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Blank Rome Nabs Former Co-Chair Of Jackson Lewis

BY JUSTIN HENRY
Of the Legal Staff

A former Jackson Lewis firm co-chair, who helped found its class action and complex litigation practice group, is taking his employment law background to Blank Rome, as he looks to join a firm with more diversified practice areas.

Employment and class action litigator William J. Anthony last week transitioned from his post at labor and employment law firm Jackson Lewis, where he led the class action and complex litigation group and recently served as co-chair for an 18-month stint, to join Blank Rome's labor and employment and class action defense groups as a partner at the New York office.

Leaders at the Philadelphia-based Am Law 100 firm say they're looking to draw on Anthony's more than three decades of

Blank Rome *continues on* **10**

Giuliani Alleges Widespread Voter Fraud in Pa. in Trump Election Suit

BY P.J. D'ANNUNZIO
Of the Legal Staff

In Pennsylvania federal court Tuesday, President Donald Trump's lawyer Rudy Giuliani repeated generalized arguments of "widespread voter fraud" in an attempt to keep alive the president's hopes of overturning his election loss in the state.

Giuliani, in keeping with Trump's refusal to acknowledge President-elect Joe Biden's 2020 electoral victory, asserted that voter fraud was rampant in Pennsylvania. He also attempted to cast doubt on the validity of mail-in balloting and to blame the "Democrat machine" cities of Philadelphia and Pittsburgh.

"You'd be a fool to think this was an accident," Giuliani said to U.S. District Judge Matthew Brann of the Middle District of Pennsylvania in a Williamsport courtroom. The hearing was held to consider Pennsylvania Secretary of State Kathy Boockvar's motion to dismiss the lawsuit.

AP photo by John Minchillo
GIULIANI

The hearing comes as Trump's legal challenges in multiple states have been thrown out as meritless.

Giuliani pointed to Philadelphia's history of public corruption as an indicator that the election was stolen. He continued to claim that election observers were not allowed to witness vote counting in the city, which contributed to what the former mayor of New York said was the allowance of 1.5 million "illegal" votes to be counted statewide.

The president's lawyer entered into evidence photos he described as observers standing outside of polling places, one of which was shown with a pair of binoculars. As the items were

Giuliani *continues on* **10**

Ex-Employer Accuses Littler Lawyers of Misappropriating IP

BY DAN PACKEL
The American Lawyer

The Center for Workplace Compliance, a member organization that advises employers on handling equal employment opportunity and affirmative action requirements, has accused employment law powerhouse

Littler *continues on* **10**

Analysts Caution Against Forecasting Based on Declining 2020 Demand

BY ANDREW MALONEY
The American Lawyer

Legal demand took a dive over the past two quarters, falling by levels that haven't been seen since the wake of the Great Recession.

But experts cautioned against comparisons between the middle of this year and the start of 2013, the last time law firm demand dropped by more than 2.5%.

Composite demand numbers declined year-over-year by 5.9% in Q2 and 2.4% in Q3, according to the Thomson Reuters Peer Monitor Index report. For comparison, demand in the first quarter of 2013 contracted by 3.4% year-over-year.

Demand *continues on* **11**

– INSIDE THE LEGAL –

Postal ID on Page 8

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PEOPLE IN THE NEWS

SPEAKERS

MCMICHAEL

Virginia Hinrichs McMichael, managing attorney of **Appellate Law Group**, was the presenter at a Continuing Judicial Education seminar for the Philadelphia Court of Common Pleas judges.

McMichael's presentation, part of the court's Civil Conversations series, included an in-depth analysis of recent state and federal appellate law decisions in the areas of election law, medical malpractice, products liability, personal injury and commercial litigation, with a focus on procedural and evidentiary issues of interest to the judges.

Appellate Law Group is a **Women's Business Enterprise National Council**-certified woman-owned appellate law boutique based in Radnor.

ADDITIONS

Stradley Ronon Stevens & Young announced that **Julie M. Murphy** rejoined the firm's Cherry Hill, New Jersey, office as a partner in the financial services practice group.

Murphy previously practiced law at the firm from 2009 to 2017.

Murphy regularly advises financial institutions and other creditors in workouts, reorganizations and restructuring of defaulted credit facilities.

She represents a variety of creditors in all types of bankruptcy, insolvency, collection and foreclosure proceedings.

Murphy is a board member of the **Consumer Bankruptcy Assistance Project** and serves on the board of the **Greater Philadelphia Network of International Women's Insolvency and Restructuring Federation**.

