THE NATIONAL LAW JOURNAL

FEBRUARY 13, 2012

An ALM Publication

LITIGATION BOUTIQUES HOT LIST

A Special Report

With this issue, *The National Law Journal* inaugurates our Litigation Boutiques Hot List, featuring 10 small firms that take second place to no one in courtroom skill. These are the firms important clients turn to for state-of-the-art advocacy in bet-the-company cases. They are carving out specializations in products liability, international trade, intellectual property and other areas of the law. They also represent an avenue to practice high-end law on a more human scale than perhaps is offered by larger firms.

Podhurst found success by bucking the trend

U.S. courts' reluctance to hear overseas airline crash cases forced the firm to extend its reach globally.

by Zoe Tillman
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Podhurst Orseck co-founder Aaron Podhurst can trace his firm's expertise in aviation litigation to a single event — the 1972 crash of Eastern Airlines Flight 401 in the Florida Everglades, which killed 101 people and injured dozens.

Podhurst served as lead class counsel for the victims. Since then, the Miami firm has represented victims in more than 125 crashes around the world. Half of his firm's eight partners and five associates are dedicated to aviation work, and the firm recognized this week by the National Law Journal, an ALM affiliate of the Daily Business Review, as one of 10 firms on its Litigation Boutiques Hot List has built a global network of partner firms, Podhurst said.

"There's been a trend in the last 15 to 20 years to have a much tougher road for plaintiffs" to convince U.S. courts to hear cases involving crashes abroad, he said. "We try to keep it in the United States, but if it's sent to Brazil, we'll partner up with a Brazilian firm that doesn't have the aviation experience."

At present, Podhurst Orseck represents survivors of passengers of Air France Flight 447, which plunged into the Atlantic Ocean in June 2009 killing everyone on board. That case is being heard in federal court in San Francisco.

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PARTNER
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Established in 1967, Podhurst Orseck's speciality may be aviation, but the expertise extends to general commercial litigation, which makes up about half of its practice. During 2011, the firm claimed $1.63 billion in settlements and judgments.

In November, Podhurst helped secure a $410 million settlement with Bank of America in multidistrict litigation over bank overdraft fees in Miami federal court. As a co-lead counsel, Podhurst handled settlement negotiations and continues to be involved in the case as it proceeds against more than 30 additional banks.

Podhurst "had a really excellent grasp of what was realistic," said Arnold & Porter partner Laurence Hutt, lead counsel for Bank of America. "I thought, more so than many, that he was able to cut to the chase. That really is a skill and a talent, and it shows a great deal, obviously, of experience."

'PEOPLE KNOW HIM'

Podhurst, 72, "is sort of a dean of the southern Florida plaintiffs' bar," Hutt said. "When he walks into court, he's getting a certain recognition. People know him."

His firm's other large-scale plaintiff clients include more than 100 former players in pending multidistrict litigation against the National Football League over concussions and other injuries suffered during play. As the case proceeds in Philadelphia federal court, "hopefully we'll play a lead role in that litigation," Podhurst said.

The firm's size and structure hasn't dramatically changed since the late 1960s. In 2010, though, the firm scored a major coup when it snagged former Holland & Knight litigation chairman Peter Prieto as a partner. Prieto, Podhurst's first lateral hire in decades, was a former law school classmate of Marks. He said he was sold by the "quality of [the firm's] work and quality of its lawyers."

Podhurst Orseck staffs cases leanly, usually with just one partner, one associate and a paralegal, Prieto said. It can support large-scale class actions by maintaining "a steady diet" of contingency work and billable hours in its other practice areas, he said.

"The key for us is always to balance the resources that we put into these significant, large cases with the work that we do for our other clients — whether it's personal injury or commercial litigation cases," Prieto said.

Marks, who joined the firm in 1985, noted a few risks paid off in recent years. One was continuing to handle aviation cases even as U.S. courts expressed a growing reluctance to hear them. "Most firms were unwilling to represent crashes in [foreign] courts," he said. "I decided it would be a challenge and perhaps a little risky but worth it."

The decision has positioned Podhurst Orseck as a go-to firm in the event of a crash anywhere in the world, Podhurst said. "We have the expertise, we have the experts, we have the knowledge of the products. Now, people are calling us when there's an international accident, asking, 'Would you be willing to get involved?' "

CONTRACT ATTORNEYS

A reliance on contract attorneys has been another successful gamble, Marks said. The ratio of partners and associates to contract attorneys might be higher than most firms are comfortable with, Marks said, but he attributed the firm's success to its small, close-knit group of core attorneys.

"It's a very expensive proposition, but there's no way around it if we're going to do this kind of work," he said. "We have such a perfect fit with the personalities and talents of everybody, you don't want to mess with that."

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PARTNER
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After more than 40 years in practice, Podhurst admitted to no plans to retire anytime soon but said he is keeping an eye on the future. Given the low rate of attorney turnover, Podhurst said he's increasingly involving Marks in management and sees Prieto's hiring as an example of his focus on "the next generation."

"I'm still practicing very hard and enjoying it very much, but you have to recognize that it's not going to be forever," he said. "I'm trying to be able to make it so that we'll be able to transition in a very efficient way."

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