

Rising Star: Gibson Dunn's Jonathan Phillips

Law360 (August 7, 2018, 1:41 PM EDT) -- Gibson Dunn & Crutcher LLP's Jonathan Phillips has translated his experience prosecuting claims of fraud against the government at the U.S. Department of Justice into a successful career defending clients like Microsemi against False Claims Act allegations and related claims, making him one of five attorneys under 40 selected by Law360 as government contracts Rising Stars.

HIS MOST CHALLENGING CASES:

Among the most challenging work in Phillips' practice is handling cases that involve different lines of investigation and different stakeholders in parallel proceedings, he said. That regularly comes to pass with False Claims Act allegations, which often start with private whistleblowers before attracting government involvement that can take the form of both civil and criminal investigations, potentially happening in parallel, the attorney noted.

An example of that in practice is Phillips' work on the DOJ trial team prosecuting bid-rigging claims stemming from an alleged conspiracy involving Belgian company Gosselin Worldwide Moving NV and a slew of other American and European logistics companies. The matter started as several qui tams that developed into a criminal investigation before going to trial on the claims that didn't settle, Phillips said.

"Trials in the False Claims Act world are relatively rare, so that was a somewhat unique opportunity: to be able to litigate complicated False Claims Act claims to a jury verdict," he said.

RISING ★ ★ ★ ★ ★ STAR



Jonathan Phillips
Gibson Dunn

Age: 37

Home base: Washington, D.C.

Position: Partner

Law school: University of Pennsylvania Law School

First job after law school: Clerk for U.S. District Judge J. Curtis Joyner

OTHER NOTABLE MATTERS:

In May 2017, Phillips led a Gibson Dunn team in notching an important victory for Microsemi Corp., persuading the Ninth Circuit to affirm the dismissal of FCA allegations brought by a former employee of a onetime subsidiary of the semiconductor equipment supplier.

The ex-worker alleged that Microsemi duped the government out of more than \$1.6 billion by submitting claims that falsely certified the company's compliance with the International Traffic in Arms Regulations. However, Phillips and his team scored end-to-end successes for their client, convincing the DOJ not to intervene in the qui tam complaint, getting the action dismissed in the federal court and successfully defending that ruling before the appeals court.

The attorney is also playing a leading role in defending Fluor Federal Services Inc. and Savannah River Nuclear Solutions LLC against government claims that they overcharged the Department of Energy under a management and operations contract.

The team recently scored partial dismissal and swayed the judge to stay the remaining allegations while she sent underlying contract interpretation questions to the Civilian Board of Contract Appeals for an advisory opinion, which the attorneys believe to be the first time a district court has exercised its authority under the Contract Disputes Act to do so.

"That one has been very interesting to work on because in some respects, we're on kind of a new frontier for how these advisory opinions are processed and litigated," Phillips said.

HIS PROUDEST MOMENT:

One of Phillips' crowning moments as an attorney came in a case that's totally different from his typical work — representing David Faulkner in his efforts to escape his alleged wrongful imprisonment in Maryland.

In 2016, a team that includes attorneys from Gibson Dunn and the Innocence Project was recognized with the Mid-Atlantic Innocence Project's Defender of Innocence Award for their efforts to free Faulkner, who Phillips said was imprisoned for a murder he didn't commit 17 years ago.

There's still a lot of work to be done, as Faulkner remains in prison and his post-conviction petition is on appeal, Phillips said. But, the attorney said, the award was a high point in a case that has proven tremendously challenging and deeply satisfying, giving him a different sort of personal connection and perspective than he gets in some of his commercial litigation work.

“I’ve been really proud to be part of the team working for his cause and part of the community of attorneys fighting for the innocence of the wrongly convicted,” he said.

WHY GOVERNMENT CONTRACTS:

Phillips loves everything about practicing in the government contracts arena. Of course, he said, that starts with his clients, who are great to work with and call on him to handle interesting challenges that are professionally and personally rewarding.

But he also enjoys the subject matter itself, the attorney said, explaining that government enforcement work and whistleblower actions involve intellectual and practical complexities that require a wide-ranging skill set.

“Oftentimes these cases start out seeming like a straightforward breach of contract question — or they’re presented that way by the people who are interested in bringing them — but when you dig into them and start peeling back the layers, invariably, there’s a rich history and a lot of more complexity to these matters than they may seem to have at first,” he said.

— *As told to Shayna Posses*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2018 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.