

The Legal Intelligencer

PHILADELPHIA, WEDNESDAY, NOVEMBER 2, 2016

LEGAL & LITIGATION DEPARTMENTS OF THE YEAR



GENERAL LITIGATION (LARGE FIRMS)

Winner: Cozen O'Connor

GENERAL LITIGATION (MIDSIZE FIRMS)

Winner: Stradley Ronon Stevens & Young

GENERAL LITIGATION (SMALL FIRMS)

Winner: Meyer, Unkovic & Scott

APPELLATE AND PROFESSIONAL LIABILITY

Winner: Marshall Dennehey Warner Coleman & Goggin

CLASS ACTION AND PRODUCTS LIABILITY

Winner: Pepper Hamilton

INSURANCE

Winner: White and Williams

INTELLECTUAL PROPERTY

Winner: Dechert

LABOR & EMPLOYMENT

Winner: Morgan Lewis & Bockius

MEDICAL MALPRACTICE

Winner: Kline & Specter

GENERAL EXCELLENCE

Winner: Ellucian

IN-HOUSE LEGAL WORK

Winner: Penn National Gaming, Inc.

CORPORATE COMPLIANCE

Winner: JLT

OUTSIDE COUNSEL MANAGEMENT

Winner: Axalta Coating Systems

PRO BONO/COMMUNITY SERVICE

Winner: MSA-The Safety Company

GC IMPACT WINNERS

Cristina Cavalieri, Jefferson Health
Caroline Henrich, Henkels & McCoy
Jeffrey Kahn, CHOP



Photo by Nanette Kardaszkeski

Stradley Ronon Stevens & Young's litigation group.

MAKING THE MOST OF MIDSIZE

STRADLEY RONON TAKES 'LEAN AND MEAN' APPROACH

BY LIZZY MCLELLAN

Of the Legal Staff

When a litigation team from Stradley, Ronon, Stevens & Young enters a courtroom, it's usually outnumbered by the attorneys on the other side. But the Stradley Ronon lawyers like it that way.

"The way that we staff matters is unique relative to the firms that we're up against," Michael O'Mara, chair of Stradley Ronon's litigation department, said. "We just look for smaller teams and team continuity."

It's part of the firm's emphasis on efficiency, chairman William R. Sasso said, which took hold when C. Clark Hodgson Jr. was chairman, from 1988 to 1993. O'Mara was a "student" of Hodgson, Sasso said, and took that philosophy "to a new level" as practice chair.

O'Mara said he looks to staff a matter with two or three lawyers "who can devote a lot of time and attention" to the case. O'Mara and Sasso said Stradley's

litigation teams are often up against opponents with twice as many lawyers. But O'Mara recalled an instance when the firm's three-attorney team, in arbitration, went up against a group of at least seven lawyers from Jenner & Block. The Stradley lawyers were better able to present unified arguments, O'Mara said, and a lawyer from the Jenner & Block team mentioned that when they spoke afterward.

"Because we are the size we are, we take a lean and mean approach," Sasso said. "We just assess a case, and spend a great deal of time assessing it in the beginning to make sure it's staffed appropriately."

In addition, he said, the clients benefit from having the same litigation team over long periods of time. More than half of the firm's 30 litigation partners



have spent their entire careers at Stradley Ronon.

"It gives the client consistency. They can count on having the same lawyers year after year," Sasso said.

O'Mara said when litigators do leave the firm, they're usually going in-house or making a career change. He is a "lifer," as is managing partner and litigator Jeff Lutsky. Sasso, though not a litigator, also started his career at Stradley Ronon.

"We know each other very well and we work together very well as a result of that," O'Mara said. "It absolutely has an impact on the results for our client."

Sasso noted that the litigation teams are also encouraged to become well-acquainted with clients, which also started with Hodgson.

"He preached 'get to know your

client's interest so you can be an asset in determining what's important to the client," he said.

But sometimes, they have to learn the client's needs quickly.

