

THE AM LAW LITIGATION DAILY

Litigation Leaders: HSG's Michael Shuster on Balancing a 'Street Fighter' Approach With Civility and Common Sense

By Ross Todd

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Welcome to another edition of our *Litigation Leaders* series, featuring the litigation practice leaders at some of the biggest and most innovative law firms in the country.

Meet **Michael Shuster**, one of the founders of **Holwell Shuster & Goldberg**. Prior to founding the New York litigation boutique in 2012, Shuster was the global head of commercial litigation at **White & Case**. Among his notable clients, Shuster has represented Visa in antitrust litigation over swipe fees, insurer Chubb in coverage litigation related to opioids, and **Wachtell, Lipton, Rosen & Katz** in a malpractice suit stemming from Carl Icahn's takeover of an oil and gas company in 2012.

Lit Daily: Tell us a little about yourself—perhaps even a thing or two your partners would be surprised to learn about you.

Mike Shuster: Holwell Shuster & Goldberg prides itself on being a close-knit firm, and my history with my fellow founding partners goes back more than 30 years, so it would be tough for me to say anything at all that would surprise them at this point. That said, my colleagues might be surprised to learn that I studied Tai Chi pretty intensively for a few years when I first started out practicing law in New York. It was a good way to both quiet the mind and, in theory at least, ready oneself for battle (Tai Chi is technically a form of Kung Fu).

You are one of the few people I know of who has headed up a litigation department in a global firm—as you did at White & Case—and co-founded a litigation boutique. Can you give me a quick compare-and-contrast of those two experiences? What are the unique demands of each job, and where is there some crossover?

A global firm like White & Case, where I had just a wonderful experience and where I learned so much of what I know about litigating cases, presents its own unique challenges just given the size of the operation and the fact that so many different practice areas are housed under one roof (so to speak; White & Case is as multi-jurisdictional as firms get). In many ways, though, the challenge there was the same as it is at HSG—build effective teams, make sure younger lawyers are receiving proper mentorship, achieve good results for clients.

At HSG, we have a narrower practice focus—we're all litigation, all the time—which allows for a



Michael Shuster of Holwell Shuster & Goldberg.

Credit: Andrew Walker/Getty Images. (HANDOUT).

really tight culture and a laser focus. Additionally, the smaller firm size enables one to get to know everyone in the firm. Not just the other lawyers, but paralegals, staff, everyone. And although the professional culture in which we all operate now has changed—for the better, in my view, in that associates have a larger voice in many aspects of their day-to-day experience as lawyers and there is a greater sensitivity to various dynamics that are at play in the legal workplace—there are certain aspects of the practice that should never change: the importance of collegiality, mentorship, mutual respect, and a focus on achieving optimum client outcomes.

How big is the Holwell Shuster & Goldberg team? And how does the firm you've built compare with the vision you set out with?

We now have about 75 lawyers. That's right in line with our vision when we founded HSG with four lawyers in 2012. We have grown rapidly but have maintained our focus on our core values—our founding principles, if you will. Those include a focus on recruiting superstar lawyers, a truly nurturing, collegial culture, diversity and inclusiveness, an emphasis on pro bono work, and a determination to achieve our clients' objectives if humanly possible. We've stayed true to these principles (and there are others, including growing organically by promoting our own lawyers to partnership rather than laterally recruiting partners with portable business and, at the partner level, maintaining a compensation system that fosters and rewards teamwork and a one-for-all mindset). Adhering to these principles as the firm continues to grow is challenging but central to who we are and what we offer to the phenomenal young lawyers we try to recruit to the firm. So, I'd say so far we're carrying out the vision we had when we formed the firm.