She is a member of the Philadelphia chapter of the **Turnaround Management Association** and the **Risk Management Association**.

In addition, she is a graduate of the Young Leaders Program, a nonprofit board leadership training program held by the **United Way of Greater Philadelphia and Southern New Jersey**.

Murphy earned her Juris Doctor with honors from **Rutgers Law School**.

HONORED

Kleinbard, a Philadelphia-based law firm, announced that **Jennifer Zegel** was named a 2020 Bar Star by the probate and trust law section of the **Philadelphia Bar Association**.

The award recognizes Zegel's assistance in assembling materials and being a panelist on two of the section's CLE webinar presentations.

The webinars were assembled with short notice in response to the practical challenges posed by the pandemic with respect to the execution, witnessing and notarization of legal documents.

Zegel was recognized alongside **Karen Fahrner**, of counsel at **Heckscher Teillon Terrill & Sager**, at the section's quarterly meeting.

Zegel was also acknowledged for her work in estate planning and digital asset planning.

She was noted as one of the first attorneys in Philadelphia to work with the Register of Wills Office on virtual probate in Philadelphia County and for co-creating the Digital Planning Podcast, which explores all things digital in connection with estate planning, business planning and estate administration.

Zegel is also chair of the legislative committee for the probate and trust law section, which serves as a forum for members to discuss probate, wills, trusts, guardianship and estate law issues.

Zegel is a partner in Kleinbard's business and finance department and is practice leader of the trusts and estate group.

She has a special focus in estate planning and the estate administration of digital assets.

Zegel handles property transfers, which also overlap and intersect with technology, privacy and accessibility considerations.

Zegel regularly counsels clients on how to incorporate digital asset planning into an estate plan or business succession plan.

She regularly speaks at conferences, authors articles and is a media source on digital assets, cryptocurrency and blockchain.

ANNOUNCEMENTS

The Legal and Pennsylvania Law Weekly are looking for verdicts and settlements to report.

If you're a plaintiffs or defense attorney who has obtained a verdict or settlement in Pennsylvania county or federal court recently, email Zack Needles at zneedles@alm.com. •

All potential items for People in the News should be addressed to **Aleeza Furman** at The Legal Intelligencer, **afurman@alm.com**

REGIONAL NEWS

DiFiore: New Jury Trials Are Not 'Wise or Prudent' as COVID Cases Surge

BY RYAN TARINELLI
New York Law Journal

Chief Judge Janet DiFiore on Monday pointed to New York's worsening coronavirus figures as she discussed the court system's decision to halt new jury trials and new grand juries.

"With Thanksgiving and the year-end holidays fast approaching, it would not be wise or prudent for us to continue scheduling jury trials and summoning large numbers of jurors, lawyers, litigants and witnesses into our courthouses at this time," DiFiore said in a video statement Monday.

The indefinite shutdown of new jury trials was outlined Nov. 13 in a memorandum from Chief Administrative Judge Lawrence Marks, marking perhaps the most sweeping curb on in-person proceedings since March.

"No new prospective trial jurors" are being summoned for jury service as of Monday for both criminal and civil matters, according to Marks' memorandum. That goes for new potential grand jurors as well. The document did not specify when new jury trials might restart.

Sitting grand juries and ongoing civil and criminal jury trials will continue until their conclusion, according to the memorandum.

Photo by David Handschuh

New York Chief Judge Janet DiFiore.

DiFiore, in the video, said the moves are in response to a number of factors, including the rising average rate of positive coronavirus tests.

The court system, she said, is looking forward to bringing back new grand juries and restarting petit jury operations when it's safe. Since early September, state courts outside of New York City have tried 47 cases to verdict, she said.

"Our No. 1 priority is the health and safety of our judges, our professional staff and the public we serve," the chief judge said. "We will not put anyone's health and well-being at risk, and we will do everything in our power to help prevent the further spread and resurgence of COVID-19."

DiFiore said they also made the decision in light of new restrictions from Gov. Andrew Cuomo, who ordered bars, restaurants and gyms to close on a daily basis at 10 p.m. Accompanying that restriction was a ban on house gatherings with more than 10 people.

By many coronavirus metrics, New York's outbreak is headed in the wrong direction.

The number of average cases per 100,000 people is surging statewide and spiking dramatically in many parts of New York. The average rate of positive tests is climbing upward too. Plus, the number of people hospitalized with the virus is on the upswing to figures not seen in months.

And, although a far cry from the ravages of the spring, daily coronavirus deaths in New York are now consistently in the double figures.

