

California LAWYER

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2010 CLAY Awards

We honor 44 lawyers for their extraordinary achievements in 2009.

by the editors of California Lawyer

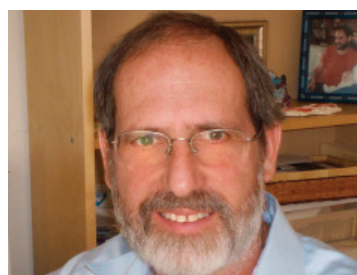
The California Lawyer Attorneys of the Year Awards recognize lawyers throughout the state whose legal work made a profound impact in 2009. They include a state Assembly member, law professors, sole practitioners, and lawyers from large international law firms. Their practice areas range from appellate law and intellectual property to employment law and disability rights. Among their successes: winning a record whistleblower settlement against a defense contractor, negotiating the first loan guarantee from the Department of Energy for a solar-panel manufacturing plant, and setting a precedent on the federal courts' ability to cap state prison populations. Altogether, we identify 27 accomplishments in 17 areas of legal practice that reflect the breadth of the California State Bar. Congratulations to all the winners. —*Chuleenan Svetvilas*

ATTORNEYS OF THE YEAR / CONSTITUTIONAL LAW



Michael W. Bien

Rosen, Bien & Galvan, San Francisco



Donald H. Specter

Prison Law Office, Berkeley

Despite years of legal battles to correct problems in California's prisons, overcrowding skyrocketed while the quality of medical care for inmates plummeted. Bien and Specter tried a new tactic that yielded a first-of-its-kind legal victory and set a precedent on the ability of federal courts to cap state prison populations. In August, a special three-judge panel ordered the state to produce a plan for releasing roughly 50,000 inmates over two to three years to reduce the level of overcrowding from nearly 200 percent of capacity to 137.5 percent.

Bien and Specter prevailed despite the restrictive Prison Litigation Reform Act of 1995, passed by Congress to discourage inmate litigation and limit the ability of a single federal judge to order prisoner releases in overcrowding cases. It requires a three-judge review panel to consider such cases. Although a handful of these panels had been appointed nationally, none had come to trial and concluded such a sweeping release order. Bien focused on proving inadequate mental health care (*Coleman v. Schwarzenegger*), while Specter pressed claims of inadequate medical care (*Plata v. Schwarzenegger*). In facilities built to hold fewer than 100,000 inmates but packed with 170,000 as the population peaked, they argued, an average of one inmate per week died from inadequate care. Overcrowding was the primary cause, the panel found.

Not everyone embraced Bien and Specter's strategy of taking the issue to the federal panel. Some worried that the new overcrowding challenge would let the state delay population reductions even longer. But over the years, courts have issued more than 70 orders in the California litigation that the state has ignored or violated, notes corrections specialist and attorney Michael Hamden of North Carolina. "On the contrary," he says, "the release order is remarkable."