

Law360's Weekly Verdict: Legal Lions & Lambs

By **Aebra Coe**

Law360, Grand Rapids (May 25, 2017, 4:59 PM EDT) -- Hughes Hubbard & Reed LLP rose to the top of the legal lions pride this week, winning a U.S. Supreme Court decision putting tighter restrictions on where patent owners can file infringement suits, while Orrick Herrington & Sutcliffe joined the legal lambs flock after its client, Dish Network, was slammed with \$61 million in treble damages in a Telephone Consumer Protection Act class action.

Legal Lions

The Supreme Court sided with arguments made by **Hughes Hubbard & Reed LLP** on behalf of sweetener maker TC Heartland LLC Monday in a decision **putting tighter restrictions** on where patent owners can file infringement lawsuits, a decision that upends nearly 30 years of established practice and will likely force many lawsuits out of the patent litigation hotbed of the Eastern District of Texas. TC Heartland is represented by **James W. Dabney, John F. Duffy, Richard M. Koehl** and **Emma L. Baratta** of **Hughes Hubbard & Reed LLP**.

The Fourth Circuit on Thursday **upheld a nationwide injunction** on President Donald Trump's revised travel ban, ruling that the groups bringing the case have credibly alleged that the order's professed national security aim was given in "bad faith," as a front for a religious purpose. The case was argued for the appellees by **Omar C. Jadwat**, of the **American Civil Liberties Union**.

Lieff Cabraser Heimann & Bernstein LLP scored a victory Thursday for Earl Graham, the lead plaintiff in litigation against R.J. Reynolds Tobacco Co. and Philip Morris International Inc. The Eleventh Circuit **handed smokers a win** with a ruling that says federal law does not bar them from using the landmark Engle tobacco class action's jury findings to establish strict liability and negligence claims. Graham is represented by **Elizabeth J. Cabraser, Robert J. Nelson, Jordan Elias, Sarah R. London, Jerome Mayer-Cantu** and **Kenneth S. Byrd** of **Lieff Cabraser Heimann & Bernstein LLP**, **Norwood S. Wilner, Janna M. Blasingame** and **Richard J. Lantinberg** of **The Wilner Firm PA**, and **Samuel Issacharoff** of **New York University**.

Carlton Fields Jordan Burt PA earned a spot on the legal lions list Monday when a New York judge found the law firm's client, AIG unit Illinois National Insurance Co., **does not have to defend** Carfax against a \$50 million suit alleging the company monopolized the vehicle history report market, saying references to defamation in the suit cannot get Carfax out from under an antitrust exclusion. Illinois National is represented by **J. Robert MacAneny** of **Carlton Fields Jordan Burt PA**.

Next up on the lion's list are **Cleary Gottlieb Steen & Hamilton LLP, Kirkland & Ellis LLP, Bär & Karrer** and **Vinson & Elkins LLP**, all of which served as advisers on the **merger of equals** announced Monday between Switzerland-based Clariant and Texas-based Huntsman, which will create a global specialty chemical company worth \$20 billion. Clariant is advised by **Victor Lewkow, Aaron Meyers, Yaron Reich, Corey Goodman, Michael Albano, Ward Greenberg, Amy Shapiro, Thomas Graf** and **David Gelfand** of **Cleary Gottlieb Steen & Hamilton LLP**. Huntsman is advised by **David Fox, William Sorabella, Shawn O'Hargan, Patrick Jacobs, Dean Shulman, Mike Carew, Adam Kool, Richard Aftanas, David Curtiss, Ian John** and **Paula Riedel** of **Kirkland & Ellis LLP, Bär & Karrer** and **Vinson & Elkins LLP**.

Claims in a patent on reusable pods for single-serving coffeemakers are invalid for lack of description, the Federal Circuit **ruled Tuesday**, siding with arguments made by **Mei & Mark LLP** on behalf of pod maker Solofill LLC. The decision affirmed an International Trade Commission decision in an infringement case between Solofill and a rival pod maker. Solofill is represented by **Laurence M. Sandell** and **Lei Mei** of **Mei & Mark LLP**.

