

THE AMERICAN LAWYER

SPECIAL
ISSUE

LITIGATION DEPARTMENT *of the* YEAR



LITIGATION LABOR & EMPLOYMENT FINALIST

MORGAN LEWIS

THIS IS OUR FIFTH BIENNIAL Litigation Department of the Year competition. It has become a cliché to note that we've never had a tougher time picking finalists and winners from the scores of submissions. Nevertheless, it's true. The last two years have been a time of unprecedented upheaval for American businesses—and for the lawyers who serve them. To quote a partner from one of our finalist firms, the economic meltdown resulted not just in litigation, but in conflagration. The firms we chose in the overall contest and in the three practice area competitions—product liability, labor and employment, and intellectual property—didn't just survive this trial by fire. They were forged into stronger, faster, smarter litigation departments.

As before, we invited every firm in The Am Law 200 to report on litigation activities in a 19-month period, this time January 1, 2008–July 31, 2009. Every submission was read by at least three *American Lawyer* journalists. We vetted the strongest entries with calls to clients and opposing counsel. Panels of reporters and editors picked finalists in each category and invited those firms to our offices in New York to plead their cases. At the end, we arrived at the results that follow: four winners, 12 runners-up, and 24 honorable mentions. Congratulations to all of them.

—ALISON FRANKEL

Just the *Facts*

By Irene Plagianos

MORGAN LEWIS'S
*hardworking,
no-drama approach to
employment law leads
to wins in novel areas.*

IN 2001 TELLABS, INC.'S STOCK declined suddenly, triggering a slew of investor suits. First out of the gate was a several-hundred-million-dollar investors' securities class action filing. Next came a high-value ERISA stock-drop suit on behalf of 7,500 employees who were invested in the company's 401(k) plan. Plaintiffs in both suits claimed that Tellabs's top executives misrepresented the company's business prospects; the ERISA suit alleged that top management breached their duties by allowing plan participants to invest in Tellabs stock.

While the original securities class action stalled on appeal, the ERISA suit raced toward trial, raising the stakes for Tellabs and its ERISA counsel, Charles Jackson of Morgan, Lewis & Bockius. Defending ERISA suits is riskier, since plaintiffs need only to prove negligence, a lower burden of proof than what is required in a securities claim. But a settlement or loss in the ERISA matter could have undercut Tellabs's defense in the investors' suit. Jackson, who had won the only other ERISA stock-drop suit trial to date, for client US Airways Group, Inc., in 2006, convinced Tellabs that the case was winnable. Jackson's team had "already seen the hurdles in a case like this, got over them, and won," says Charles Kennedy, Tellabs senior managing counsel. After an eight-day bench trial in June, Jackson's team delivered a com-



plete defense victory—the plaintiffs chose not to appeal. (The securities case went to the U.S. Supreme Court to address pleading requirements and is back in district court.)

Kennedy attributes the Tellabs win to the lawyers' trial preparation and courtroom skill—but also, he says, to a certain appealing lack of flashiness. Morgan Lewis litigators "seem like straightforward, genuine, and hardworking guys—they're not going for the jugular, they're just trying to prove the facts, and I think that makes a difference in these cases."

Whether it's ERISA disputes, contentious wage-and-hour class actions, or sensitive discrimination suits, clients across the board echo that praise. The firm's lawyers, they say, are smart, efficient, and prepared to go to trial if the need arises—a powerful recipe for client satisfaction. Most opposing counsel say that Morgan Lewis is tough, but fair; they hit all the right points and don't play games.

While other firms have trimmed their employment practices, Morgan Lewis's commitment has grown: The 282-lawyer group has added 30 lawyers since it was a finalist two years ago; new laterals this past year include Howard Radzely, a former deputy secretary at the U.S. Department

FROM LEFT:
*Samuel Shaulson,
Charles Jackson,
Melinda Riechert,
Grace Speights,
Michael Banks*

of Labor, and Jonathan Snare, a former deputy solicitor of Labor.

The firm's achievements are most impressive in the niche of ERISA class action defense, where Tellabs was one of several recent litigation wins by the 35-lawyer ERISA group. But the firm posted victories in other areas. One was client Maersk Inc., the U.S. branch of the Dutch shipping giant. James Philbin, the unit's general counsel, turned to Morgan Lewis after the company was sued by a truck driver on behalf of a putative class. The drivers claimed that they were not independent contractors, and thus were owed reimbursement for insurance costs. The company's original counsel advised settling for multiple millions, but Philbin disagreed, fearing that a settlement would trigger a broader challenge. In August 2008, Morgan Lewis's George Stohner and Barbara Fitzgerald got the case dismissed on summary judgment. And more recently, the duo won a companion wage-and-hour class action against Maersk before the same judge. Morgan Lewis's employment lawyers are "highly attuned to what the client wants," says Philbin.

E-mail: iplagianos@alm.com.

}	PRACTICE GROUP SIZE	Partners: 87 Associates: 175 Counsel: 20	}
	PRACTICE GROUP as Percent of Firm	19.7%	
	ESTIMATED PERCENT of Firm Revenue 2009	22%	