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TWENTY UNDER 40

Malcolm Heinicke, 36
Employment Litigation
Munger, Tolles & Olson
San Francisco

From student body president at Harvard to congressional intern, Malcolm Heinicke seemed destined for Washington politics.

Not so, says the Los Angeles native.

“There was no question in my heart about coming back to California,” Heinicke says.

When a fellowship in the California Senate came along, he high-tailed it back West. He graduated from Stanford Law School, clerked for U.S. District Judge Vaughn Walker in San Francisco and, in 1998, became a summer associate at Munger Tolles. He has been there ever since.

“When I came to this firm, it was really wide open, and I could do anything I wanted,” Heinicke says.

His arrival coincided with a tsunami of wage-and-hour lawsuits facing white-collar employers. Finding himself handling more and more overtime-compensation cases, Heinicke built a client list that includes Merrill Lynch, Wachovia Bank, Fidelity, Shea, Citigroup-Smith Barney, Unisource, Round Table Pizza and Universal Studios/NBC.

Jeffrey Bleich, a fellow partner at Munger Tolles and the president of the California Bar, says Heinicke is the leading lawyer in the state — if not the country — representing corporate defendants in statewide and national employment class actions.



“He is the go-to person,” Bleich says. “He has mastered the subject.”

In 2005, Heinicke defended Merrill Lynch in a case he now considers one of his greatest successes.

Although many of the major brokerage firms bitterly fought class actions by stockbrokers clamoring for overtime wages, Heinicke took a different approach: He pursued a quick and easy settlement on favorable grounds to the company, then negotiated a discounted payout as a result.

The strategy engineered by Heinicke and Munger Tolles partner Terry Sanchez resulted in a \$37 million settlement, which didn't look like much of a victory until other financial firms ended up settling for vastly larger amounts.

Mark Thierman, a plaintiffs' lawyer based in Reno, Nev., who represented stockbrokers in the Merrill Lynch case, says he has watched Heinicke persevere while other defense attorneys shoot themselves in the foot.

“They drag things out, playing this game that you can't discover the class, and all of a sudden the law flips on them and it gets worse,” says Thierman, who says he has brought hundreds of such cases.

Heinicke is “a gentleman even when he is beating the pants off you,” Thierman added.

“He keeps it in the English tradition of barrister rather than personalizing it,” Thierman says.

That cool-headed respect for the process of law in an arena as heated as costly labor disputes can be rare. It comes from his admiration for the American legal system that Heinicke says hasn't wavered since his early days as a government student.

“In the very streets where our office is located in San Francisco, disputes were once settled with guns and fists and bribes,” he says. “Now, in our arena they're settled with arguments.”

Heinicke has even found time to keep one foot in politics, first by sitting on the Human Rights Commission and more recently as one of three members on the San Francisco Taxi Cab Commission. In January, Mayor Gavin Newsom appointed him to the powerful board of commissioners of the Municipal Transportation Agency.

— Evan George