

## California Powerhouse: Munger Tolles & Olson

By Kurt Orzeck

*Law360, New York (July 22, 2014, 2:32 PM ET)* -- In 1962, a group of seven attorneys led by Charlie Munger formed Munger Tolles & Olson LLP, a firm intended to be a democratic organization. Fifty-two years later, the firm — still exclusively located in California — maintains a nontraditional decision-making structure, all the while delivering high-stakes trial and litigation victories to clients in industries including entertainment, technology, energy and health care.

The firm has resisted the temptation to open other offices nationwide, opting instead for a slow-growth model exemplified by one of the most tenacious litigation practices in the state. Munger Tolles' unconventional approach and massive trial wins scored among its team of 185 attorneys in Los Angeles and San Francisco have earned it a spot on Law360's California Powerhouses list.

Most notably, a California state judge decided in September that Munger Tolles client Philip Morris USA didn't have to pay any of the \$1.04 billion in restitution sought in a 16-year-old class action accusing it of falsely advertising its Marlboro Lights cigarettes as less addictive than regular Marlboros. Meanwhile, in another trial victory for the firm, a California federal court ruled in November that generic-drug manufacturers would infringe client Takeda Pharmaceutical Co.'s patented heartburn drug Dexilant and rejected their patent-invalidity defense.

While Munger Tolles has grown into a national practice, it carries particular pride in the decades-long relationships it has fostered with clients such as Edison International, one of more than 200 California companies that the firm currently represents, according to Brett Rodda, a corporate partner in its LA office.

“Being a California firm is a very important part of our identity, and I wouldn't think of us expanding outside the state for the sake of expanding, particularly when so much work is done through teleconferencing and video conferencing,” he said. “We can be anywhere, so why not Los Angeles and San Francisco, which are great places to live and practice law?”

At both those offices — which employ 149 and 36 attorneys, respectively — the decentralized firm doesn't have formalized practice groups. So, while attorneys might develop specialties, they are never assigned to specific practices.

Moreover, Munger Tolles uses a distinct, nontraditional management structure in which there are no designated office heads and virtually all decisions, including hiring and intake choices, are made by consensus after committees bring the matters up for debate among their colleagues.

“The democratic process is sometimes inefficient, but I wouldn't want it any other way,” said Rodda, one of the roughly 30 attorneys who work on corporate and transactional matters at Munger Tolles.

Managing partner Sandra Seville-Jones believes the firm likely wouldn't be able to sustain that model if it were to open offices outside California and that housing its attorneys in only two offices cultivates a vibrant team spirit — among associates as well as partners.

“We want everyone to feel like they're owners of the firm, so I try to manage the information flow so that people feel like they're part of Munger Tolles rather than just employees,” she said. “When I started with the firm in 1986, it had about 50 lawyers. Now we're at [185], which has challenged us to keep our democratic culture going strong.”

The sense of respect that Munger Tolles has for its employees is epitomized by Brad Brian, a national trial lawyer and complex civil and criminal litigator, who is based in the firm's Los Angeles office. After graduating magna cum laude from Harvard Law School, Brian began working as an assistant U.S. attorney in Los Angeles in 1978 — a move that drew jeers from other attorneys who, at the time, felt lawyers didn't receive the best training in legal writing in government.

“All the firms told me I was crazy and would develop bad habits,” he said. “Munger Tolles was the only firm to say it was a great idea and to stay in touch.”

After leaving the federal prosecutor's office in 1981, he jumped to the California Powerhouse, where he has been ever since. During his tenure at the firm, he has represented Transocean Ltd. as lead trial counsel in civil and criminal cases over the Deepwater Horizon oil spill near the Gulf of Mexico in April 2010.

Serving in the same capacity, he won a \$66.7 million verdict from a California state jury in favor of DoubleLine Capital and its founders in a cross-complaint against CEO Jeffrey Gundlach's former employer, Trust Co. of the West. TCW lodged breach of fiduciary duty and other claims over a mass departure of employees to DoubleLine after Gundlach was fired, but the jury awarded no damages on TCW's complaint.

Brian also successfully defended a Boeing Co. unit against \$7 billion in breach of contract, fraud and tortious interference claims brought by ICO Global Communications Holdings Ltd. over the construction of a network of communications satellites. In May 2012, a California appeals court refused to reconsider an opinion overturning a \$603 million jury verdict against Boeing.