A dozen areas scattered across the state are also subject to enhanced restrictions from Cuomo as they fight an upturn in cases.

Some areas of the state—particularly outside of downstate New York—are facing their worst coronavirus surges since the pandemic began.

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NATIONAL NEWS

London Lawyers Frustrated by Irish Cold Shoulder Ahead of Brexit

BY VARSHA PATEL
Law.com International

U.K. lawyers have expressed frustration at The Law Society of Ireland's decision to shut out England and Wales solicitors from practising Irish law post-Brexit, unless they work in the country.

In a move that threatens to jeopardise U.K. firms' Brexit strategy, England and Wales-based solicitors will no longer be granted Irish practising certificates, the Law Society of Ireland said Nov. 11.

U.K. lawyers bemoaned the fact the decision has come at such a late stage, pointing to a waste of time and money as firms underwent their Brexit planning.

"They could have worked this out maybe two or three years ago," a competition consultant at a top U.K. firm said, "but it's only now at the 11th hour that they have said no.

"It was always an artificial route, perhaps slightly too good to be true. But it would've been much better if this was made clearer much earlier," he added.

He also argued the Law Society of Ireland ought to pay the fees back to these firms who "took out practising certificates thinking it was reliable."

The Law Society of England & Wales said it was disappointed to hear the formal conclusions via the Law Society of Ireland's website rather than direct talks.

A person with knowledge of the situation said that both parties had been engaging in discussions, but the review and final outcome itself was unexpected. Meanwhile, one lawyer said he suspected the European Commission had a part to play, pressuring Ireland to put such restrictions in place.

"I also think the English law society was being a bit too respectful and not as assertive as it needed to be, as they didn't want to insult another professional bar," he said.

Pressure from local firms in the Irish market also had a part to play, according to a partner at a U.K. firm with an Irish presence. He suggested that perhaps some firms were leaning on the Law Society to take certain measures in an attempt "to control the market and who can practice."

Photo by Shutterstock

London skyline.

Ireland Launches?

The move will likely force U.K. firms to revaluate their Irish offerings, several lawyers said.

The "logical" solution would be for firms to set up in Ireland, the partner at a U.K. firm with an Irish presence said. However, he points to the heated office market and high rents, comparing the rent of their office to New York rates a few years ago as elements which may dissuade firms from making any hasty moves.

The competition consultant agreed that firms would need to carefully consider such a move, but suggested that "relative to the benefits a firm would get, it's too expensive to set up there."

One person with knowledge of the recent talks noted that it is too early to tell how firms will react. He argued if firms already have offices in Brussels and Frankfurt, for example, then they may not consider Dublin as necessary.

Numerous U.K. firms had increased the number of their solicitors on the Irish roll and taken out practicing certificates, hoping to bolster their post-Brexit EU law capabilities in the region.

Allen & Overy is one of several international firms to not have a physical presence in the city currently. Last year, 183 of the firm's solicitors held an Irish practising certificate, but the vast majority of that group have not renewed those this year, and the firm is not planning a refreshed affront to build its presence, according to a person at the firm.

The person added that obtaining a practising certificate was viewed as "nice to have" but not necessarily vital to servicing EU clients post-Brexit.

But for firms which have already opted for that, this new measure may usher in a new era of beefing up their services. Pinsent Masons, Fieldfisher and Dentons are among firms to have set up in Ireland in recent years. DLA Piper has continued to expand in Dublin, doubling its office space in the city in September 2019 and making various partner hires since.

While the new measure will have rankled many in the U.K. legal industry, the former competition partner concludes that its effects is unlikely to have a catastrophic impact on how it does business.

"It's a good way of getting at the U.K. legal profession, but it's not the end of the world. The U.K. will remain very important."

Varsha Patel can be contacted at vpatel@alm.com. •

Caltech and Quinn Head to Texas to Sue Dell and HP

BY SCOTT GRAHAM
The Recorder

The U.S. District Court for the Central District of California has been very good to The California Institute of Technology. Earlier this year, jurors in U.S. District Judge George Wu's courtroom awarded Caltech a $1.1 billion verdict against Apple Inc. and Broadcom Corp. for infringement of Caltech's error-correcting code technology.

Now Caltech and its same Quinn Emanuel Urquhart & Sullivan team are asserting the same patents under the same theory against HP and Dell in ... the U.S. District Court for the Western District of Texas. Wait, what?

