

PERSPECTIVE



2011 ANNUAL REVIEW

Akin Gump
Strauss Hauer & Feld LLP

“The difference between a mountain and a molehill is your perspective.”

—Al Neuharth





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To read the barcodes in the *Annual Review*, please open a 2D barcode reader on your smartphone and use it to scan the barcode. Two such apps are i-nigma Reader (www.i-nigma.mobi) and ScanLife Reader (www.getscanlife.com).



■ R. Bruce McLean



R. Bruce McLean
Chairman

Dear Clients, Alumni and Friends,

2011 proved to be a year of measured growth for the global economy and for our clients, from small-cap companies to sovereign states, even as Eurozone worries, the Arab Spring and the impact of the mid-term elections in the United States contributed to marketplace uncertainty.

For Akin Gump, amid increased volatility, 2011 was a year in which we became more stable. We continued to pursue our strategic initiatives by growing the firm and its practices to meet the needs of current and prospective clients. In mid-2011, we expanded our experience and knowledge base in project finance and renewable energy by bringing on board top-notch lawyers in those practices who reside in the firm's Washington, D.C. and New York offices as well as in our new Downtown Los Angeles office. We welcomed partners from a wide range of backgrounds to our core practices—including litigation, energy and global transactions, intellectual property, health, labor, and policy and regulation—in our U.S. as well as our international offices. As a consequence, our attorneys and advisors are even better equipped and positioned to counsel clients with that trademark blend of legal, business and political savvy that sets the firm apart.

Of course, this expansion and bolstering of our practices were all completed with you, the client, in mind. We were honored and delighted to offer over 59,000 hours of pro bono legal counsel to clients ranging from soldiers and their families to asylees seeking succor and freedom. In our commercial practice, we helped a leading beverage company protect its intellectual property, a top telecom company sell a multibillion-dollar patent portfolio and an energy giant defeat a lawsuit seeking billions of dollars in damages and divestment of its U.S. assets. We assisted an Asian nation as it obtained a long-sought-for trade

agreement, and we helped bring about the most comprehensive change to the U.S. patent system since the Truman administration. Our clients made these happen. We're proud to have helped them achieve their goals.

Welcome to the 2011 Annual Review.



In October 2011, R. Bruce McLean was honored with the Learned Hand Award, established by the American Jewish Committee (AJC) in 1964, to honor the memory of Judge Learned Hand. The AJC presents this award to "outstanding leaders of the legal profession who exemplify the high principles for which Judge Hand was renowned."



■ ■ Perspective on **Client Service**



Transactions

Hughes Communications Acquired for \$2 Billion

An Akin Gump team represented Hughes Communications in its \$2 billion acquisition by an affiliate of EchoStar. Hughes, a global leader in the provision of broadband satellite networks and services for enterprises, governments, small businesses and consumers, was majority owned by an affiliate of long-time Akin Gump client Apollo Global Management, LLC. This transaction was executed on an expedited timeline, with the Federal Communications Commission granting approval only 82 days after public notice. The deal created significant value for Hughes shareholders, who received \$60.70 per share without interest, representing a 31 percent premium over Hughes' pre-announcement closing share price of \$46.43. For EchoStar, this was a strategic and transformational combination marrying the assets and resources of two of the largest and most prominent satellite and digital services businesses in the world and greatly enhances its ability to develop new data and video products and solutions.

A Cutting-Edge Structure for Dow/Mitsui Joint Venture

Eyeing significant opportunity in the global chemical market, Akin Gump client The Dow Chemical Company devised a long-term strategy to form innovative joint venture (JV) and financing structures to meet increased demand and expand its market leadership position worldwide. Over the course of 2010 and 2011, Akin Gump helped Dow execute a key piece of this strategy, representing our client in the formation and subsequent financing of a JV with Mitsui & Co., Ltd. to construct and operate a chlor-alkali facility inside Dow's Freeport, Texas, facility. An Akin Gump team helped to architect a cutting-edge structure that allowed the JV partners to mitigate risk and share in the project's successes, thereby establishing a template for future projects. Once the structure was in place, the team completed a highly complex project financing involving a consortium of both European and Japanese banks in an unprecedented six weeks. For Dow and Mitsui, these landmark transactions laid the groundwork for pursuing novel joint ventures with each other and with partners in key markets around the world and will enable them to provide their customers with an integrated global product offering to meet their chemical needs.

Transactions

Anadarko Sells Shale Acreage for \$1.55 Billion

A team of Akin Gump attorneys advised Anadarko Petroleum Corporation in its sale of one-third of its Maverick Basin (Eagle Ford Shale) assets to Korea National Oil Corporation (KNOC) for a total of \$1.55 billion. This transaction was unique due to the structure of the funding. The investment was made entirely in the form of a carry, which funded approximately 100 percent of Anadarko's 2011 post-closing capital costs in the basin and up to 90 percent thereafter until the carry is exhausted, as foreseen, by the end of 2013.

As part of the joint venture agreement between the two companies, KNOC received about 80,000 acres in the Eagle Ford Shale as well as an additional 16,000 dry-gas acres in the Pearsall Shale. At the end of 2010, the investments made by Anadarko allowed the company to be a preeminent player in the Eagle Ford Shale by becoming the largest producer in the play. According to Anadarko president and chief operating officer, Al Walker, the partnership with KNOC will allow the two companies to "pursue other investments together in the future."

ExxonMobil and Rosneft in \$3.2 Billion Artic Joint Venture

Akin Gump partners based in Moscow and London advised long-standing client ExxonMobil in its marquee \$3.2 billion joint venture with Rosneft, Russia's leading extraction and refinement company, in the Russian Arctic. The deal was signed on August 30, 2011, in the presence of Prime Minister Vladimir Putin in Sochi, Russia. The joint venture is for oil exploration into Russia's strategic and deepwater continental shelf. The initial phase will see the two companies partner on projects in the Arctic and Black Sea. This deal indicates likely future strategic cooperation between Exxon and Rosneft both in Russia and elsewhere.

\$3.7 Billion in Eurobond Issues for VimpelCom

During the first half of 2011, Akin Gump advised leading international telecoms company VimpelCom Ltd. on two Eurobond issues with a combined value of \$3.7 billion.

The company's \$2.2 billion bonds, which closed at the end of June 2011, were issued by its subsidiary, VimpelCom Holdings B.V., and guaranteed by OJSC Vimpel-Communications. The firm also advised VimpelCom as borrower on a \$1.5 billion Eurobond issue structured as loan participation notes that closed in February 2011.

■ Transactions

Building One of the World's Largest Solar Power Plants

With the intent to build and operate one of the world's largest photovoltaic (PV) solar power plants, SunPower Corporation and NRG Energy, Inc. enlisted Akin Gump's assistance with the financing of the California Valley Solar Ranch, a 250 MW solar PV project located in San Luis Obispo. The \$1.6 billion acquisition and financing included a \$1.237 billion construction and permanent loan guaranteed by the U.S. Department of Energy (DOE). This was the last project to receive a loan guaranty under one of the programs established by the 2009 American Recovery and Reinvestment Act (ARRA), and its financing was one of the largest, occurring under the intense scrutiny that the DOE loan guaranty program underwent in 2011. Akin Gump's deep project finance bench, with considerable experience working with several of the DOE loan guaranty

programs (this being the third multibillion-dollar DOE-guaranteed renewable energy project financing that our attorneys closed), greatly contributed to the success of this financing. This project required collaboration by, and input from, Akin Gump attorneys from our finance, tax, real estate, land use, energy regulatory and policy practices.

With the financing in place, construction has already started on the project, with the expectation that power will begin to be fed into the electrical grid by early 2012. The entire project will create approximately 350 jobs and is expected to be completed in three years. It will generate enough electricity for approximately 100,000 homes and offset 750 million pounds of carbon dioxide each year.



Transactions

Nortel Patent Auction Yields a Groundbreaking \$4.5 Billion Pricetag

Since 2009, Akin Gump has represented the Official Committee of Unsecured Creditors (the “Committee”) of Nortel Networks Inc. in one of the most complex cross-border bankruptcies ever. In a case requiring the harmonization of the interests of creditors, pension authorities and fiduciaries in the U.K., Canada, the United States and many other jurisdictions around the world on numerous issues, Akin Gump has been instrumental in raising almost \$8 billion for the estate through a series of carefully coordinated asset sales.

Among the more than 10 consummated cross-border transactions that Akin Gump has handled for the Committee was one of the largest sales under Section 363 of the Bankruptcy Code in U.S. history—the \$4.5 billion sale of Nortel’s patent portfolio to Apple, Inc. and a consortium that included EMC Corp., Telefonaktiebolaget LM Ericsson, Microsoft Corp., Research In Motion Ltd. and Sony Corp (the “Apple/Rockstar Group”).

The sale of Nortel’s approximately 6,000 patents and patent applications was unprecedented in both the high number of standard-essential, previously unasserted patents involved and the sheer size of the patent portfolio itself, which included a wide range of technologies used in smartphones and other wireless devices as well as in Internet searching and social networking. Nortel entered into a \$900 million stalking-horse bid with Google, Inc. on April 4, 2011, after more than a year-long period in which Akin Gump and other estate constituents

worked closely with Nortel to reach consensus that the sale process was the best strategy to maximize the value of the patent portfolio. The auction started on June 27, 2011, with Google’s \$900 million stalking-horse bid matched up against bids from several strong competitors. Four days later, the auction came to a close, and the Apple/Rockstar Group’s \$4.5 billion bid was determined to be the winner. In between, a remarkable competition unfolded among some of the largest and best-known names in technology and telecommunications featuring late-night negotiations and strategic maneuverings that set the stage for an intense final round of bidding at the end of the auction that increased the ultimate sale price by more than \$2 billion. Akin Gump was intimately involved in every aspect of the auction process on behalf of the Committee.

