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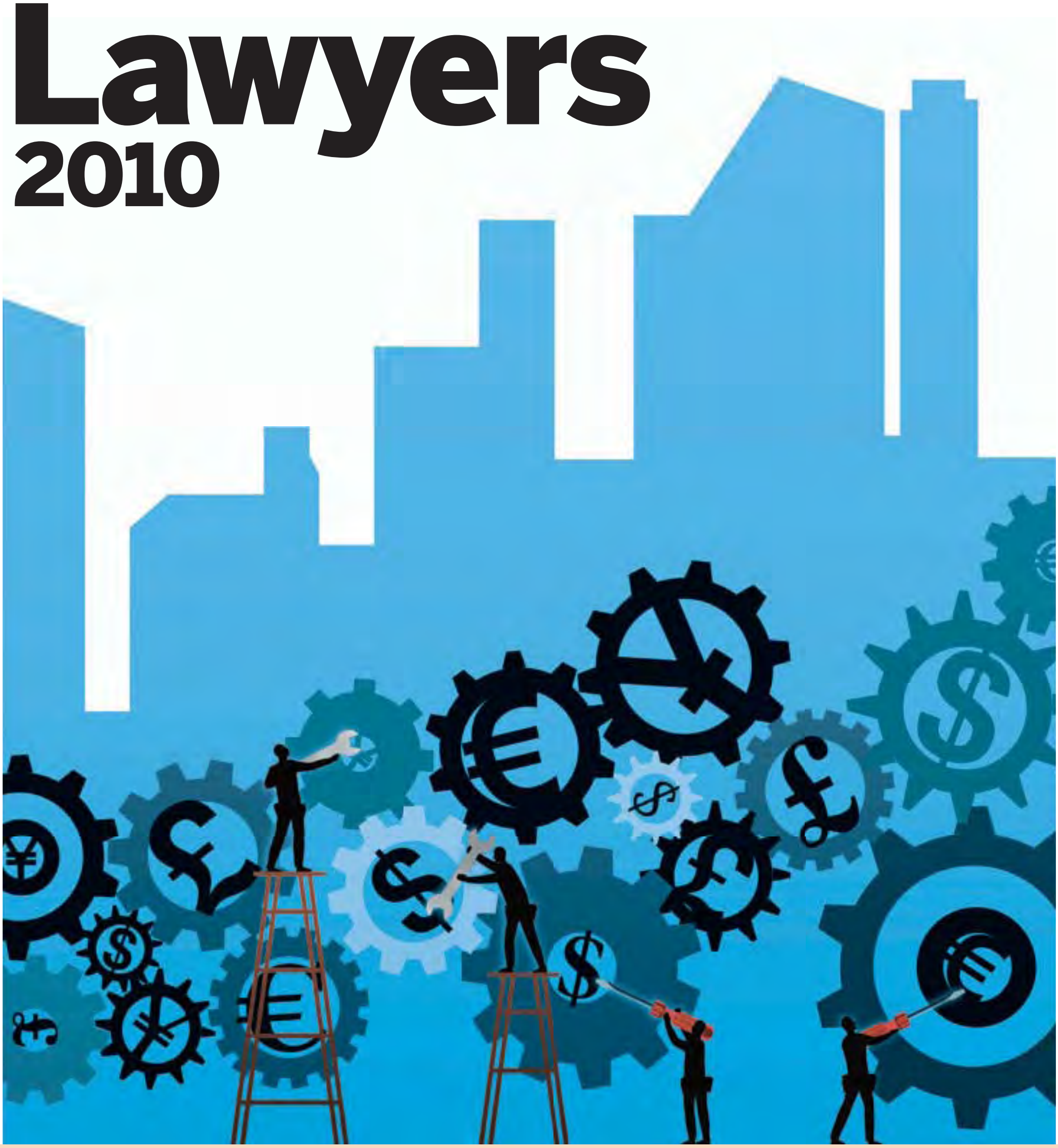
US Innovative Lawyers 2010

RSG CONSULTING



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Leaders of the pack

Reena SenGupta on the search for stand-out lawyers and firms

IN THE YEARS THAT THE FT HAS been writing about innovation in the legal sector, we have never arrived at a static definition for an innovative lawyer. In our search for legal innovation, we have found ourselves charting the rapid evolution of an inherently conservative profession. The innovative lawyer or law firm has had to keep up with a changing world that in the past few years has focused attention on what it means to be a lawyer and posed complex challenges for the profession as a whole.

To produce this report – our first look at the US legal sector – we completed several hundred interviews with lawyers and their clients, unpicking the deals and cases sent to us for consideration. What is clear from the research is that the demand for legal innovation has not waned since the credit crisis of 2008.

In what Lee Meyerson, a partner at Simpson Thacher & Bartlett, calls the "new normal", lawyers have to see the "big picture" to be able to achieve successful outcomes for business. The difference, says Mr Meyerson, is that "we need to be agile, thoughtful and creative in an environment where things change hourly".

To be ranked in the US Innovative Lawyers report, a legal team needed to have exceeded client expectations in a market where those expectations were riding high. Brad Karp, chairman of Paul, Weiss, Rifkind, Wharton & Garrison, notes that since the credit crisis, "there has been a flight to quality and a dramatic divide between those firms that can handle 'bet the company' work and those that can't".

Certainly, much of the work profiled here can be categorised as company survival work.

But business circumstances do not need to be extreme to produce innovative lawyering. There are many instances in the report where lawyers have transcended the traditional parameters of the legal role while going about their everyday jobs.

Equally, in the litigation arena, innovative lawyers are not just coming up with precedents or taking cases to the US Supreme Court. They also frame and deliver their arguments innovatively in the courtroom. Often, their success is about putting a human face on dry numbers or complex disputes to simplify them for a jury. When this has been done with creativity and imagination – as several lawyers who appear in the litigation table have shown – it becomes innovation.

Innovative lawyers come in all shapes and sizes, but they have a set of attributes in common. First, they have to be excellent technicians and masters in their fields of legal practice. Second, they have to be business people. The ability to knit these two skill sets together seamlessly is the foundation of the innovative lawyer.

THE TOP FIVE LAW FIRMS IN THE REPORT

1	Skadden, Arps, Slate, Meagher & Flom
2	Davis Polk & Wardwell
3	Paul, Weiss, Rifkind, Wharton & Garrison
4	Mayer Brown
5	Paul Hastings

But to be a stand-out entry in the US Innovative Lawyers report, they have to go one step further. As can be seen from the top-ranked entries, the lawyers have stepped into the shoes of actuaries, scientists, ambassadors, artists and historians – they have crossed their own professional constraints in pursuit of their clients' objectives.

Jeffrey Rosen, deputy presiding partner of Debevoise & Plimpton, asks whether the generalist lawyer is returning. This view is echoed by Robert Giuffra, a partner at Sullivan & Cromwell, who observes that "a generalist approach produces better innovators than a specialist one".

From the five years of publishing the FT Innovative Lawyers report in Europe, and from this inaugural edition of the US report, it is clear that those most able to innovate are lawyers who have wide-ranging personal and professional experience or legal teams that can bring together diverse specialists. If there is an argument for cognitive diversity in professional life, it is the FT's reports on legal innovation.

Interestingly, this emphasis on the benefits of being a generalist is a reversal of the trend towards specialisation that has characterised the US and European legal professions over the past two decades. But for lawyers to be able to respond and stay ahead of the challenges of globalisation, active regulators, the rise of alternative legal service providers and muscular purchasers requires a world view that is characterised by lateral thinking rather than a narrow legal one.

The area we have not examined in-depth in this report is the business of law. Questions such as whether the market is shrinking for "Big Law" firms are not answered – this year. However, from our conversations with clients, it is clear that the requirement for big lawyers is not shrinking.

Charlie Krauss, assistant general counsel, chief general counsel at CR Bard, the medical technology company, says his main job is to manage lawyers. His definition of an innovative lawyer is one that can tell a good story and sell it. "Unfortunately," he says, "it is somewhat unusual in the US market. The lawyers that can do this are too far and few between."

One law firm chairman estimates the number of innovative lawyers at each US firm to be less than 30 per cent. We hope this report will encourage more innovative lawyer stories to be created and told.

About this report

THE US INNOVATIVE LAWYERS report is a collaboration between the FT and RSG Consulting, a specialist legal research company.

The FT and RSG Consulting have been researching and writing about innovation in the legal sector for five years, and our annual FT Innovative Lawyers report has become one of the top legal rankings in Europe.

The European report is accompanied by an awards ceremony that recognises the year's stand-out lawyers.

US Innovative Lawyers is our first report on the US legal sector.

The rankings are based on extensive research and analysis. The report seeks to give business readers a flavour of what constitutes innovative lawyering and the standards they can expect from top lawyers. It does not purport to be a comprehensive survey of all innovative legal work done in the US.

We seek to highlight instances where lawyers have achieved significant commercial outcomes for business.

For this inaugural edition, we have focused on the work that lawyers do rather than the business of law.

The report seeks to give readers a flavour of the standards they can expect from top lawyers

In this sense, the 2010 report is more about the value that lawyers can bring to their clients than about the state of innovation in the legal industry.

To compile the report, law firms were invited to send examples of their work to the research team. These case studies were analysed through client and lawyer interviews to identify and evaluate the legal innovation and commercial results.

US Innovative Lawyers is a comparative exercise, so examples of work were benchmarked against each other to produce the results tables in the report.

The work was assessed and scored against three criteria: the originality of the legal work or business situation; the rationale of the lawyers doing the work – that is, their strategic input, levels of proactivity and leadership values; and the impact of the work on the client, which includes an assessment of how transformative that work will be for industry and the way in which legal work in that field is done. All entries in the results tables received positive client endorsement.

For the 2010 report, we received 270 submissions from 54 law firms, representing 60 per cent of the Am Law 50, and 40 per cent of the Am Law 100. More than 340 interviews were conducted by the RSG Consulting research team.

RSG Consulting has worked closely with the FT on law-related features for several years. Providing bespoke consultancy and research to law firms and in-house counsel, the company's work centres on the dynamics of "Big Law", innovation and groundbreaking analysis of the legal market in India.

Crucial support in hard times

Lawyers took a critical role in shoring up banks after the credit crisis. By *Telis Demos*

IT WAS ON APRIL 1 THAT JEFFREY Brill, a partner at Skadden, Arps, Slate, Meagher & Flom, told his clients that the long-fought spin-off of Primerica from Citigroup was going to become a reality. "They thought it was a big joke," Mr Brill says. "It had been such a difficult deal, it had seemed an impossible dream."

It was no joke. Citigroup sold $320m-worth of shares in the financial products retail group on that day. The shares rose 31 per cent on the first day of trading.

The surprise, however, was understandable. As financial groups emerged from the credit crisis of 2008, things did not get any easier. Although the pressure of bankruptcy or default no longer loomed as large for companies such as Citigroup, the work of paring bad assets and returning to business as usual was proving just as difficult.

The bulk of the most innovative lawyering in the US financial services sector in the past two years has been generated by the struggle to restructure market-facing businesses. Much of that work has centred on Citigroup, the US's largest financial supermarket before 2007, which was partly nationalised during the financial crisis.

"Everybody is fighting over everything," says Jason Kravitt, a partner at Mayer Brown.

His firm worked to create new conduits for securitising student loan debt (see box below).

