

Littler Ranked #1 In Employment Litigation

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Wednesday, February 14, 2007 --- San Francisco-based Littler Mendelson PC was retained more frequently than any other firm for federal labor and employment litigation in 2006, according to our survey of the nation's top 300 firms.

Littler Mendelson took on 580 new federal labor and employment cases in 2006, an increase of 114% from the 271 such cases it was retained in during 2005. Ogletree, Deakins, Nash, Smoak and Stewart, P.C. ranked second in our survey, tackling 489 new federal labor and employment filings, and Jackson Lewis LLP wasn't far behind, taking third place with 457.

Below are the most frequently hired practices for labor litigation in our survey of the 300 largest U.S. law firms, measured by new federal cases taken on in 2006:

Rank, Firm, Number of New Cases in 2006:

1. Littler Mendelson, P.C.: 580
2. Ogletree, Deakins, Nash, Smoak and Stewart, P.C.: 489
3. Jackson Lewis LLP: 457
4. Seyfarth Shaw LLP: 379
5. Morgan, Lewis & Bockius LLP: 257
6. Fisher & Phillips LLP: 209
7. Ford & Harrison: 177
8. Epstein Becker & Green, P.C.: 124
9. Baker, Donelson, Bearman, Caldwell & Berkowitz PC: 113
10. Baker & Hostetler LLP, 106

Our 2007 litigation survey tracks the retention of the 300 largest law firms in the United States for every major practice area and includes over 40 rankings and over 10,000 data points. For a summary of the survey and ordering information, please review the attached Word file or see the bottom of this article.

LITTLER MENDELSON

Littler Mendelson, founded in 1942, focuses exclusively on labor and employment law. Lately, the firm has been experiencing explosive overall growth, according to president and managing director Marko Mrkonich, who pointed out that the firm employed about 500 attorneys on Labor Day and reached the 600 mark by Valentine's Day.

The firm's growth has been buoyed by the ever-increasing number of wage and hour suits brought under the Fair Labor Standards Act, said Mrkonich, and a steady flow of trade secret litigation work and traditional labor work.

Recently, Littler Mendelson represented Wal-Mart Stores Inc. in a federal case in Arkansas, in which Wal-Mart actually reported itself to the U.S. Department of Labor, after an internal review alerted the company to the fact that it had underpaid almost 87,000 workers by a total of more than \$33 million. The DOL filed suit, and the court signed off on a consent agreement which involved Wal-Mart shelling out \$33.5 million.

Littler Mendelson also represented Hewlett-Packard Co. in a case in which Lexmark International Inc. claimed an executive violated a non-compete agreement by signing on with Hewlett-Packard. Dahlgren joined HP in January 2006 after serving as vice president and general manager of Lexmark's North America Printing Solutions and Services Division for the previous six years.

OGLETREE DEAKINS

Ogletree Deakins is the nation's third largest labor and employment law firm, behind Littler Mendelson and Jackson Lewis, the first and second largest employment firms, respectively.

The firm represents more than half of all U.S. Fortune 50 companies, it said.

L. Gray Geddie Jr., Ogletree Deakins managing shareholder, said that the firm's national footprint, strength and depth of its attorneys, and partnership-oriented approach to client service sets it apart from other law firms offering similar services.

"We understand that today in house counsel are under terrific pressure to control legal fees, yet still was quality representation and good service," Geddie said. "Our philosophy is that we can do both—provide top notch legal services and do so at reasonable rates."

Ogletree Deakins has represented Tyco International Ltd., Federal Express Corp., Dell Inc., Home Depot Inc., HCA Inc., Honeywell International Inc., Flowers Foods Inc., Hyundai Corp. and Mercedes-Benz.

JACKSON LEWIS LLP

Founded in 1958, Jackson Lewis is focused on employment, labor, immigration and benefits law and related litigation issues. The firm has offices in 27 cities across the United States and employs 400 lawyers.

Jackson Lewis represents employers exclusively. During the past year, the

firm has defended IBM Corporation and Tri-State Employment Services Inc., and has represented plaintiffs against The Solutia Inc. Employees' Pension Plan in separate ERISA litigations, a specialty of the firm.

As of November 2006, Jackson Lewis was defending Macy's Department Stores Inc. in an unpaid wages case, Medical Resources LLC in an overtime compensation case, FedEx Ground Package System Inc. in a diversity contract dispute, and Nextel Communications in a civil rights case.

SEYFARTH SHAW LLP

In April 2006, Seyfarth Shaw's wage and hour class action litigators won a favorable verdict for client IKON Office Solutions Inc. in San Francisco Superior Court, which the firm touted as the first successful defense of a major wage and hour class action before a California jury. It took the jury in that case—Walsh et al. v. IKON Office Solutions Inc.—less than 6 hours to decide to reject the plaintiff's request for a \$12 million class-wide damage award.

