

# Simon Greenstone Earns 2016 Top Verdict Recognition in California, Arizona

TopVerdict.com has recognized Dallas trial law firm [Simon Greenstone Panatier Bartlett, P.C.](#) for securing the largest jury verdict in Arizona, and the largest asbestos case verdict in California, in 2016.

In Arizona, a federal jury awarded \$17 million to the family of a retired civilian employee of the U.S. Navy who died from mesothelioma after working for years in the Norfolk Naval Shipyard in Virginia. The case was *Coulbourn v. Crane* in the U.S. District Court for the District of Arizona.

In a news release, the firm said attorneys David C. Greenstone, Jordan Blumenfield-James and Samuel Iola represented George Coulbourn's family. Coulbourn, a shipyard machinist, repaired and maintained equipment including the removal of asbestos-containing gaskets and packing from valves. He died at age 73, less than a year after being diagnosed. After a three-week trial, jurors found Crane Co. and William Powell Co. liable for Coulbourn's death and assessed punitive damages against both defendants.

In California, a Los Angeles jury awarded \$18 million, a record verdict in a mesothelioma case tied to cosmetic talc. The case involved Philip Depoian, a prominent political figure and longtime aide to Mayor Tom Bradley, who was diagnosed with mesothelioma in May 2015.

Evidence showed Depoian was exposed to asbestos in talc products at a barber shop and through personal use of products such as Old Spice, Clubman, Kings Men and Mennen Shave Talc. Jurors found talc supplier Whittaker Clark & Daniels liable for supplying asbestos-containing talc to the

manufacturers. Attorneys Jay Stuemke and Stuart Purdy represented Depoian in the case, *Depoian v. American International Industries, Inc.*, in Los Angeles Superior Court.

“We are pleased that our verdicts have been recognized as landmarks in jurisdictions across the country. But more than that, we are very proud of the work we are doing to help all of our clients, wherever their cases may be,” said Greenstone, co-founder and shareholder of Simon Greenstone Panatier Bartlett, P.C.

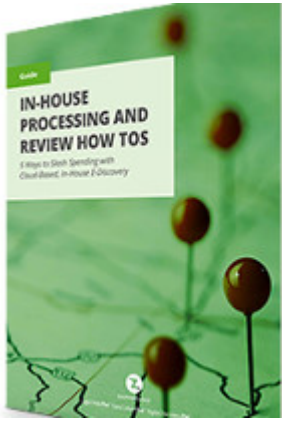
Co-founder and shareholder Jeffrey Simon said, “We work hard to make sure that those who have been injured by dangerous products or workplaces get the justice they deserve.”

TopVerdict.com recognizes law firms and attorneys who have obtained the highest jury verdicts in individual states and nationwide in specific practice areas.

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[\*\*Get the In-House Processing & Review How Tos\*\*](#)



Zapproved has published a guide that discusses five ways to save costs and build efficiencies by bringing e-discovery processing and review in-house. The guide [can be downloaded](#) at no charge.

On its website, the company says keeping in-house e-discovery costs in check is a constant balancing act. Complex litigation and regulatory matters – along with pressure to streamline operational spending – create an often expensive e-discovery reality.

According to a study from FTI Consulting, the majority of Fortune 1000 corporations now spend \$5-10 million annually on e-discovery with 70% of the costs tied directly to document review.

The guide shows how to take charge of e-discovery by leveraging easy-to-use and secure in-house tools that minimize business risk – and maximize budgets.

- Unlock detailed tips in this guide from Zapproved to get started. It outlines six ways to slash spending and boost efficiencies. Find out how to:
- Use modern, cloud-based e-discovery software tools to bring routine e-discovery processes in-house.
- Modernize legacy systems to limit dependence on IT.
- Empower legal teams to slash expenses, improve data security and speed time to resolution.

The guide also offers step-by-step recommendations and best practices to help:

- Get insights faster by plugging in data processing tools
- Save money by reviewing routine, high-velocity matters in-house

- Improve response to internal investigations and FOIA information requests

[Download the guide.](#)

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## [3M Lawyer on Cutting More Than 250 Law Firms](#)

General counsel support is crucial for corporate legal departments that are trying to decrease the number of law firms they work with, 3M Co.'s managing counsel said, writes [Yin Wilczek](#) for [Bloomberg BNA](#).

