

2014

PENNSYLVANIA LITIGATION DEPARTMENTS OF THE YEAR

The Legal Intelligencer

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A FIRM FOCUS

MORGAN LEWIS KEEPS ITS EYES ON CLIENTS' NEEDS

By **Jeff Mordock**
Of the Legal Staff

Morgan, Lewis & Bockius' attorneys understand that class-action litigation is not merely a legal issue but a business problem that could have severe repercussions on a company's bottom line.

"The first thing we keep in mind is making sure we know our clients' business objectives," said James D. Pagliaro, a partner at the firm. "Being attuned to our clients' needs and collaborating with them all the time is an important part of how we get to where we need to go, whether it is taking a case to trial or reaching a resolution."

That attitude has shaped the firm's defense strategy in several high-profile cases throughout the United States. For example, Morgan Lewis

defended drywall manufacturer National Gypsum Co. from both individual lawsuits and putative class-action litigation alleging its drywall is defective. The firm obtained a complete dismissal of both sets of litigation.

In another case, Morgan Lewis spent two years negotiating with representatives of more than 200 class actions and even more individual lawsuits against Toyota Motor Corp. regarding allegations of electronic defects and unintended acceleration. Morgan Lewis reached a settlement structured to accomplish Toyota's business objectives and help the company move on from the lengthy negotiation.

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"I think it is worth comparing and contrasting our cases," said Morgan Lewis partner J. Gordon Cooney Jr. "One of the most remarkable things about the Toyota settlement was

that it was crafted in a way to provide value to its customers. Contrast that with the National Gypsum case, where the strategy was to drive a victory in the courtroom."

Pagliaro said the desire to match Morgan Lewis' litigation strategy to their clients' needs is deeply embedded in its culture.

"This is something we talk about with our lawyers from the beginning," he said. "We strive to see things from our clients' eyes. Our

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clients understand that we are always standing by them.”

Morgan Lewis’ class-action team also understands that, in some cases, positive publicity may be more important to a client than customer value or a stringent defense.

The firm worked on behalf of Hewlett-Packard to secure a dismissal of a shareholder derivative lawsuit related to the controversial departure of former CEO Mark Hurd. The dismissal not only saved HP from protracted litigation, but also saved the company from the unfavorable media attention surrounding Hurd’s departure.

“Many of these cases involve reputational issues for our client,” Pagliaro said. “Successfully handling these cases cannot be defined through success in the courtroom. One has to find a way to accomplish the business objective and drive the litigation result in a way that is consistent with that objective.”

This strategy drove the firm’s decision to litigate two copyright class-action lawsuits against Pearson Education Inc. A photographer filed a lawsuit in the U.S. District Court for the Southern District of New York alleging that the company had used thousands of photos without permission. Morgan Lewis was able to decertify the class and then secure a dismissal on summary judgment.

“When you represent a client, there are a lot of individuals involved,” Cooney said. “It’s important for our individuals to focus on that company and find solutions.”

Morgan Lewis’ client-focused

approach to cases has expanded its class-action department’s reach in recent years. For example, the firm is among the leaders in defending retail corporations from class-action lawsuits regarding the privacy issues from collecting shoppers’ ZIP codes. Morgan Lewis has also been at the forefront of defending employers from wage-and-hour claims filed across the country.

“We are hired for our expertise in specific areas,” said Eric Kraeutler, a Morgan Lewis partner. “Sometimes we have to defend many clients and it creates a deep knowledge about the clients in their business. That is what drives our client focus.” ♦

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MORGAN LEWIS BY THE NUMBERS

Department Headcount

Firmwide 119

Department as Percent of Firm

Headcount 8

Morgan Lewis