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MICHIGAN

2009

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## TELL AVIV

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# TELL AVIV

TO JOSEPH AVIV, POSITIVE WORD-OF-MOUTH SPEAKS LOUDER THAN ACADEMIC ACCOLADES

by ELLEN PILIGIAN

photography by SCOTT STEWART

**A** childhood memory haunts Joseph Aviv. Growing up in Manhattan, he was about 8 years old when he auditioned at the Juilliard School to study classical piano as an elementary school student. There he was, in this large auditorium packed with applicants and their parents, “all of whom were hoping you’d screw up,” Aviv says. On stage sat a massive grand piano, beyond which a half-dozen faculty members sat with pads of paper and pencils poised to judge his every move.

When they called his name, he recalls, the walk he took down a huge hall was like going to his own execution. “Based on your grade, you were either in or out. That was absolutely terrifying.”

Aviv made the cut. But to this day, it is still the most frightening thing he ever did in his life. “If I ever have a feeling of nervousness in court,” he says, “I go back to that day and I say, ‘It’s nothing like that.’”

It’s hard to imagine this high-powered partner with Honigman Miller Schwartz and Cohn in Bloomfield Hills getting nervous in court. Aviv’s favorite cases are the “bet-the-company” variety, where the very survival of a business is on the line. “It’s life or death,” he says. “It’s very thrilling and exciting.”

The case for which he is best known—and the one he considers his proudest professional achievement—is preventing a hostile takeover of a longtime client, the Taubman Centers.

At the same time, Aviv, whose defense practice includes complex corporate litigation

and high-end divorce cases, describes himself as cautious, introverted, even shy outside court, someone for whom litigation can be stressful. That might seem counter-intuitive, admits the youthful-looking 60-year-old, who has a hint of an East Coast accent and a penchant for bow ties. Yet it’s likely those contradictions have fueled his success by making him work harder for it.

## THE WORKHORSE

To Aviv, who typically puts in a couple of hours of work in his Birmingham home office before bed each night, the secret is simple: hard work. “My objective in any case is to be the best and most prepared in the courtroom. To know more than anyone else.”

His wife, Linda Wasserman, a partner at Honigman and chair of the trusts and estates department, says she’s never known a lawyer who works so hard. Aviv will type out an entire argument and practice it, sometimes in moot court, three or four times.

His assistant of 30 years, Catherine Mackool, has stayed with him so long, in part, because she admires his work ethic. “I’ve watched him work 24 hours, then go straight to court to argue. He’s a perfectionist who expects nothing less out of people [he works with] than he expects from himself.”

At the same time, Aviv is not all about the grindstone, adds Mackool. He sometimes feels more like a brother than a boss. She recalls how he stuck by her side when her husband had to undergo several surgeries. “No matter what Joe had on the table, he was with me at the hospital.”

That loyalty extends to Aviv’s clients. “I

know it’s important for lawyers to draw a line between themselves and their clients, but I find I very much identify with [them],” he says. He’s so loyal to them, says Wasserman with a bit of a laugh, that if he runs an argument past her and she disagrees, “he’ll feel I obviously don’t understand.”

And despite the fact that her husband once had a sign on his office wall that read: “Litigation is War,” Wasserman describes him as a “very quiet and very gentle” man and echoes Aviv’s own admission about getting the jitters in court.

## STAR POWER

Keeping that occasional case of jitters in check is Aviv’s extraordinary intellect and integrity, says Alan S. Schwartz, vice chairman at Honigman. “He can win cases that other lawyers can’t because of his analytical ability and determination,” says Schwartz. “You rarely see someone who combines both those qualities. He can take a difficult set of facts and weave together a set of legal theories that can convince the other side or the judge that he’s right.”

That’s partly why Schwartz courted Miro Weiner & Kramer, where Aviv was head of litigation and had practiced for nearly a quarter of a century, to merge with Honigman in 2004.

Despite possessing an array of professional honors and a with-honors law degree from Boston University, Aviv limits his office décor to a handful of family photos and some contemporary art. Asked why it’s so barren, Aviv says, “I find it embarrassing. Your reputation should come from word of mouth.” He can’t



even bring himself to wear the lapel pin worn by members of the American Academy of Matrimonial Lawyers.

