

LAWDRAGON

Cornering the Florida Market: Boies Schiller Flexner



Sashi Bach, James Lee and Pascual Oliu

By Alison Preece

Over the last couple years, partly in response to clients relocating to the state during the pandemic, many law firms have launched offices down in sunny Florida. From national firms to boutiques, the legal market in the sunshine state is hot – but some firms are having trouble getting a foothold.

Boies Schiller Flexner, on the other hand, has been in Florida for two decades, and the partners have a deep understanding of local clients, along with an ability to work on larger cases.

“There are Florida cases and then there are national and international cases,” says James Lee, co-administrative partner for the Miami office. “The successful Florida offices are good at servicing all three.”

With 12 offices across the U.S. and in London and Milan, Boies Schiller balances a stronghold in Florida with international capabilities. The partners work nimbly together, frequently staffing cases with attorneys in multiple locations, depending on client needs.

“We will call whoever in whichever office is best positioned to serve a particular client or handle a particular issue,” says Pascual Oliu, a partner in the Fort Lauderdale office.

“We have a one-firm mentality,” agrees Sashi Bach, co-administrative partner in Fort Lauderdale. “It’s just how we operate.”

The high-level litigation work being done by the firm was a major attraction to all three partners, who, as young attorneys, were eager to dig into the intellectual rigor of complex cases but also, for various personal reasons, wanted to be based in Florida. It’s a similar sentiment to that shared by another young Florida-based Boies Schiller partner, Sabria McElroy, whom we profiled early last year.

Attorneys in the firm’s Florida offices have handled cases ranging from national mortgage finance work to local litigation in the energy and construction sectors. They represented a class of investors in the largest feeder fund in the Madoff Ponzi scheme; Florida Power & Light (FPL) and other Florida companies in high-stakes cases; prominent Miami-based family offices in nine-figure cases against multinational investment banks; and a class of 2 million Florida children on Medicaid who weren’t receiving adequate care.

The scope of their work reflects the dynamic nature of each of their practices, and their ability to serve clients in their toughest cases.

As the Florida market continues to attract new shingles, firms would do well to look to the success of Boies Schiller as they navigate local opportunities and attempt to put roots down in the sand.

Lawdragon: What sort of work is keeping you all busy in Florida these days?

Pascual Oliu: We all have cases both in Florida and nationally, which is typical with our firm. I’m working on a couple cases, including a large one in the mortgage financing space, and another interesting case in Dormant Commerce Clause law, which involves a challenge to a state law designed to protect incumbent companies against businesses that would like to compete in that state.

Sashi Bach: Pascual and I are also working on a novel case for FPL. We are defending a class action on behalf of all Floridians who lost power during Hurricane Irma.

James Lee: Like many at the firm, half my work tends to be on the plaintiffs' side and half is on the defense side. Sometimes they overlap.

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On the defense side, I'm trial counsel for Philip Morris and for FedEx Ground in some of their higher risk cases that are going to trial. I'm representing Lens.com in the Southern District of Florida in a nationwide class action over a Lanham Act violation. I also represent various tech companies in data privacy litigation.

On the plaintiffs' side, I handle mostly nationwide class actions. I am one of the co-leads on behalf of the class in the Google Incognito case, *Brown v. Google*, in the Northern District of California. Essentially, these are privacy cases that allege that Google collects user data even when you're in private browsing mode. It's been a hotly contested litigation.

LD: It's fascinating that you all have such a wide range of matters you're working on, plaintiff and defense. That's got to be fun, and also challenging.

SB: It's one way in which our firm stands out, we have this unique perspective that comes from working on both the plaintiff and defense side.

For instance, we were lead class counsel for the largest feeder fund that invested in the Madoff Ponzi scheme. And several years later we represented a major international law firm who was being sued in connection with the Stanford Ponzi scheme, which was the second largest Ponzi scheme in history. We had this law that we had obtained in Madoff being cited against us, and we were in an incredible position to distinguish it and show why those decisions didn't apply. The key is that you're not handling those cases at the same time. You do have to be careful with issue conflicts.

Our work covers a range of different matters, including trial and appellate work. We bring a deep appreciation for how complex litigation works and what tends to persuade judges and juries – and what does not. That gives us a real edge in all of these different fields.

JL: It's super fun to do both though because if you're on the plaintiff side and you're taking a deposition of a corporate representative, having defended a large corporation in 30(b)(6) depositions, you know how to leverage them or make them a little uncomfortable. A lot of times the priorities of the plaintiff side and the priorities of the defense side are not the same in a given litigation. It's helpful to know where the pressure points are.

PO: It also helps avoid the groupthink that can happen in organizations that only take one side or the other. It's easy to convince yourself of increasingly aggressive lines that are harder to defend, until you're representing the plaintiff in a related issue. You can kick these things around and come up with much stronger positions than if you were always representing the same side.

LD: Back when you were in law school, is this the kind of dynamic practice that you imagined for yourselves?

JL: I wanted to be a trial lawyer. The subject didn't really matter. When you join a national branded firm, it's hard as a young lawyer to get into court and particularly try jury trials. I picked first Kirkland & Ellis, then Boies Schiller, because I thought I would have greater opportunities to get in the courtroom. Turned out to be true.

I followed the work that naturally led to trials, for example, Philip Morris then FedEx, then high-net-worth individuals with significant commercial disputes. As I got more experience, I stepped back and thought, "What are the legal issues that I'm most interested in, now that I have these baseline skills?" That led to data privacy and class actions.

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SB: I knew I wanted to be a litigator, but I had no idea what kind. So I clerked in the Southern District of Florida. I highly recommend clerking to everybody who is in law school because you get exposed to so many different types of cases. I saw that some lawyers and firms brought the same type of case day in, day out. They had their niche. I'm sure their work was very stable, but that was not what I wanted to do.

