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Puerto Rico fights death penalty

Islanders clash with
U.S., Pennsylvania.

By Leonard Post
STAFF REPORTER

A CLASH OF cultures and governments over the death penalty has erupted in Puerto Rico, pitting the commonwealth against the United States and the state of

Pennsylvania.

A capital trial has begun in a federal court in Puerto Rico, and, next month, a public defender is set to fight the extradition from Puerto Rico of a man facing a murder charge in Pennsylvania, because it might be charged as a capital crime.

Both situations stir the passions of Puerto Rican nationals, and a large segment of the is-

land's legal community. The commonwealth outlawed the death penalty in 1929. Its Constitution, ratified by Congress in 1952, provides: "The death penalty shall not exist."

In the federal case, the Department of Justice (DOJ) ignored Puerto Rico's ban on the death penalty when it charged two reputed gang members with capital crimes and sought the

death penalty. Later, that contention won the support of the 1st U.S. Circuit Court of Appeals.

Hector Oscar Acosta-Martinez & Joel Rivera-Alejandro, the reputed gang leaders, are accused of the 1998 kidnapping of a grocer, Jorge Hernandez Diaz, who was shot to death then dismembered, allegedly

SEE 'PUERTO RICO' PAGE 19

THE PLAINTIFFS' HOT LIST

Twenty-five go-to teams for when
the going gets tough. **Pullout section**

Online divorce services spark debate

Lawyers, providers
split over pitfalls.

By Dee McAree
STAFF REPORTER

YOU MIGHT THINK a couple wanting a quick divorce would first stop at a lawyer's office—or maybe two lawyers' offices, one for each.

Not necessarily.

Their first stop may be the

computer. Welcome to the new world of dot-com divorce.

On two of the most frequent online divorce sites—www.completecase.com and www.legalzoom.com—customers click on their state of residence, pay an average fee of \$249 and submit to a series of questions about how they want to split their assets and, if applicable, custody of the kids.

They print the documents or receive them by mail within 14

days. Then they file them at their courthouse. Once the judge signs them, they are officially divorced.

Pioneers of the services claim that it is an affordable alternative to exorbitant legal fees. Many divorce attorneys say potential customers ought to beware, because divorce is a complicated process that requires legal counsel.

Big money is at stake because there are lots of divorces.

In the 44 states that collect data, there were 515 divorces for every 1,000 marriages last year, according to *Mismatch: The Growing Gulf Between Men and Women*, by Andrew Hacker, a professor of political science at Queens College in New York.

An online search for "divorce online" generates thousands of hits, but few sites actually provide the service. Some, like www.nolo.com, offer

SEE 'DIVORCE' PAGE 18

THE NATIONAL
LAW JOURNAL
THE PLAINTIFFS'
HOT LIST

- BARON & BUDD •
- BERGER & MONTAGUE •
- BERNSTEIN LIEBHARD & LIFSHITZ •
- BUTLER, WOOTEN, FRYHOFFER, DAUGHTERY & SULLIVAN •
- CLIFFORD LAW OFFICES •
- COHEN, MILSTEIN, HAUSFELD & TOLL •
- CONSTANTINE & PARTNERS •
- COTCHETT, PITRE, SIMON & MCCARTHY •
- GIBBS & BRUNS •
- GIRARDI & KEESE •
- GREENE, BROILLET, PANISH & WHEELER •
- HAGGARD, PARKS, HAGGARD & BOLOGNA •
- KOHN, KOHN AND COLAPINTO •
- KOREIN TILLERY •
- KRAMER, DILLOF, LIVINGSTON & MOORE •
- LEVIN, FISHBEIN, SEDRAN & BERMAN •
- LIEFF CABRASER HEIMANN & BERNSTEIN •
- MILBERG WEISS BERSHAD HYNES & LERACH •
- SHUTE, MIHALY & WEINBERGER •
- SPRENGER & LANG •
- SUSMAN GODFREY •
- VLADECK, WALDMAN, ELIAS & ENGELHARD •
- WATTS LAW FIRM •
- WEITZ & LUXENBERG •
- WIGGINS, CHILDS, QUINN AND PANTAZIS •

By David Hechler
STAFF REPORTER

FOR 15 YEARS this newspaper has published an annual section called Winning, which describes the recent triumphs and techniques of a handful of litigators with notable records of trial court achievement.

The section in your hands today represents our extension of that idea to law firms on the plaintiffs' side. This is our pick of 25 litigation firms that seem exemplary—the successor to the Litigation 50 that we introduced last year.

We were looking for firms that you'd want to call if you had a claim.

They had to be plaintiffs' litigation shops—that is, they had to perform at least half of their work for plaintiffs and devote at least half of their resources to litigation.

This left out firms that might have been obvious choices a few years ago, like Boies, Schiller & Flexner, which, these days, devotes much of its time and resources to defense work. Two Houston firms that made the list, Susman Godfrey and Gibbs & Bruns, divide their labors around fifty-fifty. The others seemed comfortably on the plaintiffs' side.

We tried to select firms to cover the major practice areas. We also aimed for geographic diversity, but we didn't choose a firm based on its location if it wasn't at least as qualified as the competition.

