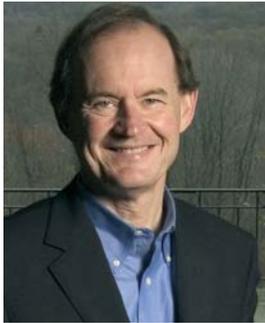


BOIES, SCHILLER & FLEXNER LLP

BSF Wins Landmark \$1.3 Billion Copyright Infringement Verdict for Oracle



David Boies

On November 23, 2010, a federal court jury in the Northern District of California, after one day of deliberations, ordered SAP AG and its subsidiary TomorrowNow to pay BSF's client Oracle Corporation \$1.3 billion for copyright infringement. It was the largest copyright infringement verdict in history – by a fac-

tor of ten. In a story published by *The New York Times* the verdict was described as a “game-ending homerun type of result.”

BSF Chairman **David Boies** as lead trial counsel, led Oracle's legal team, which included BSF partners **Steve Holtzman**, **Fred Norton**, **Kieran Ringgenberg** and associate **Beko Richardson**, as well as Bingham McCutchen partners Geoff Howard, Donn Pickett and Holly House.

Oracle alleged that SAP's subsidiary, TomorrowNow, improperly downloaded files from Oracle's customer support website; that SAP used the software to divert customers from Oracle, and that SAP's top executives were aware of TomorrowNow's infringing business model.

SAP argued that damages should be limited to Oracle's lost profits and disgorgement of the profits TomorrowNow gained from

(continued on page 8)

BSF Wins Court Battle for Barclays in Lehman Purchase Suit

The historic sale of Lehman Brothers Holdings Inc.'s brokerage unit to Barclays in the market free-fall of September 2008 has not once, but twice, passed muster in federal bankruptcy court. First it was approved on September 19, 2008 – just five days after Lehman filed the country's largest-ever bankruptcy. And then again on February 22, 2011, following a lengthy

trial, the Court upheld the purchase of Lehman's North American operations by Barclays.

In a 103-page ruling, U.S. Bankruptcy Judge James Peck found that, “nothing in the current record, if presented at the Sale Hearing, would have changed the outcome of that hearing. The Court still would have entered the very same Sale Order because there was no better alternative and, perhaps most importantly, because the sale to Barclays was the means both to avoid a potentially disastrous piecemeal liquidation and to save thousands of jobs in the troubled financial services industry.” Judge Peck also held that,



Jonathan Schiller

“Barclays acted in good faith,” and “the Court was not deceived in a manner that should now be permitted to upset the integrity of the Sale Order.”

In a thirty-four day bench trial conducted last year over an extended schedule from late April to mid-October, BSF vigorously

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LITIGATION HIGHLIGHTS

After a Decade of Antitrust Litigation, An Extra-Sweet Victory for Fresh Del Monte



Carlos Sires

In several lawsuits extending over a decade, BSF has defended Fresh Del Monte's rights in what is arguably the most valuable new fruit product in the world: the extra-sweet hybrid pineapple variety called the MD-2. Del Monte

brought the MD-2 to market in 1996 and sells it under the Del Monte Gold® brand.

In several of these actions, direct and indirect purchasers of the Del Monte Gold® brought federal antitrust claims against Del Monte. The purchasers alleged unlawful monopolization of the extra-sweet pineapple market, claiming Del Monte was preventing competitors from growing and selling the MD-2 variety, which enabled the company to charge supra-competitive prices for the Del Monte Gold®. In these actions, Plaintiffs sought treble damages in excess of \$1 billion.

In September of 2009, after six years of hard-fought litigation, with discovery extending from Costa Rica to Hawaii, a BSF legal team, directed by partner **Carlos Sires**, won a sweeping summary judgment in the federal court for the Southern District of New York, where the cases had been consolidated. In November of 2010, the Second Circuit Court of Appeals affirmed the summary judgment in favor of Del Monte.

The plaintiffs had alleged that Del Monte devised a fraudulent scheme to keep other companies, such as Dole and

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BSF to Spearhead Defense of American Express in DOJ Suit



Don Flexner

Higher costs for merchants. Less value for customers. Interference with free market competition.

These are the potential outcomes that BSF client American Express seeks to prevent by defending, rather than settling, an antitrust action brought in October 2010 by the U.S. Department of Justice.

The suit, which followed class and individual actions pending in New York federal courts, challenges the company's contractual provisions with merchants that prohibit customer discrimination at the point of sale.

"The Justice Department is supporting bad policy and disguising it with vague promises of consumer benefit," wrote American Express' Chairman and CEO Kenneth I. Chenault in an October 8 opinion piece published by *The Washington Post*. "We think their case is weak and we intend to fight it."

The government's case fails to account for American Express'

lack of market power. American Express has the smallest merchant acceptance of all of the networks. Merchants choose whether they want to work with American Express and if there is value in American Express' service and its high-spending customer base. Unlike Visa, American Express is not viewed by merchants as "must carry," in particular because almost every American Express customer carries another card.

The government's remedy would allow merchants to steer from a company without market power to a dominant firm.

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LITIGATION HIGHLIGHTS

Supreme Court Grants BSF's Cert Petition in Securities Case



Carl Goldfarb

In January of 2011 the U.S. Supreme Court granted BSF's petition for a writ of certiorari in *Erica P. John Fund, Inc., fka Archdiocese of Milwaukee Supporting Fund, Inc., Petitioner v. Halliburton Co., et al.*, a federal securities action. The issue before the Court

is whether a securities class action plaintiff must demonstrate loss causation at the class certification stage in order to invoke the fraud-on-the-market presumption. The decision in the case will likely determine the requisite showing for certifying most federal securities actions. Oral argument is scheduled for April 25. BSF represents the Lead Plaintiff in the securities action against Halliburton.

On May 13, 2010, a BSF team headed by partners **Caryl Boies** and **Carl Goldfarb**, along with Firm Chairman **David Boies** and lead associate **Justin Fitzdam**, filed a petition for a writ of certiorari. In December, the Acting Solicitor

General, after meeting with BSF and counsel for Halliburton, urged the Court to accept the case, stating that the Fifth Circuit decision was wrongly decided.

Although Caryl passed away just a few days before the Supreme Court agreed to take the case, her dedication and hard work were essential to BSF's success in persuading the Supreme Court to hear the case.

Firm partners **Sashi Bach Boruchow** and **Sigrid McCawley** together with Caryl played key roles in

(continued on page 7)

In Warhol Art Case, BSF's Defense is a Good Offense



Nicholas Gravante, Jr.

When The Andy Warhol Foundation and The Andy Warhol Art Authentication Board, Inc. retained BSF to defend against antitrust claims, the clients had lost a motion to dismiss the case.

Because the case, if successful, threatened the potential for copycat lawsuits, the clients directed BSF to fully prepare the case for trial in order to deter future litigants. The strategy was prescient: just months after BSF took over the case, a second plaintiff, Susan Shaer, represented by the same law firm as Simon-Whelan, filed an identical case.

