

## Commentary

Terayon silence shielded donors

Mark Tapscott

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### WASHINGTON -

It was a case that epitomized the worst of the securities class-action lawsuit abuses of the 1990s.

Federal Judge Marilyn Hall Patel became concerned after a 2003 newspaper article reported that a suit she was hearing — In re Terayon Communications Systems Inc. Securities Litigation — was filed the day after Terayon's stock plunged 26 percent following what looked like a systematic campaign by a plaintiff in the case to drive the share price down.

Patel had previously approved Milberg Weiss, the controversial New York law firm, as lead counsel and Cardinal Partners, a hedge fund managed by general partner Cardinal Investment Company and a Cardinal employee, among the lead plaintiffs.

Cardinal had in the months before the suit was filed sold short 400,000 Terayon shares and stood to lose up to \$80 million if the stock price did not go down. Evidence suggested that somebody at Cardinal had a “game plan” for driving Terayon's stock price down. Patel said in court she was disturbed because “the people who are going to drive this litigation are in fact people who are betting on the stock going down.” And “what did Milberg Weiss know before the complaint was filed?” she asked.

Milberg Weiss' role in the case is still in litigation, and the firm denies all wrongdoing.

These and numerous other details were pointed out to Eliot Spitzer in a July 2004 complaint filed by the **Washington Legal Foundation** asking him to direct the New York Bureau of Investor Protection and Securities to investigate possible violations of state law by Milberg Weiss. A spokesman for WLF told The Examiner that Spitzer's office acknowledged receiving the complaint but did nothing else.

Four now-former Milberg Weiss senior partners have pleaded guilty in the last year to multiple felonies in connection with a federal indictment alleging they and the firm conspired in an \$11.7 million scheme to pay kickbacks to plaintiffs in more than 150 cases beginning in 1979 and generating an estimated \$200 million in legal fees.

*Examiner*