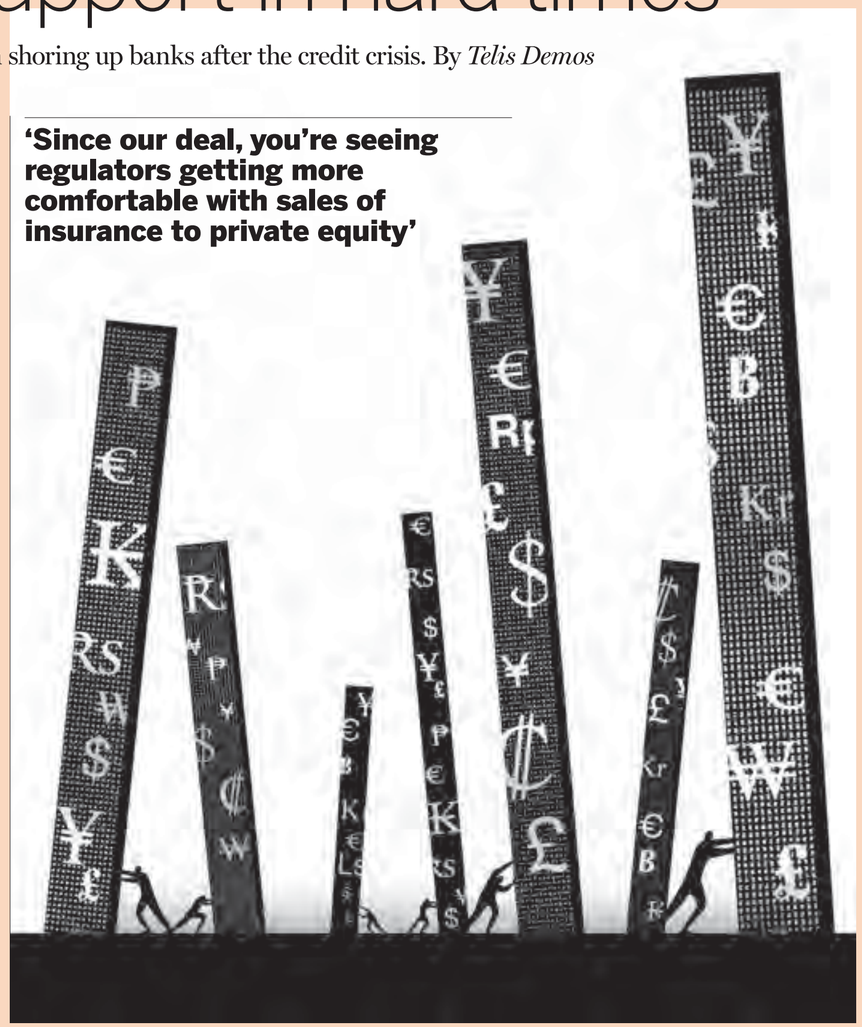
"It used to be if things went wrong you made $8m instead of $10m," he says. "Now you might go out of existence."

The heart of the challenge was attracting new capital to the banking sector at a time when attracting investors to any project was difficult. Citigroup faced this problem when it moved to sell off Primerica. Skadden advised both parties, and the aim was to negotiate a complex split of two very different corporate cultures – one based in Manhattan, selling mainly to institutions, and the other in Duluth, Georgia, selling annuities and insurance via individuals to friends and family – and structure a deal to sell Primerica via an initial public offering.

Some shares could be sold to the network of more than 100,000 individual distributors. But outside investors had mostly turned away from buying new shares as volumes in the IPO market fell to four-year lows in 2009. To attract them, Skadden hit on a unique structure: bring in an "anchor tenant" who would be able to do extensive due diligence and reassure other investors.

Winning over an anchor – eventually Warburg Pincus, the private equity group – required remaking the business. Primerica's reinsurance liabilities would be held by Citigroup, and not sold to Warburg, to maximise cash flow and keep the balance sheet clean. Skadden and Mr Brill had to bring in outside counsel to negotiate a deal between Primerica and Citigroup, whose interests previously had been tightly aligned.

'Since our deal, you're seeing regulators getting more comfortable with sales of insurance to private equity'



Regulators also needed to be soothed. Up to that point, state and federal authorities had not been keen to have private equity groups owning insurance companies. Restructuring the reinsurance obligations helped secure approval of the deal. "Since our deal, you're seeing regulators getting more and more comfortable with sales of insurance and banking groups to private equity," says Mr Brill.

In exchange, Warburg Pincus agreed to a fixed price for the deal. Normally, the buyer's price would be able to change depending on share performance, but Skadden and Citigroup believed they needed stability to attract other investors. "We didn't want uncertainty. We wanted to bolster the deal," Mr Brill says.

The financial crisis did not only affect the banks, of course. Credit dried up for all kinds of transactions, including project finance, and led to important legal work in financing for infrastructure and energy deals, such as Akin Gump Strauss Hauer & Feld's work on a geothermal power plant in Nicaragua, which would supply a fifth the country's electricity.

Nicaragua, even in the best of times, does not attract investors easily. Dino Barajas, an Akin partner, had to structure the deal to bring Polaris Geothermal, a Canadian group, to the Central American country as a series of interlocking pledges of capital. While a typical syndication involves a set of common terms for all lenders, Mr Barajas and Polaris took the unusual route of securing loans from multiple development banks, including the International Finance Corporation, the Inter-American Development Bank and the Central American Bank for Economic Integration. Each had political mandates that could not be satisfied by a single agreement, so each lender was secured by a guarantee from the previous one, organised as a series of parent companies, creating individual loan agreements.

The project was also financed in two phases, with the successful repayment of the first phase securing the second phase, even though it was essentially the same collateral securing both loans. "Every investor needed a belt and suspenders, given there was not a whole lot of precedent with Nicaraguan courts," says Mr Barajas. "One project, two financings – I don't think I've ever seen [that] in another deal."

Lawyers are often asked to find ways of matching commercial and political interests. Citigroup was itself in this position as it moved out of government ownership, exchanging $58bn in preferred securities owned by the US Treasury for common shares. It needed common shares to bolster its capital and put it on solid ground in the eyes of the Treasury, which also wanted the cash from its sale to begin to recoup some of the tax dollars spent on bank rescues. But asking Citigroup's current shareholders to approve the exchange was difficult.

So Cleary Gottlieb Steen & Hamilton, along with Citigroup's bankers, created a new kind of security, a so-called "common equivalent". It was junior to preferred shares but unlike common stock in one way: if shareholders did not approve its sale, it would turn into a high-dividend-paying preferred share. Shareholders would be forced to pay money directly to other investors. "We created a structure to get from point A to point B when we were worried about shareholders approving their own massive dilution," says Jeffrey Karpf, a partner at Cleary Gottlieb.

Cleary Gottlieb later advised Bank of America on its exchange of shares. "It took longer than people thought to come up with this structure, and there were a lot of constituents," says Mr Karpf. "But when there is political significance, there is a lot of pressure to get a deal done."

Educating investors about student loans

AFTER THE FINANCIAL CRISIS, even student loan debts in the US – guaranteed up to 97 per cent of their value by the government – were failing to attract investors.

So Jason Kravitt, a partner at Mayer Brown who was working with Citigroup and Morgan Stanley, sought a way to revive student-loan-backed debts with government backing.

"In 2008-09, the only thing that would sell in any volume had a government backstop," says Mr Kravitt. "That was the genesis of the idea."

At the height of the crisis, the government stepped in to guarantee securitisations of banks' off-balance-sheet obligations, which were deemed critical to the stability of the financial system. But the US Federal Reserve would not guarantee securities financing student loans.

Mr Kravitt and Stuart Litwin, another partner at Mayer Brown, implemented a proposal from Morgan Stanley and Citigroup's bankers. Instead of a government guarantor, they turned to a government liquidity provider, the Federal Financing Bank, a US Treasury division that manages debt payments for government agencies. The FFB would not guarantee the loans but it could issue payments for commercial paper – more attractive for investors than a direct investment in student-loan payments – while taking in the cash flow from the loans. "We had the FFB pay off the paper if it couldn't roll when it matured," says Mr Kravitt. The legal team created a "put" option, in which the US Department of Education would buy the student loans if the FFB was forced to own them – the first time the DoE had done so.

Mr Kravitt also consulted the student loan providers who would use the facility. They built the new structure into their loan agreements, which is what allowed the DoE to buy the loans at a reduced rate, the key step in the deal.

The structure is called Straight-A Funding. The Mayer Brown team earned their clients' ultimate plaudits when they convinced the Securities and Exchange Commission to allow the securities to be marketed as government backed.

FINANCIAL SERVICES

Firm	Innovation	Originality	Rationale	Impact	Total	Description
STAND-OUT						
Skadden, Arps, Slate, Meagher & Flom	Restructuring and initial public offering of Primerica, the subsidiary of Citigroup	7	8	8	**23**	Representing both Citigroup and Primerica, the firm had to extract Primerica from Citigroup and then ensure its survival as a public company. The lawyers balanced different interests and created an unusual anchor investment by Warburg Pincus that ensured the success of the IPO
Mayer Brown	Saving the student loans system after the financial crisis	7	8	7	**22**	When investor sentiment turned against commercial paper, it unleashed a crisis in the student loans market. The firm acted for Straight-A Funding, a unique public-private solution, which effectively made student-loan securities equivalent to government securities, the only ones the market would accept at the time
Cleary Gottlieb Steen & Hamilton	Citigroup's capital raising and repayment under the troubled asset relief programme (Tarp)	6	7	8	**21**	Focusing on the securities and disclosure elements, the firm helped Citigroup exchange $58bn in preferred securities into common stock, allowing the bank to develop a significant capital buffer. It helped make Citigroup one of the best-capitalised banks in the world
Davis Polk & Wardwell	Strengthening Citigroup's capital ratios and liquidity after the crisis	6	7	8	**21**	After the initial bailout, the firm advised Citigroup on the repayment of its Tarp preferred securities and the termination of its loss-sharing agreement with the US government. The firm acted as deal counsel on various transactions of systemic importance, including its realignment into two businesses, and its joint venture with Morgan Stanley
HIGHLY COMMENDED						
Allen & Overy	Capturing the John Hancock Tower	7	7	6	**20**	Using a loan-to-own strategy, the firm enabled its client, Normandy Real Estate Partners, to take control of Chicago's Hancock Tower, worth $1.3bn. The key was locating the right tranche of the mezzanine debt to enable control of the underlying asset under the universal commercial code. It was the first big loan-to-own strategy on this scale for 10 years
Cleary Gottlieb Steen & Hamilton	Maintaining creditor consensus in the $15bn refinancing of Cemex, the Mexican cement producer	6	7	7	**20**	Acted as New York counsel to the creditors in Latin America's largest private refinancing to date. Persuading creditors to balance a good commercial outcome with the need for speed was essential, given a narrow market window opening for the $5bn equity and high-yield offering. The deal also helped establish the use of collateral in Latin American refinancing
Freshfields Bruckhaus Deringer	Creating a benchmark for US rail projects	7	6	7	**20**	Acting for the Denver Regional Transportation District, the firm successfully took a European public-private partnership model to the US when credit markets were constrained. The lawyers were praised for crafting a concession agreement that would last 30 years, and for counselling the bidder teams on how to make this work
Orrick, Herrington & Sutcliffe	State of California bond issues	6	7	7	**20**	Represented California in two large bond issues worth $6.2bn and $6.5bn, respectively, which enabled the funding of 5,000 infrastructure projects. The lawyers devised ideas that broke the bottleneck preventing these projects from going ahead
Quinn Emanuel	Severing ties with leading financial institutions to pursue them in the courts	6	7	7	**20**	Top firms rarely sue the main financial institutions, but in the past three years Quinn Emanuel lawyers have obtained judgments worth in excess of $10bn against accounting firms and the banks
Simpson Thacher & Bartlett	Post-Tarp government work	6	7	7	**20**	Created the legal structures for new programmes under Tarp, including a targeted investment programme, warrant auctions and a public-private investment plan. The lawyers were especially creative on the securities law implications of the government selling its stakes in the banks
Wachtell, Lipton, Rosen & Katz	Financing Phillips-Van Heusen's $3bn takeover of Tommy Hilfiger	7	7	6	**20**	Facing a bank financing market that offered onerous terms, the firm crafted a deal with Apax Partners, Tommy Hilfiger's owner, where if it reached certain terms the buyer would be obliged to close the deal. The firm's approach to Apax enabled a far more attractive financing and allowed the deal to close successfully
COMMENDED						
Akin Gump Strauss Hauer & Feld	Renewable energy project financing in Nicaragua	6	7	6	**19**	Against a backdrop of perceived political risk, the firm closed a substantial project financing in Nicaragua, which has little history in project finance deals. The firm was involved in significant multilateral negotiations and played a key role in laying the groundwork to turn the country into a net exporter of energy
Latham & Watkins	OncoMed-Bayer biotechnology strategic alliance	6	7	6	**19**	With mergers and acquisitions activity slowing, biotech companies began entering strategic alliances to fund research and development. Representing OncoMed, the firm structured an alliance with Bayer as an option-based agreement, which involved an upfront payment of $40m to OncoMed and long-term flexibility for both sides
Paul Hastings	Divesting operations in light of the so-called "Volcker rule" of the Dodd-Frank Act	7	6	6	**19**	Represented Citigroup, the US bank, in the $12.5bn sale of its global property investment management platform. This was the first time this type of platform had been sold since Lehman Brothers disposals. The deal was complicated by consideration of global fiduciary duties and by the number of parties involved
Paul, Weiss, Rifkind, Wharton & Garrison	Spinning out Trilantic Partners from Lehman Brothers	6	7	6	**19**	When Lehman's merchant banking arm was being sold at auction, the firm acted as both lawyer and commercial adviser in helping the management team take control and introducing it to Evercore Partners, a strategic alliance partner. The deal included unique challenges with cancellation and consent issues across multiple jurisdictions
Shearman & Sterling	Panama Canal $5.25bn expansion financing	6	6	7	**19**	Helped design and negotiate the agreement between multilateral export credit agencies, all of which agreed a single document. Interestingly, the canal was not used as collateral
White & Case	Financing CF Industries Holdings' acquisition of Terra Industries	6	7	6	**19**	In a high-stakes piece of advisory work, the firm advised Morgan Stanley and the Bank of Tokyo-Mitsubishi on a $4.7bn leveraged loan. It was one of the largest investment-grade acquisition financings since the crisis
Debevoise & Plimpton	Paying back AIG's debt to Federal Reserve Bank of New York	5	6	7	**18**	To repay its debt, AIG, the insurance group, had to dispose of assets worldwide, which required running concurrent auctions and share offerings. In spite of considerable difficulties, the firm's highly commercial advice was rewarded with success when the initial placement offer for the AIA subsidiary in Hong Kong in October 2010 raised $17bn
Latham & Watkins	LBJ Expressway project financing	6	6	5	**17**	Valued at $2.8bn, the project entailed an unusual combination and integration of financing sources to succeed. The firm represented the underwriters in the $615m private activity bond of this transaction, which was part of a sequence of US-based project financings to re-establish the credibility of private-public partnerships
Paul Hastings	First extension of term asset-backed securities loan facility (Talf) to cover commercial fleet leases	6	5	6	**17**	Advising PHH, a large US mortgage and commercial fleet organisation, the firm worked to extend Talf to include asset-backed securities for commercial fleet leases. It required lobbying of government and devising a readily available solution