In addition to Boeing, Munger Tolles' client roster has included other aerospace giants like Raytheon Co., Northrop Grumman Corp. and Lockheed Martin Corp. over the past four decades.

“When I first joined the firm, and for many years thereafter, L.A. had two major industry bases: entertainment and defense,” Brian said. “We quickly became a powerhouse in both. The defense industry has largely consolidated and moved elsewhere, but we've managed to maintain significant relationships with Northrop and others, despite them now existing outside L.A.”

Seville-Jones agreed, saying that — while the firm had a strong focus on aerospace in its early years — “as time has moved on, we've seen the mix lend itself more toward the entertainment companies.”

In another one of Munger Tolles' recent high-profile trial victories, it successfully defended Dick Clark Productions Inc. in a contract dispute over the right to produce and distribute the Golden Globe Awards. The Hollywood Foreign Press Association, owner of the Golden Globes trademark, alleged DCP couldn't extend NBCUniversal Media LLC's broadcast license for the show, but the parties **told** the Ninth Circuit on Monday that they had agreed to let stand a 2012 decision keeping DCP's production rights.

Also in the entertainment sector, Munger Tolles served as U.S. counsel to longtime client Universal Music Group in its \$1.9 billion purchase of EMI's recorded music division from Citigroup Inc. in November 2011, earning the firm a spot on Law360's list of Media & Entertainment Groups of 2011.

Munger Tolles also represented Universal in its 2008 investment in Beats Electronics LLC and then, starting in 2011, began representing Beats in a series of business transactions. Highlights have included the negotiation of a \$500 million equity investment from the Carlyle Group, announced in September 2013, and Beats' \$3 billion acquisition by Apple Inc. in May of this year.

"Representing Beats basically since its inception is a good example of the way we do things here," corporate partner Rodda said. "We helped Beats raise money, get a credit facility and sell the company. It was a great transaction."

Brian added, "There's a huge overlap between the high-tech and entertainment industries in California, a synthesis of interests that Munger Tolles is sensitive about."

On the tech front, the firm earned Facebook Inc. a victory in November 2013 when the U.S. Supreme Court let stand a divided Ninth Circuit opinion approving a class action settlement. Under the terms of the deal, Facebook agreed to terminate its short-lived Beacon feature — designed to track users' online purchases and post them on their Facebook pages — and pay \$9.5 million to set up an online privacy foundation and pay class counsel.

Similar to Beats, the firm has advised Internet Brands Inc. in multiple transactions since 2000, guiding the website operator through its initial public offering in November 2007 into its subsequent \$640 million sale to Heller & Friedman and JMI Equity in September 2010 and through its \$1.1 billion acquisition by private equity giant KKR & Co. early last month.

"Over the next 10 to 15 years in California, you're going to see continued growth in the entertainment industry and in the high-tech field, and the relationships between those two industries," said Brian, noting that the firm's other tech and entertainment clients have included Google Inc., Intel Corp., LinkedIn Corp., Walt Disney Co. and Warner Bros. Entertainment Inc. "There will be continued growth in the energy sector in California as well."

On that note, Munger Tolles has guided long-term client Edison through the reorganization of its Edison Mission Energy subsidiary, including the settlement of claims with EME and its creditors.

In other industries critical to California, Munger Tolles counseled HealthCare Partners LLC in its \$4.42 billion acquisition by DaVita Inc., a blockbuster health care deal; the firm is defending the NCAA in a nationwide class action by college football and basketball players in a high-profile sports-related jury trial; and it represented the Museum of Contemporary Art, Los Angeles — for which Munger Tolles corporate partner Maria Seferian recently served as interim director and CEO — in matters including the California attorney general's audit of the museum.

“We've represented the J. Getty Paul Trust, the North Simon Art Foundation and others, and have seen our practice gravitate toward the artwork that's here in L.A.,” Seville-Jones said. “What makes Munger Tolles inherently Californian is how we've grown along with the industries that have grown in the state.”

Added Rodda: “But we don't want to be tied to one industry, because you never know what's going to happen next in California.”

--Editing by Jeremy Barker and Mark Lebetkin.

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