We eliminated solo practitioners and shops where one or two lawyers try all of the cases because we wanted a list of firms, not a list of lawyers.

Finally, there was a "hotness" quotient, meaning we paid attention to recent results as well as track records. We had in mind verdicts and settlements, not just filings and headlines. In other words, we were looking for the kind of heat that produces sweat, not sizzle.

THE PLAINTIFFS' HOT LIST

Twenty-five go-to teams for when the going gets tough

The process by which this list was derived was subjective. We didn't try to apply an objective measure, and we don't claim these are the best plaintiffs' firms or the most aggressive or the most successful. Many that aren't here could be. The arbitrary cutoff of 25 required some more or less arbitrary choices.

We sought to cast a wide net by brainstorming internally and by contacting dozens of general

counsel and asking for the names of plaintiffs' firms they use and recommend.

We also asked many attorneys, on both the plaintiffs' and defense side, to identify litigation firms that seemed particularly strong to them.

To winnow the list, we consulted Web sites, legal databases, news archives and colleagues around the country. We contacted some firms and requested additional information.

On the pages that follow, you'll find profiles of three law firms and thumbnail sketches of 22.

The three treated at greater length were picked because they are established firms located in different parts of the country specializing in different practice areas. These three happen to be from Washington, Dallas and Los Angeles. We could just as easily have focused on three others.

In the short profiles of the other 22, we included with the help of the firms brief descriptions of some of their recent successes. These include settlements, and because some firms settle many of their cases with confidentiality agreements, it was sometimes impossible to report their biggest achievements.

This sampling of litigation firms reveals, not surprisingly, a huge variety in the U.S. plaintiffs' bar.

The firms come in all shapes and sizes. There's the five-lawyer firm in Washington specializing in whistleblower litigation. There's the 40-lawyer Alabama firm branching out from its base in employment litigation. And there's the (at last count) 179-lawyer bicoastal securities class action powerhouse that, like a giant paramoecium, is splitting in two.

The thumbnails are by Cleo Cacoulidis, Dee McAree and Andrew Harris. Led by Cacoulidis, McAree, Harris and Gail Diane Cox also did most of the research. ■

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Berger & Montague

For 33 years, *Berger & Montague* has specialized in class actions in the fields of securities, antitrust, mass torts and civil and human rights. The 60-member Philadelphia firm has secured awards and settlements worth billions for its clients. It was one of four lead counsel that structured the \$1.3 billion global settlement of all claims against Michael R. Milken, the officers and directors of Drexel Burnham Lambert and the more than 350 Drexel/Milken-related entities.

NOTEWORTHY CASES:

■ *In re Waste Management Inc. Securities Litigation* (N.D. Ill. 2000), co-lead counsel—Sherrie Savett. Representing a class of investors, the firm obtained a \$200 million cash settlement.

■ *In re IKON Office Solutions Inc. Securities Litigation* (E.D. Pa. 2000), co-lead and liaison counsel—Merrill G. Davidoff. In an action filed against IKON and some of its officers on behalf of its investors, the firm negotiated a \$111 million cash settlement.

■ *In re Rite Aid Inc. Securities Litigation* (E.D. Pa. 2001), co-lead counsel—Sherrie Savett. To date, the firm has obtained settlements of more than \$190 million in cash and common stock. Actions against Rite Aid's accounting firm and some of the company's former officers are continuing.

Bernstein Liebhard

Founded in 1993, New York's *Bernstein, Liebhard & Lifshitz* does "99% securities," founder Stanley D. Bernstein said. It has 25 lawyers, two formerly with the Securities and Exchange Commission.

NOTEWORTHY CASES:

■ *In re Initial Public Offering Securities Litigation* (S.D.N.Y. 2003), co-lead counsel—Stanley Bernstein. Teaming with New York's Milberg Weiss Bershad Hynes & Lerach, in June 2003 the firms brokered a \$1 billion settlement on behalf of investors in more than 300 publicly traded technology companies accused of inflating their stock value during the 1990s bull market.

■ *Buxbaum v. Deutsche Bank* (S.D.N.Y. 2002), co-lead counsel—Stanley Bernstein and Robert Berg. The plaintiffs hammered out a \$58 million settlement of a securities class action against Deutsche Bank in June 2002. The bank was accused of issuing misleading statements about a possible merger.

■ *Tuchman v. Volvo Cars of North America Inc.* (Bergen Co., N.J., Super. Ct. 1999), lead attorney—Stanley Bernstein. In 1999, plaintiffs negotiated a settlement valued at \$30 million in a class action filed on behalf of more than 35,000 Volvo owners who bought cars with defective tires.

Butler Wooten

Based in Columbus, Ga., *Butler, Wooten, Fryhofer, Daugherty & Sullivan* has represented plaintiffs nationwide in a range of civil actions, including products liability, business torts, environmental litigation and medical malpractice. The 12-member firm, founded in 1988, has won hundreds of millions in verdicts and settlements. In particular, it presided over one of the first cases of punitive damages awarded in Georgia against General Motors for auto products liability (*Moseley v. General Motors Corp.*).

NOTEWORTHY CASES:

■ *Widow v. Anonymous Construction Co.* (2002). A trucking service technician was killed on a job site when a crane collapsed. The case settled for \$2.7 million. The parties remain confidential.