After receiving approval from the U.S. and Canadian bankruptcy courts, the sale of the patent portfolio closed on July 29, 2011. Not only was this sale significant in the bankruptcy context, it also was a game changer for patent sales. The Nortel sale has paved the way for subsequent deals in which patent sales have been approached nondefensively and viewed as revenue-raising opportunities that could change the competitive landscape in technology-focused industries.

■ Transactions

A Year's Work with Laredo Petroleum

In 2011, Akin Gump worked on behalf of Laredo Petroleum in a series of transactions that culminated with Laredo becoming a publicly traded company.

In January, a team of Akin Gump attorneys counseled Laredo in the private placement of \$350 million of senior unsecured notes. The net proceeds of this sale were used to fully repay and retire Laredo's term loan facility and to pay down all loan amounts outstanding under its senior secured credit facility, as well as for general working capital purposes.

Six months later, Akin Gump advised Laredo in its acquisition of Broad Oak for approximately \$1 billion. The aggregate consideration paid consisted of approximately two-thirds in newly issued units of Laredo equity and one-third in cash. The cash portion and the pay-off of Broad Oak's existing indebtedness was funded under Laredo's amended and restated \$1 billion senior secured credit facility, with an initial borrowing base of \$650 million, led by Wells Fargo Securities, LLC; BofA Merrill Lynch and J.P. Morgan Securities LLC, which acted as joint lead arrangers. This acquisition significantly increased Laredo's position in the Permian Basin and the Granite Wash plays by expanding its aggregate acreage to approximately 165,000 net acres and providing additional exposure to vertical and horizontal oil and liquids-rich natural gas opportunities.

In the fourth quarter of 2011, the firm worked on behalf of Laredo in two offerings with a combined value of more than \$500 million. The first, a \$200 million private placement note offering, was completed in October under the same series as the outstanding senior unsecured notes issued in January 2011, the net proceeds of which were used to pay down amounts outstanding under the company's senior secured credit facility. Laredo then conducted a successful registered exchange offer for the \$550 million outstanding senior notes. In December, Akin Gump also counseled the newly restructured company, Laredo Petroleum Holdings, Inc., in its initial public offering of over \$340 million of common stock. At the completion of the IPO, the company used the net proceeds of the IPO to repay a portion of its outstanding indebtedness under its credit facility that has a borrowing base of \$712.5 million. Affiliates of Warburg Pincus are the largest shareholders of Laredo.

■ Transactions

Guiding TerreStar Networks Through Chapter 11

Akin Gump represents debtor TerreStar Networks Inc. (TSN), a satellite communications provider and owner of certain valuable FCC spectrum licenses, in its chapter 11 proceedings. TSN filed for chapter 11 protection in the U.S. Bankruptcy Court for the Southern District of New York in October 2010 due to an impending liquidity crunch. TSN initially sought approval of a plan of reorganization that would have resulted in control of the company by its largest secured creditor, EchoStar Corp., but withdrew the plan (which valued TSN at \$1.215 billion) in February 2011. TSN then explored both a reorganization plan with a group of senior noteholders as well as other bids from various parties before deciding on an auction process. At the beginning of July 2011, the assets of TSN were sold at auction to unrivaled stalking horse bidder Gamma Acquisition Co. (a subsidiary of DISH Network Corp.) for \$1.375 billion. The bankruptcy court approved the sale in early July, and, within approximately one month, DISH paid \$1.345 billion of the purchase price, within the remaining \$30 million due upon final regulatory approval of the sale. TSN filed its plan of reorganization on November 18, 2011.

Media and Entertainment

In 2011, Akin Gump's media and entertainment practice concluded, among others, two significant transactions involving structured finance vehicles. In the first instance, our lawyers represented a leading New York hedge fund in the acquisition from CitiGroup of Class A and Class B Notes in a structured finance vehicle that financed the production costs of, and owned an interest in, a large slate of theatrical motion pictures produced and distributed worldwide by Sony Pictures. We also represented Union Bank, N.A. in a complex cross-border Euro-based credit facility for a Luxembourg-based structured vehicle funded by European family offices and a New York hedge fund. This vehicle was to be used to co-finance a large slate of films to be acquired or produced and distributed by StudioCanal S.A. in France.

2011 also brought us opportunities to serve clients looking for assistance with new content and distribution ventures as a way to take advantage of opportunities created by new technologies and the migration from traditional to digital media. Among these, our lawyers represented an offshore family office in the acquisition of preferred shares in Digiboo, a new film distribution platform offering consumers the ability to download recent major studio films to their computers or flash drives via an airport kiosk.

“If you don’t raise your eyes, you’ll think you’re the highest point.”

— Antonio Porchia, *Voces*

■ Transactions

A New Spin on the Credit Market

Caspian Capital LP's spinoff from parent Mariner Investment Group LLC generated excitement among institutional investors and consultants alike. Akin Gump's investment funds practice acted as lead counsel to Caspian Capital, a U.S. credit hedge fund manager with approximately \$2.5 billion in assets under management, during its formal separation from Mariner Investment Group.

The complexity of the transaction was set against the backdrop of significant tax structuring considerations and included a minority investment by Mariner into Caspian. As a part of the spin-out, Caspian, which has set up shop in New York and is run by a 15-member team, also registered as an investment adviser with the Securities and Exchange Commission. Akin Gump's investment funds compliance team helped Caspian with its registration efforts.

Carpe Diem: Keith Meister's Tactical Play

During uncertain times for the financial and economical markets and amid rising political and economical tensions in the EU and other financial markets, Keith Meister (formally of Ichan Enterprises) made a game-changing decision to launch his own event-driven hedge fund, seeded with funding from Soros Fund Management. His new firm is based in New York and is called Corvex Management.

Akin Gump's investment funds practice served as lead counsel to Mr. Meister in his successful endeavor. Despite naysayers who pointed to the current market environment as a threat for hedge funds, our practitioners assisted Mr. Meister in his methodical planning for, and ultimate launch of, Corvex Management.

Masdar Joins E.ON in Clean Energy Investments Joint Venture

Akin Gump advised on the establishment and closing of a 50/50 joint venture between Masdar, Abu Dhabi's renewable energy development and commercialization initiative, and E.ON, one of the world's largest investor-owned power and gas companies. The joint venture is currently based in Masdar City and focuses on clean energy investments, with an emphasis on emerging markets in Africa, Southeast Asia and Central Asia.

To date, Akin Gump has advised the joint venture company on its investments relating to carbon emission projects in the Republic of Uzbekistan, including the drafting and negotiation of project development agreements, emissions reduction purchase agreements, supply agreements and other ancillary documents.

Advocacy

Summary Judgment for MetLife in Class Action

In a case that drew a great deal of attention from the insurance industry, including an amicus brief from American Council of Life Insurers in support of client MetLife's position, Akin Gump secured a victory in the U.S. Court of Appeals for the 10th Circuit that affirmed summary judgment for MetLife in a class action case filed in the U.S. District Court for the Western District of Oklahoma. The firm also secured summary judgment in the trial court.

In a case of first impression at the federal appellate level, the U.S. Court of Appeals for the 10th Circuit upheld the district court's ruling in *Thomas, et al. v. MetLife*, a class action securities suit, that the sale of variable annuities, variable life policies, mutual funds and other products over a multiyear period, recom-

mended, in part, based on a required suitability analysis, did not trigger a fiduciary duty standard under the '34 Act and the Investment Advisers Act of 1940 (IAA). The plaintiffs had alleged that MetLife's representative (and MetLife) had violated the IAA by failing to disclose to customers that MetLife representatives could receive increased compensation for selling MetLife's products over other companies' products, and that this differential compensation structure incentivized MetLife reps to push MetLife products over less-costly alternatives. The court of appeals also affirmed the district court's order denying plaintiffs leave to add plaintiffs at the precertification stage.

*“It’s stunning to me what kind of an impact even one person can have if they have the right passion, **perspective** and are able to align the interest of a great team.”*

— Steve Case

California Court Declares that Privilege Protects Intrafirm Communications

In a case with potentially enormous effect on the way law firms work with, and document their communications regarding, their clients, Akin Gump represented Fireman's Fund Insurance Company in an appellate victory in which a California court put to rest any doubt that both the attorney-client and work product privileges absolutely protect from disclosure communications among legal team members as well as an attorney's unwritten, uncommunicated legal opinions.

A trial court had ordered an attorney to answer deposition questions over her objections despite her claims of attorney-client and work product privileges, concerning the attorney's confidential communications about client matters with other legal team members. The trial court had found that the communications were not privileged because they did not involve communication with the client. Further, it found that her legal opinions were not privileged because they had not been reduced to writing.

The decision—had it been allowed to stand—would have required attorneys to document every thought to avoid discovery and would have exposed attorneys to malpractice suits if the failure to communicate to clients or document an opinion resulted in its discovery. This would have had a profound impact on the practice of law.

Akin Gump sought a writ to overturn the decision. The court of appeal granted the writ and reversed the trial court, rejecting the trial court's narrow and restricted view of the attorney-client and work product privileges. In so doing, the court finally put to rest the question of whether the attorney-client and work product privileges protect all forms of intrafirm communications.

