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## Law360's Weekly Verdict: Legal Lions & Lambs

By Kurt Orzeck

Law360, Los Angeles (March 13, 2014, 10:39 PM ET) -- This week's stable of legal lions is led by a Texas attorney who played David to federal regulators' Goliath by helping a financial services company escape a securities fraud claim. Our legal lambs' loose lips got them booted from a patent-infringement suit, while another's alleged letter-forging earned him choice words from a district attorney.

### Legal Lions

**Baker & McKenzie** attorney **Elizabeth L. Yingling** earned her spot among the lions when a federal judge on Wednesday **dealt a major setback** to the U.S. Securities and Exchange Commission in its suit accusing the Dallas attorney's client Life Partners Holdings Inc. of artificially inflating stock prices. Judge James R. Nowlin **undid** part of a jury's verdict that found that the defendant and two of its executives had committed securities fraud by publishing misleading statements, a lead claim in the case. The Life Partners parties were represented by **Elizabeth L. Yingling, Laura J. O'Rourke, Will R. Daugherty** and **Meghan E. George** of **Baker & McKenzie LLP**; **J. Pete Laney** of the **Law Offices of J. Pete Laney**; **S. Cass Weiland** and **Robert A. Hawkins** of **Patton Boggs LLP**; and **Jay Ethington** of the **Law Firm of Jay Ethington**.

**Skadden Arps Slate Meagher & Flom LLP** had greater success **swaying jurors** after a California state panel decided that PNY Technologies Inc. owes \$28.5 million for failing to pay SanDisk Corp. royalties in a flash-memory patent licensing agreement. SanDisk's chief legal officer, **Eric S. Whitaker**, hailed the verdict as showing "the necessity of a strong patent system that protects technology companies' investments in research and development." SanDisk is represented by **Allen J. Ruby** and **David W. Hansen** of **Skadden Arps Slate Meagher & Flom LLP**. PNY is represented by **Arnold & Porter LLP**.

A whistleblower **will receive** more than twice the amount PNY owes SanDisk after a New York federal judge approved a settlement in which JPMorgan Chase & Co. admits that it defrauded the Federal Housing Administration and the Department of Veterans Affairs into insuring flawed home loans. **Wasinger Law Group PC** client and ex-JPMorgan employee Keith Edwards will reap \$63.9 million for tips leading to a \$614 million False Claims Act **settlement** that the federal government says will restore its losses from the bank's fraudulent loans, which allegedly sparked evictions and foreclosures throughout the nation. The U.S. is represented by **Preet Bhara** and **Christopher B. Harwood**. Edwards is represented by **David G. Wasinger** of **The Wasinger Law Group PC**. JPMorgan is represented by **Alexander H. Southwell** of **Gibson Dunn**.

Also dodging a bullet was **Cohen & Gresser LLP**, whose counsel at **Matalon Shweky Elman PLLC** successfully convinced a New York state judge that Pangea Capital Management LLC had failed to support its \$10 million **legal malpractice suit** against the boutique law firm. New York Supreme Court Judge Charles E. Ramos on Thursday tossed claims accusing Cohen & Gresser of hiding a conflict of interest during its representation of Pangea in an acquisition, ruling that the plaintiff didn't plead that the firm knew of any wrongdoing. **Cohen & Gresser** is represented by **Howard I. Elman** and **Jeremy C. Bates** of **Matalon Shweky Elman PLLC**. Pangea is represented by **Dean G. Yuzek**, **Mioko C. Tajika** and **Caitlin L. Bronner** of **Ingram Yuzek Gainen Carroll & Bertolotti LLP**.

On the lateral hire front, energy counsel was kinetic, as **Morgan Lewis & Bockius LLP** attracted four ex-**Bingham McCutchen LLP** attorneys with experience advising clients on energy and infrastructure matters and energy regulation, including partners **Mark C. Williams**, **Daniel A. Nelson**, and **Gerald J. Kehoe**, and counsel **Ann F. Chamberlain**. Meanwhile, **Akin Gump Strauss Hauer & Feld LLP** courted an energy sector specialist, **Michael J. Byrd**, away from his gig as chairman of the North American oil and gas practice group for **Baker & McKenzie LLP**'s Houston energy practice.

