

## California Powerhouse: Gordon & Rees

By Michael Lipkin

Law360, Los Angeles (July 11, 2014, 3:21 PM ET) -- In 1974, before San Francisco became synonymous with Internet startups or record real estate prices, Stuart Gordon and Donald Rees started a small law firm keenly focused on insurance defense. From that modest start, Gordon & Rees LLP has expanded into seven offices across the Golden State, thriving on defending employers from worker class actions in California's regulation-heavy environment.

Gordon & Rees boasts 315 attorneys throughout the state and represents major clients including The Coca-Cola Co., Robert Bosch LLC and Lennar Corp., earning the firm a spot on Law360's California Powerhouses list.

Gordon & Rees partners say it's the firm's humble beginnings in San Francisco, where its original, leanly staffed office needed every lawyer in the courtroom, that has led to its litigation prowess today. Last year, Gordon & Rees won 92 percent of its trials firmwide.

"We grew up as a smaller firm where people tried cases," San Francisco managing partner and executive committee member David Capell told Law360. "Many larger firms do a lot of very fine things, perhaps in the transactional world, but their senior folks may not have tried a lot of cases. It's more in our DNA to do that. In that way, we're more like a boutique firm."

Many of those trial victories are employment-related. Firmwide managing partner Dion Cominos says Gordon & Rees has seen a surge in wage-and-hour suits in recent years, along with construction, insurance, intellectual property and commercial litigation. The rash of layoffs following the recession spurred an uptick in employment work, but companies in California also face a series of adverse legal conditions that require Gordon & Rees' expertise, he said.

"From a national perspective, California is looked at as one of the two or three major headache states," Cominos explained. "Companies are looking at the regulatory climate here, the incidence of filings and what juries are likely to do — California doesn't stack up as the most business- or management-friendly state in the union."

Gordon & Rees has California offices in Los Angeles, San Diego, Carlsbad, Sacramento, Orange County, San Francisco and Oakland. The Oakland office is staffed with environmental and toxic tort lawyers who transferred from San Francisco this spring.

The Carlsbad office was another outgrowth, opening in 2012 with three lawyers from nearby San Diego. While the San Diego office has a mix of employment counseling, product liability and real estate attorneys, the Carlsbad extension works almost entirely on patent prosecution. The office was formed to allow biotechnology and pharmaceutical clients, among others, to avoid traveling the 30 miles or so south to San Diego.

"The Carlsbad market is a big business community with a lot of corporate clients," said Kevin Alexander, the managing partner for the San Diego and Carlsbad offices. "There's demand every time I talk to clients up there."

Alexander, who is also a co-chair of the firm's commercial litigation and drug and medical device practice groups, added that the office did not need a larger staff or excessive amenities to succeed because of its tight focus on IP and life sciences.

"There's only three of them," he said of the office's attorneys. "If you've got what you need, they don't need a skyscraper or a law library."

Despite having an office in San Francisco, Gordon & Rees doesn't focus heavily on the patent work synonymous with the Bay Area. But a tech-fueled employment and housing boom in Northern California has brought plenty of work to the firm. Most of the firm's construction practice is based in California.

"There is a lot of construction going on here," Capell said. "And most of our construction work is litigation-based, so the business continues even when they stop building."

The firm's construction practice group scored a major victory last year for Webcor Builders Inc., setting a state precedent that a contract provision could trigger the statute of limitations when a construction project was finished, with potential implications for all contract cases.

The California Court of Appeal ruled for the first time that a standard-form contract starting the statute of limitations period at the time a project was substantially completed was proper due to the state's deference to private party rights to engage in contracts. The decision affirmed a trial court's decision to dismiss Brisbane Lodging LP's lawsuit against Webcor Builders over defects that cause a kitchen sewer line break at the Sierra Point Radisson Hotel, finding that Brisbane waited too long to sue.

The decision allows contractors and developers to effectively shorten the state's 10-year statute of limitations for latent construction defect suits and could apply to others types of claims if parties contractually agree to alter the start date for statute of limitations.

Another key construction win came defending one of the largest brain damage suits in the past year and a half, with an AT&T Inc. employee seeking \$10 million for carbon monoxide poisoning. The suit targeted subcontractor Balch Petroleum Contractors and Builders Inc. for allegedly using a backhoe near an office building's intake vent, poisoning the plaintiff because the building had no windows. Despite the plaintiff's claims that general contractor Roebbelen Contracting Inc. admitted liability in a letter to his boss, a jury cleared both contractors of liability for negligence.

Gordon & Rees also represents several large educational institutions, defending them against employment suits, which led the Morgan Hill, California, school district to seek out the firm's help in a major civil rights case.

Some students at the Morgan Hill high school wore American flag T-shirts on Cinco de Mayo in 2010, and school officials said the students could be targeted for violence because of the clothing. The year before, groups of Mexican and Caucasian students had been involved in a heated dispute over displaying the American flag on Cinco de Mayo. Given the past altercation, officials asked the students to change their shirts or go home with an excused absence.

While the students claimed the school had improperly stifled their free speech right to display the flag, a unanimous Ninth Circuit panel agreed with the school district that the administrators had made a rational decision given the history of tension and specific, contemporary threats. Gordon & Rees elicited

crucial testimony from one of the students that he was willing to "take that chance" and risk violence in order to wear the flag shirt.

The court ruled that students' free speech rights were not unlimited and were subservient to student safety, finding that the school did not ban American flags outright because it allowed two students to return to class when it learned they would not likely be targeted because of their shirts.

Though Gordon & Rees doesn't actively seek out civil rights suits, the Morgan Hill case evolved organically from the firm's reputation among California schools.

"It's a significant accomplishment. It happens to be about civil rights, but it's more about our core practice of education," Capell said. "It wasn't an accident. It's building off of our experience and expertise."

Founding partners Gordon and Rees are still part of the firm, with Gordon helping defend a family lawyer last year from a \$6 million financial elder abuse suit. The four-year battle between brothers Donald and Fred Bellows over their mother's estate stemmed from a pay-on-death account their mother created, leaving the vast majority of her estate to Fred.

Donald alleged that Fred and his attorney had exerted undue influence on Beverly Bellows when she made the account, and leveled elder abuse claims against the two on behalf of himself and his mother. Representing Fred and his attorney Philip Vannucci, Gordon and his team sifted through testimony on the authenticity of signatures, Beverly's mental state and video depositions of Donald, who died before the trial. A state judge ruled for the defendants on all claims.

Capell says while Gordon & Rees may not have the centurylong history some other prominent California firms do, he is grateful he can watch his firm's founding partners practice on a daily basis.

"There have been fundamental changes in the firm [since its founding]," Capell said. "Having them still around gives you perspective and respect for what a lot of individuals have accomplished — and what more we can do."

--Editing by Kat Laskowski and Katherine Rautenberg.

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