

Litigation Leaders: Jones Day Wants to Help Associates 'Make Up for Lost Opportunities' for In-Person Training

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By Ross Todd
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Welcome to another edition of our Litigation Leaders series, featuring the litigation practice leaders of the biggest firms in the country.

Meet **Stephanie Parker** and **Jay Tambe** of Jones Day. Parker, the co-leader of the firm’s business & tort litigation practice based in Atlanta, took home **Litigator of the Week honors** back in 2016 for landing a \$2.54 billion damages verdict in a patent infringement suit she handled for Merck subsidiary Idenix Pharmaceuticals, her first-ever patent trial. (The Federal Circuit later overturned the verdict finding the underlying patent invalid.)

Tambe, the practice leader of the firm’s financial markets practice based in New York, has litigated claims regarding a veritable alphabet soup of structured investment instruments including CLOs (collateralized loan obligations), CDOs (collateralized debt obligations), CLNs (credit linked notes), and others. He was named a **“Distinguished Leader”** by our colleagues at the New York Law Journal last year.

Lit Daily: Tell us a little about yourself — beyond what’s in your law firm bio.

Stephanie Parker: I grew up in a small rural town. Everyone knew everyone else; everyone took care of others; it was a very supportive community. My family’s friends and my friends were from all walks of life. I am so thankful for that background which I believe has been a blessing to me in my life and in my work and in my ability to relate to jurors.



(L-R) Stephanie Parker and Jay Tambe of Jones Day.

Courtesy photos

Jay Tambe: I was born and raised in India until I was 16. So being a U.S. courtroom lawyer clearly was not a childhood dream! I first became interested in law in my pursuit of my undergraduate major in economics when I took a course on international trade and finance. My practice today is heavy on economics and finance, so I guess I found my groove. The litigation interests developed during a series of trial competitions as a member of Notre Dame’s mock trial team. The hook was set when I had the opportunity to lead two significant structured finance and derivatives matters, which cemented Jones Day’s rapid expansion into financial markets litigation. Outside of work I am a struggling golfer, a somewhat more accomplished cook and, as clients and colleagues know only too well, a doting “dog dad” with my faithful dog conspicuously

in attendance at most Zoom meetings over the past 18 months.

How big is your litigation department and where are most of your litigators concentrated geographically?

Parker: Jones Day has more 1,100 litigation lawyers resident across 42 offices and active in venues and jurisdictions around the world in varying representations which include antitrust; arbitration; bankruptcy; business & tort litigation; cybersecurity, privacy & data protection; financial markets; global Disputes; government regulation; health care & life sciences; insurance recovery; intellectual property; investigations & white-collar defense; issues & appeals; labor & employment; securities litigation; state attorney general enforcement, investigations & litigation; tax; and technology.

The majority of the firm's litigators are based in the United States where we have strong teams in each of our 18 U.S. offices, with high concentrations in the Northeast (Boston and New York); California (five offices); and "up the middle" in Atlanta, Chicago, Detroit, Ohio, Minneapolis, Pittsburgh, and Texas. Additionally, 200 lawyers are located in our offices outside the U.S., reflecting the strong cross-border nature of our representations and client needs.

In what three areas of litigation do you have the deepest bench? (I know it's tempting to list more, but please just name three.)

Tambe: Product liability; class action (across the range of litigation practices at Jones Day); and intellectual property.

As leaders of the department, what are some of your goals or priorities?

Parker: To continue our tradition of excellence in service to our clients, our top priority is always maintaining and training the best trial lawyers in the U.S. That encompasses a number of underlying goals: Hiring the right people (not everyone is cut out to be a trial lawyer); training "on the job"; providing opportunities for junior lawyers to grow and shine; putting together the right mix to achieve the best trial team for the case; and ultimately dedication to working

together as a team to obtain a successful outcome in the client's case.

Tambe: While the practice adapted remarkably well to conducting litigation in the last 18 months through various virtual modes, there is no substitute for in-person engagement, and there is no time to be lost in getting back to those essential face-to-face interactions. As we emerge from the pandemic, one of our key goals is to make up for lost opportunities and on-hand training that were severely disrupted. This is true not only for those lawyers who joined us in 2019 and 2020, but also true for lawyers who joined in prior years and planned to spend their mid-level associate years in court, in face-to-face depositions, in actual war-rooms hashing out trial strategy and huddling with clients and witnesses on key trial tactics.

