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Aren't we all curious about the biggest wins of America's best lawyers? For this article we've asked 11 of America's Top Trial Lawyers to share their biggest win in Mass Tort.

Read on to learn more about the famous Essure case of Erin Brokovich or the 20 million verdict against a dietary supplement manufacturer, to name just two of the highly interesting cases.

CHRISTY D JONES – BUTLER SNOW

It is hard to know the most successful. I can think of two which were lost at trial in very difficult, unfair circumstances; both were later reversed and we ended up with a judgment against plaintiffs for \$600,000 in costs in one — particularly gratifying.

There are three trials that are particularly interesting. I tried several Fosamax cases involving alleged osteonecrosis of the jaw in the MDL before Judge Keenan in New York. The first ended in a mistrial. The second resulted in a defense verdict.

The second was the first Vioxx case that resulted in a defense verdict, Humeston v Merck, before Judge Higbee in New Jersey. Three of us actually tried that case so I don't take credit. But it was particularly meaningful because the client was under siege and many predicted that the company could not survive the litigation. It was a very difficult case tried in a very pressurized environment. When the verdict came in, the stock price immediately jumped and many employees of the client actually shed tears. It was perhaps the most rewarding of all of the trials in which I participated.

The third was a Motrin case in which the allegation was that a six year old little girl was blinded as the result of Stevens Johnson Syndrome caused by Motrin. The parents were successful scientists, and the little girl had appeared on the Today show and testified before the FDA. It was a very emotional trial in which we faced challenges and took several risks. For example, the judge's wife, a lawyer, sat on the jury. But in the end, the jury understood that the client had warned in an appropriate manner. It takes great courage for a jury to take such a stand in light of horrific injuries. There is no greater privilege for a trial lawyer than to represent a party in such difficult circumstances to insure that all parties get a fair trial and participate in the preservation of the American justice system.



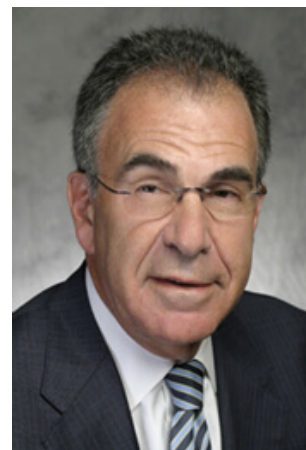
MAX W. BERGER – BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

Max Berger, the senior founding partner of Bernstein Litowitz Berger & Grossmann has, also, been selected to our list.

Mr. Berger's unparalleled track record – he has personally negotiated over \$32 billion in recoveries on behalf of defrauded investors – left him many memorable cases to cite but, ultimately, he focused on the \$6.2 billion recovery he and his team obtained in high-profile securities litigation involving former telecom giant WorldCom.

In March 2005, we fully resolved WorldCom after four weeks of trial. Arthur Andersen, WorldCom's former auditor and the sole remaining defendant, finally agreed to settle.

The then-largest securities recovery in history, Mr. Berger and his team had been litigating the enormously complicated case since Worldcom's collapse in 2002. WorldCom was a vast accounting fraud and the largest bankruptcy in history. Trusting WorldCom's published financial results and compromised analyst reports, everyone – from 'mom and pop' investors to institutional money managers – loaded up on WorldCom stock. The large Wall Street investment banks got into the act as well. Touting WorldCom's seemingly strong financial results and



compelling growth story, no less than seventeen Wall Street banks — including Citigroup, J.P. Morgan Chase, Deutsche Bank, Bank of America and others — helped WorldCom market and sell approximately \$17 billion worth of 'investment grade' bonds to the investing public in 2000 and 2001.

In prosecuting our case, we were able to accomplish two key things: lift the procedural discovery stay normally controlling the pace of litigation, and develop a good working relationship with the US Attorney's office prosecuting the related criminal proceedings. Because of the pressure we were able to apply in pushing our case forward, we broke the underwriter 'syndicate,' if you will – a veritable Who's Who of Wall Street – that worked tirelessly to stick together and fend off the threat of our case.

Fortunately our strategy worked and, by May 2004, the Citigroup defendants agreed to settle all claims against them for \$2.575 billion. The other major defendants fell one-by-one after that. By mid-March 2005, on the eve of the trial, the 13 remaining underwriter defendants, including J.P. Morgan Chase, Deutsche Bank and Bank of America, agreed to pay settlements totaling nearly \$3.5 billion to resolve all the claims against them."

Arguably one of the most important achievements in the case was how we held the officers and directors accountable. By the time trial was scheduled to begin, all of the former WorldCom director defendants had agreed to pay over \$60 million to settle the claims against them. In this unprecedented settlement, \$24.75 million of that amount came out of the pockets of the individuals, accounting for 20% of their collective net worth. In the words of a former SEC chief accountant at the time, the settlement sent a message to directors 'that their own personal wealth is at risk if they're not diligent in their jobs.'

We are extraordinarily proud how our case and prosecution addressed this misconduct. The Wall Street Journal even cited how the individual director settlement had 'shaken Wall Street, the audit profession and corporate boardrooms.'

DANA B. TASCHNER – [DANA B. TASCHNER](#)

Mass torts have substantially increased in number and record trial verdicts over the last 30 years for a variety of reasons including aggressive use of procedural devices in the trial process by lawyers and judges, the ability to present thousands of cases in one proceeding, and the enhanced fee opportunities that can generate attorney fees on the very high end for for plaintiff and defense lawyers. Mass tort litigation is big business for the courts, consumers, and law firms.



