THE NATIONAL LAW JOURNAL 2014

LITIGATION

TRAILBLAZERS & PIONEERS

ALM

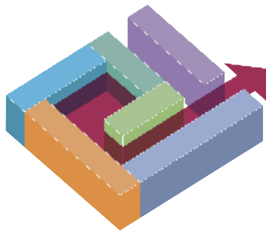
DECISIONQUEST CONGRATULATES

ITS COLLEAGUE AND PARTNER

DR. PHILIP K. ANTHONY

on being selected by *The National Law Journal* as one of the

Top 50 Litigation Trailblazers and Pioneers



The principals of DecisionQuest have been active in the field of trial consulting and litigation support for nearly forty years. The firm maintains offices for its 100+ professionals in New York, Los Angeles, Boston, Philadelphia, Atlanta, Chicago, Minneapolis, State College, Miami, and San Francisco.

The firm thanks its many trial lawyer, arbitration and corporate clients for their loyal support over the years.

TRIAL CONSULTING • TRIAL GRAPHICS • ADR STRATEGIC SOLUTIONS • ONLINE RESEARCH

WWW.DECISIONQUEST.COM :: 1-877-8DECISION

Dear Readers,

Welcome to the premier issue of Litigation Trailblazers & Pioneers, a special supplement developed by the business arm of *The National Law Journal*. In the pages that follow, you'll read 50 profiles of people who have helped make a difference in the fight for justice. While those recognized come at the litigation process from different angles, a common thread ties them together: each has shown a deep passion and perseverance in pursuit of their mission, having achieved remarkable successes along the way.

Historically, an improving economy has a slowing effect on litigation. Today, activity continues to climb despite the markets' flirtation with record highs. From the Affordable Healthcare Act to a stricter regulatory environment, big data and privacy concerns to IP battles and product liability suits, among other contributors, the courts are busier than ever. All our honorees have a major stake in the ground and they are advocating strongly for their causes.

As with all Trailblazers & Pioneers supplements, the list is never complete. Our goal is to spotlight those making a big difference and the search never ends. If you have someone you feel should make our next list, please reach out and let us know. We hope you enjoy this special section and look forward to hearing from you with your nominations for next year's list!

Congratulations again to this year's honorees.

All the best,

Tom Larranaga

Tom Larranaga
Publisher, *The National Law Journal* & *LegalTimes*

2015 Trailblazers Series

Energy & Enviornmental — April 13, 2015
Regulatory & Compliance — June 8, 2015
AntiTrust & M&A — September 28, 2015
Litigation — December 7, 2015

THE NATIONAL LAW JOURNAL

PUBLISHER
TOM LARRANAGA

VP/GROUP PUBLISHER
SCOTT PIERCE

VP/NATIONAL CORPORATE SALES & MARKETING SERVICES
ERIC BIENER

AD SALES, SPECIAL SUPPLEMENTS
LISA ANN VAN DYKE
LVANDYKE@ALM.COM
(202) 828-0351

EDITOR, SPECIAL SUPPLEMENTS
BRAD BLICKSTEIN

COPY EDITOR, SPECIAL SUPPLEMENTS
ASHLEY BENNING

ADVERTISING ACCOUNT REPRESENTATIVES
ROSEANN AGOSTINO, MARNIE MARONEY, PATTY MARTIN, JOE PAVONE, JAI WALLACE

LAW FIRM ACCOUNT MANAGERS
SUZANNE CRAVEN, ELIZABETH ELDRIGE, TRACEY GOLDVARG, JENNIFER JONES

CLASSIFIED ADVERTISING MANAGER
JAMES GUALT

PUBLIC NOTICE ADVERTISING
YONATHAN EYOB (WASHINGTON)

PRODUCTION MANAGER
SAMUEL WONG

PRODUCTION COORDINATOR
EVELYN FERNANDEZ

EDITORIAL (212) 457-9400

ADVERTISING (212) 457-9490

CIRCULATION (877) ALM-CIRC

REPRINTS (877) 257-3382

PRESIDENT & CEO
BILL CARTER

SENIOR VICE PRESIDENT/CHIEF OPERATING OFFICER
KEVIN H. MICHIELSEN

SENIOR VICE PRESIDENT/CHIEF FINANCIAL OFFICER
ERIC F. LUNDBERG

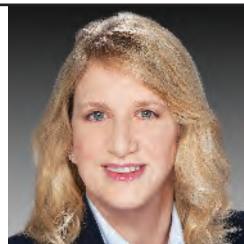
SENIOR VICE PRESIDENT & CHIEF MARKETING OFFICER
LENNY IZZO

SENIOR VICE PRESIDENT, CHIEF DIGITAL OFFICER
JEFF LITVACK

VICE PRESIDENT/ ALN EDITOR IN CHIEF
DAVID BROWN

SENIOR VICE PRESIDENT, EDITOR IN CHIEF
ARIC PRESS

An ALM publication



Nancy L. Abell

Paul Hastings

PIONEER SPIRIT Before law school, Nancy Abell worked for the city of Los Angeles on affirmative action, which got her involved in the discrimination area. She went to law school with great interest in becoming an employment litigator. "Having had that practical background, but from the human resources standpoint, it was a productive transition to take up the litigation." She stated doing equal employment discrimination cases as an associate at Paul Hastings.

TRAILS BLAZED Some discrimination class actions seek to attack an employer's "fundamental being. When you accuse them of being racist or sexist, clients feel it is important to be vindicated of charges that speak to their mode of treating people." Such cases require the use of any and all tactics that one could imagine: initial motion, summary judgment, defeat of certification, preemptive motion and more. "In our very first one we moved to deny certification before the plaintiffs even moved for it." Abell makes sure to not neglect trial strategy in her planning. "You always have to figure that you may go to trial, so you'd better be prepared to win."

FUTURE EXPLORATIONS Abell believes that the viability of the arbitration agreements many major employers have is up in the air. "If arbitration agreements become more limited, we may be back in court proportionally more of the time." That would have obvious cost ramifications, "but the major issue is the delay. Also, as employers' databases continue to grow exponentially, we will see new theories and statistical models to try to explain decisions in new ways. "Social science research continues, and the court will continue to draw a line between what's science and what's junk."

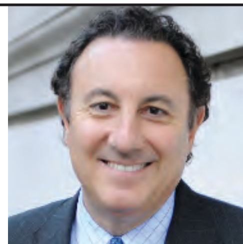
Philip M. Aidikoff

Aidikoff, Uhl & Bakhtiari

PIONEER SPIRIT Phil Aidikoff had a client with a dispute with a broker-dealer and was asked to help find someone who knew about it. "Finally my then-partner said he went camping with a guy who did that kind of work. That was Robert Uhl, who was partner until he retired a year ago." In this particular case, Aidikoff's client needed assistance going through the NASD arbitration process. Since then, he has helped hundreds of clients through the securities arbitration process.

TRAILS BLAZED Aidikoff has served small investors, very high-worth individuals, municipalities, hedge funds and more. "The interesting cases have been where a financial 'product' was sold to a customer that shouldn't have been." Aidikoff argued a series of cases against Citi where a municipal arbitrage hedge fund was sold as a safe investment. "It was a ticking time bomb. When it went off, it decimated a lot of brokers' books of business. They were angry and started referring business from their customers." Most of the 125 cases ended up in FINRA (previously NASD) arbitration, with one netting $54 million, which may be the record in a retail case.

FUTURE EXPLORATIONS There has been a heightened awareness that broker-dealers and banks sometimes conduct business in ways that are against regulatory restrictions and morality. "Early on, the arbitrators would wonder 'why are you blaming these stand-up guys?'" Since the financial crisis, people recognize that sometimes wrongdoing occurs and that investors have the right to be protected. "The goal is to get the investors' money back. I say this somewhat facetiously, but as long as there's a Wall Street, we'll always have something to do."



Thomas R. Ajamie

Ajamie LLP

PIONEER SPIRIT Tom Ajamie had an uncle who was a lawyer. "He was the consummate Renaissance man, loved to read and had a curiosity on all topics. He personified the type of person I wanted to be." Since becoming a lawyer, Ajamie has focused on "representing the underdog against abusers of power" and his accomplishments include the largest securities arbitration win in history.

TRAILS BLAZED Ajamie began suing financial institutions in the 1990s before Enron and WorldCom made it trendy to do so. "Back then, the stock market was heading straight up and the general public thought these institutions were 'blue chip' and could do no wrong. Today we know better." Even when he is representing corporations, Ajamie is still fighting for the underdog. He represented ADT against wealthy Mexican businessman Jesus Hernandez Alcocer and earned a $112 million RICO verdict. "Alcocer would get Mexican judges to issue arrest warrants against ADT's executives and have them imprisoned on false charges. It's a very common problem in Mexico." ADT stood up to the abuse of power, though it required armed bodyguards for Ajamie throughout the trial. "I'm proud of myself for not being afraid to do what I thought was the right thing.

FUTURE EXPLORATIONS The law industry is not regulated, and Ajamie believes that some are abusing the situation. He refers to the indicted Dewey & LeBoeuf partners and frequent allegations of overbilling. "Megafirms are not for the client's benefit; they are designed to make a handful at the top really rich." He does expect the future to bring more scrutiny. "Of any profession, lawyers should follow the law, but greed has gotten out of control."

Philip K. Anthony

DecisionQuest

PIONEER SPIRIT Phil Anthony got started as one of the first jury consultants in the 1970s. "It was a brand-new concept." Using everyday social science techniques with everyday people who mirrored the jury pool, he often learned that what they thought was important was very different from what the trial lawyers supposed. "We help trial teams communicate better with juries, arbitrators and judges."

TRAILS BLAZED Anthony's firm DecisionQuest has been doing jury research ever since, working on more than 20,000 cases and serving 190 of the 200 Am Law firms as well as almost the entire Fortune 500. "Of the cases that have gone to trial, we've been on the winning side 85 percent of the time." Along the way DecisionQuest has been responsible for many innovations. The firm was the first to do a mock trial rather than just phone polls and focus groups. It pioneered moment-to-moment response systems, which allow attorneys to see how a jury would react to each argument. It also launched online jury research with both jurors and arbitrators. "We've always been innovative in the field."

FUTURE EXPLORATIONS The environment has changed dramatically in the past six years. "We used to be confined by the four walls of the courtroom, but now the world is the stage for most trials." The jurors are also more sophisticated now; they have access to a far greater amount of information. "The services that people like us to provide have become more critical as the trial team must present information consistent with views that everyday people hold." At the same time, the Internet offers many new tools to collect and analyze data. "Jury research is now more affordable and more sophisticated."