But Aviv attracted plenty of word-of-mouth—and headlines—during the Taubman case.

“I always tell Joe I made him a star,” says Carl von Ende, general counsel at Miller Canfield in Detroit and Aviv’s opponent in the attempted takeover, recalling how the case got so much publicity that, at one point, the court had to hand out numbers to accommodate everyone who wanted to sit in on the hearings.

At the time, von Ende didn’t know much about Aviv other than his divorce work. “He was not high on the radar as a downtown litigator,” he says. What he did notice was a careful and well-prepared attorney with a bit of “New Yorky toughness.”

Those qualities have made Aviv the go-to guy for Robert Taubman—chairman and chief executive of the Taubman Centers—for nearly 30 years. In this highly complex case in particular, says Taubman, “His skills

were critical to preventing the takeover.” Taubman asked him to take the lead on the case even after the company began working with a prestigious New York firm.

The case involved a takeover attempt of the Bloomfield Hills-based Taubman Centers, which owns shopping centers across the U.S., by the much larger Indiana-based real estate company, Simon Property Group.

Taubman declined to discuss any buy-out offers, so Simon brought a hostile-tender offer to buy the shareholders’ stock for a price above market but below what Taubman’s directors thought was a fair price. Simon needed to get two-thirds of the shareholders to accept its offer.

The problem for the Taubman family, says Aviv, was that it held only about 30 percent of the shares, leaving the possibility that Simon could succeed. So the family entered into voting agreements with its allies, bringing its vote up to about 33 percent and preventing Simon from reaching the required amount.

Simon’s response? It sued in U.S.

District Court, claiming that the family had obtained the original 30 percent in an invalid manner, and that the additional 3 percent secured under the voting agreements violated state law since it was not approved by the other shareholders.

“If Simon were successful on either of these two claims, the Taubmans would have been stripped of their vote,” says Aviv. “If that happened, Simon would have won.”

While the judge ruled in favor of Taubman on the first claim, she ruled against the company on the second. That didn’t sit right with Aviv. He appealed the case and—for good measure—went straight to the Michigan Legislature. “We felt the judge misinterpreted the statute, so we asked the Legislature to indicate how it construed its meaning. The Legislature interpreted the statute exactly the way we did.”

After the lawmakers effectively reversed the district court’s ruling, the Taubmans were allowed to vote their shares and Simon withdrew its hostile-tender offer.

Aviv says the case was important for a number of reasons, including keeping Michigan businesses independent if they so choose. He also considers it a personal victory. "I had grown very fond of [the Taubmans]," he says. "I wanted them to win."

## PASSION IN ACTION

Not all cases are so personal for Aviv. But most involve one of his passions, such as constitutional law, his favorite subject in law school. "I never thought, as a civil lawyer in private practice, that I'd see constitutional cases," says Aviv, who enjoyed working with such lawsuits as an assistant district attorney in New York right after graduating.

From 1980 to 1990, Aviv litigated a half-dozen cases involving free-speech rights versus private-property rights: specifically, whether an outside group had the right to come into a shopping center to publicize its views.

One case, in the early '80s involved the National Organization for Women (NOW), which wanted to solicit signatures for a petition inside Westfarms Mall in West Hartford, Conn. Aviv, representing the mall, argued that the group had no right to come onto the property. "I made my typical argument," he says. "If you allow them to come in, other groups who were not as peaceful would want to do the same."

The trial judge allowed NOW to go into the mall. Within a couple of days after that ruling was made public, the New York chapter of the Ku Klux Klan declared that if NOW could get the welcome mat, so could the KKK.

Suddenly, leftist groups in New York made plans to demonstrate against the mall for allowing the KKK to come into the center. "Of course the mall didn't want the KKK. They didn't want NOW," says Aviv. The result was a riot. "The mall was closed. People were hurt. There was a SWAT team with sharpshooters. As soon as that happened, I went back to court and essentially said, 'I told you so.'"

The judge reversed his ruling, and the case went all the way up to the state Supreme Court, which upheld the concept that there is no right to free speech on privately held property.

If Aviv seems more than eager to share details from that case, he's decidedly less forthcoming on specifics when it comes to divorce litigation.