■ *Morrell v. AlliedSignal Inc.* (S.D. Ga. 2001), lead attorney—Joel Wooten. Plaintiffs in this mass tort sustained injuries as a result of exposure to mercury during the course of their employment at LCP Chemicals Inc. Settled for \$17 million.*

■ *Leggett v. Honeywell Int'l.* (S.D. Ga. 2001), lead attorney—Joel Wooten. The plaintiffs were injured by exposure to dangerous levels of toxic chemicals and hazardous waste while on the job due to their employer's alleged negligence. Settled for \$3 million.*

*The *Morrell* and *Leggett* courts issued gag orders. Public documents disclosed the settlement terms.

Clifford Law Offices

Covering the spectrum of personal injury practice, from aviation and medical negligence to products and

THE PLAINTIFFS' HOT LIST

premises liability, the Chicago-based *Clifford Law Offices* has recovered hundreds of millions in verdicts and settlements for its clients. Founded in 1984, the firm's 22 lawyers have gained recognition in aviation litigation and for setting legal precedent with the 1990 Illinois case *Barkei v. Delnor Community Hospital*, where the court held that in malpractice claims, injuries that occur in hospitals can be proved by circumstantial evidence.

NOTEWORTHY CASES:

■ *In re Air Crash Near Point Mugu, California* (N.D. Calif. 2003), lead attorneys—Robert A. Clifford and Kevin P. Durkin. Alaska Airlines and Boeing Corp. were both found liable for the crash of Alaska Flight 261 which plunged into the Pacific Ocean, killing all 88 aboard the craft. The case settled for \$37.6 million.

■ *Estate of Martin L. Kopple v. Village of Wheeling* (Cook Co., Ill., Cir. Ct. 2003), lead attorneys—Richard P. Burke and John T. Karnezis. In a premises liability action, the plaintiff's plane crashed during takeoff after hitting a drainage ditch improperly located in a runway safety area. The jury awarded \$10.4 million.

■ *People v. Philip Morris* (Cook Co., Ill., Cir. Ct. 2002), lead attorney—Robert A. Clifford. Attorneys who had represented the state of Illinois in tobacco litigation sued the state for their attorney fees. The case settled for \$67.5 million.

Constantine & Partners

An antitrust litigation firm, *Constantine & Partners* has gained a national reputation since its 1994 founding in New York. Representing clients in all aspects of antitrust law as well as in complex commercial disputes, the 17-member firm has been lead counsel in several high-profile cases, including *Kesmai Corp. v. America Online* (settlement terms are confidential). Many of its attorneys have testified before Congress on antitrust and international trade issues.

NOTEWORTHY CASES:

■ *In re Visa Check/Master Money* (E.D.N.Y. 2003), lead counsel—Lloyd Constantine and Robert Begleiter. National class action on behalf of 5 million merchants alleging that Visa and MasterCard attempted to monopolize the debit card market by tying merchant acceptance of debit cards to credit cards. A preliminary settlement in excess of \$3 billion, which also gave merchants the choice of accepting or rejecting debit products, was approved in April 2003.

■ *Bartholdi Cable v. Time Warner* (E.D.N.Y. 2001), lead attorneys—Lloyd Constantine and Robert Begleiter. Residents in the New York metropolitan area were deprived of the full benefits of competition, in particular access to low-cost programming services, because of Time Warner's monopolization of the cable television market in the region. According to published reports, the case settled for more than \$80 million.

Cotchett Pitre

For 35 years, *Cotchett, Pitre, Simon & McCarthy* has engaged exclusively in litigation, representing plaintiffs in a wide variety of practice areas, including products liability, securities and aviation. With 20 lawyers, the firm, based in Burlingame, Calif., gained national recognition when it represented thousands in the securities class action against Lincoln Savings & Loan and Charles Keating a decade ago. It won a \$3.5 billion judgment, which was later reduced to \$1.75 billion.

NOTEWORTHY CASES:

■ *Behr Wood Sealant Cases* (San Joaquin Co., Calif., Super. Ct., 2003), co-lead counsel—Bruce Simon. National consumer class action for damages resulting from the use of defective sealant products. The court approved a preliminary settlement of \$107.5 million.

■ *Morales v. Citigroup* (San Francisco Co., Calif., Super. Ct. 2003), co-lead counsel—Joe Cotchett and Niall McCarthy. Borrowers suffered economic harm

when insurance products were "packed" on to loans, running up interest and costs. The case settled for \$240 million.

■ *Wisper v. Old Republic* (San Francisco Co., Calif., Super. Ct. 2001), lead attorney—Niall McCarthy. Class action alleging title companies were improperly earning interest on consumer deposits. The jury awarded \$15 million.

Gibbs & Bruns

Engaged in a wide range of commercial litigation, including securities, antitrust, contract and oil and gas disputes since 1983, Houston-based *Gibbs & Bruns* has obtained more than \$200 million in jury verdicts and settlements for both its corporate and individual plaintiffs since 2001. The 30-member firm filed suit in May 2003 against Bank One in Phoenix on behalf of 180 holders of more than \$1.6 billion in defaulted bonds issued by the now-defunct National Century Financial Enterprises.