In 2001, and again in 2003, Simon-Whelan submitted to The Andy Warhol Art Authentication Board a work he purportedly owned and that he claimed was a self-portrait created by Warhol. Each

time the Authentication Board concluded that the portrait was not the work of Warhol. Simon-Whelan, after having agreed not to sue if he was dissatisfied with the outcome, mounted a media campaign as he filed litigation in New York federal court alleging that the Board's opinion was the result of a vast, long-running antitrust conspiracy it had entered into with the Warhol Foundation. The alleged object of the conspiracy was to deny authenticity to

(continued on page 5)

LITIGATION HIGHLIGHTS

BSF Represents salesforce.com in Multidistrict Patent Litigation



Josh Schiller

In May 2010, salesforce.com, the leader in enterprise cloud computing, was sued in the Eastern District of Washington by Microsoft for allegedly infringing nine patents. BSF associate **Josh Schiller** was asked by salesforce.com to organize a defense team for the company, which offers Customer Relationship Management (CRM) software that helps companies

track, manage, analyze, and share information regarding sales, customer service and support, and marketing operations.

One month later, BSF filed, on behalf of salesforce.com, a patent infringement suit against Microsoft in the District of Delaware for infringing four of the company's patents. This led to a successful settlement in which both salesforce.com and Microsoft received a license to certain of the other's patents.

In coverage of the joint settlement by *The Wall Street Journal*, David Schellhase, salesforce.com chief legal officer, said the company is "pleased to put this litigation

behind us." Horacio Gutierrez, Microsoft's deputy general counsel noted, "Today's agreement is an example of how companies can compete vigorously in the marketplace while respecting each other's intellectual property rights."

The defense team was headed by Firm Chairman **David Boies** and managing partner **Jonathan Schiller**, and included partners **Eric Maurer**, **Fred Norton**, and **Michael Underhill**, with, in addition to Josh Schiller, associates **John Brosky**, **Neal Hannan**, and **Mike Huang**.

Barclays, continued from page 1

defended Barclays against claims brought by the Lehman estate and creditors in excess of \$11 billion that alleged Barclays received a "windfall" and a "secret discount" and essentially asked the Court to amend the sale order – or rewrite the contract – which the Court rejected.

The Firm's legal team was directed by managing partner **Jonathan Schiller**, who told *The American Lawyer* after the ruling, "We are excited to be working with Barclays which is effectively a new and enormous competitor in the U.S. banking industry following its acquisition of Lehman.

We have valued working with them through and beyond the financial crisis. And we are delighted by Barclays' victory over Lehman."

Echoing many of the key points and principles of Barclays' defense made throughout the trial, BSF chairman **David Boies**, in closing argument, said: "I'm speaking now about the fundamental fairness of what's gone on here. The fundamental fairness of the fact that Barclays stepped up when nobody else would, took an enormous risk, did so in reliance on a written,

executed document that the Movants signed, was filed with the Court, and that they performed. And whether they had a problem or not, whether there was a defect or not back in 2008, they had no right, it is not fair, there's no legal principle that justifies them putting it into their pocket and then waiting to come back into court after they have seen how the market has turned and say to this Court, rewrite that contract."

The trial and ruling were closely covered by leading business and legal media in the U.S. and the U.K. In a story headlined "Barclays Purchase Of Lehman Is

(continued on page 6)

LITIGATION HIGHLIGHTS

BSF Represents Real Estate Developer Extell in Dispute Over Typo



Ted Normand

Because of a typo in an offering plan, BSF real estate client CRP/Extell Parcel, I, L.P. faced potentially millions in damages. Extell President Gary Barnett told *The Wall Street Journal*: “There’s an aw-

ful lot of money in deposits and we don’t think the process was fair. It was a typo mistake. We don’t think it’s equitable to pay damages well into eight figures.”

In early 2009, as the economy worsened, dozens of purchasers who had made down payments on condominium units in a new Manhattan building claimed a right to rescind their purchase agreements on the basis of a single typo in the offering plan. The Attorney General agreed with the purchasers

and in April 2010 ordered the release of \$16 million in down payments in escrow.

CRP/Extell argued that the typo does not reflect the parties’ intent. Here’s why: State regulations require a developer to inform purchasers that they can rescind their purchase agreements if no unit in the condominium has closed within a year of when the developer estimates the first closing will occur. The typo in CRP/Extell’s offering plan mistakenly says that the purchasers will have such

(continued on page 6)

Warhol, continued from page 3

authentic Warhol works, thereby limiting the number of authentic Warhol’s on the market at any given time and artificially driving prices.

A good defense turned out to be a good offense. BSF focused not only on defending the antitrust claims but on counterclaims against Simon-Whelan which would have resulted in his liability for all the Warhol entities’ legal fees and costs. BSF also developed evidence illustrating that Simon-Whelan lacked credibility and was pursuing this case for improper motives. These offensive efforts culminated in a two-day deposition of the Plaintiff taken by BSF partner **Nicholas Gravante, Jr.** Gravante used the documentary evidence obtained in discovery to establish that Simon-

Whelan had committed criminal acts around the world, and that for over 15 years he had made untrue statements to law enforcement officials, the press and business partners.

As a result of this extensive discovery, BSF negotiated a settlement that was a complete victory for the Warhol entities. Both Plaintiffs voluntarily dismissed, with prejudice, all claims against the Warhol entities for no consideration whatsoever. As a part settlement Plaintiffs also admitted to the Court that there was not, nor had there ever been, any evidence to support their claims.

Along with Gravante, part-



Philip Iovieno

ner **Philip Iovieno** led the BSF team litigating these cases. Associates **Christopher Fenlon**, **Ryan McAllister**, and **Anne Nardacci** were core members of the team. Partners **David Barrett**, **Adam Shaw** and **Kelly Yuan** also made substantial contributions throughout the litigations.

LITIGATION HIGHLIGHTS

BSF Seeks Damages for Colombian Terrorism Victims



Lee Wolosky

Representing victims of terrorism in Colombia, BSF filed a complaint against Chiquita Brands International, Inc. in Florida Federal Court. The complaint, filed in April 2010, alleges that Chiquita made over one hundred payments totaling more than \$1.7 million to a terrorist organization and seeks to recover this money to com-

pensate victims. The payments, made over six years, were used to finance a campaign of massacres, extra-judicial killings, torture, murders, forced disappearances, and forced displacements against Colombian civilians.

The Firm currently has 888 named Plaintiffs in the case, hailing from the banana-producing regions where they or Plaintiffs or their deceased family members lived or worked. BSF's complaint seeks in excess of \$1 billion in compensatory damages and unspecified punitive damages.

