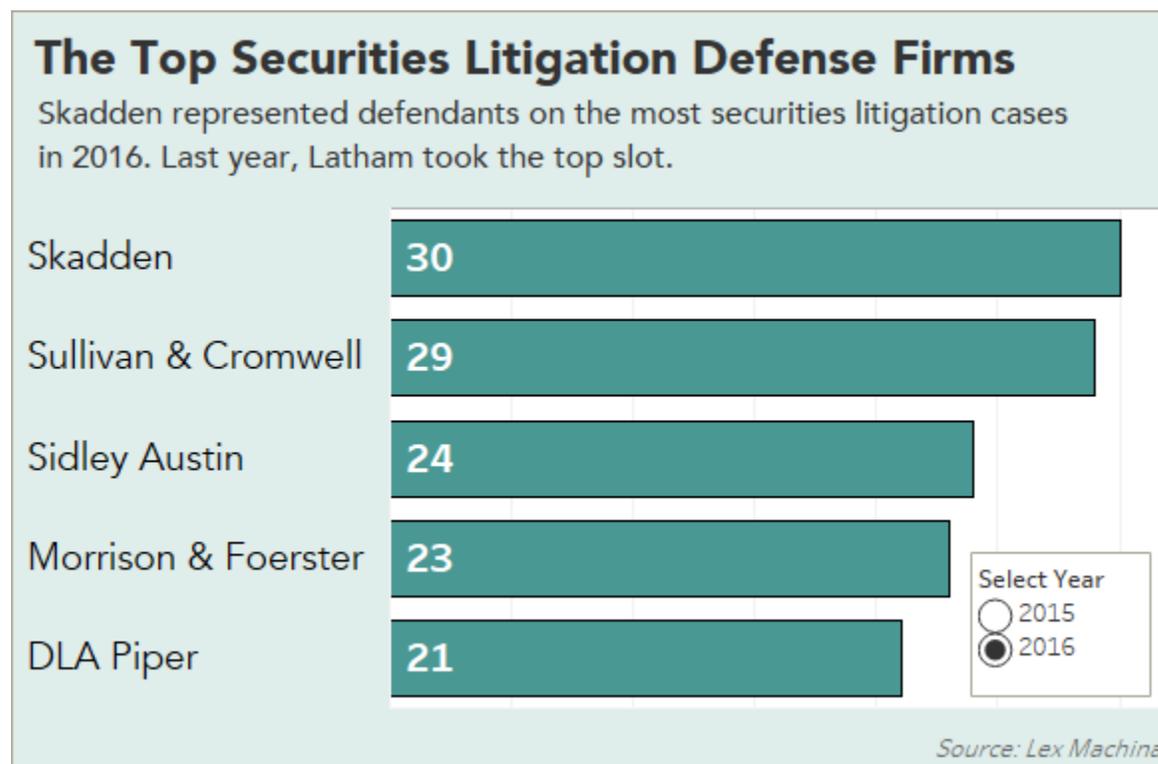


## These Firms Lead The Pack in Handling Securities Suits

By Carmen Germaine

*Law360, New York (September 23, 2016, 10:38 AM EDT)* -- As investors and companies battle in courts from Manhattan's southern tip to downtown San Francisco, a handful of defense and plaintiffs firms likewise tussle for control of high-stakes cases — and a few firms have established themselves as the go-to for bet-the-company litigation.

According to data from Lex Machina, which expanded its legal analytics platform into securities law in July, Pomerantz LLP has been the front-runner among plaintiffs firms for more than two years, representing clients in 107 cases that terminated in 2015 and in 77 cases that have ended in 2016 so far.



Defense firm rankings, by contrast, are more fluid. Skadden Arps Slate Meagher & Flom LLP handled the most securities cases on the defense side this year, taking on 30 cases that have ended so far in 2016. In doing so, it snagged the top spot from Latham & Watkins LLP, which last year led defense firms by

litigating 47 cases that terminated in 2015.

Lex Machina released preliminary numbers for 2015 in a July report, examining data on securities cases in federal court that ended because of a judgment, dismissal, settlement or transfer.

Jeremy Lieberman, the co-managing partner of Pomerantz, ascribed his firm's success to an innovative strategy. Pomerantz takes on more securities fraud cases than other firms, he said, by considering not just whether a company's numbers are technically accurate, but whether they are "qualitatively accurate" — in other words, whether they paint a true picture of a firm's financial state.