In another recent case, a Stradley Ronon litigation team was able to jump in with little time before trial and secure a defense victory. Chartis Property Casualty Co. retained Daniel Fitch, Jeffrey Grossman and Benjamin Gordon last year just weeks before trial, and the six-day trial ended in a defense judgment. The insurer had paid more than \$18.5 million to the owner of a Villanova mansion that burnt down in 2012. The plaintiff, who rented the mansion, sought more than \$20 million, arguing that Chartis interfered with her attempt to purchase the home.

The firm's litigation clients have also included multiple state agencies and governmental bodies, such as

Stradley Ronon continues on 29

union picketing, and a successful defense of real estate developers facing a criminal grand jury investigation and related civil suits.

Weil attributes this to the practice of hiring good trial lawyers, regardless of what area they have traditionally focused on. And the firm's insurance defense roots have given Cozen O'Connor touch points to a variety of industries that generated additional client relationships, he said.

"What you find is that good lawyers are good lawyers and that they are capable of taking all kinds of cases," Weil said.

Cozen O'Connor is also known for being willing to go to trial, in part because its mix of large and smaller cases gives it more of an opportunity to see a courtroom, Weil said. Being known for its willingness to take a case to a jury has helped the firm get its clients better and faster settlement

results, he said.

But, Weil said, Cozen O'Connor's litigators know the courtroom is just a piece of a larger goal—meeting the client's overall business objectives.

"It's more than just winning the next motion," Weil said. "What is the long-term plan here?"

Cozen O'Connor is an entrepreneurial firm and it focuses on attaining clients' business goals, Weil said.

"Litigation is usually a mechanism that clients sometimes have to use to do that," he said.

It all comes down to strategy for the firm, which is when that entrepreneurial, take-chances spirit can often be seen.

When Weil led a team of lawyers representing Endo Pharmaceuticals in a suit alleging the client breached a licensing agreement involving Lidoderm, the firm decided to use a rarely invoked, and in fact discouraged, rule to dismiss an arbitration.

It was the first time a Cozen O'Connor lawyer used Rule 33 of the

American Arbitration Association's Commercial Arbitration Rules. Approved in 2010, the rule allows parties to file what amounts to a motion to dismiss the arbitration. Its use is discouraged, however, because arbitration is supposed to be broadly accessible and the parties typically have agreed to arbitrate disputes. But the court ruled in Cozen O'Connor's favor, dismissing the key claim and allowing the \$70 million case to settle for a nominal amount, the firm said.

"Your job as a lawyer is to get the best result as quickly and efficiently as you can," Weil said. "We are always looking for opportunities, even if it means being creative and going down paths you hadn't gone down before."

But that also requires the client's trust.

"We spotted a shortcut and the client had the confidence in us to let us take a try at it," Weil said.

Wins like the one Philadelphia partner Richard Mason achieved in a case over insurance coverage and

fracking also serve to promote the firm as one that can get results that impact an entire industry, not just the client in that particular case.

A company involved in hydraulic fracturing, or fracking, was sued by a group of families in Western Pennsylvania for allegedly causing contamination of their water supply. The company wanted coverage from its insurer, Cozen O'Connor's client. The insurer denied coverage under the pollution exclusion provision of the policy.

The fracking company argued it didn't put any foreign pollutants into the water, but rather caused the release of natural elements in the earth that were broken free from the pressure of the fracking process and contaminated the water. There was little case law on the issue and Cozen O'Connor argued the pollution exclusion didn't distinguish between foreign or natural substances. The court agreed, giving Cozen O'Connor a win it can point to in any other fracking-related pollution case. •

the Pennsylvania General Assembly, the Southeastern Pennsylvania Transportation Authority and the Pennsylvania Insurance Department.