Twin City Not Liable for Claims in D&O Tower

Akin Gump obtained summary judgment on behalf of firm client Twin City Fire Insurance Company (a subsidiary of The Hartford), holding that Twin City and the D&O insurance carriers excess to Twin City are not liable for coverage claims made by JPMorgan Chase & Co. in the combined amount of more than \$100 million.

In the case, JPMorgan Chase & Co. sued Twin City and other carriers for coverage of claims allegedly arising from the bank's involvement in the National Century Financial Enterprises health care receivables fraud. Twin City and the carriers above Twin City in the D&O insurance tower moved for summary judgment based on the bank's inability to prove it had exhausted all available coverage after the bank settled with a carrier beneath Twin City in the tower.

In granting summary judgment for the carriers, the New York State Supreme Court – Commercial Division squarely addressed the 2nd Circuit's 1928 decision in *Zeig v. Massachusetts Bonding & Ins. Co.*, a case that had been wrongly construed by courts in some other jurisdictions as prohibiting excess carriers from conditioning excess coverage on payment in full of underlying policy limits. In an important decision for Twin City—and the industry, generally—the Commercial Division correctly rejected this misinterpretation of *Zeig*, carefully distinguished numerous other cases cited by the insured and held that neither Twin City nor any of the carriers above it had any liability to the bank based on the plain language of their respective policies. The firm prepared the lead brief in the case and argued the motion on behalf of Twin City and the carriers above Twin City in the tower.



False Claims Act Milestones

Akin Gump health industry practice lawyers represented clients in groundbreaking False Claims Act (FCA) court decisions issued during 2011. Each decision creates significant roadblocks to the government's and purported whistleblowers' ability to maintain meritless FCA actions. Specifically, these decisions will—

- limit alleged whistleblowers' ability to institute FCA *qui tam* actions by parroting information in the public domain when they lack firsthand knowledge of the allegations
- restrict the government and whistleblowers from successfully suing consultants and other vendors to health care providers for allegedly “causing” these providers to retain overpayments when the third party knows nothing more than that the health care provider has possession of the funds
- curb the government's ability to sue health care entities under the FCA when the government, or its contractors, had previously reviewed and approved the underlying claims
- empower FCA defendants to recover their reasonable attorneys' fees when they are subjected to frivolous *qui tam* actions.

The cases are: *United States ex rel. Jamison v. McKesson Corp.*; *United States ex rel. Huey vs. Summit Healthcare Ass'n, Inc.*; and *In Re Natural Gas Royalties Qui Tam Litigation*.

Arbitration Victory in €50 million Mauritius Claim

In the award issued on February 28, 2011, Akin Gump scored a major success for Colas S.A., a French engineering and construction company, in an international arbitration matter (Paris forum, Mauritius law) adverse to the Mauritius Port Authority (MPA).

The case involved a claim of the MPA for €50 million in damages, pursuant to the decennial liability statute in the Mauritian Civil Code, for certain alleged defects in a marine quay structure constructed by Colas in Port Louis, Mauritius. The tribunal upheld Akin Gump's argument that the MPA claim was time-barred, the statute of limitations in Mauritian law and international arbitral jurisprudence being tolled not by the mere declaration of an intention to file a claim in arbitration pursuant to the arbitration clause of the original FIDIC-form contract between the parties for the works at issue, but, rather, by the actual filing of a Demand for Arbitration under the ICC Rules. In this instance, whereas the intention to assert a claim in arbitration had been declared the day before the expiry of decennial guarantee, the Demand for Arbitration was filed only nine months thereafter. The unanimous tribunal accordingly dismissed with prejudice the entirety of the MPA's claims. It is extremely unusual, in international arbitration, for a respondent to succeed on what amounted to an in limine motion to dismiss in advance of any consideration of the substantive merits of the claim.

Coke Beats Pepsi in Trade Dress/Patent Infringement Case

On October 27, 2010, we received a call from The Coca-Cola Company. The Company was facing an emergency: it needed to file a trade dress and patent infringement case (and a motion for preliminary injunction) against Pepsi within 36 hours.

The purpose of the lawsuit was to protect the unique packaging of Coca-Cola's "Simply" line of chilled juice beverages headlined by Simply Orange® juice. Since their introduction in 2001, Simply juices have been one of the fastest-growing lines of chilled drinks (i.e., juices located in the refrigerated section) and, in 2010, Coca-Cola's Simply sales exceeded one billion dollars per year.

Simply's success had been a source of frustration for Pepsi's Tropicana business because Simply has consistently taken market share from Tropicana Pure Premium® orange juice. One of the drivers of Simply's success has been its unique and recognizable clear carafe-shaped packaging, topped with an oversized green crown-shaped cap. This packaging stands out on the shelf because most other chilled juices are sold in square paper cartons.

Over the years, Pepsi had redesigned its Tropicana packaging multiple times, but each redesign failed, some spectacularly. In 2010, Pepsi introduced TROP50® (a reduced-calorie orange juice drink) in packaging that was

strikingly similar to the Simply packaging. Coca-Cola believes that part of Simply's success is its distinctive packaging, and Pepsi could not be permitted to copy it.

Our team filed the complaint for trade dress and design patent infringement and a motion for preliminary injunction with supporting evidence within 36 hours of being retained. Subsequently, at an expedited scheduling conference, the judge consolidated the preliminary injunction hearing with the jury trial on the merits and gave the parties a firm jury trial setting of June 13, 2011.

Pepsi was well-represented by a team of lawyers from the Houston, Dallas and New York offices of Baker Botts. The parties had only five months to prepare a case for trial that would normally have taken at least 18 months. In that time, our team handled multiple motions for summary judgment, the preparation of almost a dozen expert reports, the production of hundreds of thousands of pages of documents, numerous party depositions, dozens of third-party subpoenas and depositions, expert depositions, a claim construction schedule with infringement and invalidity contentions and *Markman* briefing, and a mediation.

On May 2, facing a jury trial in Houston in less than six weeks, Pepsi agreed to a settlement. The specific terms of the settlement are confidential.

LUKOIL Wins in Complex Antitrust Class Action

In February 2011, after several years representing OAO LUKOIL and affiliated companies in an antitrust class action brought on behalf of direct purchasers of refined petroleum products, Akin Gump obtained a significant victory in the U.S. Court of Appeals for the 5th Circuit. The plaintiffs alleged that the LUKOIL companies and other defendants (companies owned by, or affiliated with, OPEC member countries) had violated U.S. antitrust laws by participating in a worldwide conspiracy to restrict the production of crude oil in order to inflate refined petroleum product prices in the United States. Plaintiffs were seeking billions of dollars in damages and divestment of the defendants' U.S. assets. Six such cases were filed in various federal district courts around the country. The Judicial Panel for Multidistrict Litigation transferred them for coordinated pretrial proceedings to Judge Lake in Houston, who granted defendants' motion to dismiss based on the act-of-state and political question doctrines.

On February 8, the 5th Circuit affirmed the district court's decision in a 26-page published opinion. The court of appeals held: "[T]he complaints before us effectively challenge the structure of OPEC and its relation to worldwide production of petroleum. Convinced that these matters deeply implicate concerns of foreign

and defense policy, concerns that constitutionally belong in the executive and legislative departments, we conclude that we lack jurisdiction to adjudicate the claims. We hold alternatively that the complaints seek a remedy that is barred by the act of state doctrine."

Because the LUKOIL companies are not owned by, or affiliated with, the Russian government, the applicability of the political question and act-of-state doctrines to them raised complex issues.

The Supreme Court denied the plaintiffs' petitions seeking review of the 5th Circuit's decision.

VimpelCom Defeats Injunction, Closes Multimillion Dollar Transaction

Akin Gump represents VimpelCom Ltd., one of the world's largest telecommunications companies, in a series of proceedings relating to a landmark transaction with Wind Telecom S.p.A. Opposing this transaction, one of VimpelCom's largest shareholders had sought to enjoin a special general meeting of shareholders to approve the transaction unless VimpelCom agreed to issue it pre-emptive shares. Advised by a team of New York and London Akin Gump litigators coordinating with English barristers, VimpelCom successfully opposed the injunction, and the London Commercial Court issued a ruling that allowed the multibillion-dollar transaction to close. The closing of the transaction took VimpelCom from the 42nd-largest mobile phone company in the world to the sixth-largest and expanded VimpelCom's operations from Russia, the CIS, Vietnam and Cambodia to include Italy and many emerging markets in North America and South Asia.

Centocor Succeeds in Reaching Suit Settlement *Bayer Healthcare, LLC v. Centocor Ortho Biotech Inc.*

The Akin Gump team representing Centocor Ortho Biotech Inc. against Bayer HealthCare, LLC in a patent infringement lawsuit succeeded in reaching a settlement of that suit that extended to a settlement of several litigations between the parties pending throughout Europe on similar issues.

In August 2009, Bayer accused Centocor of infringing one of its patents titled "Human Anti-TNF Antibodies." The patent describes an antibody that binds to a chemical, known as human tumor necrosis factor alpha, that plays a role in inflammatory diseases. Bayer had alleged that Centocor infringed the patent by selling Simponi® in the United States and that the infringement was willful. It had asked for injunctive relief, treble damages, costs and attorneys' fees. After a claim construction ruling in the District Court of Massachusetts that was favorable to our client, Bayer agreed to stipulate that its patent was not infringed. Bayer appealed the court's claim construction ruling to the Court of Appeals for the Federal Circuit but, before any briefs were filed, a confidential settlement was reached that included an agreement from Bayer to dismiss its appeal.

