

Rising Star: Gibson Dunn's Brian Lutz

By **Stewart Bishop**

Law360, New York (March 12, 2013) -- Faced with a lowball hostile takeover bid for his client Tenet Healthcare Corp., Brian M. Lutz of Gibson Dunn & Crutcher LLP struck back hard and filed suit for securities fraud, scaring off Tenet's rival and earning Lutz a spot on Law360's five rising securities stars under 40.

A partner in Gibson Dunn's litigation practice, 36-year-old Lutz has become a favorite of those facing top level securities class actions, corporate control contests and derivative suits, defending such heavy-hitters as Wal-Mart Inc. and JPMorgan Chase & Co.

Gibson Dunn partner Adam Offenhartz said be it a corporate control fight, an expedited trial or a situation in which the client needs advice on a complex issue in an effort to avoid litigation, Lutz is the attorney you want.

"He has great instincts, he is expert in the securities laws and [M&A] practice, and he garners the trust and respect of senior-level clients," Offenhartz said. "Brian, as a young partner, has already accomplished a tremendous amount. He has a great career ahead of him."

In his work for Tenet, after the company was hit with Community Health Systems Inc.'s \$7.95 billion takeover bid, Lutz helped lead an investigation that found purported improprieties in Medicare billings at CHS.

Lutz took the lead in drafting a 70-page complaint alleging securities fraud based on CHS' proxy statements that contained allegedly false and misleading information, which effectively devastated any stomach CHS had for a takeover.

Shortly after the suit was filed, CHS' stock price tanked. Less than one month later, under a cloud of regulatory and investor scrutiny, CHS dropped its bid for Tenet.

While Lutz declined to comment on the Tenet case, he said he's really enjoyed the substantial amount of work he's done on corporate control contests, which has broadened the type of issues and cases he deals with in the securities litigation context.

Additionally, he said, when it comes to transactional work, the firm's strategy of pairing securities litigators like himself with M&A teams has been a boon for clients.

"Offenhartz and I often advise clients early in the transaction process because, in our experience, there is almost always the possibility of litigation, and clients appreciate a litigation perspective at all stages of the transaction," Lutz said.

In another milestone, quite early in his career, Lutz was tapped by former Gibson Dunn partner Peter Beshar to come to the aid of top insurance broker Marsh Inc., which had been accused by then-New York Attorney General Eliot Spitzer, at the zenith of his prosecutorial power, of engaging in a wide-ranging bid-rigging and kickback scheme.

Marsh's stock price tanked, and its parent Marsh & McLennan Cos. Inc. began to clean house, replacing much of its senior management team and naming Beshar as general counsel. On loan from Gibson Dunn, Lutz was brought aboard at Marsh in order to help steady the company and deal with the regulatory onslaught.

"One of my best professional decisions was to agree to take a secondment from Gibson Dunn to serve as Peter's chief of staff during the crisis period at Marsh," Lutz said. "Peter was instrumental in helping to stabilize the company during a difficult time, and I was extremely fortunate to be on the front lines in that effort."

Working closely with Beshar, Lutz helped to manage a deep internal investigation and negotiate an \$850 million settlement with Spitzer as well as separate deals with dozens of other regulators.

He also was entrusted with the colossal task of helping to manage the implementation of the terms of the settlement fund and dealing with the thousands of clients making applications to the fund.

After his return to the firm, Lutz continued to work closely with MMC and Marsh, helping to secure dismissals of several shareholder lawsuits on pretrial motions, and settling a securities class action on favorable terms.

Lately, Lutz has been aiding Wal-Mart in defending against around 20 shareholder lawsuits, in the wake of a New York Times article on alleged improper payments by its Mexican subsidiary and a purported coverup by senior management.

While the case is drawing headlines, Lutz said he's happy to work every new case that comes along, front page material or not.

“It’s always fun to work on high-profile cases, but every case brings something new — new facts, new legal theories, new challenges,” Lutz said. “I like working on all of them.”

--Editing by Jeremy Barker.

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