

The National Law Journal's Plaintiffs' Hot List

THE NATIONAL LAW JOURNAL'S THE PLAINTIFFS' HOT LIST HALL OF FAME

2003, 2004, 2007, 2008,
2011, 2012 & 2013

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PLAINTIFFS' HOT LIST

A SPECIAL REPORT

It's time again for *The National Law Journal's* annual take on the top plaintiffs practices in the country. To identify them, we asked our readers to nominate firms in the United States that have done exemplary, cutting-edge work on the plaintiffs side. We looked for firms that scored at least one significant plaintiffs win between June 30, 2012, and July 1, 2013, and that possessed an impressive track record of wins within the past three to five years. We also conducted our own extensive research through court files, news reports and chats with co- and opposing counsel before settling upon the 19 firms you'll read about here.

JAMES MURRAY

- Berger & Montague ■ Bernstein Liebhard ■ Bernstein Litowitz Berger & Grossman ■
- Cohen Milstein Sellers & Toll ■ Cotchett, Pitre & McCarthy ■ Dickstein Shapiro ■
- Grant & Eisenhofer ■ Hagens Berman Sobol Shapiro ■
- Hausfeld Hare ■ Kessler Topaz Meltzer & Check ■ Kirby McInerney ■
- Korein Tillery**
- Labaton Sucharow ■ Lieff Cabraser Heimann & Bernstein ■ McKool Smith ■ Motley Rice ■
- Quinn Emanuel Urquhart & Sullivan ■ Robbins Geller Rudman & Dowd ■
- Wolf Haldenstein Adler Freeman & Herz ■

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Baron & Budd ■ Barrack, Rodos & Bascine ■ Beasley, Allen, Crow, Methvin, Portis & Miles ■
Berger & Montague ■ Bernstein Liebhard ■ Bernstein Litowitz Berger & Grossman ■
Cohen Milstein Sellers & Toll ■ Girard Gibbs ■ Grant & Eisenhofer ■
Hagens Berman Sobol Shapiro ■ Hausfeld ■
Korein Tillery ■
Labaton Sucharow ■ Lieff Cabraser Heimann & Bernstein ■ Milberg ■ Motley Rice ■
Parish Shea & Boyle ■ Phillips & Cohen ■ Spector Rossman Kudruff & Willis ■

Bernstein Litowitz Berger & Grossman ■
Cotchett, Pitre & McCarthy ■
Hare, Wyne, Newell & Newton ■ Kessler Topaz Meltzer & Check ■
Korein Tillery ■
Labaton Sucharow ■ Lieff Cabraser Heimann & Bernstein ■ Milberg ■ Pomerantz Haudek Grossman & Gross ■
Quinn Emanuel Urquhart & Sullivan ■ Strok & Strok & Levan ■ Whitley Drake & Kallas ■

BERGER & MONTAGUE ■
BERNSTEIN LITOWITZ BERGER & GROSSMAN ■
GRANT & EISENHOFFER ■
KOREIN TILLERY ■
PHILLIPS & COHEN ■ SCHIFFRIN BARROWAY ■
SEEGER WEISS ■ WHATLEY DRAKE & KALLAS ■
MONDAY, OCTOBER 22, 2007

THE NATIONAL LAW JOURNAL
THE PLAINTIFFS' HOT LIST
KOREIN TILLERY
MONDAY, JULY 26, 2004

THE NATIONAL LAW JOURNAL
THE PLAINTIFFS' HOT LIST
KOREIN TILLERY
MONDAY, JULY 26, 2004

THE NATIONAL LAW JOURNAL
THE PLAINTIFFS' HOT LIST
KOREIN TILLERY
MONDAY, OCTOBER 6, 2008



KOREIN TILLERY

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PLAINTIFFS' LIST

It's time again for The National Law Journal's annual take on the top plaintiffs practices in the country. To identify them, we asked our readers to nominate firms in the United States that have done exemplary, cutting-edge work on the plaintiffs side. We looked for firms that scored at least one significant plaintiffs win between June 30, 2012, and July 1, 2013, and that possessed an impressive track record of wins within the past three to five years. We also conducted our own extensive research through court files, news reports and chats with co- and opposing counsel before settling upon the 19 firms you'll read about here.

