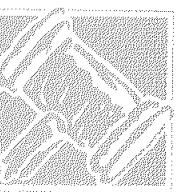
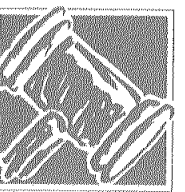
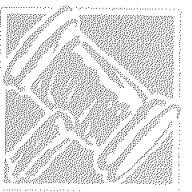
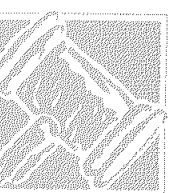
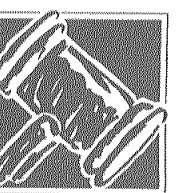
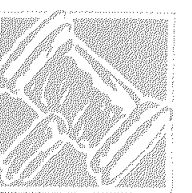
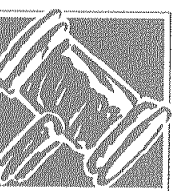
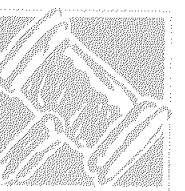
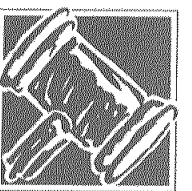


**TRIAL  
LAWYERS  
DOING  
PUBLIC  
JUSTICE**



**2001**



**Trial Lawyers for  
Public Justice**  
"Fighting for justice  
since 1982"

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## TRIAL LAWYERS DOING PUBLIC JUSTICE

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### INTRODUCTION

Trial lawyers have a special commitment to justice. Their advocacy skills breathe life into the rights of individuals and groups that have suffered injustice, injury and abuse.

Every year, trial lawyers provide millions of people with the means to obtain justice. In the majority of these cases, the client is an individual who has sustained damage in some way — physically, mentally, emotionally, monetarily — caused by the wrongful conduct of a government or corporation.

These David-and-Goliath battles for justice usually pit the enormous financial resources of the bureaucratic or business defendant against the meager resources of the injured plaintiff. Ironically, plaintiffs' attorneys are not generally paid unless they win.

However, many trial lawyers take great risk and overcome incredible odds to advance the common law, to make new law, and to win justice for their clients and for the common good of the public. We honor such lawyers with this publication.

Despite trial lawyers' dedication to fighting for public justice, some cases are so novel or demanding that, even though they involve the public good, they are unlikely to be pursued by private practitioners or other public interest organizations. Trial Lawyers for Public Justice (TLPJ), a national, public interest law firm with offices in Washington, D.C., and Oakland, California, handles such cases.

TLPJ, founded in 1982, chooses cases on its wide-ranging docket for their impact on the public good. TLPJ uses creative litigation to protect people and the environment, hold accountable those who abuse power, challenge and remedy wrongdoing, guard access to the courts, combat threats to our judicial system, and inspire lawyers and others to serve the public interest. A volunteer network of more than 2,500 of the best trial lawyers in the United States and abroad supports the work of this firm. TLPJ litigates most of its cases by calling on these members.

Unfortunately, much of the public remains unaware of how the work of trial lawyers successfully corrects injustices and creates economic incentives that protect the public health, safety, and welfare. That is why The TLPJ Foundation exists. The TLPJ Foundation is the

## TRIAL LAWYERS DOING PUBLIC JUSTICE

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nonprofit, charitable membership organization that supports Trial Lawyers for Public Justice. For information on how to join and support the Foundation's work, please see the membership form at the back of this publication.

One goal of The TLPJ Foundation is to inform the public about court cases decided each year that illustrate the principles of public justice. To that end, the Foundation presents two awards — the Public Justice Achievement Award and the Trial Lawyer of the Year Award.

The Public Justice Achievement Award is presented to volunteer attorneys who have won major victories in TLPJ cases in the past year, or in cases that demonstrate excellence in achieving the purposes of TLPJ's mission. Recipients show how trial lawyers, working together, can win cases of national significance.

The Trial Lawyer of the Year Award is presented to the trial attorney or attorneys who have made the greatest contribution to the public interest within the past year by trying or settling a precedent-setting case. Finalists and recipients exemplify how trial lawyers use their skills and determination to create a more just society.

