

# Lawyers Who Make Cable Deals Legal

## IN A TRANSACTION-FILLED YEAR, SOME NAMES OF COUNSELORS TO KNOW

BY GARY ARLEN

The coming year promises to be deal-filled, partly owing to Comcast's planned spinoff of systems after acquiring Time Warner Cable, plus further corporate consolidation the big merger will inspire. That's one reason getting the best legal advice is important for everyone in the communications business.

Multichannel News is introducing this roster of lawyers who matter, to accompany the three-year-old Financial All-Stars list (the latest edition of which appeared in the Feb. 17 edition). This alphabetical listing is not a ranking and is not intended to be all-inclusive. Rather, it is intended to introduce nine lawyers with communications, media, entertainment and technology practices, who understand the needs of cable operators, programmers and vendors — and who know how to make sure cable deals are good ones for their clients.

### Burt Braverman

**Title:** Partner, Davis Wright Tremaine LLP, Washington D.C.

**Background:** Braverman's first move into cable legal affairs was a short one: just a few blocks from George Washington University Law School (where he was editor of the



*Journal of International Law*) directly to the pioneering cable law firm that became Cole Raywid and Braverman, where he was a top partner for 38 years. In 2007, Braverman's firm merged with Davis Wright. He has advised cable operators on the formation of partnerships, joint ventures and joint buying groups, and the antitrust aspects of those transactions, and represented programmers in distribution, content and satellite deals, as well as during international expansion. Braverman is a member of the Cable Pioneers.

**Notable Cable Deals:** Braverman represented Playboy Enterprises in the sale of its digital and television assets to Manwin International, which became its operating partner for some Playboy-branded online and entertainment businesses. The transaction, which marked Playboy's evolution to a brand-management company, was the second largest in its history. Braverman is currently working with two independent cable networks that are negotiating their acquisition by multi-network operators. He advised joint buying groups on transactional and antitrust elements of agreements intended to achieve the greatest leverage and efficiency in content acquisition from sports leagues and multi-network operators. He has worked on the formation of joint buying groups and on a collaboration among three major telecom companies to share infrastructure. He was instrumental in the formation of the Sunshine Network in Florida by all of the state's cable operators at the time, and has handled legal affairs for a joint-venture deal for content distribution in the Middle East.

**Outlook for 2014:** "Some of the most interesting deals are ones that actually didn't get completed, because they pushed the boundaries of existing relationships a bit too far. But they may be coming around again in light of the wave of further consolidation that Comcast-TWC may kick off and the transformative effect of both technological and regulatory developments." ◻

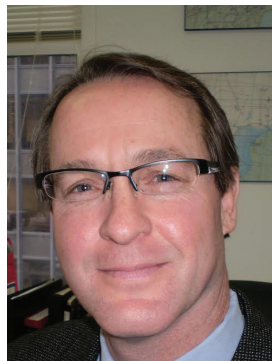
### Chris Cinnamon

**Title:** Of Counsel/ Founder (formerly Managing Partner), Cinnamon Mueller, Washington, D.C.

**Background:** Cinnamon calls his eight years in naval aviation "wonderful training for representing cable companies and working on transactions and disputes that, at times, involve a degree of intensity, risk, and pressure." But cable is "certainly manageable" compared to multi-aircraft dogfights and night approaches to aircraft carriers. (His second-degree black belt in karate may also be useful.) Cinnamon established Cinnamon Mueller after experience at other firms. In addition to representing cable operators in mergers, acquisitions and financing, he has handled retransmission consent, programming and technology agreements and has served as legal/regulatory counsel to the American Cable Association since 1995. He earned his degree from the University of Michigan Law School.