Joseph Otterstetter, who leads his company's ongoing convergence efforts, told Wilczek that the most important step is making sure the in-house team is "aligned, starting with the general counsel. There will be resistance, I promise, and so if the general counsel isn't supportive, it's best not to even start, frankly."

3M launched its effort convergence in 2013, when it cut the about 300 of its U.S. outside firms to about 35 to 36 firms, said Otterstetter, who also is associate general counsel of 3M. And more recently the company re-assessed the major portfolios into which it divides its legal work, he said.

[Read the Bloomberg article.](#)

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# Supreme Court Ruling in Drug Case Could Have Big Implications for Product Liability

A Supreme Court decision could make it harder for large groups of plaintiffs to sue corporations in state courts for damages caused by manufacturers' products, [reports Politico](#).

The court sided with Bristol-Myers Squibb to limit where patients can seek compensation for harm caused by drugs.

"But the ruling will echo beyond the pharmaceutical industry to potentially affect any liability case in which consumers allege harm caused by a deficient product, including automobiles, tobacco, food and other mass litigation like consumer claims of financial fraud by a company," writes [Sarah Karlin-Smith](#). "It could also affect lawsuits against companies being accused of environmental wrongdoing."

Karlin-Smith quotes a blog post by James Beck, who works with pharmaceutical and product liability law at Reed Smith: "This is one of the most important mass tort/product liability decisions."

"It will extremely limit the notion that large companies can be sued by anyone, anywhere," he explained.

[Read the Politico article.](#)

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## [Bored by \\$1,000-an-Hour Pay, a Lawyer Hunts Wall Street Scores](#)

Bloomberg Law [profiles](#) lawyer Dan Brockett, who ditched a job representing the world's biggest banks for \$1,000 an hour, and started earning his keep by suing the very companies that used to pay his bills – working on a contingency.

“On a recent weekday at his firm, Quinn, Emanuel Urquart & Sullivan LLP, Brockett said he couldn't be happier that he made the switch to what he calls 'success-based' billing,” writes reporter Matt Robinson. “The 61-year-old senior litigation partner, wearing jeans and a sweater, pointed to a framed photo of a \$250 million legal fee award that hung like a trophy over the desk of his office on Manhattan's Madison Avenue.”

The profile shows how Brockett worked with the Commodity Futures Trading Commission, developing a network of sources across Wall Street who send disgruntled bankers his way. If the cases are successful, some of those whistleblowers can see pay days of as much as \$30 million.

[Read the Bloomberg article.](#)

## [More States Likely to Sue over Opioid Epidemic](#)



Texas lawyer [Kent Sullivan](#), who helped build a potent state health care fraud unit as the No. 2 lawyer in the Texas Attorney General's office, is convinced that more states will follow Mississippi and Ohio in suing to recover damages related to the opioid epidemic, reports a post on the website of [Androvett Legal Media & Marketing](#). Sullivan, now a partner in the Austin office of [Jackson Walker LLP](#), says states wield "a huge hammer" over defendants through their tough anti-fraud laws.

*"I expect a national trend, a significant wave of lawsuits against the companies and organizations connected with the spread of these powerful prescription drugs. States will be very tempted by the significant potential damages that may be awarded in court to try to recoup some of the costs of treatment.*

*"There is, of course, a way to successfully defend these cases, but at the beginning, state governments have a huge advantage under Medicaid fraud and consumer protection statutes. There is an easier burden of proof and enhanced damages available under these laws. Intent or negligence often is not required to prove liability. You have a huge hammer over these companies' heads, and they can be at risk*

*of losing more than actual damages. The damages are often multiplied if you're found liable, and the states can often recover attorneys' fees.*

*“As government health care has expanded, so have anti-fraud actions by states. These lawsuits are not part of the traditional private party litigation framework, where the burden of proof is higher. In many cases, the defendants consider settlement to avoid the significant risk and high cost of litigation. It is fairly unusual for these cases to go to trial but, as I often tell clients, the way to obtain the best settlement is to be totally ready for trial.”*

Sullivan, a former appeals court judge, was chief deputy AG to then-Attorney General Greg Abbott and ramped up the state's Civil Medicaid Fraud Division from four lawyers to over 40. In 2012, Texas won a \$158 million settlement from Johnson & Johnson over its improper marketing of the anti-psychotic drug Risperdal to patients on Medicaid from 1994-2008. It was the largest Medicaid settlement in Texas history and is believed to be the first settlement paid at that time to any state in the nationwide litigation over Risperdal.

