

State Attorneys General

A National Association of Aspiring Governors?

By John Gizzi

Summary: Oklahoma's Drew Edmondson, Connecticut's Richard Blumenthal, Illinois' Lisa Madigan and Michigan's Mike Cox are little known outside their states. But as their states' attorney general they exercise an extraordinary power that can be easily abused.

The office of state attorney general reached its high-water mark in prestige in March 1999, when eleven tobacco companies reached a settlement with the attorney generals of 46 states and agreed to pay the states \$246 billion dollars over the next 25 years. State attorneys general were the new giant-killers and anti-smoking advocacy groups were overjoyed.

In the past half-dozen years many other nonprofit advocacy groups have attempted to emulate the strategy used by the anti-smoking groups. They are looking to state AGs to help them bring all sorts of corporations to heel. The most targeted businesses are gun-makers, which have been sued for "gun violence," and fast-food restaurants, blamed for the "epidemic of obesity." But ambitious state attorneys general are devising creative theories of liability as they seek out new targets of opportunity. The private sector is a bulging *piñata* and the AGs wield a big stick.

The facts are indisputable: the explosion in civil litigation has yielded a financial bonanza for the trial bar. Surprisingly, it has produced slim pickings for nonprofit advocacy groups, something they are only beginning to recognize. But the other big winner is state attorneys general. In big states and small, AGs have become major political players. In part, the conduct of their public office



Oklahoma Attorney General W.A. "Drew" Edmondson is an aggressive activist who has been in office for eleven years. The head of the National Association of Attorneys General has called him "a star in our ranks."

reflects their personal and career backgrounds. But it also offers disturbing insights into the emerging political forces that threaten the rule of law.

The Way They Were

In the 1960s and early '70s, a state attorney general toiled in relative obscurity, making rulings, interpreting the state constitution, and representing the state in criminal and civil matters. In many states, the attorney general performed his duties with little more than a skeleton staff of lawyers. The young Dan Quayle, for example, got a job on the staff of the Indiana attorney general when he graduated from law school in 1971 and held the sterling title "deputy attorney general." Connecticut's attorney general didn't even have a law department to assist with litigation until 1970, when voters created it through a statewide referendum.

Past state attorneys general occasionally became governors and U.S. Senators, but they were relatively few. More often, a state attorney general was a low-profile official who waited for his reward, a judicial appointment, or eventually returned to private practice. Some were institutions unto themselves like Democrat Frank Kelley, attorney general of Michigan from 1962-98, or

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Organization Trends

Republican Louis Lefkowitz, attorney general of New York from 1958-78.

In the 1970s, and more dramatically in the '80s, things began to change. The attorney general became far more than the state's top legal official. He—or she—became an Eliot Ness-like law enforcer, a champion of the consumer, and an avenger for ailing smokers or victims of gun violence.

The formerly obscure office became a bully pulpit and political launching pad. Republicans Jeff Sessions of Alabama and John Cornyn of Texas and Democrats Ken Salazar of Colorado, Mark Pryor of Arkansas, and Joseph Lieberman of Connecticut all sit in the U.S. Senate today. All are former state attorneys general. Two of George W. Bush's Cabinet members in his first Administration, former Attorney General John Ashcroft and Secretary of the Interior Gale Norton are past attorneys general of Missouri and Colorado respectively. The first elective office held by Bill Clinton was attorney general of Arkansas. One joke that made the rounds in Washington, DC legal circles is that the National Association of Attorneys General (NAAG), which meets four times a year to discuss suggestions for high-profile litigation, should be known as the "National Association of Aspiring Governors."

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What changed the nature of the office? Democrats began trying to compensate for Republican victories, suggests a Republican former state attorney general, who resents the increasing "showboat" nature of the office in many states:

"The Reagan Revolution succeeded at so many levels in the 1980's but the office of attorney general was in Democratic hands in far more states than it was in Republican hands. Liberal Democrats were thus diverted to winning wars on the legal front that they had lost at the ballot box and in Congress and state legislatures. And that's where you started to find suits against the tobacco industry, suits on behalf of consumers against businesses, environmental protection offenses, voting rights, and the like. All of this gave a state attorney general publicity that had been previously unheard of and all in areas that would have been inconceivable for a state attorney general to pursue a few years earlier."