Legal Lambs

A North Carolina federal judge on Monday said Dish Network LLC "repeatedly looked the other way" when one of its marketers was making illegal telemarketing calls, **trebling the \$20.5 million** damages awarded by a jury in the Telephone Consumer Protection Act class action trial and dealing a blow to the company's attorneys at **Orrick Herrington & Sutcliffe LLP, Benesch Friedlander Coplan & Aronoff** and **Kilpatrick Townsend & Stockton LLP**. Dish is represented **Elyse Echtman, John Ewald** and **Peter Bicks** of **Orrick Herrington & Sutcliffe LLP, Eric Zalud** of **Benesch Friedlander Coplan & Aronoff**, and **Richard Keshian** of **Kilpatrick Townsend & Stockton LLP**.

Severson & Werson landed on the legal lambs list this week after a California jury determined Monday that the law firm's client, Nissan Motor Acceptance Corp., **must pay \$256 million** to a car dealer group after driving it into ruin during the Great Recession. Superior Automotive Group was awarded the whopping verdict by jurors who found that NMAC, Nissan Motor Ltd.'s financing arm, put the seven-dealership group out of business in 2009 by abruptly freezing its financing and seizing highly valuable collateral during the sales downturn that accompanied the recession. Nissan is represented by **Mark Kenney, Duane Geck, Andrew Elliott** and **Alan Ritchie** of **Severson & Werson**.

A backdated legislative change in Michigan that knocked out anticipated tax refunds for a number of corporations, including IBM, Gillette and Goodyear, will remain in place after the U.S. Supreme Court on Monday **decided against reviewing** the companies' constitutional concerns over the change. Goodyear, Gillette and DirecTV are represented by **Amy L. Silverstein** of **Silverstein & Pomerantz LLP, Charles A. Rothfeld, Michael B. Kimberly, E. Brantley Webb** and **John T. Lewis** of **Mayer Brown LLP** and **Gregory Nowak** of **Miller Canfield Paddock & Stone PLC**. Sonoco Products Co. is represented by **John D. Pirich** of **Honigman Miller Schwartz and Cohn LLP**. Skadden is represented by its own **Clifford M. Sloan**. IBM is represented by **Clifton S. Elgarten, Charles C. Hwang** and **Jeremy Abrams** of **Crowell & Moring LLP**.

A Virginia federal court on Monday shot down a New York attorney's bid to challenge the U.S. Patent and Trademark Office's **decision to suspend him** from practicing before the board for two years. U.S. District Judge Leonie M. Brinkema ruled that legal lamb **Michael I. Kroll** had been correctly suspended after the USPTO found that Kroll posted a client's invention on his website more than a year before filing the patent application with the USPTO, thereby invalidating the patent, but still went ahead with the patent application.

Rounding out this week's flock of legal lambs are **Winston & Strawn LLP, WilmerHale** and **Barnes & Thornburg LLP**, which faced a setback Friday when an Illinois federal judge **ruled that their clients**, Target, Walgreens and Wal-Mart, must face the bulk of claims brought by consumers in multidistrict litigation over the contents of the companies' herbal supplement products. Walgreens, Wal-Mart and NBTY Inc. are represented by **Scott Glauberman, Ronald Y. Rothstein, Scott Ahmad** and **Amanda Groves** of **Winston & Strawn LLP** and **Kevin Rising, David Allen, David Nelson** and **William McErlean** of **Barnes & Thornburg LLP**. Target is represented by **Jonathan E. Paikin, John T. Byrnes, Matthew T. Martens** and **Charles C. Speth** of **WilmerHale**.

--Additional reporting by Emma Cueto, Diana Novak Jones, Daniel Siegel, Vidya Kauri, Cara Salvatore, Matthew Bultman, Allissa Wickham, Kyle Jahner, Chelsea Naso, Rick Archer and Carolina Bolado. Editing by Rebecca Flanagan.