Home Depot Defends Class Actions *Novak v. Home Depot U.S.A., Inc.*

In 2011, Akin Gump assisted its longtime client Home Depot U.S.A., Inc. in decertifying a nationwide Fair Labor Standards Act collective action in which approximately 1,700 current and former assistant store managers alleged that they had been misclassified as exempt from federal overtime requirements. On February 15, 2011, the district court ruled that resolution of these claims required individualized determinations and that such determinations were incompatible with collective action treatment. The court decertified the plaintiff class and dismissed the claims of all opt-in plaintiffs.

Kopera v. Home Depot U.S.A., Inc.

On January 11, 2011, the Southern District of New York similarly denied class treatment of a state law misclassification claim. In *Kopera*, assistant store manager trainees alleged that they had been misclassified as exempt from New York state law overtime requirements. The district court, like the district court in *Novak*, ruled that these claims required individualized determinations.

Since 2005, the firm has represented Home Depot in its class employment litigation. During this period, the firm has defended the company in at least a dozen class actions. In each instance, Home Depot has either defeated class certification or obtained summary judgment, plaintiffs have dismissed their class claims or the parties have reached a favorable settlement.

■ ■ Policy and Regulation

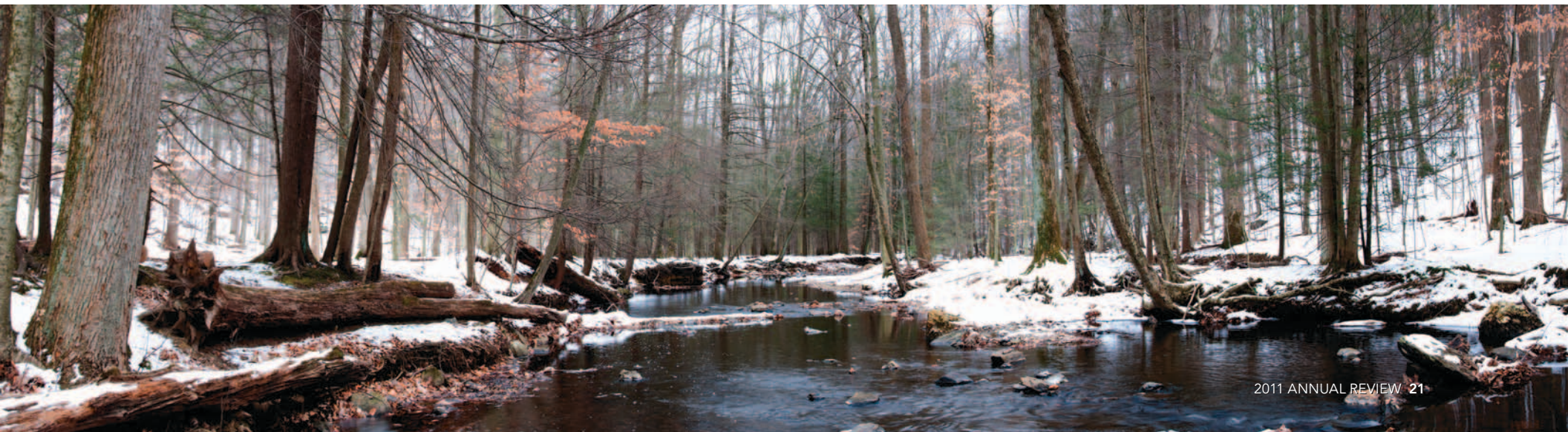
Osage Tribe Wins Largest-Ever USG Settlement of a Claim

Akin Gump successfully advised the Osage Tribe in the largest-ever settlement of a claim made by a tribe against the United States government. The \$380 million settlement was announced at a signing ceremony held October 21 at the U.S. Department of the Interior and attended by a number of U.S. government and Osage Tribe officials. The settlement represents the culmination of 11 years of litigation regarding the government's mismanagement of tribal assets.

In the preceding 18 months, Akin Gump had achieved a series of victories in court that led to the negotiated settlement. In December 2010, the U.S. Court of Federal Claims issued a 95-page opinion ruling in favor of the Osage on virtually all of the claims that were tried. The court directed the parties to submit damage

calculations applying the principles set forth in its opinion. In February 2011, the court issued an order awarding total damages (including the amount covered by the summary judgment decision) of \$333 million. This was a partial judgment in the case, with a number of remaining claims yet to be tried. At the time of the award, John Echohawk, executive director of the Native American Rights Fund, which represents many tribes in similar cases, was quoted as saying that the ruling was a "significant step forward for not just the Osage Nation but for all tribes seeking resolution of their trust funds claims against the United States."

The court scheduled trial on all remaining claims in the case for January 2012; the matter was settled in October 2011.



■ Policy and Regulation

Clients Win Removal, Release in FDA Actions

In 2011, Akin Gump lawyers won important victories for two clients whose FDA-regulated products were being held up at U.S. borders.

First, through the team efforts of Akin Gump food and drug law, litigation, and policy and regulatory attorneys over a nine-month period, the firm successfully won the removal of one of Amphastar Pharmaceuticals, Inc.'s suppliers from an FDA import alert that had essentially halted the development of a significant drug pipeline for Amphastar and prevented the company from obtaining approval for its enoxaparin drug. FDA granted its approval for enoxaparin on September 19, 2011.

Later that same week, Amphastar's competitor, Momena, filed suit for patent infringement, temporarily blocking the launch of the drug. While the litigation and federal appellate teams continue to help the client pursue a final decision allowing sale of its FDA-approved drug, removing the import alert eliminated a significant barrier for Amphastar's drug approval, product development and business in general. Oral argument was held at the end of January 2012, in the

United States Court of Appeals for the Federal Circuit, addressing the validity of a preliminary injunction won by Momena in the federal District Court of Massachusetts. On the day following oral argument, the Federal Circuit ordered an immediate stay of the preliminary injunction pending its final decision on the merits, permitting Amphastar to reenter the generic enoxaparin market. A final decision is anticipated in the first half of 2012.

Then, in December 2011, the food and drug law and customs teams won an important victory for Honeywell, securing the release by U.S. Customs and Border Protection of several critical ingredients needed for Honeywell's specialty chemicals business.

Additionally, in July 2011, the food and drug law team worked with FDA's Los Angeles District Office to facilitate the expeditious release of a shipment of Lakeshore Learning Materials' children's toys containing FDA-regulated cosmetics. The release of the shipment had been unduly delayed for microbial and colors testing that FDA was not able to complete within a reasonable time-



■ Policy and Regulation

frame. Through strategic calls and communications with FDA, the food and drug law team was able to identify the cause of the delay and inspire FDA to resolve the delay and release the client's products.

In Washington's highly charged political atmosphere, the two most significant pieces of legislation enacted by this Congress were both led by Akin Gump teams

Coalition for 21st Century Patent Reform

Akin Gump professionals in the public law and policy practice represented the Coalition for 21st Century Patent Reform—a diverse group of nearly 50 companies representing leaders in technology and innovation across the economy. Our lawyers and advisors have been at the forefront of collaboration with policymakers in Congress and the Administration to improve a patent system that was deemed not to have kept pace with the global economy. Akin Gump's expertise in navigating the complicated political, legislative and administrative landscape has helped produce reform legislation that received

wide bipartisan support in the House and in the Senate, as well as support from the Administration. The Leahy-Smith America Invents Act was signed into law by President Obama on September 16, 2011. The law represents the most comprehensive change to the U.S. patent system in nearly 60 years.

Government of South Korea

After nearly two years of diligent work and challenging negotiations on behalf of the Korean government, an Akin Gump team was able to watch as the U.S. Congress overwhelmingly passed the South Korean Free Trade Agreement with broad bipartisan support. The timing of the passage of the agreement was fortuitous, as it coincided with the state visit of South Korean President Lee Myung-bak, who joined President Obama in a joint address to Congress and, in Detroit, for a speech touting the agreement.



■ Policy and Regulation

Humvee Producer Gets “No Action” from State Department

The international trade practice earned a big victory for U.S. military vehicle manufacturer AM General by securing a “no action” letter from the U.S. State Department’s Office of Defense Trade Controls Compliance (DTCC) in response to a voluntary self-disclosure (VSD) of possible violations of the ITAR export controls arising from AM General’s dealings with ELBO Hellenic Vehicle Industry S.A., a vehicle production company in Greece. Since 2000, AM General has been involved in a number of coproduction agreements and related offset contracts with ELBO for the design and manufacture of HMMWV (“Humvee”) military vehicle variants.

A proposed 2008 deal with ELBO was placed on hold until mid-2010, when the parties finally concluded an agreement, and AM General decided that it needed to obtain a new license from the State Department to export defense services to ELBO. The requirement for a new license triggered concerns within the company’s International Trade Controls Department that this request would

prompt a review by State of AM General’s compliance with several prior licenses and the ITAR, likely revealing extensive violations involving prior unlicensed exports of defense services to ELBO. Our attorneys began a broader review of the compliance issues and licensing requirements raised by the ELBO contracts and agreements that led to the filing of an initial notice of voluntary disclosure, followed by an extensive internal investigation involving the review of thousands of documents and two rounds of interviews. While there was anecdotal evidence of AM General’s likely noncompliance with the ITAR from 2000 through 2005, our lawyers found little evidence of violations during the period of investigation (which coincided with the relevant five-year statute of limitations).

