



# THE BEST OF THE BAD

By Sheryl Fred, a Washington, D.C.-based reporter  
and a former editor at *Corporate Legal Times*

**CORPORATE COUNSEL LOVE TO TALK ABOUT** plaintiffs' lawyers' frivolous lawsuits, courtroom theatrics and unnecessarily large fees. But ask them to talk about whom they most fear and admire in the plaintiffs' bar, and they clam up. A legal department spokesperson for one large automobile manufacturer said the company's lawyers had no intention of participating in a story—on- or off-the-record—that would give its adversaries credit. Some in-house counsel said they simply couldn't think of a single plaintiffs' attorney deserving of their respect.

But when we compiled lists from those brave souls (including outside counsel and some of the country's top legal scholars) who did talk, five names kept surfacing: Melvyn Weiss, Joe Rice, Elizabeth Cabraser, Bob Clifford and David Boies.

At first glance, these attorneys couldn't be more different. They come from different parts of the country, play very different roles within the plaintiffs' bar and certainly have different ways of doing things. Some are known for their scholarly discourse. Some are respected—and appropriately feared—for their negotiating skills. Others are admired—and sometimes loathed—for their aggressive litigation style.

As Cabraser so aptly points out, there's more than one way to become a successful plaintiffs' attorney.

"There are as many ways as there are lawyers," she says.

So, what are the common ingredients of this group?

According to David Bernick, a Kirkland & Ellis partner who has defended corporations in complex litigation for years—and faced at least three of the lawyers on this list along the way—two criteria, in particular, define what he would call a worthy adversary:

"They have to have a good track record, and they have to be truly active—willing to roll up their sleeves and do the work themselves," he says.

Above all, these men and women are standouts in the sea of plaintiffs' attorneys that in-house counsel deal with every day. These lawyers also happen to share an uncanny ability to make in-house counsel work a little harder than usual.

And that's not always a bad thing.

"I'd rather go against a lawyer who's sharp," says Steven Hantler, assistant general counsel for DaimlerChrysler Corp. "A highly skilled lawyer is more likely to properly evaluate his or her case."

While interviewing our five subjects, we discovered most good plaintiffs' lawyers would like much the same thing in an adversary. In fact, as these attorneys share their victories, hurdles and even some advice for their opponents in the following pages, you may just discover that plaintiffs' lawyers aren't all that different from corporate counsel.

*The Five Most Respected (And Feared) Plaintiffs' Attorneys*

# JOE RICE

AS THE PRIMARY COORDINATOR of the largest settlement in U.S. history, Joe Rice may be the last face that defense counsel want to see at the negotiating table. In 1998, Rice orchestrated the massive \$246 billion tobacco settlement with 26 states, and has maintained the respect of plaintiffs' lawyers and corporate counsel alike ever since. But for all his talents as a shrewd negotiator—something that netted him roughly \$15 million in the tobacco suits—Rice has earned most of his respect from playing fair and remaining humble.

"There's always a solution if we can come together early enough," he says.

The South Carolina native, who's been at the same firm for nearly 25 years, has been called a "born dealmaker." But Rice insists he wasn't always so smooth when it came to taking on big business.

"I wish I'd had a greater appreciation of the interplay between the litigation I was bringing and the corporation's business," he says. "I would have been much more productive."

If he struggled to understand what made corporations tick in the past, he certainly overcame it quickly. In the early 1990s, Rice was best known for negotiating a series of billion-dollar

asbestos settlements. Later that decade he took on the country's largest tobacco companies. It wasn't long before Rice became the go-to man for advice—and advocacy—on mass torts. Today, he's been tapped by the plaintiffs' bar to lobby against asbestos legislation now pending in Congress.

"I've been involved in [asbestos litigation] for 20-plus years," Rice says. "And having been through the tobacco situation, I do have at least an elementary knowledge of the political process."

Rice's next project also is politically charged—and no less ambitious. He and his firm have filed a \$1 trillion class action against al-Qaida and its financiers on behalf of the victims of the September 11 attacks. The lawsuit, which names a number of Saudis as defendants, has led to a treasure-trove of documents detailing the financing of al-Qaida. Private investigators hired by Motley Rice have already uncovered documents that allegedly show how millions of dollars from Saudi Arabia and Muslim charities were funneled through the Taliban to al-Qaida.



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## DOSSIER

**AGE:** 49

**LAW SCHOOL:**

University of South Carolina School of Law, 1979

**RESIDENCE:** Charleston, S.C.

**EXPERIENCE:**

■ 1979–present

Motley Rice (Formerly Ness Motley Loadholt Richardson & Poole), Partner

*"There's always a solution if [in-house counsel and plaintiffs' attorneys] can come together early enough."*