This publication describes the extraordinary work and achievements of the winners of the 2001 Public Justice Achievement Award, and the co-winners and finalists for the 2001 Trial Lawyer of the Year Award. It highlights the outstanding work of attorneys on nine cases. These cases illustrate the public benefits of trial lawyers and the civil justice system in helping to prevent injuries and wrongdoing, to achieve fair compensation for injured people, and to hold wrongdoers accountable. The accomplishments of these outstanding trial lawyers are a testament to the values espoused by Trial Lawyers for Public Justice and The TLPJ Foundation.

We hope the cases described in this publication will illustrate the precious rights protected by our judicial system, and the need to sustain the principles of justice and fairness it embodies.

## 2001 PUBLIC JUSTICE ACHIEVEMENT AWARD



Photo by Carl Murray

TLPJ Executive Director Arthur H. Bryant, James E. Rooks, Jr., Jeffrey R. White, Ned Miltenberg, Robert S. Peck, and 2000-2001 TLPJ Foundation President Peter Perlman

**Robert S. Peck**, the Senior Director of Legal Affairs at the Association of Trial Lawyers of America (ATLA), and ATLA Associate Directors **Ned Miltenberg**, **James E. Rooks, Jr.**, **John Vail**, and **Jeffrey R. White**, were honored for their remarkable record of success working with lawyers throughout the country to challenge the constitutionality of state "tort reform" legislation designed to limit injury victims' rights. In recognition of their exceptional work and achievements, these dedicated attorneys were presented with the 2001 Public Justice Achievement Award. Across the nation, corporate defendants are attempting to limit their liability for their wrongdoing by lobbying state legislatures to enact draconian legislation that limits injury victims' rights and access to justice. These creative attorneys, working with teams of lawyers in the affected states, have won or helped win major victories striking down such legislation as violating state constitutional provisions in Illinois, Indiana, Ohio, Florida, Nebraska and Oregon. Their successes have helped ensure that injured people get their day in court and win fair compensation for injury and wrongdoing.

TLPJ Executive Director Arthur H. Bryant stated, "These exceptional lawyers have made new law protecting the state constitutional rights of millions. It is difficult to overstate the importance and impact of their work."

He said that while their past victories are worthy of praise, equally notable are these lawyers' ongoing activities. They are currently involved in ground-breaking constitutional challenges to restrictive legislation in

## TRIAL LAWYERS DOING PUBLIC JUSTICE

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Colorado and North Carolina, while also working to protect their victories in the appellate process in Florida and Nebraska. Having now formed a law firm, the Center for Constitutional Litigation, housed at ATLA, the lawyers are investigating several other potential constitutional challenges.

## 2001 TRIAL LAWYER OF THE YEAR AWARD

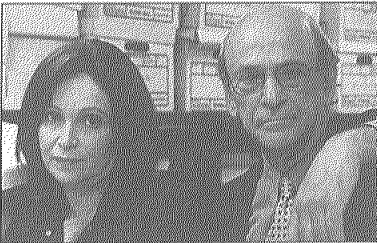
This nationally prestigious award is bestowed annually upon the trial lawyer or lawyers who have made the greatest contribution to the public interest by trying or settling a precedent-setting case.

All of the finalists for the 2001 Trial Lawyer of the Year Award are deserving of our praise and thanks. Their outstanding work, outlined below, won justice against incredible odds. The listing begins, however, with the 2001 Trial Lawyer of the Year Award Co-Winners, Stanley Rosenblatt and Susan Rosenblatt of Florida; and C. Tab Turner of Arkansas.

## 2001 TRIAL LAWYER OF THE YEAR AWARD CO-WINNERS

### GETTING A VERDICT ON BIG TOBACCO

#### Stanley M. Rosenblatt and Susan Rosenblatt



Susan Rosenblatt and Stanley M. Rosenblatt

**Stanley M. Rosenblatt and Susan Rosenblatt** of the Law Offices of Stanley M. Rosenblatt in Miami, Florida, won a precedent-shattering \$145 billion punitive damages verdict on behalf of some 500,000 Florida smokers in a products liability class action against the entire tobacco industry. Not only is this the largest punitive damages

award in any class action, but it is the largest damages award in any case and is the first time that a smoking-related class action lawsuit has reached a jury verdict.