The civil litigation arises out of a criminal investigation launched by the U.S. Department of Justice that resulted in Chiquita's

2007 admission that it made payments to the United Self-Defense Groups of Colombia (Autodefensorias Unidas de Colombia or "AUC"). Chiquita pled guilty to a felony charge of engaging in transactions with a specially-designated global terrorist. As part of its sentence Chiquita paid a criminal fine of \$25 million and was placed on corporate probation for 5 years.

The victims' representation is primarily handled by BSF partners **Nicholas Gravante, Jr., Lee Wolosky, Magda Jimenez Train,** and **Douglass Mitchell,** and associate **Pedro Allende** and former associate **Scott Wilson.**

Barclays, continued from page 4

Upheld," *The New York Times* reported, "The months-long trial over Lehman's claims brought back to the fore the frenzy that accompanied the September 15 bankruptcy filing by the investment bank at the height of the

financial crisis." Under the headline "Barclays purchase of Lehman unit ruled fair," *The Financial Times* said, "Barclays argued that all aspects of the deal were fully disclosed via a clarification letter to the court, and that Lehman's

own counsel, Harvey Miller of Weil Gotshal, signed off on the transaction."

In addition to Boies and Schiller, partners **Hamish Hume** and **Jack Stern** led the BSF team,

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CRP/Extell, continued from page 5

a right of rescission if no unit has closed on the very same day the closing was estimated to occur. The typo does not reflect either CRP/Extell's or the Purchasers' intent, and enforcing the typo affords the Purchasers an undeserved windfall. Therefore, the typo should not be enforceable.

On January 19, 2011, following oral argument, a New York

state court denied the Attorney General of New York's motion to dismiss the Article 78 Petition filed by CRP/Extell Parcel challenging the Attorney General's determinations and ordered the defendants to respond to the Article 78 Petition.

BSF's team representing CRP/Extell is spearheaded by **Ted Normand,** and includes partner **Katherine Eskovitz** and associate **Jason Cyrulnik.**



Katherine Eskovitz

LITIGATION HIGHLIGHTS

American Express, continued from page 2



Cynthia Christian

Mr. Chenault also described the case as anti-competitive in *The Washington Post*. “Perversely,” he wrote, “the government’s remedy would allow merchants that sign

a contract and post decals to show which credit cards they accept to then ignore the contract’s ban on discrimination by pressuring their customers to use a different card when they pay.”

BSF managing partner **Don Flexner** leads the defense of American Express, with the support of a legal team that includes partners **Eric Brenner**, **Cynthia Christian**, **Robert Cooper**, **John Cove Jr.**, **Philip**

Korologos, **Damien Marshall**, and **Alanna Rutherford**, associates **John LaSalle**, **Sean Rodriguez**, and **Matthew Tripolitsiotis** and counsel **Marcy Norwood Lynch**. That team is assisted extensively by associates **Mary Adkins**, **Ashanti Decker**, **Angus Dwyer**, **Jason Krause**, **Joshua Libling**, **Shira Liu**, **Laura McKay**, **Teresa Monroe**, and **Joseph Slaughter**. Cravath Swaine & Moore is co-counsel in this action.

Haliburton, continued from page 3

the district court and court of appeals briefing; partner **Stuart Singer** has provided guidance throughout the appellate process, and more recently associates **Adam Deckinger** and **Eli Glasser** have joined the team.



Sashi Bach Boruchow



Justin Fitzdam

Fresh Del Monte Produce, continued from page 2

Chiquita, from growing the MD-2 variety, thus keeping for itself the market for this new and valuable pineapple. Because Del Monte had commercialized the MD-2 in test sales prior to applying for a patent, the company was not able to obtain a patent on the variety. Upon realizing this, according to the plaintiffs, Del Monte patented a different and “worthless” variety of pineapple that had never been commercialized in order to acquire a patent it could then use to confuse competitors into believing the MD-2 was, in fact, patented.

In order to accomplish this goal, plaintiffs alleged, Del Monte submitted to the Patent Office a patent application that fraudulently described the “worthless” variety so that the issued patent would appear to cover the MD-2. Plaintiffs maintained that Del Monte then used the fraudulent patent to threaten its competitors and pineapple growers so that they would not propagate and market the MD-2.

The summary judgment ruling resulted from thorough discovery, including extensive

deposition testimony from the very competitors Del Monte had previously sued. Not surprisingly, the competitors were not motivated to help Del Monte in its defense of the litigation. Nevertheless, the BSF team was able to establish that, contrary to plaintiffs’ allegations, Del Monte had succeeded with the MD-2 not by reason of unlawful tactics, but by developing the new variety and showing innovation to bring a new product to market, while Del Monte’s competitors sat on the sidelines. At the heart of the summary judgment filed by

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LITIGATION HIGHLIGHTS

Barclays, continued from page 6

which included partners **Tricia Bloomer, William Dzurilla, Chris Green, Amy Neuhardt, Jonathan Shaw and Todd Thomas**; counsel **Jonathan Davenport** and **Laurie Josephs**, and associates **Rick Bettan, Andrew Borchini,**

Randall Ewing, Heather King, Jonathan Krisbergh, Camille Oberkamp, Michelle Sekowski, Louis Smith and Emile Snijders.



Hamish Hume

Fresh Del Monte Produce, continued from page 7



Stuart Singer

BSF—and the opinions of the district and circuit courts—were the hard-won admissions of the most senior officers and scientists of Del Monte’s competitors that established that Del Monte had not

prevented them from marketing the MD-2, dooming plaintiffs’ allegations.

The federal district court also granted summary judgment on the grounds that the plaintiffs had failed to define a proper product market. This additional basis for summary judgment reflected BSF’s expertise in complex anti-trust litigation. Unlike the fact-based defense that Del Monte had not unlawfully prevented competition, this argument focused on a particular aspect of antitrust litigation: the requirement that a plaintiff establish an

appropriate product market in order to show monopolization. In this regard, BSF was successful in having the district court strike plaintiffs’ economics expert on the basis that he used unreliable methodology and, in effect, had simply cherry-picked facts helpful to plaintiffs. Without an expert on product market, plaintiffs could not prove a case of illegal monopolization.

The Second Circuit affirmed the summary judgment in favor of Del Monte on the ground that there was no evidence that Del Monte’s acts had any anti-

(continued on page 18)

Oracle, continued from page 1

the infringement. (Copyright law gives a successful plaintiff both the plaintiffs’ loss and the defendants’ gain rather than requiring a plaintiff to elect one or the other.) This approach, SAP argued, would result in damages of \$40 million or less. In contrast, Oracle argued damages should not be measured by the customers SAP took, but by the amount SAP would have been required

to pay, in January 2005 when the infringement began, for a license to use the copyrighted materials it infringed. Given SAP’s own contemporaneous internal projections (which turned out to have been overly optimistic), Oracle argued that such a license would have cost \$1.65 billion if paid up front.

The jury accepted Oracle’s argument that it was entitled to the



Steve Holtzman

value of the infringed intellectual property, regardless of whether the infringer was successful.

