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ALM

Lawyer of the Year

Theodore V. Wells Jr.

The tireless trial lawyer had a busy year defending a CEO, an investment banker, big tobacco, a politician, among others.

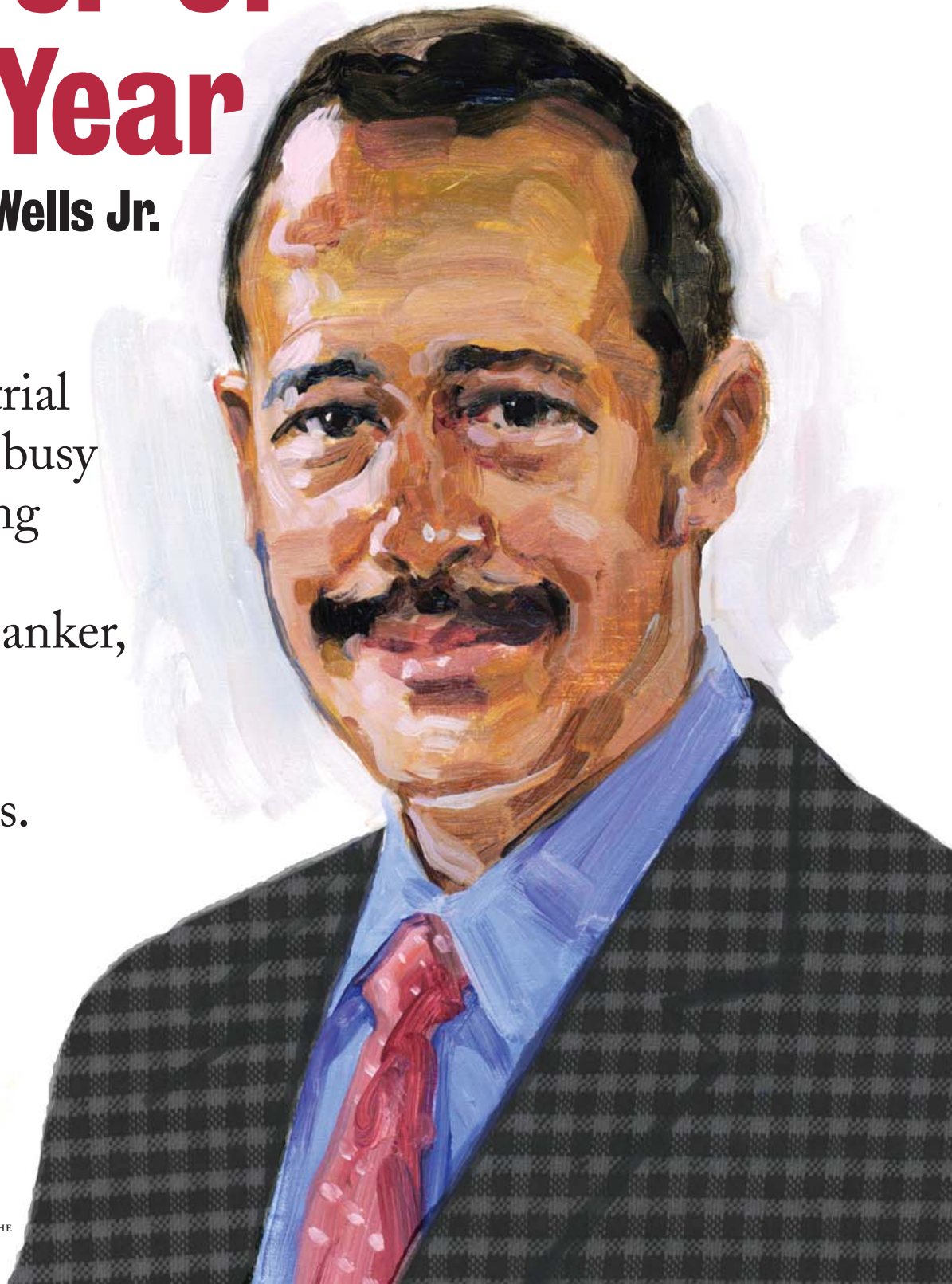


ILLUSTRATION BY JOSEPH ADOLPHE

■ **LAWYER OF THE YEAR** | THEODORE V. WELLS JR.