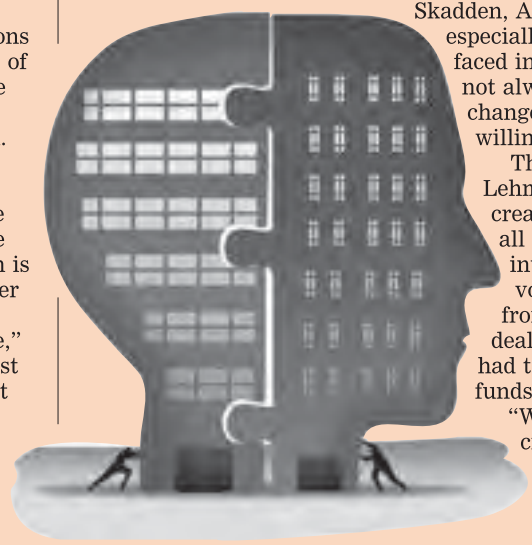
The new dealmakers

M&A advisers' work has become more complex. By *Helen Thomas*

MOST US MERGER agreements look the same – at least to the untrained eye. The same dour language outlines similar issues in broadly the same way. One mergers and acquisitions specialist says that even after the near-collapse of the financial system, dealmaking seems to have gone back to marking up the same documents that were used at the height of the credit boom.

Legal innovation in this area, then, can be hard to pinpoint. Moreover, for a profession that concerns itself with how to get a deal done within the limits of the rules, reinventing those boundaries seems counterintuitive. "Innovation is really about doing things structurally that either haven't been done before or have been used in other contexts to ensure a deal is going to close," says Frank Aquila, a partner and M&A specialist at Sullivan & Cromwell. "Those situations don't come along all that often."

Moments such as the first use of a reverse break-fee – paid to a target if a buyer backs out of a deal – or the invention of the poison pill may be rare, but dealmakers agree that the financial crisis has helped trigger greater creative thinking among M&A lawyers.



"Thinking about innovation in the legal profession is slightly antithetical to the way the law has traditionally evolved through case law and precedent," says Brian Duwe, M&A partner at Skadden, Arps, Slate, Meagher & Flom. "But especially with the challenges we have faced in the past few years, precedents do not always work when the circumstances change dramatically, and you have to be willing to think outside the box."

The fallout from the bankruptcy of Lehman Brothers in September 2008 created a challenging backdrop for all deals. According to Dealogic, the investment banking analyst, M&A volumes slumped 27 per cent in 2009 from the year before as funding for deals dried up, so M&A lawyers also had to find innovative ways to raise funds for beleaguered institutions.

"What was scary about the financial crisis was that you had to invent things on the fly," says George Bason, global head of Davis Polk & Wardwell's M&A practice. "There were situations that just hadn't been seen before."

In the $16bn sale by AIG of Alico, its foreign life insurance unit, to financial services provider MetLife, a team of Dewey & LeBoeuf lawyers had to unpick Alico's business – spread across more than 50 countries – from its parent as the US insurer battled to raise funds.

The crisis also complicated the work of Paul, Weiss, Rifkind, Wharton & Garrison for Citigroup, the financial conglomerate, in Japan – first buying and then selling Nikko Cordial, the Japanese brokerage. The purchase – which was the first to employ a newly adopted statute allowing the use of foreign company shares to buy a Japanese company – had to be renegotiated as Citigroup's share price tumbled. Only months later, the bank was battling massive writedowns in its loan portfolio and had to raise capital. When a share offering of the business proved impossible, the law firm instead co-ordinated three separate sale processes and structured "drag along" rights that would ensure Citigroup's sale could go through without restrictions from its co-investors.

The need to deal with multiple legal systems, regulators and jurisdictions add complexity to a transaction. Managing and negotiating several processes simultaneously can also give rise to innovation simply by virtue of making a deal incredibly complex.

"A multi-jurisdictional, multidisciplined deal requires innovative thinking simply to get the transaction done," says Matthew Herman, head of Freshfields Bruckhaus Deringer's US corporate practice. "The acquisition by K+S [the German salt and fertiliser producer] of Morton Salt required creating and implementing a complex structure, coordinating the sale of a business before closing for antitrust reasons and securing financing in the immediate wake of the 2008 crisis."

Mr Bason agrees, pointing to his firm's role in helping PepsiCo acquire two bottling companies – thought to be the first time a company has bought two public companies in two deals on the same day. "It is unquestionably true that a lawyer's job in a going-private transaction is very complex, and there is a lot of choreography that is important to get right," he says.

The international flavour of the most innovative lawyering – such as Simpson Thacher & Bartlett's work to bring a wealthy Russian investor to help fund a new arena and development for the New Jersey Nets, the US basketball team – looks set to continue. Cross-border M&A is already up by more than 50 per cent this year on 2009, with emerging markets playing an ever-increasing role. And with year-to-date activity sluggish amid continued economic fears and a cautious approach to dramatic transactions, lawyers are finding new ways to protect their clients' interests and get deals over the finish line – whether by speeding up private equity buy-outs or by developing structures to bridge the valuation gulf between sellers and buyers.

"The distinction between good lawyering and just lawyering is that each deal has its own set of personalities and issues," says Morton Pierce, co-chairman of M&A practice at Dewey & LeBoeuf. "You need innovative thinking that asks, 'How can I get this done, notwithstanding these issues?'"

"Innovative lawyers are the ones who can recognise and adapt to new ways of doing business," says Mr Bason. "When working with them, you can be arguing vociferously, but you are arguing about the right things."

Alas, some innovation may be destined never to see the light of day. "It is ironic that some of the biggest successes are those that remain behind closed doors," says one prominent dealmaker, pointing to furious wrangling over closing conditions or tax-saving wheezes.

Merger agreements may seem formulaic, but dealmaking can be a messy business.

MERGERS & ACQUISITIONS

Firm	Innovation	Originality	Rationale	Impact	Total	Description
STAND-OUT						
Skadden, Arps, Slate, Meagher & Flom	Acting for CF Industries Holdings in its $4.7bn hostile takeover of Terra Industries	7	8	7	**22**	Playing an unusual role in a defensive and offensive situation, the firm used its experience of hostile takeovers and its strength in antitrust and finance to help its client become the world's second-largest producer of nitrogen-based fertiliser
HIGHLY COMMENDED						
Mayer Brown	Acting for Assured Guaranty's acquisition of Financial Security Assurance from Dexia	7	7	6	**20**	Buying Financial Security Assurance was complicated by inseparable toxic liabilities and guarantees of uncertain value from the seller, Dexia, the Belgian and French government-supported bank. The firm devised a market-value swap in place of traditional seller's indemnities to provide a positive story for derivatives coming out of the financial crisis
Mayer Brown	Proposed privatisation of Chicago's Midway Airport	8	8	4	**20**	Symbiotic relationships between the firm and city government were critical to obtaining consent from more than 65 per cent of the airlines with landing slots at Chicago's second-largest airport. In spite of privatisation being delayed by the financial crisis, this deal provides the template for the first wave of airport privatisations in the US, likely to begin with the firm's involvement in Puerto Rico's San Juan International
Cleary Gottlieb Steen & Hamilton	IMB HoldCo purchase of IndyMac from the Federal Deposit Insurance Corporation	7	7	5	**19**	Enabling private equity investors – including Dune Capital, JC Flowers and George Soros's Soros Fund Management – to take ownership of a failed Californian mortgage lender from the federal government introduced a new source of recapitalisation for a slew of similarly failing regional banks. Cleary led a highly collaborative transaction that required co-ordinating the legal teams representing each investor
Freshfields Bruckhaus Deringer	Acting for K+S in its acquisition of Morton Salt	6	7	6	**19**	Created a deal-saving structure that convinced K+S, the German salt and fertiliser producer, to go through with its acquisition of US-based Morton Salt. The deal was complicated as Dow Chemical, the seller of Morton Salt, was going through a merger with rival Rohm and Haas, which set a tight, three-week timetable
White & Case	Helping Pilot buy Flying J out of bankruptcy	6	7	6	**19**	Consolidation at the top of the US truck-stop business required an arsenal of solutions from the firm. Regulatory resistance to Pilot, the number-one company in the sector, acquiring Flying J, its main competitor, out of bankruptcy was complicated by an existing joint venture with ConocoPhillips, the energy group, competing interest from private equity buyers and political manoeuvring by competitors
COMMENDED						
Davis Polk & Wardwell	Acting for PepsiCo in the acquisition of its two largest bottlers	6	6	6	**18**	Buying two US publicly listed companies at the same time was unprecedented. Transforming the company as well as the industry, PepsiCo's $7.8bn acquisition of its two leading bottling companies, with operations spanning the breadth of the continental US, was further complicated by the cross-conditionality of each of the deals
Dewey & LeBoeuf	Advising MetLife on its $16bn acquisition of AIG's Alico unit	6	6	6	**18**	Unbundling Alico, AIG's overseas insurance unit, demanded the lawyers demonstrate cross-disciplinary and cross-border collaboration. Stand-out structuring work by the tax lawyers enabled the firm's client to agree a deal that transformed it into an international group
Paul, Weiss, Rifkind, Wharton & Garrison	Helping Citigroup divest its Nikko Cordial business lines	6	7	5	**18**	Completing the sale of three Japanese businesses to three different buyers on the same day realised $10bn for Citigroup, the US bank, during difficult market conditions. The firm managed many competing interests to give Citigroup a clear path toward its goal of restoring its balance sheet
Simpson Thacher & Bartlett	Saving the Nets' Brooklyn arena project	6	6	6	**18**	In the first example of a foreign national taking a majority stake in a National Basketball Association franchise, the firm knitted together debt and equity investment from a Russian fund to secure the relocation of the New Jersey Nets to a new arena and retail development in Brooklyn
Paul Hastings	Strategic alliance between Dong-A and GlaxoSmithKline	6	6	5	**17**	Dong-A, the South Korean pharmaceuticals group, turned to Paul Hastings to protect its interests in negotiating its tie-up with GSK, its UK-based rival. Translating the implications of far-reaching legislation such as the Foreign Corrupt Practices Act should make this a test case for Korean companies with global ambitions, and for multinationals looking to break into the family-controlled domestic market
Schiff Hardin	Advising EveryBlock.com in its acquisition by MSNBC.com	5	6	5	**16**	Familiarity with software development meant the firm could assist its start-up client in making the transition from a $1.1m grant from the John S. and James L. Knight Foundation to ownership under the Microsoft umbrella. Tackling issues surrounding open-source code have changed the terms governing subsequent start-up grants by the not-for-profit foundation

Experts in battle

Winning a case often means developing deep knowledge of the subject. By *Jane Croft*

THE US LITIGATION CULTURE allows lawyers to demonstrate eye-catching creativity and innovation in presenting their legal cases.

Law firms are prepared to go to extraordinary lengths to humanise and explain dry, technical cases to jurors, sometimes commissioning complex animations or being technically innovative by forcing a redefinition of the law.

Latham & Watkins, for example, commissioned $650,000-worth of animations and graphics to help a jury understand a complex court battle over the patent for an artificial blood vessel that has revolutionised vascular surgery. The law firm secured a victory for CR Bard, a medical technologies company, after $658m in litigation that had raged for decades with its rival WL Gore & Associates.

Max Grant, co-chairman of the intellectual property litigation practice group at Latham & Watkins, says the graphics were an important element in the case and showed the jury exactly how artificial blood vessels worked and how the patent had been infringed.