I reached out to Joseph Abraham, co-author of the Western District of Texas Patent Blog, for thoughts as to why Caltech would surrender its home field advantage. Abraham said the explanation could be fairly simple. "Caltech might be prioritizing the time-to-trial schedule in Judge [Alan] Albright's courtroom, which is notably faster than the national average. Judge Albright has also been aggressive about keeping his cases moving forward during the COVID-19 pandemic via use of remote hearings."

"If HP and Dell know that they'll be facing a jury in Waco in fairly short order—with the C.D. Cal. jury verdict as damages evidence—Caltech may be relying on that to motivate an early settlement," he said.

That makes a lot of sense. But there could be an even more fundamental reason, Abraham notes. Caltech may not have a strong case for venue in the Central District against Dell and HP. Its hard to imagine neither HP nor Dell having any established business or retail presence in the tech-booming metropolis of 15 million people. But Lex Machina data indicates that nobody has sued the tech giants in the Central District since the Supreme Court's *TC Heartland* ruling on patent

Caltech *continues on* **8**

IN-HOUSE COUNSEL

Workforce Culture Really Is Board's Responsibility; CLO Has Related Role to Play

BY MICHAEL W. PEREGRINE
Corporate Counsel

The debates are over, the polls are closed and the decision is clear. The board does indeed have a fiduciary responsibility for oversight of workforce culture; it's not solely the province of management anymore. And that's a result that the CLO can comfortably report up the corporate ladder and take an active role as board adviser.

The question of board involvement in workforce culture matters has been a subject of dispute since the concept first arose with the advent of the #MeToo movement and greater focus on matters of employee bias and harassment. In 2017, the National Association of Corporate Directors issued a groundbreaking whitepaper that identified the oversight of culture as a key board responsibility, given its inextricable linkage with strategy, CEO selection and risk oversight.

Yet, while not discounting the legitimacy of the issue, some thoughtful CEOs and governance commentators nevertheless pushed back on the suggestion that the board had a role to play in the support and direction of workforce culture. It was a tough sell, even as many CLOs pointed to developments involving corporate exposure for culture deficiencies arising from multiple failures in corporate ethics, executive behavior and workplace environment. There was a view that, as important as these concerns were, they were properly the focus of the corporate human resources function. *Sorry, CLO, but just stay in your lane; this isn't a legal concern*.

MICHAEL W. PEREGRINE, *a partner at the law firm of McDermott Will & Emery, advises corporations, officers and directors on matters relating to corporate governance, fiduciary duties, and officer and director liability issues. His views do not necessarily reflect the views of the firm or its clients.*

But the tide has begun to turn with COVID-19 and related concerns about employee health and safety, employee morale and the pandemic's impact on gender workforce equality and inclusion. With this has come an increasing acceptance amongst the CEO "electorate" that a positive organizational culture is a meaningful corporate asset, worthy of board oversight. Yet some executives still seek a more concrete affirmation of significance before recommending the topic to the board for its attention; a provisional ballot, so to speak.

And that affirmation has emerged in the form of new research by the consulting firm Accenture, contained in its October 20 report, Modern Boards: Why Workforce Strategy Needs a Seat at the Boardroom Table**.** The report calls on boards to "understand and accept that fiduciary responsibility should also include addressing workforce challenges and strategic objectives such as inclusion and diversity, health and safety, and workforce reduction plans." In other words, board engagement in workforce strategy "is no longer a choice—it's critical."

> *The CLO is best positioned to advise the board on the scope and extent of its workforce culture oversight duties and its reliance on management in the exercise of those duties.*

The Accenture report notes that raising the accountability of workforce strategy to the level of the board of directors reinforces to executive leadership that their workforce initiatives and strategies are important, and monitored by the highest levels of corporate governance. It further notes that boards who provide such oversight and monitor executive leadership's efforts in this regard are significantly more likely to have a mature workforce strategy whose effectiveness is driven by metrics. This insight can be critical to advancing business strategy and mitigating risk, and can also help improve retention and culture, and prepare the workforce for the future.

The Accenture report thus provides the CLO with a legitimate and timely reason for reapproaching the leadership team about board oversight of workforce culture. But with that comes the need to demonstrate why the CLO should be considered a primary adviser to the board when it is called to consider these oversight issues. For while leadership's first reaction might be that the chief human resources officer should be the board's workforce culture adviser, the CLO should absolutely be part of the process as well—for many reasons.

In-House *continues on* **8**

INSIGHT ON DIVERSITY

Being Inclusive About Inclusion—How to Achieve Buy-In From Your Organization

BY BRIAN P. SEAMAN
Special to the Legal

BRIAN P. SEAMAN
is chief diversity officer and counsel at Stradley Ronon Stevens & Young in Philadelphia. He can be reached at bseaman@stradley.com or 215-564-8171.