LITIGATION NOTES



Helen Maher

RESOLUTION ON *NASCAR v. MAYFIELD*

BSF defended NASCAR against claims by NASCAR driver Jeremy Mayfield in federal court in the Western District of North Carolina. Mayfield tested positive for methamphetamine in May 2009, prompting NASCAR to suspend Mayfield indefinitely. Mayfield sued NASCAR for a preliminary injunction to get back on the track, which he briefly obtained, and for damages. The Firm successfully advocated to the Fourth Circuit and district court to overturn that injunction and won a complete pre-trial dismissal of all of Mayfield's claims on May 18, 2010.

Partner **Helen Maher** led the legal team, which included partner **Gary Harris**, counsel **Olav Haazen** and associates **Michael Merley** and **Jarrod Reich**.



Sigrid McCawley

SUBSTANTIAL SETTLEMENT REACHED IN QUIXTAR CLASS ACTION

As co-counsel for a class of distributors of Quixtar products, BSF filed a proposed settlement in November 2010 that would provide economic benefits and injunctive relief, with an estimated value of \$155 million. The suit alleges violations of federal RICO and state unfair trade practice laws based on the multi-level marketing system of Quixtar (formerly Amway).

BSF partner **Stuart Singer** directed the settlement negotiations. BSF's team also includes partners **William Dzurilla**, **Sigrid McCawley**, **David Shapiro**, **Carlos Sires**, and associate **Joshua Riley**.



Courtney Rockett

BSF PLAYS PROMINENT ROLE IN INVESTIGATION LEADING TO KEN STARR'S GUILTY PLEA

In September 2010, Kenneth Starr, the "business advisor to the stars," pled guilty to money laundering, wire fraud and investment advisor fraud. BSF represented former Starr clients in efforts to recover funds owed them by Starr. Following Starr's arrest, BSF partner **Courtney Rockett** helped clients free their bank accounts from government-issued freeze orders. On March 3, 2011, Starr was sentenced to 7.5 years and a forfeiture order was entered against him for over \$29 million dollars.

Working with Rockett on the matter are BSF associates **Brooke Alexander**, **Daniel Bryan**, **Jarrod Reich** and **Jeremy Vest**, as well as law clerk **Marc Ayala**.

BSF SUCCESSFULLY APPEALS "BLUE VALENTINE'S" NC-17 RATING

In December 2010, the Motion Picture Association of America's Classification and Ratings Appeals Board decided to change the rating of "Blue Valentine" from NC-17 to R. "Blue Valentine," produced by The Weinstein Company and starring Ryan Gosling and Michelle Williams, who was nominated for an Academy Award, tells the story of a disintegrating marriage. It originally drew an NC-17 rating due to one sexually intimate scene. In its appeal, handled by BSF Chairman **David Boies**, The Weinstein Company successfully argued for an R-rating based on clips from other R-rated films as well as moviegoers' support for an R-rating. BSF also represented The Weinstein Company in its effort to reduce the MPAA rating for the film "The King's Speech," which won four Oscars at the 2011 Academy Awards, including Best Picture.

CORPORATE HIGHLIGHTS

BSF Represents Caithness in Completion of Financing for World's Largest Wind Farm



Christopher Boies

BSF continued its representation in 2010 of Caithness Energy, L.L.C., an independent power producer headquartered in New York City, in connection with the Caithness Shepherds Flat wind farm development in Oregon. With a capacity of 845 megawatts, the project when com-

pleted will be the largest land-based wind farm in the world.

BSF began its work in 2008-2009 representing Caithness as sponsor in connection with the complex equity financing for Shepherds Flat between Caithness and GE Energy Financial Services. In 2010, BSF represented Caithness as the Managing Member of the project in connection with stage two of the financing: \$1.3 billion in debt financing. With the debt financing closed, Shepherds Flat is now positioned to complete the development. This second stage of financing, which closed in mid-December 2010, was joint lead ar-

ranged by Citibank, Bank of Tokyo-Mitsubishi UFJ, Ltd., RBS Securities and WestLB Securities, Inc., and carries an 80% guarantee from the U.S. Department of Energy. The debt package consists of \$525 million in fixed rate privately placed bonds, \$675 million in floating rate loans and \$230 million of letters of credit.

Shepherds Flat is the largest project to receive a federal loan guarantee under the Department of Energy's Financial Institution Partnership Program to date. The deal symbolizes a national shift towards funding renewable

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Legal Obstacles Overcome, \$200M Deal Closed for Client Goldman Sachs



Robert Leung

Goldman, Sachs & Co. retained BSF as lead counsel in its acquisition of Colombian coal mining assets from Coalcorp Mining Inc., a publicly-traded Canadian mining company, in late fall 2009.

The transaction, which was valued at over US \$200,000,000, consisted of an asset acquisition, a stock acquisition, a bridge financing and the negotiation of various ancillary arrangements with third parties in the mining space in Colombia and elsewhere. The transaction spanned seven jurisdictions (including Colombia, Canada and Panama) and involved the coordination of many interested parties in a very short period of time. The acquisition also marked Goldman Sachs' first significant investment in Colombia.

In the transaction, Coalcorp intended to sell the bulk of its assets (including the operating mine known as "La Francia," an undeveloped mining concession and related infrastructure assets) to repay bondholders and finance a litigation in Canada against its former management. This litigation was later settled between the signing of definitive documentation and the closing of the transaction on March 19, 2010.

Prior to the closing, Coalcorp was confronted with various

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CORPORATE HIGHLIGHTS

BSF Represents Inkafarma in Sale to Interbank Group



Stefan DePozsgay

BSF represented Inkafarma in its acquisition by an affiliate of Interbank Group. Inkafarma operates the largest retail pharmacy chain in Perú, with over 400 retail stores and over 5,000 employees. Interbank Group is one of the largest conglomerates in Perú, with existing banking, insurance

and retail operations, including national supermarket chain Supermercados Peruanos and credit card operator Finance One.

The transaction was the result of a very competitive bidding process in which Interbank Group delivered the most attractive bid out of approximately ten diverse companies vying for the pharmacy chain. Partner **Robert Leung**, who headed the BSF team dedicated to the transaction, was quoted in *Latin Lawyer* saying the deal “made a lot of sense given the obvious synergies with Supermercados Peruanos,” as some of Inkafar-

ma’s outlets are already located in Supermercados’ stores.

The sale of Inkafarma was structured as a sale by three intermediary holding companies of the stock of a Maltese company, which indirectly held the operating businesses known as Droguería Los Andes and Eckerd Perú. In addition, Interbank Group acquired certain real estate assets in Perú from affiliates of Inkafarma. The acquisition by Interbank Group was financed through a credit facility from Bank of America Merrill Lynch and JP Morgan. The transaction also involved multiple jurisdictions,

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BSF Advises on Merger Resulting in Largest Realtor Association in the U.S.