His legal opponents relied instead on more traditional still photographs and pictures of operations. "People learn better when they hear and see at the same time," Mr Grant says. "There is research saying that 80 per cent of how we learn is visual, so we used animation as a good way to teach the jury."

The animations transmitted the information more clearly than a video of an operation could.

Mr Grant adds: "In the US, animations can sometimes be used at the opening of a case but it is unusual for them to be used throughout the trial to explain how the devices work. A jury can be looking at something small such as a round white tube, and the animation can help explain to them what it does and why it's so valuable."

It was essential that the animations were precise. "It was like a medical school in there, with textbooks and research books everywhere, to ensure that everything was technically accurate," he says. "Even though it's an animation, if something is technically inaccurate, that undermines your credibility."

Also unusual in this case was the use of video clips showing key witnesses' deposition testimony. This meant that the testimony in court could be compared with earlier video evidence, which could be replayed immediately. It also allowed the jury to look at body language and pick up on hesitations.

While the blood-vessel battle was an example of lawyers steeping themselves in medical terminology, other litigation battles have involved lawyers becoming as knowledgeable about the sector as the experts they are battling.

Paul, Weiss, Rifkind, Wharton & Garrison represented the Alaska Retirement Management Board in its legal dispute with Mercer, its actuaries. The Paul, Weiss lawyers effectively had to become actuarial experts to be a match for the actuaries and cross-examine them in forensic detail.

Lewis Clayton, a litigation partner at the firm, says Mercer agreed to an out-of-court settlement three and a half weeks before the trial was due to start. The company expressly denied liability in the out-of-court settlement, in which it agreed to pay $500m, of which $100m was covered by insurance.

"This was an extremely complicated case," he says. "To prosecute a case that requires specialised knowledge, a lawyer learns a slice of that speciality in-depth ... Lawyers who handle commercial cases typically have an understanding of corporate finance or accounting, but rarely have familiarity with an area as arcane as this."

This closely watched case centred on Alaska's decision to fund benefits in advance fully, so that the costs of providing pensions and healthcare to tens of thousands of public workers would not be imposed upon future generations.

'There is research saying that 80 per cent of how we learn is visual, so we used animation as a good way to teach the jury'

A co-operative route to financial crisis settlements

THREE YEARS AFTER THE CREDIT crunch, little mud is sticking to the banks in spite of the best efforts of plaintiff lawyers. There have certainly been attention-grabbing financial settlements, such as the $550m paid by Goldman Sachs to settle accusations that it had misled investors in a mortgage-backed security. However, many commentators have noted that other banks and their legal teams have decided to adopt a less combative and more co-operative approach to the regulatory investigators.

In 2007, Citigroup announced it held $43bn in sub-prime assets and expected huge writedowns. Shareholders and bondholders filed lawsuits, and the US Securities and Exchange Commission launched an investigation. Citigroup turned to two law firms: Paul, Weiss, Rifkind, Wharton & Garrison and Wachtell, Lipton, Rosen & Katz.

The team approached the ensuing three-year SEC investigation in a co-operative way and had a goal in mind: the resolution of the case on grounds of negligence – not fraud.

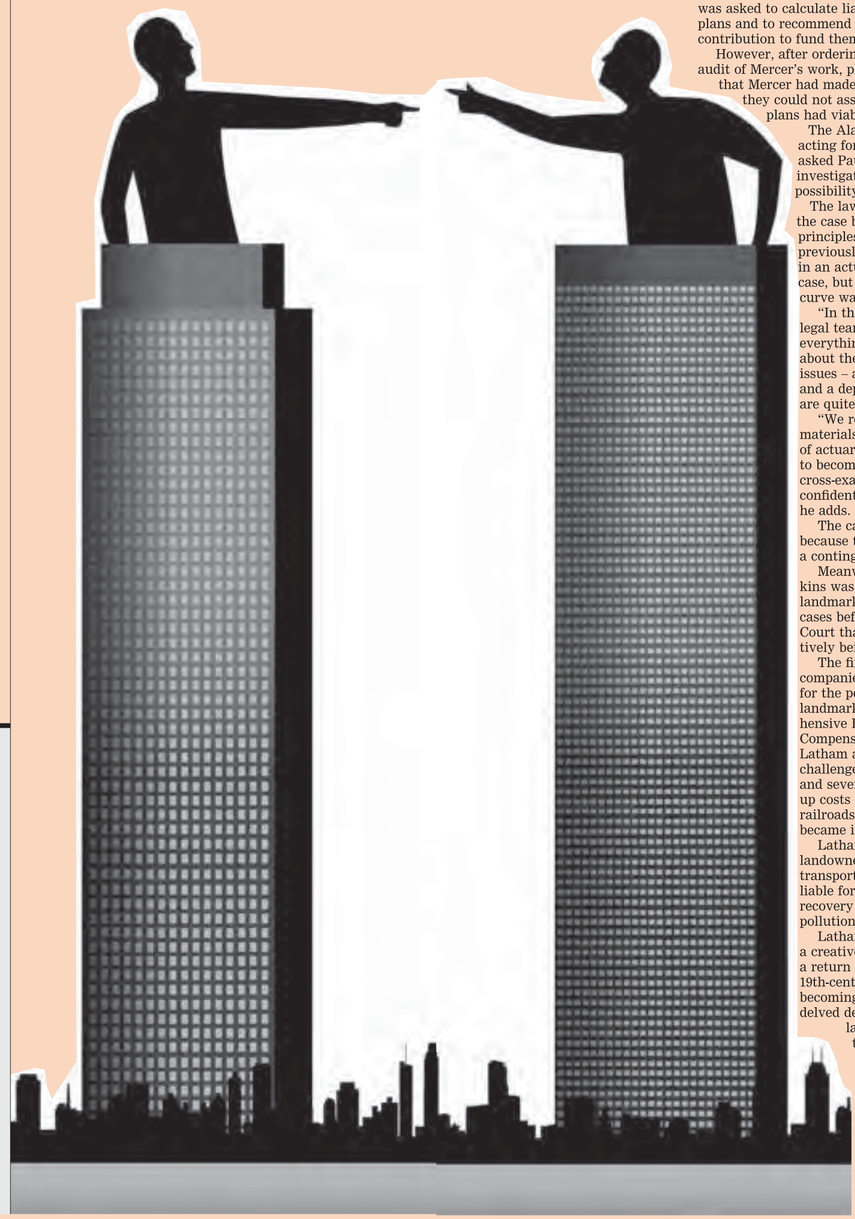
The investigation was resolved in July 2010 with a $75m settlement between the SEC and Citigroup, and the assertion of non-scienter (negligence) based charges. Citigroup's handling of the charges differed markedly from Goldman's approach, which was combative from the outset.

In the case of Bank of America, the SEC had been investigating the bank in relation to its 2008 acquisition of Merrill Lynch, and accused BoA of issuing false or misleading statements. Judge Jed Rakoff rejected a settlement between the SEC and BoA, making clear that he considered the lack of charges against individuals unacceptable, and told the parties to renegotiate or prepare for trial.

Brad Karp and Dan Kramer from Paul, Weiss, were called in to help prepare for trial and keep negotiations open with the SEC. The legal team took advantage of a change in the federal rules of evidence that clarified disclosure procedures relating to information protected by attorney-client privilege.

BoA and its lawyers worked to craft a limited waiver of certain Merrill Lynch transaction documents that were protected by attorney-client privilege. As a result, the information within them helped persuade the court not to charge specific individuals in connection with the allegedly false claims.

An amended settlement was later agreed between BoA and the SEC on the eve of trial.



The Alaskan board retained Mercer to help meet those objectives, and the actuarial firm was asked to calculate liabilities of the pension plans and to recommend the rates of employer contribution to fund them.

However, after ordering a routine actuarial audit of Mercer's work, plan fiduciaries alleged that Mercer had made mistakes, although they could not assess whether the pension plans had viable legal claims.

The Alaska Department of Law, acting for the pension plans, asked Paul, Weiss to lead an investigation and explore the possibility of legal action.

The lawyers prepared for the case by studying actuarial principles. Mr Clayton had previously won a jury verdict in an actuarial malpractice case, but says this learning curve was steep.

"In the Alaska case, our legal team learned just about everything an expert would know about the relevant actuarial issues – a level of attention and a depth of knowledge that are quite unusual," he says.

"We read all the available ... materials and retained a group of actuarial experts in order to become expert enough to cross-examine the other side ... confidently and effectively," he adds.

The case was also innovative because the work was done on a contingent-fee basis.

Meanwhile, Latham & Watkins was also involved in two landmark environmental law cases before the US Supreme Court that led to the law effectively being redefined.

The firm defended railway companies from being made liable for the pollution of others, in a landmark case under the Comprehensive Environmental Response, Compensation and Liability Act. Latham attorneys successfully challenged the imposition of joint and several liability for clean-up costs at a site leased by the railroads to a polluter that later became insolvent.

Latham's victory means that landowners, manufacturers and transporters will not be held liable for billions of dollars of recovery costs caused by the pollution of others.

Latham's lawyers crafted a creative solution that involved a return to first principles and 19th-century law. Effectively becoming legal historians, they delved deeper into the common law of joint tortfeasors than anyone had done before.

With many US legal battles dragging on for years and even decades, innovation or being able to consider new ways to tackle old legal disputes is as highly prized a quality as a lawyer's tenacity.

