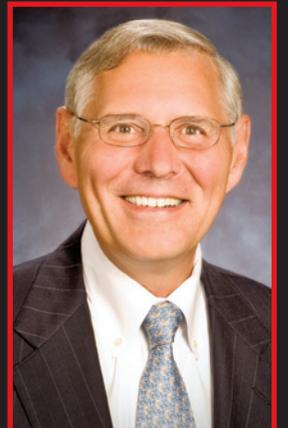
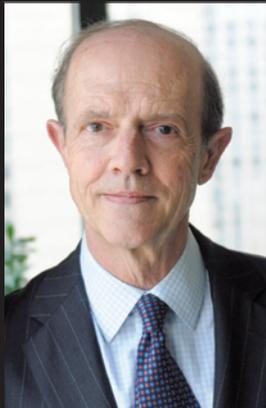


THE NATIONAL  
LAW JOURNAL

# WINNING

SUCCESSFUL LITIGATORS, POWERFUL STRATEGIES



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We asked our readers to nominate trial attorneys with at least one significant win at jury or bench trial within the past 18 months and have a track record of success over many years. We supplemented these submissions with our own research. The criteria for a “significant win” included substantial damages at stake, establishment of an important precedent being altered or unfriendly jurisdictions overcome.

—MICHAEL MOLINE

## Four case studies in undermining witnesses

The plaintiffs built their arguments on their credibility, so naturally the defense went on the attack.

BY MIKE SCARCELLA

A multimillion-dollar class action against The Hartford Insurance Co. had the semblance of David vs. Goliath—a group of automotive body shops taking on an insurance industry powerhouse.

Thomas Rohback, a Hartford, Conn., partner at Axinn, Veltrop & Harkrider, set out to convince jurors that the little-guy perception was just a facade. Rohback focused on showing that Hartford’s policies were not driving the shops out of business, as they alleged. The shops, he maintained, were profitable—and looking to eliminate competition.

“I tried to make it clear these were not poor workers striking for a better wage,” Rohback said. “They were the body shop owners looking for more money. I tried to change the dynamic of how the jury looked at this.”

When Rohback picked up the case in November 2008, the Connecticut Supreme Court had affirmed certification of the class and discovery was closed. Furthermore, Hartford faced sanctions for failure to disclose more than 1 million pages of discovery documents. The complaint sought \$110 million in damages, and triple that in punitive damages.

The class comprised automotive repair shop owners who alleged unfair trade practices involving the way Hartford doled out business to body shops. “It was a parade of mom-and-pops who came in” at trial, Rohback said.

One shop owner passed around to jurors

THOMAS ROHBACK  
| AXINN, VELTROP & HARKRIDER



**HAPPY FAMILY?** The client “brought me in and said, ‘Let’s take it to the mat.’”

pictures of his shop, saying that some of his employees had been with him for years and were like family. Rohback noticed that the man referred to one worker by his first name only. So on cross-examination, he asked: “What is Ramon’s last name?” The owner couldn’t remember.

Rohback, chairman of Axinn’s complex litigation group, who came in as substitution counsel, used tax records to show that class

## TRIAL TIPS

Be intellectually agile—spot unexpected issues and be able to capitalize on them.

Never allow your honesty to be put in doubt by the jury.

members remained profitable despite any wrongdoing by Hartford. The trial lasted more than two months, the bulk of that time spent on the plaintiffs’ case. Rohback called a single witness, a former chief economist at the Federal Trade Commission.

The jury awarded the class \$14 million, and there’s been no ruling on punitive damages yet, but Rohback considers that outcome a “crushing

defeat” for the plaintiffs, considering the hole he started out in and the damages sought. “There are not that many class actions that go to trial,” he said. “Here’s one where they brought me in and said, ‘Let’s take it to the mat.’”

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