IN THE SPOTLIGHT: Theodore Wells leaving court in Washington in late 2005 after client I. Lewis Libby pleaded not guilty.

A big year for a gifted lawyer

By Leigh Jones
STAFF REPORTER

PREPARING TO DEFEND I. Lewis “Scooter” Libby in a trial scheduled for Jan. 16 leaves Theodore V. Wells Jr. little time to reflect on his career these days. But if he could, he would only need to consider the past 12 months to come up with a list of accomplishments longer than what most attorneys would hope

to achieve in a lifetime.

The Libby case, which centers on the former vice presidential aide’s alleged role in the leak of a CIA officer’s identity to the press, is just one high-profile matter that consumed Wells in 2006.

As co-chairman of the litigation department at New York’s Paul, Weiss, Rifkind, Wharton & Garrison LLP, Wells kept busy this year obtaining a mistrial for the former

chairman of the nation’s biggest pharmaceutical distributors in one of the largest securities fraud cases in history.

He also helped negotiate a unique deferred-prosecution agreement in a widely publicized federal case against investment banker Frank Quattrone.

At the same time, as counsel to the NAACP Legal Defense and Education Fund, he helped defend racial integration education programs in two separate ongoing cases before the U.S. Supreme Court.

For these reasons and more, Wells is *The National Law Journal’s* 2006 Lawyer of the Year.

At 56, Wells said he has always been “someone who people gravitated to” for help. “I’ve been given a gift in terms of being able to communicate with jurors,” he said.

Many of his clients likely would agree, including Charles McCall. In September, Wells obtained a mistrial for McCall, the former

chairman of McKesson Corp. Federal prosecutors had charged him with conspiring to illegally inflate by some \$100 million the earnings of HBOC, a medical software company previously led by McCall, which merged with McKesson in 1999.

Prosecutors alleged that the inflated earnings resulted in McKesson's loss of \$9 billion in market value. Also indicted for conspiracy and fraud were two of HBOC's former executives, who pleaded guilty.

After six days of deliberation, a jury in the Northern District of California found McCall not guilty of conspiracy to commit securities fraud and deadlocked on six other securities and accounting fraud counts. Prosecutors last month informed Wells that they would seek a new trial.

At east with a jury

Timothy Crudo, assistant U.S. attorney and lead prosecutor in *U.S. v. McCall*, No. 00-00505, described Wells as "a very personable guy.

"He's very comfortable with a jury," Crudo said. He added that as an opponent, Wells is a "man of his word."

Wells also earned his stripes this year representing Quattrone, a former investment banker at Credit Suisse First Boston who was accused of impeding a federal investigation involving initial public offerings of stock. Working with Paul, Weiss partner Mark Pomerantz, Wells helped negotiate a deferred-prosecution agreement, considered a huge victory by many observers, which will allow Quattrone to return to investment banking if he complies with the agreement's terms.

The deal followed two trials against Quattrone in the same matter, the first of which resulted in a mistrial. In the second trial, a jury convicted Quattrone of urging bank colleagues to destroy documents that securities regulators might have sought, but that conviction was thrown out due to faulty jury instructions.

Also keeping Wells occupied in 2006 was a massive environmental case against Exxon Mobil Corp. brought by the state of New Jersey. In *New Jersey Department of Environmental Protection v. Exxon Mobil Corp.*, No. UN-L-3026-04, New Jersey alleged that the oil company was responsible for pollution damages stemming from 100 years of oil refinery operations in the state.

In May, Wells convinced a New Jersey trial judge that Exxon Mobil could not be held

responsible for the "loss of use" of natural resources for such uses as fishing, swimming, boating or drinking water under existing law. The judge, however, found that the company was liable for cleanup and restoration costs. The state has appealed the decision.

And in another ruling this year, Wells helped secure a partial victory for Philip Morris USA Inc. by convincing a judge in the U.S. District Court for the District of Columbia to reject the government's proposal to require tobacco companies to pay \$10 billion for smoker-cessation programs. However, the judge, in a 1,742-page decision, found racketeering violations and concluded that labels such as "low tar," "light" or "natural" were deceptive. The case, one of the largest civil Racketeer Influenced and Corrupt Organization Act lawsuit ever brought by the U.S. Department of Justice, also is on appeal.