Not too long ago, my firm's diversity committee hosted an after-work cocktail party that was simply (but accurately) named as an "Inclusion Happy Hour." Our reasons for hosting this event were entirely transparent—we wanted to invite all members of the firm to join committee members in their efforts to make Stradley Ronon Stevens & Young a more inclusive place and recognize that their participation and passion are necessary for our success.

Nonetheless, during the event, an attorney pulled me aside and asked whether he was "welcome" at the party. When I pressed him on what that meant, he just said, "this is a diversity event. I'm not diverse. I'm not gay. I'm not a woman. I'm not disabled. I think I'm an ally, but I am not exactly sure what that means, and I'm not sure whether I should be here."

I stopped and took a moment to take in this statement. An intelligent and highly empathetic lawyer truly believed that he was not welcome at an event, the fundamental characteristic of inclusion. This got me thinking—how many other members of the firm—and the world—felt the same way? How many wanted to become involved in diversity and inclusion efforts but felt either excluded or unsure of how to become involved? How many ignored these invitations because they were afraid of demonstrating their lack of knowledge in these areas? And how many failed to participate simply because they did not think that a more inclusive environment would affect their happiness or success?

These questions led me to scrutinize what more we could do to ensure everyone at Stradley—not just the diversity committee—was promoting inclusion at the firm. The answer was simple. We needed to make clear that creating an inclusive environment is not the sole responsibility of firm management or the diverse attorneys; it is instead the obligation of each and every individual that makes up the firm. Only when the efforts of the collective and the individual align can meaningful change occur.

When I pressed my colleague on why he believed his contribution was neither welcome nor requested, he presumed that he did not have the individual power or position to make meaningful change within the firm. He was also afraid of demonstrating his lack of cultural competency. While I recognized that both of these notions are valid, I pointed out that these perceptions should not and cannot stand in the way of individual responsibility for promoting inclusion.

Sadly, I have discovered over my time as the firm's chief diversity officer that my colleague's questions and concerns are widely held throughout corporate America and stand in the way of meaningful change. Often, individuals fail to take action to promote inclusion because they do not believe they have the power to affect the culture of the firm. This is simply wrong.

> *To ensure maximum buy-in, it is imperative to welcome individuals into inclusion efforts without scrutiny as to why they did not become involved earlier.*

The true impact of inclusion is most often felt in individual moments—in a moment when a junior associate is asked to join a well-established group for lunch, when a partner asks a colleague to join a pitch team and to perform meaningful work on that project, or when an employee asks her co-worker about her life experience and truly listens, even if for a short period of time. All of us can—and must—identify these moments in our lives and take individual action. The sum of those actions within a firm can be remarkable.

To ensure maximum buy-in, it is imperative to welcome individuals into inclusion efforts without scrutiny as to why they did not become involved earlier. Often, the failure of nondiverse individuals to become involved in diversity and inclusion is not because these individuals are racists, sexists or bigots. It is instead likely because those individuals never critically evaluated how their race, gender, sexual orientation and disability status may have

Insight on Diversity *continues on* **8**

Caltech

continued from **4**

venue. "So it had to go somewhere else—and then it was just a matter of where," Abraham posited.

Quinn partners James Asperger, Kevin Johnson, Todd Briggs and Brian Biddinger are reprising their roles from the Apple case in *The California Institute of Technology v. HP* and *The California Institute of Technology v. Dell*. Partners J. Mark Mann and G. Blake Thompson from Mann Tindel Thompson are providing local counsel.

Caltech alleges, as it did in the Apple case, that Low-Density Parity Check encoders first incorporated in the 802.11n Wi-Fi standard infringe Caltech-patented technology. All HP and Dell products that feature 802.11n, 801.11ac and 802.11ax versions of Wi-Fi therefore infringe U.S. Patents 7,116,710 and 7,916,781, Caltech alleges.

Caltech's team also contends that Apple filed 10 IPR petitions challenging the validity of the asserted patent claims, with the PTAB either denying institution in each or upholding the patentability of the asserted claims.

Apple and Broadcom are appealing the $1.1 billion district court judgment to the U.S. Court of Appeals for the Federal Circuit.

Scott Graham can be contacted at sgraham@alm.com. •

In-House

continued from **5**

First and foremost is, of course, that the CLO is the board's lead adviser on corporate governance and matters of fiduciary duty. The CLO is best positioned to advise the board on the scope and extent of its workforce culture oversight duties and its reliance on management in the exercise of those duties.

