

Litigation Boutique Holwell Shuster Looks To Next Decade

By **Anna Sanders**

Law360 (February 25, 2022, 10:27 AM EST) -- In the decade since Holwell Shuster & Goldberg LLP was started in New York by four former BigLaw attorneys, the litigation boutique has increased its ranks more than tenfold and developed a reputation for trying high-stakes commercial cases.

But founders said the next decade will be crucial in cementing Holwell Shuster's future as the firm works to expand in areas like intellectual property, white collar matters and international arbitration — all while preparing a new crop of leaders and ensuring it remains a lean boutique shop with top commercial and financial markets litigators.

"We've got to groom that next generation of firm leaders and make sure the firm is on a good footing when we leave," founding partner Michael Shuster told Law360 Pulse. "We want the firm to outlive us."

The firm began in winter 2012 when federal Judge Richard J. Holwell decided to step down from the Southern District of New York to found a small shop with Shuster and two other attorneys from Kasowitz Benson Torres & Friedman LLP, Dan Goldberg and Dorit Ungar Black. All four were colleagues at White & Case LLP in the early 2000s before Holwell took the bench in 2003 and the others left for Kasowitz in 2006.

The foursome hired just two associates in the beginning, but now some 60 attorneys work at Holwell Shuster. Last year alone, the firm hired 11 associates.

"That's been a big change," Holwell said of the growth. "The thing that's remained the same is really our philosophy."

That philosophy can be boiled down to a simple idea: staying lean, mean and laser-focused on litigation and litigation alone.

Holwell Shuster specializes in complex commercial cases, focusing on financial, securities, antitrust, IP and bankruptcy-related disputes. While the former judge acknowledged there's room to advance the firm's practice in IP, white collar and international arbitration, Holwell Shuster is by no means going to become the next name in BigLaw.

"There are great reasons to scale up if you have a corporate department feeding business to a litigation



MICHAEL SHUSTER
founding partner

department, feeding business to a tax department, Washington feeding New York, New York feeding Paris, etc.," Holwell said. "But with that comes a lot of problems for litigators."

The founding partners each worked in BigLaw for decades and wanted to avoid the downsides of managing a sprawling organization, like increases in conflicts of interest and associate-to-partner ratios. Overhead tied to a big firm structure can also increase litigation costs.

"If you're just doing one thing — trying cases and litigating cases — you just need to be big enough to handle all the cases to come in the door," Holwell said. "You can do away with the administration and the pyramiding of associates and partners and still compete effectively."

The firm gets cases directly from clients, such as Visa, that need counsel in bet-the-company litigation. But Holwell Shuster also works as "conflict counsel" when BigLaw firms need to refer cases to avoid conflicts of interest.

"They know that when the case is over we're going to tie the client up in a big ribbon and give it back to the firm," Holwell said.

In Holwell Shuster's first trial in 2012, the firm represented a hedge fund in a dispute with a departing partner. The case ended up in a two-week trial in Delaware Court of Chancery, followed by two weeks of arbitration in Connecticut.

"We had maybe 10 attorneys at the firm at the time, so it occupied a lot of people for a long period of time," Goldberg said.

The firm also does "an enormous amount of work relating to the financial crisis of 2008, the mortgage crisis, mortgage-backed securities," Shuster added.

Holwell Shuster won a \$2.38 billion trial verdict in 2018 against Lehman Brothers related to mortgage-backed securities. And the firm still serves as the national coordinating counsel for Freddie Mac in the mortgage company's litigation portfolio relating to residential mortgage-backed securities.

Right now the firm represents Visa in class actions and opt-out litigation that seek billions in recoveries and has led the company's efforts to settle class action antitrust claims related to card "swipe fees."

Holwell Shuster also recently represented Valassis Communications Inc., a MacAndrews & Forbes company, in a \$200 million suit claiming News Corp., a rival retail marketer, unlawfully monopolized the multibillion-dollar market for in-store promotions. The company settled in July with News Corp., which was represented by Paul Weiss Rifkind Wharton & Garrison LLP, after a Manhattan federal jury failed to reach a verdict.

"We couldn't have done that case against Paul Weiss with four lawyers," Shuster said. "Now that we're bigger, we're able to handle more large matters at the same time."

Holwell Shuster also maintains a robust pro bono practice, coming in seventh in Law360's ranking of firms by the percentage of lawyers who waived fees for at least 50 hours in 2020.

"None of us suffer from fragile egos, but we joke that we wouldn't get into this firm today if we were applying as junior associates."



DAN GOLDBERG
founding partner

As part of the firm's pro bono practice, Holwell Shuster represents clients in criminal and immigration proceedings, as well as female pilots and flight attendants at Frontier Airlines in two workplace discrimination cases over company policies toward pregnant and breast-feeding employees. The firm also secured the first injunction against the second version of President Donald Trump's travel ban.

The firm's emphasis on pro bono work is just one reason leaders said they're able to recruit attorneys with top-notch credentials — including multiple former U.S. Supreme Court clerks — even as BigLaw shops scramble to hire and retain talent with raises and bonuses.

Because of the firm's smaller size, the founders said younger attorneys have more opportunities for mentorship and hands-on experience. An associate took a witness in the News Corp. case last summer, Shuster said, and an associate also took a witness in the Lehman bankruptcy.

"Top to bottom, our associates are the best group of lawyers in any litigation department in the city," Goldberg said. "None of us suffer from fragile egos, but we joke that we wouldn't get into this firm today if we were applying as junior associates."

A smaller boutique is also more intimate and collaborative.

"It gives the place a different feel," Shuster said. "We wanted the firm to feel like a real law firm partnership and a real law firm."

As Holwell put it, that's a "retro idea." Instead of growing by attracting lateral partners with portable books of business, founding partners said they'd rather promote from within and develop teams more organically.

"We are hiring people with the hope and expectation that they'll be first-chair trial lawyers and partners at the firm," Shuster said.

While there's no magic number, the founding partners said the firm would stay under 100 attorneys.

"Maybe this is risky as I get older, but when it comes to a point where I don't know every lawyer in the firm and their significant other and their children or grandchildren, then the firm's too big," Holwell said.

Looking ahead, the founders admit they'll have to hand off the firm to some degree within the next 10 years.

"One of the biggest mistakes that we could make in the next 10 years is not bringing the next generation of lawyers up and more and more into the management of the firm," Shuster said.

Holwell said this keeps him awake on some nights.

"The future doesn't depend on Holwell, Shuster or Goldberg, it's the younger lawyers," he said.

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RICHARD J. HOLWELL
founding partner