

## Greenbaum, Rowe, Smith & Davis Recognized as 2018 Litigation Department of the Year

May 16, 2018

Greenbaum, Rowe, Smith & Davis is pleased to announce that the *New Jersey Law Journal* has selected our litigation practice for recognition as the 2018 "Litigation Department of the Year - General (Midsize)." The firm will be honored at the Law Journal's Professional Excellence Event on June 21, 2018, at the Brooklake Country Club in Florham Park.

The firm's **Litigation Department** has a longstanding reputation for excellence in the representation of clients across a comprehensive range of sub-specialty practice areas, including: commercial and business litigation; real estate litigation; white collar defense and corporate compliance; employment litigation; estate litigation; environmental litigation; product liability litigation; bankruptcy and restructuring; banking and creditors' rights; public entity liability; personal injury; chancery practice; alternative dispute resolution; professional negligence; and construction litigation.

Partners **John D. North** and **Darren C. Barriero** serve as Chair and Vice Chair of the firm's Litigation Department, respectively. The group is comprised of approximately 40 attorneys who provide litigation and risk management support to small businesses, middle market companies, multinational entities and institutional firms operating in a wide variety of industries. Our clients also include trade associations, public sector entities and individuals.

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## Publicly Watched Cases, Trial Work Highlight Greenbaum Rowe's 2017

"There is no more efficient or effective attorney than one who embodies a commitment to professionalism."

By David Gialanella | June 11, 2018

The 50-attorney litigation practice at Greenbaum, Rowe, Smith & Davis was involved in numerous and varied matters of significance in 2017. Those of course include the Menendez and Escobar cases, the latter of which ended with the reversal of what originally had been a \$166 million verdict against the state. But the group also represented New Jersey real estate agents before the state

Supreme Court in what yielded the long-overdue decision that notice by email and other means is acceptable in real estate transactions. Greenbaum Rowe also handled numerous long trials, including one in which the firm, trying the case twice, prevailed on behalf of a condominium association in a dispute with a developer.



**Greenbaum, Rowe, Smith & Davis**

*\*\* The responses were provided by partner John North. \*\**

### **What were some of the department's most satisfying successes of 2017, and why?**

Representing Sen. Robert Menendez in his bribery trial was a highlight for us. The threshold issue related to the bribery counts was whether a quid pro quo relationship existed between the senator and his co-defendant, an issue made more complex by the U.S. Supreme Court's ruling in *McDonnell v. US*. We learned in discussions with jurors following the mistrial that we and our co-counsel had successfully countered the government's case on every point, with all but two jurors voting for acquittal.

Another success was the conclusion of the *Escobar* case, on which we were co-appellate counsel with Greenberg Dauber Epstein & Tucker. We were retained as trial counsel essentially on the eve of trial. This difficult case involved catastrophic injuries to an infant resulting in severe brain damage. Our trial strategy was based on legal arguments for the application of immunities under the Tort Claims Act. To our knowledge, these arguments had never before been advanced in New Jersey in a similar case setting. The case was tried to develop a record to support TCA immunity defenses. While the trial court rejected those defenses, as anticipated, they were accepted by the Appellate Division, whose opinion relied heavily on the evidence we presented at trial.

### **Being a Litigation Department of the Year means more than providing good counsel. How does your group go a step further for clients?**

Adding value to a client begins with the first step: understanding the broader picture of the client's business, determining their objectives in litigation, and understanding how litigation may impact their business. Do broader strategic considerations require the case be settled, or should it be pursued through trial and appeal? We extend beyond achieving specific objectives for the litigation by serving the client's broader strategic plans.

We advise on the impact litigation may have on policies, practices and procedures. The facts giving rise to the dispute may point to business practices that should be modified going forward, including modifying contract documents, employment practices, pricing structures, record-keeping practices or information systems.

### **In an era of increasing law practice portability, what does it mean to be an effective litigator in New Jersey?**

These fundamentals of being an effective litigator have not changed as a result of portability: understand the client and their objectives; provide an objective assessment of the case; be forthright with the client, the adversary and the court; maintain the highest standards of professionalism, and credibility with the court and the adversary; represent the client vigorously, but within the RPCs and Rules of Court.

These standards may be more difficult to maintain with the increasing mobility of lawyers and resulting personnel changes. It is therefore important for firm leadership to instill and maintain a culture where professionalism, work ethic and integrity come first, and business considerations and marketing, although important, are secondary.

### **Is it true that clients now more than ever wish to avoid litigation, and if so, how do law firms manage the business of operating a litigation department in the new marketplace?**

Today's clients are more adverse to litigation than in the past for two primary reasons: Unpredictable attorney's fees and other costs; and unpredictable results.

In response, we are open to billable hour alternatives, and also consult with clients at the outset of litigation on matter staffing, both perceived as drivers of inefficiency. Especially with clients with which we have an ongoing relationship, we try to eliminate the built-in inefficiencies of the billable hour, and by providing advance expectations on likely costs.

We are also receptive to retainer agreements for clients with a continuous stream of litigation which is predictable enough to allow us to set an annual retainer without undue risk, passing efficiencies of handling litigation which are predictable and routine back to the client. We also counsel clients regarding ADR and find that clients often find this an attractive alternative.

Still, clients increasingly seek to avoid litigation and its alternatives altogether. To address this, we alert clients to litigation risks in advance. This advice often grows out of a matter we've been retained to handle. While that matter may not be resolved without litigation, it may expose risks that can be reduced or eliminated by modifications to policies and practices. Our position is that protecting the client's best interests is synonymous with the firm's best interests.

**Litigators are extraordinarily busy people. What does the firm do to ensure that they remain engaged with pro bono work, their communities and their families?**

Attorneys who are active in their communities and in pro bono causes enrich their own lives, but also enrich the firm. We include such time when considering the overall contributions of an attorney to the firm, and also in hiring and compensation decisions.

The firm recognizes the need of attorneys to devote time to family, and provides opportunities to structure schedules to facilitate a balance between professional and family commitments. We allow new parents to work reduced schedules without sacrificing their standing in the firm. We allow attorneys working full schedules to structure time so they can be home when needed. The key to the success of these arrangements is flexibility on both sides.

**Technology and other factors have changed work capabilities and habits. How do you offer flexibility while also effectively managing attorneys and others professionals?**

Technology allows attorneys to accomplish many tasks remotely, making requisite “face time” in the office largely a thing of the past. Technology also enables us to make attorneys more accountable for their time and this information is shared, so that everyone knows how they’re performing against the firm’s goals.

Ultimately, the best management tool is to encourage a commitment to professionalism. While we recognize that law has become a business, and that marketing and profitability play a more significant role in today’s environment, law is still, first and foremost, a profession. Reports, standards, management and technology can never take the place of professionalism and pride in one’s work. There is no more efficient or effective attorney than one who embodies a commitment to professionalism.

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