New Model Attorneys General

Yet even before the Reagan Era, there were politicians like Bill Baxley, a Democrat elected attorney general of Alabama at age 29 in 1970, who courted publicity by personally trying high-profile murder cases and civil rights violations that previous attorneys general would have assigned to lower-level litigators.

And then there is Bill Clinton. As Arkansas attorney general in 1977, according to *Arkansas Democrat-Gazette* political columnist Meredith Oakley, he "hopped from issue to issue with similar aplomb: utility rate cases, prison affairs, federal construction projects, antitrust cases. Attorneys general who did not want to die in or retire from that office could not content themselves with promulgating legislative reforms; only bills bearing the stamp of gubernatorial approval generated significant and steady headlines."

The Republican response has been belated. In 1999 Republican holders of the office launched the Republican Attorneys General Association to promote a vision of their position more in keeping with their notion of the rule of law. But Republicans are state attorney general in only twelve of the 43

states where the position is elected. Most Republicans have made it clear that they reject the aggressive pursuit of political causes spearheaded by their Democratic counterparts, such as suing tobacco companies and bringing anti-trust charges against Microsoft.

However, party affiliation doesn't always determine legal activism. Arizona's Grant Woods, for example, became the first GOP attorney general to sue tobacco companies for the cost of medical damages, and Republican Carla Stovall of Kansas followed suit. In contrast, Democratic Attorney General Thurbert Baker of Georgia works closely with the National Rifle Association and is considered a middle-of-the-road figure not unlike former Georgia Governor and Senator Zell Miller.

One joke that made the rounds in Washington, DC legal circles is that the National Association of Attorneys General (NAAG)...should be known as the "National Association of Aspiring Governors."

Of course, it's no understatement to say that no discussion of activist attorneys general is complete without mentioning Eliot Spitzer; already the subject of countless news stories, he will enjoy mountains of publicity as his campaign for the governorship of New York progresses. But there are other current attorneys general whom you probably do not know—but you should.

Drew Edmondson: Star Activist

An aggressive and veteran attorney general is Oklahoma Democrat W.A. "Drew" Edmondson, now in his eleventh year in office. Last June he received the highest award conferred by the National Association of Attorneys General (NAAG) and was touted by Vermont attorney general William Sorrell, NAAG's president, as "a star in our ranks." Edmondson was born to politics and has pursued a career in public life

from an early age. He has so far appeared to pass up opportunities to run for higher office, preferring to transform his position as attorney general into a scourge of business.

Like Al Gore, Edmondson was born in Washington, D.C., the son of a longtime Democratic member of Congress, Representative Ed Edmondson (1953-1973). His uncle was Oklahoma governor (1958-1962) J. Howard Edmondson, known as the “Little Fire Engine” for his energy and ambition, who subsequently appointed himself to a vacant U.S. Senate seat. An older brother, James E. Edmondson, was appointed to the state Supreme Court in 2003.

A graduate of Oklahoma’s Northeastern State University who served in the Navy in Vietnam, Drew Edmondson served a single term in the state House of Representatives before twice trying unsuccessfully to win his father’s old U.S. House district. A losing candidate at age 30, Edmondson changed course and focused on the law, receiving a law degree from the University of Tulsa. He served as an assistant district attorney and chief prosecutor in the Muskogee County District Attorney’s office, and then spent the next ten years as district attorney. When the job of state attorney general opened up in 1994, Edmondson won it with ease.

Taking his lead from Connecticut Attorney General Richard Blumenthal, Edmondson moved quickly to join the chase after the tobacco companies and to make his name as a consumer advocate. He was among the first state attorneys general to join in the tobacco suit, whose settlement produced what eventually will be over \$2 billion for Oklahoma’s “Endowment Trust Fund.”

The tobacco settlement for Oklahoma alone generated \$250 million in private attorneys’ fees. Edmondson hired two out-of-state firms (that got \$150 million), which then selected four Oklahoma firms from a list he gave them (they split the other \$100 million). Earlier Edmondson had gotten Oklahoma law changed to permit him to file lawsuits independently of the request of a state agency.