A final report describing in detail the history of the AM General-ELBO relationship and export activities was submitted to DTCC on May 31, 2011. Just one week later, DTCC issued a letter advising AM General that it was closing the case without taking further action.

■ Policy and Regulation

Trade Remedy Success Stories

Akin Gump successfully represented Kolon Industries, one of the largest petrochemical companies in the Republic of Korea, in the U.S. antidumping duty sunset review of polyethylene terephthalate (PET) film from Korea. On August 15, 2011, the U.S. International Trade Commission unanimously determined that revocation of the existing antidumping duty order on PET film from Korea would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of this determination, the U.S. Department of Commerce revoked the antidumping duty order. Kolon Industries was the only Korean respondent company to participate in this sunset review and achieved this victory on behalf of the entire Korean PET film industry.

Our team represented CF Industries, Inc. and PCS Nitrogen Fertilizer, L.P., the two largest U.S. producers of urea (a basic nitrogen fertilizer used on

most crops), in the third U.S. antidumping duty sunset review of solid urea from Russia and Ukraine. Against all odds, on November 15, 2011, the U.S. International Trade Commission voted to continue the 1987 antidumping duty orders on urea from Russia and Ukraine, despite the fact that they have been in effect since the Soviet era, and even though they were almost revoked in the previous sunset review in 2005. The Commission found that revocation of the orders would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The United States is the world's largest urea importer, and Russia and Ukraine are the world's largest urea exporters. This five-year continuation of the orders was a significant victory for the U.S. domestic industry.

*“The way to be liberated from the constraining effects of any medium is to **develop a perspective** on it—how it works and what it does.”*

— Neil Postman, *Teaching as a Subversive*

■ Policy and Regulation

Volkswagen

Together with our client Volkswagen Group of America, Inc. (VWGoA), the international trade practice secured what may be Akin Gump's largest normal duty and interest recovery to date—more than \$12 million—from U.S. Customs and Border Protection (CBP). The issue in the case was whether appraisement based on price adjustment payments under a transfer pricing arrangement was consistent with the customs transaction value method of appraisement, such that VWGoA could claim duty and interest refunds based on compensating adjustments that its parent company made to VWGoA for various years' worth of auto imports (through a process known as reconciliation). When VWGoA

made its claims for refunds and interest, CBP denied the claims, liquidated the reconciliation without refunds and found that the transfer pricing arrangement was inconsistent with the transaction value method. We administratively litigated the dispute by drafting and filing a protest on behalf of VWGoA, exhaustively researched the law and rulings and developed convincing arguments with which CBP ultimately agreed. CBP approved the protest in February and refunded over \$12 million in early March.



Accolades

INSIDECOUNSEL—THOMAS A. MARS PATHMAKER AWARD

Kim Koopersmith has been named by *InsideCounsel* magazine as the recipient of the Thomas A. Mars Pathmaker Award. This prestigious award, named after the executive vice president and chief administrative officer of Walmart U.S., recognizes a law firm managing partner or law firm senior leader “whose courage, unyielding vision, integrity, conviction and authenticity has carved a groundbreaking path and laid a new foundation to accelerate the economic empowerment of attorneys of color or women in law firms.”

DAILY JOURNAL—Top 100 Lawyers and Top 25 Clean Tech Lawyers

Edward Zaelke and Adam Umanoff were named by the *Daily Journal* as among California’s Top 100 lawyers. The list includes attorneys at the top of California’s legal profession who are playing leading roles in some of the largest deals and cases around the globe. Additionally Mr. Zaelke and Mr. Umanoff, along with Dino Barajas and Elliot Hinds, were recognized by the *Daily Journal* as four of the Top 25 Clean Tech Lawyers, those with notable achievements in the field of clean energy technology who are working on “truly innovative” projects.

CORPORATE BOARD MEMBER—AMERICA’S BEST CORPORATE LAW FIRMS Akin Gump has been ranked as one of the nation’s Top 20 national corporate law firms in separate annual surveys of general counsel and senior officers and directors of U.S. publicly traded companies.

THE NATIONAL LAW JOURNAL—APPELLATE HOT LIST For the fourth year in a row, Akin Gump was named to *The National Law Journal*’s Appellate Hot List. Firms selected for inclusion on the Hot List included only those that demonstrated “exemplary, cutting-edge appellate advocacy” and made “singular contributions to appellate practice” during the past year. In addition to citing several defining victories achieved by Akin Gump attorneys in 2010, the *NLJ* noted the exceptional experience and deep team of respected courtroom figures within the group.

LAW360—PRO BONO FIRMS OF THE YEAR Akin Gump was recognized as a Pro Bono Firm of the Year, one of 10 firms that stood out for dedicating a significant number of attorney hours and racking up big wins in pro bono matters over the past year by *Law360*.

WASHINGTONIAN—100 MOST POWERFUL WOMEN IN WASHINGTON

Patricia Millett was named as one of the “100 most powerful women in Washington” by *Washingtonian* magazine.

THE NATIONAL LAW JOURNAL—MOST INFLUENTIAL LAWYERS

Joel Jankowsky has been named one of the nation’s Most Influential Lawyers, those attorneys who are shaping the law, the economy and the physical fabric of the United States and the world by *The National Law Journal*.

LAW 360—RISING STARS Nate Oleson (Washington) and Mike Simons (Austin) were named one of 5 Rising Stars, individuals who have catapulted to the top of their profession before the age of 40, in the areas of Employment Law and Intellectual Property Law, respectively, by *Law360*.

HUMAN RIGHTS CAMPAIGN—CORPORATE EQUALITY INDEX Akin Gump Strauss Hauer & Feld LLP, for the fifth year in a row, has earned the top rating of 100 percent on the Corporate Equality Index (CEI), an annual survey administered by the Human Rights Campaign Foundation (HRC). The Index measures an employer’s commitment to policies, practices and protections pertinent to lesbian, gay, bisexual and transgender (LGBT) employees.

FINANCIAL TIMES—CORPORATE LAW—EMERGING MARKETS LAW FIRM OF THE YEAR 2011 Akin Gump Strauss Hauer & Feld LLP has been named “Corporate Law – Emerging Markets Law Firm of the Year 2011” at the Financial Times Innovative Lawyers Awards 2011.

At the fifth annual awards ceremony in London, the firm won the category from a shortlist of seven leading international law firms.

Akin Gump was nominated for the award based on its successful advice to leading emerging market mobile telecoms operator VimpelCom in acquiring Wind Telecom to create the world’s sixth-largest mobile telecommunications carrier by subscribers, operating in 20 countries. The acquisition closed in April 2011.

HOUSTON BUSINESS JOURNAL—WHO’S WHO IN ENERGY

Christine LaFollette and Vince Kendrick were named to this inaugural list of leaders in the energy field.

CHAMBERS ASIA PACIFIC—INTERNATIONAL TRADE FIRM OF THE YEAR Akin Gump has been shortlisted for the International Trade Firm of the Year award at the Chambers China Awards.



■ ■ Perspective on **Public Service**



■ ■ Pro Bono Practice



Steven Schulman
Pro Bono Partner

A handwritten signature in cursive script that reads "Steven Schulman".

Letter from Pro Bono Partner Steven Schulman

*We will never forget what you did for our family during that difficult time.
We will be grateful to you for the rest of our lives!*

A client who had won asylum in Boston Immigration Court after a 10-year battle sent me a card with this handwritten note during the summer of 2011. I am fortunate enough to receive letters and e-mails with similar sentiments, often for work with which I have only a minimal connection, as it is my colleagues' hard work that is usually being recognized.

Sometimes we evaluate our pro bono practice by the numbers: 67,457 total hours devoted to pro bono clients in 2011; an average of 84 hours per attorney, 688 Akin Gump attorneys and advisors worked on 815 pro bono matters. But the truth is that the stories we can tell about our pro bono clients are far more important, for those are what our lawyers take away from pro bono matters, which they often describe as the best experiences of their careers. The pages that follow allow you to hear their perspectives on what pro bono has meant to them, as well as what they take away from our pro bono practice.

Next time you talk to an Akin Gump lawyer, ask him or her to tell you a story about working with our pro bono clients. Akin Gump attorneys from every office can tell you about helping abused immigrant women secure permanent U.S. residency under the Violence Against Women Act—we have helped more than 150 such women since 2007. Several of my colleagues can share their experiences from their trip to the Horn of Africa to meet Somali victims of human rights abuses and prepare them for trial in a landmark case against the former Somali defense minister who tried hiding from his victims in Northern Virginia. One of

my partners can tell you about the challenges she faced closing a year-end deal that provided critical financing to the KIPP charter schools in New Jersey and allowed them to provide a quality education to underserved kids in urban Newark. Other Akin Gump lawyers have stories to share from the various homeless shelters and clinics in which we provide immediate legal advice on a range of matters critical to the indigent populations in our inner cities.

My colleagues work hard for all their clients, some of whom send cards filled with heartfelt handwritten wishes. Ask them about those clients—you'll be inspired by the stories you hear.



■ Pro Bono

Helping Walmart Create a Pro Bono Program

2011 marked the debut of a groundbreaking pro bono program implemented by the legal department of Arkansas-based global retailer Walmart, an Akin Gump client. It is both the first coordinated pro bono program undertaken by Walmart's lawyers, as well as the first medical-legal partnership, or MLP, led by a corporate law department. Underpinning this effort, Akin Gump attorneys, working with the National Center on Medical-Legal Partnership, helped design and implement training programs for the Walmart MLP. Akin Gump attorneys have also counseled Walmart on its internal pro bono policies and other aspects of its pro bono program.

