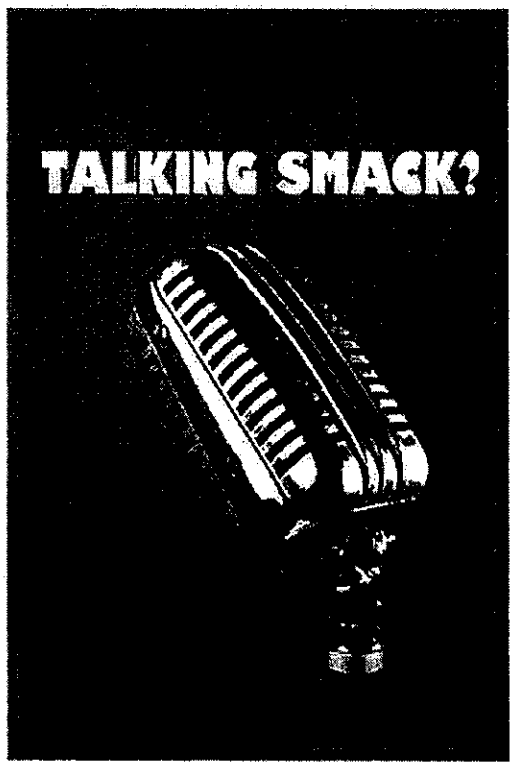
EXHIBIT F

Arthur Wolk: Overlawyered 1, Smack-Talking Lawyer 0

By Mondo, 08/06/2010



Prof. Glenn Reynolds cites the following as proof not to "mess with bloggers."

We agree.

An aviation lawyer and pilot, Arthur Alan Wolk, sued Overlawyered's Ted Frank, for defamation. But the statute of limitations had run out, the judge ruled. Wolk's lawyers have appealed.

From Discovery Rule for Libel Doesn't Apply to Blogs, Says Federal Judge:

> "Unlike mass media print defamation claims, where the publication is pervasive for a short time, but soon becomes yesterday's news, the Internet is a different animal," Rosen said.
>
> "In cases such as Mr. Wolk's, **involving a blog that is relatively obscure**, but which published a false statement that may appear on any Google type search, the discovery rule is of particular importance," Rosen said.

Having read Overlawyered for years, I'd say that Rosen's statement constitutes, if not outright defamation, then smack-talk of a sort that's liable to start a flame war–if Rosen had a blog.

Wolk's defamation case is the type of posts addressed by Overlawyered's crew on a daily basis.

So, maybe Rosen had reason to talk a a little smack?

by Mondo Frazier
image: what's on iPhone

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I invite thoughtful comments, but please keep it civil and respectful. I reserve the right to delete or edit any/all comments. Links are not permitted in comments and will be deleted.

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Thursday, August 12, 2010

Don't Mess With Overlawyered

They don't call him Walloping Wally Olson for nothing, you know. Via Law.com:

> Aviation lawyer and seasoned pilot Arthur Alan Wolk knows quite a bit about the stratosphere and the troposphere, but he may have learned something new this week about the blogosphere when a federal judge tossed out his libel suit against the bloggers at Overlawyered.com.
>
> As U.S. District Judge Mary A. McLaughlin sees it, a blog is legally the same as any other "mass media," meaning that any libel lawsuit filed against a blog in Pennsylvania must make its way to court within one year.

According to Wolk, as repeated in Judge McLaughlin's decision, he's the "most prominent aviation lawyer in the country." That doesn't say much for aviation lawyers. It seems that Ted Frank, Walter Olson's evil twin, posted a story about a case of Wolk's on April 6, 2007. Wolk happened to find out about the post sometime in April, 2009. He became very angry. Grrrr.

The problem is that the statute of limitations was one year. Memo to Wolk: Read Overlawyered daily. I do.

Wolk tried to get around the statute via the Discovery Rule, that the time doesn't accrue until the alleged defamation is discovered. No dice, Judge McLaughlin ruled.

> The court is not aware of any case in which the discovery rule has been applied to postpone the accrual of a cause of action based upon the publication of a defamatory statement contained in a book or newspaper or other mass medium.

That's right. We a mass medium.

