

Employment Group Of The Year: Morgan Lewis

By **Caleb Drickey**

Law360 (January 23, 2023, 2:02 PM EST) -- Morgan Lewis & Bockius LLP over the past year guided the U.S. Soccer Federation through high-profile collective bargaining negotiations with its women's and men's national teams and defended dozens of employers from workers challenging COVID-19 vaccine mandates, thereby planting itself among Law360's 2022 Employment Groups of the Year.

As lead counsel for U.S. Soccer, Morgan Lewis guided the federation toward a landmark deal, one that established a revenue-sharing framework under which members of the women's and men's national teams will share revenue and FIFA World Cup prize money.

That collective bargaining agreement, which was announced in May, also paved the way for the settlement of Title VII and Equal Pay Act litigation brought by members of the women's national team, who alleged that the federation's practice of paying men's team players more than their female counterparts was discriminatory and illegal.

David McManus, deputy leader of the firm's global labor and employment practice, credited partner Nicole Buffalano for leading negotiations that he said were complicated by intense scrutiny from members of the media, high-profile athletes and other soccer organizations.

"It was an environment that was highly charged because of the views of the constituents, particularly the women's team, and the backdrop of the high-profile litigation. A lot of this was done in a fishbowl," McManus said.

Nevertheless, McManus said that Buffalano's and the firm's efforts produced a groundbreaking agreement that he said was forcing other international sports organizations to reconsider how to compensate male and female athletes.

The firm also took a lead role in defending employers from litigation brought by workers looking to block requirements that they submit to vaccination against COVID-19 or else lose their jobs.

In October 2021, a Morgan Lewis team representing Southwest Airlines Co. defeated a pilots' union's attempt to unwind the implementation of a vaccine mandate and quarantine rules. In that case, a Texas federal judge ruled that the airline's unilateral policy changes were arguably justified in a collective bargaining agreement between the parties and that the suit was therefore a matter for arbitration.



In December 2021, meanwhile, a Morgan Lewis team successfully parried a bid by Bristol-Myers Squibb Co. workers to temporarily block a companywide vaccine mandate. In December 2022, the firm guided the pharmaceutical giant to a settlement to claims that enforcing the mandate discriminated against Christian employees with religious reservations about the vaccine.

Responding to late-breaking shifts in public policy and cultural mores has long been a hallmark of the practice, Morgan Lewis global labor and employment practice leader Grace Speights said. Speights credited the firm's thriving employer investigations business, for example, with the rise of the #MeToo movement.

In late 2021, the firm's workplace culture consulting subgroup affirmed its investigatory prowess when it released its report about a five-decades-long practice of harassment, discrimination and sexual misconduct at New York's Hebrew Union College – Jewish Institute of Religion.

In that report, which was built in part upon interviews with 115 current and former rabbinical and cantorial students and more than 50 current and former staffers, the firm concluded that the school propagated a sexist culture that enabled long-serving faculty members to engage in sexually inappropriate conduct. The firm also issued recommendations that the school publicize its problematic past and implement firmer procedures for reporting, investigating and remedying misconduct.

"We have been involved in many investigations into sexual harassment, but so helping our clients figure out ... what they need to be looking at doing to make their workplaces safe, inclusive and respectful," Speights said.

Looking ahead to 2023, Speights and McManus predicted that the firm would continue its defense of employer vaccine mandates. McManus said the firm was engaged in approximately 200 lawsuits brought by workers alleging that their former employers failed to accommodate their disabilities or religious beliefs when it enforced mandates.

Speights also said that harbingers of an economic downturn in the broader economy foretold a boon for Morgan Lewis. Coming layoffs, Speights said, will provide the firm with opportunities to defend employers from their erstwhile employees.

"Given the economy and where things could be heading with the economy, there will likely be reductions of force across some industries," Speights said. "That usually results in an uptick in litigation."

--Editing by Andrew Cohen.