

WASHINGTON LITIGATION DEPARTMENTS OF THE YEAR

A SPECIAL REPORT

In this special report, *The National Law Journal* takes the measure of litigation shops in our nation's capital. We asked litigation practices there to tell us about their operations—headcounts and revenues, their biggest wins, even their losses. Our staff in Washington and elsewhere in the country scrutinized these data and selected the six firms you'll read about in these pages.

SANFORD HEISLER

EMPLOYMENT



DAVID SANFORD

When the U.S. Supreme Court decided *Wal-Mart Stores Inc. v. Dukes*, the justices set a higher threshold for plaintiffs seeking class certification. And while the ruling might deter some plaintiffs firms, Sanford Heisler is not one of them.

The firm focuses primarily on Title VII discrimination under the Civil Rights Act of 1964, but also prosecutes labor and wage viola-

tions, predatory lending, whistleblower, fraud and qui tam work.

"It's a risky business—more now than ever because of the Supreme Court's decision in *Wal-Mart v. Dukes*," said David Sanford, chairman and founding partner. "The legal headwinds are stiff and fewer and fewer people still do the work that we do."

Fewer still labor and employment firms do it as well as Sanford Heisler.

In 2012, the firm represented more than 7,000 Novartis Pharmaceuticals Corp. sales representatives in a class action against the company, arguing that they were entitled to overtime pay. The case settled in May 2012, with Novartis paying \$99 million.

"The \$99 million settlement in the Novartis wage case was the right result, both for our clients and for Novartis," Sanford said. "Novartis at the time was facing over \$1 billion of exposure and it paid out about 10 cents on the dollar in a settlement." The recovery came just in time for the class—a few weeks later, the Supreme Court ruled that drug company representatives were ineligible for overtime pay because they are outside salespersons.

The firm is preparing to head to trial in a class action against the U.S. Marshals Service, accused of discriminating against African-Americans. In 2007, Sanford resurrected a complaint that plaintiff Matthew Fogg filed with the Equal Employment Opportunity Commission, accusing the service of discrimination. In 1994, Fogg filed and won a case against the marshals in U.S.

District Court for the District of Columbia and was awarded more than \$3 million.

At the same time he filed separate class claims with the EEOC. In 2007, the agency dismissed the complaint and denied class certification.

Fogg appealed and the agency reversed its previous order, granting certification. The matter goes to trial later this year. The class includes federal marshals employed by the service since 1992, making it one of the longest-stretching class actions.

“Out of the blue, the EEOC issued an opinion which not only said, ‘We are reinstating the class charges,’ but certified the class for the U.S. marshals,” Sanford said. “There were real-life consequences for the agency to dismiss the charges without providing notice about their rights and obligations.”

Sanford Heisler, which has offices in Washington, New York and San Francisco, has 30 attorneys firmwide, including 12 in D.C. Sanford attributed much of the firm’s success to its hard-working attorneys. “It’s an unforgiving practice and requires so much time,” Sanford said. “The people work their hearts out here. We are going up against major firms in America and they represent the biggest companies in America.”

Sanford Heisler has faced off against big firms with some of the best labor and employment practices, including Morgan, Lewis & Bockius; Ogletree, Deakins, Nash, Smoak & Stewart; Jackson Lewis; Weil, Gotshal & Manges; and Faegre Baker Daniels.

In addition to going toe-to-toe with big law firms, Sanford Heisler has made a name for itself representing former law firm employees in labor disputes, including actions for age and gender discrimination.

“We represent now approximately a dozen attorneys across the U.S. who are at law firms or in-house, and we are hearing from more and more attorneys all the time who are interested in bringing claims,” Sanford said. “It’s something that I think we’ll do more and more of in the years to come.”

In April, the firm won an \$8.1 million settlement for low-level employees of BellSouth Telecommunications Inc., an AT&T Inc. subsidiary, which allegedly labeled them as managers to avoid paying overtime. The litigation involved more than 600 plaintiffs. In a similar case against AT&T, the firm won \$18.9 million for a class of 1,400 “first-level managers” who were not paid overtime.

Last year, Sanford Heisler hired Ross Brooks, a former Milberg partner, to head its qui tam practice and hopes to add a few more attorneys in that practice and firmwide, Sanford said. The firm has added legal assistants to handle the ever increasing inquiries it gets from potential clients.

It has approximately 150 cases pending, Sanford said. Sanford Heisler chooses to be selective about the cases it takes, Sanford said. Even with the influx of inquiries, the firm doesn’t lose sight of its goal, he insisted: social justice.

And since Sanford Heisler is focused on plaintiffs work, its attorneys have to win cases to sustain the firm, which is no easy task.

“How you win generally is with a lot of hard work with dedicated people who know how to write,” Sanford said. “In order to make the case, you need to conceptualize the issues and write about it in a meaningful way.”

—MATTHEW HUISMAN

KEYS TO SUCCESS

- ▶ “Hire attorneys and legal assistants who write exceptionally well, exercise keen judgment, and listen carefully.”
- ▶ “Know when to say ‘no’ to prospective clients and say it often.”
- ▶ “Maintain core values.”
- ▶ “Begin preparing for trial as soon as a client signs a retainer.”
- ▶ “Be tenacious, but never compromise your ethical compass.”

—DAVID SANFORD, CHAIRMAN AND FOUNDING PARTNER

FIRM BIO

Litigation partners:	4	Other litigators in D.C.	1
Litigation partners in D.C.	2	Litigators as percentage of firm	100%
Litigation associates	23	Litigators as percentage in D.C.	100%
Litigation associates in D.C.	9	Percentage of firm revenue	100%
Other litigators	3	Percentage of D.C. revenue	100%

Reprinted with permission from the June 24, 2013 edition of THE NATIONAL LAW JOURNAL © 2013 ALM Media Properties, LLC. All rights reserved. Further duplication without permission is prohibited. For information, contact 877-257-3382, reprints@alm.com or visit www.almreprints.com. #005-06-13-38

Sanford
Heisler,
LLP