Mike doesn’t just talk the talk and walk the walk. He is an arsonist in the law. His corporate smackdowns are the stuff of legend.”
—MARK GERAGOS, CNN legal correspondent

TRIAL BY FIRE
ONE MAN’S BATTLE TO END CORPORATE GREED AND SAVE LIVES

MIKE BURG
WITH JOSH YOUNG
FOREWORD BY ALAN K. SIMPSON
PRAISE FOR TRIAL BY FIRE

“Michael doesn’t just talk the talk and walk the walk. He is an arsonist in the law. His corporate smack downs are the stuff of legend. This is a must read for anyone even remotely interested in the subject.”
—Mark Geragos, CNN Legal Correspondent and criminal defense lawyer, inducted into the Trial Lawyers Hall of Fame in 2016

“Justice is not naturally occurring. It is not random. Look behind most stories where true justice has prevailed and you will typically find a tenacious, uncompromising individual who struggled and sacrificed mightily to bring about the birth of justice. Michael Burg is one of those individuals. For thirty years he has shown up in courtrooms from New York to Los Angeles with one goal in mind—Justice. This book gives you a look behind those stories.”
—Mike Papantonio, trial attorney instrumental in the tobacco and asbestos litigation, inducted into the Trial Lawyers Hall of Fame in 2015

“He’s always prepared. He knows his material; he’s very bright; he’s very dogged and yet cooperative with opposing counsel. He is also extremely cooperative with the court and well respected by fellow attorneys on the plaintiff’s side. His leadership was extremely important in resolving about 2,000 to 2,500 cases. He played a role in coordinating state courts and the ultimate resolution of the cases by settlement.”
—The Honorable David Katz, U. S. District Court judge for the Northern District of Ohio

“Michael Burg is an attorney who exemplifies the mission of the American Association for Justice—promoting a fair and effective justice system, and supporting the work of attorneys in their efforts to ensure that any person who is injured by the misconduct or negligence of others can obtain justice in America’s courtrooms, even
when taking on the most powerful interests. This book demonstrates the lengths to which he is willing to go in order to achieve that result! He is a true defender of the American justice system.”

—Lisa Blue Baron, past president, American Association for Justice, inducted into the Trial Lawyers Hall of Fame in 2015

“Just imagine a modern day hero—one who protects the innocent . . . one who is a fierce warrior in battles for the underprivileged . . . one who embraces righteous causes for the good of mankind . . . and one who is the standard bearer for courage in the courtroom. Mike Burg is that ultimate advocate. Trial by Fire is more than a book—it is a work of art, methodology, and inspiration! It is the ultimate must read for all who seek to be leaders, managers, mothers and fathers and advocates and coaches and the keepers of the promise to make this a better world. It is for doctors, lawyers, environmentalists, workers of all kinds . . . an action book—a life book . . . a ‘lessons-learned’ book! In Trial by Fire, Mike Burg teaches us what it really means to become an ‘OBSTACLEIST!’”

—John F. Romano, trial attorney, inducted into the Trial Lawyers Hall of Fame in 2016
TRIAL
BY
FIRE
TRIAL BY FIRE

ONE MAN’S BATTLE TO END CORPORATE GREED AND SAVE LIVES

MIKE BURG

WITH JOSH YOUNG

BenBella Books, Inc.
Dallas, Texas
The events, locations, and conversations in this book, while true, are recreated from the author’s memories. However, the essence of the story and the feelings and emotions evoked are intended to be accurate representations. In certain instances, names, persons, organizations, and places have been changed to protect an individual’s privacy.

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To my mother, Phyllis, and my father, Sydney. They always told me I could be successful at anything I did. They taught me by example to fight for what was right. My father was the most honest and ethical person I ever knew. He told me, “Don’t chase the money. Be the best lawyer and the money will follow.” He was right.
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FOREWORD

I have met many a fine lawyer in my life—thanks to my roles in practicing law and holding public offices—but of all these lawyers, no one compares to Mike Burg. He has a fire burning inside of him, a tenacity that cannot be dented, and a drive to bring justice for his clients that makes him the powerfully successful lawyer that he is. Aside from Mike’s fierce determination to champion every case he takes on, he’s a damn hard worker—one of the most vital traits any successful person or lawyer can ever possess. It takes one to know one!

