



WHERE HAVE WE BEEN, WHERE ARE WE GOING?

Six perennial top listers talk about the last 20 years of law

BY STEVE KNOPPER PHOTOGRAPHY BY DUSTIN SNIPES



Back in 2004...

Michael J. Bidart; Shernoff Bidart Echeverria; Insurance Coverage: I was practicing with the same law firm I'm with now, where I've been since 1986.

Michael Tuchin; KTBS Law; Bankruptcy: Business: In 2004, our firm had been around for about five years. I had a 5-year-old and a 2-year-old. Now my wife and I are empty-nesters.

Patty Glaser; Glaser Weil; Business Litigation: It used to be I never left the office without returning phone calls. Now I get 300 emails, and I don't leave the office until I've responded to each one of them.

Morgan Chu; Irell & Manella; Business Litigation: Same law firm, same office, same office building. And my wife and I, by then, had lived in our only piece of property—our only single-family home—for some decades. Oh, same wife, too!

Changes to the Practice

Bruce Broillet; Greene Broillet & Wheeler; Personal Injury - General: Plaintiff: We've seen tremendous progress, growth, diversity. I see it when I go to seminars. Years ago, a bunch of white males were largely up on the dais giving the talks. Now it's men, women, people of color, attacking the issues that the law grapples with from different perspectives. Everyone helps us all grow.

Glaser: There are no barriers. I spent my weekend—without any resentment at all, because it needed to get done—trying to negotiate a resolution of a relatively large matter for a client. Twenty years ago, you had far less invasion, and you used your weekend to catch up. Now I treat it like any other day at the office.

Nancy Abell; Paul Hastings; Employment Litigation: Defense: We did make strides in the advancement of women, particularly in-house and in the judiciary. COVID has resulted in a setback, because women disproportionately have assumed responsibility for care of children attending schools via Zoom and trying to juggle every aspect of personal and professional life in a confined space. That setback truly concerns me.

Practice Area Changes

Abell: The workforce is extremely mobile. When I started practicing, I had the joy of working with many clients who

Leave it to Morgan Chu to give us a perfect example of how much things have changed since 2004 when he graced the first cover of *Southern California Super Lawyers* magazine.

"In the last 20 years, it was as if the clock sped up," says the IP litigator who has won billions for clients in patent-infringement suits. "Scientific discoveries kept coming at a faster and faster pace." And then he lays it out: "You have in your pocket more computing power than the Apollo moon shot was using to land men on the moon."

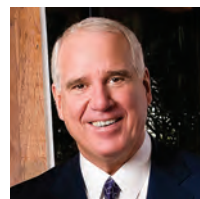
He adds, with a smile, "That's what makes my job so fun."

It's not just the technology, of course. In the last two decades, employment litigator Nancy Abell has seen more discord among workers due to political polarization, and business trial attorney Patty Glaser has defended a flurry of allegations in the wake of the #MeToo movement. Adds Bruce Broillet: "We see safer highways because Caltrans is being held responsible for unsafe highways."

Super Lawyers caught up with six attorneys, all top listees for 20 straight years, to talk about where we've been, and where we might be going.



Nancy Abell
Paul Hastings;
Employment
Litigation: Defense;
Los Angeles



Michael J. Bidart
Shernoff Bidart
Echeverria;
Insurance Coverage;
Los Angeles



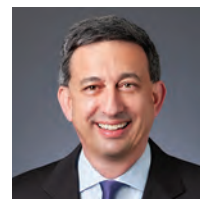
Bruce Broillet
Greene Broillet &
Wheeler; Personal
Injury - General:
Plaintiff; El Segundo



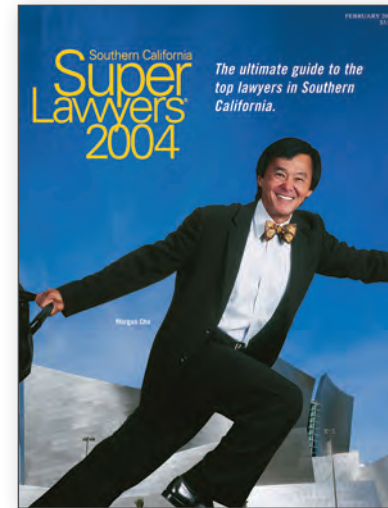
Morgan Chu
Irell & Manella;
Business Litigation;
Los Angeles



Patty Glaser
Glaser Weil; Business
Litigation; Los
Angeles

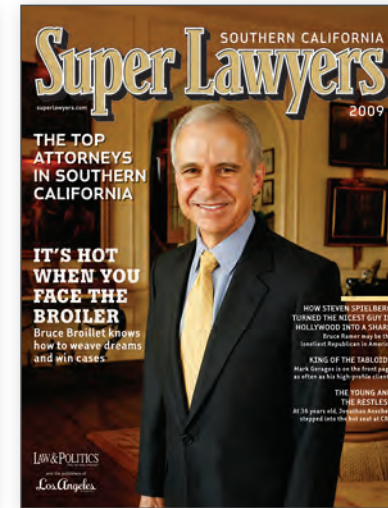


Michael Tuchin
KTBS Law;
Bankruptcy;
Business; Los
Angeles



Then & Now

Chu: How much have things changed since 2004? "You have in your pocket more computing power than the Apollo moon shot was using to land men on the moon."