"Not all cases are worthy of the discovery rule. Worthy cases are those pertaining to hard-to-discern injuries," McLaughlin wrote.

> "If the rule is intended for hard-to-discern injuries, it would be at odds with a cause of action based upon a defamatory statement disseminated through a mass medium, like a website, and received by tens of thousands of readers," McLaughlin wrote.

But Wolk's lawyer, Paul Rosen, did not take the loss gracefully.

> "Unlike mass media print defamation claims, where the publication is pervasive for a short time, but soon becomes yesterday's news, the Internet is a different animal," Rosen said.
>
> "In cases such as Mr. Wolk's, involving a blog that is relatively obscure, but which published a false statement that may appear on any Google type search, the discovery rule is of particular importance," Rosen said.

In the scheme of the blawgosphere, Overlawyered is anything but "relatively obscure." Indeed, it's not only been around for a long time, extremely well known and well-regarded, but it's a favorite read of most lawyers with internet access and half a brain.

And lest anyone be overly concerned, chances are slim that this loss on statute of limitations grounds does Wolk any harm, as his likelihood of prevailing on the merits was even slimmer.

Congratulations to Walter, Ted and all the elves in the backroom at Overlawyered.

H/T The vacationing Turk, who just can't let go of his iPhone.

Posted by SHG at 8/8/2010 8:47 AM
Categories: uncategorized

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8/8/2010 10:46 AM PointOfLaw Forum wrote:
Watch what you say about lawyers dept.: A Philadelphia attorney didn't like what a blogger wrote about the attorney's litigation record in a post about the attorney's unsuccessful libel lawsuit, so he sued the blogger. And the blogger's innocent co-bloggers....

Comments

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Ron Coleman wrote: *8/8/2010 1:11 PM*
I know some of those elves. Believe me, the level of self-beclownment in the run-up to this case matches the preposterousness of the claim against our boys...

What a bunch a' maroons.
Reply to this

Turk wrote: *8/8/2010 6:20 PM*
The part about being "relatively obscure" is a gem.

I wonder how much damage was done to the client by bringing a losing suit, as opposed to the original.

PointofLaw.com
Information and opinion on the U.S. litigation system

FORUM

« ANTI-PROP 8. ANTI-PERRY. | SOCIAL SCIENCE AND THE CONSTITUTION »

August 6, 2010

Arthur Alan Wolk v. Olson (E. D. Pa. Aug. 2, 2010)

Watch what you say about lawyers dept.: A Philadelphia attorney didn't like what a blogger wrote about the attorney's litigation record in a post about the attorney's unsuccessful libel lawsuit, so he sued the blogger. And the blogger's innocent co-bloggers. Except the post was made in 2007, the lawsuit was filed in 2009, and the Pennsylvania statute of limitations is one year. It should be fairly obvious that the statute of limitations starts to run when a blog post is first published to the Internet, but the plaintiff argued that the statute shouldn't start to run until the plaintiff reads (or, *de facto*, claims to have read) the blog post, which, of course, would destroy the statute of limitations for bloggers. No dice. One wishes the Eastern District of Pennsylvania decision in *Arthur Alan Wolk v. Olson* had also addressed the obvious First Amendment issues, but a good result is a good result, and bloggers everywhere should rejoice that courts continue to refuse to create double-standards. Congratulations to White & Williams, the defendants, and bloggers everywhere. (Shannon Duffy, "Discovery Rule for Libel Doesn't Apply to Blogs, Says Federal Judge", Legal Intelligencer, Aug. 6; White & Williams press release, Aug. 5; Simple Justice blog).

Update, 5:05 PM August 6: Extensive must-read analysis by Jacob Sullum at Reason; further commentary and coverage at Popehat; DBKP; Instapundit; and Phil. Bus. J..