What do you see as hallmarks of your firm's litigators? What makes you different?

Parker: Two come to mind: (1) We have the strongest appellate practice in the U.S. Every year, we have a substantial number of Supreme Court clerks who join the firm keeping that pipeline of current knowledge, and **Noel Francisco** recently returned after his role as Solicitor General of the United States. In the product liability area, we have ten former Supreme Court clerks whose practice is primarily focused in that area. That is an amazing resource to the trial teams. (2) Almost all law firms talk about their trial experience, but the reality is no firm of our size has the actual jury trial experience to come close to ours. We have trial lawyers with substantial experience in all of our offices, so we are able to create teams to address our clients' needs wherever they arise.

Tambe: What sets our financial markets litigators apart is our closely-coordinated teams who are intimately familiar with the most complex financial instruments. As markets innovate and new products and practices develop, we track those developments and train our lawyers to help clients with investigations and litigations involving those developments. That focus on product expertise and experience is well illustrated in the Lorely matter discussed below. That engagement was typical of the complex financial

product litigation that we have handled over the past 20 years for some of the largest financial institutions in the world. More recently, we have paid close attention to the growth of FinTech and the ever-increasing litigation and regulatory scrutiny facing these emerging markets. Our string of courtroom victories in the BitMex litigation, discussed below, is another demonstration of the success of this product-focused approach of the practice.

How many lateral litigation partners have you hired in the last 12 months? What do you look for in lateral hires?

Parker: The firm has brought on 20 lateral litigation partners across the globe in the past 12 months including **Celeste Brecht, Eric Dreiband, Jean Guillaume de Tocqueville, Noel Francisco, Bridget O'Connor, Elliot Pedrosa, and Kate O'Scannlain**. Beyond demonstrated success as a trial lawyer, we want professionals who thrive on teamwork, possess unimpeachable integrity, and adhere to Jones Day's deeply-held values. Among others, those values consist of personal accountability, intensity of effort, fearless independence to advise what is in our clients' best interests, courage in representing our clients in hostile and sometimes individually threatening environments, and a unity of purpose placing the welfare of our clients and the firm above any personal motivations. These values set Jones Day apart from its peer "big law" firms in protecting and advancing our clients' interests.

Noteworthy hiring includes attracting three former U.S. Attorneys (**Scott Brady in Pittsburgh, Justin Herdman in Cleveland, and Andy Lelling in Boston**) to further strengthen our national white-collar defense and trial lawyer bench, and, of course, our continued leadership in recruiting U.S. Supreme Court clerks, adding 10 clerks last year, for a total of 64 since October Term 2011.

Tambe: The vast majority of our financial markets litigation partners are up-from-the-ranks litigators who have, over time, focused on particular financial products and services. On those occasions that we do consider a lateral litigation partner, it is with an eye to demonstrated, deep experience in particular financial

products or relevant experience with financial market regulatory enforcement agencies. And, even then, we place a very high emphasis on cultural fit – we are only looking for team players who can convince us that they view their practice and business development goals as centered around a collaborative and cooperative effort with all other lawyers, at every level. One recent example of such a lateral hire is **Josh Sterling**, who joined us earlier this year **from the Commodity Futures Trading Commission**. Josh has broad regulatory litigation and regulatory compliance experience in private practice as well as with the CFTC and his joining the firm has helped us secure several key engagements in the regulatory investigations and enforcement area concerning complex financial commodity products.

What were some of your firm's biggest in-court wins in the past year, and can you cite tactics that exemplify your firm's approach to success?

Parker: *In re National Prescription Opiate Litigation* – Jones Day leads the representation of Walmart in all facets of opioid litigation nationwide. We filed a new action in October 2020 that attempts to define the scope and limitation of the legal duties of a pharmacy and the pharmacy defendants (including Walmart) defeated certification of two classes. In September 2020, the Sixth Circuit reversed the district court's certification of a "negotiation class" for settlement purposes. In February 2021, the district court denied a request to certify a nationwide class of guardians who alleged that their children had been born with Neonatal Abstinence Syndrome as a result of in utero opioid exposure.

