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International Trade Group Of The Year: Morris Manning

By Alyssa Aquino | January 30, 2023

Law360 (January 30, 2023, 2:02 PM EST) -- Morris Manning & Martin LLP convinced U.S. Customs and Border Protection to unwind a positive Enforce and Protect Act ruling against an aluminum producer and prevented steep tariffs on French rubber from going into effect, earning it a spot among Law360's 2022 International Trade Groups of the Year.

The trade team has been working together for more than 20 years, having formed its nucleus in what was then known as Kaye Scholer before migrating the practice to Troutman Sanders LLP in 2007 and then to Morris Manning & Martin LLP in 2012.

Currently composed of 10 attorneys and one economist, the trade group "dominates" the firm's Washington, D.C., office, where it is based, according to Julie Mendoza, a partner in the firm's international trade practice.

"What's really been helpful is that we don't necessarily need to add new people when some new issue comes out, because we've already had all of us kind of working in a number of those areas and any of us can kind of pull into the project and help out and take over," Mendoza said.

The breadth of that team history can be seen in their long-running work for Canada's Canfor Corp. in the decades long dispute over lumber duties. Partner Mary Hodgins had worked in a prior round of that trade dispute, which was resolved around 2006, as a paralegal, but had been involved in the latest go-around as a full partner, she said.

"It's been interesting to be on the lawyer side this time," Hodgins said.

As a paralegal, Hodgins had been focused on getting the filings right and hadn't considered her work to be particularly important. She had instead been impressed to see Washington's top trade attorneys all working on one case, even finding it a bit glamorous, she said.

But now on the lawyer side, Hodgins said she can see how important the paralegal's role really is.

"Good representation comes from the 'bottom' up and getting the little things right allows the attorneys to think and strategize," she said.

During its third administrative review of the Canadian lumber duties, the U.S. Department of Commerce issued Canfor the lowest combined anti-dumping and countervailing duties of any Canadian importer. Canfor exports nearly \$2 billion worth of product into the U.S.

In June, the team convinced a CBP appeals board to undo its finding that Dominican Republic based aluminum extrusions producer Kingtom Aluminio SRL evaded duties by "transshipping" in violation of the Enforce and Protect Act of 2015. Hodgins credits that decision — one of the very few instances in which the agency overturned an affirmative EAPA ruling — to the team's decision to request a verification process.

“Verification was incredibly painful,” she said, but “we requested a verification in our case, because we knew that was the way to get information on the record for an eventual court appeal.”

According to Morris Manning partner Will Planert, the team places heavy emphasis on recordbuilding and doing so as early as possible, including when officials are investigating potential trade violations. That strategy, Planert said, paid off big in a long-running anti-dumping dispute against one Morris Manning client, Turkish steel producer Borusan Mannesmann Boru Sanayi ve Ticaret A.S.

The case involved allegations that Borusan and others were dumping subsidized steel products in the U.S. The Commerce Department issued anti-dumping duties against Borusan, only to be overturned by the Federal Circuit in August, making Borusan the only Turkish respondent to survive the dispute unscathed, according to Planert.

“We knew [Commerce] wasn’t going to go our way on some of these issues, but we really worked hard and very strategically to get the facts into the record and develop the record in a way that, when we got an appeal, we didn’t just have a theory, we actually have a basis,” he said.

The team notched another victory in July for Arlanxeo Emulsion Rubber France SAS, which manufactures a synthetic rubber used in fuel hoses, when the U.S. International Trade Commission unanimously ruled that Arlanxeo’s so-called NBR rubber wasn’t harming U.S. producers. That “rare” negative ruling prevented Commerce from instituting finalized 81.86% anti-dumping tariffs against Arlanxeo, according to partner Brady Mills.

“We got a 6-0 negative determination, which, even though we thought we had a strong case, just given the statistics about the probability of winning, was a great victory for us. Something that I hadn’t experienced in quite some time,” said Mills.

Though the team has secured a number of trade victories, Hodgins noted that by representing respondents — foreign companies — they often feel like they’re on the “losing political end.”

“It’s not as if a lawmaker gets much political applause for ‘We need to help this foreign importer,’” she said.

But sometimes the politics of trade disputes aren’t so clear-cut, including the firm’s decision to represent China’s Ningbo Daye Garden Machinery Co. Ltd., a lawn mower maker accused of duty evasion. The company was hit with those allegations after it had announced plans last March to expand existing operations in South Carolina, Mendoza said.

“The governor of South Carolina, members of Congress, have all stepped forward to say, ‘Hey, this is exactly what we want to happen.’ ... I think Commerce is struggling with how they deal with how they juxtapose this desire to encourage companies to do this, and at the same time, deal with these legal issues,” she said.