

THE AMERICAN LAWYER

An ALM Publication

LITIGATION Department of the Year

FINALIST

From Left
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SMALL BUT MIGHTY

Cravath's litigation department can't match the size of its competitors, but that doesn't slow it down.

DAVID HANDSCHUH/ALM

WITH ONLY 34 LITIGATION PARTNERS, CRAVATH, Swaine & Moore has one of the smallest litigation departments in the Am Law 100. It's the only finalist for Litigation Department of the Year with just one U.S. office. Yet, the firm's litigators match or exceed their competitors' strength. They have repeatedly gone the distance in some of the thorniest, most complex trials and appeals in the last two years.

"When you look at the significance of the cases that we handle each and every year, we're punching far above our weight class. The cases that come to us are the cases that are make-or-break for our clients," says litigation partner Kevin Orsini.

The firm's high-profile work in the last two years includes clinching wins before a federal appeals court and the U.S. Supreme Court on behalf of American Express; representing Qualcomm in a massive battle with Apple that led to a significant settlement; advising embattled California utility PG&E in complex bankruptcy and litigation matters; and litigating one of the most closely watched antitrust trials in decades when the government challenged the AT&T and Time Warner merger.

In the latter case, Cravath, representing Time Warner and working with several other top firms, examined key witnesses at trial before a judge ultimately cleared the merger.

In the Qualcomm case, Cravath slugged it out against Apple's lawyers over billions of dollars in patent royalties, coordinating matters across three continents, trying two cases before the U.S. International Trade Commission and securing a settlement in a third trial in California federal court.

Cravath has managed to advise many West Coast clients, such as Qualcomm and PG&E, despite having no California offices. Over the past several years, Cravath says, it has seen a steady increase in net fees billed from clients on the West Coast, particularly in litigation. When not in New York, Cravath lawyers work out of client offices, hotel rooms and local counsel offices, or they set up temporary trial space when warranted, Orsini says.

"There's constantly talk about potential expansion because it's an obvious question," he says. But, he adds, "We service the clients quite well where we are now. How do law firms expand? They gobble up practice groups. We're not going to do that."

Orsini himself is in California nearly every week for the firm's multifaceted representation of PG&E. The firm is advising the utility in wildfire litigation brought by several types of parties, including insurance companies, government entities and wildfire victims. These three cat-

egories of plaintiffs have collectively claimed more than \$50 billion in damages.

Cravath, along with co-counsel at Weil, Gotshal & Manges, is counsel to PG&E in its Chapter 11 bankruptcy. Outside the bankruptcy, as PG&E has been under the microscope for planned blackouts, Cravath continues to advise the utility in its response to wildfire risks.

Meanwhile, Cravath's persistent work has led New York state to pass legislation in response to one of the firm's most notable court victories. Cravath litigators represented Credit Suisse in a case brought by the New York Attorney General's Office over fraud claims for the creation and sale of residential mortgage-backed securities. Cravath and Credit Suisse won a landmark decision in the state's highest appeals court, which found the attorney general's claims under the Martin Act fraud statute were time-barred by a three-year window. In response to the court ruling, state lawmakers in 2019 amended the Martin Act to a six-year timeframe.

Cravath also notched a win at the U.S. Supreme Court, after litigation chair Evan Chesler delivered oral arguments on American Express's argument that it did not violate antitrust laws by insisting that merchants not encourage customers to use other credit cards.

The high-impact nature of the firm's work extends to its pro bono undertakings. Cravath teamed up with Disability Rights Advocates to represent seven disability organizations objecting to a proposed settlement with the City of New York about more than 100,000 inadequate sidewalk corner ramps. The team helped secured final approval in July 2019 of a settlement that establishes a plan to make City sidewalks accessible.

Cravath's litigation department is not driven by business from its high-profile corporate department, Orsini says. For instance, PG&E came to the firm only three years ago, after some in-house counsel lawyers Cravath previously knew moved to the utility.

"We are very entrepreneurial in trying to understand and expand new client relationships every day, and I think it's a testament to the quality of the practice and client service we deliver," he says.

The firm credits the quality of its lawyers to both its generalist training background and lockstep compensation model, in which lawyers are paid by seniority.

"It means what is best for the client is what is best for all partners," Orsini says. "The result of that is an environment in which all 34 litigation partners will jump in at a moment's notice to do what's best." ■

Department Size and Revenue:
Partners 34
Associates 136
Other 47
Department as Percentage of Firm 42%
Percentage of Firm Revenue, 2018 N/A

CRAVATH, SWAINE & MOORE LLP