I always worked my butt off for the simple purpose of trying not to make an ass of myself. There’s no other goal or noble aspiration to the task—it’s that we want to be the best at what we do, and we want to keep doing it—and that takes real effort and courage—to keep your integrity and protect your good name.

All my life, my good name is all that I have had. I’ve worked hard every day to create and uphold my reputation. When I first met Mike and discussed becoming his firm’s partner, I had already pissed off more people than Mike Burg ever would, simply because that is the clear nature of exercising strong political leadership. Mike wanted the firm to be called “Simpson Burg.” I laughed and told him that sounded like the name of some small Western town. Besides, I don’t need my name on anything—“So let it be Burg Simpson.”

My dad used to say, “If you’re damned if you do and damned if you don’t—then DO”—and that’s what I’ve always tried to do. So
when we talked about lending my name to his fine firm, I said very clearly, “All I have is my good name, so if I do this with you, don’t screw it up.”

So far so good. I didn’t want much to do with the day-to-day law business itself. People see the Burg Simpson name and ask me how the firm is doing and I simply and confidently tell them that Mike and his able crew are taking good care of everything—quite beautifully!

Mike and I share another trait that makes us cut from the same cloth—an ego. We both have “walls of fame”—framed pictures, documents, and awards in our offices that stand as landmarks on our paths in life. Having an ego is part of what a successful life is all about. If you don’t have an ego, it’s best to stay out of the game of life. Ego doesn’t mean boasting and arrogance; it means self-worth and pride in what you are doing and what you’ve accomplished.

On my “wall of fame,” I have handwritten letters from Presidents Eisenhower, Nixon, Carter, Reagan, Bush, and Clinton; pictures with Presidents Johnson and Clinton; as well as notes and photos from Ted Kennedy, Colin Powell, Mack Baldridge, Dick Cheney, “Tip” O’Neill, Howard Baker, Bob Dole, and Father Ted Hesburgh among many others. These are persons I am proud to have formed relationships with, and I can see why Mike is proud of his connections, too. He should be! Hell, if I were one of the very few plaintiffs’ attorneys to be presented the Clarence Darrow Award and be named one of the America’s top 50 leading trial attorneys by *The Legal 500*, I’d probably put that plaque up for a big sale on eBay!

Mike is mighty proud of what he has done, and rightly so. It’s one thing to gain connections and achievements from sheer good luck, or through inheritance or legacy—surely there is little hard work required for those (un)accomplishments. But when you have worked so diligently for your awards and honors, I would not blame a guy for wearing them around on a T-shirt for all the world to see.
Above all, Mike Burg cares about human beings. He is a worldly, humanitarian man, even with all his lofty accomplishments. He loves to be with the humans. He can talk frankly about getting the shit knocked out of him while coming through the scraps as a kid in an ethnically and religiously difficult time. He relates to people easily; he is very endearing and exceedingly convincing. He has earned every single ounce of recognition he has received, and he’s justifiably proud of it, especially since his rise did not follow a most conventional trajectory.

Like Mike, while I valued formal schooling, it was not my strong suit. I was told that Mike struggled in school and faced some trouble because of that. In the corridors of power in Washington, DC, I used to tell the big-guy and gal swells who had attended Harvard, Yale, Berkeley, and Princeton that I was eighteenth in my law class. They’d say, “Oh really, that’s amazing... How many were in the class?” I’d promptly reply, “Eighteen.” I have found that grades and school marks don’t really matter once you break into the big leagues of any chosen field, as Mike has found, too. No one asks you in a jury trial what your grade average was. What matters are your results.

