

2012

# PENNSYLVANIA LITIGATION DEPARTMENTS OF THE YEAR



## Small-Firm Litigators, Big-Ticket Litigation

MEYER UNKOVIC MAKES THE MOST OF ITS RELATIVELY SMALL STAFF THROUGH TRUST AND TEAMWORK

By Zack Needles of the Legal Staff

With 53 total lawyers, Pittsburgh-based Meyer, Unkovic & Scott is far from anyone's definition of a "megafirm." But that hasn't stopped its clients from routinely entrusting its litigators with major litigation.

When Allegheny Energy Supply Co. and Monongahela Power Co. needed a firm to handle their breach of contract suit against defendants Wolf Run Mining Co. and Hunter

Ridge Holdings, they turned to Meyer Unkovic.

"We're very fortunate, given our size, to be able to represent some very high-profile clients in some high-profile cases," said Russell Ober Jr., chair of the firm's business and tort litigation practice. But, he added, "Because we're not a big law firm, we don't have the ability to staff up a case like crazy. We do tend

to staff up cases pretty leanly, actually."

Ober and now-managing partner Patricia L. Dodge took the lead in *Allegheny Energy Supply Co. v. Wolf Run Mining Co.*, along with associate Andrew L. Noble.

They filed a complaint in Allegheny County Court of Common Pleas alleging that Wolf Run and Hunter Ridge were obligated under a February 2005 contract to deliver 1.8

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million tons of coal to the plaintiffs each year from a coal mine in Harrison County, W.Va.

The case proved to be no small undertaking, involving a long discovery process with more than 50 depositions.

"The staffing was Patti and me as trial counsel, a senior associate, a midlevel associate and a paralegal," Ober recalled.

The case went to trial, which lasted three weeks and included testimony from more than 20 witnesses. At the time, the defendants had failed to deliver about six million tons of coal.

The court ultimately entered a plaintiffs verdict in the amount of \$104 million for past and future delivery shortfalls.

Dodge said the case was an example of how confidence in each other's abilities and the willingness to work together often make up for the lack of a huge staff.

"I think one of the benefits of working with a team and with people you really like is that you know how they work," she said. "Russ and I worked on [the *Allegheny Energy* case] and on other cases as well. We completely trust each other and know how the other one works. We don't work the same way, but we know, 'OK, this is my responsibility and this is your responsibility' and that has worked."

But Thomas A. Berret, head of the firm's litigation department, added that with more than 20 litigators in the firm, additional support is always available.

A look at the cases the group has successfully tried over the past two years gives a good indication of its depth and ability to adapt to a wide array of litigation in a number of different venues.

In January 2011, a team led by partners David Oberdick and Ronald Hicks obtained a \$12.8 million verdict in New Jersey Superior Court for client BASF Catalysts in a suit alleging a breach of insurance policies against underwriters at Lloyd's, as well as against OneBeacon America Insurance Co. and U.S. Fire Insurance Co.

Earlier this year, Oberdick and of counsel Brian Sommer defended appellee Super Bakery Inc. after the company, following the rejection of its application to trademark "GOODY MAN," successfully convinced the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office to cancel appellant Ward E. Benedict's "G the Goody-man" trademark.

Benedict had appealed to the U.S. Court of Appeals for the Federal Circuit, which entered a default judgment in favor of Super

Bakery on the grounds that Benedict had willfully shirked his discovery obligations.

In some cases, Meyer Unkovic's litigators find themselves searching for inventive ways to overcome odds that appear to be stacked against them.



"Meyer Unkovic's trial lawyers don't bark unless they're also going to bite."

— Thomas A. Berret

After Ober and of counsel Mary C. McGinley filed suit in Allegheny County Court of Common Pleas on behalf of paint manufacturer PPG Architectural Finishes Inc. against 15 separate corporations that were all part of a chain of retail paint stores, the seemingly routine litigation quickly revealed itself to be a complex case that would test the concept of joint-and-several liability in Pennsylvania.

All of the defendants owed PPG money, but they had separately incorporated and many of them were either insolvent or close to it.

"We tried that case because we couldn't settle it," Ober recalled. "The interesting issue in that case was that you had this chain of paint and hardware stores that was primarily located in New Jersey and the New England states, where each store was operated by a separate corporation although they were all commonly owned."

Ober and his team advanced a joint-and-several argument, alleging the defendants had enough similarities – a shared store logo, website and advertising – to be deemed an unincorporated association.

In June of last year, the trial court agreed, awarding a more than \$650,000 nonjury verdict jointly and severally against all the defendants.

For Meyer Unkovic, the case, which was recently argued before the Superior Court on appeal, represents the firm's unwillingness to back down from a challenge, even when that challenge might be unexpected.

"One of the things someone said about our firm years ago," Berret said, "is that Meyer Unkovic's trial lawyers don't bark unless they're also going to bite." •

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## Meyer Unkovic by the Numbers

### Firmwide | Pennsylvania

Department Size (Headcount)	25	25
Department as Percent of Firm (Headcount)	53	53
Department as Percent of Firm (Revenue)	40	40



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