

TRIAL
LAWYERS
DOING
PUBLIC
JUSTICE

2008

PUBLIC JUSTICE



AMERICA'S PUBLIC INTEREST LAW FIRM

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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 and harmful abuses.



Gerson H. Smoger

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 been damaged in some way – physically, mentally, emotionally, monetarily – by the wrongful conduct of a corporation, institution or government entity.

These David-and-Goliath battles for legal 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.

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. Public Justice, America’s public interest law firm, handles such cases.

Founded in 1982 as Trial Lawyers for Public Justice, we choose cases for our wide-ranging docket based on their potential public interest impact. Public Justice 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 growing volunteer network of more than 3,000 of the best trial lawyers and other attorneys in the United States and abroad – the members of the Public Justice Foundation – supports the work of this firm. Public Justice litigates most of its cases by calling on these members.

Much of the public is unaware of how the work of trial lawyers corrects injustices and creates economic incentives that protect the public health, safety, and welfare. One of the foundation's goals is to inform the public about court cases decided each year that illustrate the principles of public justice.

To that end, the Public Justice Foundation annually presents the Trial Lawyer of the Year Award. It is given each year 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 socially significant case.

The 2008 Trial Lawyer of the Year Award winners, in an extraordinary display of devotion, patience and tenacity, won a landmark verdict – and the jury's apology on behalf of the state – for female Michigan prisoners who suffered years of sexual abuse and retaliation.

This publication describes the extraordinary work and achievements of the winner of the Access to Justice Award and the winners and finalists in the 2008 Trial Lawyer of the Year Award.

The cases featured in this publication illustrate the public benefits that trial lawyers and the civil justice system provide in helping to prevent injuries and wrongdoing, to achieve fair compensation for the injured and aggrieved, and to hold wrongdoers accountable. The accomplishments of these outstanding trial lawyers are a testament to the values espoused by Public Justice and the Public Justice 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.



Gerson H. Smoger
President
Public Justice Foundation

2008 ACCESS TO JUSTICE AWARD

This award is presented occasionally by the Public Justice Foundation in recognition of an extraordinary legal achievement in the interest of securing access to justice for injury victims.



Robert Leslie Palmer

Griffin v. Unocal Corporation
Robert Leslie Palmer

Prying Open the Courthouse Doors

Jack Cline worked at a manufacturing plant in Bessemer, Alabama, in a job that kept him in close contact with the carcinogen benzene. Cline left the job in 1987, but it wasn't until 1999 that he was diagnosed with acute myelogenous leukemia – a disease that is closely associated with benzene exposure.

Cline sued the manufacturers and suppliers of the benzene, but his case was thrown out of court. The clock on Alabama's two-year statute of limitations began ticking from the date of Cline's last exposure to the chemical. That means he would have had to file his complaint by 1989 – a full 10 years before his diagnosis. Since Alabama law recognized no right to sue until the victim had a "manifest, present injury," the state Supreme Court dismissed the suit.

With the law itself against Cline, it seemed the Alabama courthouse doors were nailed shut not only for him but for virtually anyone in the state who had been exposed to hazardous chemicals.

But an intrepid trial lawyer, Robert Leslie Palmer of the Alabama Legal Reform Foundation in Birmingham, was already seeking justice for Cline – though, at the time, neither man knew the other, and it would be years before justice was won. Since January 2004, Palmer had been working tirelessly to change the law that had foiled Cline and others. There had been at least three unsuccessful attempts to persuade the Alabama Supreme Court to reverse its 1979 precedent, *Garrett v. Raytheon Co.* But Palmer's dogged diligence ultimately prevailed. He

2008 TRIAL LAWYER OF THE YEAR AWARD

This prestigious, nationally recognized award is bestowed annually upon the trial lawyer of team of lawyers who made the greatest contribution to the public interest by trying or settling a precedent-setting case over the last year.