LITIGATION

Firm	Innovation	Originality	Rationale	Impact	Total	Description
STAND-OUT						
Paul, Weiss, Rifkind, Wharton & Garrison	Fighting actuarial malpractice in Alaska	7	9	8	**24**	The lawyers acted almost as actuaries to obtain an out-of-court settlement of $500m. Doing all the work on a contingent-fee basis was testament to the firm's commitment to its client
Debevoise & Plimpton	Main strategist for Siemens' audit committee	8	7	8	**23**	Advising the audit committee, the firm carried out the independent investigation into the European engineering group's business practices. Starting from a blank sheet, it helped Siemens negotiate smaller fines and ensured a win-win outcome
Davis Polk & Wardwell	Defending Siemens against an Foreign Corrupt Practices Act investigation	7	7	8	**22**	Acting as Siemens' defence counsel, the firm represented the company in its negotiations with the US Department of Justice and the Securities and Exchange Commission. Lawyers secured the co-operation of the regulators with the company and the German prosecutor, and were able to announce a simultaneous settlement
Paul Hastings	Defending Eisai's patent to its $2bn Alzheimer's drug against a challenge from Teva	7	8	7	**22**	After convincing Eisai, the Japanese pharmaceutical group, to take an aggressive stance against the challenge from generic drug manufacturer Teva Pharmaceuticals, the firm devised a three-pronged strategy that was much more than a courtroom battle. It resulted in a hard-won preliminary injunction and eventual win in court
Weil, Gotshal & Manges	DMX music licensing litigation	7	8	7	**22**	The first successful challenge to historic "double payment" penalties, which usually govern the licences to performance rights. Succeeding where others have failed, the firm has helped change the way music licensing operates
HIGHLY COMMENDED						
Latham & Watkins	Defending railway companies from being liable for the pollution of others	7	7	7	**21**	The lawyers crafted a creative solution to their client's environmental dispute that involved a return to first principles and 19th-century law. The resulting win in the US Supreme Court gave clarity to the law in terms of what constitutes reasonable apportionment
Davis Polk & Wardwell	Denial of class certification in $9bn structured investment vehicle case	6	7	7	**20**	By proving that investor plaintiffs were sophisticated enough to make their own different assessments of investment opportunities, the lawyers successfully overturned a judge's assumption that the ratings agencies were key to investment decisions
Latham & Watkins	Battle over an artificial blood vessel	7	7	6	**20**	Using sophisticated graphics and thorough preparation, the firm defended CR Bard, the inventor of the artificial blood vessel, and won $658m in damages from WL Gore & Associates, which tried to claim the patent in a battle spanning three decades
Paul, Weiss, Rifkind, Wharton & Garrison	Enabling Bank of America's SEC settlement to be approved	7	7	6	**20**	When Judge Jed Rakoff of the southern district of New York overturned an initial settlement with the Securities and Exchange Commission, the firm used a federal rule in a novel way to help prevent a trial and assist in getting the settlement approved
Simpson Thacher & Bartlett	Obtaining victory for an Arizona real estate company after the collapse of the market	6	8	6	**20**	By framing key issues of fiduciary duty as jury questions and drawing analogies with factually similar cases, the firm was able to circumvent the lack of clear appellate authority in Arizona. This enabled the lawyers to win $110m in damages for their client, Gray Development Group, in spite of the devastated property market
White & Case	Stolt Nielsen Supreme Court victory	5	7	8	**20**	Backed by a panoply of business groups, the firm appealed to the Supreme Court when its client, Norway's Stolt Nielsen, faced the imposition of class arbitration. The ruling has massive ramifications for antitrust law, contract and securities disputes, and already affects 100 pending class-action arbitrations across the US
COMMENDED						
Orrick, Herrington & Sutcliffe	Telenor versus Alfa	6	6	7	**19**	After defending its Norwegian client's interests in Russian and Ukrainian mobile telecommunications in a dispute with its Russian partner, the firm advised Telenor on setting aside six years of litigation and arbitration across multiple jurisdictions and creating a $23.8bn joint venture company to be located outside Russia
Paul Hastings	Representing C-Bass in alleged $64bn securities fraud case	6	6	7	**19**	When C-Bass, a sponsor of mortgage-based securities, was named as a defendant alongside Wall Street banks and ratings agencies, Paul Hastings obtained a precedent-setting ruling from Judge Jed Rakoff that the company could not be classified as an underwriter with the other defendants
Paul, Weiss, Rifkind, Wharton & Garrison and Wachtell, Lipton, Rosen & Katz	Citigroup settles with SEC	5	7	7	**19**	To ensure that Citigroup was not overly penalised by the SEC for erroneous financial disclosures about its exposure to super senior risk, lawyers from Paul, Weiss, Rifkind, Wharton & Garrison and from Wachtell, Lipton, Rosen & Katz, together with the bank's in-house team, took a conciliatory approach with the regulators. The outcome, a $75m fine, was in stark contrast to Goldman Sachs' $550m penalty
Sullivan & Cromwell	Microsoft antitrust cases	6	7	6	**19**	The firm was adamant that the plaintiffs had assigned their right to bring the case against Microsoft, even after the court had already rejected this argument. Encouraging Microsoft to persevere, the tenacity of the litigators convinced a judge to change his mind and give summary judgment in favour of their client
Wachtell, Lipton, Rosen & Katz	UBS settlement	6	6	7	**19**	Helped UBS, the Swiss bank, resolve a multi-year criminal and regulatory investigation by the US Department of Justice's tax division and the SEC, focusing on the US cross-border business of UBS. Key to the resolution was achieving a balancing act to ensure all the parties' interests, including those of the Swiss government, were satisfied
DLA Piper	Crafting consensus in a "bet the company" case	6	7	5	**18**	To assist its client, pet food manufacturer Menu Foods, to limit its reputational damage after initiating the largest product recall in the industry, the firm persuaded the other, less exposed defendants to the class-action suit to settle the claims early
Latham & Watkins	Helping to set up one of the largest desalination plants in the US	6	6	6	**18**	Breaking ground on the Carlsbad Ocean Water desalination plant in San Diego required an expert team of lawyers to jump over regulatory and litigation hurdles as well as help the sponsor, Poseidon Resources, meet its voluntary commitment to a carbon-neutral project
Morgan, Lewis & Bockius	Hecker versus John Deere	6	6	6	**18**	Morgan Lewis defended John Deere, the tractor maker, from a claim of charging excessive fees for its pensions plan. To achieve this landmark ruling, the lawyers demonstrated masterful analysis of the unique issues and set the standard for defence cases in this new kind of class-action litigation
Morrison & Foerster	Representing Novell against SCO in its long battle over the Unix operating system	6	6	6	**18**	In successfully defending the rare allegation of slander of copyright, the firm established that the "first amendment threshold" also has to be surmounted in the corporate context. Getting the case moved to the US federal courts and producing killer evidence at trial were similarly key to winning the latest round of this open-source litigation
Ropes & Gray	Freddie Mac securities fraud class actions	6	6	6	**18**	Reversing the trend for longer, more complicated claim documents, the firm successfully revitalised a 1930s rule that requires plaintiffs to file a plain and simple claim. A useful defence tool against a glut of sub-prime class-action suits
Ropes & Gray	Supreme Court decision for the Mutual Funds industry	6	6	6	**18**	Challenging the perceived wisdom in cases attacking the size of advisory fees charged by mutual funds, the firm convinced the court to determine an action in favour of its client without a full hearing. The case was the first of its kind to reach the Supreme Court, where the existing standard for evaluating fees was affirmed

Essential repairs

Andrew Baxter on the rebuilding of corporate America

THE CREDIT CRISIS OF 2008 brought companies with unfeasibly high levels of debt and labyrinthine capital structures to the brink of collapse, leaving lawyers to help debt holders – often with conflicting interests – pick up the pieces.

In many cases, the stricken companies' financial structures were designed at a time when no one involved believed the good times would end. Some of the larger companies in the corporate sickbay over the past two years had capital structures that bankruptcy lawyers had never confronted, while even the smaller basket cases were highly complex.

As also occurred in Europe, this situation has stimulated innovation among law firms, their clients and other advisers – notably investment banks – and a need to be as thorough as possible in achieving a fair result that allows a company to stay afloat. In particular, where "filing for Chapter 11" once meant a company had reached the end of the road and would seek protection from creditors while it reorganised itself under the watchful eye of a US bankruptcy court judge, pre-packaged deals or "pre-packs" are now being put together ahead of the Chapter 11 filing.

These require collaboration as well as innovation. "Insolvency is a collective proceeding," says Alan Kornberg, chairman of the bankruptcy and corporate reorganisation department at Paul, Weiss, Rifkind, Wharton & Garrison. "You can have the greatest idea in the world, but if you can't get other people to agree, it doesn't go very far in bankruptcy."

Richard Cieri, a partner at Kirkland & Ellis with nearly 30 years' experience as a bankruptcy lawyer, agrees. "The more complicated the capital structure, the greater the need for professionals to put their egos aside and for business people to be realistic about the result – otherwise, you find yourself mired in court," he says.

So it is a sign of the times that some of the most innovative lawyering in the past two years revolved around the pre-arranged Chapter 11 filings of two companies – Charter Communications, the big US cable company, and CIT, the New York-based commercial lender.

In the Charter case, the company was represented by Kirkland, with Mr Cieri and fellow partner Paul Basta leading, while Mr Kornberg led the Paul, Weiss team that was engaged by the junior bondholders. In the CIT case, which involved a $33bn debt restructuring, Paul, Weiss worked for leading bondholders while Skadden, Arps, Slate, Meagher & Flom was engaged by the company.

The Charter case turned on "reinstating", or leaving in place, $12bn of senior secured debt that had been taken on in the pre-crisis era of easy credit and was set at very favourable terms for the company. Reinstatement is rarely used in bankruptcy cases – most previous cases involved debt to purchase cars and trucks, says Mr Cieri, and "no one had attempted it before with $12bn".

By reinstating debt, the affected creditors are not seen as "impaired" by the bankruptcy, and so do not get to vote on the Chapter 11 plan. But reinstatement was vigorously opposed by the senior secured lenders, who wanted to reprice the debt at current market rates.

Neither law firm can claim credit for the original idea – that goes to Charter's financial advisers, especially Jim Millstein, then of Lazard and now chief restructuring officer at the US Treasury. The challenge for both law firms was to get the debt reinstatement to work. "You have to live with the credit agreements exactly as written," says Mr Kornberg, and this meant that Paul Allen, the Microsoft co-founder and Charter's dominant shareholder, had to retain 35 per cent voting control of the company. To avoid a "change of control" default that would derail the reinstatement plan, a settlement was agreed with Mr Allen in which he retained the required level of voting control but a substantially lower economic stake.

Victory for the two law firms led to reinstatement of the $12bn in low-cost debt and was crucial in a restructuring of Charter that included $2.1bn in new equity, eliminated $8bn in junior debt and reduced annual interest costs by more than $800m. Also, as Mr Kornberg notes, it "put reinstatement on the menu as a potential item to be used in restructuring cases".

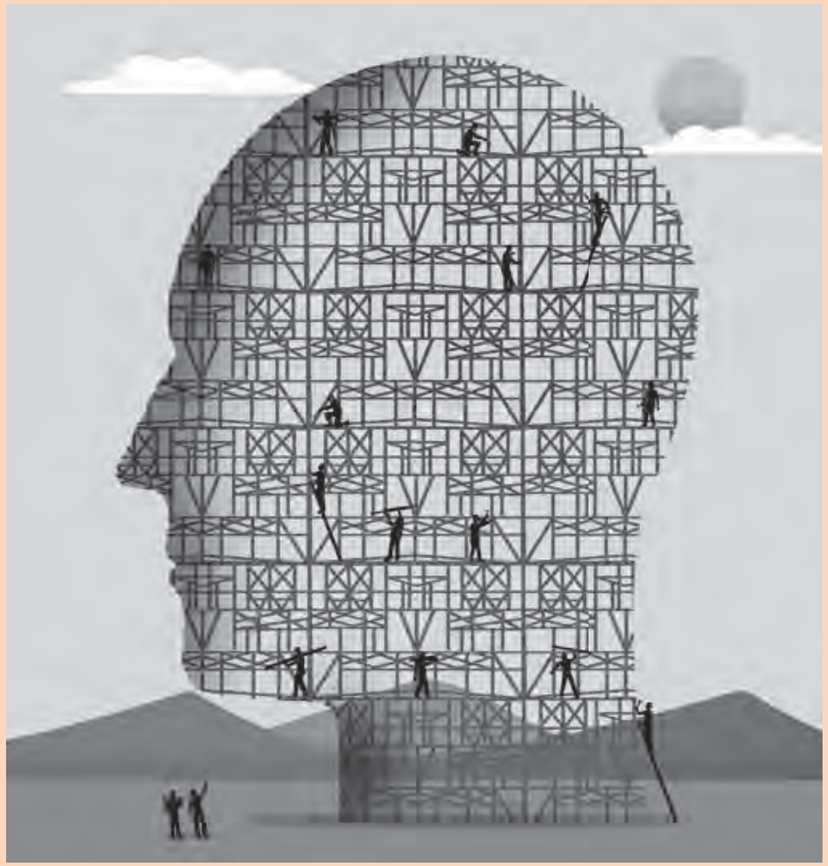
Mr Cieri agrees that reinstatement of debt became popular at the height of the credit crisis, but says it is less relevant in the near term as interest rates are so low. "Maybe in the next restructuring cycle it will be used again," he says.

With restructuring cases that involve various levels of debt, the range of possible outcomes is increased, says Mr Cieri, and this leads to more contention. But he stresses: "The litigation in Charter was conducted among gentlemen – and that includes the banks."

On the surface, US bankruptcy cases are almost always conducted in this spirit of courtesy and civility, but underneath there can be much acrimony and bitterness – as often happens when there are billions of dollars at stake. One client called his side's lead lawyer "a bulldog ... he's an ass-kicker and that's what we wanted ... Once he gets his teeth into something, he doesn't give up."