In the Matter of Certain Tobacco Heating Articles and Components Thereof, Inv. No. 337-TA-1199 (ITC) – In the first of several significant patent battles for the cigarette alternative industry involving the world's two largest tobacco companies, Jones Day achieved a precedent-setting victory at the ITC representing R.J. Reynolds against Philip Morris International (PMI) and Altria. Following a six-day trial and extensive briefing, the ITC judge issued a decision in favor of Reynolds and the full Commission affirmed the judge's findings.

Glenn Burton, Jr. v. Sherwin Williams Company, 20-1781 (7th Cir. 2021); *Ravon Owens v. Sherwin Williams Company*, 20-1783 (7th Cir. 2021); *Cesar Sifuentes v. Sherwin Williams Company*, 20-1784 (7th Cir. 2021) – Jones Day obtained a precedential decision from the Seventh Circuit directing judgment as a matter of law for The Sherwin-Williams Company following a consolidated trial of three personal injury plaintiffs claiming brain damage and lost IQ from exposure to white lead carbonate pigments (WLC). The decision dramatically re-shapes 150 personal injury cases pending in the Eastern District of Wisconsin against former WLC manufacturers alleging “risk contribution” claims.

Sharon Isett v. Aetna, Inc., Case Nos. 18-03271 (2d Cir.); 3:14-cv-01698 (D. Conn.) – Jones Day secured a victory on behalf of Aetna Life Insurance Company at the Second Circuit Court of Appeals when it upheld the district court’s summary judgment ruling in favor of Aetna in a putative collective action under the Fair Labor Standards Act, finding that the district court correctly ruled that Appeals Nurse Consultants were covered by the professional exemption. This is a significant ruling because it is now one of the leading authorities on the professional exemption and also mooted the plaintiff’s ability to certify a collective action.

Tambe: *Phoenix Light SF DAC, et al., v. U.S. Bank National Association*, 20-1312-cv (2d Cir.) (Decision issued October 4, 2021) – Since 2014, the firm has represented two of the largest indenture trustees in scores of cases dating back to the 2007-2009 financial crisis, alleging damages in excess of \$100 billion. One by one, we have either outright defeated, or otherwise favorably resolved, the vast majority of those claims. The *Phoenix Light* decision is a recent victory our team secured in having the Second Circuit affirm summary judgment in favor of our securitization trustee client, disposing of breach of contract claims by institutional investors who claimed damages in excess of \$500 million.

Loreley Financing (Jersey) No. 3 Ltd. et al. v. Wells Fargo Securities LLC et al., 19-3304 (2d Cir.) (Decision issued September 13, 2021). – After nine years of hard-fought litigation, including two trips to the Second Circuit and discovery in multiple foreign jurisdictions, we were successful in obtaining affirmance of a summary judgment grant in favor of our clients. Plaintiffs were special purpose entities created by German bank IKB who claimed fraud in connection with investments in several collateralized debt obligations (CDOs). Plaintiffs claimed more than \$300 million in damages and interest.

BMA LLC, et al. v. HDR Global Trading Limited, et al., 20-cv-03345-WHO (N.D. Cal.) – In September 2021, we obtained dismissal with prejudice of a 33-count lawsuit alleging violations of the Commodity Exchange Act, RICO, and various California statutory and common law claims on behalf of HDR Global Trading Limited, the Seychelles-incorporated owner and operator of the BitMEX cryptocurrency derivatives trading platform.

Where are you looking to build or expand in the next year?

Tambe: We continue to organically grow our bench of experienced financial markets litigators. Almost all of that growth has been up-through-the-ranks and organic. We expect that to continue; however, we are always interested in speaking with potential lateral associate and partner candidates who have the relevant experience and share our client service values. As our client needs continue to grow, we will continue to add to our ranks to meet those needs.

What does your firm’s upcoming trial docket look like?

Parker: The courts are beginning to get back to normal for jury trials, after a long period of COVID-required delays. We have already tried two lengthy jury trials to verdict this year, with another four underway before year-end. This is in addition to bench trials and full arbitrations, which are similar to bench trials in many ways.