POSTED BY TED FRANK AT 8:53 AM | TRACKBACK (0)
Tags: blogs , First Amendment , libel , Pennsylvania , statute of limitations , watch what you say about lawyers

EXHIBIT G

http://reason.com/blog/2010/08/06/lawyer-trying-to-protect-his-r

Lawyer Trying to Protect His Reputation As an Effective Advocate Misses Deadline for His Libel Suit

Jacob Sullum | August 6, 2010

On April 8, 2007, *Overlawyered* writer Ted Frank blogged about an aviation attorney named Arthur Alan Wolk, prompted by an item on another legal blog about the dismissal of a ridiculous lawsuit Wolk had filed. Frank's summary of Wolk's case: "Judge writes scathing opinion about attorney; opponent attorney mails opinion to client; losing attorney sues other attorney for defamation." Frank noted that when Wolk settled the original case (the one that gave rise to the judicial rebuke), one condition was suppression of that embarrassing opinion. Frank suggested this demand created a conflict of interest:

> Did Wolk's client suffer from a reduced settlement so that his attorney could avoid having the order used against him in other litigation? (The discovery violation complained about was apparently a repeat occurrence.) The district court permitted a settlement that vacated the order, but its only reported inquiry into whether Wolk did not suffer from a conflict of interest and was adequately protecting his client's rights was Wolk's representation to the court that the client was alright with the size of the settlement. That begs the question whether the client was fully aware of the conflict of interest; if, as seems to be the case, the [court] failed to [make sure the client knew about the conflict], one really wishes courts would do more to protect fiduciaries of plaintiffs' attorneys before signing off on settlements.

This was not Wolk's first appearance at *Overlawyered*. A 2002 post noted how he had used a defamation suit to bully an aviation news website into a "a thoroughly abject capitulation and apology" for criticizing a $480 million verdict he had won from Cessna. The appeasement included an astonishing promise not to "characterize matters in such a way as to bring apparent discredit upon anyone," lest such characterizations instigate *other people* to commit libel. As *Overlawyered* put it, "The consequences of such a formula for the future of hard-hitting journalism can be imagined." The post concluded: "Among the lessons many observers will draw, we think, will be the old one: watch what you say about lawyers."

You probably can guess what happened next. The touchy lawyer with a history of suing his online critics into submission sued Frank, along with *Overlawyered* editors Walter Olson (a *Reason* contributing editor) and David Nieporent*, citing the 2007 comment about Wolk's conflict of

interest. But he did not get around to doing so until two years after the post appeared. Unfortunately for Wolk, Pennsylvania, where he filed his case, generally requires that defamation lawsuits be filed within one year of the injury. According to *Law.com*, Wolk argued that the court should let the statute of limitations slide, since he had not discovered Frank's allegedly defamatory post until April 2009, when he supposedly performed a Google search on his name after being advised to do so at a "seminar on client relations in early 2009."

U.S. District Judge Mary McLaughlin did not question the plausibility of this story, which suggests that a notoriously sensitive lawyer who had sued over online criticism back in 2001 did not think of Googling his own name until he learned about this esoteric technique in 2009. But in a decision (PDF) issued this week, she dismissed Wolk's suit, ruling that under Pennsylvania law plaintiffs can escape the one-year limit only if the alleged defamation was difficult to discover—e.g., because it occurred in a credit report or a confidential memorandum. McLaughlin said that exception does not apply if the offending statement was published in a "mass medium" such as a website that is well-known among attorneys and that "attracts more than 9,000 unique daily visitors, including tens of thousands of lawyers and other professionals."

In a sense, then, Frank, Olson, and Nieporent were saved by the conspicuousness of the forum in which they dissed Wolk. Even if Wolk had not missed the deadline, it seems likely he would have lost the case, since the comments to which he objected are a constitutionally protected combination of fact and opinion. But before losing, he would have succeeded in punishing his critics by inflicting the anxiety, inconvenience, and cost of litigation on them. One really wishes courts would do more to protect the First Amendment rights of writers who offend rich people with thin skins.

Law.com reports that "Wolk has already filed a notice of appeal to challenge McLaughlin's ruling."

[*Spelling corrected. His name was misspelled in McLaughlin's ruling.]

Overlawyered

Chronicling the high cost of our legal system

You searched for:

Arthur Alan Wolk

Wolk v. Olson: Overlawyered in the news

by Walter Olson on August 9, 2010

While I was away in recent days, a news story about this site drew wide coverage in the press. U.S. District Judge Mary McLaughlin last week dismissed a defamation lawsuit filed by Philadelphia aviation lawyer Arthur Alan Wolk against me, Overlawyered, and co-bloggers Ted Frank and David Nieporent over a blog post that Ted published on this site in 2007. Judge McLaughlin ruled (PDF) that the claim was time-barred, notwithstanding Wolk's argument that the operation of the statute of limitations should have been stayed based on his claim that he was unaware of the post until 2009, when he says he first performed a Google search on his own name.

