

## Litigation Leaders: Wilson Sonsini's Caz Hashemi on Learning a Client's Business 'Inside and Out'

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By Ross Todd  
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Welcome to another edition of our *Litigation Leaders* series, featuring the litigation practice leaders of the biggest firms in the country.

Meet **Caz Hashemi**, the chair of the litigation department at **Wilson Sonsini Goodrich & Rosati**. Based in Palo Alto, his practice is a mix of work on SEC, government, and internal investigations for companies, boards and special committees, individual representations in similar matters, and work on securities class actions, shareholder derivative lawsuits, and stockholder litigation demands.

**Lit Daily:** Tell us a little about yourself—beyond what's in your law firm bio.

Caz Hashemi: What's not on my bio? That I'm very lucky. I was the first member of my family born in the U.S. in the early 1970s. My parents, older sister, and older brother were all born in Iran. A few years after I was born, my parents moved us back to Iran, but fortunately my family was able to leave the country before the Iranian Revolution (though growing up in the U.S. after the Iran hostage crisis was not easy and presented challenges in itself). In that regard, I have always been grateful that Wilson Sonsini is a firm that embraces diversity at all levels of the organization, encourages a culture of inclusion, and welcomes attorneys and staff from all backgrounds.

**How big is your litigation department and where are most of your litigators concentrated geographically?**

As of June 30, we have over 200 attorneys in the litigation department, with the highest concentration of litigators in Northern California (San Francisco and Palo Alto), Southern California (Los Angeles and San Diego), and New York.

**In what three areas of litigation do you have the deepest bench?**

We have a substantial class actions practice that consists of litigators who have defended disputes primarily in five areas: antitrust, consumer, internet, privacy, and securities class actions.

Wilson Sonsini's highly successful internet strategy and litigation team has won seminal cases involving online intellectual property, privacy, the First Amendment, online advertising, and an impressive list of high-profile lawsuits. In fact, just in the last few months, that team has won a series of decisions in cases involving content-related claims against clients in the online services and social media. (That includes, for example, recent censorship and state actor-related claims against YouTube and Twitter.) We're also representing YouTube in the cryptocurrency-related lawsuit filed by Steve Wozniak.

In addition, we have a sizable investigations practice that has a combination of enforcement, regulatory, and corporate board expertise that positions us to advise clients on both board and internal investigations and government investigations. We have a number of former enforcement agency veterans—particularly from the SEC,



**Caz Hashemi with Wilson Sonsini Goodrich & Rosati.**

DOJ, and FTC—as well as former federal and state prosecutors. The investigations practice also extends outside of the U.S. to work we do for clients in, for example, Europe, Latin America, the Middle East, Asia, China, Russia, and India.

**As head of the department, what are some of your goals or priorities?**

We're very committed to attracting more bet-the-company litigation matters and disputes involving complex claims and large-scale enterprises. We're looking to grow the litigation department by 20-25% in headcount, while preserving an optimal partner-to-associate ratio. We're seeking to invest in training and professional development for all of our litigators, from junior associates to senior partners. And finally, we're going to continue expanding our use of, and investment in, technology—whether that's acquiring what we need or developing it ourselves. That will not only facilitate more effective training and our use of technology to do our work, but also will allow us to scale and continue offering the level of efficient and effective services our clients need.

**What do you see as hallmarks of your firm's litigators? What makes you different?**

First, we know each client's business, inside and out. That's important for several reasons, but mainly because we represent clients that create and market products and services that are infused with complex and sophisticated technologies.

Second, we're known for being creative and innovative in how we approach representing clients in contested matters, in part because of Wilson Sonsini's client base, but also because of the entrepreneurial spirit and culture throughout our firm.

Third, although our firm's preeminent transactional practice originally put Wilson Sonsini on the map, our litigation practice has substantial depth with an ability to scale to represent clients, both large and small, before judge, jury, or regulatory agencies. Indeed, other firms make that same claim, but consider that our litigators are also accustomed to handling multiple matters at the same time.

Finally, we think we can offer clients distinct advantages by bringing talented and experienced practitioners together from cross-practice disciplines. We routinely draw from our established corporate, transactional, regulatory, and technology practice groups to assist our talented litigators.