Having come to know Mike so well over these past years, it is ever more clear that he is brilliant, wise, and fierce, and you would want him watching your back. When he is in the courtroom fighting a case, he has a burning deep in his gut, like that in a nuclear submarine, fueling every fiber of his brain and body. Mike is a powerful production of raw guts, zeal, and fire. He nurtures this incendiary, explosive, and dynamic force just below the surface, often to the point that the opposition might not know what’s coming—but the minute the judge hits the gavel, his universe opens like a fish taking oxygen from water. That is the kind of energy Mike gains from a courtroom, and it is that very same passion that brought him from the most modest makings of early life to the very pinnacle of American law.
I am so proud that my name has been honored by this very honest and reputable law firm led by Mike Burg, who has risen to the very top among his peers and thus carried his name—and mine—without blemish.

—ALAN K. SIMPSON
Former U.S. Senator (R-Wyoming)
I am not like most lawyers. The image of a lawyer conjures up a stone-faced professional in a stiff suit, with no sense of humor, and perhaps a blood lust for justice or money, which in some cases are considered interchangeable. But while I fight for justice and large verdicts for my clients, I am not that lawyer.

What differentiates me from the all-business types are my personal experiences, my unwavering personal commitment to fight for the underdog at all costs, and my undeniably explosive personality, complete with theatrics, eccentricities, excitement, a sense of humor—and maybe just a touch of crazy. My younger brother, Peter, also a lawyer, calls me Forrest Gump. I take that as a huge compliment, because Forrest was both adventurous and smart.

For a time I worked as a model and actor. I auditioned for the lead role in the TV series *Breaking Away*, based on the 1979 movie. I even tried my hand at stand-up comedy in Denver, performing a couple of acts away from a local comedian named Roseanne Barr, who made it big. These experiences seemingly have nothing to do with the practice of law, but they have informed the way I practice law today.

As noted above, I am just a little bit crazy, and I insist on having fun when practicing law. You can see that in the photographs displayed on the walls of my office.
Everything that surrounds me tells a piece of the story of the lawyer that I am today. Some of the photos and plaques show my legal accomplishments, my family, and my eccentricities. Some have a tinge of ego, while others convey a sense of amazement that I’ve made it this far.

The strangest photo by far is of the Fabulous Kangaroos, which represents the “full-on Mike Burg.” It stems from the only case Peter and I have ever tried together. The case involved another lawyer. He was suing our clients, who were also friends of ours, for millions of dollars in a securities matter. Just as the opposing lawyers were ready to put on their case, I went up to the lead lawyer and said, “You may not be old enough to remember the Fabulous Kangaroos, but they were the greatest Australian tag-team world champions of all time. My brother and I are gonna act just like them here over the next two weeks.”

The lawyer gave me a strange look.

“I’m going to be tagging him, he’s going to be jumping into the ring, taking on witnesses, then he’s gonna tag me and I’ll be back in the ring,” I said, raising my voice. “We’re gonna be all over this courtroom! You’ll never know who’s coming at you!”

The lawyer freaked out. He was certain I was crazy.

On my birthday, a month after we won the case, Peter gave me a framed picture of the Fabulous Kangaroos.

I also have a picture of the Marx Brothers that dates from when I was growing up in Chicago along with Peter and my older brother, Frank. Family is very important to me, both personally and professionally. As Jews, we lived in a small, Jewish section of the city, and we stuck together. We also had a good time together. I’m not sure we were quite as entertaining Chico, Harpo, and Groucho, but we tried.

Frank is now a safety expert in the Chicago area who often testifies at trials as an expert witness. Peter is an equal shareholder in the
law firm. When he joined my firm, I was on the verge of going out of business, and he basically kept us afloat with the insurance clients he brought in. In 2013, my brother and I were named Outstanding Alumni by the University of Denver Sturm College of Law, so I keep a picture of that on my wall, too.
I also have several pictures of my wife, Kathy, and our children from earlier marriages: Kathy’s children, Reese and Samantha, and my sons, Scott and Stephen, together on vacation in places like the Great Wall of China, Mexico, and Vancouver. One of my favorite family pictures is with Scott at the annual major league baseball game in Denver before the city landed the Rockies. One year we went to a Cubs game at the old Mile High Stadium and ended up on the cover of the *Denver Post* magazine. Scott now runs a successful hedge fund in Steamboat Springs, Colorado. My younger son, Stephen, is a lawyer and a shareholder in the firm.