NOTEWORTHY CASES:

■ *Neon Systems Inc. v. New Era of Networks Inc.* (Fort Bend Co., Texas, Dist. Ct. 2001), lead attorneys—Chris Reynolds and Jean Frizell. Malicious trade name infringement. According to public documents the jury awarded \$39 million.

■ *Merrill Lynch Global Allocation Fund v. Natwest Finance* (Middlesex Co., N.J., Super. Ct. 2001), lead attorney—Kathy Patrick. Plaintiff investment funds lost a substantial portion of a \$450 million bond offering by Nakornthai Strip Mill Public Co., a Thai steel company. The case settled for approximately \$72 million.

Girardi & Keese

Since its founding in 1965, Los Angeles' *Girardi & Keese* has recovered more than \$1 billion for plaintiffs, including a landmark \$333 million settlement for the residents of Hinkley, Calif., over allegations of contaminated drinking water in 1996. The firm's environmental work ranges from class actions against polluting industrial facilities to toxic torts and air and noise pollution cases. The 29-attorney firm, established by partners Thomas Girardi and Robert Keese, also represents clients in pharmaceutical and products liability cases.

NOTEWORTHY CASES:

■ *Triana v. Vons Cos.* (Los Angeles Co., Calif., Super. Ct. 2003), lead attorneys—Thomas V. Girardi and Amy F. Solomon. The firm negotiated a \$35 million settlement on behalf of an 11-year-old girl injured in the parking lot of a Vons store when a light fixture fell, striking her on the head. She suffered extensive brain damage. The plaintiffs alleged that the material used to construct the fixture had a known propensity to decay and that the defendants had ignored signs of erosion.

■ *Zucker v. Disney* (Los Angeles Co., Calif., Super. Ct., 2002), lead attorneys—Thomas V. Girardi and Amy F. Solomon. The lawyers negotiated a \$43 million mid-trial settlement with Disney on behalf of a 4-year-old boy who was seriously hurt, allegedly because of a lack of doors on a theme park's Roger Rabbit ride.

■ *Rogers v. Braun Medical Inc.* (S.D. Calif. 2003), lead attorney—Robert M. Keese. An inventor won a \$25.8 million verdict against a medical supply firm that allegedly misappropriated trade secrets and stole the design for a needle-free intravenous delivery system. The verdict included \$5 million in punitive damages.

Haggard Parks

Since its 1995 founding, *Haggard, Parks, Haggard & Bologna* in Coral Gables, Fla., has represented individual clients in aviation disaster, premises liability and many other bodily injury cases, recovering more than \$180 million in verdicts and settlements. One notable exception was the five-lawyer firm's foray into class actions as co-local counsel in Florida's Microsoft antitrust case. In April 2003, preliminary approval was granted for a \$200 million settlement.

NOTEWORTHY CASES:

■ *Hinton v. 2331 Adams Street Corp.* (Broward Co., Fla., Cir. Ct. 2003), lead attorney—Michael Haggard. A toddler sustained brain damage after nearly drowning in a pool improperly secured by an apartment complex.

***FIRMS* FROM \$3**

The jury awarded \$100 million—one of the largest jury verdicts in Florida history.

■ *Gafen v. Tim-Bar Corp.* (S.D. Fla. 2002), lead attorney—Jeanette Bologna. The plaintiff was injured by flying debris from a collision between a tractor-trailer and an Amtrak train. It settled for \$14 million.

■ *Bustos v. Leiva* (Miami-Dade Co., Fla., Cir. Ct. 2001), lead attorney—Michael Haggard. A Miami jury awarded \$21 million to a woman who was injured when her car was struck by another driver, who was using his cellphone at the time of the crash.

Kohn, Kohn and Colapinto

The five-lawyer Washington firm *Kohn, Kohn and Colapinto* specializes in protecting whistleblower employees, FBI agents and individuals exposing fraud in federal contracting. Founded in 1988, it successfully challenged the payment of "hush money" in the nuclear industry that resulted in the Nuclear Regulatory Commission implementing formal rules prohibiting the practice. (*Maektal v. Secretary of Labor*).

NOTEWORTHY CASES:

■ *Georgia Power Co. v. USDOL* (11th Cir. 2002), lead attorney—Michael Kohn. A whistleblowing high-level nuclear plant manager was fired in violation of the employee protection provisions of the Energy Reorganization Act of 1974. After it was determined on appeal that the manager was engaged in protected activity, the court ordered his reinstatement and awarded \$4.5 million in damages.

■ *Jayko v. Ohio Environmental Protection Agency* (Ohio Dept. Labor ALJ 2000), lead attorney—Michael Kohn. A site coordinator for Ohio's Environmental Protection Agency was transferred and falsely accused of theft after alleging improper conduct by his superiors. He had been investigating a cancer cluster found in several school buildings that were constructed on a former army plot associated with the Manhattan Project. Reinstated after a hearing, he was awarded damages of more than \$600,000.