Three cases involving 28 attorneys were chosen as finalists for the 2008 Trial Lawyer of the Year Award. We extend our praise and thanks to each and honor them all for exemplifying the best and noblest work of the trial bar.

This year's winners for a case titled *Neal v. Michigan Department of Corrections* are:

Deborah LaBelle
Richard Soble
Molly H. Reno
Michael Pitt
Peggy Goldberg Pitt
Cary S. McGehee
Patricia A. Streeter
Shannon L. Dunn
Ronald J. Reosti
Ralph Sirlin

The winning team's case and those of the other two finalist teams are profiled in the following pages.

CASE

PROFILES

Neal v. Michigan Department of Corrections



Deborah LaBelle

Deborah LaBelle, Richard Soble, Molly H. Reno, Michael Pitt, Peggy Goldberg Pitt, Cary S. McGehee, Patricia A. Streeter, Shannon L. Dunn, Ronald J. Reosti and Ralph Sirlin



Richard Soble

Protecting Female Prisoners from Torture

The treatment of women and girls in Michigan's prisons at the hands of male guards was tantamount to torture. For years, female prisoners were subjected to groping, forced oral sex, rape, prurient viewing, and retaliation for attempting to report this abuse.



Molly H. Reno

The women lost hope, suffered from chronic post-traumatic stress disorder and were unable to successfully rehabilitate. The abuse might be still going on today, but for a courageous team of trial lawyers.



Michael Pitt



Peggy Goldberg Pitt

After 12 years of litigation, Michigan attorneys Deborah LaBelle, Richard Soble, Patricia A. Streeter and Shannon L. Dunn of Ann Arbor; Molly H. Reno of Whitmore Lake; Michael Pitt, Peggy Goldberg Pitt and Cary McGehee of Royal Oak; and Ronald Reosti and Ralph Sirlin of Pleasant Ridge, won a jury verdict totaling more than \$30 million for the first ten class members to go to trial in *Neal v. Michigan Department of Corrections*. It was the first case to hold that Michigan's Civil Rights Act – intended to protect individuals against discrimination in public services – applies to prisoners. Moreover, after LaBelle's team demonstrated the egregiousness of the state's conduct, the jury itself issued an apology to the women on behalf of the citizens of Michigan.



Cary S. McGehee



Patricia A. Streeter



Shannon L. Dunn

NOT PICTURED
Ronald J. Reosti

NOT PICTURED
Ralph Sirlin

The legal team first filed the class action suit in 1996, alleging sexual assault, privacy violations, and degrading treatment by male guards and state employees. From the beginning, the trial lawyers were up against the vast resources of a government intent on preventing the truth from coming to light.

CASE

PROFILES

Los Angeles Archdiocese and San Diego Diocese Catholic Abuse Litigation



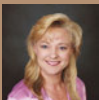
Raymond P. Boucher

Raymond P. Boucher, Anthony M. De Marco, Katherine Freberg, Stephen Rubino, Terry Giles, Irwin Zalkin, Timothy Hale, Laurence Drivon and Jeff Anderson



Anthony M. De Marco

Holding the Clergy Accountable for Child Abuse



Katherine Freberg

For decades, the Catholic Church covered up the sexual abuse of children by its clergy, routinely transferring pedophile priests from parish to parish, rather than taking action to protect children. Until recently, the Church was able to prevent the scandal from coming to light. Now, across the country, courageous survivors have come forward and, through skillful trial lawyers, have held accountable one of the world's most powerful institutions.



