

Latham Passes Skadden As Busiest Securities Defense Firm

By **Katryna Perera**

Law360 (March 6, 2024, 11:02 PM EST) -- Despite a downward trend in securities case filings over the past three years, **Latham & Watkins LLP** has remained one of the most active law firms on the defense side, taking over the top spot from Skadden Arps Slate Meagher & Flom LLP, according to reports released by Lex Machina.

Latham Bumps Skadden in Securities Defense

Latham & Watkins LLP remained consistently active in the securities litigation space from 2021 to 2023, overtaking Skadden Arps Slate Meagher & Flom LLP in the number of cases in which it represented defendants. Several other firms also saw steep declines in the number of new securities cases they handled over the last three years.

Most Active Law Firms Representing Defendants by Cases Filed from 2021 to 2023

Firm	2021	2022	2023	Total	Districts
Latham	50	48	44	142	26
Skadden	49	41	27	117	15
Gibson Dunn	36	26	21	83	18
Wilson Sonsini	24	30	16	70	17
Cooley	24	24	19	67	12
Davis Polk	28	24	14	66	19
WilmerHale	28	18	18	64	17
Goodwin	29	16	17	62	13
Paul Weiss	17	29	13	59	13
Sullivan & Cromwell	22	16	21	59	14

Lex Machina's Securities Litigation Report for 2024, which analyzes the trends of federal securities litigation from 2021 to 2023, found that Latham consistently took on more securities cases than other defense firms, a change from previous Lex Machina reports, in which Skadden came out on top.

Latham has also kept its caseload high as other defense-oriented firms saw notable declines in the number of new federal securities suits they appeared in over the last three years. From 2021 to 2023, Latham represented clients in 142 cases across 26 federal court districts, compared to Skadden, with 117 cases, and Gibson Dunn & Crutcher LLP, at 83 cases.

In a statement to Law360 on Wednesday, **Andrew Clubok**, global chair of Latham's securities litigation and professional liability practice, attributed the firm's high level of activity to the "breadth and depth" of its practice.

"Our group isn't just one or two stars — we've had dozens of lawyers from all over the country individually recognized for their success in securities and [mergers and acquisitions] cases. But nobody works alone," **Clubok** said. "Latham fosters a firmwide culture of collaboration which means that those who turn to us to handle the most complex matters are going to get 'the best of' the firm, no matter which individual lawyers happen to work on the matter."

In 2023 alone, the firm appeared on behalf of clients defending against 44 suits. The rest of the firms listed in the report, including Skadden and Gibson Dunn, all worked on fewer than 30 cases.

Latham has also remained consistent despite a decline in federal securities case filings. According to the Lex Machina report, 1,758 federal securities suits were filed in 2023 — a 34% drop from when the number peaked at 2,647 cases in 2021.

However, while securities cases have declined overall, the report says some subsets of securities litigation, including shareholder derivative suits and cryptocurrency cases, have increased. The report states that the spike in case filings in 2021 may be related to the surge in mergers and acquisitions, businesses formed through special purpose acquisition companies and an expansion in capital markets that occurred that year.

"Therefore, the drop in case filings in 2022 could have been a return to the normal trend rather than a marked decrease," the report states. "Whether 2023 was a return to normalcy or the continuation of a downtrend can only be determined with more time."

The report notes that the 2021 spike can also partly be attributed to the Delaware Chancery Court's 2016 ruling in Trulia Inc. Stockholder Litigation, in which the court said it would reject disclosure-only settlements unless the resulting disclosures are "plainly material" and not just potentially significant.

The report's law firm data reflects the decline in new securities case filings. For instance, Skadden saw a 34% drop in the number of cases it was involved with from 2022, while Wilson Sonsini Goodrich & Rosati PC saw its caseload decline by nearly half.

In a phone call with Law360 on Wednesday, Scott Musoff, co-deputy head of Skadden's securities litigation group, said the general decline in securities case filings is due to a combination of factors.

"It's a combination of coming out of the pandemic, a robust stock market and, I think, a decline generally in the number of public offerings," he said. "But I think we've been very pleased that [Skadden's] activity has remained very high."

"We're always in that mix of a handful of firms that can say that they represent more of these types of cases than many other firms, and I think we like to attribute that to the fact that we have a very broad array of clients and geographic breadth in our securities litigation practice not only throughout the United States but internationally, as well," he added.

Greg Watts, partner and securities litigation practice group leader at Wilson Sonsini, also noted in an email to Law360 that the firm has seen an uptick in shareholder securities lawsuits filed in state courts nationwide.

"So comparing only federal case totals between 2022 and 2023 doesn't fully reflect how busy we've been in 2023," he said.

On the plaintiffs side, the U.S. Securities and Exchange Commission remained the most active counsel, with 694 securities cases filed in 62 districts since 2021. Long Law, led by former Rigrodsky Law PA partner Brian D. Long, came in second, with 421 cases filed, while Rigrodsky ranked third, with 414 cases.

However, Rigrodsky and Weiss Law LLP, which came in fourth in the rankings, have seen steep drops in the number of cases filed, according to the report. In 2021, Rigrodsky filed 230 cases, compared to 54 this past year. Weiss Law saw a similar decline, from 285 cases in 2021 to 49 cases in 2023.

Richard Adam Acocelli Jr. of Acocelli Law was the most active individual attorney of the last three years, representing plaintiffs in 470 securities cases. However, the report notes that Acocelli Law does not appear on the list of most active firms because Acocelli's standing as the most active individual attorney includes cases he was involved with while a practicing attorney at Weiss Law.

Wall Street giants were among the most common defendants in securities cases over the past three years. J.P. Morgan Securities LLC was the most frequently sued, having been named in 56 cases, followed by Goldman Sachs & Co. LLC, at 55 cases, and Morgan Stanley & Co. LLC, at 54.

"One reason big banks were the leading defendants was likely due to their role as underwriters to the [initial public offerings] that were the subject of the securities class actions," the report states.

Regarding the types of cases filed, those mentioning cryptocurrency continued to rise, with 171 suits filed in 2023. The report states that the volatile price of bitcoin over the last decade may be a contributing factor, along with the growing popularity of crypto — and increased regulatory scrutiny.

The report notes that "the trend's upward continuation will largely depend on the court's answer to the threshold question: Does the non-fungible token or cryptocurrency constitute a security?"

Musoff said that he and his colleagues at Skadden have also noticed a shift toward more crypto-related securities cases.

"There has certainly been an uptick as the [crypto] industry has grown ... but one of the things I like to say is that there is a certainty that there will be an uncertain type of case that comes up each year," he said.

Finally, the report shows that Delaware and the Southern District of New York continued to dominate as

the country's most active federal districts for securities cases. SDNY saw nearly 36% of all securities cases during the past three years, while Delaware saw roughly 10%.

However, the data for the districts nevertheless reflects the downward trend in new securities case filings. While SDNY remained the most active district, it saw 165 fewer cases in 2023 compared to the previous year. The Eastern District of New York ranked as the third-most active district, but it also saw a steep 70% decline in the number of cases.

At the appellate level, the Second and Ninth Circuits continued to see the most activity over the last three years, with 152 and 124 cases, respectively.

--Editing by Alanna Weissman and Kelly Duncan.

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