

# BOIES, SCHILLER & FLEXNER LLP

NEW YORK WASHINGTON DC FLORIDA CALIFORNIA NEW HAMPSHIRE NEVADA

## BS&F Files Fraud Claims Against Fairfield Greenwich Group in Bernard Madoff Litigation



Stuart Singer

Bernard Madoff was arrested on December 11, 2008, for running the largest Ponzi scheme in history. BS&F has been active since day one in representing Madoff's victims in efforts to recover their losses.

As co-lead counsel for a class comprised

of investors in the Fairfield Greenwich Group, BS&F filed an amended consolidated complaint on April 24, 2009, in the Southern District of New York. The amended complaint, filed on behalf of over 35 named plaintiffs and a class that lost billions of dollars, alleges that Fairfield Greenwich fraudulently induced investors to place billions of

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## BS&F Wins Defense Verdict Following Trial of a Nationwide Consumer Class Action Case Against American Express

BS&F won a defense verdict on March 26, 2009 in the trial of a nationwide class action brought against American Express. The fourteen-week, two-phase bench trial in California Superior Court was an unusual instance where a nationwide class action was tried to verdict.

The central issue in the lawsuit, originally filed

in September 2001, was per-trip premium travel insurance programs for American Express's cardmembers. The plaintiffs alleged that American Express was required by contract and by California and New York consumer protection statutes to automatically refund premiums mistakenly billed to enrolled cardmembers. American



David Shapiro

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## BS&F Defeats Class Certification in Casket Antitrust Cases

On March 26, 2009, BS&F won a class certification battle for its clients Batesville Casket Company and Hill-Rom Holdings, Inc. when District Judge Kenneth M. Hoyt of the United States District Court for the Southern District of Texas (Houston) denied class certification in two related antitrust class actions. In doing so, the District Court adopted the November 24, 2008 memoranda and recommendations of Magistrate Judge Calvin Botley



Richard Drubel

*(continued on page 5)*

## LITIGATION HIGHLIGHTS

### BS&F's Vitamins Antitrust Expertise Sets Its Sights on Chinese Producers of Vitamin C

In 1997, the Firm initiated a ground-breaking investigation into the international vitamins industry. The Firm in 1998 then filed the first actions disclosing the existence of a decade-long conspiracy to fix prices and limit supply of vitamins among manufacturers from Switzerland, France, Germany, Japan, Canada and other nations. The case known as *In Re Vitamins Antitrust Litigation* went before the U.S. District Court for the District of Columbia and resulted in a settlement with the main defendants of more than \$1.1 billion and subsequently a victory for the Firm following a jury trial against two non-settling vitamin manufacturers for \$148.5 million after trebling and record criminal fines in excess of \$1 billion.

Upon approving the initial, substantial settlement of much of the case, the Court in an opinion found that, "The firm was the driving force behind the initial inves-

tigation of the vitamins conspiracy that led a group of firms to re-search the industry and uncover the illegal actions of vitamins manufacturers across the globe. It was also Boies, Schiller that shared early information with the Department of Justice, enabling the criminal investigation to begin."



**Bill Isaacson**

BS&F partner **William Isaacson**, as noted by the Court, was one of the attorneys that helped lead the cases against the original vitamins cartel. Applying the Firm's expertise in this area, Isaacson, in 2005, filed the first action disclosing the existence of a new cartel of four Chinese vitamin C manufacturers and others, accusing the companies, which produce almost 80% of all

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### Delta Air Lines Acquisition of Northwest Airlines Successfully Navigated by BS&F



**Donald L. Flexner**

BS&F was retained by Delta Air Lines on two related matters arising out of Delta's announced plans to merge with Northwest Airlines. Given the merger's scale, obtaining clearance for the acquisition presented significant challenges in court and before federal and state antitrust agencies.

The first matter involved was representing Delta in connection with the United States Department of Justice's review of the merger under the Hart-Scott-Rodino Act. Working in tandem with other firms representing Delta and Northwest, the Firm achieved a favorable outcome for Delta. The Department of Justice announced that it would not challenge the merger.

The second matter involved defending Delta in a lawsuit filed in the U.S. District Court for the Northern District of California. In that case, 28 individual plaintiffs filed an action to enjoin the Delta-Northwest merger. The plaintiffs alleged that the combination would substantially lessen competition for passenger air transportation in the United States, in violation of Section 7 of the Clayton Act.

Because Delta and Northwest wanted to close the transaction as soon as possible, the Firm, in mid-June 2008, pushed for and obtained an aggressive schedule and filed the case. The BS&F team, led by managing partner **Donald Flexner**, engaged in a full litany of pre-trial procedures, all in anticipation of a three-week trial that was scheduled to commence on November 5, 2008.

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## LITIGATION HIGHLIGHTS

### BS&F Wins Summary Judgment for Goldman Sachs in Municipal Bond Litigation



Jonathan Schiller

ner **Jonathan Schiller**, and partner **David Barrett**.

The long-running dispute stemmed from a Michigan power project financed by \$80 million in municipal bonds, which were underwritten by Goldman Sachs in 1998. The waste-to-energy power project faltered in its early operation and ultimately failed in 2003. As a result, the plaintiffs lost their entire investment.

Following fact and expert discovery, Goldman Sachs

On October 30, 2008, BS&F attorneys obtained dismissal of a fraud claim filed against Goldman Sachs & Co. by six mutual funds managed by Smith Barney, when Justice Charles Ramos of New York Supreme Court granted summary judgment. The BS&F team was led by managing partner

moved for summary judgment on statute of limitations grounds. BS&F argued that, even if the plaintiffs had a valid claim for fraud – which they plainly did not – such a claim was untimely because it was filed more than six years after the plaintiffs bought the bonds.

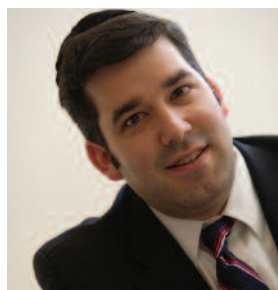
The contested issue was whether the plaintiffs could invoke New York’s “discovery exception,” under which the otherwise untimely fraud claim could proceed to trial, unless the plaintiffs could have discovered the claim with reasonable diligence more than two years before they filed suit in 2005. Through extensive discovery, the Firm obtained documents proving that the plaintiffs knew in 2001-02 that their investment was losing millions of dollars and the power project was doomed to fail. In depositions relied on by the Court, the plaintiffs’ senior investment manager admitted that it was Smith Barney’s “responsibility to look into the cause” of those

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### Rights to Air The Weinstein Company’s *Project Runway* Restored by BS&F in Network Battle

Fans of *Project Runway* – the highest rated reality program on cable television – rejoiced in the recent news that The Weinstein Company’s hit show would return later in the summer 2009. BS&F recently defended The Weinstein Company in a lawsuit filed by NBC Universal, Inc. and Bravo Media LLC, seeking to prevent Weinstein from moving *Project Runway* from Bravo to the Lifetime network.