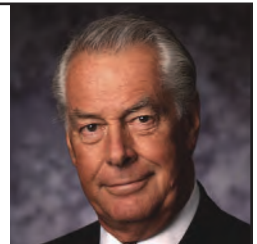
Robert B. Barnett

Williams & Connolly LLP

PIONEER SPIRIT Robert Barnett never had a master plan. At each stage of education and early career, he simply reviewed his options and took the best path. "I went to law school because I saw the benefits of a legal education, and once I went, I saw that there's value in doing clerkships." After clerking, he went to work for Walter Mondale in the Senate. "From there I thought that working in a law firm would be great experience. I didn't have a 40-year plan." He's been at Williams & Connolly since 1975.

TRAILS BLAZED Barnett has advised three presidents, worked on nine presidential campaigns and represented countless television news correspondents, authors and former government officials from both parties. While he's not a courtroom litigator, a great portion of Barnett's practice is conflict resolution: negotiating a contract, overseeing litigation, resolving a regulatory problem or finding a way to present the client's message to an adversary and also to the media at large. He brings to bear the skills he has to help solve a problem. "Sometimes it's legal expertise, sometimes negotiation, sometimes media relations, sometimes administrative, and sometimes solving a crisis in a many-front war. We try to leave the clients in a better place than when they came in the door."

FUTURE EXPLORATIONS Barnett believes opportunities at startups will open up a whole new world of possibilities. "More and more lawyers will ply their skills at the crossroads of business and law." He also expects clients to focus more on billing arrangements and staffing strategies. "Twenty years from now the profession will look very different from today and certainly very different from when I started."



Fred H. Bartlit Jr.

Bartlit Beck Herman Palenchar & Scott LLP

PIONEER SPIRIT After his first few months at Kirkland & Ellis in 1960, Fred Bartlit said to his father, "Pa, everyone here is really smart. They all went to Harvard, Yale and Princeton. What should I do?" Bartlit Sr. advised his son to find something no one else wanted to do and get good at it. "Everyone talked about being a trial lawyer, but no one really wanted to do it. So I started trying every case I could."

TRAILS BLAZED Bartlit has tried a number of high profile cases since, including representing Allison Gas Turbine against allegations that it was culpable in an explosion that killed 160 people. "That case took place in Aberdeen, Scotland, and the judge gave me the right of audience in a British court. It may be the only time for an American lawyer." Perhaps Bartlit's biggest impact, however, is Bartlit Beck's business model. "Most law firms have few partners and many associates, charge by the hour and see how many lawyers they can put on a case and how many hours they can bill." He believes the model is upside down. "If matters are staffed mainly by partners, quality should be better, and if so, we don't want to get paid by the hour. Michael Jordan never got paid by the hour, he got paid for the results he got." Bartlit Beck is the only firm that defends major cases for Fortune 20 firms that never bills hourly.

FUTURE EXPLORATIONS Bartlit expects to see smaller leaner law firms, as "there's no reason to get bigger because there are no economies of scale. There may be room for a few megafirms that serve all the geographic areas, but generally the quality of your lawyers is not scalable."

Bartlit Beck congratulates

Fred Bartlit

as National Law Journal's
"Litigation Pioneer and
Trailblazer"

Thank you, Fred, for your
exceptional leadership

Bartlit Beck Herman Palenchar & Scott LLP

www.bartlit-beck.com

Josh Becker

Lex Machina

PIONEER SPIRIT Josh Becker's father was a law professor in Philadelphia, but he deferred law school to work as a press secretary on Capitol Hill. "After my congressman lost, I helped him start an Internet company and wound up getting a JD/MBA from Stanford." In 2011, he took over at Lex Machina. "It started as a public interest project at Stanford, funded by companies, law firms and foundations. I was brought on to grow it into a real business."

TRAILS BLAZED Lex Machina adds an extra dimension to traditional legal research and reasoning by applying analytics around patent litigation. "Traditionally, lawyers send an email around the firm to ask 'Who knows this judge?' or 'Is this jurisdiction plaintiff-friendly?' We provide hard data to back up those intuitions." The goal is to help lawyers win business and be more competitive in the courtroom. "We help our clients win cases and get the best outcomes for their clients." The company now serves more than 100 companies and law firms, including 12 of the 20 firms on the *National Law Journal's* IP Hot List.

FUTURE EXPLORATIONS Next March, Lex Machina plans to launch a full suite of copyright and trademark analytics. "After that, we will consider commercial, securities, production liability and employment litigation." Ultimately the firm wants to provide legal analytics to every area of law. "The real mission of the company is openness and transparency. In the future, analytics will just be seen as part of the practice of law."

Neal S. Berinhout

AT&T Services, Inc.

PIONEER SPIRIT Neal Berinhout has known he wanted to be a lawyer since high school. "I never thought much about anything but litigation." After a few stints at major law firms, he became chief litigator at Bell South in 2000, which through a series of mergers and rebrandings, is now AT&T Mobility.

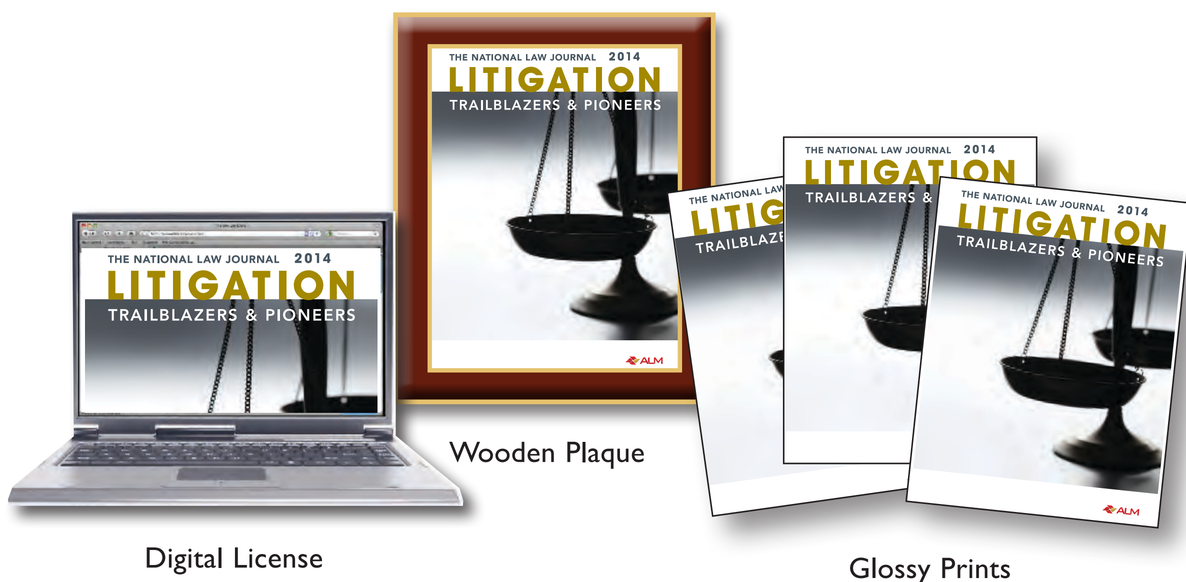
TRAILS BLAZED After moving in-house, Berinhout became increasingly interested in legal reform. "The vast majority of what we saw were weak claims, but they still yielded large settlements, because large classes create significant leverage for plaintiff's attorneys without any adjudication of wrongdoing." Early in his tenure, Berinhout began looking at arbitration as a viable alternative to class actions, creating a strategy of designing an arbitration agreement that was fair both to consumers (or employees) and the company. Berinhout looked at the 2005 *Discover Bank v. Superior Court* decision, which invalidated that company's arbitration agreement because there was not enough incentive for claimants or attorneys to bring claims. With that in mind he crafted a unique arbitration clause, which provided an added premium for claimants and doubled fees for attorneys should they receive a judgment in excess of the company's settlement offer. The Supreme Court upheld the terms in *AT&T Mobility v. Concepcion*. The case has been cited many times in decisions sending putative class actions to arbitration.

FUTURE EXPLORATIONS Berinhout believes that AT&T's arbitration clause is a model of fairness and efficiency for other companies. "My expectation and hope would be that others will look at it as a model." Some have criticized the decision as allowing companies to commit bad acts with impunity, "but this is wrong as long as the agreement is designed fairly."

THE NATIONAL LAW JOURNAL

Maximize Your Recognition.

Order your custom reprints today in *The National Law Journal.*
Contact 877.257.3382 • reprints@alm.com



IN PRINT, DIGITAL, AND INTEGRATED MEDIA.

ALM REPRINTS
www.almreprints.com

Scan barcode to get a quote

TRAILBLAZER

BOWMAN AND BROOKE CONGRATULATES

RICHARD A. BOWMAN

Litigation Trailblazer

Bowman and Brooke is proud to congratulate the achievements and contributions of Richard A. Bowman – our founding partner and trailblazer. Our firm is tenacious in defining a win for our clients and getting there together. In the boardroom, at the bargaining table, and at trial, Bowman and Brooke delivers a formidable defense for any global product.

Bowman and Brooke LLP

From boardroom to courtroom.®

bowmanandbrooke.com

David Boies

Boies, Schiller & Flexner LLP

PIONEER SPIRIT Growing up, David Boies figured he'd be "a high school history teacher like my father or a lawyer like Perry Mason." He joined Cravath, Swaine & Moore right after law school and, except for a two-year stint as counsel to Senate committees, stayed for 31 years before launching what is now Boies, Schiller & Flexner in 1997.

TRAILS BLAZED Boies' first major trial as lead counsel was representing IBM against Calcomp in what was then the largest private antitrust case to go to trial. Since that time, he's litigated many of the most important and famous cases of the past 50 years. He has represented CBS in Westmoreland v. CBS, Texaco in Texaco v. Pennzoil, the FDIC against Michael Milken and Drexel Burnham and Westinghouse against the Republic of the Philippines. Boies is perhaps most famous for representing the DOJ in the antitrust case it won against Microsoft and Al Gore in Bush v. Gore. "The common thread is not any particular kind of law, it's a kind of case: complex challenging cases that can move the law." Boies believes that large complicated cases are more alike than cases of different sizes covering similar subject matter. "A large antitrust case is more like a large libel case than it is like a small antitrust case."

FUTURE EXPLORATIONS We are a heavily lawyered society, but Boies thinks the problem is not that we have too many lawyers, but rather that we have too many doing the wrong thing. "There is a huge unmet need for adequate representation for poor and middle-income Americans and small businesses. We need to make justice more affordable in order to provide greater access to the system."