Broillet: The industrial machinery cases Broillet used to see have diminished considerably. "Holding the companies financially accountable ended up with much safer equipment being made."



Tuchin: Tuchin expects a surge in post-pandemic bankruptcies. "Lenders and landlords are getting tired of forbearances."

earned gold watches at the same company. Today, we often see people changing jobs multiple times a year. That has profound implications for corporations—because of the amount of training time it takes to get a replacement up to speed, and to create a cohesiveness and deep understanding of a shared mission.

Broillet: I used to try a fair number of cases involving the design of industrial machinery—many pieces of equipment were from the '30s, '40s, '50s and even earlier: punch presses, press breaks, plastic injection-molding machines, industrial saws. Just one after another. Fortunately for workers, holding the companies financially accountable ended up with much safer equipment being made. So now you don't see nearly as much of those kinds of cases.

Bidart: There was a 2003 case called *State Farm Mutual Automobile Insurance Co. v. Campbell* that was very significant. ... There had been a major punitive damage award, \$145 million, with only \$1 million for emotional damages for financial distress—and the U.S. Supreme Court said that it exceeded the limits allowable for a punitive damage award. That's been a huge sea change in viability in the type of cases that we can take—particularly in a practice where we work completely on contingency.

Tuchin: We're seeing more of what I refer to as "victim bankruptcies": large corporations putting an affiliate into bankruptcy to try to shield the large corporation from tort liability. You see that in [the Chapter 11 filing of] Johnson & Johnson's subsidiary, LTL Management LLC; you see that in the Aearo

Technologies bankruptcy, a subsidiary of 3M. So the Fortune 500 companies aren't going into bankruptcy, but they're seeking to get many of the protections of the bankruptcy without having to file. We've been involved in a number of those.

Chu: A few decades ago, I don't think people knew anything about RNA technology, much less mRNA technology. Then we had this worldwide pandemic. Scientists all over the world went to work immediately to try and come up with vaccines, and two companies, Pfizer and Moderna, were successful. Both used mRNA technology and did it in a record period of time.

Broillet: The sexual abuse cases that you hear about and read about a lot these days—an awareness developed that an action could be brought for this. It's led to an increased amount of lawsuits. Various entities that have been accused and are now paying out for it are taking action to train their employees or participants and take these complaints seriously. That's going to hopefully produce the effect of driving down the incidents of sexual abuse.

Glaser: [The #MeToo movement] had some wonderful repercussions. It's also had some horrible repercussions for people who didn't do anything wrong. What I'm seeing today that I never saw before, no matter how aggressive people were, is the willingness to make allegations in a complaint that largely have no relationship to the claim itself. It's strictly for extortion. It's a black mark on the legal profession, whether it's used by defendants or plaintiffs, and I'm seeing it more and more.

Broillet: If it's something that is made up, exaggerated, or a product of the overall energy of the #MeToo movement, then they're going to be put to the test—in front of a jury, potentially. [False allegations] are probably the minority of cases. It's unfortunate if those instances are sully or undermining the truthful and honest ones.

Abell: Social media presents many challenges because employees don't always differentiate whether they're speaking for themselves or their companies. So companies are very active in enacting social-media policies that provide guardrails consistent with employee rights—and the law—and so corporate interests are not impaired by careless posts.

Chu: Someone calls and says, "We're going after certain kinds of cancer, can you help us?" "Sure." "We want you to try and help identify intellectual-property rights we might want to acquire before we invest a lot of money and time in this project." The bringing together of people to tackle a problem in a relatively short period of time—and it's the kind of problem that no one was able to solve for many, many, many decades—that's happening all the time now.

The Big Cases

Tuchin: We represented a number of gymnasts in the USA Gymnastics [bankruptcy case that resulted in a \$380 million settlement to sex-abuse survivors in December 2021]—people who have been terribly victimized and needed the help to move on with their lives. Many of the victims were as concerned about seeing change out of USA Gymnastics, and even the Olympic Committee, as they were in monetary compensation. I don't think there were serious disputes as to the harm and the wrongdoing, but many of the gymnasts felt there wasn't sufficient structural change—making sure there are protections in place.



"What happened with Erin Andrews was a tragedy," says Broillet, "and she was very courageous in standing up and going through that whole trial to hold the hotel accountable and make the point 'It can't be done this way.'"