Keith Blum

BSF served as counsel for the merger of two major players in the Florida realtor industry: the Realtor Association of Greater Miami and the Beaches, Inc. and Realtor Association of Miami-Dade County, Inc. The merger combined two of the largest Section 501(c)(6) tax-exempt trade

associations in the country into the Miami Association of Realtors, Inc. The merged entity instantly became the largest Realtor association in the United States with more than 23,000 combined members.

The Firm’s representation required assisting the client with determining the appropriate merger structure both in terms of state and federal tax laws; advice concerning the resolution of a variety of collateral tax-exemption issues; and compliance with state corporation laws. It is anticipated that the merger will aid in maintaining the South

Florida real estate market’s position as a world-class destination and will result in increased demand for local real estate.

Partners **Michael Kosnitzky** and **Keith Blum**, with associate **Matt Kaden** from BSF’s Tax Group were involved in all material aspects of the merger. BSF’s Tax Group has significant experience in advising tax-exempt public charities, private foundations and other types of tax-exempt organizations on a wide variety of tax and operational issues.

EXPERT VIEW

JUSTICE FOR ALL: Fighting to Protect the Courts from Attacks

By Stephen Zack
President, American Bar Association



Stephen Zack

The 1976 movie “Network” features one of the most memorable scenes of all time when fictional anchor Howard Beale rants, “I’m mad as hell and I’m not going to take it anymore!”

It is time for all Americans to say the same regarding unwarranted attacks on our courts.

A recent move to impeach sitting justices on the Iowa Supreme Court over disagreement with a ruling is wrong-headed and violates the vision our founders laid out when they created the American system of government, with three branches that check each other. This controversy may be centered in Iowa, but every American should be concerned about its implications. While the legislature and

administration are designed to take and adjust to the public pulse, the courts are charged to act only on the law.

The decision in question in Iowa wasn’t even a close one: seven justices holding widely varying viewpoints ruled unanimously on the legal question at stake.

Impeachment of judges is a grave step that is taken when laws have been broken. Making a high-profile ruling on a difficult case, based on an interpretation of the state’s Constitution, in no way qualifies. Iowans agree. Two new polls show the state’s voters are firmly against such efforts.

What are some better ways Americans can engage with our courts?

This year, I’ve asked the ABA to step up its leadership. The association has formed a Task Force on Preservation of the Justice System that is focused on the backbone of our justice system, state courts. Firm Chairman **David Boies** and his Proposition 8 co-litigant, Ted Olson, are serving as its chairs.

Task Force members have their work cut out for them: the budget situation in the state courts is dire. Reports are rampant that

underfunded courts are forcing trial delays, court closures and staff cuts. Judicial emergencies are in place in many areas so that criminal trial deadlines can be extended. The impact on the civil docket is massive, and it threatens the ability of all Americans to resolve disputes within a justice system that is designed to be a model for the world.

Something has to be done. The Task Force is beginning a series of national hearings at which average citizens, corporate leaders, small business owners and others who depend on the courts will discuss how the cuts are affecting their lives and livelihoods. The Task Force held its first public hearing on February 9, 2011, the opening day of the ABA Midyear Meeting in Atlanta. Excerpts from the hearing were reported by *The Wall Street Journal*, *Associated Press* and *The Atlanta Journal-Constitution*, among others. The *ABA Journal* noted that the hearing “painted a disturbing picture of how courts around the United States are being affected by budget cutbacks as state governments continue to reel from economic woes.”

In addition to identifying recurring problems, the Task Force

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EXPERT VIEW

Justice For All, continued from page 12

is looking for model projects and solutions. One clearly winning approach is creating secure, dedicated funding streams for courts. This allows state courts to have continuity in their budgeting, improve response times, and adopt new technology.

The Task Force will release its platform in a report this summer designed to be widely influential in setting the agenda for state court funding reform. Along with crafting the report, the Task Force will build a diverse, national coalition of grassroots support for change. This is a cause that demands action, and the coalition will help get the bandwagon rolling.

Beyond funding, the ABA is also addressing the political backlash facing many state courts. As leaders in your communities, you can play a role.

First, let your governor and legislators know you back merit selection systems that draw the best candidates for the bench. Once judges are appointed, terms of service

that run until a judge reaches a specific age are best. Or, extend the terms as long as possible, such as to 15 years.

Also, support objective measures of judicial performance so that, if there are court races, voters walk in with real information rather than political talking points. The ABA has model standards that can serve as a guide.

Finally, let your leaders know you are against the judiciary becoming a new political football. The group that holds the majority opinion one day could be in the minority the next. That's the whole reason Lady Justice wears a blindfold. We've always wanted our courts only to weigh an argument on the facts and the law, not to look at who or how many are on a particular side. And right now our political leaders have so many other important issues to tackle.

All of these moves will return us to the founding vision of

the courts as a strong, functioning, co-equal third branch of government. United States Supreme Court Chief Justice John Roberts often describes judges as umpires, charged with "ensuring that everyone plays by the rules." When unpopular decisions are made in sports, the crowd may boo, just as the public may debate the major issues on which courts rule. But, fans are not allowed to come down from the stands and jump the referee. Courts - and the judges serving on them - must be afforded the same support and respect.

On August 10th, 2010, BSF Partner **Stephen Zack** began his one-year term as president of the ABA. His election – which was decided by the ABA's House of Delegates by unanimous vote on Tuesday, August 4, 2009 – positions Zack as the first Hispanic American president of the Association.

Caithness, continued from page 10

energy projects. The financing was "a great holiday gift for Eastern Oregon," said U.S. Senator Jeff Merkley, "and it couldn't come at a better time." U.S. Energy Secretary Steven Chu also illustrated the deal as a paradigm of new renewable energy-based policy initiatives. "Thanks to the Recovery Act," he announced on December 16, 2010, "we are creating the clean

energy jobs of the future while positioning the U.S. as a world leader in the production of renewable energy."

Partners **Christopher Boies** and **Jason Hill** and associates **Michael Grisolia**, **Lauren Newell** and **Laura Sullivan** from the Firm's Corporate Group advised Caithness. The

representation included representing the Managing Member's interests and advising on its obligations in connection with the debt financing.

PRO BONO HIGHLIGHTS

Ninth Circuit Court of Appeals Hears Argument in Historic Civil Rights Case



David Boies
Outside of Ninth Circuit Courthouse

Eyes turned to the Ninth Circuit U.S. Court of Appeals on December 6, 2010, as arguments were made before a three-judge panel in *Perry v. Schwarzenegger*, the landmark civil rights case brought by BSF Chairman

David Boies and his one-time courtroom adversary, former solicitor general Ted Olson.

The case arrived in the Ninth Circuit after the Plaintiffs achieved a resounding victory in the district court.