Richard A. Bowman

Bowman and Brooke LLP

PIONEER SPIRIT Two months after joining his first law firm, Dick Bowman found himself working for General Motors on its first liability case. This was a seminal matter, testing whether auto manufacturers had to make "crashworthy" cars and could not be held liable for crashes that the car itself caused through some defect. He got a defense verdict, but lost on appeal. Bowman then found mentoring on crash mechanics, basic physics and biomechanics and was sent all over the country to coach in-state counsel on these brand-new cases. "In those days, you didn't leave your county and certainly not your state."

TRAILS BLAZED Thought of by local courts as a "big-city carpetbagger," Bowman built a trial lawyer culture to combat this. "We had to lean over backward to be the best in the courtroom with the highest standards and to know the law better than anyone else. And we had to be the best engineers in the courtroom too." Along with six partners, he formed Bowman and Brooke in 1985 and has since represented most of the auto manufacturers and tried cases in 37 states. Most recently, two of his partners tried and won the Toyota unwanted acceleration cases, after about four years of bad publicity. "We win 85-90% of catastrophic cases with jury trials." Diversity has also been a major goal and accomplishment for the firm. "It's not just for a pat on the back; it's so we can resonate with juries."

FUTURE EXPLORATIONS As of about five years ago, Bowman says, software has become a much bigger part of product liability. "It was a software malfunction that was alleged in Toyota." He also believes that we are heading toward driverless cars. "The primary flaw in cars today is the humans who drive them. As software replaces people, safety will increase."

Michael A. Brown

Miles & Stockbridge P.C.

PIONEER SPIRIT Ever since he was a kid watching lawyers on television, that's what Mike Brown wanted to do. "It's a lot more work than I envisioned. But there's only one way to do it right." After a few years at big firms, including two stints at Miles & Stockbridge, Brown started his own firm in 1996. "We became Maryland's largest minority-owned law firm." Feeling he needed more resources, Brown returned to Miles & Stockbridge for a third time in 2009.

TRAILS BLAZED Brown has defended 16 Fortune 500 companies. He has also defended police officers in civil rights cases in Baltimore and American University against discrimination charges. He defended the Kennedy Krieger Institute, which serves children with developmental disabilities and disorders, in cases related to a lead paint study. "At some point 50 percent of kids in some Baltimore neighborhoods had lead paint poisoning. They did a study to determine how to reduce risk from lead paint without a complete abatement. Some plaintiffs believed that the institute was responsible for eliminating it, but it would have been impossible."

FUTURE EXPLORATIONS "As you get older, you want to try the hard cases. You can take losing if you think you are doing the right things." Brown, however, won't be trying cases forever. He plans on practicing for 12 more years, then teaching English full-time in some underprivileged neighborhoods. "They say that high school is too late, but I want to try to get them some hope and faith. See if I can't help turn some kids around."

Miles & Stockbridge congratulates Michael A. Brown on being named to the *National Law Journal*'s inaugural list of Litigation Trailblazers & Pioneers. We are proud of Mike's success at trial and for his efforts to forge pathways for others. He is a true leader, mentor and advocate for his colleagues, clients and community.

MILESSTOCKBRIDGE.COM

AUTHORIZED BY JOHN B. FRISCH, CHAIRMAN AND PRESIDENT

Elizabeth J. Cabraser

Lieff Cabraser Heimann & Bernstein, LLP

PIONEER SPIRIT During law school, Elizabeth Cabraser went to work as a $5 per hour law clerk for a plaintiff's attorney. When she passed the bar, she was hired by that lawyer, Bob Lieff, and eventually became his partner in a two-person practice. Today Lieff Cabraser employs 75 attorneys and is one of the largest plaintiff's firms in the country.

TRAILS BLAZED Shortly after she went to work for Lieff, the two started working on investor class actions; not "stock drop" cases but what the SEC would call "exotics," such as pyramid schemes targeting the elderly that could wipe out a life's savings in one swoop. "We interviewed the people and they all had the same story: That this was the difference between the lifestyle they had saved for and welfare." From there they went on to other mass torts, such as breast implants, and pioneered class actions and multi-district litigation to provide a mechanism to bring multiple claims for relatively cost-efficient trials. "Some of my most meaningful cases were our efforts to recover money for Holocaust victims." She got $1.8 billion returned from Swiss banks and another $5 billion from German corporations. "The highest and best use of the U.S. court systems is to do what other courts in other countries can't and won't do."

FUTURE EXPLORATIONS Cabraser hopes to see the sustained vitality of both class actions and MDL to provide investors and consumers with access to our courts. "The paradox is that to protect our individual interests and rights, we have to band together. Otherwise litigation is too expensive."

Christopher M. Curran

White & Case LLP

PIONEER SPIRIT When Chris Curran joined White & Case in the middle of the "go-go" 1980s, he considered corporate transactions, but "it felt unglamorous, with mostly thick documents and negotiating small points." Conversely, when he did a rotation in litigation, Curran was thrust into some headline-grabbing cases. "I felt like I was contributing to something exciting." From there, he's forged a reputation as an attorney who can win in tough jurisdictions.

TRAILS BLAZED In his first jury trial as lead counsel Curran represented an Asian manufacturer of rubber thread against North Carolina companies—in the heart of western North Carolina's textile region. Curran relied on live witnesses, mostly English-speaking U.S. employees, in order to personalize the otherwise faceless foreign entity. He won, demonstrating that "if you respect the process, put on a credible defense and rely on humans to get your point across, rather than documents, videos and nonappearing individuals, you've got a shot." Curran has used that model ever since.

FUTURE EXPLORATIONS Curran doesn't think the skepticism the public has for Corporate America will lift anytime soon. "Coming out of the recent recession, we reached an all-time high of antipathy toward corporate executives and corporations, who are now more under a microscope than ever." Corporations and executives are in the crosshairs of government regulators and plaintiffs. "I see no end in sight in the challenges of explaining to U.S. judges and juries the conduct of corporations they are inherently suspicious of." He also finds foreign countries emulating our litigation systems and worries that this dynamic may be exported as well.

Thomas A. Demetrio

Corboy & Demetrio

PIONEER SPIRIT In 1973, Tom Demetrio was clerking for a judge who introduced him to Philip H. Corboy, who was "the guy for plaintiffs' personal injury and wrongful death." Demetrio joined up with Corboy's firm and made partner in 1982. "That started a national trend. Before this, all of the really good plaintiff's lawyers were 'lone rangers.'"

TRAILS BLAZED Demetrio's first big case was the crash of American Airlines Flight 191 in 1979, and he's been involved in every major air crash since. He's negotiated more than $1 billion in settlements and has acquired over $130 million in jury verdicts, but he also tries to solve social problems. One example was the Tylenol tampering case in 1982, which was the catalyst for today's tamperproof packaging. "That's what tort lawyers are supposed to do: make things safer." In 1994, he also created the Chicago Bar Association's Lawyers Lend-A-Hand mentoring program for inner-city kids. "It's dedicated to giving kids an alternative to gangs. That's more fulfilling than a victory in the courtroom."

FUTURE EXPLORATIONS Demetrio believes that he started at a perfect time. "It was easy to get to trial, and they were fun and there was a great camaraderie between plaintiff's lawyers and defense lawyers and judges." That has changed. He also sees a glut of lawyers. "Law schools have been taking kids in, taking their tuition, leaving them in debt, and there are no jobs." He expects law schools to downsize as part of a change in the profession, especially as mediation has taken over. "It's not necessarily a bad thing, but young lawyers aspiring to be a great trial lawyer will be disappointed."

Michael E. Elsner

Motley Rice

PIONEER SPIRIT Before law school, Michael Elsner worked at a small law firm in his parents' small town in Tennessee. "It was a town with a jail above the courthouse. It was always something different, and I always got the opportunity to understand someone's story." After law school, he went to work for the Manville Trust, where they decided to sue tobacco companies to recover their share of asbestos and tobacco-related injuries. "I was a young lawyer and really enjoyed digging into the facts."

TRAILS BLAZED In 2002, Elsner started working at Motley Rice on 9/11 litigation and in the course of that got approached to work on terrorist cases. They took a case for financial restitution from the Arab Bank for those who were injured by suicide bombs in Israel. "I worked on that for 10 years. Ultimately the jury found that the bank knowingly and intentionally provided support to Hamas that was a substantial contributing factor to 24 terrorist attacks in Israel." This was the first time that a financial institution had been held liable for financing terrorists. Elsner has also been consulting on the first occupational disease case ever in South Africa. "We are trying to help 27,000 gold miners who have developed silicosis."

FUTURE EXPLORATIONS Elsner thinks the Arab Bank matter should be a wake-up call to financial institutions that "if you work with terrorists, you'll be liable in the United States." He also sees a real movement internationally to open courthouse doors and provide access to justice to those—like the South African mine workers—who have historically been unable to assert their human rights for various reasons.

J. Mark Gidley

White & Case LLP

PIONEER SPIRIT As a first year associate, Mark Gidley got to go on a six-month trial. "You either love it or you hate it. I loved it." After stints as a commercial litigator at two firms, he joined the Department of Justice Antitrust Division under the George H. W. Bush administration in 1990, ultimately serving as acting assistant attorney general for the Antitrust Division before leaving for private practice in 1993.

TRAILS BLAZED In 1995, Gidley moved to White & Case to build the firm's antitrust practice, which now has more than 200 attorneys. "White & Case has a boldness and desire for action. We'll try any antitrust case anytime in any courtroom anywhere." This boldness enables Gidley to take cases that make new law, which have big downstream due process and human rights implications. "Every accused has rights, but very often the accusers have little reason to give them those rights. The giant financial implications of some antitrust matters enable us to fight for them, which then trickle down." One example is the Stolt-Nielsen amnesty case, where the government's reneging on a non-prosecution agreement violated the defendant's right to due process. "Thanks to that case, amnesty provisions are now considered full of due process rights for all."

FUTURE EXPLORATIONS Gidley points out that the Sherman Antitrust Act is 124 years old, but similar laws in other countries are much younger. "Ninety percent of the key questions have not been answered by court decisions. And it takes lawyers who will try the case to make the law."

Stuart Grant

Grant & Eisenhofer

PIONEER SPIRIT Even as a young child, Stuart Grant wanted to be a lawyer, which in those days meant being in the courtroom. "All the other kids wanted to be policemen or firefighters, but I wanted to be a lawyer. Perry Mason was my idol."