Currently we have sixty lawyers in our firm, with offices in five cities. Leadership is a quality I value highly. I try to lead by example, but rather than have a sign about leadership, I have a photo on my wall of Robert F. Kennedy, who served as U.S. Attorney General when his brother John was president. In the photo, taken by the acclaimed *Life* photographer Harry Benson, RFK is campaigning for president just days before he was assassinated. I bought the photo at a New York charity event for the RFK Foundation, which is run by his daughter Kerry. The photo serves as a constant reminder of leadership because of the work that Kennedy did during the Civil Rights era.

The cornerstone of my personal philosophy is, I never give up. I have always said that no matter how many times you get knocked down in life, you’ve got to get back up. To remind me of this, a law partner of mine, Bill Simpson, gave me a picture of Jack Dempsey being knocked out of the ring in the first round by Luis Angel Firpo in their September 1923 bout at the Polo Grounds in New York—in front of eighty thousand people. Dempsey was pushed back into the ring by the sportswriters. He then knocked Firpo out in the next round to become world champion.

I’ve been knocked out of the ring plenty of times but, like Dempsey, I always get back in.
So, what is a lawyer anyway? First of all, a lawyer is not someone who finds the truth and then buries it, as the clichéd one-liner states. A lawyer is not, to paraphrase the writer Mario Puzo, someone who can steal more with a briefcase than a thousand mobsters can steal.
with guns. Nor do (all) lawyers spend most of their time shoveling smoke, as the great Supreme Court Justice Oliver Wendell Holmes proclaimed.

It is nearly impossible to describe succinctly exactly what a lawyer does or how a lawyer performs his or her occupation. The role of an attorney varies significantly across legal jurisdictions, as well as across various practice areas, which can range from criminal defense to insurance to real estate. Every lawyer brings to the table a different background, personality, education, and breadth of knowledge, and chooses to use his or her tools in different ways. But being an attorney brings with it a common set of denominators:

- Lawyers are the protectors of justice.
- Lawyers are the protectors of civil rights.
- Lawyers are the protectors of America’s judicial system—the most important and powerful system of justice in the world.
- Lawyers take on the immense responsibility of using their talents and skills to protect the citizens of this country against the negligence of others.

Any lawyer who does not subscribe to this doctrine should carefully examine the reasons why he or she decided to become a member of one of the most honorable professions that exists today.

Part of our job as lawyers is to educate society about exactly what it is we do, why we do it, and how the citizens of this country benefit from what we do. We really do protect people—most of us anyway. Our job is to do the right thing: to help those who need to be helped, and to make sure that everyone has equal access to the legal system.

I’ve worked on a wide variety of cases, from complicated First Amendment rights to cases as simple as a dog bite or a car accident. Some of these cases are about seeking justice for one person,
while others affect thousands—and even hundreds of thousands—as is the situation with a sweeping action I filed against twenty-eight California wineries in March 2015.

What I’ve learned is that most people who come to me for help genuinely need help. They are not after a fast buck. They are not trying to game the system or get something for nothing. These are people who simply want to be made whole. They want their lives to go on the way they had gone on for years, but in a way that becomes impossible because of a circumstance in which they find themselves, often through no fault of their own. A man injured in a snowmobile accident who becomes a paraplegic doesn’t want a fancy car or Italian loafers. He simply wants to be able to take a shower by himself. He wants to be able to drive to his job so he can provide for his family.

I have always made it my primary goal as a lawyer to fight for Everyman. I don’t say this with a sense of noblesse oblige. I believe it with every fiber of my body. The government does not do this anymore. Congress is largely in the back pocket of big business. Regulatory agencies are overwhelmed, and there is a revolving door between the agencies and the businesses they monitor. The only way the common person can get any traction when wronged is to hire a lawyer.

