

The 5 Firms That Strike Fear in GCs

General counsel have singled out five law firms they most fear seeing on the other side of the table in litigation, citing the firms' ability to upend business operations, rack up costly bills and potentially ruin reputations.

The law firms identified for their intense approach to litigation and fierce tactics were revealed in the BTI Litigation Outlook 2018 report released Monday by BTI Consulting Group. The law firms are Dentons, Gibson Dunn & Crutcher LLP, Jones Day, Kirkland & Ellis LLP and Skadden Arps Slate Meagher & Flom LLP.

"The qualities these law firms share is their unfettered, unmatched commitment to do whatever it takes to reach their clients' objectives and the ability to convince clients they have the resources to mobilize on that," BTI president Michael Rynowecer said.

The report names a second tier of feared firms BTI characterizes as "awesome opponents," including Cadwalader, Cravath Swaine & Moore, DLA Piper, Fish & Richardson, K&L Gates, Latham & Watkins, Sidley and Wachtell Lipton.

The firms on the list stand to benefit from their tough reputations in a litigation market identified by the BTI report as on the upswing. The consulting firm's survey of general counsel revealed legal decision makers are predicting a 5 percent increase in litigation spending in 2018 — the largest increase in outside counsel litigation spending in 10 years — and a 10 percent increase in the number of matters large companies expect to face next year.

According to BTI, clients are adding \$1.3 billion to the litigation market over the next two years. After five years of modest declines, U.S. spending with outside counsel on litigation rises by 1.8 percent in 2017 and is expected to grow an additional 5.1 percent in 2018, which will push the size of the litigation market past the \$20 billion mark for the first time since 2014, the consulting firm said.

Additionally, the overall complexity of litigation work continues to rise, the report found.

"More companies are seeing their routine matters escalate into higher-risk issues. This has put legal decision makers on the extreme offense. Today's legal decision makers are looking at proactive strategies to eliminate or reduce risk," it said.

Gibson Dunn litigation department co-chair Randy Mastro says his law firm takes that same approach to litigation.

"So many major litigation firms simply focus on defending against claims," Mastro said. "But at Gibson Dunn we approach our cases differently. We strive to go on offense and win big, being proactive, creative and aggressive in proving our clients are in the right."

Despite the uptick in litigation work, not every law firm stands to benefit. According to the report, clients plan to cut five law firms from their litigation rosters, handing the increased workload to fewer outside lawyers.

"Winning new work in today's litigation market requires a deep understanding of how clients' demands and expectations are changing so you can position your firm in the areas with the most opportunity," the report said.

The confluence of more high-risk work and fewer outside law firms to handle it provides a big opportunity for firms that are able to convince clients and prospective clients they are worthy of being feared in litigation, Rynowecer said.

The firms on BTI's list of most feared managed to position themselves for that work by mobilizing disparate practice areas and industry groups to work together to deliver results, and by presenting a clear image to clients and the competition that they are formidable, he said.

"These firms have very little fear factor," Rynowecer said. "They come in with a position of real strength. They don't worry about 'can they win,' in their mind that's a forgone conclusion. Of course they're going to do that, the question is how."

Jones Day client affairs partner Glen Nager pointed to law firm's ability to mobilize, creating cohesiveness, as a factor in its litigation success.

"From complex commercial litigation to multidistrict litigation and class actions, from international arbitration to overreaching regulation, we work as a cohesive partnership to defend and advance the interests of our clients,

from counseling through trial and appeal,” Nager said.

Mike McNamara, U.S. CEO for Dentons, also pointed to his law firm’s ability to work together seamlessly as a factor in its strength in litigation.

“We have strong case leadership, with collaboration across the firm. This empowers each selected team member to have a clear role in the case, bringing the depth and efficiency we strive to offer clients,” McNamara said.

Kirkland & Ellis draws “great strength” from its diversity, according to Mark Filip, a member of the firm’s global management executive committee.

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