

New Jersey Law Journal

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LEGAL & LITIGATION DEPARTMENTS OF THE YEAR



Left to right- Joseph A. Nuccio, Valerie C. Curry, Sean P. Lynch, Primitivo J. Cruz, Thomas A. Linthorst, Terry D. Johnson, Richard G. Rosenblatt, Jason Ranjo, Emily Cuneo DeSmedt, Nitin Sharma, Michelle Seldin Silverman, James P. Walsh, Jr., Rudolph J. Burshnic II

MORGAN,
LEWIS &
BOCKIUS LLP

MORGAN LEWIS'S L&E GROUP BREAKS LEGAL GROUND

BY JULIETTE GILLESPIE

For the second year in a row, the recognition for Litigation Department of the Year in the area of labor and employment law goes to the New Jersey labor and employment practice group at Morgan, Lewis & Bockius in Princeton.

When employers seek Morgan Lewis' assistance with labor and employment matters, they benefit from the cumulative abilities of a global

team of more than 250 lawyers and other professionals—and the firm’s 14-lawyer New Jersey team is fully integrated into this global practice, according to the firm.

The New Jersey lawyers have performed some of the firm’s most sophisticated work for industry-leading companies in developing areas of law. Their clients include Amazon, Aramark, Cablevision, Citigroup, Cognizant Technology Solutions, Colgate-Palmolive, JPMorgan Chase, Moody’s, Morgan Stanley, New York Life Insurance Co., Novo Nordisk, Public Service Electric and Gas (PSEG), and Walgreens.

Morgan Lewis’ New Jersey lawyers—representing these clients and others—have secured important victories, supported their clients’ effective management of novel workplace challenges, and delivered results that contribute to the bottom line, according to the firm. A sampling of their work, below, demonstrates the breadth of the team’s work.

Its representation of Northwestern Mutual Life Insurance showed an ability to help establish favorable precedents for employers. In *Anthony v. Northwestern Mutual Life Insurance*, the plaintiff—an employee of a contractor of Northwestern Mutual—lodged whistleblower retaliation claims under the Sarbanes-Oxley Act (SOX), claiming she was fired for internally reporting alleged violations of Securities and Exchange Commission and Financial Industry Regulatory Authority regulations. While the plaintiff argued that her claim was permitted under the U.S. Supreme Court’s decision in *Lawson v. FMR* extending SOX coverage to employees of contractors, Morgan Lewis argued that the *Lawson* decision suggested certain limitations on SOX coverage, and that the plaintiff’s situation fell outside those limits. The court’s decision, agreeing with Morgan Lewis, is the first on this issue in the U.S. Court of Appeals for the

Second Circuit, and establishes limits on SOX retaliation claims by contractor employees, according to the firm.

Morgan Lewis’ defense of the Borgata Hotel Casino & Spa exemplifies the firm’s ability to deliver positive results over the course of a long-running litigation. In a gender-stereotyping case that began in 2008—in which the plaintiffs challenge Borgata’s “grooming and appearance” policy that the plaintiffs claimed was discriminatory toward female workers—the

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firm won summary judgment in 2014, prevailed on appeal in 2015, and defeated the plaintiffs’ petition for certification to the New Jersey Supreme Court in early 2016.

In the wage-and-hour area, a summary judgment victory for an insurance industry client confirmed the proper classification of insurance agents and upheld the enforceability of an arbitration provision and class action waiver in agents’ contracts, according to the firm. The plaintiffs had alleged that they were misclassified as outside salespersons exempt from overtime and minimum wage requirements, and that

the company’s reversal of commissions from transactions where a client failed to pay the full corresponding insurance premiums should be considered unlawful wage deductions. The court sided with the employer, finding the plaintiffs to be exempt outside salespersons as a matter of law, that their commission reversal claims were barred by language of their contracts with their employer, and that the arbitration provision and class action waiver in their contracts were valid and enforceable.

In a noncompete matter in which Morgan Lewis represented iQ Media Group and several individual defendants, Morgan Lewis prevailed in litigation brought by Vocus, Inc., seeking to enforce noncompete agreements and bar sales representative hired by iQ from working at that company. Not only did the firm defeat Vocus’ motion for preliminary injunction, it also convinced the court that Vocus’ noncompete agreements were overly broad. The court dismissed the claims against two individual defendants, and the claims asserted against iQ with respect to those defendants, due to the invalidation of the noncompete agreements.

For PSEG, Morgan Lewis secured a victory in a challenging age and disability discrimination case under the New Jersey Law Against Discrimination (LAD). The case was brought by an employee who was terminated while on disability leave after 34 years of service with the company. After the trial court granted summary judgment in favor of PSEG on each cause of action, Morgan Lewis argued the appeal before a three-judge panel of the New Jersey Appellate Division. The court unanimously affirmed summary judgment in October 2015; the firm went on to help convince the New Jersey Supreme Court to deny the plaintiff’s petition for certification later that month.

In each case, involving widely diverse industries and legal questions, Morgan Lewis’s New Jersey labor and employment team has succeeded. ■