KOREIN TILLERY

The mark of a successful plaintiffs firm is the willingness and ability to go the distance. So say the leaders of St. Louis-based Korein Tillery, noting that they have been litigating the tobacco class action *Price v. Philip Morris Inc.* for about 13 years.

The case—which alleges that Philip Morris' advertising of "low tar" cigarettes was deceptive—was all but dead in 2006 after the Illinois Supreme Court reversed a \$10.1 billion trial verdict. But Korein Tillery attorneys seized a last-ditch opportunity to revive the case following a 2008 decision by the U.S. Supreme Court that federal laws against deceptive cigarette advertising did not pre-empt state laws. The legal road since has remained bumpy, but the firm this month will argue in a state appellate court that the 2003 trial verdict should be reinstated.

"We don't jump into cases until we've done a lot of due diligence," said name partner Stephen Tillery. "But when we do, we stay in for the duration."



That diligence has paid off in the firm's four years representing the National Credit Union Administration in its efforts to recover damages from financial institutions that sold mortgage-backed securities to corporate credit unions that ultimately failed during the financial crisis.

Korein Tillery has already negotiated approximately \$335 million in settlements with some of the industry's biggest players, including a May deal (with co-counsel from Kellogg, Huber, Hansen, Todd, Evans & Figel) with Bank of America Corp.; other settling parties include Citigroup Inc. and Deutsche Bank A.G. The firm has more than 20 suits pending against investment banks in three federal courts.

The litigation received a major boost in August when the U.S. Court of Appeals for the Tenth Circuit affirmed a lower court ruling that a federal "extender" statute allows the agency more time to file its claims—a decision that could have wider implications for similar suits brought against major banks by the Federal Housing Finance Agency.

—Karen Sloan



THE PLAINTIFFS' HOT LIST

Every year, *The National Law Journal* takes the pulse of the plaintiffs bar by examining its most successful practices. To identify them, we asked our readers to nominate firms in the United States that have done exemplary, cutting-edge work on the plaintiffs side. We looked for firms that scored at least one significant plaintiffs win between June 30, 2011, and July 1, 2012, and that possessed an impressive track record of wins within the past three to five years. We also conducted our own extensive research before settling upon the 19 firms you'll read about here.

KOREIN TILLERY

Korein Tillery's attorney roster is just 25 strong, but this St. Louis-based firm has racked up an impressive list of wins during the past year. Perhaps the most surprising victory came in the form of a \$105 million settlement with Swiss agribusiness giant Syngenta A.G. on behalf of more than 1,000 water systems around the country where the company's widely used herbicide atrazine turned up.

The chemical, which has been around since the 1950s and often is used to kill weeds in corn and sugarcane fields, has been linked to several forms of cancer and birth defects.

Success in the case, filed in 2004 by partner Stephen Tillery, was far from guaranteed. Similar litigation had already failed; no plaintiffs had ever convinced a court that the United States held jurisdiction over Syngenta; and the amount of atrazine detected fell below the maximum level allowed by the U.S. Environmental Protection Agency.

Korein Tillery attorneys spent seven years in discovery, delving into approximately 10 million documents, interviewing more than 30 experts and deposing several Syngenta employees of the Swiss based company in Belgium.

"We said, 'The amount doesn't matter,' " said Tillery, who worked



STEPHEN TILLERY

with attorneys from Baron & Budd on the case. "If atrazine is in your water, it's bad no matter the level."

The team won an important jurisdictional battle after Korein Tillery attorneys argued that two of the Swiss company's principals served on the board of directors of a U.S. subsidiary. The preliminary settlement was announced in May, less than a year after the court ruled that it held jurisdiction over Syngenta.

Korein Tillery is in the midst of representing the National Credit Union Administration—an independent federal agency tasked with monitoring federal credit unions—in securities litigation against a number of banks. The suits, filed in Kansas and California, claim that the banks misled several now-defunct credit unions about the quality of bonds and their risk levels. The firm has already secured a \$145 million settlement with Deutsche Bank Securities Inc. and a \$20.5 million settlement with Citigroup Inc.