It was a long, seven-year struggle before the husband-and-wife team reached this remarkable result against Big Tobacco. The logistics alone were daunting. The case was tried in three phases, with the trial of the last, punitive damages phase lasting two full years. The tobacco industry had dozens of lawyers for each phase of the trial, while Mr. Rosenblatt served as the sole trial counsel. Mrs. Rosenblatt handled all the motions and petitions filed by the tobacco companies — which numbered approximately 1,000 by the third phase of the trial.

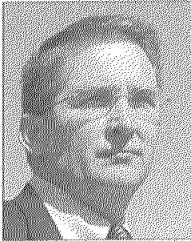
In addition to the many motions and appeals by the tobacco industry, the Rosenblatts had to overcome “pro-tobacco” jurors, some of whom believed the lawsuit was a joke, that the health warnings on cigarettes were sufficient, and that jury verdicts were too high and getting out of hand. But after the jury heard all the evidence and the testimony of 157 witnesses

(including every CEO of every tobacco company), they were convinced that the tobacco industry should be held accountable for the injuries caused to Florida smokers. The Rosenblatts had exposed over half a century of outrageous misconduct by the tobacco industry.

The Rosenblatts secured three verdicts. First, the jury found in July 1999 that smoking cigarettes causes 20 diseases, and that each of the nine defendant companies was liable for fraud, misrepresentation, conspiracy, breach of warranty, negligence, and intentional infliction of emotional distress. Second, in April 2000, the jury found that the defendants' misconduct had caused the injuries to the three class representatives and awarded them \$12.7 million — the highest compensatory damages verdict ever in tobacco litigation. Third, the \$145 billion punitive damages verdict came in July 2000. To keep the plaintiffs from challenging the constitutionality of a new Florida law that places a \$100 million cap on appeal bonds, three defendants — Philip Morris, Lorillard, and Liggett — then agreed in May 2001 to pay \$710 million regardless of the appeal's outcome. The guarantee is the industry's first major financial commitment directly to smokers.

## 2001 TRIAL LAWYER OF THE YEAR AWARD CO-WINNER ADVOCATING SAFER AUTOS AND TIRES

### C. Tab Turner



C. Tab Turner

**C. Tab Turner** of Turner & Associates in North Little Rock, Arkansas, obtained a multi-million dollar settlement from Ford Motor Company and Bridgestone/Firestone in a high profile personal injury suit in Texas involving a horrific rollover accident in a Ford Explorer that occurred when the tread on a Firestone tire blew apart. He also played a crucial role in bringing the two companies to account for their reckless design decisions, following the August 9, 2000 Ford/Firestone recall announcement of 6.5 million ATX, ATX II and Wilderness tires linked to highway accidents and the deaths of more than 200

people worldwide.

The tragic accident that was the subject of Turner's suit left 44-year-old Donna Bailey a ventilator-dependent quadriplegic. Bailey, a single mother of two, was injured when the right, rear tire tread separated on the 1997 Ford Explorer in which she was a front-seat passenger. The resulting rollover crushed her between the roof and the seat cushion, even though she was wearing a seat belt at the time of the crash. Firestone manufactured the Wilderness tire that blew apart. Although the terms of the settlement are confidential, it reportedly includes a substantial sum to cover an estimated \$26 million for Bailey's lifelong medical expenses.

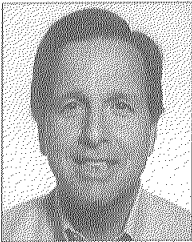
Using information he had gathered from discovery in nearly 50 lawsuits over the ten years that the Explorer had been in production, Turner also catapulted a seemingly run-of-the-mill defect recall into a huge exposé. If not for Turner, the public would not know of Ford's decision in 1989 to take the air out of the tires rather than correct design deficiencies that made Explorers prone to rollover. Nor would the public know that Ford's decision to reduce the tire pressure below Firestone's recommendations would cause the poorly designed tires to lose their tread and, in turn, cause the vehicle to roll.

The settlement of the *Bailey* case came after nearly five months of intensive activity by Turner, who provided volunteer technical and legal expertise for public interest groups seeking a larger recall and passage of legislation to give the National Highway Traffic Safety Administration (NHTSA) greater legal authority. Averaging two days a week in Washington, from August to December 2000, Turner spoke with members of Congress, NHTSA, consumer advocacy groups, and the media, even as his own cases were

heating up. The settlement of the *Bailey* case marked a turning point because Ford accepted a degree of responsibility for the role its Explorers played in the crashes. Indeed, as part of the settlement, Turner forced Ford officials to publicly apologize to Bailey in her hospital room.

