

Bet-the-Company: Keys to Prosecuting and Defending High Stakes Litigation

Related Professionals

Dan Boyce
919.653.7825
dboyce@nexsenpruet.com

Practices

Litigation
Business & Commercial Disputes

Industries

Life Sciences
Agribusiness
Health Care
Hospitality & Tourism
Manufacturing
Public Sector and Government
Transportation
E-Commerce
Emerging Technology
Pharmaceuticals

04.18.2019

Building a profitable business does not happen overnight. It is decades in the making, years of sacrifice, adapting to the market and strategic planning. But businesses and professionals can find decades of a strong foundation in jeopardy. “Scorched earth litigation” can cripple a business.

Building a profitable business does not happen overnight. It is decades in the making, years of sacrifice, adapting to the market and strategic planning. But businesses and professionals can find decades of a strong foundation in jeopardy. Whether it is government investigations, securities, antitrust, intellectual property or just high-stakes litigation, “scorched earth litigation” can cripple a business. A company’s first and best decision is to associate outside counsel that is a legal “dream team.”

A recent confidential settlement proved to a small software company that “betting the company” in litigation was a wise choice. After months of pre-litigation posturing, a client was named as a co-defendant in out-of-state litigation. After more than a year of expensive and aggressive litigation, Nexsen Pruet guided the client to a successful and confidential resolution. The client put a lot on the line in litigating and ultimately the strategic decisions during the discovery process opened the door to settlement discussions. Dan Boyce served as lead counsel and was supported by numerous members at Nexsen Pruet, including Nextra Solutions. “Our ability to process, review and analyze the documents in this case was unmatched. We had a well-oiled machine combing through hundreds of thousands of pages looking for pressure points and goldmines.” The partnership between the client and Nexsen Pruet brought a lengthy and expensive dispute to resolution without a jury trial. The client always kept an open mind to settlement opportunities, but also was not afraid to push the matter to trial. The client’s boldness, future vision for the company and industry knowledge combined with the depth of resources and experience at Nexsen Pruet proved to be a superior and winning partnership.

Keys to Prosecuting or Defending High Stakes Litigation

- **Competent outside counsel.** A company's General Counsel may have expert knowledge in the industry or the matter in dispute, but trial counsel with extensive courtroom experience and superior advocacy skills in complex cases is key to mounting a successful defense. It is helpful when outside counsel also has an associated eDiscovery and technology extension and access to experienced public relations professionals. A law firm that can offer a client each of these components is a "dream team."
- **Client expectations.** Candid client conversations outline a clear path for litigation. Oftentimes, clients are confident and comfortable in aggressive litigation and pushing to trial. Other times, a client wants to mount a credible defense, but settlement is the client's only option. A seasoned litigator is capable of managing the client expectations and helping the client understand the demands of the litigation.
- **Communication.** Once the dream team is hired and the company's goals in defending the dispute are established, communication is key. Understanding the parties involved, the complexity of the dispute, the forum of the litigation and the clearest path to achieve the client's goals will make for a successful prosecution. The team and the client become partners in defending the company.
- **Adaptability.** The pendulum in litigation is constantly shifting, often on a dime. Adapting your litigation strategies is key to remaining in the game. There are times hard-charging defense tactics are necessary and other times, a litigator needs to seek compromise and resolution. A dream team is capable of adapting and seizing every opportunity that presents - marching to the courthouse steps or successfully settling a case. This team always has the client's best interests as the priority in high stakes litigation.

**A result achieved on behalf of one client in one matter does not necessarily indicate similar results can be obtained for other clients.*