The judge's dismissal of the suit was covered in Law.com/The Legal Intelligencer, the ABA Journal, Legal Ethics Forum, and many other blogs and publications well known to our readers. All of us are grateful to attorneys Michael N. Onufrak and Siobhan K. Cole of White and Williams in Philadelphia, who represented us. Had the judge not ruled in our favor on the threshold statute of limitations issue, we are confident that we would have prevailed based on the post's protected status under the First Amendment. Wolk has filed a notice of appeal in the action.

For readers' protection as well as our own, we are obliged to discourage discussion in our comments section about these developments. We regret the curtailment of free controversy. **More:** Ted at Point of Law.

Tagged as: about the site, libel slander and defamation, Philadelphia

{ 0 comments }

Arthur Alan Wolk v. Teledyne Industries, Inc.

by Ted Frank on April 8, 2007

Judge writes scathing opinion about attorney; opponent attorney mails opinion to client; losing attorney sues other attorney for defamation. No dice, but even this ludicrous suit does not result in sanctions. [Beck/Herrmann]

Beck and Herrmann miss, however, an especially interesting subplot. Wolk settled the underlying case, *Taylor v. Teledyne*, No. CIV.A.1:00-CV-1741-J (N.D. Ga.), on the condition that the order criticizing him be vacated. Did Wolk's client suffer from a reduced settlement so that his attorney could avoid having the order used against him in other litigation? (The discovery violation complained about was apparently a repeat occurrence.) The district court permitted a settlement that vacated the order, but its only reported inquiry into whether Wolk did not suffer from a conflict of interest and was adequately protecting his client's rights was Wolk's representation to the court that the client was alright with the size of the settlement. That begs the question whether the client was fully aware of the conflict of interest; if, as seems to be the case, the N.D. Ga. failed to do so, one really wishes courts would do more to protect fiduciaries of plaintiffs' attorneys before signing off on settlements. 338 F.Supp.2d 1323, 1327 (N.D. Ga. 2004), *aff'd* in unpublished summary per curiam opinion (11th Cir., Jun. 17, 2005).

We've earlier reported on Mr. Wolk for his lawsuits against commenters at an aviation website that criticized him: Sep. 16-17, 2002. As the *Taylor* opinion notes, Wolk also threatened to sue the federal judge in that case. He also filed what the Eleventh Circuit called a frivolous mandamus petition.

Tagged as: libel slander and defamation

Conspiracy to keep you scared and silent?

by Walter Olson on October 30, 2003

Economics commentator Donald Luskin, who operates a website entitled The Conspiracy to Keep You Poor and Stupid, is known for his furious and unremitting attacks on New York Times op-ed columnist Paul Krugman. So furious and unremitting have these attacks been as to raise the question of whether Luskin was actually daring Krugman to sue for defamation, as when Luskin declared on "Hannity and Colmes" Oct. 27 that Krugman "masquerades as an economic scientist" (whatever one thinks of his politics, Krugman is exceptionally well credentialed as an academic economist; by comparison, columnist Robert Novak let himself in for years of hard-fought litigation when he printed an assertion that Bertell Ollman, a much less well-known economic scholar, "has no status within the profession"). And two months ago Luskin alleged ("Lights-out economics", National Review Online, Aug. 20) that a statement by Krugman about the Northeast electrical blackout was "one of the few truthful statements I can ever recall him uttering" — inevitably recalling, for defamation-law buffs, Mary McCarthy's talk-show gibe at Lillian Hellman, which led to one of the American literary world's most bitter and celebrated lawsuits: "Every word she writes is a lie, including 'and' and 'the.'"