Turner worked with **Mikal Watts** and **Brian Harris** of Harris & Watts in Corpus Christi, Texas. We laud and thank them for their work on this important case.

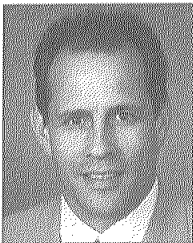
## PROTECTING SENIORS FROM PENSION PLAN FRAUD



Michael J. Aguirre

**Michael J. Aguirre, Patricia A. Meyer,  
and Raymond P. Boucher**

**Michael J. Aguirre** and **Patricia A. Meyer** of Aguirre & Meyer in San Diego, and **Raymond P. Boucher** of Kiesel Boucher & Larson in Beverly Hills, California, battled a corrupt pension plan administrator, powerful lawyers, and unscrupulous accountants to achieve settlements providing full restitution for 340 consumers — most of them elderly — who had lost their life savings in an investment swindle.



Raymond P. Boucher

The case arose out of one of the largest frauds in California history, which operated for over a decade under the name "First Pension." From 1982 to 1994, hundreds of California residents had deposited millions of dollars into Individual Retirement Accounts administered by First Pension. In April 1994, the Securities and Exchange Commission appointed a receiver and determined that the operation had functioned as a Ponzi scheme, defrauding investors of more than \$100 million. Although the principals of First Pension pled guilty and served time, there was little hope that consumers would ever recoup

their losses. Indeed, one attorney allegedly involved in the scheme, Christopher Cox, was a Congressman who, in 1995, had successfully pressed for "reform" legislation that made it more burdensome for defrauded consumers to sue in federal court.

Aguirre filed suit in Orange County Superior Court against numerous defendants, including the California Department of Corporations (DOC); Latham & Watkins, one of the nation's largest law firms; and Pricewaterhouse Coopers, the world's largest accounting firm, for aiding and abetting First Pension's fraud. He also charged the accounting firm with negligence, malpractice, and filing false and fraudulent accounting reports with the SEC. Aguirre single-handedly litigated the case for five years, often against ten or more defense attorneys, until Boucher and Meyer joined him to assist with trial. Aguirre was able to piece together a web of conspiracy after reviewing over one million files, taking more than 100 depositions, and spending \$1 million in case costs. During the five-year discovery period, the defendants refused to discuss settlement, claiming that they were using this case to teach trial lawyers a lesson.

Just before trial, the plaintiffs won a discovery order that resulted in the disclosure of damning internal documents from the law firm. This led to a

pre-trial settlement with Latham & Watkins. On July 28, 2000, after a six-month trial, the jury found Pricewaterhouse Coopers liable for fraud, misrepresentation, aiding and abetting a fraud, and concealment, and it made 18 findings supporting punitive damages. The accounting firm then settled for a confidential amount that made the investors whole. The DOC separately agreed to organize a computer complaint system for suspected fraud. The remarkable result achieved by Aguirre and his legal team sent a strong message to powerful legal and accounting professionals by forcing them to pay for assisting a client in committing and covering up a fraud.

## EXPOSING EMPLOYMENT DISCRIMINATION



Angela M. Alioto

### Angela M. Alioto and Paul B. Justi

San Francisco attorneys **Angela M. Alioto** of the Law Offices of Mayor Joseph L. Alioto & Angela Alioto and **Paul B. Justi** of the Law Offices of Paul B. Justi won a \$133 million verdict on behalf of 21 African-American employees who endured years of racial discrimination at an Interstate Brands Corporation (IBC) bakery in San Francisco. IBC is the nation's largest wholesale baker and distributor of bread, including Wonder Bread, and snack cakes, such as Hostess, Dolly Madison, and Drakes.



Paul B. Justi

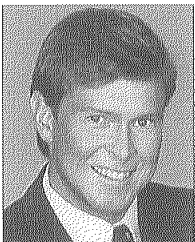
The IBC bakery never promoted African-American employees, who, despite their seniority and qualifications, watched white workers whom they trained receive advancement. African-American workers also suffered constant racist slurs and epithets by company management and co-workers. In addition, IBC routinely assigned the oldest, worst-maintained vehicles to African-American truck drivers. Using practices reminiscent of apartheid, IBC set aside bathrooms for the exclusive use of whites, forced African-Americans to use restrooms in a separate building, and refused to permit African-Americans to use one of the company lunchrooms. IBC also

refused to investigate or respond to claims of bias or harassment.

