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Business & Practice

Bartlit Beck Gets a Record Boost From Return of Trial Work

By Roy Strom

Column

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Welcome back to the Big Law Business column on the changing legal marketplace written by me, Roy Strom. Today, we look at how court closures first led to a drought and now a glut of trial work for Bartlit Beck. Sign up to receive this column in your inbox on Thursday mornings.

Jason Peltz runs a law firm that makes its name handling major trials for the country's biggest companies. With many courtrooms closed and trials indefinitely postponed, the past two-plus years have been a test for Peltz and the nearly 80 lawyers at Chicago-based Bartlit Beck.

The firm handled just two trials in 2020 and only three more in 2021. The work didn't stop, but it did change. Bartlit Beck lawyers handled far more depositions than usual during the pandemic, thanks to a shift to video that reduced the cost.

As litigation logjams start to ease, the nearly 30-year-old firm is getting back in the courtroom.

Bartlit Beck just finished its busiest first half in firm history. The firm handled nine trials over the first six-plus months of the year—nearly double the figure for the previous two years combined.

It's the kind of pace that Peltz said would be great for business over the course of a normal year.

And the work is far from over: Bartlit Beck has seven more trials scheduled before January.

"A Covid backlog is certainly one of the major components that we've seen," said Peltz, the firm's managing partner. "We had so many previously scheduled trials put on hold because of the pandemic. When courts reopened and things got back to business, that resulted in an inordinate number of trials being scheduled."

Federal civil trials have long been on the decline for various reasons, including the expansion of discovery, greater use of summary judgment rulings and the rise of alternative dispute resolution options.

But after the pandemic struck, federal civil trial volume plunged in 2020 to what is likely an all-time modern-era low of roughly 2,500—down more than a third from the prior year. The figure recovered only slightly last year to about 2,800, according to the Administrative Office of the U.S. Courts.

While official data isn't yet available, Bartlit Beck's experience suggests trials are making a comeback.

The firm scored its biggest win of the year in a July ruling for aircraft engine manufacturer Pratt & Whitney. A federal jury in Florida sided with the company in a lawsuit by property owners alleging that Pratt & Whitney was responsible for a cancer cluster they said was caused by contamination from a rocket plant. It's the first trial in a series of similar cases that pose potential liability of more than \$1 billion.

The firm also handled three trials defending Walgreens against opioid claims. The pharmacy chain eventually settled the first case, brought by the Florida attorney general, for \$683 million, with payments to be made over 18 years.

A judge on Wednesday ruled against Walgreens in another lawsuit in San Francisco, holding the company liable for "substantially contributing to public nuisance" in the city stemming from the opioid epidemic. A later trial will determine the extent to which Walgreens must abate the nuisance, the court said.

Bartlit Beck handled a third trial for Walgreens in a Cleveland federal court in May is awaiting a judge's ruling.

The firm's lawyers represented FedEx in a May trial in federal court in Southern Illinois related to a 2019 traffic collision that resulted in three deaths. The case settled during trial for an undisclosed amount.

This month, the firm won a pro bono Voting Rights Act case in Georgia that went to trial earlier this year. A federal judge ruled Georgia's statewide election of public service commissioners diluted Black voting power, ordering the state against preparing ballots for two races scheduled for November. Georgia is appealing the ruling.

Bartlit Beck handled three other trials in private arbitrations over commercial disputes for clients that Peltz declined to disclose.

"It's been a crazy time for sure around the firm with people working beyond hard," Peltz said. "But the result is this allows us to obtain critical trial experience."

At a time when trials are increasingly rare, Peltz believes courtroom experience has become the coin of the realm for law firms looking to attract the highest-profile cases.

That's why the firm tracks the type of experience its lawyers obtain over rolling 12-month periods. On average, 80% of the firm's lawyers obtain a "substantive role" on a trial team in a year. Four out of five lawyers take or defend a deposition in any given year.

Peltz said 30 different lawyers at the firm have been involved in the nine trials so far this year, representing about 40% of the firm's total lawyers. Five of those lawyers worked on two separate trials in just the first half.

"There are fewer opportunities to obtain that experience," Peltz said. "And sophisticated clients are demanding in many cases, in particular high-stakes litigation, to have counsel that has that trial experience."

The workload is likely to grow. Nearly 85,000 civil cases over three years old were pending in the 12-months ending in July, federal court data show. That's the highest total since 2018.

One reason that case log has grown is because trials are often the impetus for settlements. With trials back on schedule, the firm has already settled another nine cases this year, Peltz said. He's unsure how many of the remaining seven scheduled trials will go the distance, but he's making sure his lawyers are ready.

"It will certainly be a record year," he said. "It already basically is."

Worth Your Time

On the NRA: A proposed class-action brought by donors to the National Rifle Association of America is on its last breath after the local lawyer behind it clashed over fees with a former Boies Schiller Flexner partner who'd agreed to take the case a year ago. A court set an August 17 deadline for the case to get back on track. I wrote about how the lawsuit got to this perilous position—and what happens next.

On Boies Schiller: The firm founded by David Boies is poised to reap a giant payout after a federal judge agreed to a \$2.7 billion settlement in a nine-year antitrust battle with health insurer Blue Cross Blue Shield. The settlement includes \$667 million in fees for lawyers, which included co-lead counsel at Boies Schiller and Hausfeld LLP.

On Golf's Legal Battle: Longtime column readers know my passion for golf, and now the PGA Tour's battle with upstart league LIV Golf is spilling into courts. Brian Baxter and I covered the Big Law titans who lined up in court this week to fight over whether three LIV Golf members can play in the PGA Tour playoffs (they can't). Baxter also wrote about LIV Golf's new chief legal officer, who has experience taking on the PGA Tour.

That's it for this week! Thanks for reading and please send me your thoughts, critiques, and tips.

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