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Grand Rapids Attorney Among Michigan's Go-to Trial Lawyers for Bet-the-Company Litigation

by Elizabeth Davies

GRAND RAPIDS—He is the lawyer that other lawyers turn to for help.

Lee Silver, of Grand Rapids' Silver & Van Essen, PC, has more than three decades of wisdom coming from his business-to-business commercial litigation practice. And his peers take note of that.

Silver is a go-to guy in the legal and business community with a reputation for resolving disputes and litigating aggressively. It's a career he can't imagine living without.

"I get up every morning and I look forward to coming into the office," he says. "I like thinking strategically and solving problems."

That's precisely what he does for some of the biggest names in Michigan business. His representative clients range from Fortune 500 companies, manufacturers, financial institutions and closely held companies of all sizes and types, to individual business owners, shareholders, executives and professionals. He focuses on cases involving shareholder and partnership disputes, breaches of contract, business torts, construction disputes, restrictive covenants, real estate disputes, employment disputes, trade secret issues and a wide variety of other types of commercial disputes.

He also has represented both plaintiffs and defendants in a number of cases involving defamation and business disparagement. He even is hired routinely by other lawyers who find themselves involved in business disputes, such as controversies involving partnership disputes, lease disputes and employment disputes.

"It's a pretty varied practice, which I enjoy because it keeps things interesting," he says. "I meet a lot of very interesting and very smart people."

In his 35 years of practice, Silver has taken on his share of high-stakes and high-profile cases. That currently includes representing Lou Anna Simon, the former longtime president of Michigan State University, who stepped down following the Larry Nassar sexual abuse scandal at her school.



Silver first began representing Simon when she was named as a defendant in approximately a dozen civil lawsuits filed in federal court by Nassar survivors against Simon, Michigan State University and others. In addition to defending Simon in the civil lawsuits, Silver is also Simon's lead lawyer in the high-profile criminal case that has been brought against her by the Michigan Attorney General.

Another high-stakes representation stemmed from a case involving developer Clark VerHulst. The businessman had opened a sports complex on land for which he had a 99-year lease. Silver came to his aid when the landowner tried to evict his company and cut short that long-term lease without paying for more than \$1 million in improvements VerHulst had made to the property.

"This really was a frivolous lawsuit, and Lee was able to prove it was," VerHulst says. "His willingness to fight for justice was outstanding."

VerHulst invested his life savings in the project, a sports complex with four softball fields—two lighted—and four sand volleyball courts.

"We invested everything to develop this

sports complex," VerHulst says. "So, when this lawsuit was filed, there was a lot on the line."

After a weeklong jury trial, the jury deliberated for less than an hour and returned a verdict in favor of Silver's client, securing VerHulst's business on the property.

"He really made a tremendous difference in the lives of not only me and my family but also the 700 to 1,000 softball and beach volleyball players who get to enjoy the facility," VerHulst says.

RENOWNED LAWYER'S LAWYER

Over the years, Silver repeatedly has represented fellow lawyers on business matters, being trusted with their livelihoods because they have confidence in his abilities.

"Everybody expects lawyers would be difficult to work with because they want to micromanage and dictate the direction of the case," he says. "But I've been lucky that that vast majority of lawyers I have represented have been very deferential. They've followed my advice, and they've been some of the best clients."

That includes Jack Buchanan, Silver's former partner who hired him when he was sued by a group of contractors who worked on

a large industrial building that Buchanan had a considerable ownership interest in.

“Jack didn’t hire them, it wasn’t his project, and he was upfront with them at the start of the project that he wasn’t going to pay for it,” Silver recalls.

Yet, when the contractors did not get paid for the work they did, Buchanan was named as a defendant in the lawsuit, which included a litany of allegations that accused Buchanan of crafting a fraudulent scheme to illegally obtain \$10 million in tax credits from the state of Michigan.

“The allegations were very salacious,” Silver says. “Because of Jack’s excellent reputation and the fact that he is a pillar of the Grand Rapids legal community and one of the most prominent lawyers in western Michigan, these allegations attracted widespread media attention, which did significant damage to Jack’s previously unblemished reputation.”