Jon Bloom, Karl Myers and Ian Long of Stradley Ronon secured a Supreme Court win for the General Assembly last year, when the justices took up a long-running lawsuit brought by former beneficiaries of adultBasic, a state-subsidized health insurance program. The plaintiffs had challenged the General Assembly's redirection of funds from a 2001 settlement with a number of tobacco companies, arguing that the legislators violated the Tobacco Settlement Act and the

Pennsylvania Constitution. But the justices found that the plaintiffs were not entitled to any of the settlement funds under the Tobacco Settlement Act.

In other work for the General Assembly, Bloom, Myers and Chelsea Beimiller of Stradley Ronon defended Sen. David Argall, R-Berks, in a federal case challenging the constitutionality of a Pennsylvania criminal law statute. The defense team was successful in getting Argall dismissed from the case.

In a discrimination and retaliation claim brought by a former laboratory manager, Stradley Ronon lawyers Danielle Banks, Michelle Carson and Caitlin Oberst were able to narrow the

case pre-trial and secure a defense verdict after a jury trial. In another instance, an age discrimination claim brought by a former SEPTA bus operator, the same team of Stradley Ronon lawyers argued that SEPTA had produced evidence of a legitimate reason for dismissal. The court awarded summary judgment to SEPTA.

The focus on efficiency has even taken shape in Stradley Ronon's approach to representing more than 100 investors as they sue Petroleo Brasileiro in connection with a multibillion dollar securities fraud. The investors are choosing to file direct lawsuits instead of participating in a class action. The approach fits in with the firm's strategy toward efficiency, Sasso said, as it allows the

investors to get more individual attention for their losses.

"That is literally groundbreaking, the work we're doing in that area for our financial institution clients. And they end up with a much higher recovery," he said. "The client isn't tossed in with a whole group of other plaintiffs."

Stradley Ronon lawyers Keith Dutil, Joseph Kelleher and Marissa Parker are representing the investors, along with co-counsel from Kessler, Topaz, Meltzer & Check. O'Mara said it's one of the more interesting matters his department is working on now.

"It's not the type of thing that many, if any Philadelphia firms are doing, but we've developed a nice niche in that space," O'Mara said. •

Ober said his firm's ability to handle cases cost-effectively without sacrificing quality is a credit to the "extremely experienced commercial litigators" in its partner ranks, as well as a group of "outstanding" associates.

In 2015, the firm's attorneys not only achieved big, immediate wins for their

clients, but also made law that will help other similarly situated clients in the future.

In *Northern Forests II v. Keta Realty*, partner Ronald L. Hicks Jr. successfully argued before a Lycoming County Common Pleas judge and, later, the state Superior Court that a property's oil and gas rights can only be adversely possessed through the continuous removal and production of oil and gas for

an uninterrupted 21-year period.

The case was one of first impression in Pennsylvania that could have implications for oil and gas rights owners across the state.

Meyer Unkovic's litigation team had a busy 2015 and has several multimillion dollar cases on the horizon in Pennsylvania, Ohio and New Jersey.

Still, as we near the close of 2016,

many firms are reporting a slowdown overall in litigation.

When asked whether his firm was experiencing a similar dip in litigation work, Ober was unequivocal in his response.

"Not in the least," he said. "I will tell you candidly that we have never been busier ... I haven't seen any downturn. At least with our practice, it's been an uptick" •

the industry in which it operates is essential for litigators in an era when in-house departments are facing massive internal pressure to get as much value as possible from their outside counsel.

"It's not only about the stakes of a particular case," Olsan said. "One of the things we offer our clients in litigation especially is the knowledge of what issues are confronting them."

Attorneys need to tailor their approach to each case based on how it will affect the client in both the short

term and the long term, Olsan said.

For example, it might make sense to fight a case that doesn't have much money at stake because the issue is one that's likely to recur, proving more costly in the future, he said.

But it's important to understand that "different clients have different

appetites for how far they'll take a case in litigation," Olsan added.

Perhaps more than anything, that requires listening to the clients rather than talking at them, Olsan said, relating a credo he once heard and took to heart: "You have two ears and one mouth. Use them proportionally." •

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