Having survived 21 separate summary judgment motions (one for each plaintiff), the victims of IBC's discrimination finally got their day in court. A jury awarded them the largest verdict in American history for this type of case — a total of \$133 million, including \$12 million in compensatory damages and \$121 million in punitive damages. Although the judge subsequently reduced the compensatory damages to \$5.8 million and the punitive damages to \$22.1 million, the verdict nevertheless represents an important victory against institutionalized racism in Corporate America.

Alioto and Justi worked with **Steven L. Robinson** of the Law Offices of Mayor Joseph L. Alioto & Angela Alioto during the summary judgment and post-trial phases. We also laud and thank Robinson for his contribution to this important case.

## Promoting Product Safety



Robert E. Cartwright, Jr.

### Robert E. Cartwright, Jr.

**Robert E. Cartwright, Jr.**, of San Francisco's Cartwright & Alexander won a \$5.143 million settlement against Sears, Roebuck & Co. and Emerson Electric, then doggedly pressed the Consumer Product Safety Commission (CPSC) until it mandated a recall of 3.7 million defectively designed radial arm saws.

The recall resulted directly from evidence unearthed by Cartwright during ten years of litigation on behalf of Henry Dendy. Dendy was an experienced woodworker who was cutting wood for a home project in 1989, when his right hand was severed as he attempted to turn off the saw. A blade guard would have prevented the injury, which led to painful reattachment surgery and physical therapy, and required Dendy to change jobs to accommodate his disability. For nearly 30 years, consumers have been suffering amputations of the fingers, hands, and arms — once a month, on average — due to a design defect in Sears Craftsman radial arm saws. From 1972 to 1993, Emerson manufactured the saws and Sears then sold them without any lower blade guard. The on-off switch was located so a user would have to reach over the spinning blade to feel for the switch.

Cartwright filed suit in March 1990 and the case went to trial in March 1995. Opposing counsel offered no settlement; he had tried more than 25 similar cases and had never lost. But this case would turn out differently. Cartwright dug up evidence of hundreds of similar accidents across the country — many more than the 11 that the defense admitted. The manufacturer maintained that a lower blade guard would make the saw more dangerous. Cartwright debunked that argument by producing videos that simulated amputation injuries a blade guard would have prevented by showing the saw blades cutting through artificial hands made of chicken thighs and wings.

Cartwright persuaded a jury not only that the saw was defective, but that the defendants were well aware of the dangers and failed to take any steps to prevent foreseeable injuries. The jury awarded Dendy \$4.125 million, including \$3.2 million in punitive damages for the defendants' malicious, oppressive, and despicable conduct. The California Court of Appeals affirmed the verdict in March 1999, and the case settled in April 1999 for \$5.143 million. Cartwright then spent another year working at his own expense to persuade the CPSC to recall the defective saws — which it did in November 2000. As a result of Cartwright's hard work, hundreds, if not thousands, of future injuries will be prevented.

**Daniel U. Smith** of Los Angeles assisted Cartwright on the appeal. We thank him for his work on this important case.

## HOLDING GENOCIDAL WAR CRIMINALS ACCOUNTABLE



Judith Brown Chomsky

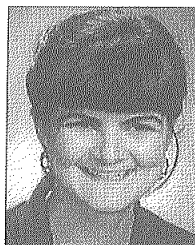
**Judith Brown Chomsky, Jennifer Green, Beth Stephens, and Theresa Taber; Prof. Catharine A. MacKinnon and Maria Vullo**

Two teams of lawyers in related actions used novel legal theories to hold genocidal war criminal Radovan Karadzic, leader of the Bosnian Serb fascists, civilly accountable for his crimes against humanity. Karadzic had designed and implemented - in collaboration with Slobodan Milosevic, the former

leader of Belgrade, Yugoslavia - an "ethnic cleansing" policy to exterminate all non-Serbs from Bosnia and Herzegovina in order to create a state composed only of persons of Serbian ethnicity.