The connections between Edmondson and those local law firms raised some eyebrows. The *Daily Oklahoman* reported that the law firm Riggs, Abney, Neal, Turpen, Orbison & Lewis received \$30 million for its participation in the suit and that 29 attorneys

and employees of the firm contributed thousands of dollars to Edmondson’s campaign for attorney general in the years following the settlement. Many also contributed to Edmondson’s election campaign before the firm was awarded the tobacco contract. After the suit, Edmondson also received campaign donations from Preston Trimble and Norman & Edem; they received \$10 million and \$30 million, respectively, for their work on the case. The choice of Trimble, a former district attorney and judge who had only been in private practice for a few years, also struck some as favoritism. Trimble had been a special prosecutor appointed to investigate donations to Edmondson’s opponent in his 1994 campaign for AG.

The tobacco cases continue to generate revenue and headlines. Last year Edmondson issued a press release touting his lawsuit against 12 more tobacco companies, mainly overseas (e.g. India, Brazil, Greece, the Philippines), to force them to make annual payments to the state. This year he sued two more tobacco companies, in Uruguay and Malaysia, for failing to fund escrow accounts to make state payments.

Why does Edmondson attack puny foreign companies whose tobacco sales in Oklahoma are insignificant? In his book *The Rule of Lawyers* legal scholar Walter Olson explains the perverse logic behind these tac-

Edmondson-watchers point out that [his] specialty is tough talk. He has a habit of filing amicus curiae (“friend of the court”) briefs on headline-grabbing national issues.

tics. The lawsuits are meant “to make sure new entrants, accused of no past wrongdoing and thus free from the cost of supporting the settlement, cannot undercut the older companies and thus undermine their ability to keep forking over money to the states. Economists have a word for what’s going on here: *cartelization*.” In other words, Edmondson uses the law to prosecute the innocent in order to protect the deep pockets of the accused.

What has Oklahoma gotten for its money? Certainly not programs to reduce smoking. Studies of the state’s tobacco control and prevention programs fault the Fund’s disbursements—a mere \$4.8 million in FY

’05—making the state 32th ranked in state funding. By contrast, tobacco revenue to the state is almost \$290 million—an estimated \$61 million in 2005 from the tobacco settlement and \$228 million in tobacco taxes. Oklahoma’s tobacco prevention spending is a tiny 1.7 percent of its tobacco revenue, according to research from the Campaign for Tobacco-Free Kids. So much for Edmondson’s tough talk.

Indeed, Edmondson-watchers point out that the Oklahoma attorney general’s specialty is mainly tough talk. He has a habit of filing *amicus curiae* (“friend of the court”) briefs on headline-grabbing national issues. In 2000 one Edmondson brief argued that Democratic nominee Al Gore deserved a recount in Florida. This year Edmondson championed *New York Times* reporter Judith Miller, who went to prison rather than reveal her sources in the case of exposed CIA operative Valerie Plame. Edmondson saw fit to ask the U.S. Supreme Court to recognize reporters’ privileges.

Edmondson’s most controversial *amicus* brief was a 2000 motion in a New Jersey court case on whether a Boy Scout leader could be dismissed for being homosexual. Critics found it outrageous that Edmondson would use his position to support New Jersey’s civil rights law overturning the Boy Scout ban. Edmondson defended his actions by citing what he says is his belief in federalism and a

state’s right to make law. “It was our position that [state law] be the end of the story,” he explained to AP reporter Julie Bisbee, “It’s a state law, not a federal civil rights act.”

Many Oklahomans wondered why Edmondson would embrace the cause of gay New Jersey Boy Scouts. Republican State Rep. Frank Davis, along with seventy cosponsors in the Oklahoma House of Representatives, filed a resolution requesting Edmondson withdraw his “friend of the court” in the New Jersey case. Said Davis, a scoutmaster for 38 years, “I think it is a dark day for Oklahoma that we have taken this stand by and through our Attorney General, in favor of gay rights and against the Boy Scouts.”

Edmondson has also made a point of bulldozing his way into legal proceedings where he is unwanted and pulling out when it suits him. Where Mississippi AG Michael Moore pioneered the pursuit of tobacco companies and Connecticut's Richard Blumenthal began the Microsoft pile-on, Edmondson chose to beat up on WorldCom and its CEO, Bernard Ebbers.