Chu: [In the ongoing patent-infringement proceeding, *VLSI Technology LLC v. Intel Corp.*], we decided to file a number of different cases. Many judges today do not want to take to trial a case that has 15 patents. They think it's too many for a jury, and they'd rather have smaller cases that have one or two or three patents. We ended up having five cases pending—the first one ended up with a good jury verdict [VLSI won \$2.2 billion in 2021]. The second was a defense verdict. And we've got another three lined up.

Broillet: The case I tried on behalf of Erin Andrews [the sportscaster stalked at a Marriott hotel, leading to a \$55 million verdict against the hotel chain and the stalker] got a great deal of notoriety, which we understand led to changes in the way hotels handled people's privacy all across America. They started to put in procedures, so if somebody calls into the hotel and says, "Is So and So going to be staying there?" the hotel would not tell them. What happened with Erin Andrews was a tragedy, and she was very courageous in standing up and going through that whole trial to hold the hotel accountable and make the point: "It can't be done this way."

Bidart: Just in the last 20 years, I've done over 350 individual cases against the HMOs in California. In a case called *Rahm v. Kaiser*, a young woman was delayed in getting an MRI after she was experiencing pain down her right leg—which was, for a 17-year-old, unusual. A treating chiropractor had recommended she go to her health-insurance company to get an MRI, and they delayed it for three and a half months. Well, they located a very aggressive tumor on her pelvis, which, by the time they caught it, required that they take away half her pelvis and her right leg. [The case resulted in a \$28.2 million verdict in 2015.]

Broillet: I was involved in cases involving the failure to summon 911 assistance in a timely way. In the most recent one, a man was suffering from dehydration, and [the Bel-Air Bay Club] delayed three and a half hours before they finally called 911. By that time it was too late. In another, a man was playing basketball at LA Fitness, and he went down with an arrhythmia and they just didn't handle it the right way. The jury returned a large verdict. What we have heard is health facilities have taken note and now train their people better.

The Pandemic

Chu: Courts shut down, and some found new ways to hold hearings. ... I did have four in-person jury trials during the pandemic. I had two arbitration trials that were on Zoom, and a good number of trials that were delayed.

Tuchin: We've been involved in a number of movie theater bankruptcies. Restaurants quickly pivoted to delivery or pickup—they went to outdoor seating, and some have flourished. Not much you can do with a theater, where, for a year or longer, you couldn't have anybody inside. Now Regal [the chain's parent company Cineworld Group] is in bankruptcy and several others have been struggling as well. Lenders and landlords are getting tired of forbearances. I think in the next couple years, you'll see a surge in bankruptcy filings.



Abell: COVID showed employers and employees that it is possible in many sectors to have employees conduct business remotely. That has led to far, far greater employee interest in remote work. And that is presenting challenges for employers who have a concern that it's critical for corporate culture, employee training and employee engagement to have people physically together on site.

Broillet: The fact that cases were not going to trial for nearly two years created a backlog. It really helps that there's the potential of a trial sitting there. ... But the system is working, and lawyers are working together. We managed to weather that situation, and things seem to be getting back onto a normal track.

The Future

Bidart: I still take a lot of cases. I'll be 72 years of age this month. I still love what I do, and I don't know what I would do without this.

Glaser: I don't think a week goes by where I'm not fielding a phone call from somebody who is either an accuser or an accused in terms of sexual harassment. It was not true 10 years ago. The pendulum is no longer in the middle. It's way in one direction, and I think it needs to swing back a bit.

Chu: A hot topic in law today that relates to biotechnology and pharma inventions: A court developed a doctrine on how they look at certain patent requirements. A phrase they used under patent law is "written description and enablement." Patents have been found invalid where I believe a great inventive work was done. The inventions were properly claimed, but the courts decided more information should have been disclosed. ... I'm pretty confident that the courts will catch up with the science, or Congress will force

the courts to catch up with the science. Because if we don't, we're going to fall behind many other countries in Europe and Asia.

Tuchin: Large corporations will continue to test the bounds of bankruptcy as a potential alternative to the tort system. And it will be up to the courts to decide whether they believe Congress should amend the law. ... What I hope happens is that large, healthy corporations are not able to put affiliates into bankruptcy and obtain a shield without having to subject themselves to the bankruptcy court's jurisdiction. If that ends up playing out, you will have fewer bankruptcies, because large corporations will stop doing that. But if the courts conclude that this works, that this is acceptable, then you're going to see many more bankruptcies of that type.

Broillet: I hope every way people are being injured and harmed and losing their lives because of negligent conduct or defective products or toxic waste [comes] to an end and all the lawyers find something else to do.

Chu: I can't tell you exactly what call I'm going to get tomorrow about some amazing new technology, but I know I'm going to get that call. What else could one want? ^{SL}

The first Super Lawyers list appeared in the August 1991 edition of *Minnesota Law & Politics* magazine, with Joe Friedberg on the cover.