RESTRUCTURING

Firm	Innovation	Originality	Rationale	Impact	Total	Description
STAND-OUT						
Kirkland & Ellis	Representing Charter Communications' pre-arranged Chapter 11	8	7	8	**23**	Helped reinstate nearly $12bn in debt borrowed at pre-credit-crisis interest rates. The debtor, junior bondholder and their advisers worked together to use a section of the bankruptcy code never previously used on this scale against the opposition of the senior debt holders
Paul, Weiss, Rifkind, Wharton & Garrison	Representing the junior bondholders in Charter Communications' pre-arranged Chapter 11	8	7	8	**23**	The firm, working closely with Kirkland & Ellis, represented unsecured noteholders who co-sponsored Charter Communications' pre-arranged Chapter 11 plan. With no precedent to follow, clients relied on their lawyers' experience and judgment to pursue a novel legal strategy
Cadwalader, Wickersham & Taft	The largest debtor-in-possession (DIP) financing to date for LyondellBasell, the petrochemical company	7	8	7	**22**	Faced with 10 days of liquidity, the lawyers came up with the idea to do a DIP financing (worth $8bn) with a novel "roll-up" to keep the business afloat while putting it into Chapter 11. The firm used a unique structure of a single foreign debtor as a conduit to allow funding to reach European subsidiaries
HIGHLY COMMENDED						
Paul, Weiss, Rifkind, Wharton & Garrison	Working for bondholders in CIT's prepackaged bankruptcy	6	7	8	**21**	Over a single weekend, the group structured a $3bn loan from a group of rescue creditors to save CIT, the financial services company, in the short term. The firm delivered creative solutions and pulled together a diverse group of creditors to restructure $33bn in debt
Skadden, Arps, Slate, Meagher & Flom	Working for CIT in its prepackaged bankruptcy	6	7	8	**21**	Took a dual approach to restructure the financial services company and its banking business, resulting in a $33bn exchange offer. The lawyers dealt with a takeover attempt in the process and played a critical role in dealing with regulators, management and customer communications to ensure there was no run on the bank
Weil, Gotshal & Manges	Restructuring SCA/ Syncora, the monoline insurer	8	7	6	**21**	Combining insurance, bankruptcy and structured finance expertise, the firm worked with the New York Insurance Department to issue the first-ever "1,310 order" to stop the company going into liquidation. With none of the tools of a Chapter 11 available, the firm restructured nearly $80bn in outstanding claims against the insurer
Davis Polk & Wardwell	Frontier Airlines Chapter 11	5	8	7	**20**	Partner Marshall Huebner was critical in saving the airline from liquidation when its credit card processor gave notice that it would start withholding funds. Within 51 hours, the legal team had filed for bankruptcy protection. It then secured DIP financing and saw Frontier through to a successful auction
White & Case	Advising junior lenders in the restructuring of Six Flags, the amusement park operator	6	7	7	**20**	Set the strategy for eventually getting its clients, the original junior lenders, 95 per cent of the equity in the company. White & Case objected to an initial plan, which would have wiped out clients' claims, and brought in new finance that won more time to come up with the successful reorganisation plan
Latham & Watkins	Creating a precedent for credit bidding by private equity firms in distressed transactions	7	6	6	**19**	Represented Centrebridge Partners in acquiring the "fulcrum" debt of Greatwide Logistics in the secondary market, and in a subsequent debt-for-control transaction. The lawyers found a way of dragging along dissenting minority lenders to a credit bid in a "section 363" asset sale, which has since been followed in other expedited asset sales
COMMENDED						
Cleary Gottlieb Steen & Hamilton	Cross-border asset sale of Nortel Networks, the telecommunications group	6	6	6	**18**	In the complex asset sale of Nortel Networks, the challenge was to allocate value fairly among a variety of constituents of this globally integrated business. The firm managed to achieve consensus by using shuttle diplomacy to ensure that two-thirds of 25,000 jobs at the company were saved
Kirkland & Ellis and Weil, Gotshal & Manges	Chapter 11 for General Growth Properties, owner-manager of regional shopping centres	6	6	6	**18**	The restructuring challenged the conventional wisdom that commercial mortgage-backed securities debt was "bankruptcy remote" and could not be restructured. Kirkland's lawyers found a way to put the commercial mortgage-backed securities debt into bankruptcy and unlock its value for the company's creditors
Mayer Brown	Arranging a DIP facility for Tribune	6	6	6	**18**	Helped Barclays Capital create a unique structure to convert an existing trade receivables securitisation into a $225m DIP financing for Tribune, the media group. Lawyers developed the complex structure, which mixes securitisation and DIP financing, in just four days. The structure was the first to be rated by a national ratings agency
Weil, Gotshal & Manges	SemGroup restructuring	6	6	5	**17**	Negotiated a reorganisation plan for this mid-stream oil business under a Chapter 11 bankruptcy. It involved creating a set of procedures to deal with state statutory claims where there is little existing law. Lawyers were praised for the practical, commercial way in which they applied the law in court
DLA Piper	Erickson Retirement Communities	5	6	5	**16**	Unusually, the firm acted as a mediator in credit disputes. It created a plan for the complex web of creditors, non-profit partners, property managers and regulators to ensure senior residents did not lose their initial entry deposits



Putting Detroit on the road to recovery

The stakes were high to save the crisis-ridden automotive sector. By *Bernard Simon*

EXHAUSTING AND EXHILARATING is how lawyers typically describe their work in the crisis-ridden North American automotive industry over the past few years.

The travails of the Detroit-based carmakers – and, by extension, their suppliers, dealers and workers – have presented legal advisers with hitherto-unimaginable challenges. The stakes have been high, the issues complex and the deadlines tight. Lawyers have often found themselves in uncharted waters, looking for ways to hammer out compromises between corporate executives, union leaders, bankers, private equity fund managers and government officials.

The Original Equipment Suppliers Association in the US estimates that 62 automotive companies filed for bankruptcy protection in 2009. Many others were liquidated. The filings were led by General Motors and Chrysler, two of the biggest US industrial companies.

Delphi (a former GM subsidiary and still its biggest supplier), Visteon (a Ford Motor spin-off), Metaldyne, Lear, Plastech Engineered Products and Dura Automotive were among suppliers that kept lawyers busy with Chapter 11 bankruptcy filings and restructuring plans.

Meanwhile, hundreds of disgruntled dealers sought legal advice after receiving termination notices from GM and Chrysler as part of the carmakers' restructurings. An abundance of legal advice has also been sought for issues such as executive compensation and pensions.

The legal teams that advised GM and Chrysler – led by Harvey Miller, a partner at Weil, Gotshal & Manges, and Corinne Ball, a partner at Jones Day, respectively – were able to speed up the carmakers' restructuring by using section 363 of the US bankruptcy code. Under this section, viable assets are parcelled into a new company, while unwanted ones remain under protection from creditors. Unlike a normal corporate reorganisation, which must be approved by a substantial number of creditors, the section 363 process requires only a bankruptcy judge's assent.

The pressure in the GM and Chrysler cases was intense. Chrysler was in danger of running out of cash if its restructuring was not completed within two months. Virtually all its operations were shut down during the court proceedings to save resources, but that also put suppliers' viability in jeopardy.

Weil Gotshal reviewed 850 objections and produced several hundred thousand documents for GM's discovery process. The restructuring involved negotiating a record debtor-in-possession financing package totalling $33bn.

The US government, advised by Cadwalader, Wickersham & Taft, played a critical – and much debated – role in pushing the cases through the courts at breakneck speed. The "new" Chrysler emerged in 42 days and GM in just 41, with the US and Canadian governments and a union healthcare fund as substantial shareholders.

Chrysler risked running out of cash if its restructuring was not completed within two months

Delphi struggled through an epic, four-year Chapter 11 restructuring, one of the longest and most complex in US history. Jack Butler, a partner at Skadden, Arps, Slate, Meagher & Flom who spearheaded the case, pulled together an international team of 44 partners and more than 100 other staff. Almost 19,000 documents were filed in the case, and Delphi forked out more than $400m to lawyers, accountants and consultants representing not only itself but also its six trade unions.

Adding to the challenge of returning the industry to an even keel has been the constant threat of a financially troubled supplier disrupting the intricate supply chain. Many suppliers threatened to stop shipments to Delphi in the weeks after its Chapter 11 filing unless their outstanding claims were paid. The company responded with a court order that provided for payments, but forced suppliers to explain to the court why they should not be held in contempt for violating the automatic stay on creditors.

A device known as the collective action doctrine has been repeatedly used to minimise the threat of disruption and speed up asset sales. Normally, unanimity is required among secured creditors when substantially all the assets of a company are put on the block.

Collective action enables a lenders' agent to impose the wishes of a majority of creditors on all the others. Delphi and Plastech are among those that have used the doctrine. Plastech filed for Chapter 11 in 2008.

However, innovative legal strategies in the US automotive sector have not been confined to the industry's basket cases. In one of the biggest debt restructurings completed outside bankruptcy, Ford – the only one of the three Detroit carmakers to escape a government bailout – succeeded in retiring $9.9bn of debt and restructuring $13.6bn of retiree healthcare liabilities.

Ford – advised by Donald Bernstein and Michael Kaplan of Davis Polk & Wardwell – took advantage of the crisis atmosphere ahead of Chrysler and GM's filings, persuading the United Auto Workers union and three classes of debt holders to make substantial concessions with barely a murmur of protest.

The debt was retired for less than 30 cents to the dollar, and a sizeable chunk of the healthcare liabilities were converted into equity and warrants. Ford Credit, the carmaker's financing arm, provided the cash for the tender offers to bank lenders and bondholders.

In spite of such success stories, not all the battles have had happy endings. Collins & Aikman, which specialised in interior fabrics and instrument panels, was liquidated in 2007.

AUTOMOTIVE SECTOR

Firm	Innovation	Originality	Rationale	Impact	Total	Description
STAND-OUT						
Cadwalader, Wickersham & Taft	Advising the US Treasury Department presidential auto task force on General Motors and Chrysler restructurings	7	7	9	**23**	Helped devise the concept to use section 363 of the US bankruptcy code for the asset sales of GM and Chrysler. Key to their success was the litigation strategy the team worked out with the US attorney's office, which saw Chrysler through the bankruptcy courts in just 42 days and paved the way for a successful restructuring of GM
Davis Polk & Wardwell	Ford Motor's $9.9bn debt restructuring	7	8	8	**23**	Advice was instrumental in developing a strategy that would allow Ford to retire nearly $10bn of debt in less than three months without resorting to bankruptcy. With commendable business insight, the firm helped put together an offer that was attractive to the creditors
Skadden, Arps, Slate, Meagher & Flom	Rescuing Delphi	7	8	8	**23**	After the financial crisis, the firm engaged the Delphi board in its rescue options over a one-year critical period, and then through extending its debtor-in-possession loan until the auto industry supplier's final auction sale. Choosing to modify the reorganisation plan was another idea that sustained supplier confidence during a difficult time
HIGHLY COMMENDED						
Jones Day	Advising Chrysler on its restructuring and section 363 asset sale to Fiat	7	7	8	**22**	Helped develop the plan and get a judge to agree to the accelerated section 363 sale strategy. The firm's performance in the bankruptcy court was key to getting the deal through
Sullivan & Cromwell	Helped Fiat create a plan to save Chrysler	7	7	8	**22**	Using an investment banker approach to the transaction, the firm managed to secure a deal for Fiat to buy into and eventually gain majority ownership of Chrysler. The lawyers interacted with all the different parties to structure an innovative deal for its client, where Fiat contributes technology in return for equity
Weil, Gotshal & Manges	Lead restructuring counsel to GM	6	7	9	**22**	On one of the biggest restructurings in history, the firm went to work in extreme circumstances that required legal innovation every day. The lawyers were key to developing and implementing the strategy while keeping to the 40-day schedule
Jenner & Block	Advising GM on the corporate aspects of its section 363 sale	6	7	7	**20**	Acting in its capacity as GM's corporate counsel, the firm managed to bring together the multiple aspects of GM's global asset sale to a successful conclusion in 40 days
Ropes & Gray	Plastech restructuring	7	7	6	**20**	Representing the main credit holders, the firm enabled the company to be sold to its current owners in a way that secured excellent return on investment for clients. Elements of the deal could be considered a precursor to later restructurings, as the deal involved similar innovations such as the use of collective action in the credit bid

Great legal minds deliver creative solutions

Profiles of 10 highly innovative lawyers working in the US

DINO BARAJAS

Partner, Akin Gump Strauss Hauer & Feld

Dino Barajas's forte is getting vital funding to South American countries, many of which face difficulties attracting investment for important energy-generation projects.

In December 2009, Mr Barajas helped close the largest project financing to date in the Nicaraguan energy sector (see page 4). The country had no real record of significant project financing and had become associated in the minds of many in the international finance community with high levels of political risk.

Working for Polaris Energy Nicaragua, Mr Barajas secured the first phase of funding for a large geothermal power project, with a $77m loan facility consisting of commitments from a number of development banks. As well as adapting financing concepts first applied in other South American countries, he helped assuage lender concerns about the risk profile of the project and took a hands-on approach to the negotiations. That he was able to close the deal against the backdrop of globally restricted credit markets is a testament to his tenacity.

Mr Barajas has contributed to the rise of a new confidence in Nicaragua as a legitimate destination for finance, with the second phase of the geothermal project already heavily oversubscribed. Before his groundbreaking work in Nicaragua, he was involved in deals in Mexico, Colombia, Costa Rica and Guatemala.

JACK BUTLER

Partner, Skadden, Arps, Slate, Meagher & Flom

Jack Butler has advised on bankruptcies and out-of-court restructurings for companies such as Kmart, Xerox, Singer and CIT. His work has required consistently creative solutions, and he has notched up a number of firsts. He advised Delphi through its bankruptcy from 2005 to 2009, in what he describes as "a deal of a lifetime". Rescuing the largest, most diversified car parts maker was crucial to the finely balanced survival of the US automotive industry (see page 13). Its failure could have had serious knock-on effects for the rest of the industry.

In 2005, Mr Butler and Steve Miller, chief executive of Delphi, talked about drawing a line in the sand, knowing that if legacy obligations in the auto industry were not addressed, they would have serious ramifications in the future. Delphi filed for Chapter 11 bankruptcy protection to restructure its own obligations while continuing operations.

However, as the company prepared to emerge from bankruptcy in 2008, it was hit by the effects of the credit crisis, and the routine, if complex, restructuring quickly became a matter of crisis management. Mr Butler's creativity and tenacity helped convince the company's board and creditors to continue along a modified plan of reorganisation rather than liquidation.

KIRK DAVENPORT

Partner, Latham & Watkins

When the US Securities and Exchange Commission published its *A Plain English Handbook* in the 1990s, it spurred on Kirk Davenport to draft clearer SEC disclosure documents to demystify his own world of high-yield debt finance.