In August, Chief Judge Vaughn Walker of the Northern District of California held that Proposition 8, which stripped gays and lesbians of the right to marry, violated the federal constitutional guarantees of equal protection and due process. The ruling, which spanned 136 pages

and included 80 separate findings of fact, followed a twelve-day trial in which Boies subjected experts called by the Proponents of Proposition 8 to devastating cross-examination. In its opinion, the district court found that the Proponents' experts lacked credibility and that their opinions were entitled to little or no weight. The court's ruling was a complete vindication of the Plaintiffs' claims, concluding that "Proposition 8 does nothing more than enshrine in the California Constitution the notion that opposite-sex

(continued on page 15)

Political Asylum Secured by BSF for Threatened Youths



Rosanne Baxter

After its fourth consecutive win in early January 2011, BSF's pro bono immigration initiative – in which attorneys assist undocumented children with claims for asylum or similar remedies – has the unique distinction of obtaining favorable results for all of its young clients.

The BSF team worked in partnership with KIND [Kids in Need of Defense] to protect two young men

who had been threatened with death by the notorious South American gangs. Both were granted political asylum.

In addition, a young girl who had been beaten by her father because she wanted to pursue an education was granted the right to remain in the United States legally; and a fourth client, who faced removal proceedings, was granted the right to leave voluntarily, which safeguards the right to return legally in the future.

The KIND pro bono team is supervised by BSF partner **Helen Maher** with assistance from counsel **Rosanne Baxter**.

"BSF has demonstrated great success as a pro bono partner, winning relief for all of its child clients, and as a result, changing their lives. This success is due to the talent, dedication, and compassion of BSF's lawyers and their strong commitment to unaccompanied children in the U.S.," said Diana Castañeda, KIND's national legal services director.

BSF has been representing minors in immigration removal proceedings since 2009 in partnership with KIND.

The BSF legal team for these matters, along with Baxter and Maher, was composed of

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PRO BONO HIGHLIGHTS

BSF and the American Civil Liberties Union: Project Human Cost



David Shapiro

BSF continues to assist the American Civil Liberties Union in addressing the public's right to know about the conduct of the U.S. wars in Iraq and Afghanistan. In 2006 the ACLU filed a Freedom of Information Act Request with the

U.S. Military for all records of civilian casualties in Iraq and Afghanistan caused by U.S. forces. The ACLU was able to obtain a number of records, but the military then stopped cooperating. The ACLU subsequently filed a lawsuit in 2007 in the U.S. District Court for the District of Columbia. Months later, the parties entered a settlement agreement and the military agreed to produce thousands of additional records to the ACLU. The ACLU continues to receive records pursuant to the settlement agreement and BSF is taking the lead in organizing and disseminating these records to the public and the human rights community for further analysis and

action follow up.

The ACLU and advocates for civilians in war zones have made substantial use of the records. The ACLU and BSF have created a database that summarizes and chronicles documents relating to civilian casualties.

BSF associate **Nasrina Bargzie** helped create the civilian casualty project while she was an attorney with the ACLU. Nasrina and BSF partner **David Shapiro** continue the work of bringing transparency and accountability to the civilian casualties in Iraq and Afghanistan.

Perry v. Schwarzenegger, continued from page 14

couples are superior to same-sex couples.”

The Ninth Circuit agreed to expedite the appeal, ordering the completion of briefing within only a few months. The court set aside two hours for the argument on December 6, and granted the requests of numerous media organizations to televise the proceedings; they can be viewed in full via the BSF website [www.bsflp.com/news]. Boies took to the podium during the first hour of the hearing, arguing that there is no party with standing to pursue the appeal. The Governor and the Attorney General elected not to appeal Chief Judge Walker's ruling, and Boies explained why neither

the Proponents, who defended the measure at trial, nor Imperial County, which unsuccessfully moved to intervene in the district court, could pursue an appeal in the absence of the State defendants.

On January 4, 2011, the Ninth Circuit held that Imperial County had no standing to pursue the appeal, and also issued an order certifying a question to the California Supreme Court to help it resolve whether the Proponents possess standing. The Ninth Circuit asked the state high court to address whether initiative proponents possess either a “particularized interest,” or the authority to represent the state's interest, in

the initiative's validity. The California Supreme Court agreed to accept the certified question from the Ninth Circuit, and has ordered briefing to be completed within a few months.

Once the California Supreme Court issues an opinion answering the certified question, the case will return to the Ninth Circuit for further proceedings. If the state high court answers the certified question in the negative, the Ninth Circuit appears inclined to find that Proponents lack standing and dismiss the appeal (leaving Chief Judge Walker's ruling in place). If the California Supreme Court answers the certified question in the affirmative, the Ninth Circuit is more likely to

PUBLIC & PROFESSIONAL LEADERSHIP

BSF Partner Harlan Levy Named Chief Deputy to NY Attorney General



Harlan Levy
First Deputy Attorney General

When New York's newly-elected Attorney General, Eric Schneiderman, took office on January 1, 2011 (replacing now-Governor Andrew Cuomo), he appointed BSF partner **Harlan Levy** as his principal deputy. As First Deputy Attorney General, Levy will lead and supervise the divisions and bureaus of the Attorney General's 650-lawyer office. The divisions of the AG's Office include Economic Justice, Social Justice, Criminal Justice, State Counsel and Solicitor General; the bureaus they encompass include investor protection, antitrust, environment, civil rights, labor, organized crime, and Medicaid fraud. The Office's largest portfolio of cases involves defense of the state in cases against the State of New York.

That portfolio will include restoring New Yorkers' confidence in their government by rooting out public corruption and prosecuting attempts by private parties to defraud the public in such areas

as health care and consumer sales. Cleaning up the environment will be a major priority, as will ensuring fairness for all in the criminal justice system and attacking all forms of discrimination. Sharing Harlan's experience representing clients in private practice, Schneiderman has said that "the overwhelming majority of people in finance are hard-working. I'm going to get the bad actors."

BSF Chairman **David Boies** commented, "The Firm is proud to see Harlan Levy join a number of our other partners in devoting part of his career to public service. No elected official is more important to the legal system than the State Attorney General. Harlan's outstanding legal skills, practical insight and personal integrity will tremendously assist Eric Schneiderman in fulfilling that vital role."

Harlan has known the Attorney General since their days together at Amherst College. During Schneiderman's first successful campaign for election to the State Senate in 1998, Harlan chaired weekly strategy meetings. They worked together on policy initiatives such as eliminating New York's practice of distorting legislative districts by counting non-voting prisoners in the sparsely populated upstate areas where they were incarcerated, instead of in the urban districts from which they come. After his election as Attorney General,

Schneiderman tapped Harlan to chair a transition team of nearly 100 members to fulfill the mandate of "Legal excellence above all else."

Harlan joined BSF as a partner in 2000 when the Firm expanded into New York City. His practice has focused on business litigation and white collar criminal defense, with numerous trials in state and federal court. In cases involving complex business and scientific issues, Harlan has worked with many top experts to produce strong expert reports and powerful testimony.