■ *Sanjour v. U.S. Environmental Protection Agency* (D.C. Cir. 1995) (en banc), lead attorney—Stephen Kohn. Employees of the EPA and environmental groups brought suit against the agency, challenging regulations that prohibited EPA employees from receiving reimbursement for expenses for unofficial speaking engagements concerning their official duties. Holding that the regulation violated the employees' First Amendment rights, the court declared that it was unconstitutional and issued an injunction against its enforcement.

Korein Tillery

A 20-lawyer firm in St. Louis, *Korein Tillery* earlier this year won a \$10.1 billion judgment against Philip Morris, including \$3 billion in punitive, in the first consumer fraud class action over "light" cigarettes. The firm's specialty practice areas include class actions (consumer fraud and ERISA), mass torts, individual tobacco cases, products liability and medical malpractice.

NOTEWORTHY CASES:

■ *Sparks v. Lucent Technologies* (Madison Co., Ill., Cir. Ct. 2002), lead attorney—Stephen Tillery. One of the largest class actions in terms of class size, it alleged consumer fraud in the residential telephone leasing programs of Lucent and AT&T Corp. The six-year-long litigation involved three appeals, one of which made it to the Illinois Supreme Court. It settled the week it was to proceed to trial, in August 2002, for \$300 million.

■ *Esden v. The Retirement Plan of the First National Bank of Boston* (2d U.S. Circuit Court of Appeals 2000), lead attorneys—Steven Katz and Douglas Sprong. The case was the first ERISA class action to challenge successfully cash-balance-type benefit plans. It led the way for a number of later class actions which netted hundreds of millions of dollars for retirees. The case settled for a confidential amount after an appellate court granted summary judgment in favor of the plaintiffs.

■ *Malloy v. Ameritech* (S.D. Ill. 2000), lead attorneys—Steven Katz and Douglas Sprong. The firm represented several thousand Ameritech retirees who challenged the way Ameritech benefit plans computed lump-sum distributions. The case settled for more than \$175 million after Korein Tillery won summary judgment on liability.

THE PLAINTIFFS' HOT LIST

Kramer Dillof

The husband-and-wife team of Tom Moore and Judy Livingston lead the 12-lawyer New York firm *Kramer, Dillof, Livingston & Moore*. In 1978, Moore joined the firm founded by Charles Kramer and Henry Dillof and became its senior partner in 1988. Livingston came on board in 1980, fresh out of law school. They have won more than 100 verdicts in excess of \$1 million. The firm specializes in medical negligence, personal injury and wrongful death.

NOTEWORTHY CASES:

■ *Meyers v. Ugur* (New York Co., N.Y., Sup. Ct. 2002), lead attorney—Tom Moore. A New York jury awarded \$56 million (\$52 million present-day value) to a girl stricken with cerebral palsy as a result of an infection that set in after a procedure to install a shunt to drain fluid from her brain. Three doctors were found to have breached the standard of care by failing to detect the signs of infection.

■ *McNeil v. Burack* (Kings Co., N.Y., Sup. Ct. 2002), lead attorney—Judy Livingston. A Brooklyn N.Y. jury in 2002 awarded \$6.75 million to a 9-year-old girl whose father died after allegedly waiting more than 12 hours for emergency cardiac care at Brooklyn Hospital Center. The 45-year-old died en route to surgery to repair a ruptured aorta. Livingston argued that the hospital staff wasted precious time in arranging the man's transfer to another facility.

■ *Ballinas v. New York City Health & Hospitals Corp.* (Bronx County, N.Y., Sup. Ct. 2001), lead attorney—Tom Moore. A Bronx, N.Y. jury in May 2001 awarded \$107.8 million (\$9.3 million present-day value) to a child whose brain was ravaged by untreated meningitis. The suit alleged that the obstetrical and pediatric staff ignored clear signs of the disease, allowing the child to lie untreated in the hospital nursery for three days after birth.

Levin Fishbein

In 1981, Arnold Levin left the firm of Adler, Barish, Levin & Chreskoff, taking with him associates Michael D. Fishbein and Laurence S. Berman. A year later, Howard J. Sedran joined from Howrey & Simon in Washington, where he had been an associate. The resultant Philadelphia law firm, *Levin Fishbein Sedran & Berman*, dedicates 99% of its practice to plaintiffs' work, particularly environmental mass tort, antitrust and products liability litigation.

NOTEWORTHY CASES:

■ *In re Diet Drugs Products Liability Litigation* (E.D. Pa. 2000), co-lead counsel—Michael D. Fishbein. The firm has, since 1998, served as co-lead class counsel in the Fen-Phen diet drug litigation. The litigation is the largest and most complex mass tort proceeding outside of a bankruptcy context. In 2000, the court approved a settlement agreement with the principal defendant, the pharmaceutical maker Wyeth, for payment of more than \$3.75 billion through 2015.

■ *In re Orthopedic Bone Screw Products Liability Litigation* (E.D. Pa. on-going), lead attorney—Michael D. Fishbein. The massive litigation involved marketing clearance for an orthopedic bone screw device used in spinal surgery. It generated several significant rulings concerning federal pre-emption of tort claims, civil conspiracy law and the limits of constitutional protection for "educational" marketing in the medical device field. Ultimately, the defendants entered into a limited fund settlement for \$100 million. Millions more were paid by other defendants in private settlements.

