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## Litigation Department OF THE Year

**SPECIAL  
REPORT**



# Akin Gump

STRAUSS HAUER & FELD LLP

### **LIBOR, MASSIVE SECURITIES CLASS**

actions against the big banks, billion-dollar patent wins, eye-popping arbitration awards. While the U.S. economy was struggling to return to health over the last two years, big-ticket litigation was clearly a countercyclical buffer. As the financial meltdown turned from headlines in the press to captions on docket sheets, the litigators at The Am Law 200 were front and center. In their lengthy, detailed submissions to us for 2014 Litigation Department of the Year and our three practice areas honors, we were delighted to see how diverse and cutting-edge the firms' results were over our time frame (August 2011 through July 2013).

To draw attention to these efforts, we changed our practice group competitions: We added securities and antitrust along with our traditional, highly competitive IP category. After months of reading the submissions, vetting the firms, and interviewing the finalists at our New York office, we arrived at four winners, 13 runners-up, 10 honorable mentions and six Litigators of the Year. Congratulations to everyone who won, and our sincere thanks to every firm that participated in our contest.

—Robin Sparkman



# They Try Cases

Bet-the-company wins for clients across the country show that **AKIN GUMP'S** litigators have become major players on the national litigation stage.

BY DAVID BARIO

**R**ECOGNIZED AS A legal and lobbying powerhouse in Washington, D.C., Akin Gump Strauss Hauer & Feld has worked hard to enhance its litigation mojo nationwide. Has it succeeded? The answer is a resounding yes for such clients as Starbucks Corporation, Johnson & Johnson, and the nursing home operator Golden Living LLC, which can thank the firm for erasing billions of dollars of liability over the past two years. Meanwhile, Akin's foes—Alcoa Inc., Momenta Pharmaceuticals, the U.S. Department of Justice—learned the hard way that the firm's reach extends far beyond the nation's capital.

With 348 litigators around the world—anchored by heavyweights like the recently con-

firmed U.S. Court of Appeals for the D.C. Circuit judge Patricia Millett in Washington and appellate partner Rex Heinke in California—Akin Gump tried 36 cases to verdict in the period covered by this contest. More importantly, it lost just three. Building a reputation for litigation prowess isn't easy, and the competition is fierce. But if Akin Gump's litigators keep schooling their opponents, politics won't be the first thing that comes to mind upon hearing the firm's name. It will be dread.

#### LITIGATION HIGHLIGHTS:

Like its rivals in this competition, Akin Gump can point to big-dollar defense wins for blue-chip companies. It can also point to something completely different: a major plaintiffs-side recovery for a foreign company, in a bribery case against a big U.S. defendant, on the defendant's home turf.

Akin Gump's Persian Gulf client, Aluminum Bahrain (Alba), sued Alcoa in Pittsburgh in 2008,

asserting that Alcoa schemed with Canadian-British billionaire Victor Dahdaleh to bribe Alba and Bahraini officials in exchange for inflated contracts. The stakes for both companies were huge. Alba is the largest aluminum smelter in the world, while Alcoa is the biggest producer of alumina. Inverting the usual trend of government bribery probes driving private litigation, Alba's lawsuit sparked criminal investigations in the United States and the United Kingdom.

Alcoa's legal team, led by Cravath, Swaine & Moore's Evan Chesler, maintained that Alba's racketeering claims didn't belong in U.S. court. Akin Gump beat back Alcoa's motion to dismiss in June 2012, and four months later Alcoa agreed to settle the case in a deal worth \$447 million. According to partner Mark MacDougall, the litigation broke new ground. "As far as we can tell, this is the first time that a foreign national industry has sued a major

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#### Department Size and Revenue

Partners: 112 Associates: 195 Other: 41

Department as Percent of Firm: 42%

Percent of Firm Revenue 2012: 40%



**FROM LEFT:**

*Dianne Elderkin,  
Michael Stepek,  
Rex Heinke,  
Patricia Millett and  
Stephen Baldini*





U.S. company in federal court, under a RICO theory, and recovered this kind of settlement,” MacDougall says.

Of course, there were defense victories too. Take Starbucks, which got smacked with a \$106 million award in 2008 for allowing shift supervisors to share the pooled tips its customers leave for coffee baristas. The award inspired similar suits elsewhere, threatening both more damages and an end to a practice that Starbucks credits with fostering teamwork in its stores.

An Akin Gump team led by Daniel Nash and Heinke quickly won a reversal in the California case. Then, in a June 2013 decision that was closely watched by New York’s restaurant industry, the duo persuaded the New York Court of Appeals to rule that supervisors who regularly serve patrons can participate in tip sharing. With the New York win, Akin Gump put an end to the last of the cases, allowing only one plaintiffs victory along the way.

Moving from caffeine to harder drugs, Akin Gump also notched impressive wins for pharmaceutical clients like Janssen Biotech Inc., a Johnson & Johnson subsidiary locked in a nasty and long-running patent fight with Abbott Laboratories. Scoring a knockout win in the latest round—a case

challenging Janssen’s psoriasis treatment Stelara—Philadelphia partner Dianne Elderkin persuaded a judge and jury in Boston to find two Abbott patents invalid.

Another pharma client, Amphastar Pharmaceuticals, was accused by Momenta of infringing a patent related to the blood thinner Lovenox. Akin Gump swooped in after a judge saddled Amphastar with a crippling injunction, and Millett persuaded the Federal Circuit to lift the order and to rule that a safe harbor provision of the Hatch-Waxman Act shields Amphastar from Momenta’s infringement claims.

For Golden Living, a nursing home juggernaut with \$2.73 billion in revenues in 2011, the problem wasn’t a competitor, it was the U.S. government. Prosecutors claimed that Golden Living and McKesson Corporation engaged in kickbacks and violated the False Claims Act. Along with McKesson’s lawyers at Kecker & Van Nest, Akin partner Robert Salcido beat the government’s claims in an extremely rare False Claims Act trial in September 2012. (The government chose not to appeal.)

**BIGGEST LOSS:** Maybe no defense lawyer could have saved Galleon Group founder Raj Rajaratnam from claims that he directed a vast insider trading

scheme. In any case, Akin Gump’s John Dowd and Millett couldn’t pull it off. Dowd lost the case in federal district court in Manhattan, where Rajaratnam was sentenced to an 11-year prison term in October 2011. In June 2013 Millett failed to overturn the conviction at the Second Circuit.

**CLIENT FEEDBACK:** Matthew Swaya, deputy general counsel for Starbucks, looks first to Akin Gump when his company faces labor and employment troubles: “For me, there’s nothing more important a litigation firm can do than to invest in learning our business. Dan [Nash] and Rex [Heinke] did that in the tip pooling cases. They’ve got incredible technical ability, they’re excellent litigation strategists, and they’re extremely responsive.”

**ON THE DOCKET:** The firm is representing ALSTOM Power Systems GmbH in an international contracts battle with Polish energy equipment maker Rafako S.A.; defending Lenovo Group Limited against prolific patent plaintiff Lodsys LLC; handling multiple labor matters for the National Football League Management Council and member clubs; and representing the litigation trustee pursuing claims arising out of the Tribune Company’s failed leveraged buyout. ■