Stephen Rubino

After five years of work on more than 700 individual lawsuits in *Los Angeles Archdiocese and San Diego Diocese Catholic Abuse Litigation*, Raymond P. Boucher and Anthony M. De Marco of Kiesel, Boucher & Larson LLP in Beverly Hills, Katherine Freberg of Freberg & Associates in Irvine, California, Stephen Rubino of Ross and Rubino in Margate, New Jersey, Terry Giles in Houston, Irwin Zalkin of Zalkin & Zimmer in San Diego, Timothy Hale of Nye, Peabody & Sterling in Santa Barbara, Laurence Drivon of Drivon Law Office in Stockton, California, and Jeff Anderson of Anderson & Associates in St. Paul, Minnesota, achieved historic settlements with the Catholic Church totaling \$1.2 billion for more than 700 sexual abuse survivors. The settlements also required the release of long-secret documents evidencing the Church's cover-up of the abuse.



Terry Giles



Irwin Zalkin



Timothy Hale



Laurence Drivon

During 2002 and 2003, Boucher and his colleagues filed more than 700 lawsuits against the Los Angeles Archdiocese and San Diego Diocese on behalf of people who were sexually abused as children by Roman Catholic clergy. The oldest plaintiffs were abused in the 1930s and the youngest in this decade.



Jeff Anderson

CASE

PROFILES

Perrine v. DuPont de Nemours and Company



Mike Papantonio

Mike Papantonio, Virginia M. Buchanan, Ned McWilliams, Brian H. Barr, J. Farrest Taylor, Angela Mason, Joseph D. Lane, and Robert F. Kennedy, Jr.



Virginia M. Buchanan

Making Polluters Clean Up Their Mess

For 100 years, DuPont's zinc smelting plant exposed the people of Spelter, West Virginia to arsenic, cadmium, and lead through the soil and air. DuPont knew the site posed continuing threats to public health and safety, but didn't seem to care. The chemical giant went so far as to conduct a door-to-door campaign to tell residents that the materials did not cause health problems years after exposure – a fact that every expert, including DuPont's own, would later say was untrue.



Ned McWilliams

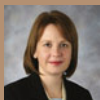


Brian H. Barr



J. Farrest Taylor

An intense legal battle waged by Mike Papantonio, Virginia M. Buchanan, Ned McWilliams, and Brian H. Barr of Levin Papantonio Law Firm in Pensacola, Florida; J. Farrest Taylor, Angela Mason, and Joseph D. Lane of Cochran, Cherry, Givens, Smith, Lane & Taylor, P.C. in Dothan, Alabama; and Robert F. Kennedy, Jr. of Kennedy & Madonna, LLP in Hurley, New York, eventually forced DuPont to clean up West Virginia's biggest environmental disaster. After nearly four years of litigating *Perrine v. DuPont de Nemours and Company*, and a four-phase jury trial, Papantonio's team won approximately \$380 million for a class of 8,000 citizens, including \$130 million for medical monitoring for 40 years, \$55 million for decontaminating their property, and \$196 million in punitive damages.



Angela Mason



Joseph D. Lane



Robert F. Kennedy, Jr.

Papantonio filed the class action lawsuit in 2004, alleging negligence, public and private nuisance, trespass, strict liability, and related claims, and demanding remediation, medical monitoring, and punitive damages. Spelter's families had no choice but to pursue litigation. For years, government regulators turned a blind eye to DuPont's wrongdoing.

NOMINATIONS

SOUGHT

For 2009 Trial Lawyer of the Year Award

Please help honor the best of the trial bar – and all trial lawyers – by submitting nominations now for the 2009 Trial Lawyer of the Year Award.

The Public Justice Foundation will bestow this nationally prestigious award upon the trial attorney or attorneys who have made the greatest contributions to the public interest by trying or settling a precedent setting case between March 16, 2008 and March 16, 2009.

Finalists and recipients exemplify how trial lawyers use their skills and determination to create a more just society. Typically, the cases won or settled by the finalists cover a broad range of public interest work, including but not limited to civil rights, consumer protection, workers' rights, human rights, environmental preservation, and corporate and governmental accountability.

