

Law360's Weekly Verdict: Legal Lions & Lambs

By **Andrew Strickler**

Law360, New York (January 14, 2016, 5:33 PM ET) -- Apple attorneys from Orrick Herrington & Sutcliffe LLP and Milbank Tweed Hadley & McCloy LLP took down an unfavorable, multimillion-dollar judicial decision in a federal patent case in Texas, leading this week's pride of legal lions. Our legal lambs are led by a New York litigator who lost a post-Newman appeal for a client convicted of insider trading.

Legal Lions

The Federal Circuit this week ruled that a Texas jury was **right to clear Apple Inc.** of infringing a **Wi-LAN** wireless patent and said **U.S. District Judge Rodney Gilstrap** had wrongly overturned the jury's finding that the claims were invalid. The appeals court held that substantial evidence supported the jury's finding from 2013 but that Judge Gilstrap had effectively imposed a new claim construction on the patent in his later decision. Wi-LAN had sought \$248 million from the tech giant. Apple is represented by **Mark Davies, Katherine Kopp, T. Vann Pearce Jr., Brian Goldman, Will Melehani, Siddhartha Venkatesan** and **Andrew Silverman** of **Orrick Herrington & Sutcliffe LLP** and **Ashlee Lin, Miguel Ruiz** and **Mark Scarsi** of **Milbank Tweed Hadley & McCloy LLP**. Wi-LAN is represented by **Robert Cote, Samuel Baxter, R. Darryl Burke, Seth Hasenour, Rosemary Snider** and **Dirk Thomas** of **McKool Smith PC**.

A bevy of BigLaw teams were behind a **megabuy** for Dublin-based **Shire PLC** to acquire U.S. biotech company **Baxalta** for \$32 billion in cash and stock. Shire, which first indicated its interest in Baxalta in the fall, was advised by teams from **Ropes & Gray LLP, Cravath Swaine & Moore LLP** and **Slaughter and May**. At the table for Baxalta was a **Kirkland & Ellis LLP** team led by corporate partners **Scott Falk, Daniel Wolf** and **Michael Brueck** and tax partners **Dean Shulman, Mike Carew** and **Benjamin Schreiner**. A **Jones Day** team led by **Michael Sennett** advised on regulatory matters.

A Pennsylvania federal jury sided with **AT&T Inc.** customer service executive John Gerundo in his age discrimination suit. The jury unanimously decided that the company owes **\$370,000 in damages** to Gerundo, who worked for AT&T and its predecessor, **IBM Corp.**, for 42 years but was terminated at age 65 as part of a "surplus" layoff, only to be replaced by a far younger person. AT&T claimed Gerundo wasn't actually replaced by the younger worker and that the manager who ordered the layoffs wasn't aware of Gerundo's age. Gerundo is represented by **Laura Mattiacci** and **Caren Gurmankin** of **Console Law Offices LLC**. AT&T is represented by **Todd Shill, John Martin** and **Lindsey Snavelly** of **Rhoads & Sinon LLP**.

President Barack Obama announced **two BigLaw nominations** for the Seventh Circuit this week. **Myra C. Selby** of **Ice Miller LLP** previously served as a Indiana high court justice from 1995 to 1999 and was the

first African American and first woman to have served in the state's highest court. After retiring from the bench, she rejoined Ice Miller as a partner, where she had worked from 1983 to 1993. **Donald K. Schott**, a longtime litigator with Wisconsin-based **Quarles & Brady LLP**, spent three years as a legislative liaison for the Wisconsin governor's office in the early 1980s. If the nominations are approved, the pair would fill Seventh Circuit seats vacant since 2010 and 2015.

WilmerHale and partner **Robert S. Mueller III**, the former director of the FBI, were **tapped** to serve as settlement master for hundreds of consolidated cases in California federal court seeking damages from **Volkswagen AG** over emissions cheating. **U.S. District Judge Charles S. Breyer** lauded Mueller for his "integrity, good judgment and relevant experience," noting that the former FBI head also served as a U.S. attorney in California's Northern District. Mueller became director of the FBI a week before the 9/11 terrorist attacks and held the post through 2013. He joined WilmerHale the following year.