Now, however, it seems that Luskin pictures himself appearing in court as a plaintiff rather than a defendant. Recently he was verbally savaged in the comments section of the left-wing anonyblog "Eschaton" (http://atrios.blogspot.com) and now attorney Jeffrey J. Upton, claiming to represent Luskin, has ("http://atrios.blogspot.com/2003_10_26_atrios_archive.html, scroll to Oct. 29) written to that site's proprietor ("Atrios") demanding that the entire comments section in question be taken down within 72 hours on pain of "further legal action". The threat has provoked a widespread outcry in the blog world, with dozens of sites commenting since yesterday (examples: Mark A.R. Kleiman, Armed Liberal, David Neiwert, Anti-Idiotarian Rottweiler). We don't know how much money Luskin has made on Wall Street, but we would be nervous on behalf of his prospective targets if his pockets prove as deep as those of aviation lawyer Arthur Alan Wolk, who successfully went after AVWeb after being criticized in *its* comments section a couple of years back (see Sept. 7 and Oct. 12-14, 2001; Sept. 16-17, 2002). **More:** Jack Balkin points out that courts

have found website proprietors not liable for hosting outsiders' libels in their comments section, which leaves us wondering all the more about what happened to AVWeb, above. Stuart Levine discusses possible homeowner's insurance coverage. **(& welcome** Curmudgeonly Clerk readers) **Update** Nov. 5: dispute settled. (& letter to the editor Aug. 16, 2004).

Tagged as: bloggers and the law, libel slander and defamation, online speech

{ 2 comments }

September 2002 archives, part 2

by Walter Olson on September 20, 2002

September 20-22 – How sharper than a serpent's tooth it is/To have a precociously musical child. "James Brown's daughters have filed a federal lawsuit against the Godfather of Soul, seeking more than $1 million in back royalties and damages for 25 songs they say they co-wrote.... Even though they were children when the songs were written – 3 and 6 when 'Get Up Offa That Thing' was a hit in 1976 – Brown's daughters helped write them, said their attorney, Gregory Reed." ("Singer James Brown Sued by Daughters", AP/Milwaukee *Journal Sentinel*, Sept. 18). **(DURABLE LINK)**

September 20-22 – "Patient pays price of suing over cold". Salutary effects of loser-pays, cont'd: "A patient who claimed £227 damages from his doctor, insisting that she had given him her cold during an examination, was ordered to pay almost £1,000 in costs yesterday after his case was thrown out by a court. Trevor Perry, 47, sued Dr Helen Young for personal injury, stating that he went down with a sore throat, runny nose and a headache after a consultation with her when she had a cold." (Stewart Payne, "Patient pays price of suing over cold", *Daily Telegraph* (U.K.), Sept. 19). And don't miss the very curious addendum to the case on the question of why Mr. Perry was observed running from the court with a jacket over his head ("The Broadsheets: Cold comfort", Anorak, Sept. 19). **(DURABLE LINK)**

September 20-22 –*Times* on 9/11 fund. The New York *Times* editorially defends the federal 9/11 compensation fund from charges that its awards are inadequate in a way "especially prejudicial to high-income families", who may be offered only a few million dollars of taxpayers' money each. It is entirely legitimate, the paper believes, to seek to avoid "extravagant awards at the top". We might add that if top-earning families want to feel secure in their living standards in case of disaster, the logical (and socially desirable) course is for them to make provision in advance through privately purchased insurance — which we suspect most of the higher-ups at places like Cantor Fitzgerald did in fact have in place. ("The Perils of Valuing Lives" (editorial), New York *Times*, Sept. 19). **(DURABLE LINK)**

September 18-19 – Claim: docs should have done more to help woman quit smoking and lose weight. "A Wilkes-Barre woman is suing several doctors at the Department of Veterans Affairs Medical Center, saying the physicians did not do enough to assist her in making life changes — including quitting smoking and losing weight — that might have prevented a debilitating heart attack she suffered." Kathleen Ann McCormick's suit "says the physicians knew she had multiple risk factors to develop heart disease" but dismissed her symptoms as "basically normal and non-life threatening" and failed to put her on aggressive anti-cholesterol medication, as well as failing to help her with the smoking and weight issues. (Terrie Morgan-Besecker, "Woman suing VA doctors", Wilkes-Barre (Pa.) *Times-Leader*, Sept. 11). **(DURABLE LINK)**

