



FINALIST

LITIGATION

DEPARTMENT OF THE YEAR

FROM LEFT Catherine Carroll, Anjan Sahni, Howard Shapiro, Heather Tewksbury and Joseph Mueller.

By Christine Simmons

A STRONG MIX

WilmerHale government and IP expertise stands above the crowd.

DEPARTMENT SIZE AND REVENUE:

PARTNERS 131 ASSOCIATES 267 COUNSEL 124

DEPARTMENT AS PERCENTAGE OF FIRM 49.5%

PERCENTAGE OF FIRM REVENUE, 2016 57.6%

W

ILMER CUTLER PICKERING

Hale and Dorr is distinctive for its patent litigation prowess. In the last two years, the firm, whose large intellectual property practice grew out of legacy firm Hale and Dorr, defeated a \$2 billion infringement claim against

Intel and convinced a federal appeals court to reinstate a \$120 million jury verdict for Apple.

But it's not only IP litigation wins that make WilmerHale stand out. From total dismissals of cases brought by the Securities and Exchange Commission to deft handling of Foreign Corrupt Practices Act matters, WilmerHale has won a string of victories in regulatory and enforcement litigation, setting records that few firms can match.

With nearly 100 former government lawyers in its ranks, WilmerHale is often enlisted in fights involving U.S. policy, enforcement and regulations. (Not to mention that the firm counts as alumni special counsel Robert Mueller and three former partners on Mueller's investigation on Russian interference in the U.S. election.) "It's not just a shadow of the Department of Justice," WilmerHale litigation department chair Howard Shapiro says, "but it's an extraordinary shadow of the Department of Justice."

In two years, the firm racked up a series of high-profile wins against the SEC, including in defending Ken Paxton, Texas attorney general, in a securities fraud suit.

The firm scored another victory against the SEC when defending former Thornburg Mortgage executives Larry Goldstone and Clarence Simmons, who were accused of scheming to fraudulently overstate the company's income by more than \$400 million in the lead-up to the mortgage crisis. In 2016, a jury acquitted on five of the 10 charges, deadlocking on the remaining counts. The SEC, on the eve of re-trial, dropped the entire case in February 2017. The Goldstone case was the firm's third straight trial victory against the SEC, Shapiro says. "I don't believe there's any other firm that can say that."

Shapiro also boasts that in the last decade the firm has handled more FCPA resolutions with the government than any other firm. In 2016 alone, WilmerHale handled five public FCPA settlements for clients.

For instance, under the FCPA pilot program, the Justice Department declined to prosecute WilmerHale client Johnson Controls, over bribery allegations involving Chinese government employees. It was a remarkable result because the very business unit at issue, a marine and shipping department in the company, had a prior FCPA record. But WilmerHale and the

client, with prompt disclosure of the issues, took the unusual step of inviting government officials to come to WilmerHale's offices to preview the client's compliance tools for a better understanding of the client's training and auditing, notes partner Jay Holtmeier.

WilmerHale gained unwanted attention in September 2017 after a firm lawyer inadvertently emailed a Wall Street Journal newspaper reporter with privileged information about a PepsiCo investigation. The firm is still representing the client. "It was an unfortunate event, to be sure," Shapiro says, "and one that shouldn't have happened."

But WilmerHale's litigation victories are in cases that achieved even more publicity and attention.

For instance, WilmerHale filed suit against the government on behalf of firm client Twitter when faced with a summons demand from the Trump administration. The government wanted to unmask the identify of a so-called rogue government Twitter account. With lead partners Seth Waxman and Patrick Carome, the firm's quick thinking and research on First Amendment issues led to a proactive suit to block the summons. The government dropped its case less than 24 hours after the filing.

In another twist of the patent wars between smartphone manufacturers, partners William Lee and Lauren Fletcher and counsel Andrew Danford persuaded judges in the U.S. Court of Appeals for the Federal Circuit to vacate in October 2016 a prior decision and reinstate a \$120 million jury verdict for WilmerHale client Apple against Samsung Electronics.

This year, Lee and partner Joseph Mueller fought off a \$2 billion patent infringement case against client Intel Corp. brought by AVM Technologies.

The firm is repeatedly before the U.S. Supreme Court on issues with far-reaching impact. It argued 11 cases before the court in 2015 and 2016 and obtained five wins. One was for a pro bono client, death-row inmate Timothy Hurst. The court held Florida's capital sentencing scheme violated a constitutional requirement that a jury, not a judge, find each fact necessary to impose a death sentence.

WilmerHale attorneys say the litigation department stands out not only for its victories, but the opportunities it provides younger attorneys. Six of the eight attorneys who argued before the high court in the past five years were in their 30s and 40s, says Catherine Carroll, partner in charge of WilmerHale's Washington, D.C., office.

"That's really extraordinary when you compare that to our peer firms," says Carroll, who herself argued three cases before the U.S. Supreme Court by the age of 40. "It's a testament to the approach we take here."

Email: csimmons@alm.com.