To nominate a trial attorney or litigation team, please send a letter, e-mail or fax that includes: (1) the nominee's name and firm or organization, if any; (2) the name of the case that the nominee won or settled; (3) the date of the verdict or final settlement approval (on or after March 16, 2008, and before March 16, 2009); (4) the outcome of the case; and (5) why you believe this attorney or litigation team deserves the award. For example, you may want to include, a statement of how the case impacts the public interest, a summary of the trial lawyers' skills and resources demonstrated, and/or a description of obstacles that the plaintiff's counsel overcame in fighting for public justice. News clippings about the case are welcome, but please do not send videotapes or DVDs.

Nominations should be sent to Communications Director Deborah Mathis at the Public Justice Foundation's national headquarters, 1825 K Street, NW, Suite 200, Washington, D.C. 20006, fax 202 232 7203, e mail: dmathis@publicjustice.net. The deadline for nominations is March 17, 2009.

THE PUBLIC

JUSTICE FOUNDATION

What makes Public Justice's public interest work possible is the active and generous support of the Public Justice Foundation's members. While Public Justice litigates in the courts, the Public Justice Foundation – a nonprofit educational membership organization – supports the law firm's cases and educates the public about the important issues at stake.

Public Justice and the Public Justice Foundation launched the Access to Justice Campaign to preserve all Americans' right to a day in court. The campaign was created in response to continuing attacks on access to the courts by the powerful in both the public and private sectors. We fight with full force to preserve the right to a day in court.

For example, corporate wrongdoers are increasingly amending consumer, employment, and investors' contracts to explicitly ban individual and class action litigation. They are also expanding federal preemption, mandatory arbitration and court secrecy to preclude many lawsuits and to bury the rest.

Meanwhile, Congress and state legislatures nationwide are proposing – and passing – more and more legislation that bars court access and eliminates Americans' rights.

The work is essential. The danger to our democracy and our cherished civil justice system is real and present.

We hope you will join us in our fight for justice.

JOIN THE FIGHT FOR JUSTICE

We urge you to join us in these critical efforts to ensure justice for all. Your participation will support Public Justice's cutting-edge litigation and the Public Justice Foundation's ongoing public education efforts. Through annual membership dues, special gifts, and other support, our members make justice possible. Many take on active roles, serve as cooperating counsel, become active in their states, and network with public interest organizations on our behalf. Some of the benefits of annual membership include:

PUBLIC JUSTICE

Our regularly published newsletter updates members on our litigation and important developments in the legal world.

E-LERTS

Our Public Justice E-Alerts inform members by email of breaking news and important activities as they happen.

WEB SITE

Download key briefs, decisions and other materials at www.publicjustice.net

NETWORKING

Attend our annual events and meetings across the country and network with leading attorneys committed to the public interest.

TRIAL LAWYER OF THE YEAR AWARD

Nominate candidates and meet the winners and finalists of this prestigious award.

VOLUNTEER

Sign up for key committees, serve as a state coordinator, or serve as cooperating counsel.

PRIDE

The number one benefit cited by our members is the tremendous pride they feel in being associated with Public Justice and its proud history of making a difference. Once you become a member, we encourage you to contact us about posting a link to Public Justice on your firm's home page, noting that you are a proud supporter.

SUPPORT

PUBLIC JUSTICE

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SUPPORT THE ACCESS TO JUSTICE CAMPAIGN

Help Public Justice and the Public Justice Foundation maintain the Access to Justice Campaign to expose, fight and defeat the frontal assault now taking place on the right to a day in court. We have had a number of victories in preserving class actions, challenging federal preemption claims, thwarting court secrecy and stopping mandatory arbitration abuse.

Your Special Gift will help ensure that we can continue this vital campaign.

Please give as much as you can to help Public Justice continue its work on behalf of the wronged, the poor and the powerless.

For more information, contact Development Director Christine Koerner at (202) 797-8600 Ext. 253 or at ckoerner@publicjustice.net.

YES, I will support the Access to Justice Campaign at Public Justice with a 100% tax-deductible Special Gift of :

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