Harlan previously served as a homicide prosecutor in the Manhattan District Attorney's office. He chairs the Council on Criminal Justice of the New York City Bar Association and served on the executive committee of the Fund for Modern Courts. He is the author of a book on DNA evidence, *And the Blood Cried Out*, praised as "superb" by *The Wall Street Journal*. He has contributed articles to *The New York Times* Op-Ed page and the *ABA's Litigation Magazine*, and has appeared over 100 times as a trial commentator on CourtTV.

PUBLIC & PROFESSIONAL LEADERSHIP

Conversations with BSF Bar Association Presidents



Robert Leung
BSF Partner
President, Asian American Bar
Association of New York

How did you first learn about the AABA of New York? My first involvement with the AABANY was as a law student when I volunteered with its Asian Crime Victims Project. Through this program I connected with several attorneys who generously mentored me as I made important decisions about law school, summer

jobs and permanent positions.

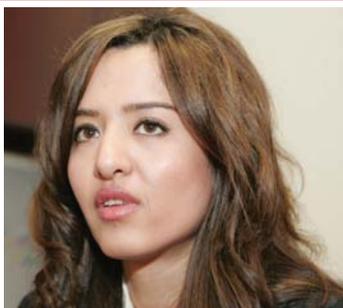
Did you stay active with them throughout your career? During my early years in practice, I focused solely on work and was not actively involved in any bar association. However, after coming to BSF, I was reminded of the importance of diversity and community-building in the legal profession and became active with AABANY as one of their directors.

And you are currently serving as President? That's correct; I have been on the Board of Directors since 2006 and began my term as president in February 2010.

What sorts of initiatives have you spearheaded during your

presidential term? This past year we organized a Law Firm Road Show to increase the visibility of AABANY and its activities to our law firm sponsors; we launched a new AABANY website; and we held the first-ever AABANY Fall Conference, attended by over 150 attorneys with 11 CLE programs.

Sounds like a busy year. Yes, it's been an eventful time. AABANY is a fully matured professional organization that is at an exciting moment of growth and expansion in its history. Hiring its first Executive Director in 2009 and registering its 1500th member in 2010, AABANY has been improving and increasing the quality and quantity of the services it performs for its members and its sponsors.



Nasrina Bargzie
BSF Associate
President, Afghan American
Bar Association

How did the Afghan American Bar Association get its start?

In March 2009, a group of seven Afghan-American lawyers, including myself, came together to form a Bar Association focused on advancing the Afghan-American legal community. An organization like AABarA has great potential to not only serve the

Afghan-American community but also to use its unique place among the legal community to opine and educate on a variety of issues.

What led you to create the AABarA? As a first generation immigrant from Afghanistan, I felt drawn to help form AABarA in order to provide Afghan-American students and the community at large better access to the law and to legal careers.

From March 2009 until August 2010, you were the founding President and member of the Board of Directors. What were your main goals at that point?

The primary focus of the inaugural Board was to develop AABarA's organizational structure and

to implement AABarA's core programming.

You continue to be involved, serving on the Advisory Board. How has the group grown in the last couple years? In its first year and a half the Board has incorporated AABarA in the state of California and has obtained 501(c)(3) tax exemption status for AABarA. The Board has also implemented a mentorship program which connects Afghan-American students with Afghan-American law students and attorneys; organized and implemented a dozen of educational networking events; and issued community advisories on issues such as racial profiling, *Know Your Rights* and the Census.

LITIGATION, CORPORATE & PRO BONO, cont'd

Fresh Del Monte, continued from page 8

competitive effects, and “[b]ecause plaintiffs cannot establish this essential element of their claim,” the appellate court did not need to reach the question of the “proper scope of the product market.”

In response to this victory in an important and complex litigation, Del Monte general counsel stated, “Once again the BSF litigation team headed by Carlos Sires prevailed for us in a ‘high-stakes’ litigation.

The five-star quality representation characterized by their thorough understanding of the issues and the law, and their zealous advocacy, allow us to sleep at night knowing the interests of the Company and its shareholders are in good hands.”

BSF also delivered another win for Del Monte in a related state court case when a California judge denied certification of a

statewide class in a complaint mimicking the allegations in the federal cases. That decision is currently on appeal.

In addition to Sires, the BSF team included partners **David Barrett, John Cove, Carl Goldfarb, and Stuart Singer** (who argued the Second Circuit appeal), and counsel **James Grippando**.

Goldman Sachs, continued from page 10

legal actions challenging the consummation of the acquisition, including an action in the Southern District in New York. The Firm acted as lead counsel to Goldman Sachs in navigating the transaction to a successful closing despite the

legal obstacles.

The corporate team advising Goldman Sachs consisted of partners **Robert Leung and Jason Hill** and associates **Stefan dePozsgay, Russell Franklin,**

Francisco Nuñez, and Matthew Senatore. The litigation team advising Goldman Sachs consisted of managing partner **Jonathan Schiller**, partner **Eric Brenner** and associate **Vincent Liu**.

Inkafarma, continued from page 11

including not only the U.S. and Perú, but also Spain, Panama and Switzerland.

In addition to Leung, the BSF team consisted of partner **Michael Kosnitzky** and associates

Stefan dePozsgay, Daniel Grossman, Drew McLeland, Ivan Mitev and Francisco Nuñez.

Perry v. Schwarzenegger, continued from page 15



Jeremy Goldman

find that Proponents have standing, and it would then proceed to issue an opinion on the merits of the appeal.

In addition to Boies, the BSF team on the case includes partners **Jeremy Goldman** and **Steven**

Holtzman, counsel **Rosanne Baxter**, associates **Rick Bettan, Meredith Dearborn, Randall Ewing, Darien Meyer, Beko Reblitz-Richardson, Jarrod Reich, Josh Schiller, Theodore Uno**, and case manager **Jason Lipton**.

KIND, continued from page 14

associates **Mary Adkins, Andrew Borchini, Bridget Brown, Rosaline**

Chan, Mauricio Gonzalez, Jonathan Krisbergh, Vincent

Liu, Camille Oberkampff, and Jarrod Reich.

RECRUITING HIGHLIGHTS

“Boies, Schiller & Flexner LLP is proud of its associates’ extensive contributions to the firm’s considerable accomplishments in what was a very busy year.”

— Partner **Phil Korologos**, as reported by *Above the Law* and *American Lawyer*

THIRTY-FIVE NEW ASSOCIATES JOIN FIRM IN 2010

- Fifteen new associates completed prominent appellate or district court clerkships
- Sixteen attorneys joined direct from law school
- Seventeen new hires participated in BSF’s 2008 or 2009 summer programs
- Two new hires clerked, then worked at other leading law firms before joining the Firm



Alan Vickery

“We have earned and maintain a reputation for recruiting outstanding associates and summer associates with superb academic credentials from the very top law schools and judicial clerkships.”