Fast-forward to 2010, and Mr Davenport is co-head of Latham & Watkins' global capital markets practice group. He is a member of the executive committee and an instrumental figure behind the "Book of Jargon" app, a free-to-download electronic version of the firm's dictionary of financial terms that translates impenetrable industry slang.

His dedication to simplifying legal terminology, rules and precedents has also seen him developing his firm's high-yield and rule 144A forms, often in consultation with the SEC; some of his documents have become widely adopted in the industry.

Mr Davenport is leading the way in publishing regular papers, newsletters and client alerts that are made publicly available online.

He also co-writes a regular paper with KPMG, the accountancy firm, that translates the requirements of certain "gnarly" SEC rules into plain English.

LISA DEWEY

Pro bono partner, DLA Piper

Lisa Dewey has proved that pro bono work can empower lawyers and enhance client relationships. Her firm, DLA Piper, is leading the way in a practice area where many firms still focus on quantity over quality. Six years after joining the firm in 1994, she was granted her request to be made a "pure" pro bono partner, the first in the firm. Now she has a team of four pro bono counsel and is driving DLA Piper's innovative "signature project" model, which aims to form comprehensive pro bono partnerships with clients and other organisations.

She has also helped develop partnerships with KPMG and PwC, the accountancy firms, to provide legal and accountancy advice to Head Start programmes supporting early childhood education. DLA Piper's pro bono team also has a unique long-term partnership with its client Verizon, the telecoms group (see page 19).

Ms Dewey has ensured that pro bono programmes receive participation from all levels of her firm's 23 US offices. She is also assistant director at New Perimeter, a non-profit affiliate of DLA Piper set up in 2005 to provide legal support for global pro bono projects. Her approach has been described as "fearless" and "proactive", and she has won praise from clients for the level of commitment and thoughtfulness behind DLA's pro bono projects.

MATTHEW FELDMAN

Partner, Willkie Farr & Gallagher

At only 47, Matthew Feldman has already written what may be the most important chapter of his professional legacy. As chief legal adviser to President Barack Obama's task force on the auto industry, he was the creative legal mind behind the successful restructurings of General Motors and Chrysler in 2009 (see page 13).

Drawing on 20 years' restructuring experience and his knowledge of New York bankruptcy courts, Mr Feldman worked with the task force to develop the expedited asset sales under section 363 of the US bankruptcy code. When it came to GM, the US government had never before bought a company out of Chapter 11 bankruptcy. To the surprise of many, Chrysler was in and out of bankruptcy in an incredibly swift 42 days, and GM in just 41 days, without any serious misstep.

Though Mr Feldman spent six months in the media spotlight as part of the auto task force, he usually does his most innovative work outside the glare of public attention. Working on the bankruptcy of Petroleum Geo-Services with lawyers from Linklaters, the UK firm, he developed a means to put the Norwegian company through Chapter 11 proceedings in the US without filing in its native country, where there is no corollary proceeding.

JASON KRAVITT

Partner, Mayer Brown

Jason Kravitt (below) has been behind various key innovations in structured finance, including the first collateralised loan obligation for Continental Bank in 1988. But as securitisation work dried up during the recent financial crisis, the man who describes himself as a strategist rather than a tactician started to work with the regulators and legislators to help reform the sector.

Mr Kravitt argues that the societal value of securitisation is under siege, and says he is helping issuers and underwriters in government investigations and lawsuits concerning securitisation practices.

A case in favour of securitisation being used for good is the much-needed funding that Mr Kravitt helped procure for the US student loans system in 2009. As chief legal counsel to Straight-A Funding, he structured a private-public securitisation vehicle that funded an entire year's worth of student loans (see page 4). With a total capacity of $60bn, the vehicle has become the largest of its type in the world.

Known for his entrepreneurial approach, Mr Kravitt was responsible for Mayer Brown's first international expansion by merger during his tenure as co-chairman. He also co-founded the American Securitisation Forum, the industry's main trade association.

How these individuals were selected

THIS LIST OF INNOVATIVE individuals represents those lawyers who stood out during research for the US Innovative Lawyers report as having broken the mould of expectations. The list does not purport to be the top 10 lawyers, nor the top 10 legal innovators, in the US.

These individuals have been chosen as representatives of this report. To a certain degree they reflect the filter through which we looked at innovation this year – namely the activities of lawyers in cleaning up after the credit crisis of 2008.

RSG Consulting, the FT's research partner for the report, produced a list of 55 candidates that comprised lawyers who had emerged through the research as well as names submitted by law firms. In some ways, selecting just 10 from the 55 was almost impossible, as all the lawyers had innovated to some degree.

However, the research team set about interviewing the individuals, with a suite of questions designed to differentiate between excellence and innovation. All the individuals listed here had a slightly different take on what constituted innovation. One common attribute they identified was openness, both in terms of thought and attitude. Others included a commitment to constant improvement, creativity and imagination.

However, sources of inspiration for these lawyers differ widely. Dino Barajas of Akin Gump Strauss Hauer & Feld describes his moments of innovation in a way that is akin to Zen Buddhism – as "being the one person that is able to be the pillar of calmness in the hurricane".

Jack Butler of Skadden, Arps, Slate, Meagher & Flom finds his way to innovation through thinking pictorially. Jason Kravitt of Mayer Brown says he gets his best ideas when he is relaxed, and believes his propensity to innovate comes from living abroad and mixing with artists.

For several of the innovators, their best ideas do not come through "eureka moments" but through hard work, tenacity and, most importantly, evolution – a concept that might convince the sceptics who still believe that the term "innovative lawyers" is an oxymoron.

Reena SenGupta

THOMAS LAURIA

Partner, White & Case

When it comes to difficult bankruptcy litigation, Thomas Lauria is the go-to lawyer for his clients. He has been a prominent and occasionally controversial figure in high-profile bankruptcy proceedings, including representing a group of creditors who opposed the section 363 sale of Chrysler in 2009.

In the unusual bankruptcy of Six Flags, one of the world's largest amusement-park operators, Mr Lauria represented a group of subordinated creditors who had objected to an initial reorganisation plan (see page 12). After helping the group secure new finance, he worked with financial advisers to develop a plan that ultimately gave his clients ownership of the business. Through months of hotly contested bankruptcy proceedings, he played a crucial leadership role that kept the ad hoc group of investors together.

This successful model for transferring the subordinated credit into ownership was recreated when Mr Lauria represented a group of note holders in the bankruptcy of Visteon, the car parts manufacturer. An investment group seeking to buy the Texas Rangers baseball club from bankruptcy also recently turned to Mr Lauria when faced with vigorous opposition midway through proceedings.

But while clients value Mr Lauria's formidable representation in court, they also praise his softer skills, such as creativity, leadership, communication and an ability to get people to come together around an idea.

HARVEY MILLER

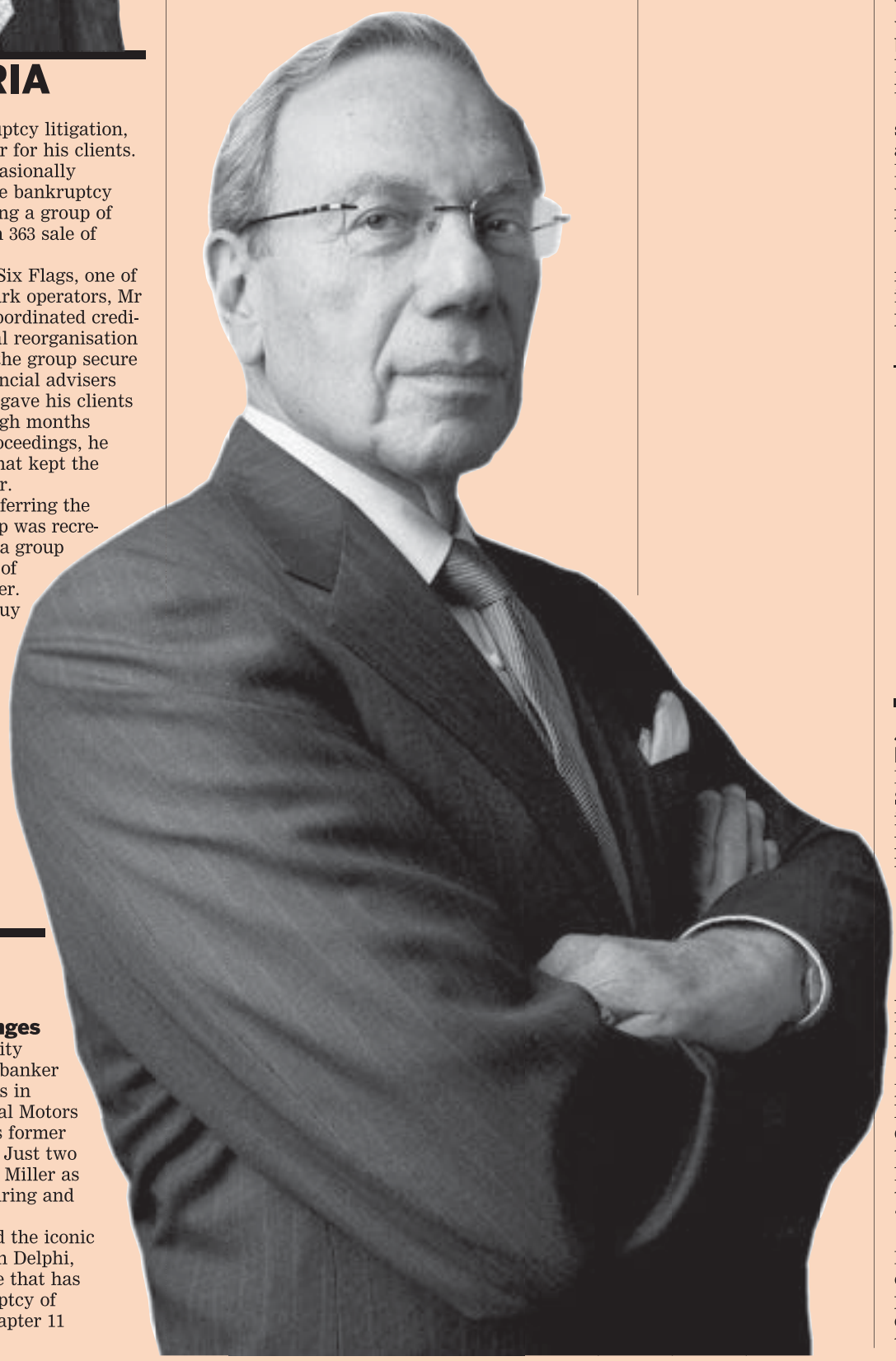
Partner, Weil, Gotshal & Manges

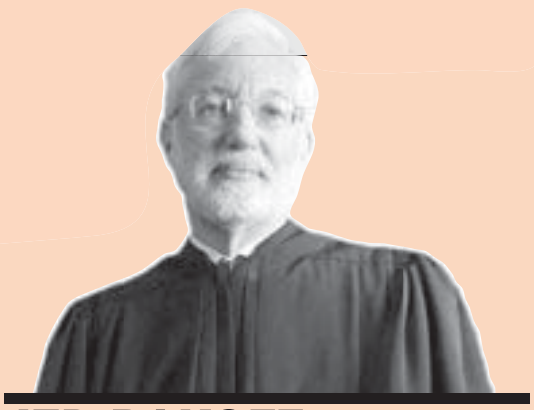
Harvey Miller – attorney, university professor and former investment banker – rejoined Weil, Gotshal & Manges in 2007, just in time to advise General Motors on the restructuring of Delphi, its former parts manufacturer (see page 13). Just two years later, GM would turn to Mr Miller as lead counsel for its own restructuring and government bailout.

But in between turning around the iconic car manufacturer and his work on Delphi, Mr Miller embarked on the advice that has defined his career: on the bankruptcy of Lehman Brothers, the biggest Chapter 11 proceedings to date.

Selling the failed bank's North American operations to Barclays Capital within a week of entering Chapter 11 proceedings saved 10,000 jobs and prompted the judge presiding over the court to stress that such unprecedented speed should not become a pattern for future proceedings.

Mr Miller was appointed to Lehman because of his vast experience of bankruptcy. His return to Weil, Gotshal – the law firm he left in 2002 to work as an investment banker – was impeccably timed. After spending seven years as vice-chairman of Greenhill (the boutique investment bank that listed on the New York Stock Exchange in 2004), Mr Miller packed up his boxes and returned to the GM building just a year before Lehman's collapse.





JED RAKOFF

Judge, southern district of New York

Judge Jed Rakoff has been making waves with his unusually direct approach. Because his jurisdiction includes Manhattan, he has heard a series of contentious financial cases that emerged in the wake of the credit crisis – the most significant being the Bank of America settlement with the Securities and Exchange Commission (see page 8).

