

Rising Star: Morgan Lewis' Michael Puma

By **Ben James**

Law360, New York (March 13, 2013, 4:14 PM ET) -- Morgan Lewis & Bockius LLP's Michael Puma helped flesh out the “nooks and crannies” of trade secret law when his team convinced the Third Circuit to block an executive who could replicate Bimbo Bakeries USA Inc. products like Thomas' English Muffins from moving to rival Hostess Brands Inc., one of the achievements that put him among Law360's five employment rising stars under 40.

Puma noted that former Bimbo executive Chris Botticella hadn't signed a noncompete agreement, despite having valuable knowledge about the company's products and strategic plans, which left Bimbo facing an uphill battle and pursuing an “inevitable disclosure” theory — in other words, arguing that Botticella would inevitably disclose Bimbo's trade secrets in the course of his new job.

Despite the fact that courts, reluctant to restrain competition, had been skeptical of inevitable disclosure claims, Puma and Morgan Lewis won a preliminary injunction against Botticella in district court, and persuaded the Third Circuit to affirm in July 2010.

In addition to being important for Bimbo's business, the closely watched case was a trailblazer with respect to inevitable disclosure and has been cited as an excellent example of what it takes to prevail on such claims.

“The Third Circuit was making new law on this inevitable disclosure doctrine,” Puma said.

Philadelphia-based Puma, 38, was elevated to partner status at Morgan Lewis in 2008. He described himself as a Morgan Lewis “lifer” who started at the firm in 1999, the same year he graduated from the George Washington University Law School.

Puma credited the veteran lawyers at Morgan Lewis with taking a proactive stance toward giving younger attorneys opportunities and getting them involved with clients.

“The more senior partners are always looking for ways to introduce their more junior partners to clients, and expand those relationships,” Puma said. “There's a real effort to develop the next group of leaders.”

About half of Puma's time is dedicated to wage-and-hour class and collective actions, while the remainder is devoted to things like discrimination cases and trade secrets work, he said.

Puma's been involved with noteworthy wins for companies like Rolls Royce Corp., which beat back a would-be class sex bias action brought on behalf of female workers at an Indiana plant. In that case, in which Morgan Lewis represented Rolls Royce along with co-counsel Barnes & Thornburg, the Seventh Circuit in 2011 affirmed a lower court's decision to deny class certification and grant the employer summary judgment.

In that case, Puma worked closely with a statistical expert to counter the plaintiffs' expert and show that putative class members had widely varied experiences.

Puma was also on the Morgan Lewis team that defended drug maker Wyeth — which was acquired by Pfizer in 2009 — in putative class action overtime litigation under California law. In August, the Ninth Circuit ruled that pharmaceutical sales representatives were exempt from overtime pay requirements, and that the plaintiffs fell under the administrative exemption to California's overtime rules.

Puma has also enjoyed success in class/collective action waivers enforced in wage-and-hour cases. Whether employers can use class action waivers in arbitration agreements to ban costly class and collective actions is a hot issue in the wage-and-hour space at the moment, and companies have been using such pacts more, as courts appear to be receptive to them, Puma said.

When asked what advice he'd give to an aspiring young attorney, Puma said that becoming intimately acquainted with a client's business was a crucial part of being a good lawyer.

“It all comes down to client service and willingness to help your clients and always be available to them. The only way that you can really be effective is to learn their business,” Puma said. “That knowledge of the business is what I have found, more than anything, develops a long-term, strong bond with clients.”