Legal Lambs

The insider trading conviction of former **Foundry Networks Inc.** Chief Information Officer David Riley was **not undermined** by the court's landmark Newman decision, the Second Circuit said this week. The appeals court also ruled that evidence presented at trial allowed jurors to infer that Riley had passed stock tips about Foundry to a hedge fund analyst in exchange for investment advice, which the court called an "immediate pecuniary" benefit. The Newman ruling, which requires prosecutors to show that sources of inside tips received a personal benefit beyond mere friendship, has led to the dismissal of insider trading charges against 14 defendants in the Southern District of New York. Riley is represented by **John Kaley** of **Doar Rieck Kaley & Mack**. The government is represented by **Sarah McCallum**, **Telemachus Kasulis** and **Michael Levy**.

Former **Capital One** analyst Nan Huang also got a **bad ruling** in an insider trading case this week. A Pennsylvania jury needed just 90 minutes to conclude that Huang had used proprietary data about consumer credit card transactions to trade ahead of earnings reports from **Chipotle Mexican Grill**, **Macy's**, **Best Buy** and others. Huang's Capital One co-worker, Bonan Huang, was also hit with a U.S. Securities and Exchange Commission complaint and agreed to a **\$4.6 million settlement** in December. Nan Huang is represented by **Gregory Morvillo**, **Eugene Ingoglia** and **Jason Somensatto** of **Morvillo LLP** and **Mark Billion** of **Billion Law**.

Intellectual property boutique **Kenyon & Kenyon** continued to see **partner departures** in recent days, with Orrick Herrington & Sutcliffe LLP bringing on the firm's entire life sciences patent litigation team. Four former Kenyon attorneys joined Orrick in New York — **Elizabeth Gardner**, **A. Antony Pfeffer** and **Richard DeLucia** as partners and **K. Patrick Herman** as of counsel. Kenyon has seen dozens of attorneys leave for **Haynes and Boone LLP**, **Patterson Belknap Webb & Tyler LLP**, **Arent Fox LLP**, **Duane Morris LLP**, **Shearman & Sterling LLP**, **Hughes Hubbard & Reed LLP**, **Kacvinsky Daisak Bluni PLLC** and **Singularity LLP**.

The U.K.'s **Matthew Arnold & Baldwin LLP**, which has also seen a recent flood of partner exits, announced that what remains of the firm will be **absorbed** by competitor **Veale Wasbrough Vizards**. Last week, **Dentons** announced that it had hired Matthew Arnold's 75-attorney banking and finance litigation group. **Hill Dickinson LLP** also reached a deal to pick up Matthew Arnold's commercial and wealth management practices.

Brevard County Judge John C. Murphy lost his bid to have his removal reconsidered by the Florida Supreme Court this week. In a brief order, the state's highest court denied Judge Murphy's request for a

rehearing and for involuntary retirement instead of the disciplinary action for his misconduct, which included challenging an assistant public defender to a fight. Judge Murphy, who has a partial disability due to post-traumatic stress disorder stemming from combat deployment in Afghanistan, had argued that because the diagnosis played an important role in the court's decision, he should be removed because of disability and not as a disciplinary measure. Judge Murphy is represented by **Ronald Kozlowski, Larry Turner** and **Peggy-Anne O'Connor** of **Turner O'Connor Kozlowski**.

Financial services giant **State Street Corp.** will shell out \$12 million to settle allegations that it took part in a **pay-to-play scheme** to win servicing contracts for Ohio pension funds, the SEC revealed this week. **Nelson Mullins Riley & Scarborough LLP** partner **Robert Crowe**, co-chairman of the firm's government relations practice, was also accused by the SEC of making secret deals with former Ohio Deputy Treasurer Amer Ahmad for illicit campaign contributions in order to win business for State Street.

--Additional reporting by Y. Peter Kang, Kurt Orzeck Chelsea Naso, Ryan Davis, Joe Van Acker, Max Stendahl, Matt Fair, Kali Hays, Natalie Rodriguez, Stewart Bishop, and Carolina Bolado. Editing by Christine Chun.

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