

California Powerhouse: Morrison & Foerster

By **Lauren Berg**

Law360 (August 4, 2021, 2:02 PM EDT) -- Morrison & Foerster LLP's attorneys outdid themselves this past year in both litigation and transactions, securing a decisive win for coffee roasters in an industrywide lawsuit alleging that coffee contains a cancer-causing chemical and representing Salesforce in its \$27.7 billion acquisition of workplace messaging company Slack.

The San Francisco-based firm also advised SoftBank's \$40 billion sale of its U.K. semiconductor business to Nvidia, rescued Ralphs Grocery Co. from an employment suit, and led medical device company Nevro Corp. to victory in patent infringement litigation, earning the firm a spot as one of Law360's 2021 California Powerhouses.

Since it was founded in 1883, making it one of the oldest law firms in California, Morrison & Foerster has grown to encompass 705 attorneys in the U.S. and 356 attorneys in the Golden State, with offices in San Francisco, Los Angeles, Palo Alto and San Diego, as well as Boston, Denver, Manhattan and Washington.

Many of the firm's California-based clients come from the technology, life sciences and health care industries, and include some of the largest financial institutions, Fortune 100 companies and investment funds, said Tessa J. Schwartz, a San Francisco-based managing partner of the firm.

"We're really known as a technology firm," Schwartz said. "We've played significant roles in intellectual property litigation matters and technology mergers and acquisitions. That's probably what we're most known for."

If a client is looking for the best litigators, Morrison & Foerster is the place she goes, Schwartz said. And lately, the firm has been very busy, particularly in the technology, life sciences and health care areas.

Over the last year, Morrison & Foerster helped Nevro, a medical device company focused on alleviating chronic pain, prevail in patent litigation, including a lawsuit against Boston Scientific Corp. That action, led by partner Michael A. Jacobs, alleged infringement of 18 claims across seven patents related to high-frequency spinal cord stimulation therapy.

In July 2018, a California federal court found that some claims in four of the patents were invalid, but rejected Boston Scientific's invalidity challenges to the other claims. Both parties appealed, and in April 2020 the U.S. Court of Appeals for the Federal Circuit granted Nevro's appeal, holding that the claims of



the four patents were valid.

When the case was kicked back to the district court, the parties ultimately settled in December 2020.

In August, Morrison & Foerster led coffee roasters to victory in a decadelong industrywide lawsuit brought by nonprofit Council for Education and Research on Toxics alleging that Starbucks, Dunkin' Brands Inc., Costco, Kroger Co., Walmart, Trader Joe's and other coffee roasters and purveyors violated California's Proposition 65 cancer warning requirement.

To beat the case, the coffee defendants successfully used a California Office of Environmental Health Hazard Assessment regulation stating that exposure to chemicals known to cause cancer that are created during coffee bean roasting and brewing did not pose a significant risk of cancer.

Breaching Prop 65 can rack up fines of up to \$2,500 per violation, meaning the total could stretch into the billions of dollars, at least on paper. With that high risk, some coffee defendants settled, including 7-Eleven Inc., which agreed to post signs alerting California consumers to the presence of the chemical at issue, acrylamide, and pay \$900,000 in penalties and costs.

The group of 53 coffee roasters represented by Morrison & Foerster and led by senior counsel James M. Schurz fought their way to victory.

But Morrison & Foerster isn't a one-trick pony. Along with litigation victories, the firm was at the helm of some of the biggest tech mergers and acquisitions in the last year.

In September, Morrison & Foerster, led by partner Eric T. McCrath, advised Japan-based SoftBank Group Corp. and SoftBank Vision Fund in the sale of Arm, its U.K. semiconductor business, to California-based chip company Nvidia for up to \$40 billion. SoftBank has an ownership stake in Nvidia and the deal will bring together Nvidia's artificial intelligence computing platform with Arm's system to accelerate AI innovation.

Morrison & Foerster was also at the steering wheel in December representing Salesforce.com Inc. in its \$27.7 billion acquisition of workplace messaging company Slack Technologies Inc. The firm, led by Schwartz and Justin H. Haan, is advising Salesforce on the complex intellectual property, regulatory and privacy aspects of the deal.

With roots deep in California and a culture of connecting to the community, Schwartz said, Morrison & Foerster attorneys spend a lot of time — 39,000 hours over the past 12 months — engaged in pro bono work and coming up with ways to support those who call the Golden State home.

"The firm and attorneys who work here have a devotion to the community that I think is unique," Schwartz said. "The firm is very focused on its values and I think that's why we attract the people we do."

When the pandemic first hit, Morrison & Foerster saw a need to support small businesses around the state that were struggling to make ends meet and that had missed out on CARES Act loans.

The firm co-founded the California Small Enterprise Task Force, a consortium of legal, financial and nonprofit professionals who connect California small businesses with resources they need during the pandemic.

Morrison & Foerster put together a resource guide, offered office hours and spearheaded the launch of the California Rebuilding Fund, a multimillion-dollar public-private partnership that offers low-interest loans to companies with no more than 50 employees and \$2.5 million in revenue in 2019.

In its pro bono work, the firm filed a lawsuit with Public Counsel seeking resources, including laptops, tablets and internet access, for students learning from home in California and is advising a number of nonprofits that were created in response to the pandemic, including some providing anonymous exposure alerts and preventive COVID-19 testing in schools.

The firm is also working with the Disaster Legal Assistance Collaborative to provide legal aid to people affected by the unprecedented wildfires this summer and is staffing a Free Legal Answers program that gives online assistance to people hurt by the pandemic and the California wildfires.

Even in such a hot California market, full of lucrative litigation and M&A opportunities, Schwartz said the firm always makes time to help its community.

"It makes you proud when your firm does that work," Schwartz said.

--Additional reporting by Dani Kass, Britain Eakin, Benjamin Horney, Justin Wise and Stephen Cooper. Editing by Karin Roberts.