**How many lateral litigation partners have you hired in the last 12 months? What do you look for in lateral hires?**

Since August 2019, we've added four lateral partners. In March 2020, **Victor Jih** joined our Los Angeles office as a partner in the internet strategy and litigation practice. He's an experienced and versatile commercial litigator. Victor's addition enhances our Southern California presence and our internet litigation practice—one known for establishing legal precedents in seminal cases involving IP, privacy, the First Amendment, online advertising, and other areas. Victor has established himself as a valued resource for media, entertainment, internet, and other technology companies that are commonly confronted by legal disputes and other controversies.

In October 2019, **Kenneth O'Rourke** joined our Washington, D.C., office, although he also has an active practice in California. As an antitrust litigator, Ken focuses on complex cases and high-stakes U.S. and international disputes. For more than 30 years, he's represented clients in multi-forum civil disputes, class actions, "bet-the-company" cases, government investigations, and antitrust and IP disputes, including international matters. Ken is an accomplished first-chair attorney who is valued for his talents as a litigator and his skills as an advisor.

In September 2019, **Steffen Johnson** joined our Washington, D.C., office. He leads our Supreme Court and appellate practice, which has been one of the litigation teams that's continuing to grow. Steffen has a mastery of all things appellate. His experience includes everything from successfully arguing cases before the U.S. Supreme Court and handling federal and state appellate matters to developing litigation strategy and briefing key motions in high-stakes trials.

In August 2019, **Tarek Helou** joined our Washington, D.C., office as a partner in the government investigations practice. Tarek was previously a federal prosecutor for 12 years, so his experience spans all aspects of government investigations, especially those involving the FCPA. He led or supervised more than 100 investigations involving companies in every major industry, including the technology, software, data analytics, medical device, pharmaceutical, mining, oil and gas, and finance sectors.

What we commonly look for in lateral recruiting efforts is essentially what will most directly help us address the new and now challenges of our clients, followed by

characteristics and talents that help us sustain what we believe to be our hallmarks and what makes us unique. That assessment considers whether there is a good fit with our culture, a proven capacity to demonstrate innovative or creative lawyering, and someone who already is, or will become, closely familiar with our clients' business and what clients need to succeed. Our lateral partner hires uniformly meet our criteria, which helps to illustrate why we're so very selective.

**What were some of your firm's biggest in-court wins in the past year, and can you cite tactics that exemplify your firm's approach to success?**

Most recently, we successfully represented Forescout Technologies in the Delaware Court of Chancery in relation to a recently announced agreement with Advent International to amend the terms of their \$1.43 billion transaction. Both parties concurrently agreed to a settlement, leading to the dismissal of the case in Delaware.

The initial deal between the parties, announced in February 2020, was put on hold in May when Advent cited uncertainty due to the pandemic. We filed a lawsuit on behalf of Forescout against Advent in the Court of Chancery, alleging that Advent had violated the terms of their agreement by failing to close and challenging Advent's assertion that a "material adverse effect" had occurred. We also filed an early temporary restraining order and motion to expedite the case on Forescout's behalf. Trial in the lawsuit was scheduled to begin on July 20, with Forescout seeking an order requiring Advent to close the transaction.

As noted in *AmLaw Litigation Daily* recently, the settlement came only "days ahead of what was scheduled to be the first trial in the Delaware Court of Chancery to determine if the COVID-19 pandemic constitutes a material adverse event in a proposed deal." So, in addition to how we handled the progression of the lawsuit from first filing it, it was one of the first cases about "material adverse clauses" and COVID-19. It's also a great example of the cross-practice collaboration at our firm and demonstrates how we were able to bring the strengths of our corporate and litigation teams to bear to represent Forescout on multiple fronts.

In the last year alone—between November 2019 and May 2020—Wilson Sonsini secured a series of important IP litigation wins for Mylan Pharmaceuticals in its efforts to provide a lower cost alternative to Sanofi's Lantus

SoloSTAR insulin glargine product. The most recent win before the PTAB in May is important to Mylan because it moves the company closer to marketing its own insulin glargine products to meet unmet patient needs, pending final approval from the FDA. In March 2020, we secured a major win for Mylan before the U.S. District Court of New Jersey in a trial concerning the same insulin product. After a week-long bench trial, the court ruled that the sole remaining patent of the 16 initially asserted by Sanofi against Mylan's proposed insulin glargine pen product was not infringed and invalid. The November 2019 win before the Federal Circuit—which upheld a December 2018 PTAB decision in which we also obtained a favorable outcome for Mylan—was similarly important to Mylan's insulin product objectives. In short, we earned a wave of key wins for Mylan in 2019—in multiple venues and against multiple claims—which is a credit to the firm's IP litigation, PTAB, and patents and innovations teams from multiple offices.

