

Litigation Leaders: Skadden's Jim Carroll Touts the Value of Having an In-House Trial Consulting Group

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By Ross Todd
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Welcome to another edition of our *Litigation Leaders* series, featuring the litigation practice leaders of the most innovative firms in the country.

Meet **Jim Carroll**, the global head of the litigation/controversy practices at **Skadden, Arps, Slate, Meagher & Flom**.

Carroll, who is based in Boston, handles a mix of litigation, arbitration and enforcement matters including issues dealing with securities, investment management, ERISA, insurance and antitrust. Carroll won *Litigator of the Week* alongside partners **Eben Colby** and **Scott Musoff** back in 2019 after fending off a \$1.5 billion Investment Company Act lawsuit for client Blackrock.

Tell us a little about yourself—beyond what’s in your law firm bio.

I’ve been in Skadden’s Boston office for more than 30 years. Skadden lawyers of my generation “stand on the shoulders of giants” who built an incredible institution with a strong client service culture of always trying to do the right thing. I feel so fortunate to be part of our firm. It’s been exciting both to witness and be a small part of the firm’s litigation growth.

Beyond the bio, I have been blessed with six children, including amazing triplets. Life has taught me multi-tasking skills that come in handy at work and at home.

How big is Skadden’s litigation department and where are most of your litigators concentrated geographically?

Our litigation group includes nearly 600 attorneys around the world who collectively are admitted to

practice in more than 30 countries and territories. Our U.S. team resides in all major financial centers from coast to coast, enabling us to effectively take on complex disputes that may arise in any jurisdiction. We were the first national law firm to open an office in Delaware, where our litigators have unrivaled experience in the Court of Chancery.

Our New York team was recently named the *New York Law Journal’s* Litigation Department of the Year in 2021. Our international experience, through offices in Asia Pacific, Europe and Latin America, allows us to represent clients globally and to handle complex international disputes in multiple languages.

What do you see as hallmarks of your firm’s litigators? What makes you different?

One of the qualities that distinguishes not just our litigation practice but all of Skadden is our commitment to collaboration. We work together as one team across our 21 offices worldwide. It is rare for a particular case or deal to be handled by attorneys from just one office. Our collaborative efforts allow us to bring a wide range of insights, experience and perspectives to each matter, with a shared commitment to winning.



James Carroll of Skadden

Courtesy photo

While we represent clients in all stages of litigation, our deep trial experience helps us stand out from our peers — we have a well-earned reputation for securing precedent-setting trial wins in “make or break” trials for our clients. We often inherit cases from other firms when trial is imminent, and we have been recognized for having among the deepest benches of seasoned trial lawyers in the country.

Our in-house trial consulting group, which covers all of our trial support needs — including theme development, jury research, witness preparation, electronic evidence presentation, graphic design and trial logistics — also distinguishes us. Our trial consultants enable our litigators to deploy best practices on every case, maintaining a comprehensive archive of materials that serve as exemplars for trial presentations. The group accelerated our remote litigation capabilities, especially when we first began adapting to the challenges presented by COVID-19.

In what three areas of litigation do you have the deepest bench? (I know it’s hard, but please name just three.)

It’s hard to select just three areas, but highlighting our antitrust/competition litigators, securities litigators and international arbitration team is easy.

In antitrust, the current landscape has become increasingly unpredictable, especially in light of the still-developing priorities of the Biden administration. Deep experience in this field is more important than ever, and our antitrust/competition team has plenty — according to *Bloomberg Law*, we had the highest number of representations from 2007 to 2021 in federal antitrust cases involving the 10 largest public companies in each of the technology, pharmaceutical and financial services sectors.

Despite last year’s decline in securities litigation class actions, our securities litigators’ workload remained busier than ever. We’ve seen a spike in lawsuits involving SPAC transactions, cryptocurrency and event-driven suits surrounding significant events, such as product recalls or cybersecurity breaches. According to *Lex Machina*, our securities litigation team served as defense counsel in more federal securities cases in the U.S. from 2019 to 2021 than any other firm. It is a critical practice for us.

Our international arbitration attorneys have a stellar track record of success on both commercial and

investor-state arbitrations involving high levels of commercial or political risk. Over the years, the group has secured many landmark victories, including the largest arbitration award ever in the renewable energy sector and one of the largest and highest-profile bilateral investment treaty disputes in the world. International arbitration is one of our fastest-growing and most successful teams.

As department chair, what are some of your goals or priorities for the next year?

My answer is simple: achieve more victories for our clients in their most important cases.

How many lateral litigation partners have you hired in the last 12 months? What do you look for in lateral hires?

We hire lateral partners who not only provide unique experience but also are authorities in areas we predict will affect our clients for years to come.