Wells also spent 2006 as a member of the kitchen cabinet—unofficial advisers—to New Jersey Governor Jon Corzine. Wells' wife, Nina Mitchell Wells, to whom he has been married for 34 years, is the New Jersey secretary of state. The couple lives in Livingston, N.J., and has two grown children.

Former federal prosecutor Robert Litt, now a partner at Washington's Arnold & Porter, was a summer associate with Wells at Arnold & Porter in 1975. Litt, a Yale Law School graduate, has followed Wells' career since their days as summer associates. He compares Wells' litigation prowess to that of Edward Bennett Williams, the renowned Washington litigator whose clients included Jimmy Hoffa, Joseph McCarthy, Frank Sinatra, Hugh Hefner and many more. Litt was a partner at Williams & Connolly, Edward Bennett Williams' firm, before joining the Criminal Division of the U.S. Department of Justice in 1995.

"A lot of us envy his skills," Litt said of Wells. "Ted has an extraordinary ability to understand and integrate facts, as well as a terrific ability to communicate them to people."

Two cases of special importance to Wells in 2006 were those taken up by the NAACP Legal Defense and Education Fund, for which he serves as co-chairman of its board of directors.

Involved in landmark civil rights cases including the 1954 case, *Brown v. Board of Education*, 347 U.S. 483, and the 2003 Michigan affirmative action case, *Grutter v. Bollinger*, 539 U.S. 306, the defense fund has filed an amicus brief with the U.S. Supreme Court defending racial integration education plans in Seattle and

Louisville, Ky. Wells himself authored another amicus brief filed on behalf of a group of law professors and civil rights historians in the same matter.

In each district, students may attend schools of their choice but can be denied admission if their attendance would upset the racial balance of the school. The Supreme Court heard arguments in December.

"I believe very strongly in lawyers not devoting all of their time to representing their moneyed clients," Wells said.

As big law firms get bigger, Wells said, he is concerned that a focus on profits compromises the nurturing and training of associates, which leads to attrition. Pro bono work is an important way for law firms to help cultivate associates' skills and to provide them with meaningful experiences, he said.

A lack of mentorship and role models is especially acute in large firms for minority attorneys, particularly black males, Wells said. According to the National Association for Law Placement (NALP), minorities accounted for 5% of the partners in the nation's major firms in 2006. That figure represented an increase from 1993, when minorities composed 2.5% of partners in major law firms. "There are institutional barriers that make it difficult for minority lawyers to succeed," he said.

Next month, Wells will take on Patrick Fitzgerald, special counsel to the U.S. Department of Justice, as lead co-counsel to Libby, former chief of staff to Vice President Dick Cheney.

The five-count indictment against Libby relates to the leak of Valerie Plame's identity as a CIA officer after her husband, Joseph C. Wilson IV, wrote an opinion piece published in the *New York Times* that was critical of the Bush administration's reasons for invading Iraq. **NLJ**

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Paul | Weiss

NEW YORK

1285 Avenue of the Americas
New York, NY 10019-6064
United States
Phone 212-373-3000
Fax 212-757-3990

WASHINGTON, DC

1615 L Street, NW, Suite 1300
Washington, DC 20036-5694
United States
Phone 202-223-7300
Fax 202-223-7420

LONDON

Alder Castle, 10 Noble Street
London, EC2V 7JU
United Kingdom
Phone 44-20-7367-1600
Fax 44-20-7367-1650

TOKYO

Fukoku Seimei Building, 2nd Floor
2-2 Uchisaiwaicho 2-chome
Chiyoda-ku, Tokyo 100-0011
Japan
Phone 81-3-3597-8101
Fax 81-3-3597-8120

BEIJING

Unit 3601, Fortune Plaza Office Tower A
No. 7 Dong Sanhuan Zhonglu
Chao Yang District, Beijing 100020
People's Republic of China
Phone 86-10-5828-6300
Fax 86-10-6530-9070/9080

HONG KONG

Hong Kong Club Building, 12th Floor
3A Chater Road, Central
Hong Kong
Phone 852-2536-9933
Fax 852-2536-9622

www.paulweiss.com