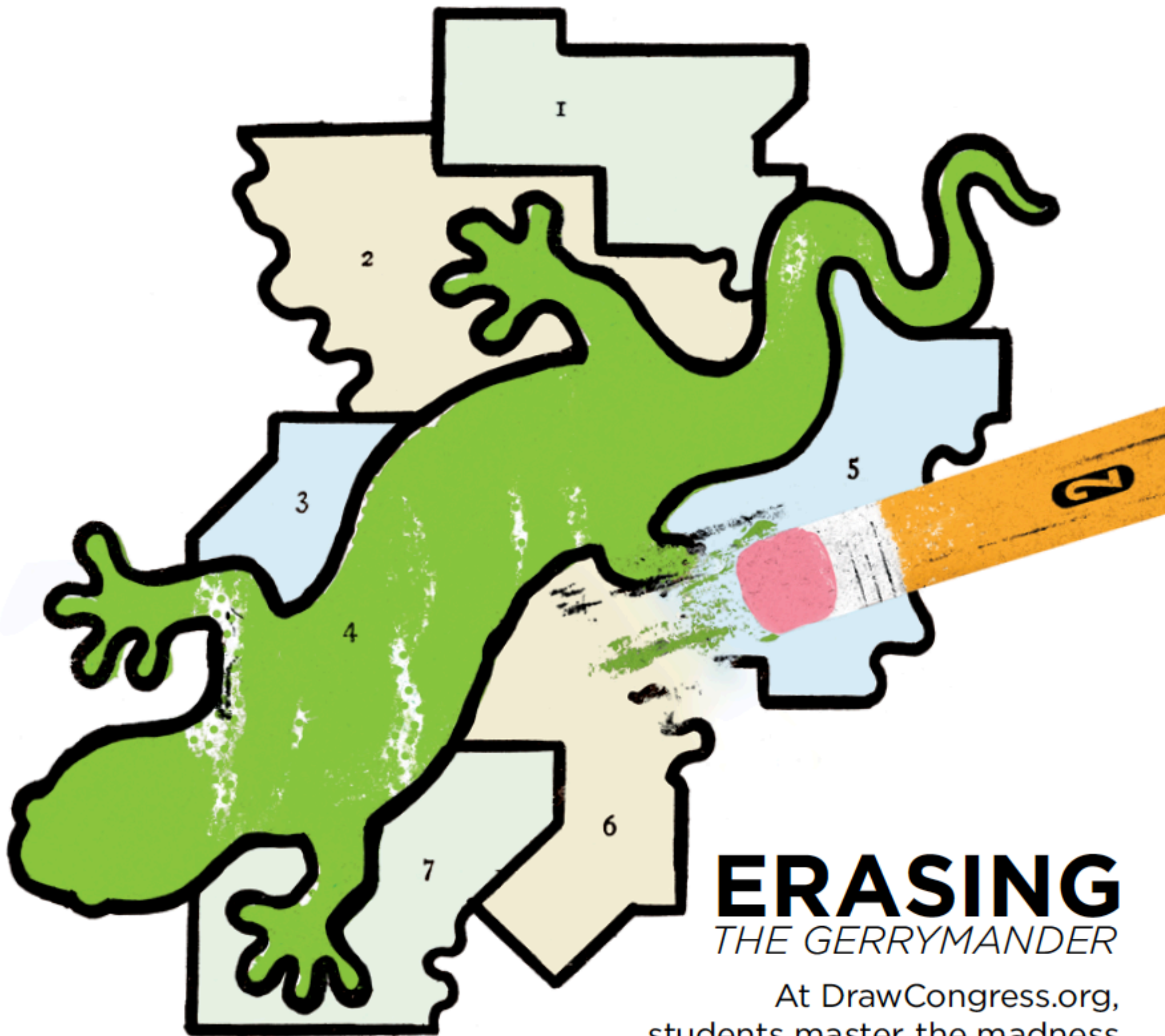


Columbia Law School

Fall 2011

Magazine



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max berger:

THE GUARDIAN

For practitioner, philanthropist, and photographer Max Berger '71, success goes hand in hand with maintaining focus **BY PAULA SPAN**

Max W. Berger '71 arrived at Columbia Law School with a scholarship, an accounting degree from City College's Baruch School, and a conviction that "the practice of law [for me] had to have some social value." But, he acknowledges, "I didn't know what that would be."