My judge had a complex series of cases arising out of the state Southeast Bankruptcy situation, and it just lit me on fire. It was very complex. I remember sitting in my office buried in binders full of their filings and thinking, "this is what I want to do." It's interesting. It's complicated. It's like putting the pieces of a puzzle together all the time. It just doesn't get old.

PO: I'm similar, I love the intellectual challenge of the law. I love sitting around a table, debating an issue, thinking about it logically and rationally. I didn't know the specific practice I wanted, but the idea of getting to come into work every day with incredibly smart people, kick around issues and build a case from the ground up – that really appealed to me. What kind of proof will persuade someone? What are the best arguments on the other side that we haven't spotted yet? That's the work that made me want to be a lawyer.

LD: What mentors did you all have when you were coming up at the firm?

SB: Mentorship, like so many things at our firm, is organic. It's one of our foundational principles. I love mentoring, and I have been the beneficiary of extraordinary mentoring during my career. Stuart Singer, who is one of the founding partners of our office, has been my mentor and leader throughout my career. There are no words to describe what an extraordinary litigator Stuart is.

He is not only a powerful advocate and one of the most intelligent people I've ever met in my life, but he's uniformly respected by everyone he encounters. I can happily say that we have been the beneficiary of as many referrals from his opposing counsel and his opposing clients as from his own past clients and co-counsel, as well as judges he has appeared before. That's just the kind of impression he leaves.

Stuart loves the law, and he loves being a lawyer. I interviewed at some firms in Florida where the associates were so clearly miserable that I was like, "Am I really going to go spend eight to 10 hours of my life a day with these people who are miserable?" At Boies Schiller, we love what we're doing. We are happy lawyers.

JL: Stuart is incredible. In Miami, Steve Zack has been mentoring me for several years. He was our administrative partner in Miami for over two decades. He's a great leader for the firm and will continue in a leadership role. He's always available when I need advice, and I've learned a lot from him in terms of leadership and the business side of things. As far as developing my courtroom skills, Andrew Brenner, our co-administrative partner, has been an incredible mentor. He's probably the best trial lawyer I've ever seen, so I've been pretty fortunate to learn from him. We try cases together as co-leads now, which is really exciting.

PO: My first mentor was Chief Judge Sykes on the 7th Circuit. That was a tremendous experience. She had very high standards of clear thought and clear writing. Between her and my co-clerks, we challenged ourselves every day to do excellent work.

When I joined Boies Schiller, basically all the partners and even some of the senior associates were my mentors. Just as with Sashi, I found an excellent mentor in Stuart Singer, who's an incredible lawyer and also very generous with his time and willingness to help younger lawyers in their careers. I summered at the firm, all three years, then came here after my clerkship. Everyone was extremely willing to take time to give their insight, advice and criticism when needed. I still look up to all the people who've gone this same road before me.

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SB: It's great point: mentorship isn't just from the top; it also comes from your peers. Carl Goldfarb was that to me. He's now my fellow partner, but he was two to three years ahead of me when we were associates and always incredibly generous with his time. Now when I bring in a new case, he's still the first person I call.

LD: James, you spent eight years as the hiring manager in Miami. What does the firm look for in a candidate?

JL: We have a strong initial vetting process, looking at where they went to school, their grades and other core factors. By the time they come to me, I already know every candidate is talented. So what I'm looking for are essentially two things: versatility and diversity.

Versatility is important because we're not a 1,000-lawyer firm. In bigger firms, you can find success through a niche, like being a very good writer or very good at appeals. Here, each one of us is adept at all aspects of litigation. We're all trial lawyers, writers, oralists and strategists. When we interview candidates, we want to know they can work in both the back of the house,

meaning strategy, research, writing; and in the front of the house, able to interface with the client, judge and jury, and present in public.

Diversity has always been important to the firm, long before that was a buzz word. Much of the credit goes to Steve Zack, who instilled in us the importance of diversity. That includes cultural diversity of course, as well as regional, class and political diversity. It gives us a more balanced unit and means we won't fall prey to the pitfalls of groupthink.

LD: How did you all decide to practice in Florida, and did you ever feel like you were missing out not being somewhere like New York?

SB: Leaving law school, I saw my friends going to the top firms in New York, Boston and California. I wanted to live in Florida because that's where my family is, but I was concerned I wouldn't be able to work on the same complex, high-profile cases. Then I discovered that David Boies had a small office in Hollywood, Fla. It was just after *Bush v. Gore* and some other headline-grabbing cases. I applied as quickly as I could and accepted a job immediately!

JL: I'm from Los Angeles, I went to law school at Stanford. I was practicing in New York out of law school. After about four and a half years of practice, my wife came to me and said she'd like to live somewhere warmer.

We basically picked Miami out of a hat. I interviewed at a bunch of places, and so did she – she's a physician. We both got really lucky. I didn't know much about Boies Schiller other than David Boies and the great things he's done. But what I did see was that the attorneys in the Miami office seemed to get trial opportunities. So we took a leap of faith. I didn't know how long we would stay, but we loved the friends we made here, the community, our jobs. Then we had kids and put up the white picket fence, and now we have no intention of leaving.

PO: It's home for me, too. I can't imagine practicing anywhere else. Florida is just a great place to be, to have a career, to have family. And people are catching on! Florida is booming like never before. I feel almost every major firm or institution is trying to open up some Florida office, Florida locations, do more Florida business. None of us are surprised because we've been living in it for a while now.

SB: It's really become the epicenter of the economy in some respects. My practice used to be that I was living in Florida, but handling cases in New York and California and all over the place. As Florida's economy has grown and become more significant to the nation, my cases are increasingly here. So that's been a pleasant development and something we expect to continue.

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