

California Powerhouse: Sheppard Mullin

By **Michael Lipkin**

Law360, Los Angeles (July 30, 2014, 2:43 PM ET) -- Sheppard Mullin Richter & Hampton LLP began as a general practice Los Angeles firm, weathered the Great Depression in its infancy and has since made itself invaluable to companies doing business in California, netting major intellectual property wins for HTC Corp. and crafting a complicated \$550 million aerospace deal in a week.

Sheppard Mullin made it through the stock market crash after getting its start in downtown Los Angeles in 1927 as Haight & Mathes, with the modern-day named partners all joining the firm by 1938. The firm earned a reputation for representing retailers and banks, but it now counts movie studios, manufacturers and food distributors among its major clients.

Though the firm has expanded internationally, about 75 percent of its 640 lawyers practice in California. The Golden State remains a central focus for Sheppard Mullin, which has offices in every major market — Los Angeles, Century City, Orange County, San Francisco, Palo Alto, San Diego and Del Mar — earning it a place on Law360's list of California Powerhouses.

Chairman Guy Halgren told Law360 that knowing the intricacies of the California market has been a key to the firm's success. The Golden State may have some of the world's most famous companies, especially with the technology titans based in Northern California, but it actually has fewer Fortune 500 companies per capita than other thriving states for lawyers, according to Halgren.

Instead, most legal work is done for midsize companies, according to Halgren, who is also part of Sheppard Mullin's labor group based in San Diego. For example, Cedars Sinai Medical Center and the Los Angeles County Sheriff's Department generate a lot of work, even though they are not billion-dollar corporations.

"There's not a tremendous amount of high-rate work in California," Halgren explained. "Some firms from out of state come here with dreams of duplicating what they might do in New York, and that's not to be. They fizzle out."

Halgren added that Sheppard Mullin invests in its general litigation, labor and real estate practices and allows for flexible rates, whereas "other firms have priced themselves out of the market" in their quest for high-rate clients, forcing out otherwise successful partners.

"A lot of firms simply increase their rates every year at levels only certain kinds of clients can afford," Halgren said. "If a partner is hardworking, we will find a way to make that practice work. But you're going to need to work harder, smarter and have better leverage if you want to make as much as someone with a

higher rate."

Nevertheless, Sheppard Mullin has managed to represent more than half of the Fortune 100, including Bank of America Corp., PepsiCo Inc. and Exxon Mobil Corp. Sheppard Mullin recently scored a big victory for Exxon, enabling it to settle a \$64 million lawsuit for less than \$150,000.

The city of Merced, about 100 miles southeast of San Francisco, had accused Exxon and other oil companies of letting the gasoline additive methyl tertiary butyl ether threaten the city's groundwater. MTBE is added to gas to improve cars' emissions.

"There are hundreds of cases like this throughout the country and only a handful of cases have contamination in the water, with the lion's share being threat cases," said Whitney Roy, a co-managing partner for Sheppard Mullin's Los Angeles office. "Merced claimed their wells were threatened by a handful of gas stations in the city."

But the city's MTBE suit took a novel twist, according to Roy, who is also a member of the business trial practice group.

"It claimed this should be a product liability case and that the gas with MTBE was a defective product that the companies failed to adequately warn about," Roy said.

The nearly five-month trial was the longest in the history of Merced County, with Sheppard Mullin knocking out the city's punitive claims on directed verdict. A jury ended up considering only a single monitoring well allegedly threatened by a single Exxon gas station and awarded Merced about \$200,000. Roy and others negotiated a settlement of about \$150,000 with offsets from past settlements.

Sheppard Mullin also won a complete intellectual property victory for HTC in a Texas jury trial, a "very rare accomplishment," according to the firm. Technology licensing company Wi-LAN Inc. had accused HTC and others of infringing its wireless technology patent, but the federal jury found that the patents were invalid based on anticipation and obviousness. The jury returned the verdict in less than an hour.

Roy said that the firm's labor and employment practice group has been especially busy, with a significant increase in wage-and-hour class action cases over the past decade.

"It's very easy to market our labor lawyers to our existing clients because they provide a complete service — from sexual harassment training all the way to wage and hour suits that could cost a company a lot of money," she said.

The firm has also seen a marked uptick in Foreign Corrupt Practices Act cases and other government compliance work, handling criminal and internal investigations for GE Aviation, among others.

"Many companies are so fearful of these investigations, so we're doing a lot of internal investigations to support our clients and responding if the U.S. Department of Justice pursues," Roy said. "Everyone needs that support."

A blockbuster deal last year was almost thwarted by compliance issues, but Sheppard Mullin was able to help client GenCorp Inc. acquire United Technology Corp.'s Rocketdyne business for \$550 million. UTC needed to sell the business quickly to raise cash for another deal, setting off an intense race for interested buyers. Mergers and acquisitions partner Will Chuchawat said he was told on a Thursday afternoon to fly

out to New York by Saturday and have papers signed by Tuesday.

Chuchawat and others managed to complete the deal within a week, locking themselves in a New York conference room and largely forgoing sleep. The transaction was like "carving a kidney out of a body," he said, because a handful of companies actually owned the assets.

"It's not just about documents — it's about pushing large companies so that all stakeholders can weigh in," Chuchawat said. "If it was just me, I can get a document done quickly. But it's the boards, the operational folks, and making sure we'll have access to people and systems that takes time."

Even after the deal was signed, the U.S. Federal Trade Commission raised antitrust red flags because it would give GenCorp a monopoly for a particular rocket system used for missile defense. The FTC wanted GenCorp to divest the business, but only certain engineers were qualified to take on the project.

"The Department of Defense raised national security concerns, essentially telling the FTC, 'Why are you making the people who are right for the job give it to a new player?'" Chuchawat said.

The FTC conceded to the DOD last June, citing "highly unusual" circumstances.

Sheppard Mullin also helped pharmaceutical company Amgen Inc. repeatedly beat back a consolidated antitrust suit accusing it and other drugmakers of conspiring to inflate prices in the U.S. and keeping Canadian drugs off the market.

A trial judge granted a summary judgment bid from Amgen and others in 2010, and its decision was upheld by the California Court of Appeal. The California Supreme Court and U.S. Supreme Court both denied review.

Entertainment has been a relatively new field for Sheppard Mullin, whose entertainment-focused Century City office opened in 2001. Since then it has represented CNN Inc., Forbes Inc. and Clear Channel Communications Inc. in two unrelated suits accusing the media giants of defamation and racketeering after they reported that President Barack Obama's birth certificate was legitimate. District courts quickly threw out both suits.

The firm also represented Dick Clark Productions Inc. in its recently settled battle with the Hollywood Foreign Press Association over the rights to produce the Golden Globes awards show. A California federal judge had ruled in 2012 that DCP could license the show to NBC, and the Hollywood Foreign Press Association appealed to the Ninth Circuit. But only a month after oral arguments, the sides settled and agreed to leave the district court ruling in place.

Looking to the future, Halgren said that the firm had no immediate plans to expand in California but that the state would remain an important part of the firm's footprint.

"We don't view ourselves as a California firm," he said. "We're a national firm with international reach that has more attorneys in California than anywhere else."

--Additional reporting by Erin Coe. Editing by Kat Laskowski and Katherine Rautenberg.