THOMAS V. GIRARDI – [GIRARDI | KEESE](#)

We have been very much involved with the great number of mass tort matters. I show the one that has the most significant is Erin Brockovich. The people of Hinkley drank chromium, which got into their water system because of PG&E dumping practices. Many had cancer.

There was a serious legal issue in the case in that there were many scientific articles that breathing chromium can cause cancer. There were no articles, however, about drinking chromium. Dr. Max Costa in New York (a terrific scientist) started feeding rats and mice chromium laced water. The animals very quickly developed tumors.



I think the most important part of the case is that it was presented for the first time to the public and awareness of the environment issue that we face.

W. MARK LANIER – [LANIER LAW FIRM](#)

My most successful case was in Federal Court deep in south Louisiana. It concerned a drug (Actos) that allegedly gave a New Yorker bladder cancer. The trial was brutal. It lasted three months, and I personally put on each of our witnesses and did every cross-examination. I think it took a few years off my life! I had a magnificent support team, and it was a joy to work with them. After three months, the jury took the case and came back with a verdict in excess of 9 billion dollars. I went on vacation...



JAMES P. FRANTZ – [FRANTZ LAW GROUP](#)

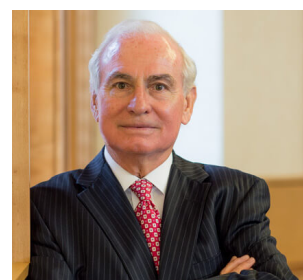
I won an approximate 20 million verdict against a dietary supplement manufacturer in which I alleged and proved was dangerous and not efficacious for what its claimed benefits were. I was summoned to testify as an expert in front of the United States Congress as to the findings in the verdict and the misrepresentations that the drug company made regarding safety and efficacy.

The verdict was incorporated into the Congressional Record. The defendants were at the subject Congressional Hearing and asserted the 5th Amendment to avoid criminal prosecution. The dangerous drug was banned by the FDA within 90 days of the Hearing. Several of my key experts that testified regarding the fraudulent studies promulgated by the Defendant drug company discussed the significant dangers the drug exposed consumers to. The drug banned was ephedra which was blamed for strokes, seizures, cardiac arrests resulting in numerous deaths across the United States. I was the first attorney in the US to take this industry to task and I felt that as a result of this mass tort, we made a significant difference in not only forcing accountability against the wrongdoers but saving hundreds if not thousands of people across the US from serious injury and death through the ban of the dangerous product.



TERRY E. RICHARDSON, JR. – [RICHARDSON, PATRICK, WESTBROOK & BRICKMAN, LLC](#)

As with any case, the struggle is to balance "justice delayed is justice denied" with the requirement to obtain all of the incriminating evidence in a reasonable time. The Norfolk Southern derailment and chlorine spill in Graniteville, SC resulted in balancing these 2 competing interests by resolving the evacuation of 5000 people, 500 personal injury cases, 9 deaths and major commercial property damage to all Avondale Mills' systems in 3 1/2 years. Unrelenting pressure is essential.



ROBERT C. HILLIARD – [HILLIARD MARTINEZ GONZALES LLP](#)

My role as one of the 3 hand-selected Co-Lead Counsel in the General Motors Ignition Switch Defect multidistrict litigation was both challenging and rewarding. I was additionally honored with being appointed by the court as

having the primarily responsibility for the personal injury and wrongful death cases in the MDL.

I am still involved in the GM MDL—though I was able to recover a significant amount of money for my personal injury and wrongful death docket, with dedication and strategic action.

My advice to lawyers looking to win big is: “Work hard and work smart for your clients. Never back down from a challenge or back down from a novel strategy simply because it has never been used before. Your power is You. Don’t be afraid to forge your own paths in the practice of law and life.”



JOSEPH J. SIPRUT – SIPRUT PC

Reaching a settlement with the NCAA on behalf of college athletes in our concussion litigation was a major milestone—for me and the firm personally, but more importantly, for the thousands of college athletes who will benefit from the settlement for decades to come.



JAY EDELSON – EDELSON PC

My most significant mass tort win comes in a different context than most. It actually starts with me filing an objection to a settlement.

A number of other firms had sued the NCAA over concussion-related injuries. After litigating the case for some time, they reached a settlement. Unfortunately, the settlement did not provide a single penny to injured people. Instead it only created a medical monitoring fund, which allowed certain people to get tests to see if they had suffered brain injuries. The settlement critically released individuals rights to participate in class actions against the NCAA involving concussions. We objected and, among other arguments, claimed that individuals needed the class action mechanism to be able to vindicate their claims. We also asked the court to appoint us lead counsel in the personal injury claims against the NCAA. After nearly two years of fighting, we prevailed on our arguments. The settlement was reworked so that class actions could be brought on behalf of people who played the same sport at individual schools. We also got appointed lead of these cases. The current MDL is considered to be one of the largest in the country; we are leading over 100 separate class actions and collectively have over 10,000 individual clients. The first concussion case was tried recently in Texas a month ago (by a firm that is on our steering committee). It settled during the trial.



Although it is considered an unwritten rule that plaintiff's attorneys should try to avoid objecting to each other's settlements (and something we almost never do), we are incredibly proud of the work we did and the path that we are on. We feel confident that tens of thousands of people will have their day in court, which otherwise would not have happened. And we feel very confident that, at the end of the day, these people will receive significant damage awards.

ROGGE DUNN – ROGGE DUNN GROUP, PC

One of the keys to winning mass actions and class actions is driving home the message to the jury that they are setting safety standards for consumers everywhere.

One of the most powerful pieces of evidence against a defendant is its failure to follow its own procedures and government standards or codes.



Author: Barbara Fuller

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