

Litigation Leaders: Mintz Levin's Scott Ford on 'Turning Good Lawyers into Great Ones'

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By Ross Todd
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Welcome to another edition of our Litigation Leaders series, featuring the litigation practice leaders of the biggest firms in the country.

Meet **Scott Ford**, the chair of the litigation practice at **Mintz, Levin, Cohn, Ferris, Glovsky and Popeo**. Based in Boston, his practice is a mix of contract and commercial disputes, with a focus on commercial real estate, private equity and the retail and consumer product industries.

Lit Daily: Tell us a little about yourself—beyond what's in your law firm bio.

My wife Jackie and I have three children, all of whom are in college. In March, like many other families, we went from an empty nest to a full nest again, and the time together has been very nice (though some of us might beg to differ on occasion). We enjoy spending time on the ocean, but we cannot catch a cold, let alone a fish. I have taken up home and related handyman and repair work as a hobby, but my family probably wishes that we called in professionals a bit more often. We dabble at golf, and while I like it (most of the time), I enjoy the scenery more than the score.

How big is your litigation department and where are most of your litigators concentrated geographically?

The Mintz litigation section consists of more than 135 attorneys, with the majority located in Boston, but we also have large practices in New York and California (spread throughout San Diego, Los Angeles and San Francisco), as well as some great new additions in Washington, D.C. In addition to a robust complex commercial litigation practice, our litigation section is made up of a number of

specific practice groups including: class action, construction, insurance, product liability, real estate, securities and white collar & government investigations. The firm also has nationally recognized bankruptcy, healthcare, patent, and employment litigation practices that are part of separate firm sections (and therefore are not included in our overhead count) but that our section supports in litigation-related matters.



Scott Ford of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo.

In what three areas of litigation do you have the deepest bench? (I know it's tempting to list more, but please just name three.)

Through strategic hiring, including the addition of two federal prosecutors from the U.S. Attorney's Office for the Southern District of New York, we have deepened our bench of white collar & government investigations attorneys and raised the profile of this practice nationally. Most of our attorneys have experience in key government agencies, including the U.S. Department of Justice, the SEC, U.S. Attorneys' Offices, and Offices of State Attorneys General. Our teams in Boston, Washington, D.C., New York and San Diego are frequently involved in some of the highest profile cases in the country—such as the representation of political figures at the highest levels of government facing congressional and criminal investigation, and several named subjects in the "Varsity Blues" college

admissions cases. In fact, we may be among one of the first to take one of those college admission cases to trial.

The Mintz securities litigation practice has been a mainstay in Boston for many years, earning the reputation as one of the most active and successful Securities trial litigation practices in the region. Over the past few years we have strategically established ourselves as leaders in securities litigation nationally. Through the recent hire of a former SEC enforcement attorney in San Diego and a bustling (and successful) Delaware Chancery Court practice in our New York office, our cross-office securities litigation practice is one of the busiest in the firm. The focus of this practice includes securities class actions, D&O litigation, regulatory enforcements, and M&A deal litigation.

The Mintz insurance & reinsurance practice continues to thrive and grow, with four new partners joining us in July in Washington, D.C. and New York. As a whole, the practice, which is both national and international, advises property and casualty, surplus, and specialty lines insurers in a variety of areas, including coverage (in emerging areas such as concussions, the opioid crisis and environmental issues), reinsurance, corporate insurance, and financial risks. The practice has earned national recognition for its skill in addressing high-stakes coverage and liability issues, including with Chambers.

As head of the department, what are some of your goals or priorities?

There are several, below are a few:

(1) Continued growth: Over the past five years, the Mintz litigation section has grown in identified areas of strategic focus, which has resulted in a 55% increase in revenue. We are proud to say that while growing rapidly, we have successfully maintained what makes Mintz litigation special: teamwork, collegiality, excellence, commitment to professional development, and giving back to our communities through pro bono and volunteer opportunities.

(2) Increased diversity: Frankly, this is a global firm imperative. While the section overall has more female lawyers than male lawyers, we are keenly focused on closing the gender gap in the partnership. Though this is our third straight year as a WILEF-certified firm (an industry standard that focuses on gender equity in law firm partnership ranks), our standard for ourselves is higher. In today's environment where racial equity is front and center, we want to lead as shown by our recently announced firm initiative to increase our number of Black attorneys by 50% by June 2022. We are committed to achieving better racial diversity and representation throughout all levels in the section and firm.