**Judith Brown Chomsky, Jennifer Green, and Beth Stephens** of the Center for Constitutional Rights (CCR), and **Theresa Traber** of Traber, Voorhees, & Olguin in Pasadena, California, filed suit in federal court in New York under the Alien Tort Claims Act (ATCA) and the Torture Victim Protection Act (TVPA)

for acts of genocide, war crimes, and crimes against humanity carried out by Bosnian-Serb forces under the command and control of Karadzic. The case of *Doe v. Karadzic* began in 1993, with the filing of a sealed complaint and a dramatic service of process upon Karadzic at the Hotel Intercontinental in New York. Initially, the case was dismissed for lack of subject matter jurisdiction. The appeal in this and a companion case, *Kadic v. Karadzic*, were heard together.



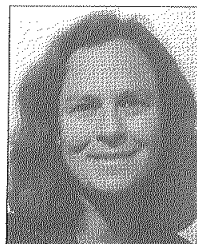
Jennifer Green



Beth Stephens

Professor **Catharine A. MacKinnon** of the University of Michigan Law School in Ann Arbor, Michigan, and

**Maria Vullo** of Paul, Weiss, Rifkind, Wharton & Garrison in New York similarly filed *Kadic v. Karadzic* in federal court in New York under the ATCA and the TVPA on behalf of individuals and groups of Bosnian Croat and Bosnian Muslim women and their children who were subjected to genocidal sexual and other atrocities by Serbian military forces under Karadzic's command. The lead plaintiff's baby boy was decapitated in her arms and his twin was sexually violated at the age of four months. The case was dismissed and the main legal hurdle was again jurisdiction, both substantive and procedural.



Theresa Traber

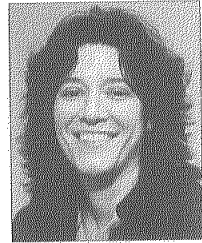


Catherine A. MacKinnon

Both teams of lawyers faced daunting obstacles to proving their cases. Procedurally, there was the question of whether violations of international law could be litigated in U.S. courts. Asserting civil claims for Karadzic's atrocities was an unprecedented approach to what would generally be perceived as a matter of international criminal law. In addition, the attorneys had to spend extensive time traveling to Bosnia, Croatia, Serbia, and other parts of Europe to meet with clients and others affected by the litigation. There was also the problem of getting the victims of Karadzic's

torture to testify in court, many of whom were too psychologically traumatized to testify and/or feared retaliation.

The U.S. Court of Appeals for the Second Circuit reversed the dismissals in both *Kadic* and *Doe*, permitting the cases to proceed to trial. Defendant Karadzic appealed to the U.S. Supreme Court, which denied *certiorari*. Karadzic then refused to participate in defending the suits. The district court entered default judgments in both cases and proceeded to hold trials on damages. In August 2000, the *Kadic* jury awarded a total of \$745 million in compensatory and punitive damages. In September 2000, the *Doe* jury awarded more than \$4.5 billion in compensatory and punitive damages. Collection proceedings are ongoing.



Maria Vullo

These cases set important precedent on virtually every issue they raised. For example, in *Kadic*, MacKinnon and Vullo established that mass rape on an ethnic basis is a genocidal practice as a matter of law. They also opened the door to novel claims for relief for rape and other sexual abuse performed as acts of official torture, establishing that such conduct violates international humanitarian law during armed conflict. They also sought and received an injunction, the first ever under the ATCA. *Kadic* has expanded access to justice by making it possible for survivors of international crimes to choose their own representation and control their own civil cases. These cases have also formed the basis for actions against corporations participating in human rights violations and may also extend to claims of environmental abuses abroad.

Chomsky, Green, Stephens, and Traber worked with **Anthony DiCaprio**, **Jaykumar Menon**, and **Karmen Jelincic** of CCR; **Cindy Soohoo**, **Aaron Marcu**, and **Jay Lobel** of Covington & Burling in New York; **Dennis Sheils** and **Nadia Ezzelrab** of Kohn, Swift & Graf in Philadelphia; **Harold Hongju Koh**, **Ronald Slye**, and **James Silk** of the Allard K. Lowenstein International Human Rights Law Clinic at Yale Law School in New Haven, Connecticut; and **Rhonda Copelon** of the International Women's Human Rights Law Clinic of City University of New York Law School in Flushing, New York. MacKinnon and Vullo worked with **Deborah Ellis**, **Martha Davis**, and **Mary Clark** of NOW Legal Defense and Education Fund in New York;

## TRIAL LAWYERS DOING PUBLIC JUSTICE

**Gerard Harper, William Walker, Katherine Kunberger, Fay Rosenfeld, Roberto Finzi, Liza Velazquez, and Eric Block** of Paul, Weiss, Rifkind, Wharton & Garrison in New York; **Beth Stephens** of CCR; **Harold Hongju Koh** of Yale Law School; and **Aaron Marcu** of Covington & Burling. We thank them all for their work on these important cases.

