



At State Bar Summit, Spitzer Blasts Lawyers On Corporate Scandals

BY JOHN CAHER

ATTORNEY General Elliot L. Spitzer yesterday lambasted attorneys for their see-no-evil/hear-no-evil posture on corporate scandals and implored the legal profession to "wake up" and acknowledge its complicity in the confidence-shaking debacles revealed over the past year.



NYLJ PHOTO/RICK KOPSTEIN
Elliot L. Spitzer

Mr. Spitzer appeared yesterday at a first-ever New York State Bar Association presidential summit focusing on corporate responsibility and the legal system. His pointed criticisms of lawyers and regulators, and praise for media watchdogs, altered what began as a remote and tepid panel discussion.

"How many more investors need to be denied their retirement money before this profession wakes up and says, 'We've got a duty other than to be quiet?'" Mr. Spitzer asked.

The attorney general, whose emergence as a national figure on securities-related fraud coincided with myriad accounting and regulatory scandals in the financial markets, was part of a panel looking at the role of lawyers, corporate officers, accountants and government regulators within the framework of the scandals of the past year. Until Mr. Spitzer spoke, the barbs were seemingly shot at everyone except lawyers: accountants, regulators, analysts and the press. But Mr. Spitzer shifted that emphasis and sparked a feisty discussion of an attorney's legal, ethical and societal obligations.

"I will tell you, having actually done some of the reading of the e-mails and documents ... there was not a single time when a lawyer or a compliance officer put up his or her hand and said, 'There's a problem here,'" Mr. Spitzer said. "So maybe the indictment of the lawyering profession is, 'You did nothing. We did nothing.' We

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Department of Justice And SEC Square Off Over Antitrust Actions

BY MARK HAMBLETT

DISAGREEING with the U.S. Department of Justice, the Securities and Exchange Commission has asked a federal judge to dismiss antitrust actions claiming major New York investment banks conspired to fix prices and demand kickbacks on initial public offerings.



In an amicus brief filed with Southern District Judge William H. Pauley III, the SEC claims Congress

Case Against McDonald's Dismissed for Lack of Facts

Plaintiffs Given Chance to Replead in Putative Class Action

BY MARK HAMBLETT

PARENTS who claim their youngsters became obese from eating at McDonald's will receive no sympathy from Southern District Judge Robert W. Sweet.

Judge Sweet yesterday dismissed a multimillion-dollar lawsuit against the hamburger giant, finding that parents had reason to know that consumption of the fast food tended to increase weight gain.



The decision will be published Tuesday.

"If consumers know (or reasonably should know) the potential ill health effects of eating at McDonald's, they cannot blame McDonald's if they, nonetheless, choose to satiate their appetite with a surfeit of supersized McDonald's products," Judge Sweet said.

The 64-page opinion gave the plaintiffs the chance to replead their complaint in a putative class action that drew national attention in August for highlighting America's alarming increase in child obesity. The suit also gave fuel to critics of spurious litigation and to those who perceive a decline in personal responsibility.

The plaintiffs were three children who became overweight and developed diabetes or other

health problems, allegedly from eating what McDonald's advertised as healthy food at two of its outlets in the Bronx.

They sued for deceptive acts and practices under the federal Consumer Protection Act, New York's General Business Law and New York City's Administrative Code, charging that McDonald's negligently sold food high in cholesterol and fat, and failed to warn about the dangers of Big Macs and McNuggets. The company was also negligent, they alleged, because it marketed food that was addictive.

In yesterday's opinion, Judge Sweet said McDonald's "rightfully, pointed out that this case ... could spawn thousands of similar lawsuits against restaurants."

Rejecting the plaintiffs' request to remand the case to state court, the judge said the complaint lacked any mention of specific acts of deception, and even lacked "some allegation that plaintiffs ate primarily at the particular outlet."

On the claims for deceptive advertising, the plaintiffs contended that McDonald's had two ad campaigns that urged "McChicken Everyday" and

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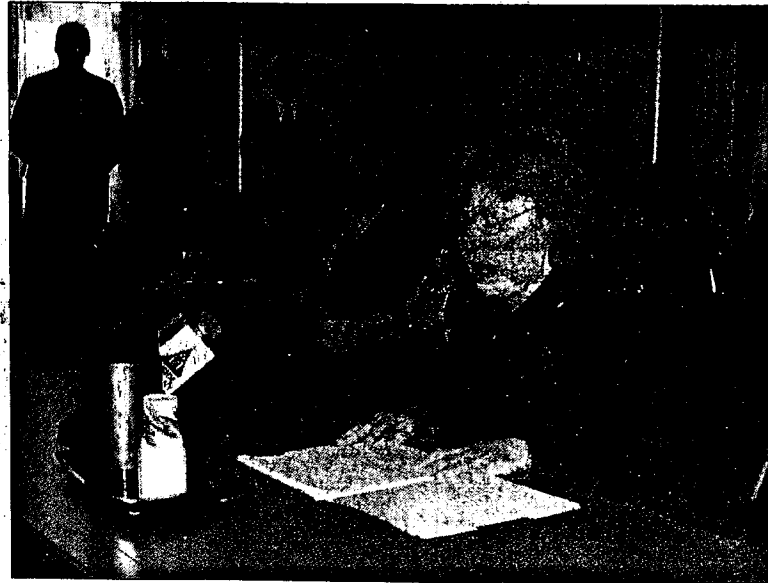


PHOTO BY ALAN SOLOMON

Smooth Sailing

Court of Appeals nominee Susan P. Read speaks yesterday during her Senate confirmation hearing in Albany. Later, the Senate unanimously confirmed her as an associate judge.

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