On the client side, we wanted to be big enough to handle the largest and most consequential and highly contested matters without growing to a size that might negatively impact our cultural model. We've represented Visa in mas-

sive antitrust litigation, Chubb in nationwide opioids coverage litigation brought by virtually every major player in the opioids manufacturing, distribution and supply chain, bank trustees in mortgage-backed bond litigation, private equity, and hedge funds in aggressive fights against other funds or in the bankruptcy and restructuring context, and have handled several large, complex international arbitrations. I'm proud to say that our peer firms in New York frequently refer their clients to us, and we have been honored to represent other preeminent firms that have gotten sued, which in many ways is the highest compliment. We're also incredibly proud of our pro bono work, and the sheer volume of time and resources we devote to that effort (which has garnered us more than our fair share of recognition, although that's obviously not the point). We have done a lot of meaningful work for immigrants and asylum-seekers, and at the end of 2023 settled a groundbreaking pro bono case against Frontier Airlines, ending what our clients viewed to be discriminatory practices against pregnant and lactating employees. We are highly intentional (and, I hope, humble) in our approach to advancing diversity at the firm and in the profession, forming partnerships with like-minded organizations and, for instance, including voices from every part of our firm on our diversity committee.

What do you see as hallmarks of your firm's litigators? What makes you different?

It starts with pure talent, as reflected in our lawyers' credentials. Our firm has been extraordinarily successful in recruiting phenomenal lawyers and people. We have more than our fair share of Supreme Court clerks, and federal and state appellate and trial court clerks who arrive at the firm ready to contribute and with a good sense of what works strategically, in written advocacy and in oral argument. Our lawyers tend to be "lawyers' lawyers"—an old expression that refers to lawyers who are learned in the law—and also, for lack of a better phrase, street fighters.

To borrow from the lexicon of athletics, they “get after it.” Every day. All the time. Without letup. At the same time, we stress professionalism, civility, and common sense. There’s no need to be obnoxious. Just try to be more effective than your adversary—ideally, a lot more effective. Our lawyers embrace these principles and exemplify them daily. I am in awe of what our lawyers are capable of at every level of the firm, from first-year lawyers all the way up to Judge Holwell.

In what three areas of litigation do you have the deepest bench? (I know it’s hard, but please name just three.)

Embracing the question, I would say that we’re very strong in the entire range of disputes involving the financial markets, in appellate work, and in antitrust. Many of our matters in some way touch on securities and the financial markets, including the wave of RMBS putback litigation that followed the 2008 financial crisis and helped build the reputation of HSG. We’ve represented Visa pretty much since our inception in an antitrust MDL relating to card swipe fees. We recently tried, and while the jury was out successfully resolved, a federal antitrust case against NewsCorp. Last Supreme Court term, our appellate team secured a grant of certiorari and argued a significant appeal on the extraterritorial scope of the civil RICO statute.

What were two or three of the firm’s biggest in-court wins in the past year, and can you cite tactics that exemplify your firm’s approach to success?

We secured a historic settlement for Visa in a damages class action—the largest known settlement of a private antitrust case in the 120-year history of the Sherman Act. We had to overcome an earlier Second Circuit decision overturning an earlier attempt at resolving the matter.

We secured a \$70 million state court damages verdict for an investment fund client, Melody Business Finance, involving loans defaulted on

by former hedge fund billionaire Philip Falcone and entities owned or controlled by him. In what was an aggressive and creative tactic, we successfully moved for summary judgment immediately after the defendants answered, eliminating the defendants’ central defense to liability and paving the way for a complete victory at the ensuing damages trial.

We successfully challenged in the New York Court of Appeals on state separation of powers grounds the constitutionality of a New York statute creating an ethics enforcement agency (that was seeking to prosecute former Governor Cuomo in connection with a book he had published).

What does your firm’s coming trial docket look like?

We have several matters slated for trial this year, including:

- A \$175 million breach of contract action against Walmart in the Western District of Arkansas. Walmart contracted with our client to purchase over \$500 million worth of protective gloves during the pandemic but purported to cancel the contract when demand fell. Trial commences within a matter of weeks.
- A substantial trade secrets case against Boeing relating to hybrid-electric aircraft. We represent a start-up in the space whose know-how and methods we allege Boeing stole. Trial commences in May, and we expect it to be closely watched because of the increasing use of trade secret law by tech startups and others to supplement patent protection for valuable IP.
- An ongoing trial of an adversary proceeding in bankruptcy court in Texas in which HSG represents certain bondholders of the supply chain services company Incora, relating to \$250 million in financing that Incora received in 2022.

In short, 2024 should be another busy year in the courtroom for HSG.