NBC and Bravo claimed that they had a right of first refusal on future seasons of the show, based on an oral conversation and an e-mail exchange. The Weinstein Company strenuously denied these claims. Weinstein also brought counterclaims against NBC Universal and Bravo because of their failure to adequately promote Season 5 of *Project Runway*, and for other behaviors designed to injure the program’s suc-



Motty Shulman

cess. Lifetime intervened in the action and asserted copyright claims.

This matter was litigated in the Commercial Division and Appellate Division of New York State Supreme Court, and in the U.S. District Court for the Southern

District of New York.

On March 19, 2009, managing partner **David Boies** argued before the Appellate Division that the trial court’s injunction barring Lifetime’s right to air the show should be lifted. Two weeks later, the parties reached a settlement—and the show moved to Lifetime. In a statement issued to the press after the settlement was reached, The

(continued on page 7)

## LITIGATION HIGHLIGHTS

### BS&F Represents Wachovia in Multibillion Dollar Bid for Bank by Rival Suitors Citigroup and Wells Fargo



**David Boies**

Wells Fargo.

In the midst of the financial crisis last fall, BS&F was called on by Wachovia to navigate complex, emergency litigation arising from Wachovia's rejection of a \$2.2 billion transaction with Citibank in favor of a \$15.2 billion acquisition by

trict of New York. A series of emergency hearings – by phone and in court – were held throughout the week-end.



**Philip Bowman**

By Thursday, October 9, Citigroup announced that it would no longer attempt to block the Wachovia-Wells Fargo merger. This cleared the way for the merger to go forward. The deal closed in late December 2008.

Wachovia retained the Firm on Friday, October 3, 2008, just hours after Wachovia accepted the Wells Fargo offer.

Citigroup sued Wachovia in state court the next day, Saturday. Later that day, BS&F attorneys removed the case from state court to federal court and filed a separate declaratory judgment action in the Southern Dis-

In addition to managing partner **David Boies**, the effort was led by partners **Robert Silver**, **Philip Bowman** and **Amy Neuhardt**. Associates **Rick Bettan**, **Jonathan Krisbergh**, and **John LaSalle** also assisted.

#### *Chinese Vitamin C, continued from page 2*

vitamin C in this country, of fixing prices and limiting supply of vitamin C in the United States. Documentary evidence submitted to the District Court for the Eastern District of New York by BS&F showed that in late 2001, “domestic manufacturers were able to reach a self-regulated agreement successfully, whereby they would voluntarily control the quantity and pace of exports, to achieve the goal of stabilizing and raising export prices.” The motto of the cartel was “restricting quantity to safeguard prices.”

To defend the actions of its companies, the Ministry of Commerce of the Government of China submitted an amicus brief in support of a motion to dismiss arguing that price fixing by Chinese companies was compelled by the China Chamber of Commerce, an NGO trade association that was authorized to require such conduct

by the Government of China. At the hearing on the motion, Isaacson argued against the motion to dismiss for the plaintiffs, but the motion was argued principally by counsel for the Government of China rather than the defendants' counsel. The Court subsequently noted this was the first case in legal history where the Government of China appeared in federal court. Isaacson showed the Court documents uncovered by BS&F's investigation, including statements where the defendants congratulated themselves that their price increases had been “completely implemented by each enterprises' own decision and self-restraint, without any government intervention.”



**Tanya Chutkan**

*(continued on page 5)*



## LITIGATION HIGHLIGHTS

### *Chinese Vitamin C, continued from page 4*

In an important ruling on November 6, 2008, the Court denied the defendants' motion to dismiss under the act of state doctrine, foreign sovereign compulsion and international comity. The Court concluded that the documents "suggest on their face that defendants' acts were voluntary rather than compelled." Company minutes of meetings of the defendants quoted by the Court stated such things as, "We all agreed to set a floor price at \$9/20 U.S./kg" and that agreements to restrict output were reached by hand voting. Another company document quoted by the Court stated "I believe we should not have any worry since the Ministry of Commerce is a friend of the Court in the lawsuit. If we won the lawsuit, it would be hard for foreigners to make more trouble. Even if we lost the case, the government would take the foremost part of the responsibility. After all, we need to do many things in a more hidden and smart way."

After reviewing the record, even giving substantial deference to the amicus brief of the Ministry of Commerce, the Court held that "the parties hotly contest both the origin and even existence of government compulsion" and therefore ruled that the case should proceed. At a subsequent hearing, the Court also denied the defendants' request for an immediate appeal of the legal issues argued by the defendants, stating that such an appeal would be a "waste of time" and an appeal would be worthwhile only if the defendants conceded that they voluntarily agreed among themselves to fix prices and "down the road realized they might have a problem and sought Government approval."

The underlying case and the ruling, which importantly allows the case to move forward, grabbed several headlines. In its investigative reporting, *The Wall Street Journal* characterized the actions of the Chinese vitamin manufacturers in acting together to boost prices as "an

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### *Casket Antitrust Class Action, continued from page 1*

recommending the denial of class certification. Magistrate Judge Botley had conducted a week-long evidentiary hearing on class certification and drafted two thorough and careful memoranda and recommendations in both cases. Partner **Richard Drubel** led the BS&F team and handled the opening statement and closing argument for the clients, while partner **John Cove** handled the direct testimony of the defendants' expert economic witness and cross examination of the plaintiffs' economic expert.

BS&F's client, Batesville, is the leading casket manufacturer in the United States. For over one hundred years, Batesville has maintained a policy of selling and delivering caskets only to licensed funeral directors operating licensed funeral homes.

The plaintiffs alleged that Batesville conspired with its

three largest funeral home customers to exclude competition in an alleged nationwide market for the sale of caskets to consumers. The plaintiffs maintained this was in violation of the Sherman Act and California's unfair competition law by refusing to sell caskets to independent (non-funeral home) casket retailers and engaging in other allegedly exclusionary conduct.

One group of plaintiffs purported to represent a nationwide class of consumers who allegedly were overcharged as a result of the alleged conduct. The other plaintiff group claimed to represent a nationwide class of independent casket retailers, including casket stores and Internet sellers, who allegedly were excluded from selling Batesville caskets as a result of the alleged conduct. The consumer plaintiffs' expert estimated damages for the putative consumer class as high as \$1.46 billion before trebling. The plaintiffs' expert claimed damages for the

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## LITIGATION HIGHLIGHTS

### BS&F Settles Antitrust Proceedings Against Qualcomm

On April 26, 2009, BS&F client Broadcom Corporation entered into an agreement with Qualcomm Inc. to settle U.S. and foreign antitrust and patent litigation between the companies.