This case typifies Judge Rakoff's willingness to challenge the status quo. In August 2009, BoA reached an agreement with the SEC to pay a $33m fine over non-disclosure of agreements to pay bonuses at Merrill Lynch following its takeover. Judge Rakoff rejected the settlement, since those who would pay the fine would be the shareholders who were allegedly harmed by BoA actions. He was also concerned that the SEC had failed to bring specific charges against managers and lawyers who were the alleged perpetrators of the misleading proxy statements.

These unusual moves, which put extra pressure on the SEC, the banks and their lawyers, are already being cited approvingly by other judges. Lawyers say they have to "work much harder with [him] as he moves the docket [case load] faster than any other judge". Others comment that he can "really open up the veins of a case".

No stranger to controversy, Judge Rakoff made perhaps his most contentious judgment in 2002, when he found the US federal death penalty unconstitutional.

JOHN SCHMIDT

Partner, Mayer Brown

From toll roads to garages and airports, John Schmidt is privatising the US Midwest one infrastructure project at a time. In doing so, he is proving the importance of an innovative lawyer finding an equally open-minded client.

Since 2005, Mr Schmidt has built up his leading role in public-private infrastructure partnerships on the back of a collaboration with Richard Daley, mayor of Chicago, and the city's government.

After turning over the Skyway to private hands, the first privatisation of a big US highway, Mr Daley asked Mr Schmidt to privatise the city's parking garages, another first in the US.

The Chicagoans then set their sights on Midway Airport (see page 6). That transaction has been postponed, but the hard work has been done on airport privatisation in the US. It took two years, for example, to convince airlines with landing slots at Midway to consent to privatisation, and Mr Schmidt's input was described as "absolutely critical".

His other work – on the $3.8bn lease of the Indiana Toll Road, the proposed privatisation of the Pennsylvania Turnpike and the proposed privatisation of the port of Virginia – is further evidence that he is willing to take his infrastructure privatisation practice on the road.

The gift of giving

Charitable initiatives can have wide-ranging spin-off benefits for firms. By *Sarah Murray*

WITH THE US HOME to one of the world's largest philanthropic sectors, it comes as no surprise to find law firms giving away many thousands of billable hours in the form of pro bono work. But leading firms are also starting to treat their pro bono work and social responsibility projects less as charity and increasingly approaching them strategically.

The areas they are tackling vary widely, from affordable housing to diversity, immigration issues and civil liberties. Education is a focus for many firms. Jones Day, for example, is introducing students at the Sacramento New Technology High School in California to the possibility of a career in the legal profession.

Cleary Gottlieb Steen & Hamilton has a partnership with Washington Irving High School, a New York school serving minority "at risk" students. The firm provides one-on-one student mentoring and coaching for examinations.

Some firms – particularly those with global operations – have developed international programmes in partnership with non-governmental organisations and overseas charities.

For the most innovative firms, the focus of their pro bono work or special projects ties in with their business strategy. Some are collaborating with clients. Moreover, while programmes often tackle specific issues or geographies, some firms are using them to bring about broader change in the legal sector and society.

DLA Piper has formed a partnership with Mexico Appleseed, a non-profit organisation, to promote a culture, structure and capacity among lawyers to do pro bono work. "The fun part about teaching the next generation of lawyers is that they're so enthusiastic and hungry to effect change on a systemic level," says Lisa Dewey, pro bono partner at DLA Piper.

Even narrowly focused cases can have a broader impact. When Jones Day represented a group of Washington, DC, tenants in a suit against their landlord, it turned the initiative into something more transformative.

Typically, the only way for a tenant to protest against unacceptable living conditions is to stop paying rent, which results in an eviction notice – something that appears on the tenant's record when applying for jobs or housing. So as well as helping the Washington tenants, Jones Day created a model for taking such cases forward and shared its experience with other firms. "We have provided samples of all our pleadings and have done mentoring phone calls, talking them through the process," says Laura Tuell Parcher, partner in charge of pro bono work.

In their charitable work, lawyers are also increasingly acting as brokers – bringing together clients, non-profit and government organisations to work on an issue.

Baker & McKenzie, which is supporting legal and social reform in developing countries, has worked with the in-house counsel at The New York Times to look at US, British and Australian laws when working with an international NGO to analyse and review a proposed freedom of information law for Yemen. The firm has also worked with Yemeni members of parliament to explore different options for the legislation. "A collaborative approach is one way we can enlist support from local and international communities to help address a problem," says Madeleine Schachter, the firm's global director of pro bono and corporate social responsibility.

In Nepal, the firm has worked with in-house lawyers and volunteers at companies including Google, Accenture, Caterpillar, Merck and Vodafone to tackle issues such as bonded labour, exploitation of women in the workplace, discrimination, education and literacy.

Partnership initiatives can extend the impact of a firm's efforts. "Law firms feel a responsibility to increase the amount of pro bono programmes they do," says Ms Dewey of DLA Piper, who explains that working with Verizon, the telecoms operator, on developing its pro bono programme means another 300 lawyers are now carrying out pro bono work. And the partnerships benefit law firms, too. "Working with clients is a good way to build a relationship with them," she adds.

Moreover, community and pro bono initiatives can give lawyers – particularly those at junior levels – valuable experience. While partners supervised the lawyers working on the Washington housing cases brought by Jones Day, it was associates that took the lead on the cases.

For Skadden, Arps, Slate, Meagher & Flom, a fellowship programme to fund graduating law students who want to provide legal services to the poor, the elderly, the homeless and the disabled helps expose the firm's partners to the kind of work being done by former fellows.

"There's a huge networking effect," says Susan Butler Plum, director of the Skadden Fellowship Foundation. "We have a partner who worked with a Skadden fellow for 10 years on a huge [school discrimination] case. So it's deepened and accelerated our pro bono work."

Moreover, helping the community boosts employee morale. "It's inspiring to see the sustained and intense commitment to developing resolutions for the problems," says Ms Schachter.

For the full results tables, go to www.ft.com/usil

RESPONSIBLE BUSINESS

Firm	Innovation	Originality	Rationale	Impact	Total	Description
STAND-OUT						
DLA Piper	Building a pro bono culture in Mexico	8	9	8	**25**	Showed commitment in working with Mexico Appleseed, a non-governmental organisation, on initiatives to educate the next generation of lawyers in Mexico about pro bono work and promote thinking about the ethical role of lawyers in society
DLA Piper	Helping Promise Neighborhoods become a reality	8	8	7	**23**	Working with communities to help achieve the US government's goals to transform schools and early-education programmes. The firm has worked with coalitions who recommend it for its active approach, commitment and initiative in helping them reach for Promise Neighborhood status
Skadden, Arps, Slate, Meagher & Flom	Skadden Fellowship Foundation	8	7	7	**22**	The foundation is designed to enable 25 bright, young lawyers to enter a public service career every year. Set up in 1988, it continues to fund people for the first two years of their public careers, and ensures some of the brightest legal talent goes into public life
Dechert	Making the legal system more accessible to tenants without representation	6	8	7	**21**	In a tripartite collaboration between the public and private sectors and law students, the firm helps provide representation to tenants in Pennsylvania who would otherwise have none. With multiple sources of involvement, the programme is growing. It handled 142 cases in 2008
Jones Day	Partnering a court and a high school to bring law alive to inner-city students	8	7	6	**21**	With the US court for the northern district of California and Sacramento New Technology High School, the firm has created an interactive, rounded programme to engage 50 students a year in the possibilities of a legal career
HIGHLY COMMENDED						
Baker & McKenzie	Advancing women's rights in Nepal	7	8	5	**20**	Mobilised lawyers and 40 in-house counsel from three corporations across 11 countries to prepare model legislation and educational tools designed to help protect women working in the "cabin and dance" restaurants of Nepal
Baker & McKenzie	Encouraging freedom of information in Yemen	8	7	5	**20**	Worked with Yemeni parliamentarians in drafting a freedom of information law, which would be the first of its kind for Yemen
Cleary Gottlieb Steen & Hamilton	Partnership with Washington Irving High School, New York	6	7	7	**20**	An outstanding example of a complete, committed, hands-on relationship with a school. The firm has had a tangible impact on the lives of the students and runs various programmes such as internships, mentoring and a model UN scheme
DLA Piper	Verizon partnership	6	7	7	**20**	Worked with Verizon, the telecoms group, to help create and develop a new pro bono programme for the company, which was launched in late 2009 and is based on a comprehensive, committed and long-term partnership
Freshfields Bruckhaus Deringer	Lawyers to (Red), a global cause marketing organisation	6	6	8	**20**	Supports Red, an innovative organisation to develop brand businesses to combat HIV in Africa. Treating Red as it would a fee-paying client, the firm gives complete legal support across its activities worldwide

PRO BONO WORK

Firm	Innovation	Originality	Rationale	Impact	Total	Description
STAND-OUT						
Jones Day	Helping tenants in action against landlords	7	9	7	**23**	Working with the DC Bar, the firm has empowered tenants suffering from housing violations. It created a template way of processing tenants grievances in the US Superior Court, which has been replicated by other law firms representing similar plaintiffs
White & Case	Furthering lesbian, gay, bisexual and transgender rights in the military	8	6	8	**22**	Since the firm decided to challenge the constitutionality of the US military's "Don't ask, don't tell" policy, the issue has been pushed up the government's agenda and become high profile
Jenner & Block	Nken v Holder	7	7	7	**21**	Unusual victory for an associate in the US Supreme Court on a case that argued that asylum applicants should not be deported while their cases were still in motion
Paul Hastings	Padilla v Kentucky	7	7	7	**21**	The case work for José Padilla is potentially an upheaval in the law relating to the US constitution's sixth amendment. Mr Padilla was at risk of deportation to Honduras after poor legal advice from his attorney. The firm argued that he had been deprived of effective legal counsel and that the consequences of deportation outweighed the criminal risk

Firm	Ranking	Innovation	Originality	Rationale	Impact	Total	Description
DLA Piper	Standout	Building a culture of pro bono in Mexico	8	9	8	25	Showed commitment in working with Mexico Appleseed, a non-governmental organisation, on initiatives to educate the next generation of lawyers in Mexico about pro bono work and promote thinking about the ethical role of lawyers in society
DLA Piper	Standout	Helping Promise Neighborhoods become a reality	8	8	7	23	Working with communities to help achieve the US government's goals to transform schools and early-education programmes. The firm has worked with coalitions who recommend it for its active approach, commitment and initiative in helping them reach for Promise Neighborhood status
Skadden, Arps, Slate, Meagher & Flom	Standout	Skadden Fellowship Foundation	8	7	7	22	The foundation is designed to enable 25 bright, young lawyers to enter a public service career every year. Set up in 1988, it continues to fund people for the first two years of their public careers, and ensures some of the brightest legal talent goes into public life
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Cleary Gottlieb Steen & Hamilton	Highly commended	Partnership with Washington Irving High School	6	7	7	20	An outstanding example of a complete, committed, hands-on relationship with a school. The firm has had a tangible impact on the lives of the students and runs various programmes such as internships, mentoring and a model UN scheme
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Freshfields Bruckhaus Deringer	Highly commended	Lawyers to (RED), the global cause marketing organisation	6	6	8	20	Supports Red, an innovative organisation to develop brand businesses to combat HIV in Africa. Treating Red as it would a fee-paying client, the firm gives complete legal support across its activities worldwide
Latham & Watkins	Commended	Immigration court system reform: research and advocacy	6	8	5	19	Working with Appleseed, a non-profit network of public interest justice centres, the firm put together an in-depth report assessing the US immigration court system, including recommendations for reform that were presented to members of the president's transition team
Mayer Brown	Commended	Partnering Yale Law School to operate a Supreme Court advocacy clinic	6	7	6	19	Two-fold project that gives students a taste of the Supreme Court while helping clients. The firm's lawyers who run the clinic were praised for their dedication and attention
Jones Day	Commended	Working with international NGOs to further their agenda	6	6	6	18	Sought to extend its international pro bono work through assisting Grameen Bank, Room to Read and Lawyers without Borders on global issues
Mayer Brown	Commended	Supporting microfinance initiatives	6	6	6	18	Completed a complex and challenging $62m syndicated credit facility for BRAC, a Bangladeshi NGO, allowing it to scale up its microfinance operations in Africa
Mayer Brown	Commended	Working with an NGO to end homelessness	6	6	6	18	A partnership with the Corporation for Supportive Housing, which is a combination of pro bono and training. Lawyers from all over the firm help CSH in all its activities with efficiency and success
Shearman & Sterling	Commended	International criminal work for Rwanda and Cambodia	6	6	6	18	Worked with the International Criminal Tribunal for Rwanda and the International Criminal Court and Cambodia Tribunals, developing and highlighting legal issues surrounding international criminal justice