**Notable Cable Deals:** Cinnamon Mueller focuses on small and medium-sized operators. Cinnamon assisted with franchise transfers in Mediacom Communications' initial system purchases and subsequently handled dozens of its smaller acquisitions. He cites a particularly memorable deal: LB Cable's purchase of the Mallard Cable assets out of bankruptcy. Most of the systems were spun off to different buyers the same day. It took "months of planning, negotiating and contracting," he said, culminating in more than 12 closings in 24 hours. Cinnamon has been involved in M&A deals for Milestone, Shen-Heights, Broadstripe, Valley Cable, Horizon, LB Cable, Sunflower, Sun Country, Baja, Harron, Atlantic Broadband, Grande, WideOpenWest and Great Plains.

**Outlook for 2014:** "There remains plenty of interest in the cable/broadband business, including small market systems. The sale of the Time Warner Cable systems will likely result in another wave of deals when the ultimate buyer rationalizes the acquisitions ... What is nonstrategic to a major MSO can often be great opportunities for a smaller operator, competitive provider or a new entrant. So long as the economy remains stable, the cable deal market should remain active for the foreseeable future." ◻



### Jeffry Hardin

**Title:** Partner, Edwards Wildman Palmer LLP, Washington, D.C.

**Background:** Hardin has focused on cable-related deals since teaming up with Aaron Fleischman in 1987 at the firm of Fleischman and Harding (formerly Fleischman and Walsh). Twenty-seven years (and two more law firm mergers) later, Hardin's client roster includes Time Warner Cable (for which Edwards Wildman is working on the franchise transfers in the pending Comcast merger) and several midmarket operators. He has represented Time Warner Cable in many small and midmarket transactions, investments and joint ventures since the late 1990s, and noted that he worked on several sizeable deals that TWC opted not to pursue. Hardin graduated from Columbia School of Law.



**Notable Cable Deals:** Hardin was lead counsel to Baja Broadband when it sold cable systems to an affiliate of Telephone and Data Systems in a \$267.5 million deal in 2013. His recent deals for Time Warner Cable have included its purchase of CoBridge Broadband cable systems in 2011 and its \$600 million acquisition last year of fiber telecommunications company DukeNet Communications. Hardin also assisted TWC in its 2011/2012 purchase of Insight Communications (as co-counsel with Paul Weiss) and has advised TWC in the internal reorganization of all of its cable systems. In addition to his ongoing work for TWC in connection with various tower, fiber and cable-related contractual matters, Hardin presently is handling a small cable-system acquisition for TWC.

**Outlook for 2014:** "Based on recent pricing, I think you will see more smaller, 'mom and pop' cable systems come on the market. Financial buyers have the money, but some of them are looking for larger opportunities (\$100 million and larger deals). There are several strategic buyers looking to grow, although they might shy away from the higher asking prices being bandied about. Charter and Suddenlink come to mind, and I know Telephone and Data Systems is actively shaking the tree for deals. Each of these strategic buyers, however, probably only wants to buy systems in the same general region as the ones it already owns." ◻

### Gary Lutzker

**Title:** Partner, BakerHostetler, Washington, D.C.

**Background:** Lutzker's interest in cable law began as a student at Benjamin N. Cardozo School of Law, studying the newly adopted 1992 Cable Act under the legendary communications attorney and educator Monroe Price. That led to an internship at the New Jersey Board of Public Utilities, helping that agency interpret the new law. Subsequently, Lutzker became telecommunications counsel for three years for New York City's Department of Information Technology and Telecommunications, which oversaw cable franchises. He joined BakerHostetler in 2013 after 17 years at Dow Lohnes, PLLC.

**Notable Cable Deals:** Lutzker represented Insight Communications in its \$3 billion sale to Time Warner Cable. He worked with Cox Communications when it bought the large Media General cable system in Northern Virginia and when it sold systems in Texas and elsewhere to what is now Suddenlink Communications. Lutzker represented FrontierVision when it sold systems to Intermedia and later represented Intermedia in transactions for systems in Kentucky. He has also handled transactions for Midcontinent Communications and Service Electric Cablevision, among others.

