



FINALIST

LITIGATION

DEPARTMENT OF THE YEAR

FROM LEFT Scott Musoff, P. Anthony Sammi, Lea Haber Kuck, Cliff Sloan, Jack DiCario

By Emily Barker

JACK OF ALL TRADES

Litigation is no longer just an offshoot of Skadden's corporate work.

DEPARTMENT SIZE AND REVENUE:

PARTNERS 121 ASSOCIATES 410 OTHER 123

DEPARTMENT AS PERCENTAGE OF FIRM: 32%

PERCENTAGE OF FIRM REVENUE, 2016: WND

IT'S SLIGHTLY DIFFICULT TO CHARACTERIZE Skadden, Arps, Slate, Meagher & Flom's litigation practice—and that's a good thing. Showing versatility and a zest for trial work, in the past two years Skadden litigators notched a diverse range of victories in forums all over the

United States and the world. Some of the largest companies in the world—and some not quite as large—turned to Skadden to handle matters of the highest priority to their business strategy, and sometimes their survival.

On behalf of ZeniMax Media, a team led by partners P. Anthony Sammi and Kurt Hemr fought Facebook Inc. over rights to virtual reality technology, and won a \$500 million jury verdict with co-counsel Haynes and Boone. When Skadden partners Allen Ruby and Jack DiCanio and co-counsel Arguedas Cassman & Headley defended FedEx Corp. against criminal drug trafficking charges—for allegedly conspiring with pharmacies that shipped illegally prescribed medication—the government dropped the case in midtrial. Skadden litigators won a \$1.2 billion arbitration award for Japan's NTT Docomo Inc. against India's Tata Sons Ltd.; helped Crédit Agricole CIB avoid a criminal plea in settling charges that the bank had violated U.S. sanctions against Sudan, Iran and Cuba; and got a rare reversal of FIFA's suspension of a soccer association official.

The time when the litigation group was essentially a support arm of the firm's blockbuster mergers and acquisitions practice is long gone. Still, financial litigation remains a strength. Skadden steered E.I. du Pont de Nemours & Co. through antitrust approvals in more than 20 jurisdictions worldwide in its merger with Dow Chemical Co. A team led by partner Jay Kasner and Cleary Gottlieb Steen & Hamilton's Lewis Liman convinced the U.S. Court of Appeals for the Second Circuit to overturn class certification in a securities litigation suit against Cleary client Petrobras and Skadden's clients, the bond underwriters involved in the deal. And Skadden partners Robert Saunders and Jennifer Voss successfully defended Sprint Corp.'s buyout of Clearwire Corp. after a Clearwire shareholder, Aurelius Capital Management, claimed that Sprint's buyout offer undervalued Clearwire.

"It was a very complex case, and they developed a very deep understanding of the facts and really kept their eye on the ball," says Sprint vice president of legal Susan Haller of the Skadden lawyers' performance during a 10-day trial in Delaware's Court of Chancery. In a stinging defeat for Aurelius, the court held that its Clearwire shares were worth just \$2.13 each—less than half of the per-share merger price.

"It was a great result," says Haller.

Marshaling a vast amount of highly technical evidence was also key to the ZeniMax win, says Sammi. ZeniMax sued Facebook, claiming that a former employee had taken proprietary virtual reality software to Oculus VR, later acquired by Facebook. Although the jury disregarded ZeniMax's trade secret claims, it found for ZeniMax on copyright and trademark infringement claims. "Our ability in-house to understand complicated things like source code gives us an edge," Sammi says.

Compared with some of its peer firms, Skadden puts less emphasis on appellate work as a separate practice. "One thing we pride ourselves on is doing our own appellate work," says securities litigation partner Scott Musoff, part of the Skadden-Cleary team that landed the Second Circuit win in the Petrobras case last July. In a department of more than 600 litigators, only about 20 spend most of their time on appellate matters.

But the firm's appellate victories had broad impact. At the U.S. Supreme Court, partner Clifford Sloan, representing Texas death row inmate Bobby James Moore pro bono, persuaded the justices to rule 9-0 to strike down Texas's standards for evaluating intellectual disabilities in death penalty cases. The Second Circuit's Petrobras ruling essentially erects a new hurdle to class certification in class actions involving nonexchange-traded securities: Before certifying a class, courts must determine on an individual basis whether the securities were purchased domestically.

"We took the argument that it was a global offering of [Petrobras] notes, not an offering on U.S. exchanges," Musoff says. "It was the first time that argument had been used on class certification."

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