

## NOTABLE ACHIEVEMENTS

For these standout lawyers, it was all about the client

Every year, the Daily Business Review selects the Most Effective Lawyers of South Florida.

This year, in its seventh annual special report, the Review is recognizing the work of 85 attorneys in 14 categories: class action, complex/business litigation, corporate securities, real estate, bankruptcy, international, criminal, appellate, public interest, pro bono, medical malpractice, personal injury, product liability and probate.

Lawyers recognized in this project include those who reached a \$410 million settlement with the Bank of America on overdraft charges, retried a notorious child-murder case 21 years after the crime, dealt with a complex international real estate insolvency and challenged the denial of housing vouchers to elderly and disabled people.

The attorneys were measured on one critical benchmark: results for the client. Other criteria included obstacles overcome, impact on public policy and business interests, and the professional track record of the nominees.

The Most Effective Lawyer recognition program is designed to identify highlights from the vast body of work delivered each year by South Florida attorneys who serve clients in the private and public sectors.

The program is not a popularity contest, nor is it based on anonymous surveys. Selections are made by the editors after a rigorous evaluation process.

# MOST EFFECTIVE LAWYERS 2011

The Review's editors conducted a three-month selection process that focused on client outcomes and the complexity of cases.

The process of selecting the Most Effective Lawyers began with hundreds of nominations in more than a dozen practice areas. Only South Florida lawyers qualify for results achieved from October 2010 through September 2011.

An initial cut was made to eliminate nominations that were incomplete, did not meet the criteria or clearly did not belong in this recognition program. The Review's research director reached out to many of the nominees for information to buttress their nominations.

The editors then scored the nominees before meeting to select the semifinalists.

Once the semifinalists were identified, reporters and freelance writers furthered the research process to gather more details about the cases. With the assistance of this additional reporting, editors selected the finalists.

Some of the categories that proved to be the most competitive this year were civil/complex business litigation, criminal justice, real estate, appellate and public interest.

The editors reconvened in November to finalize the selection of this year's Most Effective Lawyers — one case in each category.

Still, all of the lawyers featured in today's special report — whether they are finalists or ranked at the top of their categories — deserve recognition. All of the selections published here represent significant victories on behalf of clients, the ultimate measure for any lawyer.

— The Editors

## SPECIAL REPORT

### CLASS ACTION

# Trio attacked bank strategy to maximize overcharge fees

**Bruce Rogow**  
Law Office of Bruce Rogow  
**Robert Gilbert**  
Grossman Roth  
**Aaron Podhurst**  
Podhurst Orseck

## MOST EFFECTIVE LAWYERS 2011



CANDACE WEST



MELANIE BELL

Robert Gilbert and Aaron Podhurst played major roles in the case that resulted with a federal judge approving a \$410 million settlement with Bank of America.

Bruce Rogow was lead counsel before the consolidation of the cases.



In a 90-second argument before a multidistrict litigation panel in Louisville, Kentucky, attorney Bruce Rogow had a consolidated class action against 33 banks accused of bilking customers with excessive overdraft fees assigned to federal court in Miami.

Bringing the case before Senior U.S. District Judge James Lawrence King enabled Rogow, Aaron Podhurst and Robert Gilbert to take the role as lead attorneys for dozens of law firms who filed about 60 similar suits in other districts.

Other attorneys asked the MDL panel to locate the case in their states.

All of the suits allege the same thing: banks deliberately overcharge customers who overdraft their debit card accounts because purchases aren't posted in chronological order.

Instead, the banks list the transactions with the largest first. That maximizes the number of overdrafts, according to the suit.

"A lot of these customers are college students who use their debit cards ... to buy a coffee at Starbucks,"

for example, said Rogow, and they inadvertently end up with an overdraft charge of \$200 or \$300 due to the resequencing.

Before the consolidation, Rogow was lead counsel. His former law partner, Robert Gilbert, now at Grossman Roth, was coordinating counsel. As the case grew in complexity, Aaron Podhurst, founding partner of his firm, became co-lead counsel in February, although the firm had been involved with the case for two years.

Gilbert led the negotiations with Bank of America and was involved in the settlement drafting. He assembles and manages 33 cases and litigation teams from 70 law firms. He coordinates which lawyers will take which motions, for example.

"We have used our experience to make sure that the firms that are capable and involved each handle a degree of work," Podhurst said.

The plaintiffs won a significant victory in March when Bank of America, without admitting liability, agreed to settle its case for \$410 million. King approved the settlement last month. After attorney fees,

\$287 million will be distributed to as many as 13 million customers of Bank of America.

"In the Bank of America case you don't have to make a claim, you just get a check in the mail," Podhurst said. "It is a very good settlement because some of them might have had \$2,000 in overdraft fees, some may have had \$200."

In another settlement, San Francisco-based Union Bank recently agreed to pay \$35 million.

Other banks, including JPMorgan Chase, Citigroup and Wells Fargo, continue to litigate in district court and the 11th U.S. Circuit Court of Appeals.

Wells Fargo declined to comment on the possibility of a settlement. "Wells Fargo continues to vigorously defend our case," spokeswoman Richele Messick said.

The plaintiff attorneys are optimistic more banks will decide to settle.

"I don't think the banks want to try them because the landscape has changed in the way people perceive banks. That's a factor, whether they want to go to trial," Rogow said.