Qualcomm agreed to pay Broadcom \$891 million over a four-year period.



**Steve Holtzman**

In 2005, Broadcom filed antitrust complaints against Qualcomm in U.S. District Court and with the Competition Directorate of the European Commission. In 2006, Broadcom filed a complaint against Qualcomm with the Korea Fair Trade Commission (KFTC). Other complaints were filed against Qualcomm in Japan and China, and Broadcom added patent litigation against Qualcomm in the United States. Patent suits filed by each party proceeded to judgment in California and before the U.S. International Trade Commission.

Broadcom's antitrust complaints alleged that Qualcomm

holds and has abused dominant positions in several sectors of the wireless industry, including in technology that Qualcomm claims is essential to virtually all cell phones worldwide and in selling more than 90% of the chipsets used in cell phones on the Verizon and Sprint networks. Broadcom sells cell phone chipsets in competition with Qualcomm.



**Kieran Ringgenberg**

In its complaints, Broadcom alleged that Qualcomm had harmed competition and consumers by repeatedly violating its commitments to license patents covering its cell phone technology on fair, reasonable and non-discriminatory ("FRAND") terms and abusing its monopolies in chipset markets to eliminate emerging competition. Broadcom claimed that Qualcomm's anti-competitive licensing and sales conduct resulted in the illegal monopolization or attempted monopolization of technology and chipset markets, higher cell phone prices, and reduced cell phone innovation.

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#### **Casket Class Action**, *continued from page 5*

putative retailer class of approximately \$99 million before trebling.

In his recommendations adopted by the District Court, Magistrate Judge Botley found that: (i) the plaintiffs failed to demonstrate the existence of a nationwide market to support certification of a nationwide class, and that the relevant geographic markets were local; (ii) the allegedly improper communications between Batesville and its funeral home customers were part of the ordinary give-and-take between a supplier and its customers, not evidence of a nationwide conspiracy; and, (iii) the

plaintiffs had not shown class-wide evidence of a horizontal agreement in violation of the Sherman Act. The Magistrate also found that impact and damages, two elements of the plaintiffs' claims, could not be proven on a class-wide basis.

In a story in *The American Lawyer* that ran under the headline, *Houston Judge Leaves Class of Caskets Buyers Six Feet Under*, Drubel, reacting to the class certification ruling, said, "We're gratified. We think the magistrate judge and the district court got it right." The ruling was

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# LITIGATION HIGHLIGHTS

## *Lead Role in Madoff Matters, continued from page 1*

dollars in Madoff's Ponzi scheme.

The amended complaint also alleges that Fairfield's principals recklessly misrepresented that money would be invested in a "split strike investment strategy" that had shown an impressive historical record of profits, when the investments, in fact, were actually funneled to Madoff without any meaningful due diligence or supervision on Fairfield's part.

The Firm filed one of the first "feeder" fund suits on January 12, 2009 against Fairfield Greenwich – the largest single feeder fund into Madoff. The original complaint, as well as the new amended complaint, allege that Fairfield Greenwich and its principals are liable for misrepresentations and breaches of fiduciary duty, as well as for collecting performance fees based on fictitious profits. In addition, claims have been brought against Citco Bank and the other Citco entities that served as custodian and administrator for the Fairfield funds.

On January 30, the Court appointed BS&F and two other law firms as interim co-lead counsel for the plaintiff class of Fairfield investors. On March 11, over the objections of defendants who sought further delay, the Court entered a case management order proposed by plaintiffs that will govern the progress of the case.

Since filing its initial suit, BS&F has been contacted by Madoff investors from all over the world, including banks, insurance companies, and numerous individual investors. The Firm is currently counseling nearly 50

Fairfield investors with interests well in excess of \$100 million. It is also assisting clients in connection with liquidation proceedings that have recently been brought against the Fairfield Sentry fund in the courts of the British Virgin Islands. On May 11, BS&F and its co-lead counsel filed papers to seek lead plaintiff status for certain of its clients and for the law firms in litigating federal security claims. The financial stake of BS&F's clients—which under federal law determines who presumptively should be in the lead—were over twenty times the size of the positions submitted by competing firms.

BS&F is actively investigating additional cases against other feeder funds, including those run by Kingate and Merkin. In addition to its litigation role, BS&F is counseling numerous Madoff investors, including charities that were victimized, on filing SIPC claims and on related tax issues.

In a program that aired March 1 on CBS "60 Minutes," managing partner **David Boies** characterized the reach and impact of feeder funds by saying, "The real steroids here were the feeder funds. They made it an international Ponzi scheme, and they allowed it to keep going." *Bloomberg News* filed a story about the amended complaint and quoted partner **Stuart Singer** stating, "The evidence that has come to light shows that certain Fairfield defendants had acted so recklessly in



**Sashi Boruchow**

*(continued on page 10)*

## *Project Runway, continued from page 3*

Weinstein Company said, "We're thrilled to be launching our relationship with Lifetime, with this groundbreaking cable deal that includes the next five years of 'Project Runway.'" BS&F has enjoyed a long relationship with The Weinstein Company, serving the media hothouse in both litigation and transactional matters.

In addition to **David Boies**, partner **Motty Shulman** led the BS&F team, which included partner **Rich Weill**, and associates **Brooke Alexander**, **Matthew Tripolitsiotis**, and **Jack Wilson**.

## LITIGATION HIGHLIGHTS

### *American Express Class Action, continued from page 1*

Express, as a business practice, discloses in its advertising, contracts, cardmember letters and FAQs that premium charges can occur when cardmembers do not use their tickets for uninsured persons, and buy non-flight services. Cardmembers agree to contact American Express to obtain refunds of any mistaken charges. Nonetheless, plaintiffs claimed American Express breached the cardmembers' contracts and converted enrollees' money on behalf of a nationwide class of cardholders, seeking hundreds of millions of dollars in damages. Plaintiffs asserted unfair and deceptive trade practice claims on behalf of New York and California subclasses.

In June 2007, American Express asked BS&F to prepare the case for trial. Leading up to trial, the Firm succeeded in convincing the California Superior Court to dismiss the plaintiffs' claims for conversion and for punitive damages. In the first phase of the trial, conducted in November 2008, the Court rejected the plaintiffs' interpretation of the contract, and instead agreed that the contract unambiguously authorized the very conduct by American Express that the plaintiffs had challenged.