**Outlook for 2014:** "If the Comcast-Time Warner Cable transaction is successful, it will create the impetus for other operators to scale up. Since Comcast is committed to divesting some systems, other companies may seize the opportunity to get larger by consolidating within geographic regions." ○



### Barbara Meili

**Title:** Chair, Entertainment and Media Practice, Greenberg Traurig, New York

**Background:** Meili began her legal career with a Wall Street firm, where she specialized in mergers and acquisitions and security offerings, eventually focusing on media firms. When she moved to Greenberg Traurig, she founded a media group (now with nine lawyers and paralegals) working on video programming and related transactions and tapping into the firm's resources in technology and intellectual property. Those capabilities have been useful in her recent work on new-media distribution agreements. Meili's legal training was at the New York Law School.

**Notable Cable Deals:** Meili's media clients include Fox News, Univision and A+E Networks, and she has provided counsel to programmers such as NESN, NHL Network, Pivot, ReelzChannel, Ovation, Tennis Channel, Retirement Living TV and nuvoTV. She has represented YES Network since its inception in all of its distribution deals.

**Outlook for 2014:** "There are always challenges in achieving the right balance of deal terms between a distributor and a content provider. Deals are increasingly complex due to the changes and improvements in technology, but the good news is that the video industry continues to be a thriving U.S. industry." ○



### Francisco Montero

**Title:** Co-Managing Partner, Fletcher, Heald & Hildreth, Washington, D.C.

**Background:** Frank Montero's practice includes corporate finance, asset and securities acquisitions, intellectual property, and real estate and commercial transactions, as well as Federal Communications Commission regulatory counseling. He served as director of the FCC's Office of Communications Business Opportunities, where he worked with industry, trade associations, financing institutions and governmental agencies to create business opportunities for entrepreneurs, startups and other small businesses. He is a member of the Federal Advisory Committee on Diversity for Communications in the Digital Age and on the board of directors of the Independent Spanish Broadcasters Association (ISBA), which he co-founded. The FCC has recognized Montero for "dedication to bridging the digital divide." Montero is a graduate of the George Washington University Law School.

**Notable Cable Deals:** Montero has counseled Spanish-language television networks on carriage and content distribution. Clients have included Ecuavisa, Vme, Soi TV, Buenavision, La Cadena del Milagro and Caribevision. He expects that deals involving sports programming rights, especially carriage rights for Latin American soccer (which is growing in popularity), will become even more active among cable and satellite carriers.

**Outlook for 2014:** "Companies, especially those with popular sports programming, are seeing great demand, which places them in a very good position. Right now, everyone has eyes on what will happen with the Aereo appeal to the Supreme Court and the fallout if the court sides with Aereo (although that increasingly seems unlikely), especially what cable companies will do. On the satellite side, we're closely watching the STELA reauthorization and proposals that would impact retransmission negotiations." ◉



### Mark J. Palchick

**Title:** Partner and head of telecommunications team, Womble Carlyle Sandridge & Rice, Washington, D.C.

**Background:** Palchick started his career at the FCC's Cable TV Bureau in 1975, moved to the Commerce Department's National Telecommunications Information Administration as a policy analyst four years later and subsequently became general counsel at CableVision Industries of Liberty, N.Y. When he returned to Washington to enter private practice, Palchick focused on international copyright and program-affiliation negotiations, plus mergers and acquisitions. He earned his law degree from Dickinson School of Law.

**Notable Cable Deals:** Palchick has worked extensively with MCTV, Wave Broadband and Liberty Cablevision on program acquisitions as well as programming disputes. As the principal deal and regulatory counsel for Cablevision of Texas, C4 Media and TKR Cable, Palchick said he sees today's largest deal activity for cable operators coming in negotiations for program affiliation agreements and intellectual property agreements. In his work for the Caribbean Cable Cooperative, which he created 15 years ago, Palchick handles contracts for the growing amount of legal video available in the non-U.S. Caribbean.