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[\*\*Download: Unlock Legal Hold\*\*](#)



# How-Tos



Managing a defensible legal hold process is a demanding job, reports Zapproved. A lawyer must know his or her duty to preserve evidence – and issue legal holds quickly, clearly and securely as soon as litigation is reasonably anticipated.

Success requires clear strategy and the right technology to make it possible. For helpful insights, Zapproved has published an [updated legal hold how-to guide](#). It walks through the six steps to a smooth and defensible process.

Implementing these best practices can ensure the legal hold process meets its duty:

- Use legal hold templates to reduce risk
- Uncover critical insights through custodian interviews
- Improve custodian response rates to litigation holds
- Handle terminated employees on legal hold
- Release a litigation hold
- Create a defensible preservation audit trail

[Download the free guide.](#)

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# Walmart's Plan to Use Employees to Deliver Online Orders Raises Legal Issues

In a new effort to compete with Amazon's delivery system, Walmart says it plans to have store employees on their way home from work deliver online orders to customers. While it may make business sense, it also raises a host of legal questions, says [Justin Markel](#), a Houston labor and employment lawyer with [Roberts Markel Weinberg Butler Hailey PC](#).

Markel's comments on the matter were posted on the website of [Androvett Legal Media & Marketing](#):

*First is determining how much to pay the employees for this extra work. The deliveries will be considered non-exempt under the Fair Labor Standards Act, so the employees will be entitled to overtime if this extra drive time puts them over 40 hours in a workweek. But how can Walmart be sure as to how long the deliveries actually take? If employees are required to electronically check in when deliveries are made, that may create an incentive to take the scenic route to the customer's home. If, on the other hand, Walmart requires them to have GPS trackers, state law privacy concerns might arise. What about the extra gas and maintenance costs? Walmart should consider paying employees extra to ensure that these out-of-pocket expenses don't cause them to fall below minimum wage.*

*Then there are public safety issues. Walmart should look into the employees' driving histories before asking them to make deliveries. According to news reports, Walmart will conduct background checks. That should be a comprehensive review. Criminal histories that might have been less relevant for certain non-interpersonal store jobs might be more relevant*

*if an employee is sent to customers' homes.*

*Even with safe drivers on the road, accidents will be all but inevitable. If an employee is in an accident on the way to a customer's house, the employee will likely be considered acting in the scope of employment. That will likely lead to vicarious liability on Walmart's part. To protect against risk of claims from injured victims, it would be advisable for Walmart to discuss its non-owned auto insurance coverages with its insurance brokers.*

*As Walmart tests this program, it will have to carefully navigate many legal issues. Time will tell whether the cost savings and efficiencies will outweigh the legal risks.*

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## [\*\*The Difficulties of Being Obvious: Practical Advice for Overcoming Obviousness Rejections\*\*](#)

Fitch, Even, Tabin & Flannery LLP will present a free webinar, "[\*\*The Difficulties of Being Obvious: Practical Advice for Overcoming Obviousness Rejections\*\*](#)," featuring Fitch Even partner Stephen Favakeh and Fitch Even patent agent, Thomas James.

The webinar will take place on Thursday, June 22, 2017, at 9:00 am PDT / 10:00 am MDT / 11:00 am CDT / 12:00 noon EDT.

CLE credit has been approved for California, Illinois, and Nebraska. Other states may also award CLE credit upon attendee request. There is no fee to attend, but registration is required.

Following the live event, a recording of the webinar will be available to view for one year at [www.fitcheven.com](http://www.fitcheven.com).