Both the U.S. Attorney for the Southern District of New York and the Securities and Exchange Commission criticized Edmondson for filing a fifteen-count complaint against Ebbers and five other WorldCom executives in August 2003. Each count carried a sentence of up to \$10,000 and ten years in prison. "Oklahoma is the first state to file criminal charges in the \$11 billion accounting scam that produced the largest bankruptcy filing in history," proclaimed the *Oklahoman* (September 3, 2003).

However, the U.S. Attorney's office issued a statement announcing that it was "disappointed" with Edmondson's move, and expressing the hope that "Oklahoma's action will not interfere with the five individuals already charged or with this office's ongoing investigation of WorldCom." The SEC also voiced displeasure.

Edmondson fired back, complaining that the state faced an expiring statute of limitations when it deferred to federal prosecutors. There was no reason, he told the *Oklahoman*, "why a prosecution based in Oklahoma can't go forward in Oklahoma without disturbing any process that the United States has going in New York." However, after a federal judge sentenced Ebbers to twenty-five years in prison, Edmondson reversed himself and dropped state charges against WorldCom. "Justice has been served in this case, and Ebbers' federal sentence is sufficient to satisfy the state," he announced.

Last June Edmondson was again in the news with a lawsuit charging that fourteen Arkansas poultry companies are responsible for polluting Oklahoma waters and violating state and federal environmental regulations. The AG says he is frustrated by Tyson Foods, Tyson Poultry, Peterson Farms, and eleven sister companies, claiming that despite three years of negotiation the companies refuse to conform to environmental constraints. "I want this to be a very clear sign that my patience will not last forever," Edmondson told reporters.

The poultry industry answers that it is following regulations and is "insulted to high

heaven [when] they turn around and claim they [farmers] are lawbreakers." Critics argue that Edmondson enforces the law as he wants it to be, not as it is—a characteristic common among activist attorneys general. The Oklahoma Farm Bureau charges that Edmondson is only thinking about headlines, noting that when the poultry growers made an offer to remove excess litter, the AG balked and demanded a monetary settlement. Some fear that the costs of litigation and overregulation will cause poultry farmers to relocate to more profitable areas, taking thousands of jobs with them: "We will regulate ourselves out of business," commented Arkansas State Representative Mike Kenney.

Responding to worried farmers, Republican State Rep. Fred Morgan offered legislation to restrict the attorney general's ability to file lawsuits on the state's behalf. "State policy is the responsibility of the Oklahoma legislature," declared Morgan, "The attorney general has said that he clearly believes that is his job." The bill passed in the Oklahoma House but died in a Senate committee. Lobbying against it was the Oklahoma branch of the liberal Sierra Club, which earlier honored Edmondson with an Outstanding Public Servant Award "for his work to reduce poul-

Quid Pro Quo?

The following is a partial list of donors to Edmondson's reelection campaigns; the law firms of Riggs, Abney and Norman & Edem received \$30 million each for their part in the tobacco suit; lawyer Preston Trimble received \$10 million.

Riggs, Abney, Neal, Turpen, Orbison & Lewis:

Donald Bingham
\$1,000 11/30/2001
\$500 03/26/2002
\$1,000 03/26/2002

Janet Dumont
\$500 11/30/2001

Joseph P. Lennart
\$1,000 11/30/2001
\$2,500 03/26/2002
\$1,000 10/14/2004
\$500 12/17/2004

C.S. Lewis III
\$1,000 11/30/2001
\$4,000 03/26/2002

Richard Mildren
\$500 12/17/2004

Robert Nance
\$250 10/14/2004
\$250 10/14/2004
\$500 12/17/2004

Gary Neal
\$3,500 3/2002
\$500 12/17/2004

James Orbison
\$1,000 11/30/2001
\$4,000 3/26/2002
\$2,000 10/14/2004

Fred Rahal
\$500 3/2002

Lisa Riggs
\$500 11/30/2001
\$1,000 3/26/2002
\$250 9/30/2002

David Riggs
\$2,500 11/30/2001
\$2,500 3/26/2002
\$1,600 4/6/2004
\$2,000 10/14/2004