"I have a kind of schizophrenic practice,"

says Aviv of his unlikely combination of high-end divorce cases with commercial litigation, each of which has made up a larger portion of his practice at varying times.

Aviv never intended to be a divorce attorney. The cases grew from relationships he had in his commercial practice, which involved a lot of privately held companies that required valuation when disputes would arise. "[Valuing assets] is the same whether you're dividing a company or a partnership," he says. The only difference, he says, is that with commercial cases "the clients aren't sleeping together."

While Aviv—who himself was divorced early on—declines to share stories about his clients, whose assets are often in the tens or hundreds of millions of dollars, he does point out, "There are always two sides, and both sides think the other is wrong.

"It's important not to judge them on that behavior. ... You're dealing with emotions. It's very challenging. You have to step back and not condemn. You have the role of counselor and educator."

He may not talk much about his divorce cases, but his clients and opponents have plenty to say. Robert Z. Feldstein of Kemp Klein in Troy has not only opposed Aviv but co-counseled with him. "Joe would be on anyone's short list of the top three or four divorce lawyers in the state," he says, adding that Aviv is a gentleman whose "ethics match his skills."

One of Aviv's favorite compliments came from a former client who recently told him the following story: She had been approached at a party by a woman who wanted to interview her for a book she was writing about how women "get screwed" by their lawyers in divorce cases. "I had a very different experience," she told the writer. "I was treated with respect and civility. I have nothing to complain about." In fact, she told the woman, "I like him."

## AIMING HIGH

It's clear Aviv enjoys both his clients and the intricacies of his job. "I love the strategizing," he says. "I see cases as complicated puzzles and you have to find a solution." But he wasn't always sure lawyering was what he wanted to do.

One thing he did know: He would be some type of professional. The eldest of three children of a businessman father and a stay-at-home mom, Aviv says it was his mother who most influenced his life. A Holocaust survivor

now in her 80s, she lost so much during the war, including her family. Her own schooling cut short, she always emphasized the importance of education, then backed up her words by earning her high school, college and master's degrees after her children left home. Aviv recalls her words: "What can never be taken is what you've got in your mind."

Aviv, who majored in sociology and psychology at Brandeis University, once considered a career in psychology. Even in law school he wasn't sure he'd practice, but by his senior year he discovered his passion: convincing a judge to do the right thing. The turning point was a summer fellowship with the district attorney's office in New York before his senior year. "I wanted to get into court," says Aviv. After graduation he spent four years as an assistant district attorney in Westchester County before moving to Michigan with his first wife to be closer to her family and starting out as a litigator with Smith, Miro, Hirsch and Brody.

Three decades later, Aviv is just as passionate about his career. He's a master with the local chapter of the American Inns of Court. Aviv says education works both ways. "There isn't a session where I don't learn something."

As for that promising musical talent, Aviv—father of four daughters, ages 17 to 30—occasionally tickles the ivories for his immediate family. He decided early on that he was not good enough for a solo career, but he can still play a song after hearing it once on the radio.

He says he'd love to teach a high school history class someday, and it's easy to picture him in that role. What is more surprising, as most people close to him will say, is a hobby that has consumed him for the past 20 years: motorcycling.

Even Aviv recognizes his passion is not what you'd expect. "I'm very cautious, rational and non-impulsive. Except when it comes to motorcycles." Wasserman, who indulges his interest by riding along on the back as they've traveled the world, from Europe to Costa Rica, says he likes the speed. "Joe is like two different people," she says. "He loves the danger. He's such a contradiction."

Ever the counselor, Aviv grabs a mini-motorcycle replica on a table in his office to explain how the bike handles. He demonstrates how the bike turns one way when you'd expect it to turn another.

He could just as well be talking about himself. ◀

# the top 100

The following is an alphabetical listing of the lawyers who received the highest point totals in the 2009 *Michigan Super Lawyers* nomination, research and blue ribbon review process.