Clarence Darrow was one of the greatest trial lawyers in U.S. history. His storied career had a huge influence on me. I was honored when I was chosen to receive the Clarence Darrow Award at the 2013 Mass Torts Made Perfect conference. The award is the highest honor given to lawyers who take on cases involving thousands of plaintiffs wronged by big business. The award, featuring Darrow’s picture, hangs across from my desk.

In contrast to the Darrow picture, but in keeping with the myriad of clients I’ve been fortunate enough to represent, on the wall behind my desk is an original Yogi Bear cartoon. I have been blessed to have had more interesting clients than most lawyers, from professional athletes to spunky car dealers—even the Little Rascals! Yes,
my firm and I represented the Little Rascals in a lawsuit against King World for using their likenesses for a cartoon without compensating them.

As part of the Little Rascals case, I took the deposition of Bob Singer, an animator who worked on the series (a deposition is sworn testimony that is given during the workup of the case, and used in fact finding). Singer was one of the creators of Yogi Bear, my all-time favorite cartoon. He took a liking to me because I was so fascinated with his animation process. At one point, he asked if there was anything he could do for me. I told him about my passion for Yogi Bear. When the case was over, he sent me an original cartoon.

There have been many other rewards: in the early nineties, I attended a celebrity charity golf tournament with Walter Davis, a former standout for the Phoenix Suns, whom I became friends with through a mutual acquaintance. Walter had invited me to play in his tournament he organized every year. Michael Jordan, then in his heyday with the Chicago Bulls, was playing in the tournament. Of course, everyone wanted to play in Michael’s foursome.

Walter decided that rather than having the big-money guys play with Michael—and I certainly wasn’t a big-money guy back then—he would have a couple of his friends play with him. So Walter paired me, a friend of mine, and former U.S. Vice President Dan Quayle’s brother with Michael.

Playing golf with Michael Jordan was the most nerve-wracking experience of my life. Thousands of people were watching because Michael was in our foursome. To add to the pressure, Michael also had side bets going with the other All-Stars, such as Charles Barkley. Throughout the round, Michael kept pressing us to do better. “Come on guys, you’re costing me a fortune here,” he said.

At the end of the round, we headed to the hot dog stand. Michael had no cash, so I bought him a hot dog to make up for my poor showing.

My career has led me to some lofty places. One was the annual Alfalfa Club dinner held in Washington, DC. The Alfalfa Club was
originally founded in 1913 as a way to celebrate the birthday of Confederate Civil War General Robert E. Lee. The name Alfalfa Club comes from the fact that the alfalfa plant is apparently willing to do anything for a drink! Members include prominent politicians, former presidents, and various members of the business community. Today it is a social organization that exists solely for the purpose of holding an annual dinner every January. The current U.S. president generally gives the remarks for the dinner. At the 1999 dinner, I found myself included in this “Who’s Who” of the political and business world.

It was quite a scene. The room was packed with the greatest concentration of true power imaginable at a small dinner—former President George Bush; former Secretaries of State James Baker and Henry Kissinger; former Defense Secretary and soon to be Vice President Dick Cheney; Condoleezza Rice; nearly a quorum of U.S.
senators, including Mitch McConnell, John Danforth, and David Boren; Colin Powell; Ben Bradlee, then-editor of *The Washington Post*; Warren Buffett; and three Supreme Court justices—among others.

I chatted with Rice, who was soon to become Bush 43’s National Security Adviser and eventually Secretary of State. “Condi,” as she is known, and I had gone to college at the same time at the University of Denver. She was a freshman and I was a senior, but we had a political science seminar together. She had entered college at sixteen. Clearly, she was super smart, and she let everyone know it. She was also an accomplished ice skater and pianist. When I mentioned those days to her, she laughed me off. “Oh, Denver, that was a long time ago,” she said.