The firm is awaiting a ruling by an Illinois state court judge on its petition to restore a \$10.1 billion 2003 verdict against Philip Morris Inc. that the Illinois Supreme Court reversed in 2005. The plaintiffs are Illinois smokers who allege the company used false and deceptive advertising to sell its "light" cigarettes.

—KAREN SLOAN



The National Law Journal's annual Plaintiffs' Hot List attempts to provide a snapshot of the most successful plaintiffs' practices of the moment. To identify them, we asked firms to provide us with a year's worth of representative cases, verdicts and settlements from June 2010 to June 2011. From there we sifted through dozens of potential firms, reporting on and researching each to come up with our list. In this special report, you'll find the results: We profile 20 firms that are at the cutting edge of plaintiffs' work—and that are giving defense players a run for their money.

KOREIN TILLERY

St. Louis-based Korein Tillery has chalked up big wins for small clients against large corporations in the past year. The firm won a case for 18,000 retirees who were shortchanged when their pension plan didn't add a cost-of-living adjustment. The firm also represented more than 200 Missouri cities in a series of suits against wireless carriers to recover unpaid municipal taxes.

NOTEWORTHY CASES

- *Williams v. Rohm and Haas Pension Plan*, No. 04-CV-0078 (S.D. Ind.). Lead attorneys were Douglas Sprong and Steven Katz, joined by co-counsel Jenner & Block and the Law Office of William Carr. A class action was filed by Korein Tillery on behalf of about 18,000 retirees who elected to receive annual pension plan payments. Rohm and Haas settled for \$180.5 million for its failure to include future cost-of-living adjustments. The firm was awarded legal fees totaling \$43.5 million.

- *City of Univ. City v. AT&T Wireless Serv.*, 2101CC-04454-02 (St. Louis Co., Mo., Cir. Ct.). Lead attorneys were John Hoffman and Douglas Sprong. Co-counsel included John Mulligan Jr., city attorney for Richmond Heights, Mo., and Howard Paperner, city attorney for Maryland Heights, Mo. The firm teamed up with the municipal attorneys to take on major wireless carriers in a bid to recover unpaid municipal taxes. The settlements totaled \$253 million, including a settlement with T-Mobile reached in October 2010 of \$55 million. Attorney fees constituted 5.6% of the settlement.

- *Price v. Philip Morris*, No. 00-L-112 (Madison Co., Ill., Cir. Ct.). The lead attorney from Korein Tillery was Stephen Tillery. Co-counsel were Joseph A. Power Jr. of Power Rogers & Smith and Michael J. Brickman and Nina Hunter Fields of Richardson, Patrick, Westbrook & Brickman. Korein Tillery argued that deceptive advertising used by Philip Morris marketed "light" or "lowered tar and nicotine" cigarettes as safer than regular cigarettes when the company knew it to be contrary. The trial judge awarded a judgment of \$10.1 billion in damages against Philip Morris.

THE PLAINTIFFS' HOT LIST

Even global crises have a bright side

ARE THESE THE plaintiffs' bar's salad days?

Hear us out. That the global economic system is teetering on the brink of a pit has not escaped our notice. The failure of financial monuments like Lehman Brothers Holdings Inc., American International Group Inc., Fannie Mae and Freddie Mac seem to have taken the wind out of stockholder lawsuits intended to recoup some of investors' staggering financial losses. Even if such suits succeed, the vaporization of hundreds of billions of dollars in assets might complicate collecting any money. On top of everything, the U.S. Supreme Court seems inclined, with rulings like *Stoneridge Inv. Partners v. Scientific Atlanta*, to make it harder for plaintiffs to make financial evildoers—and their henchmen—pay.

It's impossible to know how all of this will end, but we wouldn't count out this country's plaintiffs' lawyers. They've shown in the past that their capacity for innovation is at least a match for the corporate world's capacity for mischief.

More settlements

Events are moving way too fast, but it's worth remembering that notwithstanding tort reform, the number of settlements reached hit an all-time high in 2007, according to the Securities Class Action Services' annual survey of top plaintiffs' law firms. The number of cases in the pipeline was trending upward even then. The top five firms by settlement value brought in more than \$13.75 billion, up from \$12.8 billion in 2006.

"This is the time when as an investor—institutional or individual—you really appreciate that there are legal remedies in our country," said Gerald H. Silk of Bernstein Litowitz Berger & Grossmann in New York.