Abrahamsen, Maria B., Dykema Gossett, Bloomfield Hills

Allen, John W., Varnum, Kalamazoo

Alter, Peter M., Jaffe Raitt Heuer & Weiss, Southfield

Ammon, Jeffrey S., Miller Johnson, Grand Rapids

**Ankers, Norman C., Honigman Miller Schwartz and Cohn, Detroit**

**Aviv, Joseph, Honigman Miller Schwartz and Cohn, Bloomfield Hills**

Bank, Mark A., The Law Firm of John F. Schaefer, Birmingham

**Barr, Richard A., Honigman Miller Schwartz and Cohn, Detroit**

Bogas, Kathleen L., Law Offices of Kathleen L. Bogas, Bingham Farms

Branigan, Thomas P., Bowman and Brooke, Troy

Bretz, Daniel J., Clark Hill, Detroit

Brooks, Keefe A., Brooks Wilkins Sharkey & Turco, Birmingham

Brower, Jr., Robert D., Miller Johnson, Grand Rapids

Calzone, David B., Vercruyse Murray & Calzone, Bingham Farms

Cameron, Jr., John G., Dickinson Wright, Grand Rapids

Campbell, Lawrence G., Dickinson Wright, Detroit

Carson, Robert M., Carson Fischer, Bloomfield Hills

Case, James R., Kerr Russell and Weber, Detroit

Chalgian, Douglas G., Chalgian & Tripp Law Offices, East Lansing

Christensen, David W., Charfoos & Christensen, Detroit

Cranmer, Thomas W., Miller Canfield Paddock & Stone, Troy

Dawda, Edward C., Dawda Mann Mulcahy & Sadler, Bloomfield Hills

Deneweth, Ronald A., Deneweth Dugan & Parfitt, Troy

Dozeman, Douglas A., Warner Norcross & Judd, Grand Rapids

Driker, Eugene, Barris Sott Denn & Driker, Detroit

DuMouchel, David F., Butzel Long, Detroit

Eisenberg, Sue Ellen, Sue Ellen Eisenberg & Associates, Bloomfield Hills

Erman, Earle I., Erman Teicher Miller Zucker & Freedman, Southfield

**Ettinger, David A., Honigman Miller Schwartz and Cohn, Detroit**

Feldstein, Robert Z., Robert Z. Feldstein, Troy

Fisher, Charles W., Kitch Drutchas Wagner Valitutti & Sherbrook, Detroit

**Foltyn, David, Honigman Miller Schwartz and Cohn, Detroit**

Garvey, Robert F., Thomas Garvey Garvey & Sciotti, Saint Clair Shores

Gasiorek, Donald J., Gasiorek Morgan & Greco, Farmington Hills

Gierak, John L., Clark Hill, Birmingham

Gleeson, Kevin J., Sullivan Ward Asher & Patton, Southfield

**Gold, Kenneth C., Honigman Miller Schwartz and Cohn, Detroit**

Googasian, George A., The Googasian Firm, Bloomfield Hills

Gordon, Deborah L., Deborah L. Gordon, Bloomfield Hills

Granzotto, Mark R., Mark Granzotto, Royal Oak

Griem, David, Jaffe Raitt Heuer & Weiss, Detroit

Grix, Henry M., Dickinson Wright, Bloomfield Hills

Hardy, Elizabeth P., Kienbaum Opperwall Hardy & Pelton, Birmingham

Hayes, David M., Clark Hill, Detroit

Hickey, Patrick F., Dykema Gossett, Detroit

Howlett, Timothy H., Dickinson Wright, Detroit

**Indenbaum, Michael A., Honigman Miller Schwartz and Cohn, Detroit**

Jaffe, Ira J., Jaffe Raitt Heuer & Weiss, Southfield

Jordan, Lawrence R., Jaffe Raitt Heuer & Weiss, Ann Arbor

Kamenec, Robert G., Plunkett Cooney, Bloomfield Hills

Kessler, Philip J., Butzel Long, Detroit

Kienbaum, Thomas G., Kienbaum Opperwall Hardy & Pelton, Birmingham

Klimko, Justin G., Butzel Long, Detroit

Kotzian, David A., David A. Kotzian, Farmington Hills

**Kunz, Donald J., Honigman Miller Schwartz and Cohn, Detroit**

Lankfer, Marilyn A., Varnum, Grand Rapids

**Lewis, Denise J., Honigman Miller Schwartz and Cohn, Detroit**

Little, Nancy L., Foster Zack Little Pasteur & Manning, Okemos

