

# Daily Journal

JANUARY 12, 2011

## Top 20 Under 40

### Editor's Note

A lot of hand wringing is going on about the current state of the legal industry and the value of a law degree. It is true that a new law degree is not worth what it was a couple of years ago — if your matrix is the number of new graduates with six-figure salaries at marquee law firms. But every January, when the Daily Journal publishes this list of California's emerging legal leaders, we are reminded of how rewarding legal work

is, far beyond money. We receive hundreds of nominations [672 this year] from lawyers across California at big and small firms, corporations, public agencies and nonprofits. The work they are doing is far-reaching and inspiring. Yet most of these men and women do not start out making six-figure annual salaries. Some may never make that much money in a single year. They work long hours because they love what they are doing and because they are committed to

the law. At its core, law is about service — and that doesn't change all that much whether you are helping Lakers star Kobe Bryant with a legal problem or guiding a multinational corporation through a complex acquisition.

So there is much to be positive about in the legal industry. Read on, because we think we've found a little bit of it.

— The Editors



### Seth M. Gerber, 38

Bingham McCutchen  
Los Angeles  
Practice: Business Litigation

Seth M. Gerber remembers the dates well.

Nov. 9, 2004 was the day he filed a massive lawsuit against the Russian government seeking return of a collection of irreplaceable sacred books and manuscripts to Agudas Chasidei Chabad, an orthodox Jewish organization.

On Nov. 23, 2007, he was poring over the Potsdam Agreement at 11:30 p.m. when he suddenly discovered a flaw in Russia's appeal that won the case for Chabad.

The first date is documented by court records; the second date was his 35th birthday.

But even though U.S. courts ordered the documents returned, and Russia conceded defeat, the texts remain locked away in the Russian archives.

The history of the texts is long and labyrinthine. A portion was confiscated by the Russian government during the Bolshevik Revolution; others were stolen by the Nazis during World War II and then looted by the Soviet Army.

In 1991, Rabbi Boruch Cunin, head of the Chabad of California, traveled to the former Soviet Union seeking the texts, enduring threats, physical assaults and firebombing of the synagogue he was in. He sued the Soviet government and prevailed. The next month the government collapsed, and within weeks the new Russian government overturned the ruling and stripped Soviet courts of their jurisdiction over the dispute.

Cunin returned to California, and after years of failed attempts, including two letters signed by every U.S. senator and intervention by President Bill Clinton and Vice President Al Gore, only seven books out of tens of thousands of documents were recovered. Finally, Cunin went to Bingham McCutchen, which had represented Chabad for years.

The complex pro bono assignment reminded Gerber of why he became a lawyer. After filing suit in federal court in Los Ange-

les, the case was transferred to the U.S. District Court for the District of Columbia, the default jurisdiction for lawsuits against foreign states.

The Russian State Library and Russian State Military Archive asserted they had no "commercial" activities in the United States, thus the United States couldn't exert jurisdiction over the Russian defendants. After much research, Gerber and his colleagues discovered licenses between U.S. companies and these Russian agencies giving royalties to the Russian archives. Gerber subpoenaed the contracts, which stated the royalties were of a "commercial" nature. Gerber deposed Russian government officials via video link, and they conceded that "yes, unfortunately," these Russian agencies had been engaged in commercial activities with the United States.

Russia appealed the decision on grounds it had taken the manuscripts from a German town in its "zone of occupation" following World War II, giving it a right to the texts. Again Gerber hit the books. Through a combination of persistence and luck, he learned the borders between Germany and Poland shifted a month before the Soviets' action, putting the manuscripts in Poland and making it an unlawful taking.

In July, Chief Judge Royce Lamberth ordered the Russian Federation to return the documents to Chabad. Russia has yet to comply.

"The legal victory felt wonderful and my clients also felt vindicated for their years of struggle, but my job is not over," Gerber said. "I will pursue this case to the end."

— Susan McRae