TRAILS BLAZED After a judicial clerkship, Grant spent seven years at Skadden doing securities law before leaving to help build Blank Rome's Wilmington office. Around this time, the amounts invested by institutional investors were rising dramatically. "We realized that in securities matters the defense was well represented and so were individual investors, but not institutional investors." In 1997 he left with his partner, Jay W. Eisenhofer, to start a new firm focusing on representing institutional investors. "Our clients like us because we make them money." Grant has to his credit more than 10 resolutions of more than $100,000,000. "We have delivered significant returns to our clients, but we've also taken difficult cases that establish new law." Grant & Eisenhofer now employs more than 75 attorneys. "They don't teach you how to run a firm like this in law school."

FUTURE EXPLORATIONS Grant suggests that with the ability to bring securities law cases having been reduced, "one has to be nimble and figure out how to represent clients well, but not so specialized or in a rut that you can't change with a times." He sees that as an advantage of being a boutique. "We can adjust to needs in the marketplace. Our challenge is to grow while staying within our area of core competency."

David Graeler, Patrick J. Richard & Thomas D. Long

Nossaman LLP

PIONEER SPIRIT David Graeler, Patrick Richard and Tom Long work together to pursue recoveries on behalf of the FDIC. Richard has been doing FDIC work since the last financial crisis. Graeler is an expert in real estate appraisal, and Long focuses on analyzing insurance policies, which can be a key source of recoveries.

TRAILS BLAZED Part of the FDIC's mandate is to investigate the reasons for failure and determine whether there were culpable parties. If it identifies claims, it pursues them. Those claims can be against insiders, bank officers, the board of directors, auditors, counsel, appraisers or anyone else involved in negligent conduct," says Long. One of the first big banks to fail in 2008 was IndyMac, and Graeler, Richard and Long were engaged to find multiple areas of liability by former bank executives. "Given how quickly the bank failed, there was no blueprint," says Graeler. "IndyMac triggered a lot of issues, such as whether the SEC or FDIC is responsible when the failure is with a publicly traded holding company and who holds the insurance."

FUTURE EXPLORATIONS Richard says, "Markets are cyclical, and the conduct of bankers is too. The FDIC's mandate is to remind them that they have a responsibility to keep safe and sound banking practices. But we will see this again, although not likely on this widespread scale due to changes that have come into play." Graeler adds that, "as this last crisis becomes a faded memory and more young people advance, there is a real risk of similar problems." Long believes that "as long as regulations list things we cannot do instead of what we can do, smart people will come up with strategies that are technically permitted but create risk."

Robert L. Haig

Kelley Drye & Warren LLP

PIONEER SPIRIT In 1995, New York's chief judge appointed Bob Haig co-chair of a task force to create the Commercial Division of the New York State Supreme Court, one of the first business courts in the United States, which persuaded him that "business courts can resolve business disputes more cost-effectively and with greater predictability." In addition, "by removing complex business cases from other parts of the court system, business courts allow the other parts to function more efficiently."

TRAILS BLAZED Haig has participated in the growth of the Commercial Division from six judges in two counties to 29 judges in 10 counties. During the past 20 years, "New York State has significantly improved the litigation process for business disputes." He has also worked on creating business courts with lawyers, judges and legislators outside New York (more than 20 states now have business courts). Haig is also the editor in chief of the two definitive treatises on business litigation in federal and New York state courts. Between them, these two treatises comprise more than 20,000 pages and contain the work of more than 350 principal authors.

FUTURE EXPLORATIONS In 2013, New York's current chief judge appointed Haig chair of a new council to advise him on an ongoing basis about matters involving the Commercial Division and in the business world that may affect the court system. "New York's litigation innovations will be useful to business clients, lawyers and judges throughout the United States." Finally, the work New York has done "demonstrates the enormous potential for synergies and collaboration between the business community, the bar and court systems."

nossaman.com

Innovators in Litigation.

Congratulations to Nossaman Partners **David Graeler**, **Thomas Long**, **Patrick Richard,** and **Robert Thornton** on being named to *The National Law Journal's* list of **Top 50 Litigation Trailblazers & Pioneers.**

Breaking new legal ground in the private and public sectors, Nossaman has earned a strong reputation for its team of extraordinary trial attorneys and the tremendous successes they have achieved on behalf of clients in complex, high-stakes litigation. Whether successfully defending two of the largest transit projects in the nation or prosecuting the first lawsuit to hold bank officers accountable for their involvement in the recent mortgage crisis, our attorneys excel at formulating innovative strategies to achieve extraordinary results. No matter what the objective, Nossaman attorneys bring a winning combination of courtroom experience, informed judgment and creativity to their clients' litigation needs.

MAKING IT HAPPEN.

LOS ANGELES | SAN FRANCISCO | ORANGE COUNTY | SACRAMENTO | WASHINGTON, DC | AUSTIN | ARLINGTON

Michael D. Hausfeld

Hausfeld LLP

PIONEER SPIRIT While practicing at an up-and-coming defense firm, Michael Hausfeld felt an affinity for cases with a social justice element. Within a year, he made a move to join the D.C. office of Harold Kohn's law firm, which became Cohen Milstein in 1986. In 2008 he left to form his own firm. "Over that time, I had developed a reputation and skill in out-of-the-box plaintiffs cases in antitrust, employment discrimination, international human rights and mass torts."

TRAILS BLAZED Hausfeld has won cases that forced women's fashion designers to terminate a cartel, the first instance of sexual harassment under Title VII, Native Americans successfully exposing discriminatory treatment in government hiring and more. Some of the standouts include one which integrated the District of Columbia police department in the 1970s and the recent *O'Bannon v. NCAA* antitrust lawsuit. "One of my most satisfying accomplishments was opening private enforcement for competition infringement in Europe, so private parties can bring cases."

FUTURE EXPLORATIONS Within the United States, Hausfeld expects greater scrutiny in all disciplines involving class actions. "It is appropriate for courts to inquire into the merits of the claims so the appropriate cases are certified." Outside the United States, private enforcement is mushrooming. "It's a right that has been characterized as having been dormant, and now it is beginning to blossom." Hausfeld also believes that it's an exciting time for young lawyers. "They get to practice the law but also engage in shaping it."

Mark F. (Thor) Hearne II

Arent Fox LLP

PIONEER SPIRIT Thor Hearne's first case on behalf of a landholder was when his client, a little village, had some of its property taken by the federal government under the Trails System Act. "We litigated and got into the U.S. Court of Federal Claims, where few people practice." From there, his practice began to grow nationwide, fighting for landholders, small businesses and farmers against the government's right to take their property and making sure they are compensated properly when it does.

TRAILS BLAZED The Court of Federal Claims has nationwide jurisdiction and appeals go only to the Federal Circuit, so "it's a good place to build a body of jurisprudence." One such case was *Ladd vs. U.S.,* which centered around an 80-mile corridor near the Mexican border. The Surface Transportation Board built a recreational trail on the land of a number of ranchers, who were no longer allowed to fence and maintain it. "This is now one of the areas where they are having the most problems, with a lot of drug smuggling." Hearne represented the landowners in an attempt to recover for the reduced value of their homes, some of which were less than 100 feet away. "We won on appeal based largely on the theory that when a federal government passes a regulation that excludes people from their land, then it's taking that land."

FUTURE EXPLORATIONS Hearne is frustrated that the federal government, with its unlimited resources, chooses fights and argues every point. "Even when they have lost repeatedly, they still make the exact same arguments in trial court." He is hopeful that the DOJ will rethink this approach. "Let's rightly compensate rather than arguing these laws at taxpayer expense and tying up the courts."

Joseph D. Jamail Jr.

Jamail & Kolius

PIONEER SPIRIT During his final year in law school, Joe Jamail was assisting a waitress friend who had cut her thumb on a beer bottle in her suit against the brewing company. He took the Texas bar exam in order to represent her in court, settling the case for $750. After stints with a big law firm and as a prosecutor in Harris County, Jamail turned to plaintiff-side civil cases. He has earned some of the largest settlements and judgments in history and is frequently referred to as the "King of Torts."

TRAILS BLAZED Jamail is best known for getting a $10.53 billion judgment for Pennzoil against Texaco by alleging tortious interference to Pennzoil's contract to buy Getty Oil. While the judgment was reduced to $8.53 billion on appeal and the two sides ultimately settled for $3.3 billion, the original jury verdict is still believed to be the highest ever. He has been lead counsel in more than 200 personal injury cases with judgments or settlements of over $1 million. He has repres*ented a client who received the largest cash settlement at the time in* Coates v. Remington Arms and tried three cases that resulted in manufacturer product recalls: the Remington Mohawk 600 rifle, Honda's All Terrain 3 vehicle and the prescription drug Parlodel.

FUTURE EXPLORATIONS Jamail is known for his philanthropy, especially gifts for athletics, academics and medical research at the University of Texas. According to *Forbes*, Jamail's net worth is estimated at $1.6 billion, but he has no plans to retire. When asked about it by the *Texas Lawyer* in April, he said, "You'll read about it in the obituary."

John W. Keker

Keker & Van Nest LLP

PIONEER SPIRIT John Keker was wounded in Vietnam and retired from the Marine Corps looking for something to do. "Most adult work didn't look too exciting. Becoming a trial lawyer was a way to take responsibility, take risks and earn a win or loss every time." After law school he clerked for Chief Justice of the United States Earl Warren and then joined the federal public defender's office before launching his own firm. "We did everything; a lot of criminal work at first, then we worked our way into all kinds of antitrust, securities, condemnation, copyright, patent cases and more. We handled everything except child abuse practically."

TRAILS BLAZED As a well-rounded trial lawyer who has resisted specialization, Keker has handled some of the highest profile cases over the past few decades. He's defended Black Panther Eldridge Cleaver, Werner Erhard (famous for est), Lance Armstrong and countless "tycoons, large corporations and lots of lawyers." He is currently defending Standard & Poor's in a $5 billion lawsuit filed by the U.S. government. "I've been fortunate to represent a wide variety of individuals and companies and try cases all over the country." Keker even served as a prosecutor one time, in the case against Oliver North.

FUTURE EXPLORATIONS Keker is distressed at the trend toward the virtual extinction of jury trials in civil cases. "Only 1.2% of federal civil filings are going to a jury trial and 2.6% of federal criminal cases do. It's way down from 20 years ago and even further down from when I started 45 years ago." He also hopes the government "keeps talking tough and bringing wrongdoers to trial."

Christopher L. Keough & Stephanie A. Webster

Akin Gump Strauss Hauer & Feld LLP

PIONEER SPIRIT Stephanie Webster started litigating as a young lawyer with the U.S. Department of Health and Human Services. She met Chris Keough when they were opposing counsel and later joined him in private practice. When they started working together, they handled mostly disputes between individual hospitals and the government. "Hospitals were still reimbursed based on cost, so it was narrow and hospital specific," says Keough.