**Lockman, Stuart M., Honigman Miller Schwartz and Cohn, Detroit**

March, Jon G., Miller Johnson, Grand Rapids

McDowell, Ralph E., Bodman, Detroit

McGee, Michael P., Miller Canfield Paddock & Stone, Detroit

**McLaughlin, Lawrence D., Honigman Miller Schwartz and Cohn, Detroit**

McNeill, Thomas G., Dickinson Wright, Detroit

Merry, Cynthia E., Merry Farnen & Ryan, Saint Clair Shores

Mielock, Douglas A., Foster Swift Collins & Smith, Lansing

Miller, E. Powell, The Miller Law Firm, Rochester

Minkus, Daniel H., Clark Hill, Birmingham

Mulcahy, Michael D., Dawda Mann Mulcahy & Sadler, Bloomfield Hills

Murray, Gregory V., Vercruyse Murray & Calzone, Bingham Farms

Muth, Jon R., Miller Johnson, Grand Rapids

Newman, Marc L., The Miller Law Firm, Rochester

Olsman, Jules B., Olsman Mueller Wallace & MacKenzie, Berkley

Pappas, Edward H., Dickinson Wright, Bloomfield Hills

**Parsigian, David N., Honigman Miller Schwartz and Cohn, Ann Arbor**

Pesick, Jerome P., Steinhardt Pesick & Cohen, Birmingham

Piggott, Cameron H., Dykema Gossett, Detroit

Pinsky, H. Rhett, Pinsky Smith Fayette & Kennedy, Grand Rapids

Pitt, Michael L., Pitt McGehee Palmer Rivers & Golden, Royal Oak

**Polito, Joseph M., Honigman Miller Schwartz and Cohn, Detroit**

Ritok, Joseph A., Dykema Gossett, Detroit

Rom, Barbara J., Pepper Hamilton, Detroit

**Ross, Linda S., Honigman Miller Schwartz and Cohn, Detroit**

Ross, Mary Massaron, Plunkett Cooney, Detroit

Salesin, Lowell D., Maddin Hauser Wartell Roth & Heller, Southfield

Sankbeil, William A., Kerr Russell and Weber, Detroit

**Sargent, William D., Honigman Miller Schwartz and Cohn, Detroit**

# the top 10

**Ankers, Norman C., Honigman Miller Schwartz and Cohn, Detroit (2nd Top Point Getter)**

**Aviv, Joseph, Honigman Miller Schwartz and Cohn, Bloomfield Hills**

Bogas, Kathleen L., Law Offices of Kathleen L. Bogas, Bingham Farms

Bretz, Daniel J., Clark Hill, Detroit

Cranmer, Thomas W., Miller Canfield Paddock & Stone, Troy (Top Point Getter)

Driker, Eugene, Barris Sott Denn & Driker, Detroit (3rd Top Point Getter)

Kotzian, David A., David A. Kotzian, Farmington Hills

Miller, E. Powell, The Miller Law Firm, Rochester

Muth, Jon R., Miller Johnson, Grand Rapids

Pappas, Edward H., Dickinson Wright, Bloomfield Hills

Shulman, Larry R., Bodman, Detroit

Strote, Ronald P., May Simpson & Strote, Bloomfield Hills

Sullivan, Michael J., Collins Einhorn Farrell & Ulanoff, Southfield

Turner, Jr., Reginald M., Clark Hill, Detroit

Vercruyse, Robert M., Vercruyse Murray & Calzone, Bingham Farms

von Ende, Carl H., Miller Canfield Paddock & Stone, Detroit

Wagner, Douglas E., Warner Norcross & Judd, Grand Rapids

Walters, David B., Bodman, Troy

Watson, Jerome R., Miller Canfield Paddock & Stone, Detroit

**Winsten, I.W., Honigman Miller Schwartz and Cohn, Detroit**

Woods, Sharon M., Barris Sott Denn & Driker, Detroit

Young, Rodger D., Young & Susser, Southfield

Zitterman, Susan H., Kitch Drutchas Wagner Valitutti & Sherbrook, Detroit

the top

# 50

women

The following is an alphabetical listing of the women lawyers who received the highest point totals in the 2009 *Michigan Super Lawyers* nomination, research and blue ribbon review process.