■ *In re Graphite Electrodes Antitrust Litigation* (E.D. Pa. 2003), co-lead counsel—Howard J. Sedran. The firm is co-lead counsel in this case involving allegations of horizontal price-fixing against the makers of graphite electrodes, which are used by steel mills to conduct electricity. Total settlements reached \$133.5 million for a class that consisted of approximately 40% of the market of direct purchasers of electrodes. The last two settlements are subject to court approval in September.

Lieff Cabraser

Since it was founded in 1972, the 50-lawyer firm *Lieff Cabraser Heimann & Bernstein* has litigated or settled more than 250 class actions, including a \$1 billion revised settlement in the recent Sulzer Hip litigation, involving defective hip and knee prostheses. The San Francisco-based firm diversifies its practice areas among securities, mass tort, consumer protection, employment and environmental matters.

NOTEWORTHY CASES:

■ *Claghorn v. Edsaco Ltd.* (N.D. Calif. 2002), lead attorney—Richard M. Heimann. A federal jury in San Francisco delivered a \$170.7 million verdict against Edsaco in a securities fraud suit. The jury found that Edsaco aided a software company in setting up phony companies as part of a scheme to report fictitious sales. The verdict included \$165 million in punitive damages.

■ *Trotter v. Perdue Farms Inc.* (D. Del. 2002); lead counsel—James M. Finberg. Lieff Cabraser served as class counsel for approximately 50,000 employees, negotiating a \$10 million settlement with Perdue Farms Inc., one of the nation's largest poultry processors. The suit challenged Perdue's failure to compensate its assembly-line employees for putting on, taking off and cleaning protective and sanitary equipment.

■ *In re Behr Wood Sealant Cases* (San Joaquin Co., Calif., Super. Ct. 2003), co-lead counsel—William Bernstein and Jonathan D. Selbin. The firm won a \$107.5 million settlement as co-lead counsel for homeowners who sued the paint products manufacturer, Behr, over mildew damages relating to use of its exterior wood sealants. The suit involved the use of Behr's Super Liquid Raw-Hide and Natural Seal Plus since Jan. 1, 1991.

Milberg Weiss

During its 33 years of litigating complex securities class actions on behalf of institutional and individual plaintiffs, *Milberg Weiss Bershad Hynes & Lerach* has recovered more than \$30 billion in awards and settlements. From 1995 to 2002, the firm was lead or co-lead counsel in 54.5% of all securities fraud class actions filed in the country, including *In re Washington Public Power Supply System* (settlements were in excess of \$750 million) and *In re Nasdaq Market-Makers Antitrust Litigation* (\$1 billion in settlements recovered). In recent months, the firm has publicly acknowledged that it is in the process of splitting into two firms. At last count, it had 179 lawyers.

NOTEWORTHY CASES:

■ *In re Initial Public Offering Securities Litigation* (S.D.N.Y. 2003), co-lead counsel—Melvyn I. Weiss. Three hundred-and-nine class actions involving initial public offerings marketed between 1998 and 2000 allege that the IPOs were manipulated by the investment banks to inflate artificially the market price of those securities through a practice called "laddering," and to conceal the compensation received by the underwriters. The first partial settlement approved was \$1 billion.

■ *In re Lucent Technologies Inc. Securities Litigation* (D.N.J. 2003), co-lead counsel—David J. Bershad. The plaintiffs alleged Lucent misrepresented the demand for its optical networking products and engaged in improper accounting practices. The case settled for \$600 million.

■ *In re Oxford Health Plans Inc. Securities Litigation* (S.D.N.Y. 2003), co-lead counsel—Patricia M. Hynes. An action alleging that Oxford made materially false and misleading statements about its financial condition. In addition to a settlement for \$300 million, Oxford is also required to implement significant corporate governance reforms.

Shute Mihaly

Founded in 1980 in San Francisco, *Shute, Mihaly & Weinberger* takes on a diverse range of cases covering environmental issues, from impact studies and air-quality control to natural resources and land use. The 24-member firm represents primarily public agencies and community groups seeking relief under the National Environmental Policy Act, the California Environmental Quality Act, the Clean Water Act and the Endangered Species Act, among other laws.

'FIRMS' FROM \$7

NOTEWORTHY CASES:

■ *Communities For A Better Environment v. California Resources Agency* (Calif. Ct. App. 2002), lead attorney—Ellison Folk. Environmental organizations challenged several provisions of the "guidelines" adopted by the state of California in the California Environmental Quality Act of 1998, which would have seriously limited review of its potential environmental impact. The trial court struck down eight of the challenged guidelines, and the decision was upheld on appeal for all but one of the guidelines.

■ *San Francisco BayKeeper Inc. v. Tosco Corp.* (9th Cir. 2002), lead attorney—Robert Perlmuter. The firm won a key decision upholding the vitality of "citizen enforcement" suits brought against polluting companies under the federal Clean Water Act. The defendants had attempted to evade liability by arguing that the sale of the alleged polluting facility after the suit was filed rendered the case moot. The trial court dismissed the case, but the 9th Circuit unanimously reversed.