TRAILS BLAZED The game changed when cost reimbursement was replaced with a prospective payments system, with rates set in advance and recalibrated every fiscal year. Along the way, Keough and Webster have handled many key cases, including *Baystate Health System v. Thompson,* which was the first time anyone challenged Medicare's "black box" calculations. "Hospitals thought their reimbursements were wrong, and this case pierced the veil," says Keough. The pair also represented nearly 700 hospitals in *Cape Cod Hospital v. Sebelius,* where they illustrated that a small, undetected mathematical error can have a giant impact on a hospital's bottom line. "We've seen Medicare reimbursement go nationwide. We have developed and fine-tuned some sophisticated systems to handle these appeals," says Webster.

FUTURE EXPLORATIONS Keough expects that the recalibration of payment rates will continue to become more complicated as there is more data and HHS is implementing reforms under the Affordable Care Act. "We're looking for a needle in a haystack, and the haystack is data." Webster says, "We hope to continue to be able to work for a lot of hospitals, including major academic medical centers that need every dollar they can get to fulfill their missions." Keough adds, "that's what really keeps us going."

Tara M. Lee

DLA Piper

PIONEER SPIRIT After leaving the military in 2000, Tara Lee was clerking for a federal judge when 9/11 happened, and "I did some writing on war crimes and international accountability issues, and through some pro bono cases I ended up on some major human rights cases." She has since worked for companies and on pro bono cases in Iraq, Afghanistan, Somalia, Sudan and other unstable environments. "If it happens in an unusual location or an unstable environment, it's our bread and butter."

TRAILS BLAZED In 2006, Lee was recruited to bring her niche practice to DLA. "The firm has given me a lot of latitude." She has been helping impoverished nations fight "vulture funds," which buy their debt at enormous discounts. She and her colleagues convinced the African Legal Support Facility to fund litigation against one entity that owned some of the Democratic Republic of the Congo's debt in state court, claiming the entity could not prove it was a valid debt. Lee and her team won on appeal. "It was a truly amazing thing. The bank did something bold. The law firm did something bold. And the Ninth Circuit went with them—and held the fund to the proof. It will make a difference."

FUTURE EXPLORATIONS "I want to say something upbeat. I want to say we've made a difference and that we've changed the landscape. But the future contains a lot of challenges." Soon after the DRC case, the Supreme Court ruled differently on a matter involving Argentina, sending that country into default. "I never thought that I'd be working at the biggest law firm in the world, but if I'm going to, I want to at least do something with it. I want it to be for a reason."

Adam Levin

Mitchell Silberberg & Knupp LLP

PIONEER SPIRIT Adam Levin has always enjoyed writing and storytelling, and civil litigation lets him do both. "Every employment litigation matter has some sort of backstory. My job is to figure out what that story is and tell it back in a persuasive manner to a jury." Levin joined Mitchell Silberberg & Knupp in 1994, and not long afterward he was seconded to a major motion picture studio. "I learned from the inside perspective what it meant to be involved in litigation and the different challenges in-house counsel has."

TRAILS BLAZED One of Levin's first big cases, *Lyle v. Warner Brothers Television Productions*—sometimes referred to as the *Friends* case—centered on whether the First Amendment protects potentially offensive speech as part of the creative process. "The California Supreme Court found that the Fair Employment and Housing Act is not a civility law; it is designed to prevent disparate treatment of employees." He's since spent a lot of time on the intersection between civil rights law and the First Amendment, including getting a dismissal in the Claybrooks Bachelor lawsuit. "The Bachelor case was really groundbreaking. The First Amendment provides producers tremendous latitude in selecting a cast or other creative participants."

FUTURE EXPLORATIONS Levin believes that these two cases are stepping-stones to future First Amendment cases. "Courts will better define the limits of free speech in the workplace, especially around civil rights. The cases will be applied in the creative arts where speech is the tool of the trade. Courts will hopefully be very protective of employers' First Amendment rights, balanced with the noble purpose of civil rights."

MITCHELL SILBERBERG & KNUPP LLP

IS PROUD TO CONGRATULATE

ADAM LEVIN

ON BEING NAMED TO THE

NATIONAL LAW JOURNAL'S
TOP 50 LITIGATION TRAILBLAZERS & PIONEERS

LOS ANGELES | NEW YORK | WASHINGTON, D.C.

Janet I. Levine

Crowell & Moring LLP

PIONEER SPIRIT When she graduated from law school, Janet Levine clerked for a judge who was a former district attorney and encouraged her to do criminal work. "I applied at the DA's office. They had a hiring freeze, but there was an opening at the federal public defender's office, which was my dream job anyway." Levine claims that her experience there taught her some early lessons, because "I got to do anything I wanted in the interest of my client without worrying about billing for it."

TRAILS BLAZED She started in private practice doing traditional criminal law, but she moved to a firm where she could focus on white-collar defense and joined Crowell & Moring in 2008. Levine has handled a number of extremely high profile cases, including that of Katrina Leung, who was an undercover FBI informant accused of switching sides and committing espionage. "The government overreached, as it sometimes does in high profile, high publicity cases, and we got the case thrown out due to prosecutorial misconduct." The Lindsay Manufacturing FCPA case is another example. "The government seemed to be invested in getting a conviction, rather than doing justice. It overstepped, and we ended up getting the case dismissed with prejudice."

FUTURE EXPLORATIONS Levine believes that white collar is not going to fade away. "It's part of our criminal justice system now to have fraud allegations dealt with in the criminal system." She also thinks that technology will even the playing field for defendants by providing documents and information about witnesses, although one of the things we have to do is make sure "the government toes the line and respects the law as much as the rest of us have to and should."

Tre Lovell

The Lovell Firm, P.C.

PIONEER SPIRIT Early in his career, Tre Lovell became aware of the disparities in the opportunities between powerful companies and average, hardworking people. Since launching his own law firm in 2004, his practice has included taking on cases of large-scale financial fraud involving hundreds or thousands of innocent victims against powerful entities. "Some of the greatest financial devastation I've seen emanates from these fraud schemes."

TRAILS BLAZED Since the 2008 financial meltdown, Lovell has seen a lot more of these scams and has expanded his practice to chase those who assist in the fraud. "In large-scale fraud, you have the actual fraudsters, and you have the second layer or the 'enablers.' These are the financial institutions, accountants, lawyers, branding partners and others who may indirectly perpetuate the fraud." Lovell believes that these ancillary players often take on a significant role in the scheme being successful, but are ignored by plaintiff's attorneys or criminal investigators. "If you are a bank and see unusual activity in your accounts, or an attorney being asked to do abnormal transactions, yet choose to close your eyes without asking questions, then you may be culpable."

FUTURE EXPLORATIONS Lovell believes that the more the enablers are challenged when engaging in what turns out to be a fraud scam, the more such practices will change. "As long as people think they are untouchable, they will walk the line to maximize their revenue." But he believes that once a bank, accountant or law firm knows it can be sued for having a relationship with a scam or scheme, this behavior will change. "Once you take away the means, you take away the scheme."

MARTIN LUECK

ROBINS, KAPLAN, MILLER & CIRESI LLP

PIONEER SPIRIT Marty Lueck had visions of being a jazz musician, until "I realized I didn't have enough talent." He didn't know what to do in law school, but that changed when he got into a trial competition in his third year. "I set my sights on the Robins firm because they had such a great reputation as trial lawyers."

TRAILS BLAZED With the opportunity to lead the firm at a time of change in the legal industry, Lueck has instituted a number of cutting-edge approaches. The firm borrowed techniques from business clients to institute legal project management, and it has been one of the first to build an in-house electronic discovery unit. It has also migrated a lot of services away from attorneys and employs Ph.D. scientists to provide technical expertise. The firm also launched OneBudget™, a proprietary suite of tools that leverages the firm's data to estimate costs and track individual budgets in real time.

FUTURE EXPLORATIONS On a granular level, Lueck expects to see much greater use of analytics in litigation, both in terms of predicting behaviors of litigants and also forecasting outcomes. Also, he believes litigation is on the edge of a true globalization. "There will be a move to private dispute resolution in forums that accommodate it, such as The Hague." He also sees a number of implications for the legal profession. "Many have left the law, and enrollment at law school is down. But it's cyclical, and over the next 10-15 years there will be a greatly increased demand for lawyers, which will tax the ability of the system to balance the rights of individuals, governments and businesses."

WINNING WHAT MATTERS MOST.

Congratulations Martin R. Lueck.

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

rewriting the odds

Linda Luperchio

Hanover Insurance Group

PIONEER SPIRIT One day in 2009, Linda Luperchio, then a corporate paralegal for Hanover Insurance, was reading an article on electronic discovery and brought it to the attention of the general counsel, who encouraged her to learn more. About three months later she got a call from lead litigation counsel asking if she'd like to get involved in Hanover's first case with e-discovery. "It says a lot about Hanover that they gave me the opportunity. It's not the norm to walk into an office and say I'm interested and three months later be doing it."

TRAILS BLAZED In 2012 Hanover granted an investment proposal to install an end-to-end e-discovery solution from Exterro. "We put together a whole platform behind the firewall, with connectors to outside counsel." The solution has allowed the company to save money because everything can be done in-house. Luperchio can also leverage the platform to identify critical documents early. "I get an overview from counsel and then tag documents as 'hot' if they are really relevant." This helps the team know where to look for evidence and understand the case better.

FUTURE EXPLORATIONS Luperchio says she will continue to grow the platform and improve. She also expects e-discovery as a whole to become a bigger part of litigation, with courts growing more dependent on different tools as they understand it better, because "technology is where the world's at."

William Marler

Marler Clark

PIONEER SPIRIT Bill Marler was a midlevel associate at a big defense firm, with a small side practice within the firm for personal injury. "Out of the blue I got a phone call from one of the first victims of Jack in the Box E. coli outbreak." Marler collaborated with the firm's class action group and immediately drafted the complaint. "There was such a lack of knowledge. I learned about E. coli quickly and became the face of it." The firm handled more than 50 cases, including a $15.6 million settlement for the most seriously injured survivor.

TRAILS BLAZED After the Jack in the Box case wound down, Marler formed Marler Clark to focus on food safety cases. "We've handled every major food-borne illness that's happened for last 20 years. We are the point of the spear." The work is interesting from a scientific perspective, and there are public policy implications as well. Marler has been involved in a lot of legislation and has testified in front of Congress.

