

## Class Action Crimes

News of notorious class action lawyer Bill Lerach's decision to plead guilty to conspiracy is a watershed moment for those concerned with our dysfunctional civil justice system. Lerach has exploited free enterprise for decades, transferring millions from shareholders' nest eggs to his own pocket. Last year, his former firm, Milberg Weiss, and several of its partners were indicted for making illegal kickbacks to "professional plaintiffs". Though their misdeeds have earned them the most attention, Lerach and Milberg Weiss are certainly not alone in a growing gallery of rogue class-action lawyers.

A federal judge recently fined and incarcerated a prominent Mississippi trial lawyer and

### ***Robbing at pen point***

two state judges for bribery and racketeering. Yet another federal judge ordered three Kentucky lawyers jailed pending their trial for fraudulently withholding settlement funds to clients in their phen-fen diet drug class action. "Not only these three gentlemen are on trial, the whole legal profession is on trial," the judge fumed. In addition, judicially-appointed special prosecutors have charged famed plaintiffs' lawyer Dickie Scruggs with criminal contempt for unlawfully ignoring a judge's order to return documents obtained from whistleblowers in an insurance class action.

Such abuse of consumers and dishonoring of our legal system should provoke cries of outrage from public interest activists, trial lawyer groups, and politicians. Instead what we hear is deafening, embarrassing silence. The litigation industry and their "consumer protection" allies must be too busy lining up new lawsuit targets to be concerned about holding rogue lawyers accountable.

Who can we count on to protect us from Litigation Inc.'s bad apples? Criminal enforcement may sometimes be appropriate, but it is far too delayed and cumbersome an approach to effectively control lawyer abuses or set standards. Consumer protection regulators either can't or won't safeguard class action members

who are in essence being robbed at pen point by certain class action lawyers. If any other industry charged a nationally uniform contingent fee, or peddled their services through dangerously misleading ads, they would be investigated or prosecuted. Inexcusably, the FTC and state attorneys general don't seem troubled when plaintiffs' lawyers do it.

Instead, government regulators readily defer to the proverbial fox - lawyers through bar associations - to guard the hen house. But when lawyers are being criminally prosecuted, and their defrauded clients are forced to file their own lawsuits against them, the status quo simply isn't good enough. The litigation industry has grown too powerful, and the financial incentives for abuse too great, to trust lawyers to regulate themselves.

All who have fallen prey to Bill Lerach and his ilk know that even if these legal predators move on, more profit-seeking lawyers, with even more class actions, will take their place. Independent oversight and accountability of the litigation industry is sorely needed, lest it continue to run roughshod over our entire economy. Isn't it time we got started?



**Daniel J. Popeo**  
Chairman  
Washington  
Legal Foundation



Washington Legal Foundation  
Advocate for freedom and justice®

WASHINGTON LEGAL FOUNDATION • 2009 MASSACHUSETTS AVE., NW • WASHINGTON, DC 20036 • <http://www.wlf.org>

*In All Fairness* is produced through WLF's Civic Communications Program.