An additional reason is that the CLO is well positioned to advise the board on the various legal implications of workforce culture; e.g., application of labor and employment laws; liability exposure from employee claims; application of diversity laws and principles; the preparation, interpretation and enforcement of corporate codes of ethics and conduct; workplace health and safety regulations; and developing culture-related incentive goals of executive employment agreements.

And this is not a new concept. In its 2017 report, the NACD referenced the value of having the CLO (and other officers) "well positioned within management and in relationship to the board to support an appropriate culture."

This is not to suggest that the CHRO or similar officer should be excluded from these conversations. Rather, it is to emphasize that board workforce culture oversight requires the support of at least two different executive functions: human resources and legal. Perhaps corporate compliance, too. Yes, it may complicate the administrative process, increase the paper flow, extend meetings and require additional intra-leadership team coordination. But the net result will be that the board is far better prepared to exercise this new fiduciary obligation.

There's really no reason for a recount here; no need to question the validity of the process. The new Accenture report provides much welcomed affirmation of the principles that workforce culture is a valuable corporate asset; that it's the board's responsibility to exercise related oversight; and that it should have the input of the CLO, as well as the CHRO, when it does so.

This article first appeared in Corporate Counsel, an ALM affiliate. •

Insight on Diversity

continued from **7**

affected their lives and successes, either positively or negatively. These individuals did not become involved because these efforts did not directly affect them. However, instead of critiquing past inaction, firms should welcome them now and retain and support their passion for becoming an ally of inclusion.

Conversely, firms must respect and recognize that certain individuals may choose to opt out of inclusion efforts. This is especially true of underrepresented and diverse individuals who may feel like the burden of these efforts has been placed squarely on them or who may feel a responsibility to champion issues they are not passionate about. Firms must create environments where opportunities exist and where everyone understands their individual role in creating an inclusive workplace.

One of the most effective ways to achieve buy-in from all members of your organization is to be strategic about changing firm habits and culture since the importance of participation is hard to ignore. Here are three techniques that can build inclusion into the DNA of your firm:

First, make it a requirement that all department, administrative and practice group meetings actively embrace diversity and inclusion. This can take the form of including an agenda item at every meeting where a member of your diversity group reports on the status of the firm's efforts or leads a discussion on a specific diversity topic. It can involve setting ground rules to ensure that the conversation is not dominated by any one individual (or group of individuals) and that interruptions are not tolerated. Or it may involve merely reviewing the invited participants at each meeting to ensure that the group is diverse.

Second, embolden members of your firm to speak up and take action when they witness anti-inclusive behavior. I always recommend the three Cs—**C**ut in and stop the behavior, **C**hallenge the speaker (either immediately or in private), and **C**omfort the affected individual. Not all of these options fit every situation, but every situation requires action on the part of witnesses. It is not enough for a member of your firm to refrain from using anti-inclusive language; that individual must speak up in any instance where that language is used. It is also crucial as a firm to communicate that no one will face reprimand for speaking up in these situations.

Third, recognize contributions to inclusion when considering compensation or advancement. While every firm would prefer that all of their members actively engage in diversity and inclusion efforts voluntarily, there will always be those who ask why they should or need to participate. To provide that incentive and indicate that diversity and inclusion contributions will be considered in the same way that marketing efforts, pro bono hours or mentorship contributions are considered. And be sure to provide an opportunity in self-evaluation forms for attorneys to describe the specific efforts they have made to promote inclusion at the firm. Sometimes simply asking the question year after year will encourage participation.

So back to my colleague, the one who questioned whether he belonged at an inclusion event—I now speak with him almost every week about diversity issues. He is a vocal proponent of inclusion. He takes personal responsibility for making the firm a place where everyone is treated with respect and has an equal opportunity to succeed. He is completely bought in. And I have a feeling he will be the first to RSVP to the next Inclusion Happy Hour. •

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Blank Rome

continued from **1**

experience in representing employers, as the firm expects a "spike in litigation" as a result of the challenges that 2020 has presented to companies.

"The U.S. workforce is living through a time of crisis and uncertainty due to the implications of the COVID-19 pandemic," Jason E. Reisman, partner and co-chair of the labor and employment group at Blank Rome, said in a statement Monday. "We look forward to drawing on Will's impressive litigation talent and experience, as well as his ability to inspire and drive teams, to help deliver positive outcomes for our clients."