With details of the suit on the front page of the paper and the nightly news, Silver sued the lawyer who filed the lawsuit on behalf of the contractors for defamation and malicious prosecution as a result of the slanderous statements made in the lawsuit. Silver claimed defamation and malicious prosecution resulted from the slanderous statements made in court. The claims brought by the contractors against Buchanan ultimately were dismissed in their entirety, and he won a \$1 million judgment against the attorney who represented the contractors on the defamation action after a bench trial.

“Even though Jack didn’t have any economic damages, we obtained a \$1 million verdict for the damage done to his reputation, which was very real,” Silver says.

It wasn’t an easy win, Silver explains, because Michigan law provides that anything said in a legal proceeding is privileged and cannot be the basis of a defamation claim. He successfully argued that the law’s single exception—that the statement must be relevant, pertinent and material to the issues to be tried in the case—was applicable and justified a finding in Buchanan’s favor.

“Lee came in and did an amazing piece of work,” says Buchanan. “It was very difficult to do that. Lawyers here have a lot of immunity to make accusations and claims.”

Michael Bedford, the elected prosecutor for Van Buren County, remembered the Buchanan case when he found himself considering a defamation lawsuit. He looked up the case to see who Buchanan’s lawyer was, and when he saw Lee Silver’s name, he knew he had found the person who would represent him as well.

Bedford’s case stemmed from an ugly

political dispute that came to a head when he won the election for prosecuting attorney against an incumbent. He subsequently was named as a defendant in a lawsuit that also attracted plenty of media coverage. It accused Bedford and others of violating the RICO statute and engaging in bribery, mail fraud, wire fraud and obstruction of justice.

Bedford was shocked when the lawyer who filed the lawsuit went on television and stated he could “say with certainty” that Bedford had “broken the law by committing the crimes of bribery, obstruction of justice...forgery... mail and wire fraud.” He hired Silver to file a defamation suit on his behalf. The case was settled while it was up on appeal before the Michigan Supreme Court.

Having Silver on the case made all the difference for Bedford.

“I’m usually the one trying to restore someone else’s justice,” Bedford says. “I’ve never had to have someone fight for me. He allowed me to do my job. I was able to function at a high level because he was my lawyer.”

Yet another time a fellow lawyer hired Silver came when Grand Rapids business attorney Phil Stenger was appointed as the receiver by the United States District Court for the Northern District of Illinois. This came at the request of the Securities and Exchange Commission as part of a case that, at the time, was the largest Ponzi scheme in U.S. history. It involved more than 2,000 investors across the United States who had been defrauded out of well over \$100 million.

Silver’s job was to litigate the cases that arose from it. He ended up representing swindled investors in more than a dozen cases in federal courts across the country.

“Lee became of counsel with my firm to assist in the commercial litigation aspects of the case,” Stenger says. “Lee and I worked closely in conducting discovery and taking numerous depositions for that case and, as a result, were

successful in recovering tens of millions of dollars that was distributed to the defrauded investors. His counsel in that case was invaluable to me.”

In the three decades Stenger has known Silver, he has been most impressed with his work ethic.

“Lee is probably the most prepared lawyer I have ever worked with when it comes to depositions and hearings,” Stenger says. “Lee is very hard working and leaves no stone unturned in his preparation.”

Silver also met and began to mentor Steven Bucquicchio of Varnum LLP during those Ponzi scheme cases.

“Since the case occurred early on in my legal career, I watched Lee and tried to soak in and learn as much as I could,” Bucquicchio says. “Lee’s advocacy on behalf of the receiver, and by extension the victims of the Ponzi scheme, was masterful.”

“Lee is, without question, one of the best and most well-respected lawyers with whom I have worked. Lee analyzes legal issues with a practical, solution-oriented approach, and he tirelessly works to achieve his clients’ goals. Lee is a very effective problem solver and client advocate who chooses calm and measured advocacy over bombast.”

BRANCHING OUT IN GRAND RAPIDS

A native of Munster, Indiana, Silver was the son of a comptroller and a homemaker. His brother was a mere 15 months younger, and the boys grew up with happy memories of a close-knit family. They played a lot of sports—Little League baseball, basketball, football—with other kids in the neighborhood.