The second phase of the bench trial began in January 2009, and continued until March 25. In addition to tes-

timony from a class representative, plaintiffs called experts in computers, airline industry data, marketing, consumer psychology, surveys, and damages. During the trial, the plaintiffs argued that American Express was liable for over \$300 million. BS&F was able to capably demonstrate – in part through the plaintiffs' own expert witnesses – that the program was fair, the marketing material was not deceptive, and the claim for damages was baseless.

On March 26, the Court granted American Express's motion for judgment, at the end of the plaintiffs' case, and before the Firm called a single witness, finding that the plaintiffs had failed to prove any of their claims. *The National Law Journal* and *The Recorder* reported on the rare class action win in stories that featured partner **David Shapiro's** comments, "We think American Express's position was absolutely correct throughout the litigation and are gratified the judge analyzed the case to come out the way he did."

BS&F's trial team included partners **David Shapiro, Jeremy Goldman, Chris Green, Fred Norton**, and associates **Peter Gwynne, Lisa Nousek, Beko Richardson** and **Ted Uno**.

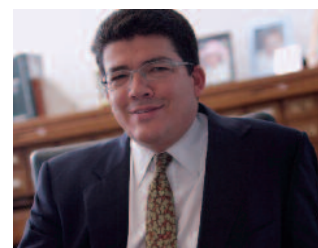
### *Delta Air Lines Merger, continued from page 2*

Shortly before the anticipated trial, the parties agreed to a confidential settlement that resulted in the dismissal of the lawsuit, allowing the merger to move forward. The merger, consummated on October 29, 2008, created the world's largest airline.

On the BS&F team, in addition to **Don Flexner**, and partners **Jim Denvir** and **Phil Korologos**, were partners **Eric Brenner, Cynthia Christian, Robert Cooper, John Cove, Richard Feinstein** and **Kieran Ringgen-**



**Jim Denvir**



**Phil Korologos**

**berg.** In addition, **Marcy Lynch** and **Hershel Wancjer** were involved as counsel as was associate **Jobe Danganan**.



## LITIGATION HIGHLIGHTS

### *Vitamin C, continued from page 5*

unprecedented move that could affect international antitrust disputes.” Isaacson told *The Wall Street Journal* that, “The court’s decision means Chinese companies can be held accountable. In a global market, the rules should be the same for everyone.”

Moving forward, it is anticipated that the defendants

will attempt to convince the Court to change its position in summary judgment briefing. Barring that, however, BS&F will prepare for another trial against a global price fixing vitamins cartel.

In addition to **William Isaacson**, partners working on this matter include: **Tanya Chutkan** and **Alanna Ruth-erford**, and associate **Jennifer Milici**.

### *Goldman Sachs in Municipal Bond Litigation, continued from page 3*



**David Barrett**

losses. Schiller argued the summary judgment motion, walking the Court through a detailed timeline of the events. In ruling for Goldman Sachs, Justice Ramos relied on that timeline, holding that there was “ample evidence” that the “indisputably sophisticated” plaintiffs knew of or “failed to adequately or timely investigate” the alleged misrepresentations.

Final dismissal of the case was the culmination of a complex series of procedural moves. The Smith Barney Funds had filed suit originally in 2004 in Michigan. BS&F first obtained dismissal with prejudice as to a negligent misrepresentation claim, which the Michigan court held was governed by New York’s

Martin Act precluding claims of negligence in the sale of securities. An amended complaint alleging fraud was dismissed on *forum non conveniens* grounds. Both dismissals were affirmed by the Michigan Court of Appeals.

After the plaintiffs re-filed their fraud claim in New York, they argued that Goldman Sachs was prohibited from asserting a limitations defense because of the earlier *forum non conveniens* dismissal in Michigan. The New York Supreme Court rejected that argument, and that decision was affirmed unanimously in September 2008 by the Appellate Division. Barrett argued the appeal, clearing the way for the Supreme Court’s subsequent summary judgment dismissal on statute of limitations grounds.

The BS&F team also included associates **Brian Baker** and **Scott Wilson**.

### *Casket Antitrust Class Action, continued from page 6*

also reported online in *The Wall Street Journal*.

These cases were originally filed in federal court in the Northern District of California in San Francisco, but the Firm successfully transferred the cases to federal court in the Southern District of Texas in Houston on the grounds of *forum non conveniens*.

On April 27, BS&F successfully obtained the retailer plaintiffs’ agreement to dismiss their claims with prejudice, with each party to bear its own costs and ex-

penses. The consumer plaintiffs have petitioned the Fifth Circuit Court of Appeals for leave to appeal the District Court’s class certification ruling. This petition is fully briefed and currently pending before the Fifth Circuit.

BS&F’s legal team included, in addition to partners **Richard Drubel** and **John Cove**, partners **Kieran Ringgenberg** and **Jack Stern**. Counsel **Kimberly Schultz** and associates **Ed Baker**, **Matthew Henken**, **Laura McKay**, **Jennifer Milici**, and **Anne Nardacci** were also involved.

## LITIGATION HIGHLIGHTS

*Madoff, continued from page 7*

promoting the Fairfield Sentry Funds that they're liable for fraud." In other *Bloomberg News* coverage about the investors' complaint, Singer explained, "These losses could have been avoided if defendants had fulfilled their duties and if they had adequately investigated and monitored Madoff." Singer also appeared in a PBS "Frontline" program called "The Madoff Affair" that aired on May 12.

Madoff was ordered to jail on March 12 after pleading guilty to 11 criminal counts. He is expected to be sentenced in June.

In addition to **David Boies** and **Stuart Singer**, partners

**David Barrett** and **Sashi Boruchow** play a key role in managing the Firm's litigation against Fairfield Greenwich and investigating actions against other feeder funds. Partner **Mike Kosnitzky** is involved in advising on tax issues, as is partner **Jonathan Sherman**, who has counseled non-profit organizations. Other BS&F attorneys working on Madoff-related matters include: partners **Keith Blum**, **Robert Cooper**, **Ann Galvani**, **Hamish Hume**, **Courtney Rockett**, **Carlos Sires**, **Magda Jimenez Train**; counsel **Laurie Josephs**, and associates **Ashanti Decker**, **Robert Glass**, **Matt Kaden**, **Susan Klock**, **Jonathan Krisbergh**, **Jennifer Milici**, and **Dawn Smalls**.

*Broadcom, continued from page 6*

Working with European, Korean, Japanese, and U.S. co-counsel for clients Broadcom and Texas Instruments, BS&F, led by partners **Steve Holtzman**, **David Barrett**, **Kieran Ringgenberg** and **Beko Richardson**, developed the facts and crafted economic and legal arguments presented to the courts and agencies.

