that's sustainable, you can explain it.

One of the greatest cases I ever did was defend two Student Nonviolent Coordinating Committee workers. I got them off of a traffic offense and resisting arrest in Bolivar County, Mississippi. And it was before a judge that was a product of the system, very biased, very antagonistic to out of state Yankee lawyers who'd come down. Ultimately he declared the defendants not guilty. I lost a lot more of those cases than I won, but every once in a while you won one because you were able to make the judge see through prejudice and make a judgment that was more in keeping with the principles of the law. And you appeal to their principles.

I tell you, part of the way I got the acquittal was cross examining the arresting officer and making absolutely clear that he was lying. Judges don't like people who lie under oath even if they sympathize. It sort of stinks up their courtroom and that's a bad mistake.

LD: Where did you learn the ability to sit there and torture somebody?

DB: It's not that different from the Socratic dialogue.

LD: But it's very uncomfortable for a lot of people.

DB: Because I'm dyslexic, I grew up listening. And cross-examination is almost equal listening, because when you are listening, you're hearing little things. To ask whether he agrees that not allowing gays to marry while children are being raised by gays is not good for the children, that's a tricky question, because you narrow it down so that's the only thing he can say. But you have to listen. If you pick the questions right, the only way to answer the questions to support what you want in the case is to lie.

LD: You really enjoy that.

DB: Oh yeah. No question because that is the way you get at truth. Cross examination is probably the best way we have to really get at the truth. We put somebody on the witness stand, call them to answer questions and it takes an extraordinary person to be able to successfully lie without being tripped up.

LD: It amuses me that you've been at this for some time now, and you're not unclear about what it is you're doing. Some lawyers still ask how does he do this?

DB: Well, I will outwork the other side every single time. At the start of every trial, the other side starts out working as hard as I do. But at some point, they say, "I'm going to go out with my girlfriend," or spouse, go to the opera, go see the latest movie. And at every trial I've ever had, the other side stops working as hard as me – if they ever did, sometimes they never do.

The other thing is patience. I'm very patient. I will wait for the right opportunity. I don't try to make things happen or feel frustrated or impatient. Part of it is patience to develop your story in a way that maybe his is the most dramatic story in the beginning, but yours builds over time.

LD: You also have the confidence to extract that one thing about a case, which may seem odd or underplayed to a lawyer who wants to say there are 53 important things.

DB: Exactly. In *Microsoft*, general counsel Bill Neukom, who I like, would go out and say after court, "My witness made 48 points," and David Boies only attacked four of them. The problem was, those were the four important ones and when we attacked those four points, they had no credibility left. He was absolutely right – I had only four of his 48 points, but they were what mattered!

There was another case, a huge international arbitration. We defended Westinghouse against claims it bribed a henchman of Ferdinand Marcos to get a contract with the Phillipines' National Power Corporation. And they brought in an expert from General Electric to testify about the contract, and there are 100 things you could ask him about. So I asked him how many times he had read the contract. And he said he hadn't. And I said, "You didn't read the contract yourself?" He said no. And I said, "No further questions." We won the arbitration because of that and a lot of other things.

And that was something the arbitrator really appreciated and the other side just went berserk about. They said, "This is outrageous!" And I said, "Do I understand that counsel for the National Power Board is objecting that I did not ask more questions on cross examination?" Because people from time to time have objected that I ask too many questions on cross examination, but never too few.

When I tried the *Westmoreland* case, the lead lawyer on the other side was very well prepared and very tightly wound, while I was relaxed, and he made mistakes. He showed a videotape and didn't operate it right. A lot of lawyers get very agitated and yell at the tech people. I'd just say my client is the expert in this, and I'm not. I would explain the case and if you do that, people react a lot better than they react to shouting.

LD: It's an extraordinary ability to go from being comfortable and confident one moment with the judge, to utterly destroying a witness within two sentences.

DB: Well, you've got to have both sides. Because people have both sides. If you're dealing with somebody sometimes you get mad at them. And what juries are looking for is authenticity, someone who is real. A jury is like 12 people who you lock into a boat in a storm and they have no idea how to get out. And then two people come along and one says I know the way, and the other says no, I know the way. If you understand your job is to be the one that the 12 jurors follow, then you can win your case. ■

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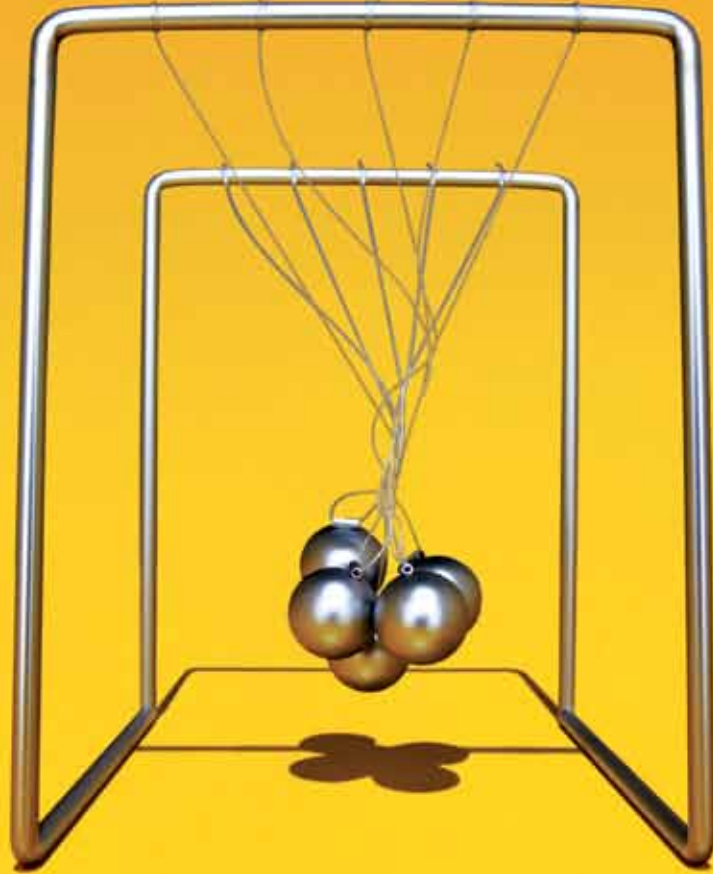
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