I also ended up in a conversation with former President H. W. Bush. He told me that if his son were elected, he would bring the country together and govern with a steady hand. Later, the forty-first president and I exchanged letters on the topic of his son. He wrote, “He won’t let you down.”

As I looked around that room, I couldn’t help but wonder, how did Denver lawyer Mike Burg end up there?
Dear Michael,

Thanks for your good letter.

I am glad you enjoyed the Alfalfa Club Dinner. I think it is always the best dinner in Washington every year.

I appreciate your kind words about George. He’s a good man, and he won’t let you down.

Warm regards,

Mr. Michael S. Burg  
Burg Simpson Eldredge & Hersh, P.C.  
40 Inverness Drive East  
Englewood, CO 80112

Bush 41 promoting Bush 43 to me
Gadolinium (Gd) is a chemical element that appears on the periodic table with the atomic number 64. Aside from being used to clean nuclear waste plants, it also serves a medical purpose. Because of its paramagnetic properties, gadolinium solutions are sometimes used as contrast agents during magnetic resonance imaging, commonly known as MRIs. When you get an MRI, contrast dye is often used so that the scans light up to show tumors and other problems. Gadolinium is the magnetic agent often utilized for such imaging.

But hold on. Gadolinium is also used as a *nuclear cleaning agent*. So while it works wonders in MRIs, it is also highly toxic. In order for gadolinium to be used safely in humans, it must be encapsulated in a layer of protective molecules to avoid becoming embedded in the body’s tissue before it can be discharged. I always thought of it as a ferocious tiger in a cage; if the tiger gets out of the cage, then it is going to wreak havoc on the body.

A normal, healthy person will discharge the solution within twenty-four to forty-eight hours. However, for those with renal failure or compromised renal function, it can take longer and result in dangerous complications like nephrogenic systemic fibrosis (NSF), a rare nodular inflammatory disease, which is entirely man-made.
and did not exist until the 1990s when gadolinium was first used as a contrast agent for MRIs on people with end-stage renal disease.

We know all of this now, but when we first took on the case in early 2007, we did not really know what the problems were. Clients were coming to us with this very rare disorder; only after we continued our investigation into the drug were we able to get to the bottom of the issue. Our firm, along with our co-counsel and medical experts, concluded that the formulas weren’t stable enough to keep the tiger in the cage.

The case was complex. Many of the best patents for contrast agents used in MRIs had already been taken, leaving big companies like General Electric (GE) to develop their own contrast agents in conjunction with their multimillion-dollar MRI machines. GE and Bayer came up with their own formulas separately.

Unfortunately, there was a problem with various formulas and their ability to maintain the stability of the molecules encapsulating the gadolinium. The chelate, or covering, around the gadolinium would separate, freeing the gadolinium to be absorbed into the tissue, where it then became a major problem.

Most vulnerable to this problem were people with decreased renal function or those with renal failure who were on dialysis. For them, diagnostic MRIs with contrast that used gadolinium opened up the potential for exposure to NSF. NSF is one of the most horrific and painful diseases I have ever had the displeasure to know about. NSF essentially turns your body into stone. It causes fibrosis (scarring) of the skin, joints, eyes, and internal organs. Seeing this happen to a person is tragic. It has been described as akin to Lou Gehrig’s disease, with excruciating pain.

Take one client, a fifty-five-year-old man, who had his fractured ankle imaged. After the MRI, he went home to wait for the results. Six weeks later, he was in a nursing home, unable to move his arms or legs due to the severity of NSF caused by the gadolinium that had been absorbed into his tissue. His skin felt like cold, hard marble. He
was, in practical terms, an immobile statue that could breathe, think, and feel the pain of what his body was enduring.

We had about a thousand cases of NSF, and more than half of our clients died premature deaths—painful, unnecessary, premature deaths.