In February 2009, the KFTC became the first competition law agency to initiate enforcement proceedings against Qualcomm, issuing a statement of objections against Qualcomm and scheduling hearings for May

2009. BS&F, along with local counsel in Korea, managed Broadcom's and Texas Instruments' complaints to and advocacy before the KFTC.

Broadcom and Qualcomm announced their settlement on April 26, 2009. As publicly disclosed by the parties, these terms include Qualcomm's substantial payment to Broadcom and a multi-year patent agreement. In addition to BS&F's work for Broadcom in Korea, the United States, Europe, Japan, and elsewhere, BS&F advised Broadcom on the settlement agreement.

## CORPORATE HIGHLIGHTS

### BS&F Tapped to Provide Legal Assistance to Fee-Based Online Media Resource



**Lidia Frenkel**

Journalism Online, LLC, a cutting-edge company currently being formed, is expected to transform the business of media distribution. Established journalism and media industry executives Steven Brill, Gordon Crovitz and Leo Hindery form the brain-trust

behind the project and the Firm is providing legal support to the new venture. The innovative system will allow newspaper, magazine and online publishers to realize revenue from the global distribution of their original journalism, and will provide consumers with access to articles from multiple sources.

BS&F's corporate group was retained by Brill Journalism Enterprises, LLC in connection with the negotiations and

preparation of the joint venture agreement. The Firm will help Journalism Online negotiate wholesale licensing and royalty fees with intermediaries, which operate search engines that refer readers to the original content on newspaper, magazine and online websites. The Firm will also counsel the company and its publisher members on legal and regulatory issues.

*The New York Times* described the timing for the launch as optimal, saying that "Journalism Online L.L.C. aims to supply publishers with ready-made tools to charge Internet fees, an idea that has gained currency as advertising revenue plummets." *The New York Times* story also reported that the new concept company has "a board of advisers that includes two of the nation's most prominent lawyers, David Boies and Theodore B. Olsen."

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### Goldman Sachs Affiliate Receives Legal Counsel on Equity Investments from BS&F



**Richard Birns**

The BS&F corporate group advised an affiliate of Goldman Sachs in connection with its recently announced equity investment in Revolution Money.

Revolution Money, the payments company backed by Steve

Case's Revolution LLC, announced on April 6, 2009 that it received \$42 million in Series C funding from a Goldman Sachs affiliate (a new investor) as well as AOL co-founder Case, Revolution Money Chairman Ted Leonsis, former Charles Schwab CEO David Pottruck, former JP Morgan Vice Chairman David Golden, Citigroup Inc. and Morgan Stanley.

The Internet-based proprietary RevolutionCard Network today supports the following products: RevolutionCard and Revolution MoneyExchange.

RevolutionCard is a general-use credit card that charges no interchange fees and only a half-percent processing fee per transaction to accept.

Revolution MoneyExchange is a free online P2P payments service that enables users to exchange money for free. This service currently has more than 400,000 users.

On BS&F's corporate team, in addition to partner **Richard Birns**, were associates **Stefan dePozsgay** and **Lidia Frenkel**.

## EXPERT VIEW

## Protecting the Innocent: A Proposal for New York

By Harlan A. Levy and Scott R. Wilson

THE NEW YORK LAW JOURNAL, December 31, 2008



Harlan A. Levy

Eighty-five years ago, Judge Learned Hand wrote,

"Our procedure has been always haunted by the ghost of the innocent man convicted. It is an unreal dream." Since then, our courts have recognized that "with the advance of forensic DNA technology, our desire to join Learned Hand's optimism has given way to the reality of wrongful convictions, a reality which challenges us to reaffirm our commitment to the principle that the innocent should be freed."

In many foreign nations and states in this country, a first step forward in effecting reform to prevent wrongful convictions and free the innocent has been the establishment of an "innocence commission." The United Kingdom, Canada, Scotland and Norway have established innocence commissions. At least six U.S. states have also taken that significant step. New York State has not, but a likely shift in control of the state Senate makes

this state more likely to address the problem of wrongful convictions, and institute an innocence commission.

What do such commissions do? How are they structured? And what are the prospects they present for reform?

The international and U.S. experience shows that innocence commissions have two distinct structures. Some are blue ribbon panels that review wrongful convictions and make recommendations for criminal justice reform based on their work. These commissions may publish their findings or draft new legislation. Their focus, broadly speaking, is preventing future wrongful convictions through legislative reforms or changes in police procedure. Others are standing bodies within the government that present a means by which the state itself investigates and seeks to redress individual wrongful convictions. Their focus is freeing the innocent person who has been convicted.

Following several high-profile post-conviction exonerations in the late 1990s, Canadian provincial authorities created independent commis-

sions to investigate the causes of each wrongful conviction and issue



Scott R. Wilson

public reports of their findings, along with policy recommendations intended to address the causes of wrongful convictions. Since 2000, at least six states have created innocence commissions more or less patterned after the Canadian model: Illinois, California, Wisconsin, North Carolina, Connecticut and Pennsylvania. These commissions are typically bipartisan groups of individuals representing many constituencies in the criminal justice system. Their recommendations have included the implementation of new lineup procedures, electronic recording of custodial interrogations, and corroboration of testimony by jailhouse informants.

In other states, including Virginia and New York, non-governmental organizations have taken the lead in creating blue ribbon commissions to address these issues. A task force of the New York State Bar Association created to study the causes of

*(continued on page 13)*



## EXPERT VIEW

wrongful convictions and propose solutions is expected to issue its final report in April 2009.

Several foreign countries and one U.S. state, North Carolina, have established commissions reflecting the government's commitment to itself investigate and remedy individual wrongful convictions. The United Kingdom was first to institute the post-conviction review of individual cases by an independent government agency. The Criminal Case Review Commission, authorized by the Criminal Appeal Act 1995, investigates suspected miscarriages of justice upon application by a convicted person. As of Oct. 31, 2008, the U.K. commission has received over 11,000 applications and referred over 400 cases to the Court of Appeal, resulting in 269 quashed convictions.

The U.K. commission does not consider actual innocence or guilt, but instead provides post-conviction review that might otherwise be unavailable to U.K. defendants. Appellate review is not available as of right in U.K. criminal cases, and leave to appeal is granted only if there is a reasonable prospect of relief. The U.K. commission model has been followed in Scotland and Norway.

North Carolina is the only American state that has instituted an investiga-

tive commission. In August 2006, the North Carolina Innocence Inquiry Commission was established at the recommendation of a commission created by the Chief Justice of the North Carolina Supreme Court to review exonerations in the state and recommend reforms.