In May 2020, we also earned a key win for Impossible Foods, makers of the "Impossible Burger," in connection with a trademark dispute with Nestlé. Though obtaining injunctive relief can be a rare feat, the court granted a preliminary injunction against Nestlé in all 27 countries in the EU. Nestlé has since said it will be dropping the "Incredible Burger" name in European markets. Perhaps because of the scope of the injunction, the matter was covered in major media outlets around the U.S. and Europe, including the *Wall Street Journal*.

Speaking of media coverage, we've earned wins in a number of closely watched cases on behalf of major social media and internet clients. In May 2020, we obtained an important win for Twitter when the D.C. Circuit affirmed the dismissal of a conservative group's \$1.5 billion lawsuit accusing Twitter, Facebook, Apple, and Alphabet's Google of violating the First Amendment and antitrust statutes by censoring conservative content.

The First Amendment claim is one that's tied to several closely watched cases in which parties allege that private technology entities that provide platforms for speech are somehow transformed into "state actors," and the courts have consistently ruled that Twitter and other social media and content platforms are not.

In late February, we secured a win on behalf of YouTube when the U.S. Court of Appeals for the Ninth Circuit upheld the district court's ruling in *Prager*

*University v. Google*, et al., rejecting claims that YouTube improperly censors content. That case involved similar First Amendment and state actor claims. (We're also currently representing YouTube and Google in a separate lawsuit alleging similar claims.)

As to the antitrust claim in the Twitter case, the D.C. Circuit also rejected it because it said the companies' decisions to deny the organization certain services were insufficient to amount to a Sherman Act violation. So, the Twitter matter is another example of cross-practice collaboration, only this time it was a combination of our internet strategy and litigation and antitrust litigation teams.

In March 2020, the Delaware Supreme Court issued its opinion in *Matthew B. Salzburg et al. v. Matthew Sciacacchi*, finding that forum-selection charter provisions that require '33 Act claims to be brought in federal court are facially valid. The decision is an important win for pre-IPO companies in that it gives them a significant tool to address the rise of Section 11 claims challenging disclosures in the company's registration statement brought in state court, which often lead to inconsistent and less favorable rulings. A team of litigators from our Delaware and Palo Alto offices represented Stitch Fix and Roku—two of the three appellant companies.

Finally, in September 2019, a federal judge in the U.S. District Court for the Eastern District of New York granted our motion for a judgment of acquittal on the remaining counts against our client, David Levy, who was formerly the chief investment officer of hedge fund Platinum Partners. That decision represented a complete victory for Mr. Levy. Previously, in July 2019, after a 12-week trial in the same venue, a jury acquitted Mr. Levy of five of the most serious counts against him—charges related to the government's allegations that Mr. Levy and others ran the hedge fund as a \$1 billion Ponzi scheme. However, at that time, the jury also found Mr. Levy guilty of lesser charges relating to an amendment to a bond indenture of a Texas-based oil and gas company. Mr. Levy was acquitted of the lesser charges when the U.S. District Judge Brian Cogan granted our Rule 29 motion for acquittal, which is believed to be the first such motion ever granted by Judge Cogan in his 13-plus years on the federal bench.

**Where are you looking to build or expand in the next year?**

We're mindful of the pandemic, its effect on the volume of litigation, and how unforeseen developments can always compel us to shift our focus, but we're also focused on the long term and see future expansion in our core areas—bet-the-company litigation, class actions, and investigations—as to hiring both lateral partners and associates.

As to geographic regions, we still expect to expand on the West Coast, particularly in LA. That said, prior to the onset of the pandemic, we were seeing an uptick in litigation work and adding litigators in the Northeast, particularly Boston.

**How are you coping with the current economic downturn?**

We certainly understand that for many clients and companies, as well as other law firms, there has been a fall-off, particularly in certain parts of the market and certain industries. But there hasn't been any real material effect on our level of business at all and, in fact, I know many of our litigators are busier than ever. One reason is the diversity of our technology client base—they operate in many different sectors. Another reason is that a large percentage of our clients are enduring or even thriving because of their business models and the products or services they bring to market. In fact, a number of our clients are involved in COVID-19-related efforts, from biotechnology and medical devices to digital media and research institutions.

Even with court closings, discovery delays, and cases being put on hold, we remain very busy. We're even expecting to see continued recruiting for lateral associates and partners. And even if we're continuing to work remotely, that's just prompted us to take advantage of our ability to work in teams and to determine what technology resources are needed to continue doing the work we do for clients.

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