Walmart associate general counsel Lori Chumbler developed the notion for the company's MLP after reviewing a grant proposal submitted by Legal Aid of Arkansas to the Walmart Foundation. The MLP with Arkansas Children's Hospital, located in Little Rock, allows Walmart's in-house lawyers to help pediatric patients at the hospital and their families with Medicaid applications and other processes related to obtaining long-term medical assistance and relief. Walmart's attorneys are supplementing the hospital's efforts on the families'



■ Pro Bono

behalf by addressing legal and bureaucratic procedures or obstacles that the hospital's staff might not be trained to handle. Inspired by Walmart's example, Akin Gump attorneys are now working with MLPs in New York (focusing on survivors of torture and trauma) and in Dallas (focusing on educational opportunities for disabled children).



On behalf of our Walmart legal team, I want to say congratulations to the team at Akin Gump on your impressive pro bono contributions. Through the incredible number of pro bono hours your firm gives back every year, you advocate for people around the world, people who need expert legal aid so they can protect their rights and improve their lives. We at Walmart share your strong commitment to making such a positive impact. And I'm honored to be able to thank you for the instrumental part you played in our latest pro bono venture.

I hope you feel as proud as I do of what we have accomplished in setting up a first-of-its-kind medical-legal partnership to support Arkansas Children's Hospital. Our joint partnership will mean a lightened burden for the families of sick children across Arkansas. And this is only the beginning of what we'll do together. We will positively impact many, many more lives as we launch similar programs across the country.

You inspire our own Walmart legal team, and we are proud and privileged to know and work with you. Thank you.

— Jeff Gearhart
Walmart executive vice president,
general counsel and corporate
secretary





Washington Legal Clinic for the Homeless and Akin Gump: A Valuable Partnership

Patty Mullahy Fugere is executive director of The Washington Legal Clinic for the Homeless, was one of the co-founders, and previously served as board president of the Legal Clinic. Prior to assuming the position of director in 1991, she was engaged in the private practice of law for seven years, specializing in affordable housing and homelessness issues.

John Jacob is a partner in the health practice at Akin Gump who represents multihospital health care systems, major academic medical centers and community hospitals, and has extensive experience in counseling and litigation regarding Medicare and Medicaid regulatory matters.

Q: Washington Legal Clinic for the Homeless started in 1986, in the middle of the Reagan administration. The issue of homelessness came up for a lot of people for the first time during that period. As a co-founder, what brought you to establish this organization?

A: Patty Mullahy Fugere: A group of lawyers got together in the midst of the Reagan administration with an assault on some of the really fundamental safety net programs that buoyed up people who were living in poverty. Subsidized housing programs were at risk and other programs along those lines. So, we did see this real surge in homelessness, and a few lawyers got together, some of us who had done affordable housing work or worked in the mental health arena and some others who had no experience at all in what we might call “public interest law,” but who were increasingly concerned about folks that, for example, were sleeping in the doorways outside of their offices. So, we went out and talked to folks who were running programs like shelters and day centers and dining programs serving people who are homeless to find out what the specific needs might be. And we learned in those conversations that there were some barriers to people who are homeless connecting with legal services, that more-traditional legal services organizations were just too difficult to access for both logistical reasons and, I think, probably emotional reasons as well. And we designed a program to

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overcome those barriers, to take lawyers out in the community to be in the places where people who were homeless were already connected to be in the clients' comfort zone and to be in the place where they had already built up a trust relationship and would be open to additional services.

Q: To what extent does pro bono work on the part of law firms help you further your mission and in what ways particularly?

A: PMF: We couldn't exist without law firm pro bono. We started as a completely volunteer program. The lawyers who serve our clients at what are seven community sites are lawyers who are volunteering their time, many of whom, probably most of whom, come from firms, but some are government lawyers, some who come together from a faith congregation, some are stay-at-home moms or retired attorneys. And not only do we use pro bono assistance to help with the individual client work, but we also rely very heavily on law firm support with regard to some of the broader advocacy that we do, either staffing up broad litigation that we might not have the in-house capacity to handle or working on policy initiatives, sometimes class action cases. So, it's a key piece of our ability to be present to our clients.

John Jacob: The Legal Clinic does not take money from the federal government or the district government. And this, frankly, is quite something. This was a decision that was made thoughtfully and for the sole reason that the Legal Clinic and its attorneys will do advocacy against the District of Columbia and against the federal government when they feel it's necessary to advocate on behalf of those who suffer from homelessness or near-homelessness. The idea of having the government or governments be able to hold purse strings, if you will, and say, "Well, if you're going to take this position, we're going to take away a lot of your funding" is just untenable. Now, Akin Gump partnered with the Legal Clinic—and I think this was our first major interaction with the Legal Clinic—on a large piece of litigation back in the late '90s.

PMF: This was a case that was filed against a contractor with the District government and also against the District government on behalf of people with mental health disabilities who were supposed to be served by this particular contractor, but, instead, whose very meager resources were raided by the contractor. Basically, they took and misspent disability funds that had been awarded to these clients, and folks in the organization had fancy vacations and furs and fancy cars and things like that all on the backs of some of the most

■ Pro Bono

Washington Legal Clinic for the Homeless (cont.)

marginalized members of our community. Akin Gump helped to turn a horrible situation into one that ultimately found justice for those clients. That was such an important connection to me.

Volunteering with the Legal Clinic is not a typical pro bono experience. It's not staying in a downtown office where you have a prescreened case. It's a very raw experience, in a way, and it really takes a very special person who is willing to go into what initially is a very different, foreign environment and sit down and open themselves up to any conversation that's going to come their way in the

next hour or two, not knowing what kinds of issues this person is going to bring, what kinds of challenges they might be experiencing on a personal level, and to be open to that. And I have to say that Akin Gump lawyers really set the gold standard in terms of volunteering because they go to the site with incredible joy and anticipation of the relationships that they're going to build, and that relationship building is a key part of the way that we serve our clients. And not everybody can do that, but the folks at Akin Gump who make up this incredible team have really shown us how well it can be done.

“Akin Gump lawyers really set the gold standard in terms of volunteering because they go to the site with incredible joy and anticipation of the relationships that they’re going to build, and that relationship building is a key part of the way that we serve our clients.”

—Patty Mullahy Fugere



■ Pro Bono



An Interview with Rex S. Heinke: A Career-long Commitment to Pro Bono

Rex S. Heinke is co-head of Akin Gump's Supreme Court and appellate practice. He has argued over a hundred appeals in federal and state courts throughout the country. Among his pro bono clients to date have been Public Counsel, Bet Tzedek, ACLU of Southern California, the Los Angeles County Bar Association, No Kill Advocacy Center and Children's Law Center.

Q: Given the fact that you've had a very broad spread of pro bono engagements and interests, what would you say was the most memorable pro bono case you worked on?

A: Oh, I think the one I felt the very best about was representing [a] woman—these folks were trying to steal her home. I got her home back for her.

Q: Was that at the beginning of your career?

Fairly early on. It wasn't the first case I did, but it was kind of heart-rending. You know, here was this woman who didn't have a whole lot of money and, really, her only asset in the world was this house here in L.A. that she'd bought for not a lot of money, and because housing prices in California had constantly gone up, I don't remember how much equity it had in it, but a significant amount of money and very significant for her, and these people were essentially just trying to steal it. And it was really eye-opening that there could be people who were that fundamentally evil that they were trying to make a living stealing houses from poor people. Here was this poor woman who never did anything to them, and she's not sophisticated about legal matters. Trusting, she signs all these documents because they tell her she's supposed to and buried in there is a conveyance of title. And so she starts getting notices from people, she has to pay them rent, and she doesn't understand that because it's her home. And the next thing happens is they try and evict her.

Q: How did you start in pro bono work? Do you remember your first case?

A: I think the first thing was a case for Public Counsel.

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Pro bono work “teaches you a lot and broadens your perspective about what’s going on in the outside world”

—Rex S. Heinke, partner
Akin Gump Strauss Hauer & Feld LLP

Q: Do you think there was a different attitude towards pro bono work when you first started than there is now?

A: That’s an interesting question. I think when I was in law school, there were an awful lot of people who were very, very interested in pro bono. Now, I think there are a lot of people who are interested, but it’s not as many as it once was.

Q: Do you think it’s a generational shift in terms of people’s view of one’s social responsibility?

A: Well, I think it’s a function of what people experience, and a lot of the people I went to law school with had been in college during the civil rights movement, the Vietnam War, and I think that made people more sensitized and concerned about pro bono than they might otherwise have been.

Q: You sit on the boards of Bet Tzedek and also Children’s Law Center and you were also president of Public Counsel. Do you find that your affiliations at this point in your career tend to come from the work you did when you were a young lawyer? Or are these opportunities you’ve come upon as your career has progressed?

A: I’ve always tried to have some pro bono activity since I started practicing. When I started out, it was representing clients for people like Public Counsel, or, at least, Public Counsel put you in touch with them. Public Counsel’s a perfect example: it evolved from doing their cases to then going on their board then becoming the president, so it was kind of an evolution over time. Children’s Law Center, I ended up on their board because I did a case—actually, a series of cases for them, one of which ended up in the California Supreme Court representing the organization itself—and then, somebody said, “Would you like to go on our board?”

Q: Do you think that, among the benefits of pro bono work is it gives lawyers the opportunity to see outside the more-academic aspects of practicing law?

