

mixed bag for the firm. Millions have been recovered from the partners who went to jail. But millions have also been ordered to be returned by the firm to the same partners in capital and other sums.

The litigations can be divided into three groups. Group 1 consists of cases between Milberg and the former partners who went to jail. The 40-partner firm has pursued claims against Weiss, Bershada, and Schulman. (Lerach, who pleaded guilty in the probe and founded what is today Robbins Geller Rudman & Dowd, settled with the firm, says Milberg partner Matthew Gluck.)

Decisions came down in the cases involving Schulman in 2009 and Bershada earlier this year. Arbitration panels found the former partners liable for a total of \$14.9 million in damages as a result of their breach of fiduciary duty. At the same time, the same panels awarded the two men millions in unreturned capital and other amounts due under the firm's partnership agreement—Bershada will get \$12.2 million, paid over time, while Schulman's lawyers say only that he recovered "substantial sums."

Weiss could find himself on the hook to the firm for even more. The formulas used in the other two cases suggest that Weiss could be li-

SPINNING WHEEL • Milberg Litigants

MOVING PARTY	RESPONDENT	CLAIM
MILBERG	BERSHAD; SCHULMAN; WEISS	<i>Moving party seeks to recoup \$75M settlement and \$41M defense costs.</i>
MICHAEL BUCHMAN, EDITH KALLAS, J. DOUGLAS RICHARDS	BERSHAD; SCHULMAN; WEISS; MILBERG	<i>Moving party seeks to recoup alleged damage to careers and finances.</i>
ROBERT SUGARMAN	ROBBINS GELLER	<i>Moving party seeks to recoup money due under the partnership agreement.</i>

able for \$14.6–16.6 million, without factoring in any claims he might assert.

When—or whether—Weiss will go to arbitration is unclear. After Milberg served Weiss with arbitration papers in July 2008, his lawyers asked a judge to stay those proceedings, arguing that his separation agreement required disputes to go to court. Weiss, who also asked the court to force Milberg to hand over money it owed him, agreed to withdraw the suit without prejudice in April 2009. An arbitration with Weiss is "anticipated," according to the January 2011 decision in Bershada's case, though Gluck says it has not yet been scheduled. Weiss's lawyer,

Leslie Corwin of Greenberg Traurig, declined to comment.

Group 2 involves claims brought by partners who left Milberg during the government investigation, and at times track the cases brought by the firm. Pomerantz Haudek Grossman & Gross partner Michael Buchman, who quit Milberg in 2007, is seeking more than \$3 million as a result of the alleged damage caused to his career and finances. "His practice was destroyed by the firm," says his lawyer, William Brewer of Bickel & Brewer. Other plaintiffs in Group 2 have included Edith Kallas, currently with Whatley Drake & Kallas, who is represented by Miguel Estrada

of Gibson, Dunn & Crutcher; and J. Douglas Richards, currently with Cohen Milstein Sellers & Toll. All declined to comment.

There is only one case in Group 3, which to date has received little attention. It was filed last July by Robert Sugarman, a Milberg partner who retired in 1999, against Robbins Geller in state court in Long Island. In his complaint, Sugarman says he assisted investigators and prosecutors in the Milberg probe. He claims that Milberg and Robbins Geller retaliated against him after the \$75 million government settlement was reached by not returning \$3.2 million in capital and other amounts. The suit

Former Texas solicitor general **R. Ted Cruz** was the state Republican party's go-to guy when it came to defending controversial issues in court. The one-time clerk to U.S. Supreme Court chief justice William Rehnquist successfully defended his state's controversial mid-decade redistricting plan, as well as his state's right to execute the mentally ill, and to refuse to recognize decisions from The Hague.

The 40-year-old attorney, who is currently a partner at Morgan, Lewis & Bockius, is hoping his success in the courtroom will propel him to the halls of the U.S. Senate. Looking to replace retiring senator Kay Bailey Hutchison, Cruz is off to a strong start, raising \$1 million for his campaign and getting a high-profile endorsement from Senator Mike Lee of Utah, a Tea Party darling. (Lee is a former appellate partner at the now-defunct Howrey.) "I'm running because I believe strongly in conservative and free market principles, and I think there is a tremendous need for someone to stand up and defend those principles," says Cruz.

Texas Tea

★★★

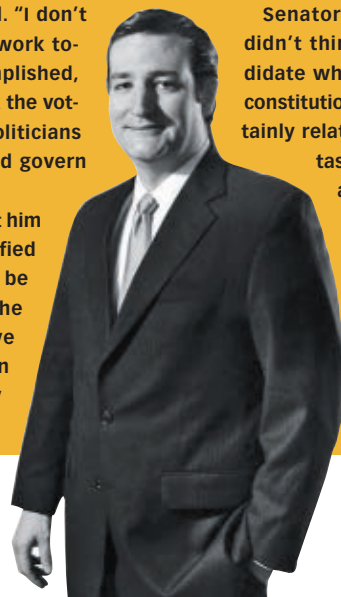
In amicus briefs, Cruz has also argued a range of other cherished conservative positions, defending partial-birth abortion bans and attacking gun control. Cruz, who is actively courting Tea Party support, calls the movement

"one of the most exciting and inspirational developments in politics in modern times" and vows not to compromise on his principles should he be elected. "I don't disagree that we need to work together to get things accomplished, but at the same time, I think the voters are sick and tired of politicians who campaign one way and govern another," says Cruz.

Still, rhetoric will only get him so far. Despite being identified as the candidate who "may be the most conservative of the bunch" by the conservative *Weekly Standard*, he lags in the polls (a February poll by

the University of Texas and *The Texas Tribune* put him at 3 percent, trailing three others). And there's his day job as head of Morgan, Lewis's appellate practice. "You have to engage in very careful time management," says Cruz. "One of the advantages of an appellate practice is that you typically know your deadlines long in advance. It would be far more difficult to conduct a trial practice while running."

Senator Lee, who tells Bar Talk that he didn't think it was possible to find a candidate who would be a better advocate of constitutionally limited government, can certainly relate on that point. "It's not an easy task, but serving in the Senate isn't an easy task either, so it's good preparation," says Lee. Then again, Cruz's schedule could clear up considerably if he wins the Republican nomination next March. After all, no Democrat has won a U.S. Senate seat in Texas since 1988. —Victor Li



MARK MATSON