The Innocence Inquiry Commission is modeled after the U.K. commission and began accepting applications from convicted persons in North Carolina in January 2007. The commission may refer a case to a three-judge panel appointed by the Chief Justice if five of its eight members (all eight, if the applicant pleaded guilty) agree that "there is sufficient evidence of factual innocence to merit judicial review." The conviction may be overturned by a unanimous vote of the judicial panel. In September 2008, the first case referred to a three-judge panel by the commission was rejected.

Applicants to the North Carolina commission must agree to waive attorney-client privilege, except as "to matters unrelated to a convicted person's claim of innocence." The North Carolina commission has received over 300 applications in the past two years.

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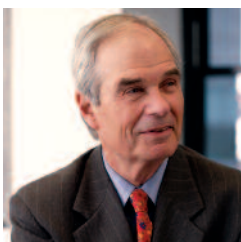
For the full article please go to  
[www.bsflp.com/news/in\\_the\\_news/000068](http://www.bsflp.com/news/in_the_news/000068)

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The **Expert View** is a new addition to the Firm's newsletter. Submissions for the Expert View column should be emailed to  
[bsf\\_newsletter@bsflp.com](mailto:bsf_newsletter@bsflp.com).

## PRO BONO HIGHLIGHTS

### A Message from BS&F Pro Bono Director Paul Verkuil



**Paul Verkuil**

The rule of law is a fundamental component of the work that BS&F performs for all of its clients and is at the heart of its pro bono program. The Firm is so committed to protecting the rule of law and ensuring that the rights of all individuals are protected that it devoted more than 35,000 hours to pro bono work in 2008 alone. BS&F is extremely proud of our pro bono program and the work that it performs for those in need.

One of the largest matters is also one of great public importance. The Children's Health Care litigation pend-

ing in the Southern District of Florida was brought on behalf of the 1.5 million Medicaid eligible children in Florida, among others, against Florida State public health officials. The suit attempts to force the State of Florida to comply with federal law and ensure that Medicaid-enrolled children receive critical health services. It is a watershed case that has required the BS&F team, led by partner **Stuart Singer**, to take more than 100 depositions in one year alone. The matter is slated to go to trial in August of 2009.

Although the Children's Health Care Litigation is the largest, it is by no means the only pro bono matter performed by the Firm. Pro bono work is a hallmark of

*(continued on page 15)*

### BS&F to Defend Children of the World Searching for New Beginning



**Helen Maher**

With the acceptance of the legal representation of three minor children, BS&F recently joined the *Kids in Need of Defense* ("KIND") Project that was founded by actress Angelina Jolie and Microsoft Corporation. KIND's mission is to provide legal counsel to unaccompanied immigrant and refugee children in the United States. It consists of a network of law firms, corporate law departments, and non-governmental organizations that volunteer to provide community outreach programs, perform research and analysis, host educational workshops, and represent unaccompanied children in immigration or family court.

Each year, over 8,000 children who are separated from their families go through U.S. immigration pro-

ceedings. They travel from all over the world, including Guatemala, Honduras, El Salvador, China, and Mexico. Although their circumstances vary, many of these children are victims of sex trafficking, abuse by the smugglers who brought them here, political persecution, forced military recruitment, prostitution, forced marriage, or physical mutilation.



**Bridget Brown**

On March 4, partner **Helen Maher** organized the Firm's inaugural KIND training session. The KIND attorneys provided information about immigration proceedings, as well as pointers on establishing relationships with children who have suffered traumatic experiences. The Firm's affiliation with KIND provides attorneys with the opportunity to represent the children in federal and state court and in proceedings before the U.S.

*(continued on page 15)*

## PRO BONO HIGHLIGHTS

*Message from Pro Bono Director Paul Verkuil, continued from page 14*

the Firm and has been since its inception. Indeed, since the Firm was founded it has been involved in proceedings at all levels, from the United States Supreme Court to administrative and other legal forums including those for people with immigration problems or facing eviction proceedings. The Firm has established on-going relationships with New York Lawyers for the Public Interest, which sends a weekly list of cases that are then staffed by BS&F attorneys.

This project is managed by partner **Helen Maher**, and we are extremely proud of her and all of the BS&F attorneys that are working on this project.

As pro bono director, I look forward to increasing the Firm's contribution to the public welfare in 2009 and beyond.

*Children of the World, continued from page 14*

Citizen and Immigration Services. Within the first week of its affiliation with KIND, the Firm began representing three children, two of whom are seeking political asylum in the United States.

Firm associates **Matt Baer** and **Bridget Brown** made appearances in federal court on March 19 on behalf of a Honduran child seeking asylum. "The opportunity to fight for a client seeking asylum provides an invaluable opportunity to gain courtroom experience while providing a necessary social good," Baer said. Brown

added, "This is a rewarding experience, both personally and professionally."

"The Firm is proud of its affiliation with KIND and its continued commitment to providing pro bono assistance to those who cannot represent themselves. The KIND program represents the type of global awareness that the Firm has advocated in both its pro bono and litigation practices," said **Paul Verkuil**, Director of the Firm's Pro Bono Committee.

## CORPORATE HIGHLIGHTS

*Fee-Based Online Media, continued from page 11*

The ground-breaking company has promise to become an asset to the producers of quality journalism as well as their consumers. The developers expect to have a product ready for the market by the fall of 2009.

The BS&F legal team involved includes managing partner **David Boies**, partners **Christopher Boies** and **Keith Blum** and associate **Lidia Frenkel**.

## NEW FIRM PARTNERS & COUNSEL

### BS&F Elects Two New Partners at Annual Firm Meeting



**Jeremy M. Goldman (Oakland)** —Jeremy has been involved in complex commercial litigation and civil appellate proceedings. Jeremy graduated from Yale Law School in 2001, and before joining the Firm served as a law clerk for the

Hon. Rosemary Barkett, United States Court of Appeals for the Eleventh Circuit, 2001-2002. He also holds a Ph.D. in Politics from Princeton University, an M.Phil. from the University of Cambridge, and a B.A. from the University of Toronto.



**Mike F. Huang (NYC)**—Mike practices in the Firm's corporate group. Mike graduated from Columbia University School of Law where he was a Harlan Fiske Stone Scholar. He graduated Phi

Beta Kappa from the University of California at Berkeley with an A.B. in Computer Science and Political Economics of Industrial Societies.

### BS&F Promotes Three Attorneys From Associate to Counsel at Annual Firm Meeting



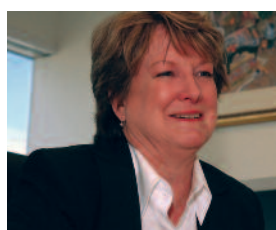
**Jonathan W. Davenport (Armonk)** —Jon's main practice area is complex commercial litigation. Jon earned his LL.B. at the University of London in 1994 and first qualified

as a Solicitor of the Supreme Court of England and Wales. He has been practicing in the United States since 1998.