—Co-Chair of BSF’s Recruiting Committee, **Alan Vickery**

SUMMER ASSOCIATE PROGRAM AT BSF

- Top students from Harvard, Yale, Stanford, Columbia, New York University, University of Chicago, Berkeley, University of Pennsylvania, Georgetown & George Washington
- Eleven of twenty-two incoming students are members of their respective schools’ Law Reviews
- Six of 2010 summer associates already have accepted offers to return in 2011
- Five additional candidates accepted offers for 2011: two are clerking, two have prior law firm experience and one will graduate in 2011

“‘Top schools. Top grades. The firm wants to be a leader of the elite,’ a junior surmised. A senior recruitment source explained, ‘We don’t have any rigid rules, but we look at top ten schools. We look for high grades because they are proxy to the ability to think and do complex work at the highest level, but that’s not enough. You need to be an effective advocate, to stand up in court, or in front of the client. We want a culture of interesting people.’”

—*Chambers Associate*, 2010

~

“The work is always of the highest caliber, I work with very intelligent people and associates are given responsibility from the start.”

—Miami associate, as reported by *Vault* (www.vault.com)

RECRUITING CONTACT

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LEGAL TALK

THE FIRM: *Best Lawyers* awarded National First-Tier Ranking in Antitrust Law • *Chambers and Partners* recognized National Antitrust and General Commercial Litigation • BSF ranked top of Up-and-Comers list in *American Lawyers A-List Law Firms* • *American Lawyer Pro Bono Report* - BSF 68th out of 200 surveyed firms • Twelve BSF attorneys named in *Lawdragon 500 Leading Lawyers in America* **ARMONK:** *Best Lawyers* awarded First-Tier Ranking for Antitrust Law and General Commercial Litigation • **David Boies** selected as Global Litigation Lawyer of the Year by *Who's Who Legal* • Boies achieved *Best Lawyers* rankings in Antitrust law, Appellate Law, Bet-the-Company Litigation and Commercial Litigation • Boies selected by *Chambers* for Antitrust law, recognized as a Star Trial Lawyer for General Commercial Litigation • Boies was profiled in the first chapter of the book *Clutch: Why Some People Excel Under Pressure and Others Don't*, by Paul Sullivan (Portfolio 2010) • Boies and **Bill Ohlemeyer** included in *Lawdragon 500* • **Robin Henry** achieved *Best Lawyers* rankings for Commercial Litigation and Securities Law **ALBANY:** **George Carpinello** included in *Lawdragon 500* • Carpinello named in Upstate New York *Super Lawyers* **FT. LAUDERDALE:** **Lauren Fleisher Louis, Stuart Singer** and **Carlos Sires** listed in Florida *Super Lawyers*; Louis also named Rising Star • Singer achieved *Best Lawyers* rankings in Antitrust law and Commercial Litigation, selected for *Lawdragon 500*, recognized by *Chambers* for Antitrust and Litigation: General Commercial • **Sires** also recognized by *Chambers* for Litigation: General Commercial • *Florida Legal Elite* named Singer and **Alec Schultz**; Schultz featured as an Up and Comer • **Carl Goldfarb** listed by the *Miami Herald* Movers section for election to President of the Florida Immigrant Advocacy Center (FIAC) • Goldfarb recognized by *American Lawyer Pro Bono Report* • **Anne Hinds** was guest lecturer at Palm Beach Central High School for the Justice Teaching program • Partner **Sigrid McCawley** named Rising Star by *Super Lawyers* **HOLLYWOOD:** *Best Lawyers* awarded First-Tier Ranking for Family Law and recognized **James Fox Miller, Charles Fox Miller, A. Matthew Miller**; all three were named Florida *Super Lawyers* • **James Fox Miller** featured in *Lawdragon 500* • **Charles Fox Miller** included in *Florida Legal Elite* **ORLANDO:** **Karen Dyer** featured in *Lawdragon 500* • **Robert Norway** listed in Florida *Super Lawyers* **LAS VEGAS:** **Richard Pocker** and the late **Vince Consul** named Mountain States *Super Lawyers* • Pocker achieved *Best Lawyers* rankings in Commercial Litigation **MIAMI:** *Best Lawyers* awarded BSF Metropolitan First-Tier Rankings for Antitrust Law • **Steven Davis, Mark Heise, Michael Kosnitzky** and **Stephen Zack** included in Florida *Super Lawyers* • Zack received the distinguished Alumnus Award by the University of Florida • Heise named in *Best Lawyers* rankings for Bet-the-Company Litigation and Commercial Litigation • **Michael Kosnitzky** achieved *Best Lawyers* rankings in Tax Law • Zack selected as one of seven Legal Legends by the *Miami Daily Business Review*; in *Lawdragon 500*; in *Florida Legal Elite* list and became a Hall of Fame Inductee • **Luis Suarez** and Heise included in *Florida Legal Elite* • **Steven Davis** elected 94th president of the Dade County Bar Association (DCBA) • **Markenzy Lapointe** named Most Effective Lawyer in Pro Bono category by the *Miami Daily Business Review* **NEW YORK CITY:** **David Boies, Jonathan Schiller, Donald Flexner, David Barrett, Robert Dwyer, Steven Froot, Nicholas Gravante Jr., Robin Henry, Michael Kosnitzky, Marilyn Kunstler, Harlan Levy, Bill Ohlemeyer, Robert Silver, Jack Stern, Alan Vickery** and **Howard Vickery** named in *Super Lawyer's* Top Lawyers in New York-Metro • Flexner achieved *Best Lawyers* rankings for Antitrust law, Bet-the-Company Litigation, and Commercial Litigation and Criminal Defense: White Collar • Schiller achieved *Best Lawyers* rankings for International Arbitration; recognized by *Chambers* for International Arbitration • Flexner was selected by *Chambers* for Antitrust • Flexner, Schiller and Gravante included in *Lawdragon 500* • **Scott Wilson** accepted a position as Special Assistant to the First Deputy Attorney General, with the office of the New York Attorney General • **Marilyn Kunstler** appointed incoming Chair of the Federal Courts Committee of the New York City Bar • **Lee Wolosky** appointed to ABA's Standing Committee on Law and National Security • **Alanna Rutherford** featured in *Marie Claire's* Women on Top Awards • **Ivan Mitev** and **Matt Kaden** were featured contributors on Lexis-Nexis's Tax Law Community website; Mitev's blog on private equity taxation was also recognized **OAKLAND:** **John Cove Jr., Jeremy Goldman, Fred Norton, Kieran Ringgenberg David Shapiro** and **Ted Uno** (now in Hollywood office) named in Northern California's *Super Lawyer* • Shapiro included in *Lawdragon 500* **WASHINGTON:** **Bill Isaacson** named in *Best Lawyers* rankings in Antitrust law and International Arbitration, 2010 *Lawdragon 500* and Washington DC *Super Lawyers* • **David Boyd** achieved *Best Lawyers* rankings for Securities Law □

To keep current on all Firm developments, please visit our website at www.bsflp.com.