Kenneth Smith
\$1,500 11/30/2001
\$3,500 3/2002

Harley Thomas
\$850 3/2002

Stephanie Theban
\$600 11/30/2001

Mike Turpen
\$500 4/18/2001
\$1,000 11/30/2001
\$4,000 3/13/2002
\$500 3/26/2002
\$100 10/02/2002
\$1,000 10/14/2004
\$1,000 12/17/2004

Norman & Edem:

John B. Norman
\$5,000 3/15/2002

John W. Norman
\$5,000 3/15/2002
\$2,000 10/4/2004

Tom Wallace
\$5,000 3/20/2002

Preston Trimble
\$2,500 3/15/2002
\$2,500 6/7/2002
\$2,000 10/4/2004

(Source: www.followthemoney.org)

try pollution in the state's water systems"—this before Edmondson had done anything but threaten a lawsuit.

Edmondson will seek an unprecedented fourth term next year. Voters must decide whether his conduct in office has exceeded the limits of his authority.



The prototype for the current crop of activist AGs is Connecticut's Richard Blumenthal.

Richard Blumenthal: The Prototype

While Bill Baxley and Bill Clinton were crusading southern attorneys general in the 1970's, the prototype for the current crop of activist AGs is Connecticut's Richard Blumenthal. A graduate of Harvard College and Yale Law School, Blumenthal worked for Daniel Patrick Moynihan in the Nixon White House, was a law clerk to Supreme Court Justice Harry Blackmun, served as administrative assistant to Senator Abraham Ribicoff (D-Conn.), and was U.S. Attorney for Connecticut from 1977-81. He then served in both the State House and Senate. When Joseph Lieberman was elected U.S. Senator from Connecticut in 1988, Blumenthal was elected to succeed him as state attorney general. He is now in his fourth term.

With his gilt-edged political and social contacts (his internship while at Harvard was as an aide-de-camp to *Washington Post* publisher Katherine Graham), Attorney General Blumenthal is pegged as a future governor. Admiring Connecticut Democrats called him "The Man With the Golden Resume."

Writes *Slate* magazine's David Plotz: "Lieberman transformed the Connecticut AG's job from part-time backwater into

fulltime consumer advocacy. What Lieberman had begun, Blumenthal perfected. He turned consumer advocacy into high art and helped lead the nationwide trend of AG activism."

Blumenthal was one of the first attorneys general to join with Mississippi's Attorney General Michael Moore in suing to recover Medicaid costs from the tobacco industry in 1994. Eventually, 44 other states joined in the suit that led to the historic \$246 billion master tobacco settlement. More than a decade later, its terms are still subject to debate in Congress and the Justice Department.

Blumenthal also was among the first of the twenty attorneys general to join in the Clinton Justice Department's anti-trust actions against Microsoft. Apart from the publicity it generated, why would state AGs file separate multistate suits such as the one against Microsoft? Political correspondent Jacob Weisberg succinctly makes the case against multistate action: "If General Electric is selling an unsafe toaster, we have a Consumer Product Safety Commission with jurisdiction to investigate, regulate, and litigate. The CPSC must decide whether that toaster should be sold to consumers anywhere in America.

"What [Joseph Lieberman] had begun, Blumenthal perfected. He turned consumer advocacy into high art and helped lead the nationwide trend of AG activism."

Does it make sense for each state to be deciding that question all over again—either agreeing, in which case the effort is redundant, or disagreeing, in which case the result is a toaster that is legal in Ohio but illegal in Kentucky? It's like every state having its own foreign policy—which happens to be another futility-generating trend. Multistate suits add another layer of absurdity: the states reinventing the wheel of federalism by attempting to act in unison."

Cases such as those against the tobacco companies and Microsoft, explained Weisberg, are "marketed to the state attorneys general by corporate and public interest lobbyists. First they go to the most eager beavers: 'Skip' Humphrey [then attorney

general of Minnesota] or Richard Blumenthal of Connecticut."

Blumenthal's most recent targets read like a *Who's Who* of businesses that have run into rough ethical sailing: HMOs, Enron, Arthur Andersen, Bridgestone-Firestone and Midwestern coal-fired power companies, which the attorney general is suing for polluting Connecticut air.

"The job lends itself to playing The People's Lawyer: forcing polluters to clean up, manufacturers to make safe products, greedy insurers to cough up claim checks, sleazy telemarketers to tell the truth," observes Carole Bass of the *New Haven Advocate*.