SEEKING EQUAL OPPORTUNITY IN THE WORKPLACE



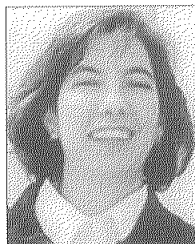
Cyrus Mehri

**Cyrus Mehri, Pamela Coukos, H. Lamar Mixson, Jeffrey O. Bramlett and Joshua Thorpe**

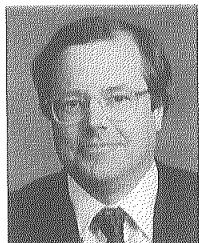
**Cyrus Mehri and Pamela Coukos** of Mehri, Malkin & Ross in Washington, D.C., and **H. Lamar Mixson, Jeffrey O. Bramlett, and Joshua Thorpe** of Bondurant, Mixson & Elmore in Atlanta achieved a landmark settlement totaling \$192.5 million — the largest ever in a race discrimination class action — to resolve a federal lawsuit filed in April 1999 by African-American employees of the Coca-Cola Company. The settlement, reached in November 2000, requires Coca-

Cola to pay the class \$58.7 million in compensatory damages, \$24.1 million in back pay, \$10 million for promotional bonuses, \$43.5 in pay equity adjustments, and approximately \$20 million in attorneys' fees, as well as make sweeping programmatic reforms costing another \$36 million. It also grants broad monitoring powers to a panel of outside experts jointly appointed by Coke and plaintiffs' lawyers — a highly unusual concession in employment discrimination cases.

This achievement is all the more remarkable given that this was the first big case filed by Mehri's small, newly opened firm. (Mehri had started his own firm shortly after the groundbreaking victory in the Texaco race discrimination class action, where he served as one of the key plaintiffs' attorneys.) The case was so risky that six prominent, well financed plaintiffs' law firms declined invitations to share the workload and case costs, with one attorney observing that "suing Coke in Atlanta is like suing the Pope in the Vatican." Shortly after the case was filed, Mixson and Bramlett joined Mehri as co-lead counsel and, together, they took on Coca-Cola in its hometown of Atlanta.



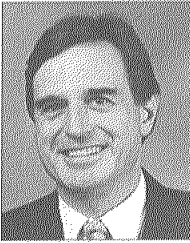
Pamela Coukos



H. Lamar Mixson

Defying the odds, the trial lawyers successfully battled Coca-Cola's scorched earth discovery tactics, defeated its motion to dismiss all the class allegations, managed a "double-track" of vigorously litigating the case while engaging in protracted settlement negotiations, and defeated an organized campaign to derail the settlement talks. Through their dogged investigation and work with the media, the attorneys exposed a corporate hierarchy at Coke in which African-American employees were clustered at the bottom of the pay scale, averaging \$26,000 a year less than their white peers.

As redress for this injustice, the settlement provides 2,000 current and former African-American employees with an average of \$40,000 in cash. But the

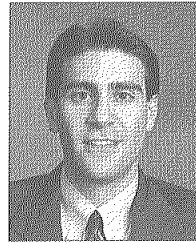


Jeffrey C. Bromlett

crown jewel of the settlement is the creation of an independent, seven-member task force with the power to make binding decisions to affect Coke's human resources practices. The watchdog panel will have access to the company's employment records and is charged with ensuring that Coke's record of paying and promoting minority workers and women improves. Unless granted an exception by a judge, the company must adopt the panel's recommendations. This historic settlement will have a long-lasting impact not only on the class members, but on

other Coca-Cola employees and workers in other companies.