"We've always taken a unique and original approach to litigating our cases and to formulating theories of liability, and that made us the go-to firm 80 years ago and makes us the go-to firm today as well," Lieberman said.

Meanwhile, the head of Skadden's securities litigation practice, Jay B. Kasner, said the firm owes much of its success to its global focus. The firm is the only defense firm to have appeared in the top five in both 2015, when it reached fourth place with 36 cases, and this year, when it topped the defense firms.

"Our deep bench of litigators located throughout the world allows us to provide our clients — boards of directors, financial institutions, and public companies of all sizes — with an unparalleled level of knowledge and service," Kasner said.

While plaintiffs firms are focused on protecting investor clients and their assets, Jeff Hammell, the global co-chair of Latham & Watkins' securities litigation and professional liability practice, said that clients look to Latham to handle securities cases in a way that protects their businesses.

"Clients often tell us they choose Latham because of our lawyers' track record of winning cases — whether that means early wins on motions to dismiss or taking cases all the way through trial — as well as our ability to handle our clients' most important securities matters in a way that services their business needs and objectives," Hammell said.

Among top plaintiffs' firms, Robbins Geller Rudman & Dowd LLP was close behind Pomerantz, handling 100 cases that ended in 2015 and 69 cases thus far in 2016.

Despite Robbins Geller's success, name partner Paul Geller said the firm isn't focused on the numbers, which he said tell only part of the story.

"We care less about the number of cases we resolve, and more about the relative recoveries achieved for our clients in each of those cases," Geller said. "Our focus is on obtaining the best result possible, through settlement or trial, in each of our cases."

After Robbins Geller, Glancy Prongay & Murray LLP and The Rosen Law Firm are battling for third. Glancy Prongay was third in 2015, with 64 cases to The Rosen Law Firm's 49, but Rosen has pulled ahead with 62 cases ending this year to Glancy Prongay's 49.

Phillip Kim, a partner at The Rosen Law Firm, said his firm draws clients by efficiently pursuing matters it identifies as strong cases.

Like several other top attorneys, Kim said while in the past securities litigation tended to follow

marketwide crises, with distinct "waves" of cases, he hasn't seen a similar pattern among recent cases.

"It seems like over the last few years there's always been kind of a defined wave or series of cases arising out of some situation or economic shock," Kim said. "But in the last couple of years there hasn't been a distinct wave as I see it."

Glancy Prongay name partner Robert V. Prongay said his firm is growing quickly and has achieved success by building an "amazing team." Another secret to being a top plaintiffs' firm, Prongay said, is investing resources into investigating potential fraud cases.

"We can be at the forefront of emerging issues, as well as identify what turns out to be pretty serious accounting fraud pretty early on," Prongay said.

Rounding out the top five in 2015 was Labaton Sucharow LLP, which handled 21 cases that ended that year, while Levi & Korsinsky LLP has made the top five in 2016 with 25 cases.

Although Levi & Korsinsky is a relatively small firm, with only 12 partners, managing partner Eduard Korsinsky said it relies on a top-notch staff and even technology and automation where possible to move quickly for clients when lawyers at other firms might be unavailable.

"I think what makes a difference is being extremely diligent in seeing what's going on early in the process and being able to move very quickly," Korsinsky said. "Obviously given the choice I'd rather do things well, but the fact that we can do both things makes a difference."

While some firms on the list are young — The Rosen Law Firm is only 15 years old — many have been around for decades. Christopher Keller, a partner at Labaton Sucharow, said the firm's extensive history as one of the oldest plaintiffs firms in the field has helped build trust and confidence among investor clients.

"We celebrated our 50th anniversary a couple of years ago, which distinguishes this firm from many, many other firms that are relatively new," Keller said. "We have significant street cred, and we earn that year after year."

While the plaintiffs firm rankings changed little from 2015 to 2016, the defense firms traded spots extensively. In 2015, Simpson Thacher & Bartlett LLP followed Latham & Watkins, handling 42 cases that ended that year; Dechert LLP came in third, with 41 cases, followed by Skadden with 36, and Gibson Dunn reached fifth with 35 cases.