"[I]t's the national cases—the ones filed by a group of states and spearheaded by aggressive AGs like Blumenthal," concludes Bass, "that win him the most attention. These are the cases behind the joke that 'AG' stands for 'aspiring governor.'"

However, here is the irony of Richard Blumenthal. He is the prototype of the activist attorney general, the politician with the golden resume and the promise of a Senate seat or even the presidency—but these are descriptions of the man fifteen years ago. Now 59 and in his fifteenth year as attorney

general, he has passed up numerous opportunities to run for governor. His chance to succeed Lieberman in the Senate was dashed when the running mate to Al Gore lost the 2000 election. Of Blumenthal's missed opportunities—including a federal judgeship that Bill Clinton offered but which he declined, fearing a confirmation fight in the Republican-controlled Senate—*New Haven Register* political columnist Paul Bass says: "He's intelligent. He's a decent guy. He just doesn't have the fire for a tough run. He wants it to be handed to him, and it never was."

Still, Blumenthal is making the most of his office. Currently, he is going after Warren Buffet's General Re Corporation and R.J. Reynolds Tobacco, and has rankled law en-

forcement officials by opining publicly on the recent vanishing of a Connecticut newlywed on a cruise near Turkey—despite his lack of legal standing or expertise in the case.

Lisa Madigan: Changing With the Office

When she became Illinois's first female attorney general in 2002, the pundits thought Democrat Lisa Madigan was an extension of her powerful and well-known father, State House Speaker Michael Madigan. A graduate of Georgetown University and Loyola University Law School, the younger Madigan taught young women in an apartheid-era South Africa and later worked with Chicago police to develop an after-school weekend program to keep children away from street gangs.

A former assistant dean for adult and continuing education of Chicago's Wright Community College, Madigan spent a single term in the Illinois Senate before she was elected attorney general. Her vision of the activist role of her office is summarized neatly in her official biography: "She believes the law should be used to improve people's lives."

That approach notwithstanding, Madigan has been embracing causes not usually espoused by a liberal Democrat. Republican State Senator Ed Petka, a former state's attorney of Will County who is considered the most conservative member of the Illinois senate, has said of his onetime polar opposite in Springfield: "I must say I have been pleasantly surprised with Lisa Madigan." Contrasting her to fellow Chicago Democrat William Clark, state attorney general in 1960-68, Petka observed: "Bill Clark was definitely on

the left and, once in office, became more liberal. Lisa Madigan is also of the left but, in office, she has definitely moved to the right."

Madigan has astounded her critics by holding a series of town hall-style hearings throughout the state to discuss the registration, treatment, and monitoring of sex offenders. Following the meetings, she called for the enactment of hard-nosed legislation aimed at sexual predators, including registration of sex offenders, increased funding for DNA profiling, and life imprisonment for second-time offenders. All these proposals

operator, We Energies, and the Wisconsin Public Service Commission, which already approved the project, claim it complies with all applicable environmental regulations. Madigan argues, however, that the coal-burning technology the plant will use (in Wisconsin) is banned in Illinois.

Madigan's rhetoric is also revealing; she proposes legislation to force lower prices on the pharmaceuticals industry—a popular cause with the activist NAAG—she observes that "the profits pharmaceutical companies are raking in are getting to be obscene."

[Lisa Madigan's] vision of the activist role of her office is summarized neatly in her official biography: "She believes the law should be used to improve people's lives."

passed the Illinois state legislature and received strong bipartisan support (although some lawmakers who voted for the legislation privately concede that parts of it, notably life imprisonment for second-time offenders, may be unconstitutional and unable to survive a court challenge). The law enforcement community also applauded Madigan for crafting legislation that increased the penalties for methamphetamine makers who endanger children.

Madigan's other areas of focus, however, are more emblematic of an activist attorney general and, opponents say, are designed to cultivate special interest groups within the Democratic Party: environmentalists, minorities, and feminists. Madigan's newsletter reports: "We filed suit against a Chicago waste hauler for thousands of gallons of potentially explosive diesel fuel leaking into the Chicago Sanitary and Ship Canal. I continue to work closely with legislators on bills protecting domestic violence survivors, protecting consumers against identity theft and predatory lending . . . and legislation that requires auto dealers to fully disclose higher interest rates that disproportionately affect African-Americans, Latinos, and women."