Register at <https://register.gotowebinar.com/register/2784708194098019841>

In the predictable arts, an obviousness rejection is typically based on a combination of multiple references, the firm says on its website. Attempting to overcome such a rejection can be a perplexing and frustrating experience. This is particularly true when the patent examiner is combining references to arrive at the claimed invention in what can be a highly subjective manner. Nevertheless, when it comes time to respond, there will usually be more than one way to get the job done.

The webinar will address best practices for responding to obviousness rejections, covering these topics and more:

- How to take the prevailing and latest Federal Circuit case law into account in your responses
- Making effective claim amendments specifically tailored to overcome the obviousness rejection
- Developing persuasive arguments in support of patentability over a combination of references

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# Lawsuit in U.S. Accuses 12 Big Banks of Credit Default Swap Collusion



Image by [Mark Moz](#)

A small trading exchange on Thursday filed an antitrust lawsuit accusing Bank of America Corp., Citigroup Inc., JPMorgan Chase & Co. and nine other banks of conspiring to shut it out of the \$9.9 trillion credit default swap market, [reports Reuters](#).

The plaintiff, Tera Group, alleges the banks organized a boycott of its seven-year-old TeraExchange platform by refusing both to send it any CDS transactions, and to clear and settle any CDS trades that customers wanted to handle there, according to reporter [Jonathan Stempel](#). The complaint said the banks used their 95 percent market share to require that trading follow a protocol known as “request for quote,” which Tera described as opaque and inefficient.

“Tera said this enabled banks to boost profit by keeping traders in the dark about prices, defeating a goal of the 2010 Dodd-Frank financial reforms, while instilling a “great fear of retaliation” against traders who defected to rival

platforms,” Stempel writes.

[Read the Reuters article.](#)

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## [Download: Bringing E-Discovery to the Cloud](#)



Zapproved has published a free guide called [“Get In-House Processing and Review Howtos”](#) that can be downloaded from the company’s website.

The guide’s subtitle is “5 Ways to Slash Spending with Cloud E-Discovery,”

“Keeping in-house e-discovery costs in check is a constant balancing act,” the company says on its website. “Complex litigation and regulatory matters – along with pressure to streamline operational spending – create an often expensive e-discovery reality.”

The guide discusses:

- Use modern, cloud-based e-discovery software tools to bring routine e-discovery processes in-house.
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- Improve response to internal investigations and FOIA information requests

[Download the guide.](#)

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## [Why ABC News Is Facing a Jury Over 'Pink Slime'](#)

Bloomberg Law offers a [backgrounder](#) on Walt Disney Co.'s ABC News upcoming trial in South Dakota, where the network faces as much as \$5.7 billion in potential damages over allegations that it made false and misleading statements about the food additive "pink slime" in a 2012 series of reports.

South Dakota's Beef Products Inc. claimed the coverage caused sales to plummet, costing the company \$1.9 billion and forcing layoffs.

The question-and-answer article covers such issues as What's pink slime? What is the lawsuit about? What does this do to the industry? and What does this mean for Disney and ABC?

[Read the Bloomberg article.](#)

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## [Webcast: How E-Signatures Can Reduce Risk of Signed Records](#)

eSignLive by Vasco is offering a complimentary [on-demand webinar](#) featuring Locke Lord LLP partner Pat Hatfield discussing how e-signatures can reduce risk and strengthen enforceability of signed records.

Organizations undergoing digital transformation often have legal questions related to moving paper-based business processes online without introducing new risks, eSignLive says on its website. “Beyond the minimum requirements for electronic and digital signatures set forth in the laws, you will want to ensure you address the risk of fraud, repudiation and compliance as well. In the event of a regulatory audit or legal dispute, avoiding fines and ensuring admissibility is dependent on your ability to produce convincing, reliable evidence.”

This webinar covers:

- An overview of e-sign legislation
- Insights gained from relevant case law
- The challenges of defending electronic transactions
- A live demonstration of “best practice” & e-signature audit trails & process evidence

[Watch the on-demand webinar.](#)



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# 8th Circuit Makes It Easier For Plaintiffs to Take Fracking Contamination Claims to Trial

A podcast on Kane Russell Coleman & Logan's [Energy Law Today](#) discusses the Eighth Circuit's recent ruling that makes it easier for plaintiffs to take fracking contamination claims to trial.