This is the seventh year for the NLJ's Plaintiffs' Hot List, our survey of the country's most impressive plaintiffs' firms. We asked our readers to nominate firms in the United States that did exemplary, cutting-edge work on the plaintiffs' side between the summer of 2007 and the summer of 2008. Firms needed at least one significant win and an impressive track record within the previous three to five years. A "significant" win meant prevailing in a bench or jury trial when the stakes were high, such as a substantial amount of money, or the case could affect the litigation strategy or outcome of similar cases nationally. Eligible firms needed to devote at least 50% of their litigation resources to plaintiffs' work.

We don't pretend the results are scientific, and concede that some excellent firms don't appear here. We looked for firms that struck us as representing the best qualities of the plaintiffs' bar and that demonstrated unusual dedication and creativity.

Firms like San Francisco's Lieff Cabraser Heimann & Bernstein and St. Louis' Korein Tillery, to name two examples.

These were among the plaintiffs' firms that weren't afraid to take on one of the business world's great white whales. De Beers S.A. diamond merchants had flouted the authority of U.S. courts for years, simply

declining to show up if any court had the temerity to assert jurisdiction over the self-avowed monopoly. The plaintiffs' firms' pluck, and some luck, resulted in a \$295 million settlement for De Beers' customers. If the agreement fell short of the billions of dollars the plaintiffs might have held out for, it nevertheless secured De Beers' pledge to abide by federal and state antitrust laws and accept court oversight to ensure compliance, as NLJ contributor Emily Heller explains inside. [See article, "Global diamond cartel is cut down to size."]

That case raises an important point about this list. Major class actions are the work of many plaintiffs firms—something like 10 in the De Beers case. We regret that space didn't allow us to list all of the co-counsel firms involved in some of the cases listed here, but it's worth remembering that many of the most important courtroom victories are the product of collaborations.

Elsewhere inside, Staff Reporter Peter Page brings us up to date on the Vioxx litigation. He reports that a series of trial wins prompted Merck & Co. Inc. to settle after spending \$1.9 billion defending its anti-inflammatory drug—but that Merck might have done pretty well for all that. [National Law Journal, 10/6/08, "Persistence pays in Vioxx litigation," Page S3.]

Additionally, contributor June D. Bell tells how a plaintiffs' firm found a way to place value on the ineffable. [National Law Journal, 10/6/08, "What price your pet, or peace of mind?," Page S16.]

—Michael Moline

NOTEWORTHY CASES KOREIN TILLERY

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2008

Korein Tillery doesn't rest on its laurels. Best known for its \$10 billion trial verdict against Philip Morris USA Inc. in 2003, the firm remains in hot pursuit of malefaction involving pension funds, insurance, securities, computer technology and corporate fraud. It has been named class counsel in more than 50 class actions. During the past 12 months, it played a major role in major litigation against the De Beers diamond cartel. The 20-attorney firm has offices in St. Louis, Chicago and Belleville, Ill.

NOTEWORTHY CASES:

- ***Sullivan v. DB Investments***, No. 04-02819 (D.N.J.). Co-lead counsel Steven A. Katz and Howard Becker. The firm helped prime the pump for a \$295 million class

action settlement against the avowed diamond monopolist by securing an antitrust default judgment in Illinois state court. That case was later consolidated with a raft of similar actions around the country. The firm participated in settlement negotiations.

- ***University City v. AT&T Wireless Services Inc.***, No. 1-CC-4454 (St. Louis Co., Mo., Cir. Ct.). Lead counsel Douglas Sprong and John W. Hoffman. The team scored a \$25 million settlement in August 2007 against Verizon Communications Inc. over its refusal to pay local business-licence taxes. Since then, recoveries against other telecommunications companies have raked in an additional \$133 million for 228 local governments.

2007

Korein Tillery is a 20-attorney law firm with offices in St. Louis and Chicago and a reputation for aggressive prosecution of insurance, securities, antitrust and consumer fraud litigation. Notable for its \$10.1 billion judgment in 2003 against Phillip Morris in the first consumer action over "light" cigarettes, the firm has distinguished itself during the past year with actions involving prescription drugs and consumer protection.