Consider her recent intervention in a lawsuit to halt expansion of a power plant outside Milwaukee, Wisconsin. The plant's

When she summarizes her record of accomplishment as "great victories in the areas of consumer protection, public safety, crime victim services, and environmental protection" Madigan sounds just like other politically ambitious and aggressive attorneys general. As *Illinois Times* political pundit Rich Miller wrote this May: "The U.S. Chamber and other national business groups . . . see Lisa Madigan as the next Eliot Spitzer, New York's fiery and highly successful attorney general who is the odds-on favorite to become that state's next governor." Madigan, against whom Illinois Republicans are now hard-pressed to recruit a candidate, has signaled she will run for re-election in 2006 and for governor in 2010.

Mike Cox: The Lawman

Mike Cox is the third attorney general Michigan has had in 44 years. He follows 37 years of Frank Kelley (or "the eternal general," as old hands in Lansing dubbed him) and four years of Jennifer Granholm, who became governor in 2002. Kelley and Granholm were Democrats; Cox is a Republican, a U.S. Marine Corps veteran and a son of Irish immigrants. Previously he was an assistant district attorney and head of the homicide division in the Wayne County (Detroit) district attorney's office, headed by Democrat Mike Duggan. Two years ago, Cox won the attorney general's office in a nail-bitingly close race against a Democratic

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Terrence Scanlon, President

state senator who had never argued a case in court.

“Mike Cox is a unique attorney general in that he has not used the office to grandstand or advance his political career,” says Richard McLellan, partner in the large Midwestern law firm Dykema-Gossett and a seasoned hand in Lansing. He noted that Cox’s two deputies in the office—first Carol Isaacs and then Gary Gordon—were products of state government and not political figures. The issues that Cox has pursued, added McLellan, “are substantive grunt-work, not glitz.”



Michigan Attorney General Mike Cox has been called “a workhorse, not a showhorse.”

State Republican Chairman Saul Anuzis strongly seconds McLellan’s view of Cox. According to Anuzis, “He’s a workhorse, not a showhorse, and the people that I have been meeting with around the state—lawyers, businessmen, community leaders—all hold him in high regard.”

“I don’t see locally that Mike Cox is a high-profile attorney general or as a meddler in the work of local prosecutors,” said former Saginaw County Prosecutor Brady Denton, now one of Michigan’s top criminal lawyers. “There are very few attorney-general initiated prosecutions in our local courts.”

While Cox embraces the task of consumer protection, he differs from other attorneys general in first issuing warnings rather than going to court with headline-grabbing law-

suits. In so doing, the attorney general has deployed the Notice of Intended Action Act (NIA) under the Michigan Consumer Protection Act. In 2003 he used the NIA to warn Razmataz, Inc. of Sterling Heights to end its deceptive Internet advertising, which misrepresented the company’s contributions to U.S. servicemen whenever consumers bought Razmataz products such as commemorative coins (which also misled consumers by suggesting that they were struck by the U.S. Mint). In his words, “Unfortunately, this is one company that’s living up, or down, to its name. If the ‘razmatazz’ continues, I intend to file a lawsuit and ask the court to stop it once and for all.” Razmataz did the required consumer cleaning. Cox also won praise for pursuing deadbeat parents and increasing collections from them.

This year Cox’s reputation for being above partisan politics was enhanced by his response to rumors of cocaine use during parties held at the mansion of Detroit Mayor Kwame Kilpatrick, a Democrat. The attorney general launched an extensive probe and then—in a conclusion that stunned fellow Republicans and parts of the Michigan law enforcement community—announced there was no evidence of wrongdoing. The Republican Cox dismissed the charges against Democrat Kilpatrick as an “urban legend.”

Cox passed up races for governor and U.S. Senator this year and will run for reelection. If successful, he will be “termed out” in 2010 and may then pursue higher office. For now, the oft-heard praise of Michigan’s attorney general is summarized by state Chamber of Commerce head Bob LaBrant, who hailed Cox “for not wearing his ambition on his sleeve, the way you see attorneys general in other states do.”