**Gera R. Peoples (Ft. Lauderdale)** —Gera specializes in complex commercial litigation with an emphasis on antitrust, consumer fraud litigation and product liability. Gera graduated from the University of Pennsylvania



Law School in 2000. He received his B.A. from New College of Florida in 1997. Before joining the Firm, Gera clerked for the Hon. James Lawrence King, United States District Court for the Southern District of Florida, and Hon. Peter T. Fay, United States Court of Appeals for the Eleventh Circuit.



**Lynne S. Varela (Miami)**—Lynne's main practice area is complex commercial litigation and high-risk product liability matters. Lynne received a

J.D. from the University of Miami School of Law, *cum laude*, in 1993, where she was a member of the University of Miami Law Review and Moot Court Board. She received a B.A. from Florida International University in 1990.



## RECRUITING HIGHLIGHTS

### A Message from Recruiting Co-Chair Alan Vickery on Another Strong Year for BS&F Recruiting

The Firm has continued to have remarkable success with both our full-time and summer recruiting efforts.



Alan Vickery

Thirty new associates joined our firm full time in 2008, fourteen of them having graduated from law school in 2008, ten having served as judicial law clerks, and ten, including some of the former law clerks, having had significant experience at other prestigious law firms before joining our Firm. They graduated from the top law schools, including Har-

vard, Yale, Columbia, New York University, Chicago, Berkeley, Stanford, University of Pennsylvania and University of Virginia, among others, with stellar law school and undergraduate academic records.

Our fall recruiting activities, both on-campus and direct, have also resulted in a very strong group of law students who have accepted offers to participate in our 2009 summer program—thirty-four second-year students will join us, as well as three third-year students who will spend the summer with us before starting judicial clerkships. In addition, eight students who will graduate from law

school in the spring, three finishing law clerkships, and two lateral candidates from other prominent firms have accepted offers to join our Firm in 2009. These new summer and full-time associates also hail from the very top law schools and have the same level of impressive academic records and achievements as our full-time 2008 hires and 2008 summer program participants.

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#### RECRUITING CONTACT:

##### Elizabeth Kuchta

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New York, NY 10022  
212 446 2300/main  
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Chairman David Boies with BS&F attorneys and summer associates (2008)

## LEGAL TALK

### BS&F Partner Richard Feinstein Appointed Director of the Bureau of Competition at the Federal Trade Commission



**Richard Feinstein**

On Tuesday, April 14, 2009, the Federal Trade Commission (FTC) announced the appointment of **Richard Feinstein**, a partner resident in the Firm's DC office, to lead the agency's Bureau of Competition. As Director, Feinstein will support the FTC and its Chairman, Jon Leibowitz, in managing the FTC's merger and non-merger enforcement divisions and developing antitrust enforcement policy. He will supervise a staff of several hundred attorneys and professionals.

Feinstein joined the Firm in November 2001, bringing extensive antitrust litigation and counseling experience spanning a variety of industries and has been a leader of BS&F's highly successful antitrust practice. Key contributions made by Feinstein include serving on a legal team at BS&F that successfully represented American Express in its antitrust action against Visa and Mastercard, resulting in a combined settlement of over \$4 billion, the largest antitrust recovery in U.S. history. Fein-

stein has practiced antitrust law in Washington since 1977 in both the government and the private sector: as an Assistant Director of the Bureau of Competition, a partner at McKenna & Cuneo LLP, and seven years in the Antitrust Division of the Department of Justice.

In reaction to the FTC announcement, **Donald Flexner**, BS&F managing partner, said, "This position is extraordinarily important to the enforcement of U.S. antitrust laws. Rich's appointment also comes at a time of economic crisis which will challenge the Director of the Bureau of Competition to respond with creative and effective pro-competition policies." Flexner added, "The Firm feels fortunate to have had the benefit of Rich Feinstein's friendship, leadership and legal talents for the past 8 years. We wish Rich the best and admire him for his integrity and legal expertise."

*The Wall Street Journal*, *The New York Times' DealBook*, *American Lawyer*, *National Journal* and other publications covered the FTC's announcement, placing stated emphasis on the importance of the position in helping to shape the new administration's stance toward big merger

*(continued on page 19)*

### American Bar Association Nominate BS&F Partner Stephen N. Zack to Become President-elect



**Stephen Zack**

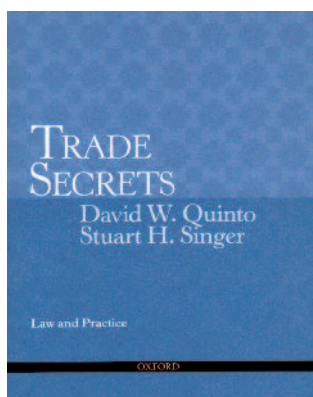
On February 16, 2009, BS&F partner **Stephen N. Zack** was nominated to become President-elect of the American Bar Association (ABA) in a unanimous decision by the ABA Nominating Committee. Zack, who was selected at the ABA's Mid-Year meeting, is on track to make history by becoming the Association's first Hispanic American president.

In his nomination acceptance speech to the ABA, Zack noted, "In a nation guided by the rule of law, I am proud to work in a profession that pledges to uphold those laws. It is important to remember that our laws ensure justice not just for a few, but for all." Zack also stated, "I am especially proud to be the first Hispanic American slated to become the president of the ABA."

When asked about his plans for the ABA in an interview

*(continued on page 19)*

## LEGAL TALK

Stuart Singer Co-authors New Book Titled *Trade Secrets: Law & Practice*

BS&F partner **Stuart Singer** and Quinn Emanuel partner David Quinto have co-authored a comprehensive analysis of trade secret law and litigation strategy – the first of

its kind from a trial lawyer's perspective. The two authors, who met as classmates at Harvard Law years ago, address subjects ranging from case law analysis to strategic advice on trade secret misappropriation actions and protection measures. The authors also offer insight on how to effectively supervise outside counsel in the course of litigation.

The book, titled *Trade Secrets: Law & Practice*, pub-

lished in December 2008 by Oxford University Press, has been extolled by practitioners and academics alike. Former Columbia law school dean and American Law Institute Director, Lance Liebman, called *Trade Secrets* "a vital resource by two top litigators." The book was reviewed by John T. Ramsey, Q.C., a partner at Canadian law firm Gowlings and a member of the Editorial Review Board of *Les Nouvelles*. In the review, which

is set to appear in *Les Nouvelles* in June 2009, Ramsey calls the book "an excellent resource for the non-litigation lawyer, as well as individuals charged with managing their company's trade secrets." *Trade Secrets*, Ramsey says, is "a very welcome practitioner's guide. It is readable, accessible and practical. A valuable addition to any library."

