

LITIGATION

DEPARTMENT OF THE YEAR

★ *Finalist* ★

On the Offense

Boies Schiller took on the big, risky cases—and won them.

By Emily Barker

SOME LAW FIRMS GO TO TRIAL ONLY AS A LAST RESORT. NOT Boies, Schiller & Flexner. Over the past two years, the firm scored almost all of its biggest wins at the trial level—many of them on the plaintiffs side. Unlike most of its Am Law 200 competitors, Boies Schiller seems more comfortable playing offense than defense.

His firm's great strength, says name partner David Boies, is "making complicated cases understandable and taking cases to trial." Over and over, Boies Schiller took on long-shot cases and delivered unexpected results for its clients.

Take the seemingly quixotic challenge that Boies mounted to the U.S. government's 2008 bailout of American International Group.

Representing Starr International Cos. and other AIG shareholders, Boies contended during a six-week bench trial that the Federal Reserve violated the takings clause of the U.S. Constitution by taking a majority share in AIG. In June 2015, the U.S. Court of Federal Claims agreed. Although Boies won no damages, his victory will likely chill future big bailouts by the government.

The firm also pulled off a major trial win on the government's behalf. In October 2014 partner Nicholas Gravante Jr. convinced a U.S. district court jury in Marshall, Texas, to find that guardrail maker Trinity Industries Inc. had misled highway officials about the safety of its products. The U.S. Justice Department had declined to back the claims of Gravante's whistleblower client, but the verdict—

which came after less than a day of deliberations—produced a \$663 million judgment.

In an antitrust class action against Apple Inc. that had dragged on for a decade, the tech giant brought on Boies Schiller's William Isaacson and Karen Dunn just before trial. A jury in U.S. district court in Oakland took just four hours to decide in Apple's favor. And in another expectation-defying victory, Isaacson teamed up with plaintiffs attorney Michael Hausfeld to overturn the National Collegiate Athletic Association's long-standing ban against giving college athletes a share of the proceeds from broadcasts and video games.

The firm's appellate docket was slimmer, but it still notched a big win at the U.S. Supreme Court. In *Halliburton v. Erica P. John Fund*, Boies persuaded six justices to uphold *Basic v. Levinson*, the precedent establishing the "fraud on the market theory" that is key to most securities class actions. Again, the outcome was far from certain. It was important to convince the court that *Basic* could not be overturned without damage to principles, such as statutory stare decisis, Boies says: "It could have gone 4-5 either way."



Department Size and Revenue:

Partners 106 Associates 115 Other 39

Department as Percentage of Firm 90%

Percentage of Firm Revenue, 2014 N/A

FROM LEFT David Boies, Jonathan Schiller, Karen Dunn, William Isaacson, Nicholas Gravante Jr.

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William Isaacson
Boies, Schiller & Flexner

Class Act

Whether defending against antitrust class actions or bringing them, William "Bill" Isaacson is an opponent to be reckoned with. Representing a class of polyurethane foam buyers, Isaacson and co-counsel at Quinn Emanuel Urquhart & Sullivan turned back Gibson, Dunn & Crutcher's challenges to class certification, then landed \$433 million in settlements from foam manufacturers. He won a jury verdict for Apple that ended a decade of litigation over a disputed iTunes update, and teamed up with Hausfeld to convince a federal judge that college athletes should share in earnings from TV broadcasts and video games.

BOIES, SCHILLER & FLEXNER LLP