Other attorneys general could take a lesson from Cox, who has resisted the urge to expand his office for personal or partisan gain. The poor precedents set by some other state attorneys general raise increasingly serious questions about the limits of their power. **OT**

John Gizzi is the political editor for Human Events, a weekly Washington news journal.

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Washington, D.C. 20036

BrieflyNoted

Many groups opposed to Supreme Court nominee **Judge John Roberts** claimed to be totally surprised when **President Bush** announced his nomination on July 19. It is hard to believe that it came as a total surprise to the **Leadership Conference on Civil Rights (LCCR)**; a records check shows the group had reserved the website **www.confirmroberts.com** in November 2004, presumably to prevent Republicans from using it. Since it reserved the site eighteen months *after* Roberts was confirmed for the DC circuit, it seems clear that LCCR thought Roberts a possibility for the Supreme Court. With ten months to prepare, LCCR still hasn't found much to say about Roberts.

The **Washington Post** reported in August that about eighty wealthy left-wingers have each pledged \$200,000 or more per year for the next five years to the **Democracy Alliance**. It hopes to raise \$200 million. The group will address the inefficacy of liberal think tanks and advocacy groups, in good liberal fashion, by showering them with money. Like the Bourbons, they remember everything and learn nothing. The *Post* also cited worries that “the shift of big money gives to the Alliance poses a threat to the survival of such...groups as **America Coming Together...**” It's too late to worry about ACT; the 527 group formed to unseat President Bush announced in August that it is shuttering its operations. At its peak, it employed 6,000 people in 78 field offices and raised \$200 million—nearly \$40 million from **George Soros** and associate **Peter Lewis**, who cut off support for the group after the 2004 elections. The *Washington Post* called ACT a “great success” by “all measures but one.” That's *one* way of putting it.

In late July, the **Rainforest Action Network (RAN)** responded to Environmental Protection Agency fuel efficiency reports on **Ford** cars by calling for the company to phase out the internal combustion engine. RAN provides a form letter to send to Ford: “Over 1800 American soldiers and tens of thousands of Iraqi civilians have paid the ultimate price in a war for oil with no end in sight. Ford's oil addiction is an issue of national security.” There is so much wrong with those thirty-five words.

News has emerged that **Al Franken's** far-left **Air America Radio** has been involved in financial improprieties. The Gloria Wise Boys and Girls Club of the Bronx, New York made a series of loans in 2004 totaling \$875,000 to **Progress Media**, the network's parent company; these were negotiated by Evan Cohen, then development director at Gloria Wise and a co-founder of Air America. Gloria Wise reported receiving over \$3.7 million in government grants and an additional half-million in contracts in 2003 alone; as usual, the Left has found a way to use taxpayer money to support its pet projects. In mid-August New York Attorney General **Eliot Spitzer** announced a probe into the financial dealings. A new corporation acquired Progress Media's assets when its finances were in chaos; although Air America promises to repay the debt, it claims it is really the responsibility of the defunct Progress Media. Don't archliberals usually accuse conservatives of stealing from children and using corporate rationalization to absolve themselves?

In his syndicated column, **Walter Williams** challenged the **NAACP's** continuing campaign to pressure cities to pass laws requiring companies who want city contracts to examine any possible ties to slavery. **Chicago** and **Philadelphia** have already enacted such legislation. Williams wonders, “Suppose the city's monopoly electric company refuses to comply. Will the mayors tell it to keep the electricity, and work in the dark?”

The **National Legal and Policy Center (NLPC)** criticized **Toyota** for sponsoring a June luncheon of the **Rev. Jesse Jackson's Rainbow/PUSH Coalition** at which **Louis Farrakhan** of the **Nation of Islam** spoke. Toyota, listed as a “platinum” sponsor of the event (indicating a \$100,000 donation), claimed it did not know the famously racist and anti-Semitic Farrakhan would be present. It has not issued an apology.

One of **Ambassador John Bolton's** staff members at the **UN** is **Margaret A. “Peggy” Kerry**, sister of Senator John Kerry and a career civil servant who works as a liaison with nongovernmental organizations (NGOs). It is reported that Bolton arrived at the UN within five hours of his appointment by President Bush—barely enough time for Ms. Kerry to paste on a convincing smile.

