

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

By **Andrew Strickler**

*Law360, New York (April 04, 2013, 7:02 PM ET)* -- This week's legal lions are feeling well-fed and prosperous, with banking lawyers dodging private Libor-rigging lawsuits and some plaintiffs attorneys getting a very healthy slice of a fat legal fee pie. Among our legal lambs are big pharma lawyers hit with a combination punch in the First Circuit, and a BigLaw firm which suffered a high-profile defection of a profit-making practice group.

### This Week's Legal Lions

Global banks scored a major win when a New York federal judge gutted private lawsuits accusing them of rigging Libor, and largely dismissed antitrust and other claims brought by investment firm **Charles Schwab Corp.** and class action plaintiffs over the benchmark interest rate. On the downside: the decision is likely to embolden law enforcement officials pursuing settlements from big banks accused of participating, and left open some narrow avenues for plaintiffs to pursue the banks, and for others to bring big-dollar cases. The banks are represented by **Marc Gottridge** of **Hogan Lovells**, **Thomas Rice** of **Simpson Thacher & Bartlett LLP**, **Robert Wise** of **Davis Polk & Wardwell LLP**, and **Sidley Austin LLP**, among others.

Lawyers who pulled in \$1.08 billion in antitrust settlements from companies including **Samsung Electronics America Ltd.** and **Toshiba Corp.** related to liquid crystal displays were feeling similarly enriched when a California federal judge approved \$308 million in attorneys' fees, over some objections that lawyer payouts should have been limited to a quarter of the fund. The biggest paychecks went to co-lead counsel for indirect purchasers: \$75 million for **Zelle Hofmann Voelbel & Mason LLP** and \$47 million for the **Alioto Law Firm**. **Gray Plant Mooty Mooty & Bennett** got a \$14 million slice, up from \$12.5 million recommended by the magistrate judge.

Beach season began this week for **Virgin Islands Superior Court Judge Leon A. Kendall** after a Third Circuit panel overturned the retired judge's conviction for criminal contempt in a precedent-setting case on judicial First Amendment protection. The trio said sitting judges should be safe in their official opinions, and ruled that Kendall's scathing 2009 opinion on a homicide case — he slammed the Virgin Islands Supreme Court for "making no sense" for issuing an overriding order in the case, then recused himself — shouldn't have triggered a criminal contempt charge. Kendall was represented by **Howard Cooper** and **Julie Green** of **Todd & Weld LLP**.

The judiciary wasn't so much in agreement in a Second Circuit ruling in a high-profile copyright case, where a dissenting voice called a defendant's claims to be on legal terra firma "a sham." Nevertheless, lawyers for streaming TV service **Aereo Inc.** went home happy because the majority voted not to shut down the service. The split decision said that because Aereo assigns each subscriber a mini antenna, the intended audience for each transmission is a single user, and doesn't infringe on TV network broadcast rights. The sharp dissent came from **U.S. Circuit Judge Denny Chin**, who said Aereo was in clear violation of the Copyright Act. Aereo is represented by **R. David Hosp** and **Mark Puzella** of **Fish & Richardson PC**, **John Englander**, **Yvonne Chan** and **Erin Michael** of **Goodwin Procter LLP**, **Michael Elkin**, **Thomas Lane** and **Jennifer Golinveaux** of **Winston & Strawn LLP** and **Seth Greenstein** of **Constantine Cannon LLP**.

Our final lions of the week are lawyers for **Whirlpool Corp.**, who threw plaintiffs suing over allegedly malfunctioning washing machines into the spin cycle when the U.S. Supreme Court, citing its recent decision in the Comcast Corp. v. Behrend case regarding class certification, told the appeals court to take a closer look at plaintiff damage models. Whirlpool is represented by **Malcolm Wheeler**, **Michael Williams**, **Galen Bellamy** and **Allison Cohn** of **Wheeler Trigg O'Donnell LLP** as well as by **Stephen Shapiro**, **Jeffrey Sarles**, **Timothy Bishop** and **Joshua Yount** of **Mayer Brown LLP**.

### **This Week's Legal Lambs**

**Sidley Austin LLP's** success this week in hiring 11 partners led by broker-dealer stand-out **Neal Sullivan** looked a lot more like **Bingham McCutchen LLP's** loss, with an attorney and Sidley leadership saying their superior experience and size triggered the lateral moves. **Susan Merrill**, who led Bingham McCutchen's securities enforcement group, and **Herbert Janick III**, who once served in the Enforcement Division at the U.S. Securities and Exchange Commission, were also among the high-profile defections to Sidley.

Counsel for **Pfizer Inc.** swallowed a triple dose of defeat in the First Circuit with a ruling that the company's fraudulent marketing of epilepsy drug Neurontin sickened the finances of health care providers who got stuck with the bill for ineffective treatments. The rulings mean Pfizer will not only have to pay a \$142 million jury award, but will likely go to trial twice more over the drug. Pfizer and other appellees are represented by **Katherine Armstrong** and **Mark Cheffo** of **Skadden Arps Slate Meagher & Flom LLP**, by **Kathleen Sullivan** of **Quinn Emanuel Urquhart & Sullivan LLP**, and by **John Beisner** of **Skadden**.

The federal judiciary was also displeased with **Dorsey & Whitney LLP**, when a Sixth Circuit panel reversed a 2011 summary judgment that tossed out a negligent representation suit accusing the firm of making a series of misrepresentations related to \$7 million in municipal bonds for the purchasers of a Detroit-area school building. The opinion said there was "a genuine issue of material fact" about the firm's potential liability, and remanded the suit for further proceedings. The firm is represented by **James Langdon** of Dorsey & Whitney, and **Raymon Henny** of **Honigman Miller Schwartz & Cohn LLP**.

Financial traders are paid to make bets, but few gambles go as badly as the ones made by former **Goldman Sachs & Co.** trader **Matthew Marshall Taylor**, who hid an \$8 billion trading position and allegedly cost the firm \$118 million in 2007. Taylor, 34, pleaded guilty in a Manhattan federal court, and admitted that he created dummy records and lied about his trades. Federal prosecutors said a sentence of up 41 months would fall within sentencing guidelines, although the judge indicated he may up the term because of the crime's "sophistication." Taylor is represented by **Thomas Rotko** of **Clayman & Rosenberg LLP**.

Former **Morrison & Foerster LLP** partner **Jonathan Dickstein** is also looking for a new line of work. The IP attorney, who fraudulently billed nearly \$400,000 for services for his autistic son, was told by a New York state appellate court that he was automatically disbarred in the state after his 2011 conviction in California for a scheme to maximize a school district's payments for his son's treatments, while also submitting identical bills to private insurers, including MoFo's own. Dickstein is represented by **Sarah Diane McShea**.

--Editing by Sarah Golin.

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