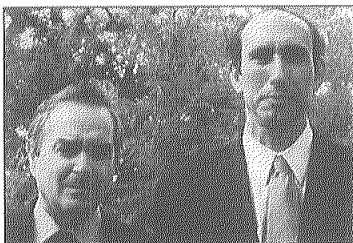
We also acknowledge and thank **Steven J. Rossenwasser** of Bondurant, Mixson & Elmore; **Gouri Bhat** of Mehri, Malkin & Ross; **James E. Voyles** of Deville, Miholin, Voyles & Wales in Marietta, Georgia; and **Robert L. Wiggins, Jr.**, **Samuel Fisher** and **Byron R. Perkins** of Gordon, Silberman, Wiggins & Childs in Birmingham, Alabama, for providing invaluable assistance in litigating this landmark case.



Joshua Thorpe

## FIGHTING FOR ENVIRONMENTAL JUSTICE

### Richard G. Roth and J. Scott McLain



Richard G. Roth and J. Scott McLain

After a legal battle that lasted more than eight years, solo practitioner **Richard G. Roth** and **J. Scott McLain** of Reed, Carrera & McLain, both of Edinburg, Texas, obtained a \$102 million verdict on behalf of individual homeowners and businesses in a Hispanic neighborhood whose property was contaminated by a Coastal Mart gas station's underground storage tanks.

The tanks leaked a virtual lagoon of gasoline and other toxic chemicals, such as the suspected carcinogen MTBE, that floated on top of the groundwater about 20 to 30 feet below the properties of the gas station's neighbors, in depths as much as four to five feet thick.

The plaintiffs charged that Coastal Mart's contamination of their property and failure to clean up was willful. Coastal Mart first discovered that its tanks were leaking in 1990 — after local and state officials did a soil boring and found gasoline — but Coastal Mart failed to notify its neighbors and just kept pumping gas. Up to 250,000 gallons of gasoline had leaked from the tanks over a seven-year period by the time Coastal Mart fixed the leaks in 1992. But the company never cleaned up the mess. Even though Coastal Mart accepted money from the Texas Natural Resources Conservation Commission (TNRCC) to study and clean up the problem, the company denied responsibility to the people of McAllen, Texas's oldest Hispanic community.

Spending more than \$1 million, Roth and McLain hired experts to perform soil testing and prepare an analysis of the contamination. The reports revealed a contamination plume extending over 33 acres. TNRCC acknowledged that this was the state's largest contamination plume, but did not remediate it. Roth and McLain also had to face off against approximately 20 law firms representing multi-billion dollar oil company defendants. To avoid the procedural nightmare of taking all the defendants to trial simultaneously, plaintiffs' counsel made the strategic decision to carve out one self-contained area of contamination and try it as a test case. The gamble paid off. The jury found gross negligence and malice, awarding \$1.6 million in compensatory damages and \$100 million in punitive damages against Coastal Mart, and \$400,000 in actual damages against the previous gas station owner. The Texas cap on punitive damages does not apply to the verdict because the case was filed before the 1995 "tort reform" restrictions. After post-trial hearings, the trial court entered judgment for the full amount of the verdict and granted injunctive relief, ordering the long overdue cleanup.

We would also like to acknowledge and thank **Reynaldo Ortiz** of the Law Office of Reynaldo Ortiz in McAllen, Texas, and **Juan Magallanes** of Magallanes & Hinojosa of Brownsville, Texas, for their work on this important case.

**NOMINATIONS FOR THE 2002  
TRIAL LAWYER OF THE YEAR AWARD**

As TLPJ celebrates its 20th anniversary year, help us honor the best of the trial bar, and all trial lawyers, by submitting nominations for the 2002 Trial Lawyer of the Year Award. The prestigious award will be bestowed upon the attorney or attorneys who have made the greatest contribution to the public interest by trying or settling a precedent-setting suit between April 1, 2001, and April 1, 2002.

Nominated attorneys prove that, in the hands of dedicated trial lawyers, the law can be an enormously powerful force for the public good. Nominations should be sent with information about the case, a description of its significance, and if possible, court documents and press clippings about the case.

The finalists are selected in June, and the award winner or winners will be announced at The TLPJ Foundation's 20th anniversary gala in Atlanta in July 2002. Thank you for your help in praising those attorneys who exemplify the ideals for which TLPJ stands.

Send your nominations to The TLPJ Foundation. For more information, visit our web site, [www.tlpj.org](http://www.tlpj.org), or call 202-797-8600.

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