The answer appeared on a school bulletin board: He needed a part-time job, and Sidney Silverman '57, a solo practitioner downtown, wanted to hire students as researchers on an important class-action securities case.

Working at a plaintiffs' law practice, representing investors who had been misled, satisfied Berger's Robin Hood ambitions. "I always felt I wanted to use my career to fight injustice," he says.

Four decades later, the boutique firm he co-founded in 1983, Bernstein Litowitz Berger & Grossmann, has compiled an astounding record of success in complex, often high-profile cases.

Victory souvenirs—news-paper accounts encased in Lucite—displayed among the family snapshots in his mid-town office commemorate Cendant (\$3.3 billion recovered for shareholders), WorldCom (\$6.15 billion), and Nortel (\$1.3 billion)—a rogue's

gallery of turn-of-this-century financial scandal.

However complicated his cases, often fought over years, Berger still talks about them in simple terms. The investors Bernstein Litowitz represents, largely public pension funds, include "regular citizens—teachers, firemen, cops." The companies, auditors, officers, and bankers that harm them, he says, should be held accountable.

In the WorldCom case, for instance, "The board of directors was sitting on its hands during the entire course of this fraud," Berger says. "We thought they should pay." The 2005 settlement contained a novel provision: 20 percent of directors' collective net worth over \$24 million. "It sent shock waves," he says with a satisfied chuckle. "That outside directors would have to reach into their own pockets for not doing their jobs was the most radical experience."

Also on display in Berger's office, however, is evidence of another lifelong enthusiasm: He is an accomplished, largely self-taught photographer who has roamed the world—from Havana to Beijing to Antarctica—with his Nikon. The prints on his wall portray children in Ecuador and Cape Town. "They

tell me something about the future," Berger says.

His photography serves both artistic and philanthropic aims. Proceeds from an exhibit of his work at the Laumont Gallery went to City Year New York, which supports young volunteers in community service; he also annually donates work to an auction benefitting inMotion, which provides free legal services to battered women.

Berger's philanthropy also extends to Columbia Law School, where he and his wife have endowed a fellowship to pay the tuition loans of a graduate who practices public interest law. His firm also established a fellowship for graduates working on anti-discrimination cases. In February, the Law School presented Berger the Medal for Excellence, its highest honor.

Meanwhile, his 55-attorney firm has waded hip-deep into

IN FEBRUARY, THE LAW SCHOOL PRESENTED BERGER THE MEDAL FOR EXCELLENCE, ITS HIGHEST HONOR.



the latest round of financial industry litigation, sparked by the near-meltdown of the global economy. As much as Berger believes that his firm's settlements, which include corporate governance reforms, provide "a prophylactic effect against wrongdoing," he has not yet managed to put himself out of business.

Representing public employee pension funds, Bernstein Litowitz is the court-appointed co-lead counsel in a case brought against now-bankrupt Lehman Brothers, the first domino to fall during the financial crisis. The firm also is pursuing cases against Bank of America, Goldman Sachs, JPMorgan Chase, and others.

Berger would rather see government regulators and prosecutors compel changes in corporate behavior. Until then, he will be a busy man with no plans to retire. Despite the legal and ethical responsibilities of auditors, attorneys, brokers and bankers, officers, and directors, he says, "We have way too many examples of greed overtaking all these gatekeepers."

PAULA SPAN teaches at Columbia University's Graduate School of Journalism.