A: Well, it’s a different world than the one that we ordinarily practice in. So, I think it’s a great education about what you do is not the be-all and end-all of what’s going on in the world. There are a lot of other things just in the practice of law that happen and that, unless you get out and do things like this, we don’t ordinarily know anything about and we’re not involved in. So, it teaches you a lot and broadens your perspective about what’s going on in the outside world because we only see a relatively narrow slice of it in our regular firm practice.

Texas Appleseed: Finding Affordable Loans for the Working Poor

Phyllis Young is a partner in Akin Gump's Houston office. Her practice focuses on both domestic and international corporate transactions, with an emphasis on the energy industry.

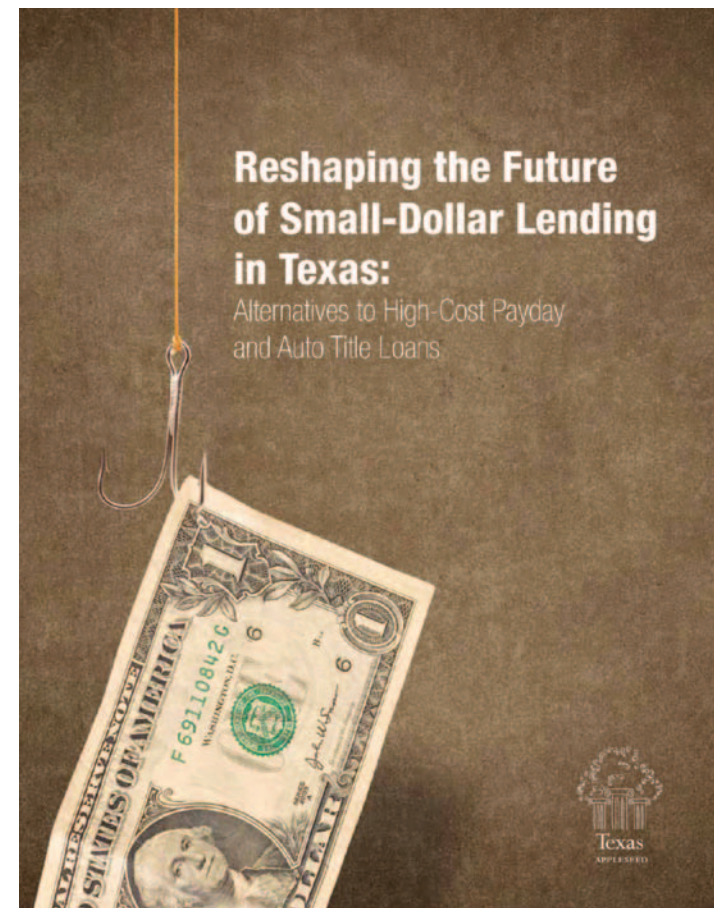
In this economy, everyone needs affordable financing alternatives—and not just our commercial clients. Working with Texas Appleseed, a nonprofit public policy organization based in Austin, attorneys from Akin Gump's Houston and Dallas offices helped research small-dollar lending practices in the state of Texas and develop a toolkit for nonprofits, banks, credit unions and other interested parties to provide affordable alternatives to the high cost of payday loans and auto title loans for the customers and the communities that they serve. Payday and auto title loans are short-term loans, usually due in two weeks to one month, with the average principal loan amount ranging from \$300 to \$700. The fees and interest on these loans can amount to more than 500 percent APR, making them deceptively expensive. With the recent economic downturn, more and more consumers are using payday and auto title loans as a source of credit and are unable to pay the fees, which can range from 20 percent to 30 percent of the principal, or the interest and principal payments on the loans. This often leads to a “cycle of debt”—the borrower pays the fees over and over again as the loan is renewed, but does not make progress in repaying the principal amount of debt.

The attorneys working on the report helped Texas Appleseed research and interview small-dollar lenders across the state of Texas, including in Houston, San Antonio and Brownsville, that are having success with providing small-dollar lending products to consumers in Texas. The resulting report provides in-depth profiles of these organizations and takes a look at national programs that have also had success providing small-dollar loans. These profiles can serve as a model for other organizations to follow in developing their own programs. The report has received the support of leading banks, nonprofit and community development organizations and finance principals in both the private and public sectors.

During the course of our work on the report, we heard many stories about individuals who were able to begin to break the “cycle of debt” and start turning to more traditional sources of credit because of small-dollar lending programs. Our hope is that the report will attract more financial institutions and nonprofit organizations, perhaps even through partnerships with each other, to join the small-dollar lending space. Our work on the report helped me to better appreciate how vital small-dollar loans are as a source of consumer credit and how important they are to the overall health of our economy. Many of us think of the payment of our basic expenses as a routine matter and probably don't

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give much consideration to the source of funds that we'll use to pay them. A \$300 loan to an individual or a family in crisis—whether it's to help pay for an unexpected medical bill or to pay for a utility bill when a family member has suddenly lost a job—can have as great of an impact on a family as the multimillion- and multibillion-dollar loans that we regularly work on have for our commercial clients.



Appleseed and Appleseed Mexico: Helping Unaccompanied Mexican Children at the Border

Domingo LLagostera is an associate in Akin Gump's Houston office whose practice focuses on intellectual property litigation and prosecution. He was nominated for the 2011 Akin Gump Pro Bono Associate of the Year Award and won, with a colleague, the Houston Pro Bono Attorneys of the Year for the engagement he describes in the following account.

Since 2009, I have been part of a group of attorneys from four firms working with Appleseed and Appleseed Mexico to improve the treatment of unaccompanied Mexican children who are apprehended and detained at the U.S. border. Congress has mandated, under the Trafficking Victims Protection Reauthorization Act of 2005 (TVPPRA), that these children be substantively screened by the Department of Homeland Security (DHS) before they are eligible for repatriation to Mexico. In 2011, we issued a comprehensive report that concluded that the protections of the TVPPRA were not being adequately implemented by Customs and Border Control (CBP), a DHS law enforcement agency.

To prepare the report, the research team visited numerous detention and shelter facilities in the United States and Mexico. Our objective was to locate unaccompanied children and interview them about their apprehension and detention by CBP. After numerous interviews, we concluded that CBP was not the appropriate agency to carry out the TVPPRA screening. Unaccompanied children are a particularly vulnerable population exposed to, among other

things, abuse and trafficking. Because CBP is a law enforcement agency, it lacks the welfare expertise to sufficiently and sensitively interview this vulnerable population.

My work with Appleseed and Appleseed Mexico has been one of the most rewarding experiences of my career. Our 2011 report, "Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors," has received national attention in both the United States and Mexico. More importantly, my work with Appleseed introduced me to Jose, an unaccompanied youngster who has had a huge impact on my career and my life.

I met Jose in McAllen, Texas, while I was interviewing unaccompanied children in a CBP facility—essentially a U.S. border police station. Jose had travelled by himself for 23 days from Honduras to the U.S. border. Jose had been through quite an ordeal on his journey. For example, in Mexico, a man locked Jose in the trailer of his truck for over 22 hours without food or water. When I met Jose at the CBP facility in McAllen, he told me that his father abandoned him when he was two years old, and his mother moved to Florida with his brothers shortly thereafter. Jose was left in the care of his grandmother, his only known relative in Honduras. When Jose turned 16, his grandmother passed away, and he was forced to make the perilous journey to the United States to reunite with his family.

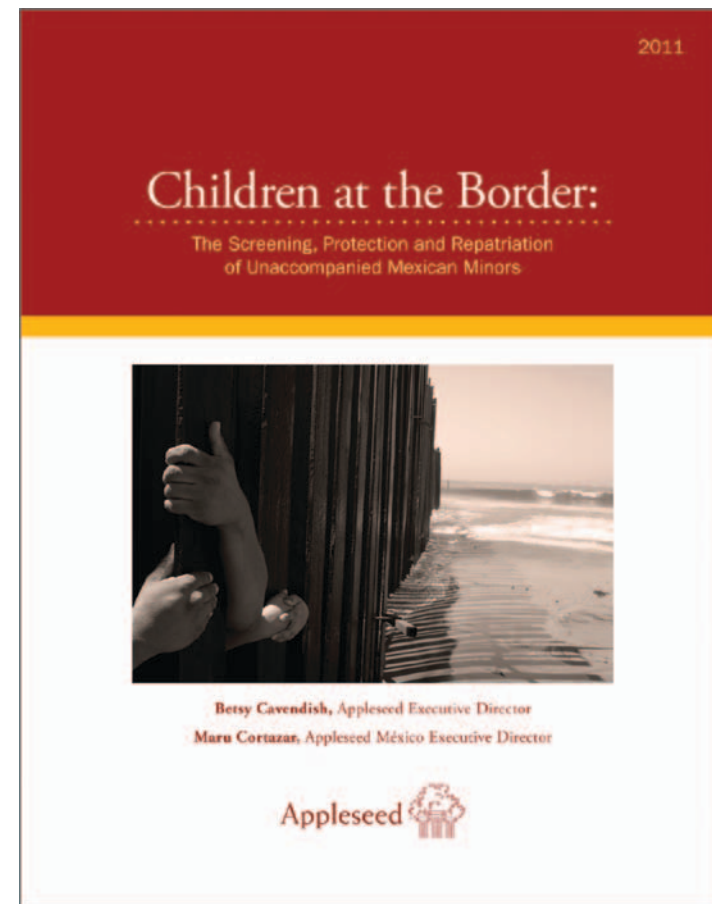
■ Pro Bono



When I met Jose, I immediately grew fond of him and concerned about his future. I believed that he had a reasonable chance at obtaining Special Immigrant Juvenile Status (SIJS), a gateway to obtaining legal status in the United States for children who have been abandoned. However, there were significant hurdles—Jose had been moved to Florida to live with his mother, and he was four months away from turning 18 and becoming an adult. Because we could not find a Florida attorney to take his case, my colleague Michael Reeder and I travelled to Florida and were able to obtain a dependency order from the Florida juvenile state court. Jose's SIJS application was approved, and he now has legal permanent resident status and lives with his mother in Florida. On the day that Jose received his green card he wrote to Michael and me:

"I went to get the post and I saw that one envelope was addressed to me, and I lost it I was so excited, I couldn't believe it! I ran to my room, jumped like crazy, yelled, I even had to bite my pillow to mute the noise I was making! It was several minutes later that I realized that I was rolling on the carpet, tears streaming down my cheeks ... I wish I could write down how grateful I am with you guys. THANK YOU SO MUCH. I WILL NEVER FORGET WHAT YOU DID FOR ME."