Abrahamsen, Maria B., Dykema Gossett, Bloomfield Hills  
Allen, Tracy Lee, Bodman, Detroit  
Basile, Marjory G., Miller Canfield Paddock & Stone, Detroit  
Bogas, Kathleen L., Law Offices of Kathleen L. Bogas, Bingham Farms

**Calton, Judy B., Honigman Miller Schwartz and Cohn, Detroit**

Cohen, Susan E., Law Office of Susan E. Cohen, Bloomfield Hills  
Cole Pierce, Anne, Anne Cole Pierce, Franklin  
Conway, Sue O., Warner Norcross & Judd, Grand Rapids  
Dennehy, Bernadette M., Dickinson Wright, Detroit  
Deveney, Marie R., Dykema Gossett, Ann Arbor  
Donati, Donna J., Miller Canfield Paddock & Stone, Detroit  
Eisenberg, Sue Ellen, Sue Ellen Eisenberg & Associates, Bloomfield Hills  
Friedlaender, Susan K., Berry Reynolds & Rogowski, Farmington Hills

Gordon, Deborah L., Deborah L. Gordon, Bloomfield Hills  
Gotthelf, Beth S., Butzel Long, Bloomfield Hills

**Greene, Margaret E., Honigman Miller Schwartz and Cohn, Detroit**

Gretchko, Lisa S., Howard & Howard, Royal Oak  
Hardy, Elizabeth P., Kienbaum Oppenwall Hardy & Pelton, Birmingham  
Hebert, Deborah A., Collins Einhorn Farrell & Ulanoff, Southfield  
Karr, Carol J., Miller Johnson, Grand Rapids  
Keppelman, Nancy, Stevenson Keppelman Associates, Ann Arbor  
Kornfield, Susan M., Bodman, Ann Arbor  
Lang, Kathleen A., Dickinson Wright, Detroit  
Lankfer, Marilyn A., Varnum, Grand Rapids  
Larson, Mary Jo, Warner Norcross & Judd, Southfield

**Lewis, Denise J., Honigman Miller Schwartz and Cohn, Detroit**

Little, Nancy L., Foster Zack Little Pasteur & Manning, Okemos  
Maiuri, Anna M., Miller Canfield Paddock & Stone, Troy  
McAllister, Lori, Dykema Gossett, Lansing  
McGehee, Cary S., Pitt McGehee Palmer Rivers & Golden, Royal Oak  
Merry, Cynthia E., Merry Farnen & Ryan, Saint Clair Shores  
Miziolek, Aleksandra A., Dykema Gossett, Detroit  
Navarro, Monica P., Frank Haron Weiner & Navarro, Troy  
Nichols, Margaret J., Nichols Sacks Slank Sendelbach & Buiteweg, Ann Arbor  
Norris, Megan P., Miller Canfield Paddock & Stone, Detroit  
O'Neill, Judy A., Foley & Lardner, Detroit  
Ossian, Kathryn L., Miller Canfield Paddock & Stone, Detroit  
Peters, Marilyn A., Dykema Gossett, Bloomfield Hills

Rochkind, Rosalind H., Garan Lucow Miller, Detroit  
Rom, Barbara J., Pepper Hamilton, Detroit  
Rosati, Carol A., Johnson Rosati LaBarge Aseltyn & Field, Farmington Hills

**Ross, Linda S., Honigman Miller Schwartz and Cohn, Detroit**

Ross, Mary Massaron, Plunkett Cooney, Detroit  
Rotter, Harriet B., Harriet B. Rotter, Franklin  
Slank, Noreen L., Collins Einhorn Farrell & Ulanoff, Southfield  
Susskind, Judith A., The Thurswell Law Firm, Southfield  
Wheaton, Jill M., Dykema Gossett, Ann Arbor  
Woods, Sharon M., Barris Sott Denn & Driker, Detroit  
Zabriskie, Wendy L., Bodman, Troy  
Zitterman, Susan H., Kitch Drutchas Wagner Valitutti & Sherbrook, Detroit