■ *Berkeley Keep Jets Over the Bay Committee v. Board of Port of Commissioners* (Calif. Ct. App. 2001), lead attorney—Clement Shute. The plaintiffs successfully challenged the adequacy of an environmental impact report (EIR) prepared for the Airport Development Program for Oakland Airport. The court held that the EIR violated the California Environmental Quality Act by failing to analyze a reasonable range of alternatives and to evaluate properly the project's cumulative impact.

Sprenger & Lang

Specializing in employment discrimination class actions, the 12-member firm of *Sprenger & Lang* in Minneapolis has obtained more than \$200 million in judgments. It has also improved standards in employment practices on behalf of tens of thousands of employees nationwide since its founding in 1989. It brought the country's first sexual harassment class action (*Jenson v. Eveleth Mines*), which, after 11 years of class certification and two trials, established court standards for assessing damages in sexual harassment cases.

NOTEWORTHY CASES:

■ *Hill v. Republic of Iraq* (D.D.C. 2002), lead attorney—Daniel Wolf. The firm brought an action under the Foreign Sovereign Immunities Act on behalf of 178 American citizens who were taken hostage during the 1990 Iraqi invasion of Kuwait. The court awarded \$93 million in damages. Judgment was collected and distributed in 2003.

■ *Kosen v. American Express Financial Advisors* (D.D.C. 2002), co-lead counsel—Lawrence Schaefer. Class action alleging gender and related discrimination in employment, specifically against female financial advisors. The case settled for \$31 million plus injunctive relief that included a revised distribution of accounts and leads.

■ *Franklin v. First Union Corp.* (E.D. Va. 2001), co-lead counsel—Michael Lieder. In a case of first impression, employees brought a class action against First Union for breach of its fiduciary duty in not considering nonproprietary funds as investment options in its 401(k) plan. The case settled for \$26 million and included the appointment of an independent advisor, which led to the inclusion of nonproprietary fund options.

Susman Godfrey

Houston-based *Susman Godfrey* was founded in 1980 by Stephen D. Susman. The firm made its name that year in a price-fixing trial that took on the corrugated box industry, ending in a verdict against Mead Paper that, after troubling, approached \$1 billion. Since then it has grown to 65 lawyers, and half of its practice focuses on plaintiff representation. To date, the firm claims to have recovered a cumulative total of over \$2 billion for plaintiffs. Its main practice areas are antitrust, trade regulation, securities and contract disputes.

NOTEWORTHY CASES:

■ *In re Vitamins Antitrust Litigation* (D.D.C., 2003), co-lead counsel—James T. Southwick. In June, a federal jury found that four defendant companies had participated in a global conspiracy to fix the price of vitamin B4, also known as choline chloride, during the

THE PLAINTIFFS' HOT LIST

10-year period from 1988 to 1998. The jury awarded the plaintiffs, a class of direct purchasers of vitamin B4, \$49.5 million in damages. With trebling and attorney fees, the verdict will be \$150 million. The firm has served as co-lead counsel for the class action plaintiffs since 1999.

■ *Lyondell Petrochemical Co. v. Atlantic Richfield Co.* (arbitration 2002), lead counsel—Vineet Bhatia. Lyondell Chemical Co. initiated an arbitration proceeding against Atlantic Richfield Co. (ARCO), claiming that ARCO had breached certain provisions of an agreement for the sale of the gasoline additive MTBE. A San Francisco arbitrator issued a decision sustaining Lyondell's claims, and the parties agreed to a settlement of \$21.5 million.

■ *The State of Texas v. Amoco Production Co.* (Travis Co., Texas, Dist. Ct. 2001), lead counsel—Katie Sammons and Lee Godfrey. Since 1997, the firm has been pursuing claims against major oil companies on behalf of a nationwide class of royalty owners who claim not to have been paid royalties for crude oil production. Settlements totaling nearly \$200 million were approved by the federal district court in Corpus Christi, Texas, in 1999. Appeals followed. In 2001, the last of the disputes was resolved, clearing the way for the distribution to the class.

Vladeck Waldman

Vladeck, Waldman, Elias & Englehard has been around since 1949 and says it is the oldest plaintiffs' employment firm in New York. Its founding partner, Judith Vladeck, is widely regarded as one of the top employment lawyers, with more than four decades' worth of litigation experience. Many of the firm's victories are confidential settlements reached after the defendant's motion for summary judgment is denied. The firm's top victories include a \$14 million settlement for 5,000 women from Western Electric Co. and a \$7.5 million settlement of an equal pay case for 4,000 women from the City University of New York.

NOTEWORTHY CASES:

■ *Gambale v. Deutsche Bank* (S.D.N.Y. 2003) lead attorney—Judith Vladeck. The firm brokered a multimillion dollar settlement with Deutsche Bank on behalf of a female employee who alleged that the bank's culture was "inhospitable" to women. The case settled one day before it was scheduled to go to trial on May 27, 2003.

■ *EEOC v. South Beach Beverage Co.* (S.D.N.Y. 2003), lead attorney—Anne L. Clark and Tara Crean. In an Equal Employment Opportunity Commission action against South Beach Beverage Co. (Sobe) and Pepsico, the firm represented five female intervenors who received payments totaling \$950,000 to settle allegations that the defendants violated their civil rights by creating a hostile work environment. A consent decree was entered with the court in February 2003.