In an interview Monday, Anthony said he expects his work for the last 16 years—defending multiparty actions against companies, especially in the employment and wage space—to continue as his primary focus, with the added ability at Blank Rome to offer clients "broader advice and expertise in issues that crop up over the course of employment class action."

"Blank Rome has tremendous experience and will be very helpful to my practice and the ability to offer my clients the broader range of services," Anthony said. "For example, there's a lot of questions right now regarding structuring, bankruptcy and insurance recovery; Blank Rome affords me the ability to tell clients that we can be a one-stop shop for those kinds of issues."

For Anthony, the prospect of servicing clients with a wide variety of issues that arise in the labor and employment space was a significant draw to Blank Rome, he said.

"I think companies are facing a lot of different but interrelated issues right now due to an evolving legal landscape, and the ability to answer for them questions that crop up in a variety of areas was very attractive to me and I think will best serve clients and companies that I've worked for over the years," Anthony said.

Anthony, who said his first day at Blank Rome was Nov. 13 and within the same week of his last day at Jackson Lewis, said it's too early to comment on whether his clients will follow him to his new practice.

During his 31 years at Jackson Lewis, Anthony's tenure included serving in high-level leadership roles, including firm co-chair from January 2019 to June 2020, board member from 2005 to 2020 and the Harford, Connecticut, office managing principal from 2000 to 2008.

Anthony is also credited with launching and spearheading Jackson Lewis' class actions and complex litigation group in 2006 and growing it into one of the largest class action practices in the country.

"We needed to beef up our class action capabilities so the firm asked me to lead that effort," Anthony said, in reference to his work on building that practice at Jackson Lewis. "We did a very nice job of conveying to companies that the expertise in employment law, coupled with the geographic platform, was a good fit to handle the cases that we were seeing."

A spokesperson for Jackson Lewis, reached Monday for comment on Anthony's departure, said in a statement "the firm wishes Will the best."

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Giuliani

continued from **1**

admitted, Giuliani urged the judge to bear with him.

"I used to be a clerk. I hope I'm doing this right," he said. "In case I need a job after this."

During a break in the hearing due to technical difficulties, the Pennsylvania Supreme Court ruled 5-2 that Philadelphia acted in accord with state law in its handling of election observers.

Then came the defendants' turn. Attorney Daniel Donovan, who represented the secretary of state, argued that the Trump campaign had no standing to bring its claims in federal court. The plaintiffs claimed that the alleged voter fraud abridged the plaintiffs' right to vote, in violation under the equal protection clause of the 14th Amendment.

Donovan said the fact that Pennsylvania counties made it easier for people to vote by mail doesn't mean that the plaintiffs' right to vote was impeded.

Attorney Mark Aronchick, who represented several counties' boards of election in the case, criticized Giuliani's assertion that ballot drop boxes were susceptible to fraud, and implied that Trump's lawyers had acknowledged the plaintiffs' case to be weak by recently removing several claims from the lawsuit.

"The kinds of claims Mr. Giuliani is peddling today [claiming] that they amount to equal protection violations just don't," he said.

Aronchick also took issue with Giuliani's comparison of trying Trump's voter fraud case—laden with remarks about corruption in Democratic jurisdictions—to prosecuting the Mafia in New York.

"This is just disgraceful," Aronchick said, adding, "Please dismiss this case."

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Littler

continued from **1**

Littler Mendelson and two of its attorneys of improperly accessing its website and misappropriating its intellectual property.

The CWC lined up Morgan, Lewis & Bockius, which itself has a formidable labor and employment practice, for the 80-page complaint filed in Virginia federal court Nov. 13. In the filing, the organization zeroed in on the actions of two attorneys who previously worked for the organization.

The group alleged that Littler shareholder Lance Gibbons, who previously served as CWC's assistant general counsel, and Littler principal Chris Gokturk, who worked as CWC's senior adviser for compliance solutions, were well aware that law firms were among the groups barred from accessing its materials, but they did so anyway, using the firm's computer resources.

"The scale and scope of this unlawful conduct from the Littler IP address was extraordinary. Over the course of approximately seventeen (17) months beginning at least in November 2018, Defendant Littler's servers were used to unlawfully obtain CWC Members-Only Site materials approximately four hundred forty-two (442) times," the CWC said in the complaint.

The organization said that since it was founded in 1976, it has specifically excluded law firms and consulting firms from membership, in order to prevent these outfits from accessing its proprietary information and to allow member employers to engage in candid and open discussion of workplace compliance and risk management issues.