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**Richard Feinstein**, *continued from page 18*

deals and antitrust policy issues. When interviewed by *The Wall Street Journal*, Feinstein affirmed that, "The FTC is looking to stay active and aggressive." The *American Lawyer* reported that, according to Chairman Leibowitz, Feinstein's experience at BS&F was a factor in his appointment, due to the Firm's reputation in not only defending antitrust suits, but also bringing them. Liebowitz, commenting on Feinstein's return to the FTC told *American Lawyer*, "We were delighted and fortunate to lure him

back. Rich's going to be comfortable with the commission's agenda going forward, but I think he is going to add a lot."

Feinstein's start date at the FTC was Monday, May 11<sup>th</sup>, and his last day at the Firm was Friday, May 8<sup>th</sup>.

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**Stephen Zack**, *continued from page 18*

published recently in *The Miami Herald*, Zack said, "I want to partner with other bar associations, including the Hispanic American Bar Association, the Cuban American Bar Association and the National Bar Association to encourage more minorities to attend law school and tell high school students why they should go to law school. We have a pipeline problem." When contemplating other priorities for his presidency, Zack noted, "women and mi-

norities do not have adequate access to the courts, and that truly is unacceptable in our society."

The ABA's House of Delegates will vote on the nomination in August 2009. If elected, Zack will serve one year as President-elect before taking office in August 2010.



## LEGAL TALK

**THE FIRM:** A feature story examining BS&F's business model and declaring it a success saying it was "built for the times" appeared in *The American Lawyer* May 2009 issue ([http://www.bsflp.com/news/in\\_the\\_news/000098](http://www.bsflp.com/news/in_the_news/000098)). **David Boies, Jonathan Schiller, George Carpinello, and Stuart Singer** were named in *Law Dragon Lawyers in America* 2008 Guide, joining a distinguished list of the nation's top lawyers. BS&F partnered with the National Association for Urban Debate Leagues to host the Second Annual Chase Urban Debate National Championship from April 23-April 26; **David Boies** was the keynote speaker. **ARMONK OFFICE:** **David Boies** and **Robin Henry** were both recognized as *Best Lawyers in America* for 2009; Boies was recognized for his work in the areas of Antitrust, Appellate Law, Bet-the-Company Litigation, and Commercial Litigation, and Henry was recognized for her work in the area of Securities Law. Boies, Henry and **Bill Ohlemeyer** were recognized as the 2008 "top attorneys in the New York Metro Area" by *Super Lawyers* magazine. Henry was also recently appointed to the Board of Directors of the Big Apple Circus, a not-for-profit performing arts organization that does after-school work with at-risk youth and clown care services in hospitals all over the country. **David Boies** was the keynote speaker at the *Inside Counsel* Ninth Annual Super Conference held in Chicago, May 5-6. **Olav Haazen** lectured at Stanford Law School on March 11, on global securities class actions. **FT. LAUDERDALE OFFICE:** *Miami Daily Business Review* named **Stuart Singer** and **Damien Marshall** "Most Effective Lawyers 2008" in the area of Bankruptcy for their achievements in defending the former directors, officers and investors in Far & Wide Corporation against a \$150 million lawsuit brought by a court-appointed bankruptcy trustee. **Stuart Singer** was recognized as one of the *Best Lawyers in America* for 2009 in the areas of Anti-trust and Commercial Litigation. Both Singer and **Carlos Sires** were selected as 2008 "top attorneys in Florida" by *Super Lawyers* magazine. Singer and Sires were also selected as Top Lawyers in *South Florida Legal Guide* along with **Paul Kunz**. **HOLLYWOOD OFFICE:** **A. Matthew Miller, Charles Fox Miller, and James Fox Miller** were named *Best Lawyers in America* for 2009 in the area of Family Law. Both A. Matthew Miller and James Fox Miller were selected as the 2008 "top attorneys in Florida" by *Super Lawyers* magazine. **MIAMI OFFICE:** **Stephen Zack** and **Jon Mills** have been appointed to the Federal Judicial Nominating Commission in Florida, a new statewide panel that will pick finalists for presidential appointments to district judgeships. **Steven W. Davis, Mark Heise, Michael Kosnitzky, and Stephen Zack** were selected as 2008 "top attorneys in Florida" by *Super Lawyers* magazine. Davis, Heise, and Zack were also selected as Top Lawyers in the *South Florida Legal Guide*. Kosnitzky was appointed to the American Arbitration Association National Healthcare Dispute Resolution Advisory Council (AAAHAC). **Jennifer Altman** was selected as a Top Lawyer by *Super Lawyers Corporate Counsel* edition. **Joe Gomez** was recently named Chair of the Corporations, Securities and Financial Service Committee of the Business Law section of the Florida Bar. **Jon Mills** has published the book, "Privacy: The Lost Right" which examines how technology has jeopardized individual privacy. **NEW YORK CITY OFFICE:** **Jonathan Schiller** was elected a Trustee of Columbia University in February 2009. **Nicholas A. Gravante, Jr., Jack Stern, Marilyn Kunstler, and Harlan Levy** were selected as the 2008 "top attorneys in the New York Metro Area" by *Super Lawyers* magazine. Kunstler has been appointed to the Board of Trustees of the New York Fair Trial/Free Press Conference. She was also recently appointed to the Government Ethics Committee of the New York City Bar Association. **Robert Leung** was elected President-elect of the Asian American Bar Association of New York, the largest bar association of Asian and Asian American legal professionals in New York. Leung will serve as President-elect in 2009 and President in 2010. **Harlan Levy** has been appointed Chair of the New York City Bar Association's Council on Criminal Justice. The Council on Criminal Justice is the New York City Bar Association's coordinating body for the development and implementation of criminal justice policy. **OAKLAND OFFICE:** **John Cove** and **David Shapiro** were both selected as 2008 "top attorneys in Northern California" by *Super Lawyers* magazine. **WASHINGTON OFFICE:** **Jonathan Schiller, Donald Flexner and Bill Isaacson** were selected as Top Lawyers in D.C. by *Super Lawyers* magazine. **David Boyd** was recognized as one of the *Best Lawyers in America* for 2009 in the area of Securities Law. **Jonathan Sherman** will speak about images of courts and trials in news and entertainment at the Annual Meeting of the American Society of Trial Consultants on June 5 in Atlanta.