NOTEWORTHY CASES:

- ***Hoormann v. SmithKline Beecham Corp.***, No. 04-L-715 (Madison Co., Ill., Cir. Ct.). Lead counsel Stephen Tillery and Aaron Zigler. Three years of litigation ended this summer when SmithKline Beecham agreed to pay \$63.8 million to settle claims that it promoted the antidepressant Paxil to children notwithstanding evidence of dangerous side effects for young people.

- ***Nash v. Sears, Roebuck and Co.***, No. 04-L-716 (Madison Co., Ill., Cir. Ct.). Lead counsel Stephen Tillery. The firm says it got everything it asked for in this settlement involving claims that Sears sold dangerously unstable gas and electric ranges: The retailer agreed to install anti-tipping devices on class members' ranges and any future products. The firm valued the deal at more than \$400 million.

- ***University City v. AT&T Wireless Svcs.***, No. 01-CC-04454 (St. Louis Co., Mo., Cir. Ct.). Lead counsel Stephen Tillery and John Hoffman. This Missouri state court case, in which the firm went after wireless and land line telephone companies for back business-license taxes on behalf of a group of municipalities, got sidetracked into the Missouri Legislature and state Supreme Court. State lawmakers voted essentially to gut the litigation, but the state high court overturned the law. Finally, in August, Verizon Wireless settled its portion of the case by agreeing to pay about \$25 million in back taxes and to pay its license taxes at existing rates in the future.

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2004

A 20-lawyer firm in St. Louis, Korein Tillery earlier this year won a \$10.1 billion judgment against Philip Morris, including \$3 billion in punitives, in the first consumer fraud class action over "light" cigarettes. The firm's specialty practice areas include class actions (consumer fraud and ERISA), mass torts, individual tobacco cases, products liability and medical malpractice.

NOTEWORTHY CASES:

• **Sparks v. Lucent Technologies** (Madison Co., Ill., Cir. Ct. 2002), lead attorney Stephen Tillery. One of the largest class actions in terms of class size, it alleged consumer fraud in the residential telephone leasing programs of Lucent and AT&T Corp. The six-year-long litigation involved three appeals, one of which made it to the Illinois Supreme Court. It settled the week it was to proceed to trial, in August 2002, for \$300 million.

• **Esden v. The Retirement Plan of the First National Bank of Boston** (2d U.S. Circuit Court of Appeals 2000), lead attorneys Steven Katz and Douglas Sprong. The case was the first ERISA class action to challenge successfully cash-balance-type benefit plans. It led the way for a number of later class actions which netted hundreds of millions of dollars for retirees. The case settled for a confidential amount after an appellate court granted summary judgment in favor of the plaintiffs.

• **Malloy v. Ameritech** (S.D. Ill. 2000), lead attorneys Steven Katz and Douglas Sprong. The firm represented several thousand Ameritech retirees who challenged the way Ameritech benefit plans computed lump-sum distributions. The case settled for more than \$175 million after Korein Tillery won summary judgment on liability.

2003

Korein Tillery's national class action practice comprises insurance claims, securities and consumer fraud, products liability and antitrust. The firm's 18 lawyers also prosecute personal injury claims. Based in St. Louis with Illinois offices in Belleville and Chicago, Korein Tillery is probably best known for its \$10.1 billion judgment in 2003 against Philip Morris in the first consumer class action over "light" cigarettes.

NOTEWORTHY CASES:

• **Price v. Philip Morris** (Madison Co., Ill., Cir. Ct. 2003), lead attorney Stephen Tillery. The plaintiffs accused Philip

Morris of fraud in marketing Marlboro Lights and Cambridge Lights as safer alternatives to regular cigarettes. The judge awarded the plaintiffs \$10.1 billion.

• **Berger v. Xerox Corp. Retirement Income Guaranty Plan** (S.D. Ill. 2004), lead attorneys Douglas Sprong and Steven Katz. Xerox allegedly manipulated pension benefits of former employees. The case settled for \$239 million.

• **McClintock v. BOC Group Cash Balance Retirement Plan** (S.D. Ill. 2004), lead attorneys Douglas Sprong and Steven Katz. BOC settled for \$69 million after it, too, allegedly manipulated pension benefits of former employees.



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