

THE 100 MOST INFLUENTIAL LAWYERS



Patrick Oster Editor-in-Chief
The National Law Journal
06.2000

The National Law Journal

If you examine *The National Law Journal's* latest list of the nation's 100 most influential lawyers, published in this issue, you may note some startling differences from the honor roll we first created in 1985.

This time around there are a number of representatives of the New Economy, such as Lawrence Lessig, a cyberlaw specialist at Stanford University. And general counsel, still in the infancy of their power over outside counsel back then, have become commonplace. Witness the entries for Goldman Sachs' Robert Katz and AMR Corp.'s Anne McNamara. The 2000 list is also more inclusive of West Coast and other regional legal powers than was the East Coast-heavy 1985 tally.

The changed firm affiliations of some of those honored this year reflect a decrease in partnership loyalty. Consider Alan Mendelson's move from Cooley Godward L.L.P. to Latham & Watkins' Silicon Valley office or David Boies' departure from the cushy confines of Cravath, Swaine & Moore to start his own firm in woodsy Westchester County, N.Y.

In a development surely not dreamed of back in the greedy, pre-Internet '80s, Arthur Schwartz and a copycat band of Greedy Associates have taken to cyberspace, providing gripe-session chat rooms for newbie, big-firm lawyers who bemoan the difficulty of trying to furnish a Manhattan apartment with Pottery Barn furniture on \$160,000 a year.

If the Greedies had produced nothing more than a forum for kibitzing about the horrors of being asked to work long hours for eye-popping pay, this pushy group would have been judged merely self-absorbed, but not influential, the litmus test for making this select group of lawyers. But if you have any doubt about the impact of this group, which is now carping online nationwide about many other issues, just ask big-firm partners how

they feel about having to pay for those raises, which by themselves approach some first-year salaries of 1985.

That '80s show

In comparison, some on the 1985 NLJ list seem, well, so '80s. Remember Steven J. Kumble? If you do, it's probably because his firm, Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey, enjoyed spectacular growth before crashing into Chapter 11 bankruptcy by the time the NLJ's second list was published in 1988. Or how about Joel Hyatt, founder of those no-frills legal clinics? Not exactly a name in the news.

Some things have not changed. Thomas Hale Boggs Jr., of Patton Boggs L.L.P., was rated the top lawyer-lobbyist in Washington, D.C. in 1985, which is how his peers still feel about him. Joseph D. Jamail, of Houston's Jamail & Kolius, continues to strike fear into the hearts of the opposition. And Wachtell, Lipton, Rosen & Katz's Marty Lipton, a power in 1985, is still going nonstop in 2000, the Energizer Bunny of the deal world.

Some from that groundbreaking list didn't make this year's cut because they died, are no longer practicing law full time or just had their day in the sun and moved on. Consider the roll call of past honor: Joseph Alioto, Melvin Belli, Roy Cohn, John Connally, Lloyd Cutler, Joe Flom, Richard "Racehorse" Haynes, Sidney Korshak, Arthur Liman, Edwin Meese III, Don Reuben, William P. Rogers, Chesterfield Smith, Edward Bennett Williams.

Some left the full-time practice of law, as did Vernon Jordan, who moved on to Lazard Frères. Some left the list rather ignominiously. Take Marvin Mitchelson, the palimony king, who got into tax trouble and was disbarred. He managed to persuade disciplinary authorities a few weeks ago to give him back his law license, so—who knows?—he might be back.

How we do it

Hillary Clinton is using her inclusion in the 1988 and 1991 NLJ lists in campaign materials to promote her U.S. Senate campaign in New York. She brags she was once chosen as one of the 100 "top" lawyers in the country. One might question the wisdom of bringing up some of the reasons for her inclusion: her connection with the Rose Law Firm, whose billing records she famously misplaced, or her being a director on the board of notoriously anti-union Wal-Mart. But our quibble is with her use of the word "top."

To us, that implies "best" or "smartest," but Ms. Clinton was instead rated one of the most "influential" lawyers, which we equate more with the notion of power or impact, in a section we subtitle "Profiles in Power." (Her Web site also says that it was our sister publication The American Lawyer magazine that honored her; as they say at the White House, "Mistakes were made.")

The mere holding of a position of power is not enough to make the NLJ list, according to the rules. One must use that power, wisely or not. Thus Attorney General Janet Reno made this year's list, as did Microsoft's nemesis, Asst. Attorney General Joel Klein. The White House counsel and the solicitor general did not. (Can you name them?)

Judges aren't eligible, nor are lawyers who don't practice. Gary Reback—who some think started Microsoft's antitrust troubles with the Justice Department while he was at Wilson Sonsini Goodrich & Rosati—would have made the list, but he knocked himself off just recently by taking a CEO job at a dot.com startup, Voxeo. For similar reasons, the estimable constitutional expert Akhil Amar of Yale would have made it too—but he never took the bar exam. We give him top marks for being honest enough to draw that unexpected fact to the

attention of our Herculean collector of "influential" facts, Contributing Editor Margaret Cronin Fisk, who starts our judging process with nominations from the NLJ staff and supplements them with suggestions from the profession's leading lights and, only recently, from readers.

The editors reserve the right to toss in the rare oddball choice. This time it was the Greedy Associates, whose collective name, we felt, did not naturally come up through normal questioning.

As with any such list, there will be disagreements. If your reaction to the NLJ's picks for the 100 Most Influential Lawyers in America is one of disbelief, feel free to let me know of your shock, be it that you or other worthy lawyers were slighted. I promise to respond to any letter as long as it does not begin, "Dear Pinhead..."

Fred H. Bartlit Jr.

67, Chicago's Bartlit Beck Herman Palenchar & Scott LLP

Was head of the litigation practice at Chicago's Kirkland & Ellis when, in 1994, he left to assemble and lead a firm of litigation stars; considered a visionary for changing the way defense trial lawyers bill, establishing set rates with contingency fees for success; has a long history of big wins; was lead counsel in 1996 in an antitrust case against United Technologies Corp. that resulted in zero damages to his client after the plaintiff spent more than \$50 million pursuing the action; defending vacuum cleaner company Bissell Inc. in patent litigation filed by rivals Hoover Co. and NL Industries Inc. in multistate litigation over alleged injuries to children from lead paint chips; increasingly represents corporations as plaintiffs in massive litigation, including Bayer Corp. in an upcoming patent case over the antibiotic Cipro; recently hired by the Canadian government to handle litigation in a civil racketeering action against R.J. Reynolds Tobacco Holdings Inc.; in 1999 established The Fred Bartlit Center for Trial Strategy at Northwestern University School of Law.

This article is reprinted with permission from the June 7, 2000 edition of the National Law Journal © 2000 NLP IP Company. All rights reserved. Further duplication without permission is prohibited.