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GENERAL LITIGATION DEPARTMENT OF THE YEAR FINALIST

CRAVATH SWAINE & MOORE, LLP

From left to right: Kevin Orsini, Christine Varney, Gary Bornstein, Vanessa Lavelly, and Helam Gebremariam, partners with Cravath, Swaine & Moore

In the past two years, Cravath, Swaine & Moore's litigators have consistently landed on some of the country's most high-profile cases with the most at stake, whether it's brawling over large government antitrust matters, winning repeated dismissals for Robinhood in its sprawling "meme stock" litigation or advising Tesla and Elon Musk in multiple courts.

"I came to the firm 20 years ago. I've never seen the department as busy as it is right now," says Kevin Orsini, who

is co-head of the litigation department along with Gary Bornstein. "Our biggest issue," he said, "is getting the work done by enough people, because there's just so much."

The litigation department represents only about 37% of the firm's lawyers, but it's handling some of the firm's biggest matters.

"We really are a destination practice," Orsini says, estimating that only about 20% of business in the litigation de-

partment comes from the corporate practice. “The overwhelming majority of our work” is brought in by litigators themselves, he says. “Particularly over the last couple of years, it’s new clients coming to us” that have serious problems or they have serious complaints they need to address.

Cravath’s trial wins—and its reputation for success—are also leading to more cases.

Cravath won a major trial decision in April 2022 for Tesla CEO Elon Musk when the firm defeated a stockholder derivative action that sought \$13 billion in damages related to Tesla’s acquisition of SolarCity. It is one of the only post-trial defense verdicts that have been decided under the entire fairness standard—the highest degree of scrutiny under Delaware law.

Cravath’s case in the Delaware Court of Chancery included seven Tesla directors, three SolarCity directors and multiple experts testifying. Partners in the case included Evan Chesler, Daniel Slifkin, Vanessa Lavelly and Helam Gebremariam.

After that win, Tesla retained Cravath for class action antitrust litigation alleging Tesla has monopolized access to parts needed to repair its vehicles. The firm is also defending Musk in a derivative action about his compensation package and representing the Tesla board in a matter related to its comp.

In the government’s antitrust case seeking to block Louis Dreyfus Co.’s sale of Imperial Sugar to U.S. Sugar, Cravath was retained just four months before trial by Louis Dreyfus Co. Led by partner Tim Cameron, the firm worked in partnership with the buyer’s counsel at Latham & Watkins to try the case over four days in April 2022. The district court’s decision completely rejected the government’s challenge.

As antitrust enforcement ramps up globally, Cravath has taken a number of high-profile cases in the regulatory space.

The firm had already represented Illumina in its \$8 billion acquisition of cancer-test developer GRAIL. But that client engagement became much closer when the Federal Trade Commission challenged the merger, in what would be the first vertical merger challenge litigated by the FTC in over 40 years.

Cravath led the agency investigation phase and trial team, ultimately trying the matter in 2021 before the FTC’s chief administrative law judge (ALJ), working again with co-counsel at Latham & Watkins, which was advising Grail.

The post-trial decision found entirely in Illumina’s favor, the first in which a defendant has prevailed in a merger challenge before the FTC’s ALJ. The win has a major asterisk, as the commission subsequently decided to reverse the decision and ordered Illumina to divest Grail. And in fall 2023, the EU ordered Illumina to undo the purchase.

With regulatory and enforcement issues sharpening, Cravath launched a D.C. office last year, staffed by high-profile former leaders of key federal agencies to advise clients on the landscape.

Cravath also handles many cases in the West. The firm won a precedent-setting Ninth Circuit decision for Starz Entertainment in July 2022 and has been representing Epic Games as plaintiff in two separate antitrust actions against Apple and Google. While the California federal court found in favor of Apple on most of Epic’s claims, Epic’s case against Google was scheduled to be tried in November 2023.

The firm’s partnership has the rare benefit of meeting in-person weekly. “I’m not aware of any other large firm” that has meetings like that on a regular basis, Orsini says. “We are all partners who see each other and know each other. It leads to collaboration and connectivity and ultimately the ability to talk to some of the smartest people” on client issues.

Just look at its defense of Blue Cross Blue Shield in one of the largest class actions in the country. Cravath won on summary judgment, preserving the client’s core business model.

Orsini describes the department, with about 38 litigation partners and 108 associates, as smaller than many of its top peers, but nimble and able to take on any matter.

“What differentiates us is our ability to handle anything. The world has moved much more specialized” where law firm partners are specialized in either antitrust, securities or other areas, he says, adding Cravath is the exception. “Our ability to handle a wide range of subject matters is really attractive” to clients. ■

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