September 18-19 – Voltaire spinning in grave. If you disagree with what someone says, but would defend to the death his right to say it, chances are you aren't running things in today's France. Prominent French author Michel Houllebecq (pronounced "Wellbeck") went on trial this week for "inciting racial hatred" on the

grounds that he had aimed contemptuous comments at Islam. The case, which evokes parallels with that of author Salman Rushdie, is "being brought by the largest mosques in Paris and Lyon, the National Federation of French Muslims (FNMN) and the World Islamic League. France's Human Rights League has also joined them, saying that Mr Houellebecq's comments amount to 'Islamophobia'" (see Aug. 23-25) (Charles Bremner, "I attack ... I insult", *The Times* (London), Sept. 18; "French author denies racial hatred", BBC, Sept. 17). **More:** Christopher Hitchens on the case ("The stupidest religion", *Free Inquiry*, v. 21, #4). **Update** Oct. 25-27: Houellebecq acquitted. **(DURABLE LINK)**

September 18-19 – Canada: "Woman freezes, sues city, cabbie". "A Winnipeg woman who nearly froze to death after a night of drinking is suing the city, emergency personnel and the taxi driver who dropped her at home." Emergency workers left Kim Simon at her residence but "she was later found outside with her pants pulled down, her winter jacket open and a cut on her lip. The woman claims that emergency personnel and the taxi driver should have made sure Simon was safely inside her house before leaving." (Canadian Press/Canada.com, Sept. 16). **(DURABLE LINK)**

September 18-19 – Mississippi: eyeing the exits. Washington Mutual, the giant lender and the nation's largest thrift institution, "is in the process of suspending all its lending channels in the state of Mississippi due to litigation risk and other factors. 'We are evaluating the litigation environment and business climate in the state,' WaMu senior vice president and associate general counsel Jim Garner told MortgageWire. 'That is why we are suspending loan originations.'" Last year a Mississippi jury hit one of the company's subsidiaries with a $71 million verdict. (*Origination News* — will scroll off site's front page soon). **(DURABLE LINK)**

September 18-19 – AVweb case and chatroom liability. Eugene Volokh (his site) comments regarding the litigation referenced below: "Incidentally, not supervising one's chat room is *not* actionable, even if the chatters make libelous statements and you could have stepped in to stop them; that's what 47 U.S.C. sec. 230 says, see also Zeran v. America Online (4th Cir.) (both available on Findlaw)." See also ChillingEffects.org, Mar. 8; summary of Zeran case, TechLawJournal. **(DURABLE LINK)**

September 16-17 – Free speech & web litigation: the theory.... Los Angeles *Times* columnist Norah Vincent, the target of a remarkably silly recent smear (summarized and refuted by, among others, Stuart Buck, Juan Non-Volokh and Megan McArdle) got so angry at her online attackers that she wondered aloud whether she should think of suing them for defamation. Our editor wrote in at her suggestion (Sept. 13) to offer some reasons why, no, she shouldn't. **(DURABLE LINK)**

September 16-17 – Free speech & web litigation: AVweb capitulates to defamation suit. Which reminds us of an update we should have posted earlier; readers will recall the defamation lawsuits filed last year by aviation plaintiff's attorney Arthur Alan Wolk against two editors and four subscribers of the aviation-news website AVweb, all of whom had sharply criticized him after he won a $480 million verdict against Cessna (Sept. 7 and Oct. 12-14, 2001). On July 19 the website rendered to Wolk a thoroughly abject capitulation and apology in connection with his agreement to drop his suit against it. Its statement to readers (link now dead) includes a number of passages which deserve to be read with great care by those to whom the Internet still represents some sort of idealized sanctuary for untrammeled discussion [*italicized comments ours*]:

"One of Mr. Wolk's complaints was that we did not supervise our chat room to prevent libelous comments about him being published by our subscribers. We have corrected that. Another of Mr. Wolk's complaints was that our characterizations instigated some of our subscribers to libel him. We will no longer characterize matters in such a way as to bring apparent discredit upon anyone." [*The consequences of such a formula for the future of hard-hitting journalism can be imagined. And the mind reels at what is involved in the task of avoiding all characterizations which, whether or not libelous themselves, might* instigate others *to commit that offense.* -- ed.]