It was the most awful thing we had ever seen in the arena of mass torts, and probably remains the worst I have seen to this day. Mass tort cases are civil actions brought against a single entity or entities that has done damage to multiple people. Unlike a class action, where a small group of people act as representatives for the entire group, in a mass tort case, cases are filed individually, then grouped together in one jurisdiction for efficiency and for the purpose of pre-trial discovery and workup, as well as “bellwether” or limited trials. Bellwether trials are single trials involving one individual whose case is considered to be representative of multiple cases. Liability is then established as a whole, followed by individual damages being assessed.

My brother Peter was the co-lead lawyer in this case with Troy Rafferty, a partner with Levin Papantonio, a prominent firm in Pensacola, Florida, that we often work with on mass tort cases. Like other mass tort cases, there were a number of firms involved, but we were in the leadership position that led the way for other firms to settle their cases.

With gadolinium, we had some 20 million pages of documents to review. Our files were so large they had to be housed in a document depository, which allows you to store documents in one location, both electronically and in hard copy, and limit access to the documents, as needed. Lawyers from all over the country flew to Denver to comb through our files. They went through millions of pages of documents over the course of a few months, trained to keep their eyes peeled for contradictory information and puzzle pieces that did not fit.
As they proceeded, several of our research lawyers reported a few emails referring to an email file referencing a vacation spot. They were perplexed, so they brought the documents to us.

One case went to trial because GE refused to properly compensate the victim. Our colleagues at Ashcraft & Gerel tried the case and won it. The victim was awarded $5 million, a verdict later affirmed by the Sixth Circuit Court of Appeals.

We settled nearly all of our cases, 150 in total. More often than not, there is a confidentiality clause in settlement documents required by the defendants. When we settle a case, we do so because we believe that option, even with confidentiality, to be in our clients’ best interest.

The settlements were fraught with complications and independent variables. Most of our clients were older people, in their sixties and seventies, with end-stage renal failure. They were all looking to settle on a deadline: before they died. Each case was worth multiple millions of dollars in our opinion, and they wanted the money so they could pass it on to their children and grandchildren. Plus, in most states, the value of a case decreases significantly after death, so all of these factors contributed to the settlement dynamics.

The gadolinium case was a great triumph for us because we were able to discover and legally eradicate a man-made disease within a relatively short period of time.

We were involved in other important mass tort cases, such as the birth control pill Yaz/Yasmin. The case started in 2007, with the first settlements from Bayer beginning in 2009. We still have some settlements that will be paid out during 2016. The total amount paid will add up to about $2 billion, plus or minus a bit, as the total compensation for the injured women.

I was co-lead counsel on the case. In my opinion, Yaz has no reason to exist other than for its maker, Bayer, to make money. There
were already many safe birth control pills that had been around since the ’60s and ’70s, made by many manufacturers, and Bayer alone had two. The only reason I can think of to develop something new was for a bigger market share. Bayer also marketed the drug for uses other than birth control, such as alleviating premenstrual syndrome (PMS) and clearing up acne.

After Yaz came Pradaxa, a blood thinner and preventative medication for strokes and blood clots. On Pradaxa, Seth Katz was co-lead lawyer. Seth has been a shareholder with Burg Simpson since 2005. He is an expert in the area of pharmaceutical litigation, and a key player in our mass tort practice.

We discovered that Boehringer Ingelheim, the manufacturing company, was destroying documents along the way. The judge levied a $1 million fine against the company, saying the fine would only get worse if they continued. Amazingly, this was the third time Boehringer Ingelheim had been caught destroying documents. In May 2014, a $650 million settlement was negotiated in Pradaxa, and in 2015 this case was brought to a conclusion as a result of the global settlement and payment to the injured men and women.

The one common thread was that the drug companies often did not play it straight. At least Bayer had the good sense to come forward as soon as they were caught.

I am incredibly proud of the work we do on mass torts. We are helping to level the playing field for the average person who is harmed by drug companies seeking profits over the health of its customers. The only part I don’t like is that I seldom meet individual clients. It’s not that I want them to thank my firm for the work we do—I want to thank them for continually reminding me that taking huge chances on these cases makes a difference in people’s lives.