(3) Maintaining practice excellence: Our litigators provide tremendous results to our clients on some of the most significant and prominent matters in the country. Simply stated, there is no substitute for the consistent delivery of substantive excellence in our practice. We are fortunate to have many of our partners ranked by Chambers (including almost every insurance law partner and every construction law partner), as well as by Benchmark, Best Lawyers and other recognized rating services, and we want those rankings to fully match our talent and reputation in our markets. In addition, we have hired many former federal and state law clerks who have, individually and collectively, helped to increase our substantive depth and talent.

How are you coping with the current economic downturn?

The litigation section remains very busy with a number of large active cases and the recent addition of five busy partners. Our attorneys quickly pivoted to a 100% virtual practice, including for hearings and depositions, though that dynamic certainly is not without its challenges. Our professional development, training, business development, and practice support functions also migrated online. We are also using this time to check-in with our clients and to make sure they are aware of all of the potential obstacles (legal and financial) they may face in this new environment. We expect to see an increase in demand in our class action, securities, product liability, real estate and government investigations practices, and we are spending a lot of time with our clients in these sectors helping them stay informed and compliant so that they will be in the best position to avoid, or prevail in, any future litigation.

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

First and foremost, we are comprised of great lawyers but also great people who almost universally have a very strong sense of teamwork and collaboration. This sense of teamwork pervades our work for clients—on larger cases, teams meet and exchange creative ideas about how to win and best serve our clients, and on smaller cases, colleagues routinely and genuinely want to help out each other by providing tips and thoughts in an open-door environment.

Our structure is not overly-hierarchical, and we take advantage of every opportunity to turn good lawyers into great ones. It is not uncommon for an associate to make key strategic contributions and concomitantly have significant responsibility. For example, one of our mid-level New York associates recently second-chaired three separate trials in three separate jurisdictions, and another second-chaired two significant arbitrations—one international which

resulted in our client receiving an award of more than \$100 million. Still another associate successfully argued a significant appeal before the Massachusetts Supreme Judicial Court and later asked to start (and chair) our appellate practice group, which of course we supported fully.

We also have a robust development program that complements a pervasive on-the-job informal and individual mentoring mindset. A key part of the development program is the firm's pro bono practice, which serves as a training ground for our attorneys. Under the guidance of litigation partner, **Susan Finegan**, we have developed a program that represents more than 300 pro bono clients each year and includes attorneys and staff members from every Mintz office. In addition, the firm's professional development department puts on more than 150 sessions each year on just about every substantive litigation topic (including depositions and trials) and programs that are specifically tailored to development at every stage of our attorneys' careers.

Collaboration is the cornerstone of our section management. While I am the chair of the litigation section, I work closely with my partner, **Seth Goldman**, who is the division head for both the litigation and employment sections, our two practice managers, and the firm's managing partner, **Bob Bodian** to create a supportive network of resources that provide our litigators with a platform for success.

How many lateral litigation partners have you hired in the last 12 months? (Please mention names). What do you look for in lateral hires?

We hired seven lateral partners in the litigation section over the past year. Each addition is strategic and is right in line with our growth objectives, discussed above, and each new partner exemplifies our baseline approach: great people, who are great lawyers who can help us continue to develop great work and provide excellent results to our clients:

Courtney Rockett is the newest addition to our New York office. She is a recognized top lawyer who joins us from one of the leading firms in the country. Courtney represents large corporations, private equity firms, celebrities, and others in high-stakes, complex civil litigation matters. She focuses her practice on complex commercial transactions, partnership disputes, securities matters, entertainment disputes, and intellectual property litigation.

Cory Flashner is a Boston white collar defense attorney and former federal and state prosecutor whose practice encompasses representing individuals and companies in investigations and enforcement actions related to financial

laws and advising them on compliance. Cory previously was the head of the anti-money laundering unit of a global bank, and he immediately became a leader on the Varsity Blues case. Cory joined the already-expanding white collar & government investigations practice, which increased in size and profile the previous year through the hiring of former federal prosecutors for the Southern District of New York, **Jason Halperin** and **David Siegal**.

Deirdre Johnson (Washington, D.C.), **Paul Kalish** (Washington, D.C.), **Suman Chakraborty** (New York), and **Ellen Farrell** (Washington, D.C.) joined us in July of 2020. They all focus their practices on insurance and reinsurance litigation and counseling, representing domestic insurers as well as London and Bermuda-based insurers. Their matters span insurance/reinsurance insolvencies, captive insurance/reinsurance disputes, and insurance/reinsurance disputes in a number of lines (life, property & casualty, health, and professional liability). They are all well-regarded in the industry, by their peers and with national ranking services (including Chambers).

Jacob Hupart joined Mintz from an international New York-based AmLaw Top 20 firm. His practice is multifaceted and encompasses complex commercial litigation, including cases involving securities, employment, and environmental claims, as well as class action litigation, white collar criminal defense, and regulatory investigations.