"While the defense of Mr. Wolk's lawsuit has been expensive, he nonetheless has been gracious enough to settle with us for a payment to charity. In fact, even in settlement negotiations, when there was a demand for money, it was always to be contributed to charity, none for Mr. Wolk himself. He steadfastly insisted that his lawsuit was not about money and we have come to believe him." [*Why would it be thought surprising that the aim of such a lawsuit might be more to silence certain critics than to obtain cash from them?* -- ed.]

As we say, read the whole thing, which lays out at considerable length Mr. Wolk's reasons for considering himself libeled. AVweb then goes on to publish a sort of protracted advertisement for Mr. Wolk's services, in the form of tributes and testimonials from grateful clients he has represented in litigation, as well as others. Also included is the painfully self-abasing apology of one of the reader-posters who found himself individually sued by the powerful lawyer — outgunned in every way, and facing who knows what sort of prolonged personal exposure to the cost of litigation. Among the lessons many observers will draw, we think, will be the old one: watch what you say about lawyers. **(DURABLE LINK)**

September 16-17 – Right to break workplace rules and then return. This summer the Ninth Circuit ruled that it was an unlawful violation of the Americans with Disabilities Act for a company to follow an otherwise neutral policy barring the rehire of employees who had been terminated (or resigned in lieu of termination) over violations of company rules. In the case at hand, an employee had resigned after testing positive for cocaine, had completed a rehabilitation program, and now wanted to return to the company. Although Hughes Missiles Systems' rule did not bar the hiring of rehabilitated drug users as such, the court nonetheless ruled that "Hughes' unwritten policy against rehiring former employees who were terminated for any violation of its misconduct rules, although not unlawful on its face, violates the ADA as applied to former drug addicts whose only work-related offense was testing positive because of their addiction. If Hernandez is in fact no longer using drugs and has been successfully rehabilitated, he may not be denied re-employment simply because of his past record of drug addiction." (*Hernandez* v. *Hughes Missiles Systems*, No. 01-15512, June 11, 2002, write-up at Jackson Lewis site). **Update** Dec. 13, 2003: Supreme Court rules in favor of employer. **(DURABLE LINK)**

September 16-17 – Dave Barry on tobacco settlement, round III. Okay, maybe it's easy to satirize (rounds I and II), but he still does it so well. "The underlying moral principle of these lawsuits was: 'You are knowingly selling a product that kills tens of thousands of our citizens each year. We want a piece of that action!'" ("In War On Tobacco, money goes up in smoke", Miami *Herald*, Sept. 15) **(DURABLE LINK)**

September 13-15 – Patriotic, or promotional? Mickey Kaus nominates this "Patriot Troll" and this "Twin Towers handbag" (appears as popup ad when link is clicked) as among the tackiest commercial tie-ins to arise from 9/11. We might also call to his attention this billboard from a personal injury law firm in Schenectady, New York (photographed by reader Steve Furlong) which isn't going to win prizes for either taste or subtlety. **(DURABLE LINK)**

September 13-15 – "Epileptic ordered to pay £3,500 for contorted face". "A man who suffers from epilepsy has been ordered to pay compensation to a student who was upset by his contorted face during a seizure. In a case described by an epilepsy charity as 'like something you would see on the Ally McBeal show', Edwin Young has been told to pay £3,500 to Yvonne Rennie for the mild post-traumatic stress that she suffered. Mrs Rennie sued after Mr Young suffered an epileptic fit while driving four years ago and crashed into her car at traffic lights in Perth." In addition to awarding Mrs. Rennie £1,500 for slight personal injuries and £1,000 for a fear of driving that she had developed, the magistrate accepted that she had suffered emotional injuries from observing the contorted look on Mr. Young's face during his fit, which made her think he was going to die. "Epilepsy Action Scotland described the case as 'bizarre'." (Auslan Cramb, *Daily Telegraph* (U.K.), Sept. 9).

Addendum: one of our less sympathetic readers calls to our attention this Sept. 13-dated press release and article from Epilepsy Action Scotland (EAS), describes it as proving that the above report is "not true", and