

## Most Feared Plaintiffs Firm: Susman Godfrey

By **Juan Carlos Rodriguez**

*Law360, New York (October 22, 2013, 6:44 PM ET)* -- Susman Godfrey LLP has deployed its thorough understanding of strategy and tactics on both sides of the docket, well-considered efficiency in filings and arguments, and top flight talent to secure some huge wins over the past year, earning a spot on Law360's Most Feared Plaintiffs Firms list.

From its work obtaining a \$1.4 billion settlement with Toyota Motor Corp. in multidistrict litigation over unintended acceleration problems to a win in which Flagstar Bancorp Inc. agreed to pay \$105 million to end Assured Guaranty Municipal Corp.'s suit alleging Flagstar misrepresented home equity loans underlying nearly \$1 billion in residential mortgage-backed securities, Susman Godfrey has relied on its experience and skill to guide it to victory.

Firm founder Stephen D. Susman said he believes Susman Godfrey does more actual courtroom work, per lawyer, than any other firm.

"People know that Susman Godfrey lawyers know how to try lawsuits," he said. "And we have smarter lawyers than anyone else, on either side of the docket."

Susman said the firm also has a distinctive approach in its work on lawsuits.

"We don't fight over things that don't matter. We focus on what's really crucial and what's really going to change the results of cases. So we don't take every deposition. We don't handle a lot of class actions where the impetus is 'see how much time you can put on the books because you're going to be paid on the basis of a lodestar,'" he said. "So people know that we keep our eye on the ball and we focus on what matters."

While the \$105 million win for Assured Guaranty didn't match the eye-popping Toyota deal, the case had import beyond itself, according to Assured Guaranty deputy general counsel Edward Newman.

"I understood that this litigation was not just this litigation, it was incredibly important for us in terms of our bigger exposures," Newman said. "So there was much more riding on this case in terms of its significance."

The battle between Assured Guaranty and Flagstar was one of the first RMBS disputes of its kind to go to trial, and the win in New York federal court set the tone for the remaining cases.

Susman Godfrey partner Jacob Buchdahl, who along with partner Arun Subramanian, led the firm on the case, said the case moved quickly because the Susman Godfrey team focused on a breach of contract

claim and did not pursue a fraud claim that many other plaintiffs did.

“We try to pick out what the strongest claims are. And that avoids unnecessary motion practice, helps the case move more quickly, and doesn't dilute what is your best argument by adding some weaker arguments. I think a lot of the other cases had gotten bogged down in motion practice relating to fraud,” Buchdahl said. “After we won, every other case settled. And billions of dollars changed hands.”

Newman called Buchdahl and Subramanian agile thinkers.

“They are people who are able to master complex problems and distill it to its essence in writing and presentation to the court. They're people who do not get distracted by complexity. They're people who choose their battles wisely, and don't let the other side dictate the pace of the proceedings by fighting every motion,” Newman said.

Another big win for the firm this year was the recovery of hundreds of millions in value for shareholders of Washington Mutual Inc. when the bank won court approval for a \$7 billion reorganization plan resolving some legal claims related to its collapse.

After defeating two reorganization plans that would have wiped out equity completely, Susman Godfrey attorneys negotiated with the debtor and certain key creditors a resolution that provided shareholders with 95 percent of the post-bankruptcy WaMu plus other assets in a package worth hundreds of millions of dollars.

Also within the last year, Susman Godfrey secured a \$162.3 million verdict in an antitrust price-fixing class action brought on behalf of direct purchasers of vitamin C against two Chinese vitamin C manufacturers.

The case alleged that from 2001 through 2006, the Chinese defendants successfully colluded to artificially and illegally raise the price and restrict the volume of vitamin C exported to the U.S.

Susman Godfrey also won a \$27.5 million verdict on behalf of Two-Way Media LLC in a patent infringement suit against AT&T Inc. related to the streaming of audio and video content over the Internet.

Founded in 1980 by Susman, who was joined in 1982 by Lee Godfrey, the firm now boasts 100 lawyers in offices in Dallas, Houston, Los Angeles, New York and Seattle.

“Because we do a good job for plaintiffs, we have been hired by defendants to represent them. So it's a virtuous circle because the more you get hired by defendants, the more plaintiffs want you to represent them because they think you know how the defense thinks. It is helpful to be able to think like both sides of the docket,” Susman said.

He said the firm does not depend on hourly billings for its profits, distinguishing it from other firms.

“We have two kinds of fee arrangements; contingency, where the less you work the more you make, and fixed fee, where the same premise prevails. This rewards us for being efficient,” Susman said.

Buchdahl said the approach is attractive to clients because it gives them a little more certainty about what their legal expenditures will be in any given month, and allows the firm to align its interests and incentives with those of its clients.

According to Susman, 13 of the firm's partners have been there over 25 years.

“Most partners at law firms have been partners somewhere else. None of my partners have been partners somewhere else. Everyone here came here, worked up through the ranks and became partner,” he said. “So it's a unique culture, a unique place.”

Buchdahl noted that Susman Godfrey competes for legal talent coming out of federal clerkships against some of the most prestigious defense side firms.

“For the absolute top candidates from the top law schools and the most prestigious clerkships, there's a lot of momentum drawing them to the most traditional Wall Street firms, and we have managed to break into that group of firms that can recruit from that talent pool in a way that very few other plaintiffs firms can do,” Buchdahl said. “The resumes of our new associates are a cut above what you'd see at most other firms.”

--Additional reporting by Daniel Wilson. Editing by Andrew Park.

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