While it has been just slightly more than one year since we hired **Sean Prosser** in our San Diego office in May of 2019, he has been a fantastic addition. A former SEC enforcement attorney, Sean is a highly experienced litigator with significant experience defending clients facing shareholder litigation, SEC, FINRA, and DOJ investigations and enforcement actions, and other civil and criminal government and regulator investigations and enforcement proceedings.

What were some of your firm's biggest in-court wins in the past year?

We had many key wins but here are just a few:

In late 2019 we won a complete dismissal with prejudice of a \$3 billion RICO case filed against our client, Wynn Resorts in the District of Massachusetts. The case was brought by Sterling Suffolk Racecourse as part of an ongoing legal battle with Wynn over competing casino projects in the greater Boston area. The matter involved a collection of salacious allegations cutting across multiple jurisdictions, but our team was ultimately successful in arguing that Suffolk had failed to prove a pattern of racketeering activity, a necessity in a RICO case.

Our securities group had several key victories this past year, two of which should be mentioned here. First, in a matter spanning many years and several offices, we represented Apollo Global Management, LLC and its portfolio company, The Fresh Market, as coordinating litigation counsel in multiple merger objection suits. On December 31, 2019 Vice Chancellor Glasscock issued a decision for which we had waited four years by granting our motion to dismiss breach of fiduciary claims against our all eight former directors for Fresh Market. Second, Mintz represented XpresSpa Group, Inc. (f/k/a Form Holdings Corp.), and several of its directors and former directors, against federal securities and breach of contract claims brought by Plaintiff in the District Court for the Southern District of New York. The court granted defendants' motion for summary judgment in its entirety and as a result, all outstanding claims against XpresSpa Group, Inc. have been dismissed.

Demonstrating the exemplary work of our appellate and pro bono practices, we are proud to have been involved in two groundbreaking U.S. Supreme Court rulings earlier this summer. We authored an amicus brief in support of the lone transgender employee in the three consolidated cases arguing the unconstitutionality of sexual orientation and transgender discrimination in the workplace. Mintz also filed an amicus brief urging the U.S. Supreme Court to uphold DACA in the landmark Department of Homeland Security et al. v. Regents of the University of California et al.

Can you give an example or two of tactics that exemplify your firm's approach to litigating cases?

Our approach is collaborative and unselfish. We work seamlessly across offices and disciplines. Over the past year, we represented an international medical device manufacturer, Alphatec, in a series of interrelated matters in multiple jurisdictions across the country. The effort required a coordinated team of lawyers from San Diego, New York and Boston, working closely together to secure dismissals and favorable outcomes for our client. The talent, teamwork and cross-office collaboration that went into this successful effort exemplify some of the best qualities of the firm and the litigation section.

On the client development side, we recently were engaged by a global health service company for a False Claims Act litigation. This was a fast-paced pitch that required participation from multiple offices, practices and sections of Mintz. Our client told us that we secured the work because we put together a strong cross-sectional team that assessed collateral risks and employment law

considerations—something no other firm did. This type of creative teamwork on the front end is indicative of the same qualities that will be deployed throughout the matter.

Where are you looking to build or expand in the next year?

As mentioned previously, our Firm (including our Litigation Section) is committed to increasing our diversity overall and has set the specific goal of a 50% increase in our number of Black attorneys by June 30, 2022. We will continue to work with clients to improve our inclusion efforts as well. It might be surprising to some to learn just how often clients can be great partners and facilitators to increase our talent and diversity pool. For example, outreach with then-prospective client Golden State Foods helped lead us to our colleague Randy Jones, who joined our San Diego office as a partner after distinguished service with the US Attorney's office. Randy is a talented lawyer, and he is also a diversity champion—demonstrated in part by his role as the president of the National Bar Association (the nation's largest bar of African-American judges, attorneys and law students).

Further, as noted above, we are adapting to new ways of working with our colleagues and clients in the COVID-19 world. Even before the pandemic, we had been using video and other technology to work seamlessly between all of our offices, and that dynamic has been expanded to our dealings with clients, courts and opposing counsel. We are unique in that we have attorneys consulting elected officials and courts on issues surrounding COVID-19 and the continuation of business. We hope that we remain at the forefront of adaptation for our clients in these changing times.

Finally, and most importantly, in addition to continuing to improve upon our diversity initiatives, we also want to work on raising the external profile of our litigation section. Through strategic hiring, a focus on more institutional clients, and top-tier client service, we want to make sure that our practices and individual attorneys remain recognized for their high-caliber work in the national marketplace. Our recent additions are testament to this goal, and we want to continue on this very positive trajectory.

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