



The 4 Firms In-House Counsel Fear The Most

By Ryan Davis

Law360, New York (September 03, 2010) -- When in-house counsel look across a courtroom, there are a few firms that they don't want to ever see as opponents, a new survey has found.

For its 2011 Litigation Outlook report, the BTI Consulting Group (Wellesley, Mass.) surveyed 240 corporate counsel about which firms they feel are the most formidable litigation opponents. Kirkland & Ellis LLP, **Quinn Emanuel Urquhart & Sullivan LLP**, Latham & Watkins LLP, and Skadden Arps Slate Meagher & Flom LLP were mentioned most often in the [report](#), leading BTI to dub them the "Fearsome Foursome."

"They are the firms' clients most fear and the ones they would least like to see on the other side of the courtroom," the report said.

The key attribute of the most feared firms is tenacity, BTI principal Marcie Shunk said, describing the firms as latching on to the case with the intensity of a pit bull and not letting go until they get the result they want.

"That intimidation factor puts opponents implicitly on the defensive and provides more direction about the way the case goes," BTI President Michael Rynowecer said. Often, the Fearsome Foursome are able to secure settlements through the sheer force of their imposing reputation, he added.

The most feared firms are not only relentless in seeking documents and making other requests that sap the resources of opponents, but they are also well-suited to respond to such requests made by opponents, according to Shunk.

Kirkland, Latham, Quinn Emanuel and Skadden have developed their reputation for fearsomeness by ensuring that everyone at the firm recognizes the importance of aggressive litigation, Rynowecer said.

"It's a cultural phenomenon," he said. "Associates see the senior partners living the example every day."

However, aggressiveness alone isn't enough to strike fear into the hearts of opponents, Rynowecer noted. The feared firms also display an agility and adaptability that benefits their clients.

"If what they're doing is not having the effect they want, they're comfortable changing," he said. "They have other approaches lined up and don't bank on only one strategy."

The four most feared firms have regularly turned up on other BTI reports about firms with exceptional client service, according to Rynowecer. They all set an example for being strategic, innovative and creative, he said.

“It's not just brute force; it's strategic thinking and a mindset of 'we are not going to lose,’” he said.

Kirkland & Ellis

Jay Lefkowitz, a senior litigation partner at Kirkland & Ellis, said one of the reasons the firm has developed such a formidable litigation reputation is the intense focus it puts on sharpening the trial skills of its attorneys.

Associates at the firm get a few weeks of trial advocacy training every year, participating in mock trials with actors playing witnesses and senior partners playing the judges, giving attorneys “a lot of real on-their-feet experience,” he said.

Kirkland also has a deep bench of 15 to 20 attorneys who serve as first-chair counsel in trials each year and a long history of working with clients to deeply understand their cases and business objectives, he said.

“There are some very fine litigation firms that all have superb lawyers,” Lefkowitz said. “What sets us apart is our tremendous depth of people with real track records.”

Kirkland's litigation success stretches across numerous practice areas, as illustrated by some of its recent successes.

In August, the U.S. Court of Appeals for the Seventh Circuit affirmed a judge's decision to award an affirmative \$15 million judgment and \$10 million in attorneys' fees to Kirkland's client Metavante Corp. in a contract suit over its joint launch of an Internet direct bank with Emigrant Savings Bank. Emigrant had sought \$250 million in damages, plus unspecified punitive damages.

In July, Kirkland won a \$23.2 million jury verdict for the actor Don Johnson in a breach of contract suit over the syndication rights to his 1990s TV show “Nash Bridges.”

Kirkland scored another significant victory in December when it represented Sears Holdings Chairman Edward Lampert in a securities suit over the merger between Sears and Kmart Corp., when the judge granted Lampert summary judgment.

Quinn Emanuel

Bill Urquhart, a name partner at **Quinn Emanuel**, said one of the keys to the firm's imposing reputation is its intense focus on recruiting extremely smart attorneys with a great deal of common sense.

“Contrary to what the public may think, most litigation law is driven by common sense,” he said. “We do as good a job as any firm of identifying bright young people with ability to make commonsense decisions.”