Jose is doing well in school, and he no longer fears being returned to his isolation in Honduras.





■ ■ Perspective on **Commitment**



■ Enhancing Value

Internal Initiatives, External Benefits

In 2011, Akin Gump continued to develop and expand its involvement in key external and internal initiatives aimed at developing minority law students, promoting women attorneys, training the pro bono practitioners of tomorrow and attracting the best new and established attorneys to the firm. Through these programs, the firm will continue to provide clients with the informed counsel born of diverse backgrounds and experiences, with the best in legal service irrespective of ability to pay and with the finest new talent coming out of law school, both today and in the future.

Pipeline Programs

Akin Gump's participation in external initiatives such as the Sponsors for Educational Opportunity (SEO) Program as well as the firm's development of our own Akin Gump Scholar and Pro Bono Scholars programs have enabled us to be proactive in identifying and encouraging diverse students to enter the profession. The firm became a participant in the SEO Program in 2008, the same year the Pro Bono Scholars Program was created. Each program started with one Akin Gump office: the New York office was the first to participate in the SEO Program, the Washington, D.C. office the first in the Pro Bono Scholars Program. As we begin planning for the 2012 summer program, we are pleased to report that four of our offices will host SEO interns in 2012, and five of our offices will host Pro Bono Scholars, evidence of the important role that pipeline programs have played in our recruiting efforts.

The **SEO Program** recruits minority college students and recent graduates from across the country who will attend law school in the fall and places them in summer internships/programs in law firms and financial institutions. In these placements, SEO interns are exposed to the practice of law on a daily basis and get a firsthand view of law firm cultures.

The firm was happy to welcome back our first SEO intern, who started as a first-year associate in September 2011 following her graduation from Harvard Law School. In the summer of 2011, Akin Gump welcomed SEO interns in three of its U.S. offices: Houston, New York and Washington, D.C. In the summer of 2012, the Los Angeles office will also be participating in the program.

Each summer, attorneys from the firm's New York office have participated in cosponsored panels with the entire New York City SEO Corporate Law intern class. In 2011, Akin Gump attorneys taught a legal writing seminar to approximately 60 SEO interns, while an African-American partner participated on a panel titled "M&A Deals – What's an Attorney's Responsibility?" Attorneys at all levels from the firm's New York office have also attended receptions following SEO panels during which they have interacted with members of the SEO Corporate Law intern class. The firm continues to expand its participation in the SEO program, having seen how this pipeline of students can contribute to the

Enhancing Value

diversity not only of the firm but also of the ideas and experiences that attorneys bring to their work and their clients.

In 2008, the firm started the **Akin Gump Pro Bono Scholars Program**, a two-year summer program for top first-year law school students who show a strong interest in making pro bono an integral part of their Akin Gump careers. During their first summer, Pro Bono Scholars spend at least seven weeks at a public interest organization. Past scholars have worked at the Whitman-Walker HIV/AIDS Legal Clinic, Tahirih Justice Center, DNA-People's Legal Services in the Navajo Nation, KIPP charter schools' general counsel's office and the Children's Law Center. Pro Bono Scholars also spend three weeks at the firm working entirely on pro bono matters that first summer, offering them substantial responsibility and training in the areas in which the firm focuses its pro bono practice. During their second summer, the Pro Bono Scholars are part of the firm's regular 2L summer associate program. Three former pro bono scholars are now associates in the firm's Washington, D.C. office.

In the summer of 2012, Akin Gump will welcome Pro Bono Scholars to the firm's Dallas, Houston, New York, Los Angeles and Washington, D.C. offices. In addition to providing an important training experience for the students who

participate and valuable assistance to some of the community organizations with which the firm partners, the Pro Bono Scholars program has also expanded the pool of diverse candidates from which the firm is able to recruit.

The **Akin Gump Scholar** program was created to award one minority first-year law student at NYU who has demonstrated both scholastic aptitude and financial need. In addition to the monetary scholarship, the selected Akin Gump Scholar is offered a team of attorney mentors from the New York office and a position in the firm's summer associate program following the first year of law school. Since the scholarship's inception, the firm has awarded seven Akin Gump scholarships to NYU students of whom three are African American, three are Hispanic and two are openly gay.

The **Women's Professional Development Initiative**, established over a decade ago, provides a forum for the firm's female attorneys to discuss and support issues such as retention and professional development. Women's Professional Development Initiative committees are active at both the local office level and on a firmwide basis. In July 2011, the firmwide Women's Initiative Committee held a two-day retreat in Washington, D.C. The Women's Leadership Conference was attended by two-thirds of the firm's female lawyers, as

■ Enhancing Value

well as the firm's female summer associates. Seminars during the conference covered topics such as leadership, communication skills, mentoring and work/life balance, and client development. Attendees were addressed by members of firm management, firm clients and keynote speaker Frances Townsend. Ms. Townsend is the Senior Vice President of Worldwide Government, Legal and Business Affairs of MacAndrews & Forbes Holdings Inc. and former assistant to President George W. Bush for homeland security and counterterrorism and chair of the Homeland Security Council. The retreat provided a valuable networking opportunity for all of the attendees and reflected topics and issues of interest to the firm's female attorneys.

New Microsite

As part of the firm's ongoing efforts to hire the best and brightest, in 2011, Akin Gump launched a new recruiting microsite to attract the highest-caliber law students and lateral attorney talent. In addition, the firm has expanded its use of mobile tagging in place of printed brochure materials, thus making online recruiting material available remotely and instantly and, at the same time, avoiding the unnecessary consumption of paper.



akingump.com/recruiting



■ Enhancing Value

Attorney Development

The development of Akin Gump's core competency framework for attorney development last year resulted in a rebirth of training opportunities for our lawyers in 2011. Our associates have 50 percent more opportunities to learn from partner-led training classes than they did in the previous year, and the list of topics continues to grow. With the launch of our on-demand video library, which houses our past training classes, attorneys can refer back to these courses when they are most relevant to the work they are doing. We continue to innovate in our training delivery methods—from case studies to roundtable discussions to hands-on workshops. Our goal is to help our attorneys retain knowledge from the classroom and bring it to bear on client matters.

■ Enhancing Value

Trial Services

Akin Gump is committed to maintaining our clients' ever-expanding collection of audio, video and other media that we receive during both the discovery and litigation phases. To meet this growing need, the firm has begun to utilize a dedicated portal for our trial teams. The Akin Gump Media Portal is a resource that provides our attorneys and paralegals with a YouTube-style audio and video experience, streamlines playback and allows teams to better collaborate and review content across our global organization. The initialization of this endeavor began in 2011 and will be fully operational at the beginning of 2012.

Further, in 2011, the Trial Services Department expanded its talent pool to now comprise over 35 years of combined trial experience. Our professionals, based out of our Washington, D.C., and Houston offices, support the needs of our trial teams, litigators and staff worldwide.

A trial is primarily driven by a significant amount of technology. In order to meet the growing needs of our firm's clients and to further reduce their litigation costs, Akin Gump's Trial Services Department maintains multiple sets of modern war room equipment. This equipment, which constitutes a state-of-



■ Enhancing Value

the-art off-site office setup, has been employed at a variety of locales and under a broad range of conditions, from supporting the off-site technology needs of a large U.S. domestic document review team operating in Finland, to a high-stakes patent infringement trial in the Eastern District of Texas. Utilizing the latest in encryption, on-site networking and other advanced technologies proprietary to Akin Gump's method of trial technology, our legal teams benefit from cutting-edge technology that we own, operate and maintain at no additional cost to our clients.

Similarly, to address the rising costs of video deposition synchronization and further minimize client fees during the pre-trial discovery and deposition phases of a case, Akin Gump's Trial Services team now encodes, converts and syncs video depositions in-house at a fraction of the commercial cost of using an external third party. This allows our team to maintain total quality control and deliver an error-free, cost-effective product to our trial teams.



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■ Photography Credits

Photography by **Harvey Duze**

Nearly every image in our 2011 Annual Review was taken by Harvey Duze, a member of our in-house design team. His photographs offer his own perspective on the theme of this year's report.



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Cape Cod, Massachusetts
front cover and page 31



Lake Champlain Panoramas
Near Ticonderoga, New York
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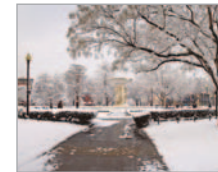
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Whiteface Mountain Summit
Panorama
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Little Seneca Lake Fall Panorama
Montgomery County, Maryland
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