



FINALIST

LITIGATION

DEPARTMENT OF THE YEAR

FROM LEFT Debra Wong Yang, Jeffrey Thomas, Andrew Tulumello (seated), Mylan Denerstein, and Randy Mastro

By David Bario

WITH AN ARMY BEHIND THEM

Gibson Dunn's star litigation roster is backed up by a legion of lawyers who can get the job done.

DEPARTMENT SIZE AND REVENUE:

PARTNERS 197 ASSOCIATES 515 OTHER 35
 DEPARTMENT AS PERCENTAGE OF FIRM 58.3%
 PERCENTAGE OF FIRM REVENUE, 2016 56.3%

LOSING A \$500 MILLION VERDICT SOUNDS like a general counsel's worst nightmare. That's what happened to Facebook Inc. last February, when federal jurors in Dallas found that Facebook's Oculus unit had relied on another company's intellectual property to launch its Rift virtual reality headset.

So why does Facebook's GC, Colin Stretch, sound so calm talking about the case now? It might have something to do with the law firm he tapped to challenge the verdict: Gibson, Dunn & Crutcher.

"We've relied on them for bare-knuckle litigation, for appellate work, for Supreme Court work, for regulatory work, for class action defense, you name it," Stretch says. He cites the firm's deep bench of first-chair talent, including partner James Ho in Dallas, who is leading the team in the Oculus case. But he says it's not just the superstars that keep him coming back.

"They obviously have an all-star roster," Stretch says. "But you also know that behind them is an army."

Army is right. Sure, there are renowned litigators like Theodore Olson, Miguel Estrada, Debra Wong Yang, Joseph Warin, Theodore Boutrous Jr. and Randy Mastro. But they are just a handful of Gibson Dunn's nearly 200 litigation partners, out of more than 700 litigators in all. The firm was The American Lawyer's Litigation Department of the Year winner three times over the last decade, and a finalist every round. And in the time period covered here, Gibson Dunn's army kept on overpowering, outmaneuvering, and plain old clobbering its opponents in court.

The victories sometimes develop a momentum all their own, with Gibson Dunn lawyers relying on a precedent-setting win for one client to aid another. When partner Mark Perry persuaded the Federal Circuit to toss a \$530 million patent verdict against client Apple Inc. in March 2017, the court cited Perry's own 2014 U.S. Supreme Court win in *Alice v. CLS Bank International*, which is still helping U.S. IP defendants everywhere escape infringement claims related to abstract concepts.

Or take Boutrous, the firm's L.A.-based litigation co-chair, who has been at the forefront of class action litigation defense since he knocked out the country's largest-ever employee class action in 2011 in *Wal-Mart v. Dukes*. That experience made him an obvious choice for Uber Inc. in its ongoing battle to avoid a proposed class

action involving nearly 400,000 drivers. In September 2016, Boutrous convinced the Ninth Circuit that Uber's arbitration agreements with its drivers were enforceable, tilting the scales heavily in favor of the defense.

Not all the firm's big wins involved appeals. Gibson Dunn also scored plenty of trial wins, most notably in a long-fought case on behalf of Hewlett-Packard Enterprise that culminated in a staggering \$3 billion jury verdict against Oracle Corp. in July 2016.

For five years, including a bench trial and an interlocutory appeal, a team led by Gibson Dunn partner Jeffrey Thomas argued that Oracle breached an agreement to keep offering new versions of its software to customers using HP's high-end Integrity servers. Thomas and other lawyers had already convinced a judge in 2012 that there was an agreement, but to win over a jury he needed to show that Oracle was to blame for abruptly upending the companies' relationship.

The trial pitted Thomas against Boies Schiller Flexner's formidable William Isaacson, but it was Thomas whose narrative carried the day. Not only did a California jury award all \$3.014 billion in damages that Thomas sought, but post-judgment interest is continuing to accrue—at a rate of nearly \$1 million per day.

Though Thomas expects he'll likely wind up arguing for HP on appeal, he emphasizes that the litigation has been a team effort, and says the beauty of his firm is that there are so many exceptional lawyers who can give critical support at all stages of a case.

"We have stars, but not a star system," says Mastro, the firm's New York-based litigation co-chair. And, he points out, there is a robust pipeline of younger stars at the firm who are still in their 40s, including partners Matt McGill and Drew Tulumello, who delivered their first U.S. Supreme Court arguments in 2016 and 2017—and walked away with major wins for BNSF Railway and Puerto Rico bondholders.

John Schultz, HP's general counsel, says a combination of quality, depth and consistency is what sets Gibson Dunn apart. "Everyone talks about having great lawyers and being client-friendly, but with a lot of firms the output is actually pretty uneven," Schultz says. "Partner to partner, associate to associate, case to case, there's no firm we've worked with that is better than the Gibson folks."

Email: dbario@alm.com.