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Spitzer expected to cruise to 2nd term

By YANCEY ROY
ALBANY BUREAU

(Original publication: May 27, 2002)

NEW YORK — Winning his case seemed unlikely. New York Attorney General Eliot Spitzer was suing firearms manufacturers for causing gun violence.

He stood at the lectern as five appellate judges fired questions at him like fast balls, seemingly eager to send him back to his chair and dismiss his lawsuit.

Didn't you lose this case in a lower court? Didn't the state's highest court rule last year in a similar case that you couldn't hold gun manufacturers responsible for damages? How could gun makers possibly track and monitor sales?

And with each response, Spitzer demonstrated an approach that has marked his four years in office: Swing for the fences.

As New York's top lawyer, Spitzer, who is now running for re-election, has pursued an array of high-profile cases. He has gone after Midwest power plants causing acid rain. He targeted General Electric Co. for Hudson River pollution. He ran a sting to collar racetrack tellers laundering money. He persuaded the American Red Cross, after much hounding, to list people who received financial help after Sept. 11.

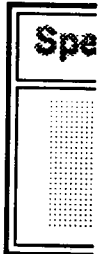
Spitzer also shook up Wall Street by going after financial giant Merrill Lynch, alleging its analysts knowingly promoted unpromising stocks. He said his aim was to overhaul how brokerage firms do business. Last week, Spitzer announced an unprecedented settlement: Merrill Lynch agreed to pay a \$100 million fine and reform its consulting practice.

Some said Wall Street regulators could see Spitzer as an ogre for infringing on their territory and going after an industry that has fueled

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New York's economy. But others think the case will help the attorney general appear as a watchdog for the public.

"You might think he's hurting himself in the business community. But this is the era of Enron, the era of people worried about their 401(k) retirement plans, said pollster John Zogby. "So ultimately, he wins because he's the protector of the little guy. It also sends a strong message to Wall Street: Be careful. On balance, that's probably a good thing."

So answering appellate questions on gun violence, which he did in the hearing this month, doesn't exactly rattle him. In fact, Spitzer relished the demanding give-and-take of the first case he argued in person since taking office in 1999 — he prepped in a 75-minute mock-court practice the day before.

"There's a joy in getting out there again," said Spitzer, a fast talker who's fond of saying he loves being a lawyer. He sat in the courtroom for an hour before his case was called, scouting "which judges are hot, who's smiling, who's having a good day."

Besides, courtroom sparring "is intellectually satisfying," the 42-year-old attorney general said.

Spitzer, with his lean build and deep-set, green eyes, likes going toe-to-toe.

He seemingly stays in motion. When he isn't conferring with an assistant, he's on the telephone. Lunch, including wolfing down a roast beef sandwich, takes only about 20 minutes.

In court, every time one of the judges served a question, Spitzer volleyed.

"In an appellate argument, that's what you're frequently confronted with," said Lawrence Greenwald, who as the attorney for gun manufacturer Sturm Ruger contended that previous court rulings held that gun makers couldn't be liable for negligent marketing. "A good lawyer wants that."

The current case probably won't be decided until summer.

Spitzer's energy has served him well in the political arena. He is popular among Democrats, who at their convention last week nominated him by acclamation to another term. Republicans didn't find a challenger until recently, leading some analysts to say he will be hard to beat. Already, some Democrats are talking about Spitzer running for governor in the future. He apparently is so well thought of within the party that last month, U.S. Senate Majority Leader Tom Daschle appeared at a Spitzer

fund-raiser and helped garner \$1.3 million at the event.

✓ "People are thinking this is not the last stop for Eliot Spitzer," said Marist College pollster Lee Miringoff.

Spitzer, the son of a Bronx real estate magnate, is a product of private schools. He graduated from Princeton University and Harvard Law School, where he once worked as an assistant to Alan Dershowitz to research the Claus von Bulow murder trial.

At 27, he joined the Manhattan District Attorney's Office. At 32, he was named chief of the Labor Racketeering Unit, where he took on the Gambino crime family. The case was settled when the Gambinos agreed to pay a \$12 million fine. In 1993, Spitzer went into private practice.

He ran for attorney general in 1994, but finished last in a four-way Democratic primary. He returned four years later and won another four-way party primary — after he was the only candidate to spend significant money. In fact, his opponents accused him of illegally accepting too much money from his father, Bernard, during the campaign.

Spitzer denied any law-breaking, but eventually admitted that his father had lent him money. In one of New York's closest races in the 20th century, Spitzer edged Republican Dennis Vacco, the first incumbent attorney general to lose re-election in 70 years. Analysts said abortion rights groups, who had been critical of Vacco, had an influence on the race as the vote came just months after a Buffalo doctor was assassinated by an anti-abortion protester.

This time around, Spitzer is the strong favorite.

"Clearly the opponent is not someone who has been around the statewide track. Spitzer brings name recognition, a four-year record and a lot of money to the table. Right now, this doesn't appear like a highly competitive contest," Miringoff said.

Republicans didn't zero in on an attorney general candidate until just weeks ago. Dora Irizarry, a Manhattan state Supreme Court justice, announced her candidacy last week. Analysts said tapping a Puerto Rican for the statewide ticket was part of the GOP strategy to widen its voting base and help Gov. George Pataki in his re-election bid. Spitzer has about \$3.2 million in his campaign chest, whereas Irizarry is just now forming her campaign.

Republicans, who four years ago said Spitzer's father bought him the post, haven't yet launched any attack on the incumbent. "I'm not going to comment on our opponent," said GOP state Chairman Sandy Treadwell.

In the past, Spitzer's targets have criticized his actions as politically

motivated. In 1999, when the attorney general sued GE for dumping PCBs into the Hudson River — even though federal regulators had a long-running case against the company — GE called it "politics, pure and simple."

Colleagues said aspirations for higher office don't drive Spitzer — carrying out the law does.

- ✓ "He has a real genuine outrage at any violations of the law, especially when someone is hurt and the wrongdoer is arrogant," said Connecticut Attorney General Richard Blumenthal, a family friend. "I know this
- ✓ sounds like a corny or hackneyed expression, but his whole (approach) is about serving as a public-interest advocate."

Blumenthal has teamed with Spitzer on some cases, such as suing Midwest power plants, but opposed him when Blumenthal fought to end New York City's tax on Connecticut commuters. "He can see both sides even when he's adamant about his position," Blumenthal said.

The best and most surprising thing about the job, Spitzer said, has been "the capacity to get involved on an unbelievably broad range of issues, in creative ways."

He said he has learned plenty about politics in the last four years, too — he has to put in a lot of time and travel. "You've got to reach out to lots of people and show them you care. You can't just sit in an office in Albany and New York City."

Spitzer's not all about lawyering, though. He is an avid runner who puts in three miles six days a week. The Manhattanite is also a race-car enthusiast — his brother-in-law is chief engineer for star NASCAR driver Jeff Gordon.

On the wall in Spitzer's 25th-floor office, which overlooks the spot where the World Trade Center once stood, there are three photographs in a line: Spitzer with Bill Clinton, Spitzer with Al Gore and Spitzer with Jeff Gordon. Beside it is a framed piece of Gordon's car that flew off during the Michigan 400.

A city boy as NASCAR buff may strike some as unusual. To others, it's fitting for a guy who loves a rush.