TRAILBLAZERS

LITIGATION

Theodore J. Boutrous Jr.

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PIONEER SPIRIT In law school, Ted Boutrous was immediately attracted to litigation. "It's the rare profession where you can make a difference and deal with a confluence of business, legal, commercial, social and political issues. Disputes get resolved and issues get decided."

TRAILS BLAZED When Boutrous first go involved in the seminal *Wal-Mart Stores Inc. v. Dukes* case in 2004, the class had just been certified. The U.S. Supreme Court had not looked at class actions in many years, and lower courts were divided in their decisions. "We asked, 'What should the law look like, and how do we get the Supreme Court to do that?' We went back to first principles looking to change the paradigm of how classes should be formed and certified," he says. "And the Supreme Court's decision overturning class certification really did dramatically change the class-action landscape." He is also lead counsel for the plaintiffs in *Vergara v. California*, which claims that the retention of ineffective teachers denies equal protection to students, in violation of the California Constitution. That case is currently on appeal in the California courts. "That case has been a significant impetus towards changing the debate around education inequality in the United States," he says. Boutrous is perhaps best known, however, for his role as lead lawyer for the plaintiffs challenging California Proposition 8, which eliminated the right of same-sex couples to marry.

FUTURE EXPLORATIONS With his involvement in Prop 8 and *Vergara,* Boutrous is interested in the ways that litigation can change a society. "All these other institutions of government have shown paralysis and an inability to improve things. The law and litigation can be invoked where other institutions have failed." He expects to see more and more of that. "While lawyers are sometimes viewed as a cost and impediment, often it's actually lawsuits that can change society for the better."