**Outlook for 2014:** "The cost of cable programming and retransmission consent is a major concern and, at the current rate, is not sustainable. Many of the major program-affiliation agreements are up for renewal in the near future. These will have to be negotiated in an environment where cash flow to cable programmers has skyrocketed while the cash flow for the cable video-distribution business has plummeted across the board. The risk of intellectual-property disputes relating to content and delivery has also risen dramatically over the last few years. A third major concern looking forward is the increasing demand for subscriber metadata from programmers, which runs directly contrary to the increasing demands for cable privacy." ◉



### Frank W. Ryan

**Title:** Partner and Chair, Intellectual Property Group, DLA Piper, New York

**Background:** Ryan is deputy chair of DLA Piper's Global Sports, Media and Entertainment Group. As outside counsel to ESPN, Ryan has handled litigation involving all facets of ESPN's intellectual property portfolio, including the X Games, made-for-TV movies, digital rights issues and licensing agreements. He has also litigated hundreds of intellectual property and commercial matters. Ryan earned his law degree from Syracuse University College of Law.

**Notable Cable Deals:** Ryan has run mergers-and-acquisitions teams in domestic and cross-border transactions involving media and sports. He counsels clients on content distribution agreements, as well as on intellectual property portfolio development and protection. Ryan's experience includes numerous engagements for ESPN, Disney, ABC, the Pac-12 Conference, Al Jazeera and beIN Sport. Cases have ranged from a defense of Disney/ABC and ESPN Productions in a trademark and defamation case involving a movie about the thoroughbred racehorse Ruffian. He currently represents ESPN and ABC in a case dealing with the alleged misuse of the names and likenesses of current and former NCAA Division I student-athletes.

**Outlook for 2014:** Recent consolidation in the distribution market is likely to be a catalyst for further consolidation among both distributors (seeking strategic opportunities to counter the growing influence of Comcast) and networks (scaling tactically to improve their negotiating strength with distributors in the face of significant downward pressure on sub fees). Negotiations regarding streaming rights — already a heavily negotiated component of all distribution agreements — are rapidly becoming a core concern, as affiliates seek to develop workable digital models (potentially including standalone online content offerings) and content owners attempt to position themselves for success without prematurely committing to a model in the face of an evolving over-the-top market. ◉



### Niki Frangos Tuttle

**Title:** Partner, Hogan Lovells, Denver

**Background:** A few years out of University of Colorado Law School, Tuttle had a legal mentor who brought her into the specialized practice of media and content licensing. She leveraged her earlier legal work in public finance and corporate transactions with her first cable client: Telecommunications Inc., at the time, the nation's largest cable company — a high-profile entry into the cable business. Moreover, since her firm was involved in bringing baseball's Colorado Rockies team to Denver and building Coors Field, Tuttle built a sports subspecialty into her practice.

**Notable Cable Deals:** Starting with TCI's affiliation agreement with Fox News Channel, the network's first affiliate, Tuttle has handled both operator and programmer deals. She worked with the legendary John Sie to launch Encore, the first "mini-pay" service, and later advised In Demand when it wrote its initial agreements for out-of-market sports packages NBA League Pass and NHL Center Ice. In 2010, Tuttle represented the Oprah Winfrey Network for its first carriage deals with distributors such as Comcast, Dish Network and Verizon Communications. Tuttle handled Charter's multiplatform deals to distribute ABC, Disney and ESPN channels and also its agreement for Showtime Anytime authentication services. She has also provided programming counsel to Time Warner Cable and the National Cable Television Cooperative. XM Satellite Radio was also a client during its early launch phase.

**Outlook for 2014:** "Programming networks and video distributors [will] continue to contend with ongoing technological innovation that will impact both the license and viewing of content. ... One challenge will be balancing the programmer's need to monetize expensive content with the distributor's need to provide a robust multiplatform subscription video offering at a reasonable price while, at the same time, protecting copyright and improving the advertising model, both of which are important to networks and distributors alike in this fast-changing world." ◉