The podcast also covers the Texas Supreme Court's ruling on the validity of county-wide mineral conveyances, and the Oklahoma Supreme Court's consideration for clarification of the often vexing "marketable product" rule for post-production expense deductions.

Oil-and-gas trial lawyer [Tom Ciarlone](#) of Kane Russell presents the podcast.

[Listen to the podcast.](#)

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# How a Supreme Court Ruling on Printer Cartridges Changes What It Means to Buy Almost Anything

The U.S. Supreme Court has handed a victory to consumer groups in a case about printer cartridges – or more specifically, *toner* cartridges, the kind used by laserjet printers. The case has huge implications for the way we think about technology ownership in America, and your rights as a user, according to [The Washington Post](#).

As [IPWatchdog](#) explains it: The court ruled “that when a patent owner sells a product the sale exhausted patent rights in the item being sold regardless of any restrictions the patentee attempts to impose on the location of the sale. In other words, a sale of a patented product exhausts all rights – both domestic and international.”

The *Post*'s Brian Fung explores how the ruling can affect commerce:

The practical question is how much Lexmark or any other company can control what you do with the things you buy. This debate isn't limited to printer cartridges. If you buy a car, how do you know you really own it? What does ownership actually entitle you to do with your property, anyway?

[Read the Washington Post article.](#)

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# [CVS's Omnicare to Pay \\$23 Million to Resolve U.S. Kickback Case](#)

Reuters [is reporting](#) CVS Health Corp's Omnicare unit has agreed to pay \$23 million to resolve a whistleblower lawsuit alleging that it took kickbacks from a drugmaker to promote two antidepressants, according to settlement papers.

The agreement comes out of a 2007 lawsuit against the pharmacy operator by two former employees of drugmaker Organon USA Inc on behalf of the federal government and various states.

"The lawsuit claimed that from 1999 to 2005, Omnicare and certain pharmacies it acquired sought and received kickbacks from Organon in the form of discounts in exchange for promoting the antidepressants Remeron and Remeron SolTabs," writes [Nate Raymond](#).

Former Organon employees Richard Templin and James Banigan filed the suit, which reached a related \$31 million settlement in 2014.

[Read the Reuters article.](#)

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# LexisNexis Launches Practice Guide with Litigator-Author James Wagstaffe

LexisNexis Legal & Professional has announced the launch of [The Wagstaffe Group Practice Guide](#): Federal Civil Procedure Before Trial in multiple formats, all of which are designed to guide attorneys through the intricacies of pre-trial civil litigation.

Written by James M. Wagstaffe, former co-author of The Rutter Group's Federal Civil Procedure Before Trial, this new guide is available exclusively from LexisNexis via Lexis Advance, as a three-volume print edition and as an eBook, both individually and as part of the LexisNexis Digital Library.

In a news release, the company said this multimedia guide also brings a first for the legal research industry—attorneys can now navigate the complexities of pre-trial civil procedure via a series of 150+ videos embedded directly within the content on Lexis Advance. These 2-5 minute videos are included throughout the guide and feature explanatory tips and practical insights from Wagstaffe that enhance and complement the surrounding text in each chapter.

The release continues:

“We are delighted to announce the launch of this cutting-edge practice guide in partnership with Jim and his team at the Wagstaffe Group,” said Sean Fitzpatrick, Managing Director of North American Research Solutions at LexisNexis. “With its release and the addition of embedded video content directly within the legal research tools our customers use most, we’re bringing practical guidance to life. Not only are we providing the smartest and most relevant content to the market, but we are doing so in a manner that addresses

the changing needs of our customers.”

In addition to the new explanatory videos, The Wagstaffe Group Practice Guide: Federal Civil Procedure Before Trial breaks down the complex world of pre-trial civil litigation by providing in-depth, expert analysis and authority; numerous examples illustrating both common and nuanced procedural issues; pertinent circuit-specific coverage; step-by-step checklists for successful federal pre-trial practice. Subscription to the practice guide will also include a current awareness feature with commentary and practical insights on new cases, amendments to laws and more.

“Federal Litigation can be complex, confusing and intimidating,” said Jim Wagstaffe. “In my roles as a lawyer, teacher and author, I have heard time and again from attorneys about the need for simple-to-digest, accessible content. I consider it an honor to partner with LexisNexis to bring this vision to life.”