In the past year, we’ve significantly bolstered our bench of former senior staff members from the SEC. In April, we hired Anita Bandy, who joined our Washington, D.C., office after nearly two decades in the SEC’s Enforcement Division. She’s already proven to be an asset to our clients. In New York, last October we brought on Daniel Michael, who stepped down as chief of the Enforcement Division’s Complex Financial Instruments Unit. His experience greatly enhances our capabilities in the financial services sector. Both Dan and Anita hit the ground sprinting. And last March, we welcomed back Joe Barloon, who served as general counsel to the United States trade representative (USTR) and acting deputy USTR. He rejoined Skadden’s litigation practice in Washington, D.C., where he represents financial services companies and other clients in federal and state regulatory, civil and criminal enforcement matters.

We also added lateral partners Meredith Slawe and Mike McTigue in March to our mass torts, insurance and consumer litigation group. With consumer class action filings on the rise, their substantial experience as leaders of the class action defense bar has been a tremendous addition to the firm’s litigation capabilities.

More recently, we hired nationally recognized tax controversy trial lawyer Kat Gregor in Boston. She strengthens an already talent-laden group led by Raj Madan and adds a new capability for us in Boston.

What were some of Skadden's biggest in-court wins in the past year, and can you cite tactics that exemplify your firm's approach to success?

Our biggest in-court wins in the past 12 months reflect our litigation group's breadth and diversity. In August and September, Skadden New York litigation partner Alli Brown led a team that secured defense jury verdicts on behalf of Johnson & Johnson in two cases alleging that the company's baby powder causes ovarian cancer — a multi-plaintiff Missouri state court case seeking \$1 billion in damages and an Illinois state court case seeking \$50 million. Alli faced a wide range of challenges but persuaded the juries by keeping the focus on case-specific facts and science. Alli is among our stars and tries cases all over the country.

In October, after years of hard-fought litigation, litigation partners Pat Fitzgerald, Lara Flath and Amy Van Gelder led a team that secured a trial win for the University of North Carolina in a case in which the plaintiff, Students for Fair Admissions, alleged that the university intentionally discriminated against applicants on the basis of their race, color or ethnicity. The court issued a 150-page opinion ruling in favor of UNC on all claims.

After more than seven years of litigation, Jack DiCanio, head of litigation in Skadden's Palo Alto office, alongside co-counsel Akin Gump, secured summary judgment in favor of the National Football League in a case where former football players alleged they had endured negative health consequences taking prescription painkillers prior to their retirement. The plaintiffs' claims sat at the intersection of labor and tort law, implicating diverse issues related to pre-emption, control and causation. Jack was involved in the "Varsity Blues" matter and always has an interesting trial docket

Raj Madan, head of Skadden's Washington, D.C. tax group, led a team alongside partners Nathan Wacker, Chris Bowers and Jessie Liu who successfully represented Liberty Global in its challenge of the validity of regulations issued under Section 245A of the Internal Revenue Code, a statute added as part of the 2017 tax reform act. This issue of first impression directly affects the tax reporting of numerous

foreign multinational corporations and has broader precedential implications, as it continues the growing trend of successful administrative law challenges to IRS rulemaking and other guidance.

And just last month, Pat Fitzgerald, Steve Sunshine, Boris Bershteyn and Tara Reinhart secured a favorable outcome on behalf of **Sabre Holdings** in an antitrust action brought by US Airways, which alleged that certain terms in the parties' 2011 contract unreasonably restrained trade in violation of Section 1 of the Sherman Act and that Sabre engaged in unlawful monopolistic conduct in violation of Section 2 of the act. Following a three-week jury trial and nearly a week of deliberations, the jury returned a verdict in favor of Sabre on the Section 1 claim. The jury found Sabre liable for the Section 2 claim but awarded US Airways only \$1 in damages.

What does your firm's coming trial docket look like?

Our trial docket has been rapidly growing as the year progresses. We have numerous jury and bench trials and arbitrations scheduled in the coming months involving securities fraud, tax, product liability, insurance and trade secret disputes, among other subject areas. We'll be trying cases in state and federal courts across the country this year.

Although not trial-related, it is worth mentioning our incredibly robust pipeline of work coming out of our Supreme Court and Appellate Litigation Group, led by Shay Dvoretzky in Washington, D.C. On the Supreme Court front, one of our counsel, Parker Rider-Longmaid will be arguing *Reed v. Goertz* this fall, which is a case that will decide the accrual rule for the limitations period for a Section 1983 claim seeking DNA testing. That will be the third merits case that the Supreme Court practice has handled since we launched the practice at the end of 2020. At the circuit court level, the firm is handling matters on behalf of clients such as Eaton Corporation, The Coca-Cola Company and Alaska Airlines, among others. Having Shay's group has been enormously helpful to our clients.

We expect it to be a very busy year across the board for Skadden's litigation/controversy practices.