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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Law360's Weekly Verdict: Legal Lions & Lambs

By **Aebra Coe**

Law360 (July 26, 2018, 5:52 PM EDT) -- A group of employment and civil rights attorneys, including former federal Judge U.W. Clemon, secured this week's top legal lions spot after the Eleventh Circuit sided with them in a fight over a "discriminatory" Alabama minimum wage law, while Covington & Burling LLP and its co-counsel landed on the lambs list after the Federal Circuit ruled that tribal sovereign immunity can't help client Allergan shield its patents by transferring them to a Native American tribe.

Legal Lions

The Eleventh Circuit on Wednesday **revived an NAACP suit** challenging an Alabama law that nullified a minimum wage hike adopted by the city of Birmingham, saying the circumstances of the law's passage support a finding that the state Legislature was biased against the city's black majority. The coalition is represented by **Altshuler Berzon LLP**, the **Edward Still Law Firm**, **Quinn Connor**, **Weaver Davies & Rouco LLP**, **Levy Ratner PC** and **James Blacksher**, **U.W. Clemon**, **Joe R. Whatley Jr.** and **Mary Joyce Carlson**.

Next up on the legal lions list is California litigation boutique **Scheper Kim & Harris LLP**. On Wednesday, a California **appeals court ruled** that the law firm's clients, NBCUniversal, Dr. Dre and Ice Cube, can't be held liable in a wrongful death suit accusing the "Straight Outta Compton" producers of being responsible for a killing committed by notorious record producer Marion "Suge" Knight following a confrontation on the film's set. NBCUniversal, Dr. Dre and Ice Cube, whose real names are Andre Young and O'Shea Jackson, are represented by **Marc S. Harris**, **David L. Burg** and **Alexander H. Cote** of **Scheper Kim & Harris LLP**.

Kramer Levin Naftalis & Frankel LLP secured a spot on the list Tuesday when the Second Circuit **decertified a class of consumers** alleging Aveeno baby washes made by the law firm's client, Johnson & Johnson, were mislabeled as containing "natural" ingredients, finding that a lower court didn't analyze differences between nearly 20 states' consumer protection laws. J&J is represented by **Harold P. Weinberger**, **Eileen M. Patt** and **Benjamin M. Arrow** of **Kramer Levin Naftalis & Frankel LLP**.

Vasquez Benisek & Lindgren LLP and **Goldstein & Russell PC** were among this week's lions, winning a decision at the Federal Circuit on Wednesday **overturning a nearly \$14 million infringement verdict** against the firms' LED manufacturer clients. The court found that the claim in Boston University's patent that the companies allegedly infringed describes something physically impossible, making it ineligible for patent protection. Everlight and Lite-On are represented by **Kevin Russell**, **Charles Hardy Davis** and **Thomas Goldstein** of **Goldstein & Russell PC**. Epistar is represented by **Richard C. Vasquez**, **Eric W. Benisek**, **Jeffrey T. Lindgren** and **Robert McArthur** of **Vasquez Benisek & Lindgren LLP**.

Rounding out this week's legal lions list are plaintiffs attorneys from **Schlichter Bogard & Denton LLP** and the **Law Offices of Steven Goldsobel**. The Ninth Circuit ruled Tuesday that a California federal judge **was right to deny** the University of Southern California's effort to send a proposed Employee Retirement Income Security Act class action to arbitration, finding that the workers' claims couldn't be forced into arbitration because they were suing on behalf of a retirement plan.

The workers are represented by **Jerome Schlichter, Michael A. Wolff** and **James Redd** of **Schlichter Bogard & Denton LLP** and **Steven Goldsobel** of the **Law Offices of Steven Goldsobel**.

Legal Lambs

First up on this week's legal lambs list are **Covington & Burling LLP** and **Massey & Gail LLP**. On Friday, the Federal Circuit ruled against the law firms' client, Allergan PLC, and found that **tribal sovereign immunity doesn't apply** in reviews at the Patent Trial and Appeal Board. The court rejected an attempt from the drugmaker to shield patents for its dry-eye medication Restasis by transferring them to a Native American tribe. Allergan is represented by **Jonathan Massey** of **Massey & Gail LLP** and **Thomas Brugato, Jeffrey B. Elikan, Robert Allen Long Jr.** and **Alaina Marie Whitt** of **Covington & Burling LLP**.

In a defeat for attorneys at **Jones Day**, a Florida jury on Tuesday found that firm client R.J. Reynolds Tobacco Co. **bore the majority of the blame** for a smoker's cigarette addiction and resulting vascular and heart diseases, awarding the smoker \$3.52 million in damages and saying that punitive damages should be imposed. Reynolds is represented by **Kevin P. Riddles** and **Emily C. Baker** of **Jones Day**.

The First Circuit on Wednesday **denied an emergency request** by **Labaton Sucharow LLP** seeking to have the federal judge overseeing a messy \$75 million attorneys' fee fight removed, saying the firm did not meet the high bar necessary for such a step. In a one-paragraph ruling, a three-judge panel denied the request from Labaton Sucharow that they order U.S. District Judge Mark L. Wolf to recuse himself from the fee battle, which has stretched on for years after the class case settled.

Next up on the list are **Baker McKenzie** and **Mayer Brown LLP**. The Ninth Circuit on Tuesday overturned the U.S. Tax Court's invalidation of an IRS regulation challenged by the attorneys on behalf of chipmaker Altera Corp., saying the **revenue agency was justified** in requiring businesses to include stock-based compensation in their cost-sharing agreements with related parties. Altera Corp. is represented by **Joseph B. Judkins, Phillip J. Taylor** and **Allen Duane Webber** of **Baker McKenzie**, and **Donald M. Falk, Thomas Lee Kittle-Kamp, William G. McGarrity, Travis Crum** and **Brian D. Netter** of **Mayer Brown LLP**.

Finally, **Consovoy McCarthy Park PLLC** and attorneys from the U.S. Department of Justice ended up on the legal lambs list when a Maryland federal judge found Wednesday that Maryland and the District of Columbia **have plausibly alleged** that President Donald Trump's potential receipt of payments from foreign and domestic governments to the Trump International Hotel violates the Constitution's emoluments clauses. Trump in his official capacity is represented by **Chad A. Readler, Brett A. Shumate, Jennifer D. Ricketts, Anthony J. Coppolino, Jean Lin** and **James R. Powers** of the **U.S. Department of Justice**. In his individual capacity he is represented by **William S. Consovoy, Thomas R. McCarthy, Bryan K. Weir, Caroline A. Cook** and **Patrick N. Strawbridge** of **Consovoy McCarthy Park PLLC**.

--Additional reporting by Daniel Wilson, Vidya Kauri, Chris Villani, Daniel Siegal, Matthew Bultman, Emily Brill, Dani Kass, Emily Field, Y. Peter Kang and Braden Campbell. Editing by Kelly Duncan.