Seyfarth Shaw also got a federal court in Illinois to issue a key class certification denial in a suit brought under Title VII and 42 U.S.C. 1981, that accused an employer of discrimination against African Americans. That case was Saunders, et al. v. American Warehousing Services Inc, et al.

"Seyfarth Shaw's labor and employment attorneys achieved extraordinary results for our clients in 2006," said Jeremy P. Sherman, National Chairperson of the firm's Labor and Employment Group.

Seyfarth Shaw's labor and employment team is made up of over 300 employment specialists in nine U.S. offices, including more than 100 in California.

MORGAN LEWIS & BOCKIUS LLP

Morgan Lewis & Bockius employs about 1,300 lawyers worldwide. About 255 are dedicated to the labor and employment practice. Of the firm's 22 offices, 14 have labor and employment attorneys in residence.

When BellSouth was hit with a proposed race discrimination class action suit, the company turned to Morgan Lewis' labor and employment team.

Four years after the suit was filed, BellSouth now faces only five plaintiffs instead of 25,000. The head of Morgan Lewis' Labor and Employment Law Practice Group says the case illustrates some of the firm's particular strengths.

BellSouth is based in Atlanta, and the case is located in Alabama, explained Steven R. Wall, a partner at Morgan Lewis and leader of the firm's labor and employment practice. Morgan Lewis doesn't have offices in either place, but

assembled a group of attorneys from Philadelphia, Los Angeles, New York and Washington, D.C. to tackle the suit, an example of the firm's integrated approach to client service.

"Our professional services are centralized on a national and international basis," Wall said. "We're not a collection of lawyers in offices, but rather we are centralized not only in our leadership, but in how we approach the areas and industries in which we work."

FISHER & PHILLIPS

Fisher & Phillips LLP deals exclusively with interests of management with respect to workplace related issues, according to firm Chairman Roger K. Quillen. While the firm has had success litigating cases and the trial court and appellate levels, Fisher & Phillips pursues the solution that best suits the client, rather than always pursuing the most aggressive and expensive litigation strategy, Quillen said.

Fisher & Phillips successfully represented Harrah's Entertainment Inc. in a lawsuit brought under the Fair Labor Standards Act by 30 Table Game Supervisors at Harrah's former East Chicago facility.

The firm got a federal judge to declare that Table game Supervisors are exempt from overtime under the FLSA.

"No court in the country had determined whether Table Game Supervisors or similar casino front-line managers are exempt from the overtime requirements of the FLSA based upon their duties," said lead attorney Jane McFetridge. "Our win for Harrah's is the leading opinion in the gaming industry and may be used as precedent in other service industries where front-line workers have supervisory duties."

FORD & HARRISON

Clients seek out Ford & Harrison, a labor and employment boutique with more than 190 lawyers at 18 offices around the country, because of the firm's commitment to client service, according to John Monroe, managing partner at the firm's Atlanta office.

Monroe added that the firm's attorneys home in on the solution that makes the most sense for a given client. Ford & Harrison's lawyers know that big fights cost money, but if a big fight is the only solution, they know where the courthouse is, according to Monroe.

Ford & Harrison is currently representing Kmart Corp. in a suit filed in October 2006 by a handful of employees who alleged that they were fired due to gender and age discrimination. That suit is in federal court in Minnesota.

EPSTEIN BECKER & GREEN

Over half of the entire general practice law firm of Epstein, Becker & Green P.C. is devoted to labor and employment law, an identity that few, if any, other large firms can claim.

Around 195 of its 380 attorneys practice employment law, and have made taking on high-profile lawsuits, which often involve heavy media coverage, a specialty.

“Although the third largest group of labor and employment lawyers representing management, we are absolutely the largest among the full service firms, which allows us to bring a multidisciplinary approach to all matters under our care,” said Frances M. Green, member of the Firm. “As a predominately female law firm with the greatest ethnic diversity of any firm our size within the country, we benefit from a multicultural perspective to issue resolution.”

As of November, the employment group boasted clients such as Pfizer Inc., Morgan Stanley, Verizon Communications Inc., Aetna Inc., Wal-Mart Stores Inc., MetLife Inc., General Electric Co., IBM Corp. and Prudential Financial Inc.

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ PC

Baker Donelson is a multi-practice firm with 450 attorneys at 16 offices in the U.S., London and Beijing.

The labor and employment group’s roots span back to 1964, when the firm hired labor and employment practitioner Maurice Wexler. At that time, labor and employment law was heavily concentrated in the labor union arena, and remained saturated in that industry until civil rights and race discrimination issues came to the forefront in the late 1960s and early 1970s, when the firm began to substantially build its labor and employment group.