FUTURE EXPLORATIONS The American meat industry has fixed most of its E. coli problem. Today the focus is more on importer and retail liability. "Maybe the new food safety rules from the FDA will clamp down on that. But it's like putting fingers in a dyke. We get E. coli fixed, and salmonella pops out." Still he says there have been some good successes. "Some have done a good job of paying attention; unfortunately, it's usually after a large outbreak and expensive litigation."

Madeleine M. McDonough

Shook, Hardy & Bacon L.L.P.

PIONEER SPIRIT A prelegal career as a clinical pharmacist convinced Madeleine McDonough to pursue a career in pharmaceutical litigation. "There was only one firm that really did that, Shook, Hardy & Bacon. They were even in my hometown." She's been at the firm her entire career, specializing in medical devices and drugs, more recently adding food and types of products that require approval by the FDA or other regulatory agencies.

TRAILS BLAZED McDonough was national counsel for a few companies before she even made partner and has represented more than 65 FDA-regulated companies during her 25-year career. "I've learned that a lot of issues can be resolved before trial." With that in mind, McDonough tries to help her clients prevent litigation through anticipatory risk management. "If you have to go to trial, we'll do that. But it's time-consuming, expensive and often not satisfactory—even if you win." The litigation prevention process includes understanding the opponents, the claims, the landscape and trying to work out something that helps everybody. "Many claimants come through advertising brokers or other means and were not injured or had very minor injuries that may not even be attributable to the product."

FUTURE EXPLORATIONS "New technology is emerging constantly which often creates privacy and data security concerns." McDonough sees electronic discovery as a risk factor. "You need to have those issues buttoned up so they don't become a leverage point for your opponents." She also views the global marketplace as a game changer in the pharmaceutical field. "International health agencies are starting to have a meaningful impact on my clients."

SHOOK, HARDY & BACON

congratulates our friend and partner

Madeleine McDonough

on being named to *NLJ*'s 2014 inaugural list of **Litigation Trailblazers & Pioneers**.
Her visionary advocacy on behalf of her clients makes her a worthy recipient of this prestigious award.

1155 F Street, NW, Suite 200 | Washington, DC 20004-1305

www.SHB.com

DENVER | GENEVA | HOUSTON | KANSAS CITY | LONDON | MIAMI | ORANGE COUNTY
PHILADELPHIA | SAN FRANCISCO | SEATTLE | TAMPA | WASHINGTON, D.C.

Andrew McBride

Wiley Rein LLP

PIONEER SPIRIT After graduating from law school in 1987, Andrew McBride clerked for D.C. Circuit Judge Robert Bork and Supreme Court Justice Sandra Day O'Connor. At the Department of Justice, he was involved in the prosecution of the Mexican cartel members who murdered DEA Special Agent Enrique "Kiki" Camarena and the apprehension and prosecution of former Panamanian dictator Manuel Noriega. In 1999, he moved to private practice where he specializes in complex litigation often involving new technologies.

TRAILS BLAZED In the First Amendment area, McBride helped develop the theories regarding government-compelled speech that led the wireless industry to victory against the city of San Francisco in the RF labeling case. In the arbitration area, he developed the statutory theory that secured Justice Clarence Thomas' crucial fifth vote in the seminal Federal Arbitration Act decision in AT&T Mobility v. Concepcion. McBride is also an innovator in the way litigation is billed. He often combines a discounted blended rate with a success premium. "It's hard to bill for litigation without some reference to hourly rates, but at Wiley Rein we try to give the client a value proposition that includes the firm having some 'skin in the game.'"

FUTURE EXPLORATIONS The forced commercial speech issue appears headed for the Supreme Court, and McBride expects to participate in shaping the result. Also, "the plaintiffs' bar continues to find novel ways to avoid enforcement of arbitration clauses, and I will be there to oppose them." McBride expects more retail-facing industries to take advantage of arbitration clauses as per Concepcion. "Expertise in the AAA rules may one day be as important for a litigator as working knowledge of the Federal Rules of Civil Procedure."

Ronald J. Offenkrantz

Lichter Gliedman Offenkrantz PC

PIONEER SPIRIT During a job interview in 1962, New York State Attorney General Louis Lefkowitz said, "You're in litigation" to Ronald Offenkrantz. "He could have said real estate, mental hygiene, whatever, and I probably would have done it." In short order, Offenkrantz was facing an "onslaught of questions in an overflow courtroom" from Thurgood Marshall as he argued that *Mapp v. Ohio* should be applied prospectively (and not retroactively) in the Second Circuit.

TRAILS BLAZED In addition to the Mapp case, Offenkrantz is best known for being the first to successfully secure a RICO arbitration award in an international overbilling/breach of fiduciary duty conspiracy. "At the time it was unheard of since the arbitration process makes it virtually impossible to get third-party testimony from witnesses and doesn't permit subpoenas to be enforced in outside jurisdictions." Offenkrantz got the $56 million award confirmed by the Southern District of New York and collected all over the world, including from a British public company and a Liechtenstein anstalt.

FUTURE EXPLORATIONS Offenkrantz, whose articles on arbitration have appeared in Harvard's and Columbia's law journals, forecasts increasing risks and costs from the arbitration process. "Negotiating attorneys look at arbitrations as just a way to save money. The U.S. Supreme Court has even mischaracterized arbitration as 'merely a form of trial.'" But Offenkrantz suggests that in complex cases it's not necessarily less expensive or more expeditious. "Unless you know what you are doing, you'd better be very careful. You may end up paying more in fees than your claim is worth."

Theodore B. Olson

Gibson, Dunn & Crutcher

PIONEER SPIRIT When Ted Olson first joined Gibson Dunn, the firm had a practice of rotating new lawyers through various practice areas. When he moved into the litigation unit, "I knew instantly. I enjoyed the competitive spirit, the writing, the speaking and the advocacy." Olson has been with Gibson Dunn, where he founded the firm'sAppellate and Constitutional Law Group, ever since except for two stints with the government. From 1981 to 1984 he was assistant attorney general in charge of the Office of Legal Counsel in the DOJ. He also served as solicitor general from 2001 to 2004.

TRAILS BLAZED Olson has argued countless seminal cases, both as solicitor general and in private practice. These include *Aetna Life Ins. Co. v. Lavoie*, in which the Supreme Court recognized for the first time that punitive damage awards raise constitutional questions. He won *Bush v. Gore* and also defended both the McCain-Feingold campaign reform act as solicitor general, and later, in private practice, argued "on the other side of that issue" for Citizens United. More recently, Olson helped to overturn Proposition 8, California's law banning same-sex marriages.

FUTURE EXPLORATIONS The federal government has been prosecuting "based on very vague statutes that provide prosecutors with considerable discretion. Congress gives regulators broad power; it's hard to see prospectively what is a violation and what isn't." This manifests itself in enforcement agencies starting to arrest people and seek civil forfeitures, sometimes when there hasn't even been a crime committed. "Over breadth in the prosecutorial realm is an area that courts are increasingly looking at with careful eyes."

Jerold Oshinsky

Kasowitz, Benson, Torres & Friedman LLP

PIONEER SPIRIT Jerry Oshinsky was a commercial litigator when his client Keene Corporation acquired some companies that had sold asbestos products in the past. There were questions about which insurance policies applied: the ones in force when people were exposed to the asbestos in the 1940s and 1950s or the ones from when they sued in the 1970s and 1980s. "I suggested what was obvious to me as a commercial litigator: both should apply."

TRAILS BLAZED The circuit court agreed with Oshinsky's theory and decided that the policyholder can choose how to access coverage. This changed the entire industry, as companies started thinking more about their coverage. "A tremendous number of major clients wanted to get the same result. I wound up litigating insurance cases all over the country, all as a result of the Keene case in 1981." Around the same time, Congress passed the Superfund statute, and the same arguments started taking place with regard to environmental issues. In the late 1980s, insurance companies started trying to bring suit in favorable jurisdictions. "This was a threshold moment that stimulated policyholders to file proactively." Oshinsky has represented all types of corporations, universities, religious organizations and more, in cases related to all kinds of losses, ranging from defamation to catastrophic events.

FUTURE EXPLORATIONS Oshinsky believes that computers are taking over the world. Everybody now has to deal with cybersecurity and cyberliability. "This is now a major field of endeavor. Plaintiffs bring action for not taking care of information. And what kind of insurance is available to cover those kinds of losses?" He likens cybersecurity to asbestos years ago. "It's a major concern and a major practice area."

John B. Quinn

Quinn Emanuel Urquhart & Sullivan LLP

PIONEER SPIRIT John Quinn did some corporate work right after law school, but he really did not find it satisfying. "I got a taste of litigation and enjoyed the adversarial process and the opportunity to learn about many different types of subject matters while coming up with a strategy and then seeing it play out."

TRAILS BLAZED After starting his own firm in 1986, Quinn represented General Motors in a major trade secrets case around the departure of former senior executive José Ignacio López de Arriortúa, which settled for "about a billion dollars." He also has represented Android-powered cell phone manufacturers like Samsung, Motorola and HTC against Apple and others. "Apple has not collected any money or gotten any products removed from the marketplace." He won one of these cases by getting the Federal Circuit to rule that, in order for a company to claim that patent infringement resulted in a loss of market share, the infringement itself had to cause the loss. "People didn't buy phones because of this feature. There has to be causation." Quinn has also long served as the general counsel of the Academy of Motion Picture Arts and Sciences, where "there have been a lot of interesting cases around their trademarks, such as Oscar® and the statuettes."

FUTURE EXPLORATIONS The future at Quinn Emanuel "looks rosy due to a different practice model. We have 650 lawyers in nine countries doing just litigation work." He expects to see more transnational litigation, more and more litigation with parallel proceedings in multiple countries and more international arbitration.

Joseph F. Rice

Motley Rice

PIONEER SPIRIT Joe Rice went to work for Ron Motley right out of law school. "I learned a tremendous amount about what it means to be a trial lawyer from Ron. We had a marvelous 30-plus-year collaboration."

TRAILS BLAZED In the late 1980s asbestos cases were considered to be clogging the court systems, and Rice helped pioneer the use of class actions, including one consolidation of more than 10,000 cases in Baltimore. Rice would handle the negotiations over resolutions. "We were greatly successful in getting clients paid." He was also on the ground level of the state tobacco cases and the lead negotiator of the Master Settlement. "Not only were we able to get a settlement, but we got every state attorney general to sign on." The case turned the trial court and civil litigation into a national policy development on tobacco. "It was a whole new approach on collaboration between the states, and the attorneys general have worked together many times since." Over the years, Rice has negotiated in excess of $400 billion in settlements

FUTURE EXPLORATIONS Rice sees the practice of law changing. "Technology and social media have drastically changed the way people choose their attorneys and the ways we communicate with clients." He points out that the firm has always been willing to fight long battles for a cause, and will be doing so over the upcoming years in pharmaceuticals. "We are involved in pharma because people need to be able to rely on their drugs and medical devices. They are putting their lives in the manufacturers' hands. That's why we are passionate in how we will proceed."