So far in 2016, Sullivan & Cromwell LLP is behind Skadden, having handled 29 cases that have terminated this year, followed by Sidley Austin LLP with 24, Morrison & Foerster with 23, and DLA Piper with 21.

In this competitive arena, many lawyers say a nationwide practice is essential to attracting clients. Although the Southern District of New York, with its proximity to Wall Street, is still the top jurisdiction for securities cases, accounting for about a quarter of the ones filed in federal courts, California courts are popular as well, and clients appreciate when their lawyers are down the street rather than across the country.

Jonathan K. Youngwood, the co-chair of Simpson Thacher's litigation department, says the firm's wide

base helped it snag second place among defense firms in 2015. He noted that Simpson Thacher attorneys are located in the top three districts for securities litigation: SDNY and the Northern and Southern districts of California.

“We have litigators in all three of those districts, and most of our litigators in one way or another practice in the securities field — certainly half or more than half — so we’re fairly well situated to be there for frankly any type of securities case that’s filed,” Youngwood said.

Sidley Austin LLP’s Andrew W. Stern, co-leader of the firm’s securities and shareholder litigation team, also said that a nationwide presence has helped his firm attract clients, propelling it to third place in 2016 with 24 cases so far this year.

“We really have senior lawyers doing this work in all of our major domestic offices, and we think that really gives us an advantage when we’re talking to clients about what we can provide for them,” Stern said.

Another asset, according to Sullivan & Cromwell LLP’s Robert Giuffra, can be found in important cases that help to spread the firm’s name.

Giuffra said a track record of success helps the firm generate more cases and take on significant issues when representing clients like Goldman Sachs or Volkswagen.

“I think we pride ourselves on winning important cases, and I think the clients appreciate that, and that’s something that obviously is important when clients are trying to make their counsel choices,” Giuffra said.

David Kistenbroker, the global co-head of the white collar and securities practice at Dechert LLP, said one reason his firm reached third among defense groups in 2015 — and had the most cases in SDNY of any defense firm — is clients’ high regard for the “extensive experience and scholarship” of the firm’s partners.

“We have a brace of partners who are absolutely top-notch in the field, and when you get that kind of senior leadership critical mass, this is the type of performance that yields,” Kistenbroker said.

Morrison & Foerster LLP has achieved success based on the firm’s broad reach and collaborative approach, according to Joel Haims, co-chair of the firm’s global securities litigation, enforcement and white collar defense group.

“We have a very strong bicoastal securities litigation practice with a global reach, so we’ve handled cases of all types and sizes,” Haims said.

DLA Piper reached the top five in 2016 on the strength of its “excellent and diverse nationwide team of litigators,” according to John J. Clarke Jr., co-chair of the firm’s corporate and securities litigation practice.

He said that clients turn to DLA Piper’s securities practice because of the firm’s work on securities litigation matters and on advisory matters in connection with the firm’s transactional group.

“I think a lot of what you’re seeing in the data reflects years of excellent work, and it just happens that in

this year the numbers add up so that you see the firm there,” Clarke said. “We’re pleased our work is now showing up in the data.”

Beyond simply winning cases, top securities litigators must keep their eyes on significant trends in the industry. Some defense attorneys said they’ve seen an increase in filings under the Securities Act of 1933.

Kistenbroker said he’s observed more “classic 10b securities class actions” under that law's anti-fraud provisions. Clarke said the uptick has been noticeable in both federal and state court, and he added that he’s seen a number of cases where plaintiffs first brought securities claims under the Securities Exchange Act of 1934, then added ‘33 Act claims later.

Meanwhile, other attorneys point to what The Rosen Law Firm's Kim termed a "nontrend" among the cases they've handled in the past couple of years. Giuffra of Sullivan & Cromwell said that recent securities litigation has been company-focused rather than marketwide. Many of Sullivan’s biggest cases lately have arisen out of issues specific companies have faced, he said, like shareholder suits against Volkswagen AG after the company’s diesel emissions fraud was revealed, rather than from market events.

Stern said another consequence of the market changes is not just a decrease in the number of cases being brought, but an increase in their quality, which he ascribed to plaintiffs firms being “a little bit more picky” about which ones they pursue.

“The quantity of the cases may be down, but in some respects they are more serious cases,” Stern said.

--Editing by Kat Laskowski and Rebecca Flanagan.