

5 Powerhouse Firms GCs Prefer For Securities Litigation

By Rachel Graf

Law360 (October 17, 2018, 9:08 PM EDT) -- General counsel have singled out five law firms with exceptional efficiency, follow-through rates and innovation in their securities and finance practices ahead of a year expected to see a slowdown in securities litigation but increase in spending, according to a recent survey of more than 350 legal decision makers.

Jones Day and Skadden Arps Slate Meagher & Flom LLP were named securities and finance litigation powerhouses for a second consecutive year, and were joined by Morgan Lewis & Bockius LLP, Sidley Austin LLP and Wachtell Lipton Rosen & Katz, according to the BTI Litigation Outlook 2019 report, an annual survey conducted by BTI Consulting Group of Wellesley, Massachusetts.

These firms stood out because they're able to leverage experience and intuition to quickly get to the "heart of a matter," and consistently meet deadlines and other promises to clients, said BTI President Michael B. Rynowecer. They're also innovating as litigation gets increasingly complex, he said.

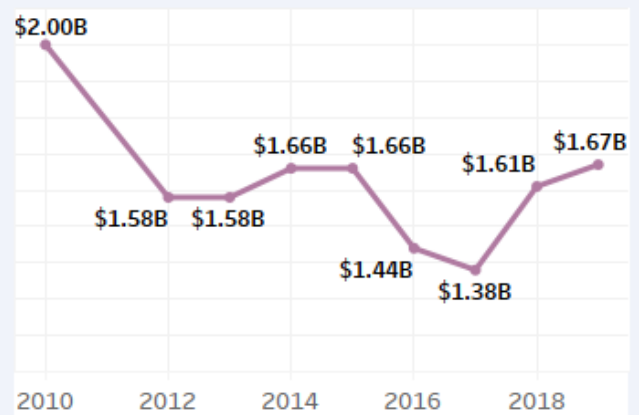
The report found the number of companies facing complex litigation rose about 9 percent year-over-year to 94.1 percent in 2018, while companies facing high-stakes litigation reached 62.7 percent this year, up from 24.6 percent in 2017. This has driven companies to seek help from experienced outside firms, Rynowecer said.

"For the second time in a row, we find substantially more money heading to outside counsel because, unless you get into the absolute largest companies in the world, most corporate counsel departments don't have — and don't want — the staff to manage all these high-stakes matters," Rynowecer said. "So law firms are playing a more prominent role."

Companies with Securities and Finance Litigation Down In 2018



Securities and Finance Litigation Market Size Predicted To Rise Again



Source: BTI Litigation Outlook 2019

For the securities industry, these complex matters have involved merger disputes and U.S. Securities and Exchange Commission and accounting violations, according to the BTI report.

Rynowecer attributed the number of merger issues in part to the U.S. Department of Justice's lawsuit over AT&T's acquisition of Time Warner Inc., which he said put companies on notice that any potential deals might receive government scrutiny. Companies went on the offensive and enlisted attorneys to proactively prepare for any potential questioning, Rynowecer said.

With regard to SEC disputes, even though enforcement is widely expected to have fallen in 2018, the cost of defending against SEC actions has risen, Rynowecer said. This is in line with a broader trend of increased securities spending even as litigation activity within the industry has declined.

Just 36 percent of companies have been involved with securities and finance litigation in 2018, down from 44.4 percent in 2017 and on par with 2016 levels, according to BTI. But market size for securities and finance litigation rose to \$1.61 billion this year from \$1.38 billion last year and is expected to increase even further to \$1.67 billion in 2019, the report found.

"The activity may be going down but the amount of money at stake is doing anything but," Rynowecer said.

In fact, spending is up across the board. The overall litigation market is projected to increase to \$22.25 billion in 2019 from \$21.40 billion this year, according to the report. One reason is a downward trend in settlements. The percent of disputes that were settled in 2017 hit 60.7 before falling to 43.6 percent this year, BTI said. Settlements are expected to decline again next year to just 38.1 percent of matters.

Also driving spending is companies' shifting preference for more expensive and larger teams of attorneys, Rynowecer said. Many clients are no longer content with relatively small staffs working on legal matters as they might have been five or six years ago, he said.

Sidley Austin partner Yvette Ostolaza said the size of the firm's securities team has allowed them to effectively represent clients on the West Coast, East Coast and many places in between.

"Our wins are not in just one part of the country," Ostolaza said. "Because of the span of our offices and the breadth of our securities litigation practice, we're able to represent clients across the country."

The frequency of the firm's wins has helped it become a powerhouse as well, Ostolaza said. "We win a lot," she said.

--Editing by Janice Carter Brown.