It alleged that both Gibbons, who was a Littler shareholder before joining CWC in 2015, and Gokturk were both aware of these restrictions when they arrived at Littler in the summer of 2018 and winter of 2019, respectively. The lawyers are based in Washington, D.C., and Virginia.

Nonetheless, Gibbons allegedly told a Littler client and CWC member that he needed access to the client's CWC password to access one particular CWC memorandum. Instead, Gibbons gained access to a significant number of materials over months and requested the client's updated password multiple times after it was changed, according to the suit.

Gibbons and Gokturk then allegedly used these materials to prepare their own presentations for clients, removing CWC copyright notices and substituting Littler's own copyright notice.

"Littler values and respects intellectual property rights, and we expect our attorneys to do the same," a firm spokeswoman said Monday. "The firm had no knowledge at the time of the alleged actions. As soon as we were made aware of the situation, we initiated an investigation and took immediate action based on our findings. As this is an ongoing litigation matter, we cannot provide any further comment."

A review of Littler's website shows Gibbons is no longer listed as an attorney there while Gokturk remains on the site. Gibbons' voicemail response indicated that he was no longer with the firm. Gokturk declined to comment on the allegations, referring a reporter to a firm spokesperson."

CWC alleges Littler didn't do enough to identify or stop the pair's alleged behavior.

"Defendant Littler failed to implement appropriate controls and reasonable safeguards including best practices for employers to avoid the recurring and voluminous misappropriation of intellectual property of CWC by defendant Gibbons and defendant Gokturk, along with possibly other employees, over a substantial period of time," the complaint said.

Altogether, the organization alleged two counts of copyright infringement, two counts of violating the Computer Fraud and Abuse Act, one count of fraud and one count of alternation of copyright management information.

The organization tapped Morgan Lewis trademark and copyright litigation practice co-leader J. Kevin Fee and litigation partner Mark Krotoski to lead the lawsuit. Fee declined to comment on the suit when reached Monday.

This suit was first identified through Law.com Radar.

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Demand

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However, the peaks and valleys in year-over-year figures can sometimes be more noise than signal, legal industry consultants said, and the Great Recession that characterized the early 2010s was a fundamentally different type of calamity than the COVID-19 pandemic.

"The fact pattern of this one is so different than prior ones that I'm just not sure how many lessons we can take from prior downturns," said Lisa Smith, principal at Fairfax Associates. "[Previously], there were market crashes and shareholder suits. It's just a very different environment in terms of what's going to create demand for law firms."

The peer monitor index, released last week, is a composite score created with data collected from 160 major law firms in the United States and some international markets, measuring drivers of law firm profitability, including demand, rates, productivity and expenses. On that overall measure, it gave the industry a score of 58 for the third quarter, up seven points from Q2 of 2020. That index score was 50 during the first quarter of 2013, when demand showed a 3.4% year-over-year decline.

Both time periods were typified by economic concern. But that could be where the similarities end.

"The market has simply never experienced anything like the unique challenges of 2020," said Bill Josten, manager of enterprise content for Thomson Reuters, in an email this week.

"While 2013 was the last time the market saw a quarterly drop in demand similar to that recently seen in Q3 2020, the circumstances were vastly different," he said. "In 2013, the market had somewhat choppy demand throughout the year that, even though there were fluctuations, were closer to what we would consider 'normal' demand fluctuations."

The peer monitor report also noted that with many firms cutting costs and scaling back hiring, they are "lucratively positioned as year-end approaches." Josten said in an interview that although demand is still down from where it was in 2019, it did increase between Q2 and Q3, which is encouraging for law firm leaders.

"It's a situation where less bad is good," he said.

Smith, of Fairfax, also said trends within a given year are sometimes a more helpful indicator about the market's health, as the comparisons between different quarters of different years can "over-amplify uneven patterns."

She added that one of the differences between 2020 and 2013 is that heading into the pandemic-induced recession, the fundamentals of the market "were pretty darn strong." Although 2020 has been especially bad for airlines and hospitality businesses, for example, technology companies and grocery chains are booming, and "from the law firm perspective, it's created work in a lot of those sectors," she said.

Bruce MacEwen, president of Adam Smith Esq., noted there were fears in early to mid-2013 of rate increases from the Federal Reserve, which can "dampen demand and tend to slow the economy down."

The continued spread of COVID-19, as well as preelection uncertainty, could be the root of the contraction in demand during the middle part of 2020, MacEwen said in an email. But, he added, it's also difficult to extrapolate law firm performance from individual quarters of data, especially as many firms have billing cycles that go longer than three months.

"I'd say sit tight another quarter and see what happens," he said.

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