The group has successfully filed unfair labor practice charges against labor organizations for bad faith bargaining and violations of strike notice requirements, and has represented management in various arbitrations involving questions of just-cause discharge and contract interpretation.

In addition, the group has successfully defended companies in class action lawsuits under the Fair Labor Standards Act, including cases involving thousands of plaintiffs seeking allegedly owed overtime pay and minimum wages from employers in the restaurant and insurance industries.

BAKER & HOSTETLER

Baker & Hostetler celebrated its 90th anniversary in 2006. The firm employs 600 lawyers at 10 offices in the U.S., and has 11 practices.

Baker & Hostetler's employment practice offers the breadth and depth of an employment boutique with a wider range of resources, according to the firm. Representative clients include The Boeing Co., Ford Motor Co. and JP Morgan Chase & Co.

The firm boasts of having put the U.S. Equal Opportunity Employment Commission of the defense, after the EEOC brought a lawsuit against a Fortune 100 technology company which had laid off a pregnant employee. Despite the ex-employee's emotional testimony and solid workplace evaluations, a federal jury in Detroit took less than to find in the defendant's favor, according to Baker & Hostetler. The firm also helped a client get back almost \$6 million from a settlement with the EEOC, because an insufficient number of claimants qualified to be compensated from the settlement fund.

METHODOLOGY

A firm's ranking is based on the number of times it was hired to represent a litigant in a given practice area in 2006 and 2005, respectively.

A company's ranking is based on how frequently it was named as a party to a lawsuit for a given practice area in 2006 and 2005, respectively, regardless of whether it was named as a defendant, plaintiff or third party.

Thus, the survey is completely quantitative. It does not account for the importance of a case, the amount of work involved, the proposed damages, or any eventual settlements or awards.

The source for our data is electronic court dockets supplied by a leading docket vendor. No law firms or companies were contacted for this survey.

Using dockets, we surveyed new cases filed before federal courts (district courts, bankruptcy courts and appeals courts) for the corresponding "nature of suit."

These results were cross-checked against a list of the 300 largest law firms in the United States, based on the Winter 2007 edition of the Law Firms Yellow Book published by the Leadership Directories.

A firm was counted as being hired for litigation for a case regardless of cause. In other words, firms were counted whether they were hired for the defense, the plaintiff or third parties, unless otherwise noted.

Only new cases and appeals were counted, regardless of whether they proceeded to trial or not. The survey did not make any special considerations or exemptions for multi-jurisdictional litigation, case transfers, or class certifications.

In cases where law firms have merged in the past year, the results for those firms were consolidated. The following mergers were accounted for:

- Bingham McCutchen and Swidler Berlin
- Buchanan Ingersoll and Klett, Rooney Lieber & Schorling
- Cooley Godward and Kronish Lieb Weiner & Hellman
- Davis Wright Tremaine and Cole Raywid & Braverman
- DLA Piper: Piper Rudnick, Gray Cary Ware and Freidenrich and DLA
- Drinker Biddle & Reath LLP and Gardner Carton & Douglas LLP
- Edwards Angell and Palmer & Dodge
- Ford & Harrison Merges and Matkov Salzman
- Fox Rothschild LLP and Grotta, Glassman & Hoffman, P.C.
- K&L Gates: Kirkpatrick & Lockhart Nicholson Graham and Preston Gates & Ellis
- Kelley Drye & Warren and Collier Shannon Scott
- Reed Smith, Richards Butler
- Thelen Reid and Brown Raysman

Although the editors have made every effort to ascertain the accuracy of our data, using a team of researchers and double-checking every data point, we assume no responsibility for errors in the survey.

If any corrections to the survey are required, they will be made on March 15, 2007. Anyone who purchased the survey will be notified of the corrections, if any, on that date.

Questions and concerns about the methodology of the survey should be submitted by e-mail to research@portfoliomedia.com.

ABOUT THE SURVEY

The Law360 2007 Litigation Almanac offers an exhaustive quantitative analysis of business litigation trends in the United States, with a detailed look at trends in major practice areas and industries and dozens of rankings of law firms and companies:

- More than 50 rankings of firms and companies
- More than 400 law firms surveyed
- More than 200 companies surveyed
- More than 10,000 data points
- Comparative statistics for 2006 and 2005
- Complete Excel sheets included
- \$490, electronically delivered

An outline of the survey is available as an attachment for organizational subscribers. You may also request an online by contacting customer service.

To purchase the survey, contact our customer service line at 212 537 6331

during business hours in New York, or e-mail
customerservice@portfoliomedia.com.