### Legal Lambs

**O'Melveny & Myers LLP** likely had its tail between its legs when a California federal judge said O'Melveny's patent discussions with a corporate client **precluded the firm** from defending ATopTech Inc. against Synopsys Inc.'s patent-infringement suit over electronic design automation. After O'Melveny conceded that it discussed one of the Synopsys patents-at-issue while representing Magma Design Automation Inc. in an earlier case, U.S. District Court Judge Maxine Chesney said from the bench, "Once you get talking, you talk about everything." Synopsys is represented by **Robert A. Mittelstaedt**, **Patrick T. Michael**, **Nathaniel P. Garrett**, **Mary H. McNeill** and **Krista S. Schwartz** of **Jones Day**. ATopTech is represented by **Timothy D. Byron**, **Melody Drummond Hansen**, **David R. Eberhart**, **Luann Simmons**, **Darin W. Snyder**, **Nicholas J. Whilt** and **Xin-Yi Zhou** of **O'Melveny & Myers LLP**.

Like Judge Chesney, Manhattan District Attorney **Cyrus R. Vance Jr.** didn't mince words after the former deputy general counsel for the Port Authority of New York and New Jersey **pled guilty** to allegations that he lied by telling the Port Authority that **Weil Gotshal & Manges LLP** would give the agency a 15 percent discount. "Lawyers must always be honest in their dealings," said Vance Jr., who accused **Christopher Hartwyk** of forging a letter supposedly signed by a Weil Gotshal partner and knowing the firm had never agreed to the discount. "In this instance, the defendant was not honest with his employer, and he has now personally paid the price." Hartwyk is represented by **Marc Agnifilo** of **Brafman & Associates PC**.

Unlike Hartwyk, ex-Jefferies & Co. Inc. managing director Jesse C. Litvak has maintained his innocence on charges that he **defrauded customers** to the tune of more than \$2 million on residential mortgage-backed securities trades. But a Connecticut federal jury didn't take his side, instead giving Litvak **the dubious honor** of becoming the first individual to be convicted of Troubled Asset Relief Program fraud — and dealing his **DLA Piper** attorney a blow, despite his promise to appeal. Litvak is represented by **Patrick J. Smith** of **DLA Piper**.

In another landmark decision, a California federal judge **put an end** to Apple Inc.'s first smartphone patent lawsuit against Samsung Electronics Co. Ltd. in district court when she denied a request by the plaintiff's attorneys at **Morrison & Foerster LLP** and **WilmerHale**

for an injunction banning the sale of allegedly infringing Samsung smartphones. U.S. District Judge Lucy Koh entered final judgment that Samsung owes \$930 million in damages, leaving it to the Federal Circuit **to review** a jury's 2012 infringement verdict. Apple is represented by **Harold McElhinny, Rachel Krevans, Erik Olson** and **Jennifer Lee Taylor** of **Morrison & Foerster LLP** and **William Lee** and **Mark Selwyn** of **WilmerHale**. Samsung is represented by **John Quinn, Charles Verhoeven, Kevin Johnson, Victoria Maroulis, Michael Zeller** and others of **Quinn Emanuel Urquhart & Sullivan LLP**.

And finally, another massive California jury award went undisturbed when the state's high court **refused to review** a \$415 million verdict against Actelion Ltd. in a suit accusing it of buying CoTherix Inc. so that the Swiss pharmaceutical company could maintain its alleged stranglehold over the hypertension drug market. Making lambs out of Actelion's attorneys at **Mayer Brown LLP** and **Cotchett Pitre & McCarthy LLP**, the California Supreme Court decided unanimously to not take up Actelion's appeal of the verdict in a suit brought by Japanese pharmaceutical maker Asahi Kasei Pharma Corp. Asahi is represented by **Franklin Brockway Gowdy, Benjamin P. Smith, Christopher Banks, Tera Heintz** and **Rollin Chippey** of **Morgan Lewis & Bockius LLP**. Actelion is represented by **Donald Manwell Falk, Evan M. Tager** and **Lee N. Abrams** of **Mayer Brown LLP**, as well as **Nanci Eiko Nishimura** of **Cotchett Pitre & McCarthy LLP**.

--Editing by Jocelyn Allison and Philip Shea.

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