

New Jersey Powerhouse: Reed Smith

By **Martin Bricketto**

Law360, Jersey City (June 17, 2015, 1:56 PM ET) -- Reed Smith LLP's Princeton, New Jersey, office has done more than free industry leaders such as Wells Fargo Bank NA and Quest Diagnostics Inc. from hard-fought class action litigation, the firm has helped salt the ground against strategies that would have spelled trouble for other defendants in consumer-related suits.

The office's 42 attorneys are a fraction of the more than 1,290 U.S. attorneys who are part of Reed Smith, the 10th largest firm in terms of U.S. headcount. But the outpost typifies firmwide strengths in areas like class action defense, which the office combines with boots-on-the-ground service for life sciences and financial services clients, among many others. The court victories and transactional work that Reed Smith has racked up for those companies has made it one of Law360's powerhouse firms for New Jersey.

The addition of lateral partners with strong practices, rather than a merger with another firm with a footprint in the state, has helped fill out the office during the past 23 years, according to Diane Bettino, its managing partner and a member of the financial industry group. The overall breath and depth of Reed Smith has been a huge asset, Bettino said.

"Those partners who have come to Princeton have been able to leverage the really great platform both nationally and internationally that Reed Smith has to offer and really expand their own practices," she said.

The "greenfield" office in the heart of Princeton's downtown is a baby compared to the larger firm.

Reed Smith's origins date back to 1877, when Philander C. Knox and James H. Reed founded Knox & Reed in Pittsburgh. Their paths underscore the firm's long-standing reputation as a heavy hitter in the legal world. Knox went on to serve as the U.S. attorney general, while Reed represented Andrew Carnegie in the formation of U.S. Steel. By 1922, the firm had renamed itself Reed Smith Shaw & McClay.

The Princeton office followed 70 years later in 1992. The firm established that foothold in the western end of central New Jersey to better represent the firm's life sciences clients and tap into the area's reputation for technology businesses, according to Bettino, who came to Reed Smith as an associate in 1997 and became managing partner for the office last year.

Today, the office's varied strengths include financial services, aviation, labor and employment, and

insurance recovery. Life sciences work, including both corporate matters and litigation, also remains a big part of what the office handles, as demonstrated by its ongoing representation of CR Bard Inc. in product liability lawsuits over pelvic mesh and GlaxoSmithKline in its divestment of the migraine medication Treximet to Pernix Therapeutics Holdings Inc. last year.

“We can service the life sciences industry in New Jersey whatever they might need,” Bettino said.

But one of the firm's most impressive wins came defending Wells Fargo in a class action under New Jersey's Truth in Consumer Contract, Notice, and Warranty Act.

Reed Smith in December secured a dismissal for the bank from claims in Gloucester County Superior Court that its foreclosure notices violated the Fair Foreclosure Act and, in turn, the TCCNWA by failing to state the name and address of the lender.

The statute has very little legislative history and not much case law surrounding it, according to Paul Bond, a partner with Reed Smith and the co-practice leader of its information technology, privacy and data security group.

“For that reason, it was all the more important that Reed Smith was able to draw on a decade plus of litigating this exact statute and knowing the ins and outs of every scrap of legislative history and every case that came up before and being able to argue from common sense how to understand the statute,” Bond said.

The legal battle followed the New Jersey Supreme Court's 2012 ruling in *U.S. Bank NA v. Guillaume*, which found that courts don't have to toss foreclosure actions because of defective paperwork. Wells Fargo won court permission to file corrected notices in uncontested foreclosures, but borrowers Justine and John Sexton fought back with their TCCNWA claim over the original notice in 2007. The court ultimately found that the Sextons weren't consumers under the statute and that the notice was subject to a common law litigation privilege.

The decision will help limit lenders' exposure over technical defects and prevent a cycle of endless litigation as the state's housing market works to recover, according to the firm.

Making sure such decisions stick on appeal is just as important as securing them in the first place, and that's what Reed Smith did as co-counsel for Quest in long-running litigation claiming the diagnostic and clinical testing provider committed consumer fraud by routinely overbilling patients.

The Third Circuit in September agreed that plaintiffs couldn't group dozens of state consumer-fraud laws into two nationwide litigation classes because applying so many different statutes would be unwieldy and inappropriate. As part of its analysis, the panel declined to apply New Jersey's consumer fraud law on a nationwide basis and upheld a ruling that the law of the class members' home states should apply.

The plaintiffs launched the suit in 2004, alleging Quest and its outside debt collection agencies illegally billed consumers at full price for clinical tests, in defiance of insurance considerations. A federal judge in New Jersey had twice denied class certification.

“That was an important ruling ... because they were trying to use the New Jersey Consumer Fraud Act nationwide,” Bettino said. “[The decision] helps companies in New Jersey and also outside of New Jersey.”

In another instance of the firm's class action defense skills, Reed Smith was co-counsel for QinetiQ North America Inc. as part of a precedential Third Circuit decision in August that the federal Employee Retirement Income Security Act of 1974 preempted plaintiffs' state law consumer fraud claims.

Former defense contractor workers had sued Prudential Insurance Co. and QinetiQ in 2012, accusing them of selling QinetiQ employees disability and long-term care insurance policies with an exclusion for injuries suffered during wartime, even though they knew the exclusion would likely keep benefits from the employees because of their work for the U.S. Department of Defense in Iraq and Afghanistan.

On appeal, plaintiffs contended that supplemental plans connected to the policies provided by QinetiQ — which has since been sold and now operates as Vencore Services and Solutions Inc. — fell under the safe harbor exemptions of the law.

However, the panel sided with QinetiQ and Prudential, saying the plaintiffs failed to point to any authority suggesting that closely related components of an overarching welfare benefit plan ought to be unbundled and that the supplemental coverage, as part of QinetiQ's broader benefits plan, is in fact governed by ERISA.

Reed Smith's recent successes in New Jersey go beyond litigation.

In November, the firm closed more than \$195 million in assorted loan facilities for PNC Bank NA in its capacity as a lender and the administrative agent for a syndicate of lenders tied to a mixed-use redevelopment project beside the Journal Square Transportation Center in Jersey City. The apartment tower associated with the project is expected to be the tallest building in New Jersey once completed.

The state is filled with prominent, homegrown firms with armies of attorneys, but the resources available to the Princeton office set it apart when it comes to servicing clients, according to Patrick E. Bradley, a partner with the firm and the leader of its aviation litigation team.

Bradley — who jumped to Reed Smith in 2006 from Herrick Feinstein LLP because he said he needed a firm with a bigger footprint and national practice — pointed to the Pittsburgh-based group of attorneys who specialize in discovery work and the firm's ability to deploy that outfit across case types and geographies. The firm also specializes in mapping out fixed-fee pricing for complex cases, he added.

"It's the leading edge of practicing law," Bradley said.

--Additional reporting by Kelly Knaub and Brandon Lowrey. Editing by John Quinn.