Lee S. Richards

Richards Kibbe & Orbe LLP

PIONEER SPIRIT During college, Lee Richards thought he'd be a journalist. He spent four summers working at small newspapers and after his first year of law school—which he took on to make himself better at journalism—got a job at the *Berkshire Eagle* in western Massachusetts. During his second year he took a course in trial practice, and "I sort of caught fire." He ended up as an assistant U.S. attorney in Manhattan, prosecuting the second criminal insider trading case ever brought to court.

TRAILS BLAZED After charting new ground at the U.S. attorney's office, Richards started his own law firm, which now employs more than 70 attorneys. "Founding this firm and the building of it make up one of my proudest accomplishments." He has handled a lot of criminal and regulatory defense matters, specializing in keeping his clients out of trouble and the papers. "Some of my best moments are ones I can't talk about because my clients were not indicted or ever under official investigation." Richards has helped clients avoid charges from the attorney general, the DOJ and the SEC. He has also served the government as an independent examiner in a number of matters, including the Madoff investigation and the massive Computer Associates matter. Richards frequently represents other attorneys. "To be chosen to defend a lawyer is extremely gratifying."

FUTURE EXPLORATIONS Richards expects to see more cases with fraud setting financial benchmarks, such as LIBOR. He also expects to see more cybersecurity, especially out of the of Manhattan U.S. attorney's office and FCPA. "That's where the government is going, and that's where we'll go."

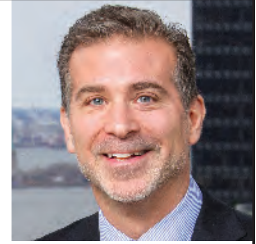
Robert S. Salcido

Akin Gump Strauss Hauer & Feld LLP

PIONEER SPIRIT Robert Salcido liked the idea of going after those with intent to defraud, so he decided after law school to practice in the DOJ's Civil Fraud Section, which prosecutes False Claims Act cases. "What's remarkable about working at the DOJ is the amazing amount of responsibility young lawyers are afforded. Immediately out of law school, I was lead attorney suing defendants for hundreds of millions of dollars."

TRAILS BLAZED Salcido has been defending difficult FCA cases against the government since going into private practice 21 years ago. Government lawyers are subject-matter experts with a lot of resources. The FCA calls for trebled damages if the government prevails, and a judgment against a company will likely exclude it from any future government work. Therefore, "it's very rare that a case goes to trial." One case that did was *Jamison v. McKesson Corp.,* where Salcido's client, Golden Living, was accused of accepting kickbacks. "The case was noteworthy because we overcame the government's great leverage and the legal principle the court relied upon. The fact that two businesses do business together and would like to do more does not necessarily indicate any unlawful or improper kickback arrangement."

FUTURE EXPLORATIONS The government will continue its efforts to enforce the FCA, says Salcido. "Whatever party is in power, the government will spend money to bring fraud actions." A large number of these matters are in the health care sector, and there may be an even greater increase in that area due to the Affordable Care Act. "If the government's role in health care increases, so will FCA enforcement actions."



Christopher A. Seeger

Seeger Weiss LLP

PIONEER SPIRIT Having put himself through law school working as a carpenter, Chris Seeger never felt comfortable at a white shoe firm and left to start his own practice, where he handled "whatever came in the door," including personal injury work. "The first time I tried a case, my client squeezed my hand as the verdict was read, and I fell in love with the white knight aspect of personal injury law."

TRAILS BLAZED Over the years, matters handled by Seeger have evolved from one case to hundreds at a time. Some are class actions, but most do not have enough common issues to certify as such. One of these involved Merck's drug Vioxx. He got involved in Vioxx litigation even before it was pulled from the market. Following years of litigation, Seeger and his colleagues secured a settlement for $4.85 billion. "It started out controversially, but ultimately 99.6 percent of the plaintiffs accepted the settlement." Seeger has had similar results representing retired NFL players in concussion injury litigation, with more than 99 percent accepting the settlement offer. "It's because we're out there talking to people. The more people find out and understand, the better the settlements do."

FUTURE EXPLORATIONS While he claims it can be hard to predict a trend, Seeger does expect an increase in medical device litigation. "There is a rush to market—and some failures." He cites the recent $2.5 billion settlement covering Johnson & Johnson hip implants. "As long as there is Wall Street and greed, plaintiffs' lawyers will be very busy."

Christopher A. Seeger is recognized as one of the nation's most versatile, innovative and accomplished members of the plaintiff's trial bar. Mr. Seeger is best known for his groundbreaking work in pharmaceutical mass actions involving Vioxx, Zyprexa, Rezulin, PPA and Gadolinium, among others, which resulted in the recovery of over $8 billion for injured victims nationwide. He has been recognized consistently by leading publications including Lawdragon 500, Best Lawyers and New York and New Jersey Super Lawyers.

Mr. Seeger Serves as Chair of the Trial Committee in the Chinese-Manufactured Drywall Products Liability MDL, was appointed to Multidistrict Litigation (MDL) Actos Product Liability Plaintiffs' Steering Committee, and to the Plaintiffs' Executive Committee (PEC) in the DePuy Orthopaedics, Inc. ASR Hip Implant Products Multidistrict Litigation (MDL).

Most notably Mr. Seeger was appointed in 2012 to lead the litigation against the NFL on concussion-related injuries sustained by thousands of former NFL players. In the face of significant legal and scientific obstacles, Mr. Seeger, as chief negotiator, secured an uncapped settlement worth at least $765 million for thousands of former NFL athletes.

To contact Christopher Seeger or another one of our partners, email us at info@seegerweiss.com or call directly at 212.584.0700.

SEEGERWEISS LLP

77 water street, New York, NY 10005
888.584.0411 212.584.0700
info@seegerweiss.com
www.seegerweiss.com

Drug and Toxic Injury | Personal Injury | Class Actions | Securities Litigation | Commercial Disputes

Gerald H. Silk

Bernstein Litowitz Berger & Grossmann LLP

PIONEER SPIRIT Jerry Silk grew up in a household where his father was a plaintiff's attorney, "representing people who were harmed on contingency fee. He got a lot of satisfaction representing the underdog." Silk has spent his entire career as a securities lawyer and in 1998 joined Bernstein Litowitz. "I learned so much from our founding partner, Max Berger. He has inspired me in the way I practice law and in life."

TRAILS BLAZED Silk heads up the firm's New Matter Department, where he and his team of attorneys, private investigators and financial analysts evaluate every case the firm might pursue. Silk started out litigating cases, and still does, but he now brings all that background and knowledge to how to decide what cases make sense for their clients and the firm. "We deploy firm and partner capital, and these cases go on for a long time and are expensive, so it is critical for us to take on the right ones." He makes those decisions based on the merits of the case, testing whether the defendants have the ability to pay and determining if there's a winning case strategy. For example, during the credit crisis, Silk deployed a team of dozens of attorneys to study the mortgage-backed securities area, figure out what went on and who the players were and determine where to litigate in order to recover the billions that were lost.

FUTURE EXPLORATIONS Silk believes that the job of lawyers representing plaintiffs will get more challenging. "The laws are more protecting of corporations. Alleged wrongdoers are getting craftier in how they deliver information. Cases are taking longer. Resources on the other side are increasing. All this makes the job of identifying cases more important."

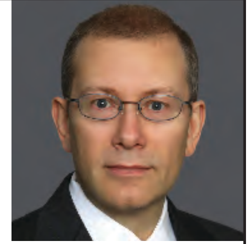
Stephen D. Susman

Susman Godfrey L.L.P.

PIONEER SPIRIT In 1976, Steve Susman formed the first successful commercial litigation boutique. "There were no firms like us, who represented both plaintiffs and defendants."

TRAILS BLAZED Susman has pioneered creative fee arrangements for defense cases, with fees that are contingent on results. The firm does not hire laterals, only "the smartest law graduates," 98 percent of whom have completed a federal clerkship. "This is why we are the most feared plaintiff's firm; people understand the quality of our lawyers." Every partner is an equity partner. "We have an 'eat what you kill' pay system where partners get a percentage of what they bring in. It's very unusual for a large firm." Susman Godfrey also works as a democracy, including voting on the cases the firm takes on a contingency fee, with all 60 partners and 40 associates having a vote. "If 98 percent have been federal clerks, don't you think they have an understanding that the cases are likely to be successful and likely to hold up on summary judgment and appeal?" Most cases are staffed with only two or three lawyers. "Our attorneys handle every case, even hourly ones, as if it's their own nickel."

FUTURE EXPLORATIONS The number of jury trials has shrunk. "It's because corporations don't trust juries, litigation is viewed as an anathema to growth and we are viewed as piranhas." Susman believes, however, that some areas will grow, including False Claims Act cases in the medical field. "We are also getting into the arbitration game more because the same skills lawyers use in trials can be used there. Lawyers in the future will have to be very strategic, competitive and creative on fee arrangements."



Evan M. Tager

Mayer Brown

PIONEER SPIRIT In law school, Evan Tager had two opportunities to write appellate briefs. "Both times it was like a duck hitting the water. It felt so natural and intuitive." He knew what he wanted to do. A few years after an appellate clerkship, he joined Mayer Brown "where I got to work with many of the most recognized appellate lawyers in the country."

TRAILS BLAZED Tager considers his first big accomplishment taking part in an effort to limit punitive damages. He was the principal author of the briefs in the seminal BMW case, which Mayer Brown partner Andrew L. Frey argued in front of the Supreme Court. Since then Tager has built a reputation as the go-to lawyer on punitive damages. Tager was also instrumental in Cingular Wireless' (now AT&T) efforts to use arbitration as an alternative to costly class actions. He helped draft Cingular's arbitration clause to be fair to consumers and even provide bonuses to them if they prevailed. "We defended the clause in a lot of cases and won most, but the Ninth Circuit rejected our 'preemption' argument." Tager built a nuanced preemption argument to earn certiorari from the Supreme Court, where it prevailed. "It's one of the reasons I wanted to be an appellate lawyer: to have an opportunity to have an impact on the law."