Watts Law Firm

The Houston-based *Watts Law Firm* was founded in August 2002, but the firm actually traces its roots to two predecessor firms co-founded by Mikal C. Watts, the owner of the firm that now bears his name. It is a 24-lawyer practice specializing in products liability and personal injury.

NOTEWORTHY CASES:

■ *Castro v. Ford Motor Co.* (Cameron Co., Texas, Dist. Ct. 2003), lead attorney—Mikal C. Watts. A jury awarded \$18 million, including \$5 million in punitive damages, against Ford Motor Co. in a rollover case. The 21-year-old driver of the F-150 SuperCab pickup truck suffered spinal cord injuries resulting from a defective roof structure.

■ *Sanchez v. Parke-Davis* (Nueces Co., Texas, Dist. Ct. 2001), lead attorney—Mikal C. Watts. A jury awarded \$43 million in the first plaintiff's victory against Warner-Lambert Co. over its diabetes drug

Rezulin, which was pulled from the market in March 2000 after being linked to liver complications. The plaintiff, 63, a diabetic awaiting a liver transplant, was awarded \$43 million in actual damages.

■ *Williams v. Engineered Explosives Services* (Bexar Co., Texas, Dist. Ct. 2001), lead attorney—P. Brian Berryman. The case involved an explosion that occurred while Engineered Explosives personnel were sinking an offshore barge to create an artificial reef off the coast of Georgia. After four days of trial, the jury awarded \$5.4 million to an Engineered Explosives employee, Steve Williams, to compensate him for the injuries he received to his hands.

Weitz & Luxenberg

Best known for its national asbestos work, New York's *Weitz & Luxenberg* is a 55-attorney firm founded in 1986 by Arthur Luxenberg and Perry Weitz. Partner Robert J. Gordon is its chief trial lawyer. Branching out into mass torts, Weitz has filed more than 13,000 cases against Bayer Corp. over its failed cholesterol drug Baycol.

■ *Croteau v. Consolidated Edison Inc.* (New York Co., N.Y., Sup. Ct. 2003), lead counsel—Michael Roberts and Jerry Kristal. The plaintiff, who developed mesothelioma while working as a boiler maker, sued New York's Con Edison power company and Long Island's now-defunct Long Island Lighting Co. The jury awarded him \$47 million.

■ *Brown v. Honeywell Corp.* (New York Co., N.Y., Sup. Ct. 2002), lead counsel—Michael Roberts and Jerry Kristal. The plaintiff died from cancer linked to asbestos he was exposed to while working for an automotive brake manufacturer. The jury awarded him \$53.5 million.

■ *Williams v. A.C. and S. Inc.* (New York Co. Sup. Ct. 2001), lead counsel—Robert J. Gordon. The plaintiffs, who have all died, were nine mesothelioma victims. The reverse-bifurcated trial featured a damages phase followed by a liability apportionment phase. Individual awards, issued in July 2001, ranged from \$7.2 million to \$18.18 million. The total was \$111.61 million.

Wiggins Childs

Employment litigation is the bread and butter of *Wiggins, Childs, Quinn and Pantazis*, a Birmingham, Ala.-based firm formerly known as Gordon, Silberman, Wiggins and Childs. The firm has taken on industry giants including Winn-Dixie, Kroger, Merck and major railroads. There were eight lawyers when Robert F. Childs Jr., Robert L. Wiggins Jr. and C. Michael Quinn joined in 1985. The 1990s boom helped it to expand to 37 lawyers today. In addition to employment discrimination, the firm specializes in civil rights and complex litigation.

NOTEWORTHY CASES:

■ *Reynolds v. Alabama Department of Transportation* (M.D. Ala. 2001), lead attorneys—Robert L. Wiggins Jr. and Robert F. Childs Jr. The firm settled a 16-year-old racial bias suit against the Alabama Department of Transportation in September 2001 for a total of \$59.8 million. The deal included two settlements: \$46 million to 2,400 black employees and \$8.4 million to an undeterminable number of white employees who intervened in the suit after the original filing. Wiggins represented the black employees.

■ *Moore v. Norfolk Southern Corp.* (N.D. Ala. 2001), lead attorneys—Robert L. Wiggins Jr. and Robert F. Childs Jr. Virginia-based Norfolk Southern Corp. agreed to pay \$28 million to settle charges of racial discrimination against 7,700 black employees who were allegedly denied advancement. Nine named plaintiffs sued the railway company in 1993 and the suit was certified as a class action in 1995. Norfolk also agreed to spend another \$2.6 million on a program to correct its advancement procedures.

■ *In re Managed Care Litigation* (S.D. Fla. MDL-2000), lead attorneys—Dennis G. Pantazis and Brian M. Clark. Pantazis is a member of the steering committee representing 600,000 physicians in the multidistrict litigation against HMOs in federal court in Miami. Hundreds of individual lawsuits are being added to the pair in Miami, one filed on behalf of doctors and the other on behalf of patients. Pantazis is handling the retrieval and production of 6 to 10 million documents. Earlier this year, the plaintiffs' lawyers negotiated a \$470 million settlement from Aetna, the largest HMO defendant. **NLJ**