Another factor is the sheer breadth of the firm's litigation experience, Urquhart said, which frequently leads clients to bring Quinn Emanuel in to replace its counsel just before a case goes to trial, he said.

Compared to most other large firms, Quinn Emanuel takes a disproportionate number of cases to trial, he said, noting that at one point in 2009 the firm was handling 12 trials at the same time while working on two other large matters that settled on the eve of trial.

“If you ask the question, who else could handle 14 trials simultaneously, the answer is no one,” he said. “There isn't any law firm in the country that has as many first-chair trial lawyers as we do.”

In the last three years, the firm has secured well in excess of \$10 billion in settlements and judgments for its clients, according to Urquhart.

Among the firm's recent wins, Quinn Emanuel represented Google Inc. in a trial brought by patent-holding company Function Media LLC alleging infringement by Google's AdSense program that sought \$600 million in damages. In January, a jury returned a verdict that Google did not infringe and that the plaintiffs' patents were invalid.

In June, a jury awarded Quinn Emanuel's client The Dow Chemical Co. Inc. nearly \$62 million in a suit accusing Nova Chemicals Corp. of infringing two patents related to polyethylene resins used in packaging.

Skadden

David M. Zornow, the global head of the litigation practice at Skadden, credits the firm's reputation to a decades-long culture and history of “walking through walls” to get the best results for clients.

“If I had to reduce it to one characteristic that I think explains both the reality of our success and the perception of our success, it's a passion for what we do,” he said. “I don't think we go around trying to instill fear in people. It's a matter of doing the highest quality work, being creative and thinking outside the box.”

From the early days of the firm, when it handled only a small range of cases, Skadden has prided itself on doing whatever it takes for clients, he said, and that culture remains intact, passed from lawyer to lawyer, now that the firm has developed a broad litigation platform.

“We approach cases with a degree of zealousness and passion that is appropriate to what are often bet-the-company situations,” Zornow said.

The firm's vast size, with thousands of attorneys in 24 offices around the world, gives it the ability to marshal resources across geographic boundaries and disciplines to advise clients on many fronts in a seamless fashion, he said.

Among Skadden's significant recent victories, it successfully represented Merck & Co. in 2009 in a case brought by the Texas attorney general alleging Medicaid fraud in connection with the marketing of Vioxx.

In December, Skadden defended Broadcom Corp. ex-Chief Financial Officer William Ruehle against stock options backdating charges that were thrown out by the court on the ground of prosecutorial misconduct.

And in June, Skadden secured a deferred prosecution agreement for former Bristol-Myers Squibb Co. Chief Financial Officer Frederick Schiff that resulted in the dismissal of a five-year-old criminal case that alleged Schiff misled investors about incentives to spur wholesalers to buy more drugs than needed.

Attempts to reach Latham for comment on the report were unsuccessful.

Awesome Opponents

In addition to the Fearsome Foursome, the report also listed 28 firms as “awesome opponents” that were frequently mentioned by corporate counsel as ones they prefer to steer clear of in litigation.

Those firms are Ahmad Zavitsanos & Anaipakos PC, Akin Gump Strauss Hauer & Feld LLP, Alston & Bird LLP, Bartlit Beck Herman Palenchar & Scott LLP, Boies Schiller & Flexner LLP, Cooley LLP, Fisher & Phillips LLP, Fulbright & Jaworski LLP, Gibson Dunn & Crutcher LLP, Goodwin Procter LLP, Greenberg Traurig LLP, Haynes and Boone LLP, Holland & Knight LLP, Jenner & Block LLP, Jones Day, Lavin O’Neil Ricci Cedrone & DiSipio, Lynch Cox Gilman & Goodman PSC, Milberg LLP, Morgan Lewis & Bockius LLP, Munger Tolles & Olson LLP, Patton Boggs LLP, Sidley Austin LLP, The Stanley Law Firm LLC, Susman Godfrey LLP, The Wolk Law Firm, Vinson & Elkins LLP, Wachtell Lipton Rosen & Katz and Williams & Connolly LLP.