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Barg Coffin learns from experience

By Alex Shively

SAN FRANCISCO – Experience is the best teacher. For Barg Coffin Lewis & Trapp LLP, which spun directly out of Landels Ripley & Diamond LLP when that firm failed, the challenge has been to structure a San Francisco environmental litigation boutique that can be effective in the competitive local market.

At 21 attorneys, Barg Coffin thinks that it has found a comfortable size. R. Morgan Gilhuly, its managing partner, points to his firm's history to explain its present size.

"Landels was a larger firm – about 75 to 80 lawyers," he said. "We are much more focused."

Gilhuly said that despite the warm, collaborative environment at Landels, the firm was poorly structured at the top.

"It was kind of a hippie firm," he said.

After that firm collapsed in 2000, nine partners split off to form Barg Coffin. They didn't have to go far to find a new home.

"We came into work the next day and just changed the name on the door," he said.

Partner Kathryn L. Oehschlager said that the firm's size makes it stand out.

"Most of the players in the environmental space in the city are whole practice areas within larger firms," she said. "That comes with a lot of bureaucracy and conflict issues and limitations that we really don't have to deal with."

The firm's typical clients are large industrial companies. The list includes Union Pacific Railroad Co., Boeing Co., and BAE Systems PLC.

Boeing's Senior Counsel David L. Cohen has been working with lawyers at the firm for many years.

"When I first knew Rick Coffin he was still at Landels," Cohen remembered. "His new firm is smaller and the rates are better, but everything else is still top notch."

Cohen first worked with Coffin when the latter served as common counsel for Boeing and roughly 60 other companies during a toxic tort suit regarding activity at a Superfund site.

"Now I know about four attorneys at the firm," Cohen said, "and I think very highly of them all."

Gilhuly takes pride in his firm's ability to handle litigation and compliance matters.

"We work across the board in those areas," he said. "We cover all varieties of environmental law. If it is an environmental problem, then this is the place to bring it."

He said that while the firm's size puts a finite limit on the amount of work they can do, it still affords them a potent ability to litigate.

"We are big enough to handle real big litigation," he said, "but we are small enough to be flexible. We have enough freedom to do what we want and what our clients need whereas a larger firm might not be able to do that."

Jylana Dee Collins, the general counsel of East Bay Municipal Utility District, has worked with the firm on very complex litigation.

The firm recently advised the district on a case that involved six other cities and stationary districts that were experiencing infiltration overflow. There were problems with the pipes at these facilities and water was seeping in and causing problems for the company's central treatment plant, also known as the interceptor. The Environmental Protection Agency sued all entities and the company needed to start thinking creatively.

"Brian Haughton at the firm was really the mastermind of our plan," Collins said, "which obtained a very positive result for us. We were able to get a consent decree for about 21 years that required the other parties to fix and maintain their pipes to a higher standard."

Haughton's breakthrough was an argument based around the Clean Water Act that compelled the company's partners to comply with tougher standards.

“We have been working with Barg Coffin for about 20 years now,” Collins said, “and we have come to work with them in so many areas of environmental law that I don’t know how we would replace them.”

Besides devoting much of its attention to clients in litigation, the firm is also careful to come up with management solutions that can ensure its own smooth operation. Gilhuly is one of five equity partners, and he currently serves as the firmwide manager.

“The reason is that I’m the most junior,” he said with a laugh.

The firm holds equity partner meetings roughly once per month. These meetings, which cover day-to-day operations, events, birthdays and other matters, are rarely scenes of controversy.

“We also meet at the end of the year and make all the decisions that we need to make around compensation and bonuses,” Gilhuly said.

While disagreement is rare, Gilhuly does face periods of intense administrative obligation.

“It’s hectic right now,” he said, “but especially at the end of the year in December and January because of the budget.”

Associate Sherry Jackman is comforted by the firm’s abundance of transparency.

“All of the financials are disclosed,” she said. “It’s not just the senior partners and equity partners but everyone. So you get to hear how we are doing.”

Gilhuly also discloses the figures on attorney hours.

Partner J. Tom Boer said that this helps lawyers know where everyone is at and increases firm cohesion.

“[Hours] being the lifeblood of the firm,” Boer said, “it is great to know about the breakdown of hours and how much the senior-most equity partners have billed in the past month as well as everyone else.”

Barg Coffin prides itself on its ability to stay current with new issues in the constantly evolving environmental policy landscape.

Cap-and-trade compliance under AB 32 is one area that Gilhuly has needed to explore more rigorously.

“One of my clients is a large industrial company that has operations that emit carbon dioxide,” Gilhuly said. “They are subject to the new cap-and-trade scheme that started with AB32 in 2006.” Gilhuly has been helping the company comply with it.

“It’s all about reviewing the rules as they are written,” Gilhuly said. “They are constantly being changed.”

The firm is also starting to see more work on vapor intrusion. The problem arises when contaminated groundwater produces vapor from the water or contaminated soil, which comes up through the ground and can enter buildings.

“That is not a brand new issue,” Gilhuly said. “but it is a hot issue now in contaminated property.”

Despite the high volume of work and the increasing challenges posed by regulation, Barg Coffin seems comfortable at its current size.

“I think that if we just had 10 more lawyers,” Boer said, “we would begin to have severe conflict issues.”

“We could grow a tiny bit bigger but once you get beyond say 25 or 30 lawyers,” Gilhuly said, “there is also a lot more overhead that goes into that and a lot more administrative help that you need. That would really change the way the firm operates.”

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