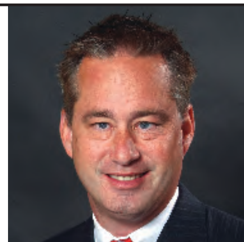
FUTURE EXPLORATIONS Seeing too many inordinately high judgments, Tager hopes to see some rebalancing of the litigation system. For example, "a theme in all cases with runaway verdicts is bought-and-paid-for expert testimony." Another issue is state law-mandated interest rates on judgments. "These fixed rates do not relate to the costs and give judgment winners massive leverage during the appeals process."

Affirmed

Congratulations to our partner Evan Tager, whose rare combination of tenacity, insight and advocacy has helped transform the law of both punitive damages and arbitration.

Americas | Asia | Europe | www.mayerbrown.com

MAYER • BROWN



Rudolph A. Telscher

Harness Dickey & Pierce PLC

PIONEER SPIRIT While he was an electrical engineer for McDonnell Douglas, it was suggested to Rudy Telscher that he consider patent law. "I didn't really know what that was, so I opened the phone book to 'patent lawyers' closed my eyes, picked one and called him up and offered to buy him lunch." By the end of the day, he wanted to be a patent attorney.

TRAILS BLAZED Telscher says that weak patents cost the economy $50 to $80 billion annually, and his work on *Icon v. Octane* will make it more difficult for patent trolls and others to bring frivolous lawsuits. Octane makes high-end elliptical machines, and its competitor brought suit on a patent from late 1990s that never worked; Icon never made a single machine. "It was a good old-fashioned stickup." Telscher got a summary judgment, then moved for fees, which the District Court denied. "The standard at the time was that the claim had to have zero merit. It was impossible. There were literally zero awards in seven years under that standard." Sensing an opportunity in the political environment, Telscher took the case the Supreme Court and secured a 9-0 result, which eased the standard considerably.

FUTURE EXPLORATIONS Since the decision came down in April 2014, there have been 23 fee awards. "It's not 'loser pays,' but the courts have discretion to spot cases that shouldn't have been brought." Telscher expects that as potential plaintiffs notice this trend, they will be reluctant to bring a bad case.

Robert D. Thornton

Nossaman LLP

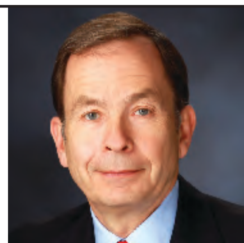
PIONEER SPIRIT After law school, Rob Thornton spent almost four years as majority counsel for the House of Representatives Subcommittee on Fisheries and Wildlife Conservation & the Environment. From there, he went to Nossaman because the firm often handled large-scale projects with environmental components. The firm advises clients such as public transport agencies on compliance with federal, state and local environmental law and the permit process. "And then someone ends up suing, so I ended up in the litigation business."

TRAILS BLAZED Thornton worked with Congress to amend the law and provide a statutory basis for voluntary agreements with landowners to enhance property for endangered species. "This led to an explosion in habitat conversation planning. There are now millions of acres that are subject to these habitat conversation plans, including about 400,000 acres in Southern California alone." Thornton recently handled a case in the Ninth Circuit related to a $5 billion 20-mile rail project in Honolulu. "It was a very favorable decision recognizing that federal transportation agencies can rely on environmental studies provided by state and local transit authorities." He is currently involved in litigation concerning the state and federal water projects and water supplies in California.

FUTURE EXPLORATIONS Thornton finds environmental law really does reflect societal attitudes. "Now we talk about climate change and greenhouse gas; when I started, no one used those terms." Thornton expects the legal regime to become more complex and require more and more out-of-the-box creative solutions. "Even renewable energy sources like solar and wind have their own environmental issues. There's no free lunch in this business."

Anton R. Valukas

Jenner & Block



PIONEER SPIRIT Tony Valukas was very involved in civil rights fights in the 1960s during high school and college. "I very much believed in what the DOJ was doing and wanted to be an assistant U.S. attorney working for Bobby Kennedy." When he finished law school, Valukas worked with the National Defender Project. In 1970, he got a call from then-U.S. Attorney Jim Thompson with an offer to set up the first civil rights units, where he led the first successful prosecution of a police officer in Chicago's history

TRAILS BLAZED While at the DOJ, Valukas served on the official corruption unit. "We prosecuted aldermen, state representatives and other government officials. It became the foundation for the corruption prosecutions that have endured to this day." In 1977, he joined Jenner & Block, but left in 1985 to become U.S. attorney. During that time, his office prosecuted Operation Greylord, an investigation into judicial corruption that resulted in the indictments of 92 people, including 17 judges. "On one of my days in court, I saw a bailiff taking bribes from lawyers in order to push certain cases to the front of the line. Now I was prosecuting judges, clerks and lawyers." Valukas returned to active practice at Jenner & Block in 1989, where his most impactful project has been serving as the examiner in the Lehman Brothers bankruptcy.

FUTURE EXPLORATIONS Valukas is representing a number of clients in securities matters and is actively involved with younger lawyers. "Fewer and fewer cases go to trial; this is a trend that's accelerating." He cites the burden and expense of litigation, as well as new sentencing guidelines. "Advocacy used to be front and center. That's changing."

Elpidio Villarreal

GlaxoSmithKline

PIONEER SPIRIT PD Villarreal says he decided to go to law school for the wrong reasons, but it ended up being the right call. "I loved every aspect of the law, but never really had any doubts that I wanted to litigate. I loved the adrenaline and the competition and the conflict." He also realized that he liked resolving disputes, which is what he became known for after he joined General Electric's law department in 1995. He is now senior vice president and head of global litigation at GlaxoSmithKline.

TRAILS BLAZED "What I've always tried to do, even before joining GE, is to focus on a company's entire docket and look for opportunities to bring cases to resolution as efficiently as possible." He built such a program as part of GE's Six Sigma quality initiatives. "It forced everyone to think about process and process improvement; we applied those ideas to conflict resolution." At GlaxoSmithKline, all cases must go through an early resolution screening process. "We don't settle them all, but we determine the best way to resolve the case." Aware that almost all cases are resolved without going to trial, "we focus on doing that better, rather than spending too much time on the 1 percent of cases that we try. The policy involves doing the analysis earlier and driving the cases toward the earliest possible sensible resolution. That's what sophisticated inside counsel should be trying to do."

FUTURE EXPLORATIONS Villarreal expects to see things continue on the same "but more of it." Globalization will accelerate the process. "As more work of Western companies originates outside of North America and Europe, there will be a premium on conflict avoidance and early conflict resolution."

Dan K. Webb

Winston & Strawn LLP

PIONEER SPIRIT In his early years as an assistant U.S. attorney, Dan Webb got put on a huge police corruption case, where he tried 24 police officers. "It may still be the most defendants ever tried at one time." Webb convicted all but two, including a top commanding officer, propelling him forward in the Chicago legal community.

TRAILS BLAZED After five years in the U.S. attorney's office, Webb decided that "the name of the game is major commercial litigation" and set up his own boutique practice. In 1981, he left private practice to serve as U.S. attorney in Chicago before joining Winston & Strawn in 1985 to represent major corporations in major commercial litigation. Webb has represented high profile corporations in hundreds of trials, including Abbott Laboratories, Alcoa, American Airlines, Caremark, Deloitte, General Electric and Monsanto. He has also tried some of the longest cases in history, including two cases on behalf of Philip Morris that lasted more than a year each. One of those resulted in a Florida Supreme Court decision that clarified when a class can be certified in a product liability matter.

FUTURE EXPLORATIONS Webb feels that because he does not specialize in any one area and handles all types of commercial trials and arbitrations, there will always be a market. "Things shift sometimes. For example, when democrats are in office there are more antitrust cases, but these are all temporary shifts. The litigation marketplace is strong." At 69, Webb remains chairman of Winston & Strawn and has no plans to retire. "I like what I do and don't see any reason to slow down."

Beth A. Wilkinson

Paul, Weiss, Rifkind, Wharton & Garrison LLP

PIONEER SPIRIT While in the U.S. Army, Beth Wilkinson was selected to serve as a special assistant U.S. attorney to aid in the prosecution of Manuel Noriega. "I always wanted to try cases, so I jumped." She left the army before that trial began, however, to take on the post of assistant U.S. attorney in the Eastern District of New York. She prosecuted the first extraterritorial murder of a U.S. citizen against narcoterrorist Dandeny Muñoz Mosquera.

TRAILS BLAZED In 1995 Wilkinson was asked to be on the team prosecuting Timothy McVeigh and Terry Nichols in the Oklahoma City bombing cases. After succeeding in getting convictions, Wilkinson went straight into private practice as a partner at Latham & Watkins, where she tried many civil cases, including some for Philip Morris, following judgments against them for $3 billion and $28 billion. "I was brought in to change the face of the litigation. We faced the same plaintiff's lawyer in another jurisdiction and won." In 2006, Wilkinson became general counsel of Fannie Mae. "Their accounting scandal had just ended. I figured, 'What could go wrong?'" Two years later, in the wake of the financial crisis, the government put Fannie Mae into receivership and Wilkinson moved to Paul Weiss. "I had left private practice somewhat reluctantly; I was looking forward to the opportunity to get back in the courtroom.

FUTURE EXPLORATIONS Wilkinson expects to keep practicing in all areas, but she sees fewer and fewer trials happening. "That's unfortunate because it is hard for younger lawyers to get the experience." She also wants to see more young women working on trials. "There are not enough women in the trial bar. More should have the opportunity to be lead counsel in trials."

Thank you for voting us the Best End-to-End Litigation Consulting Firm

Built by the clients, for the clients™

eTERA Consulting is an internationally recognized and award winning leader in data and technology management providing innovative solutions to help clients effectively manage litigation, government investigations and regulatory matters.

Services Covering the Electronic Discovery Reference Model

- Consulting
- Project Management
- Forensics
- Processing
- Review
- Hosting
- Technology Assisted Review
- Production

__eTERA Consulting__ is pleased to announce the acquisition of Discovery Services LLC, a leading provider of managed review and legal staffing solutions

EARLY1NFORMATION ASSESSMENT
Manage data risk, **reduce costs**

FORENS1CSONE
End to end, reliable **electronic evidence analysis**

1NTELLIGENTONE
Real-time **data analytics reporting**

REV1EWONE
Integrated **managed review solutions**

OPT1MUMONE
On demand, outsourced **litigation support**

SSAE 16

eTERA Consulting
1100 17th Street, NW
Suite 605
Washington, DC 20036
Tel. 202.349.0177
www.eteraconsulting.com

Washington, DC | Chicago | Brussels | London | Paris