

How Litigation Firms Moved Forward While Courts Were Largely Halted

By Raychel Lean and Jonathan Ringel

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Welcome to Southeast Takeaways, a weekly look at news of the legal profession that will highlight important developments to help you manage your firms, grow your practices and serve your clients better. We'll bring you the most vital information from around ALM, but we'd love to hear from you too. We're Raychel Lean and Jonathan Ringel. You can reach us at rlean@alm.com and jringel@alm.com.

Litigation-based firms braced for severe business interruptions when the pandemic descended, and while the absence of trials had its effect, in many

places, court dockets kept moving, and litigators kept working—handling depositions, negotiations, and various other client work.

Across ALM, we've asked litigation firms about their business during the past year-plus, and how they got to where they are today. Below is the best of the insights that Southeast firms shared with us.

'Valued the relationship over the invoice'

Javier Lopez, managing partner at Koyzak, Tropin & Throckmorton:



Javier Lopez, partner at Kozyak, Tropin & Thorckmorton. Courtesy photo.

“Beginning in mid-March, 2020, there was a little slow down. However, as 2020 continued, we saw a marked increase in our client’s need for legal

services, but a decrease in their ability to pay for those services. Lawyers and law firms who stuck by their clients and who valued the relationship over the invoice, I suspect, will reap the benefits of doing so and continue to have long-term relationships with those clients who they were able to assist out of those tough situations. Like my father said, 'You reap what you sow.'

"The courts, lawyers, and litigants adapted well, with a few hiccups, in the new Zoom-world. In some ways, parties understood that no one was to blame and all parties needed to work through the issues together as there were no good options. I saw civility at its finest during this time.

"Now that PPP funds are running out, and patience is running thin, we have seen an uptick in case filings. Lawyers, litigants and judges have accepted the new reality and adjusted accordingly. The courts and our judges will always be our most important assets to adjudicating disputes."

'Areas we see trending'

David Pardue, a business and IP litigator from Parker Poe's Atlanta office:

"We saw double digit increases in litigation in 2020, and that continued through the first quarter of this year. We certainly had to adapt, and I feel fortunate to be part of a great team that banded together through the craziness of the pandemic. It's a growing team too, as we are currently seeking additional litigators in Atlanta and Charleston.

"As an example of what we've been helping clients with, I recently worked on a commercial dispute that involves the sale of \$5.5 million in sanitizing wipes manufactured in China for the U.S. market. I also worked on several

noncompete and trade secret matters as the pandemic appears to have motivated some folks to try to head to greener pastures.

“Other areas we see trending as a firm are financial services and health care litigation tied to government relief, energy and environmental litigation as regulations change, real estate and construction litigation as those industries continue to feel the impact of COVID-19, and employment and data privacy litigation as businesses find their new normal (or at least their next normal) with in-office and remote work.”

‘Able to be more agile’

Alan Kluger, founding partner and shareholder of Kluger, Kaplan, Silverman, Katzen & Levine:

“2020 was great and so is 2021. Most midsize firms agree that 2020 was one of their best years. I think 2021 will continue to be even better, specifically for specialty firms (Litigation, IP, specialized Real Estate and Estate Planning), for a number of reasons.

“For one, because attorneys have saved time commuting while depositions and hearings are being done via Zoom, they are able to be more agile and are getting through cases much faster than before and because of personal planning, logistical changes in delivery of goods and services and branding enhancements.

“Building on the increased use of and reliability on programs such as Zoom, virtual platforms have changed the landscape now and expanded the client base. These platforms allow clients the ability to work with firms from other

markets who would otherwise be unavailable because of proximity. In 2020 and in 2021, I've been receiving calls from national clients who would use our firm for Florida-base cases only, but are now coming to us for out-of-state matters because everything is being done virtually."

'Enough of a desire on both sides'

Dan Huff of Huff, Powell & Bailey in Atlanta said his firm survived the pandemic year with about 85% of the business it normally has, attributing the lost 15% to the shutdown on trials.

But, "there was enough of a desire on both sides of our cases to keep cases moving," he said. So the 48 lawyers of his defense-focused firm, spread around Georgia and the Carolinas, kept busy with depositions and discovery to prepare matters for eventual trial.

"We didn't really see a dropoff in cases" due to the pandemic, he added.

He posits that a case decrease could occur in the coming year as fewer injury claims stem from the shutdown on elective surgeries and other economic activity, especially during the early months of the pandemic. Given how busy his firm is now, Huff said he is only "a little bit concerned" about that possibility.

'A great deal of work'

Podhurst Orseck managing partner Steven Marks and Peter Prieto, head of the Miami firm's commercial and class action practice:

“Despite a drop in filings across the country, we were able to file several business interruption class actions and individual cases against insurers ... for Covid related losses, as well as several personal injury cases. We were also kept quite busy by our significant inventory of cases, which we were able to move forward efficiently using remote technology such as Zoom.

“For us, 2021 has started very positively with several new personal injury and commercial cases being referred to us, as well as a great deal of work we are doing on our existing cases. We believe litigation work and filings will pick up significantly in 2021 once the stay on jury trials is fully lifted, and once business activity and travel return to normal, in part, because of the increase in vaccinations. We expect 2021 to be a banner year for litigation work, especially in the areas of antitrust, environmental, consumer safety and products liability.”

‘Exceeded expectations’

Michael Joblove, a partner at Genovese Joblove & Battista in Miami:

“Litigation in 2020 exceeded expectation in light of the COVID challenge. After some initial adjustments in work habits, and to judicial proceedings via Zoom, the firm was very busy. Litigation in 2021 also looks promising. We conducted one of the first live trials post-pandemic in federal court. We have several other matters set for trial during the year. We consider ourselves very fortunate.”