

Employment Group Of The Year: Morgan Lewis

By Braden Campbell

Law360, New York (January 23, 2018, 3:53 PM EST) -- Morgan Lewis & Bockius LLP showcased the breadth of its labor and employment practice last year by notching wins in a series of noncompete disputes and a U.S. Supreme Court appeal, earning itself a spot among Law360's 2017 Employment Groups of the Year.

The firm won two jury verdicts for Alliant Insurance Services in suits alleging it illegally poached workers from Aon Risk Services Companies Inc., convinced the U.S. Supreme Court to apply a lighter standard of review in appeals challenging district court rulings on U.S. Equal Employment Opportunity Commission subpoenas and secured the first total dismissal in a new breed of retirement plan suits against private universities — a series of victories that underscore the scope of what the firm has to offer, its top attorneys say.

"[The theme] is the breadth of the practice and the breadth of the wins," partner Grace Speights told Law360. "It's not like it's one particular area of employment law, or labor — because we also do labor and have big wins on the labor side — but it's big wins in a lot of different areas, which is, I think, what sets our practice aside from a lot of other practices."

In March, a Fresno, California, jury cleared Alliant of allegations it helped several former Aon employees breach their fiduciary duty to the company by jumping ship. The workers initially sought to be freed from contracts blocking them from joining a competitor and were hit with counterclaims for breach of fiduciary duty, breach of loyalty, intentional interference with contracts and misappropriation of trade secrets.

The suit brought together Los Angeles-based partner Debra Fischer, Century City-based IP partner Seth Gerber and Philadelphia litigator Michael Banks, an ace trial attorney who spent three months out west en route to a win that partner David McManus said is emblematic of the firm's success.

"It's a bit of a microcosm of what takes place on a broad scale, as well as the day-to-day scale, every day with partners and associates in this group, working together and pulling the oars in the same direction," McManus said. "That's part of the reason we're so successful."

Six months later, the firm won another verdict for Alliant in a similar suit challenging a restrictive



covenant signed by another former Aon worker.

In April, Morgan Lewis persuaded the Supreme Court to wipe out a Ninth Circuit ruling ordering a lower court to be more critical toward the EEOC's request that McLane Company Inc. turn over personal info for employees and applicants. The Ninth Circuit had looked anew at an Arizona federal judge's ruling denying the EEOC's request, but the justices ruled appeals courts should only review lower court EEOC subpoena decisions for abuse of discretion.

Then, in September, Morgan Lewis secured dismissal for the University of Pennsylvania in a suit accusing the school of mismanaging its workers' retirement plan. The suit was one of several class actions alleging American universities diluted workers' investments by paying excessive fees to maintain their plans. Courts have trimmed some of these suits, but the Penn case is the only one so far dismissed in its entirety.

The firm also secured trial wins for Boeing and Cablevision in discrimination suits and persuaded the Seventh Circuit to find a group of cosmetology students were not employees under the Fair Labor Standards Act, rejecting a U.S. Department of Labor test in favor of a standard that weighs whether the worker or employer is the "primary beneficiary" of the relationship. The DOL has since adopted that test.

Morgan Lewis has also been at the forefront of the response to the #MeToo movement, helping companies conduct the workplace audits that root out cultural issues, investigating harassment complaints and guiding companies through the process of parting ways with problematic employees, some of whom may be executives.

"Many of our lawyers have coordinated cross-practice, cross-office initiatives in advising companies on dealing with the issue of sexual harassment, trying to make sure they have sexual harassment-free workplaces," Speights said. "That's a new wave of work."

Morgan Lewis has also made a handful of personnel changes over the last year to bolster its global footprint, adding to its employment group partners in Hong Kong, Shanghai and Beijing. The firm has also continued to build from within, a strategy that has the firm well positioned to continue its success this year.

"If you look at our partnership ranks ... over the last several years and associate hirings, our successfully attracting, retaining and elevating diverse talent is, I think it's unparalleled," McManus said. "It's been an emphasis of ours, and we feel it's been particularly successful. It also differentiates us in the market, and it's valued by our clients. We kind of walk the walk in that area."

--Additional reporting by Vin Gurrieri. Editing by Alyssa Miller.