Wagstaffe is a renowned expert on pre-trial federal civil procedure, as well as the partner and co-founder of California-based Kerr & Wagstaffe LLP. For the past 30 years, he has served as a law professor, prolific author and lecturer, including working with the Federal Judicial Center to teach all incoming federal judges and provide annual update seminars to all circuits across the country on the intricacies of federal jurisdiction and federal practice. Considered one of the country’s preeminent First Amendment and defamation lawyers, Wagstaffe heads up his firm’s successful Federal Practice Group and leads litigation across a diversity of matters. In 2014, Wagstaffe was appointed as member and Chair of the Federal Judicial Center Foundation Board by the Chief Justice of the United States Supreme Court.

[Learn more about the guide.](#)

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## [Lynn Pinker Cox & Hurst](#) [Ranked Band 1 By Chambers &](#) [Partners](#)

[Lynn Pinker Cox & Hurst](#) has been ranked by Chambers & Partners as a Band 1 law firm in General Commercial Litigation. Lynn Pinker Cox & Hurst is one of four firms to be ranked Band 1 in Texas.

Energy Transfer Partners' Head of Litigation, Tonja DeSloover, comments, "Mike and the team at Lynn Pinker deserve to be in Band 1 as recognized by Chambers. They are creative, smart, hardworking and above all great trial and appellate lawyers."

Additionally, Mike Lynn, founder of Lynn Pinker Cox & Hurst, is ranked Band 1 in General Commercial Litigation and is one of 14 lawyers ranked Band 1 in Texas. Trey Cox and Eric Pinker are two of 17 Texas lawyers ranked Band 2 in General Commercial Litigation, and Chambers & Partners ranked Jeremy Fielding an Up and Coming lawyer in General Commercial Litigation in Texas.

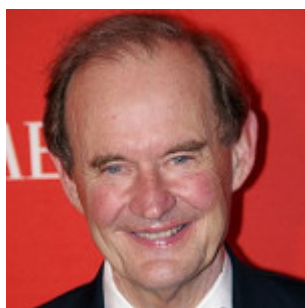
Mike Lynn comments, "We are enormously proud to be recognized as one of the top four firms for commercial litigation in Texas." Eric Pinker, managing partner at Lynn Pinker Cox &

Hurst, adds, “It has been a true team effort to build our firm’s excellence one brick at a time. It has taken the very best of each of us every day and every night. We are thankful to have reached this goal.”

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## [At Lunch With David Boies, 20 Years After His Departure From Cravath](#)



[Above the Law](#) talks with David Boies, the man author [David Lat](#) calls “the most famous practicing lawyer,” who tells the tale of how he left Cravath, Swaine & Moore to launch his own firm.

Lat writes that Boies has been involved in major litigation for the past 50 years, “from the IBM and Microsoft antitrust cases, to *Bush v. Gore*, to *Hollingsworth v. Perry* and the battle for marriage equality.”

Boies is a founder of Boies Schiller Flexner. “The spectacularly successful firm, with more than 300 lawyers across 14 offices, enjoys a reputation as a ‘national litigation powerhouse.’ And it has the financial rewards to

prove it: profits per partner of \$3.15 million in 2016, according to the latest Am Law 100 rankings, and associate bonuses as high as \$350,000.”

The article follows Boies’ path from Yale Law School to his 30 years with Cravath, through the early days with his newly founded firm, to the present.

[Read the article.](#)

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## [Using Arbitration Agreements to Reduce the Costs of Litigation and the Risk of Class Action Claims](#)

A properly drafted arbitration clause with a class action waiver should be enforceable and can be a good and useful line of defense against expensive and costly litigation, especially class action lawsuits, write [Jay N. Varon](#) and [Jennifer M. Keas](#) in Foley & Lardner’s [Consumer Class Defense Counsel](#) blog.

Their article explains how arbitration works, what type of arbitration agreements are generally enforceable, what features that have or can cause problems, and how such provisions can reduce the risk of class actions.

They also discuss the possible effect or non-effect that could come from the Consumer Financial Protection Bureau’s proposed



arbitration rule.

[Read the article.](#)

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