Even then, Silver knew litigation was in his future.

“I not only wanted to be a lawyer but I also wanted to be a trial lawyer,” he says. “I’ve always enjoyed competition, and litigation is one of the ultimate forms of competition.”

It helped that he was an exceptional speaker. As an Indiana high school debate champion,



Silver headed to the University of Redlands in California to be part of one of the top debate programs in the country. He traveled nationally as a collegiate debater, then won the moot court competition at Indiana University Law School and represented the law school nationally on the moot court team.

With fond memories of his childhood vacations in western Michigan, Silver decided to go to Grand Rapids to work as a summer associate in a full-service firm in between his second and third years of law school. After graduation, he was invited to join the firm, and he put down roots in Grand Rapids in 1984.

“We are very fortunate to have a phenomenal legal community,” he says. “Because it’s a relatively small legal community, most of the trial lawyers know each other, and everybody believes in civility. It’s a friendly, cordial environment here with an excellent bench and bar.”

By 1992, he had joined well-known Grand Rapids lawyer Jack Buchanan in his litigation practice. The pair worked closely together, as Buchanan mentored the younger Silver.

In 2000, with more than 15 years of experience under his belt, Silver reconnected with friend Doug Van Essen to form their own firm.

“There was a real void in Grand Rapids for a commercial litigation boutique firm,” he says. “That’s really what I wanted to do, and I saw a great opportunity to fill that void.”

Right off the bat, Silver had a major case: the litigation stemming from Phil Stenger’s receivership. It resulted in nearly 15 cases over the course of 10 years, with Silver litigating on behalf of the receiver to recover as much money as possible for the swindled investors. Over the course of those cases, one settled for \$67 million. Many others had seven-figure settlements.

“The timing could not have been better for a small litigation boutique firm to get such a large project out of the blocks,” Silver says.

The firm’s reputation quickly grew as other area lawyers learned what they were doing.

“We get a lot of our work from referrals from other lawyers—lawyers from boutique firms who don’t have the ability to do commercial litigation, or referrals from the large firms when they have a conflict,” Silver says. “It’s worked out very well for us.”

Still, being a small firm has its drawbacks. It can be very difficult to attract blue-chip, Fortune 500-type clients. In-house counsel at many companies often feel it’s safer to refer major litigation to large firms.

“I personally enjoy working on complex

commercial cases where there is a lot of money involved, and it can be very difficult to get those kinds of cases when you are a small, four-person firm. We have been very fortunate that we have been able to attract a lot of those types of cases.”

Today, Silver still works with his former mentor, Jack Buchanan, as Silver is a member of the board of directors of the International Society of Primerus Law Firms, a society of nearly 200 boutique law firms located across the world that Buchanan founded in 1992. Silver also represented Buchanan in litigation when Buchanan was part of developing a large industrial park in Grand Rapids.

“He was a very important part of our survival during that,” Buchanan says. “I rarely see a lawyer I would say is batting 1,000, but Lee is. He’s the best. His skill as a lawyer is unbeatable.”

Buchanan says that in his many years, he has come to see and know countless trial lawyers worldwide. Some are famous for their work. But what he sees in Silver—strategic thinking, ethical handling, reliability and persuasive skills—matches any of them.

“They’re outstanding, but I don’t think any

“**I take tremendous pride in the fact that about 90 percent of the cases I mediate settle as a result of the mediation.**”

of them are any better than Lee Silver,” he says. “I don’t know that I’ve met a better lawyer.”

MORE ARBITRATION AND MEDIATION

While Silver loves litigation and anticipates many more big cases in his future, he has a long-term game plan that involves a slow transition into mediation. He started doing an increasing amount of arbitration and mediation work several years ago, and that area of his practice has grown steadily. This year he will mediate more than 80 cases, and that number appears to be increasing each year.

“It’s taking up more and more of my time, but that’s OK because I really enjoy that as well,” he says. “It’s fascinating to see other lawyers in action. I’m always learning by watching other lawyers.”

One lawyer who has used Silver as a mediator is Brian Lang of Warner, Norcross and Judd LLP.

“I do not know how he does it, but Lee has a way of making everyone in the mediation process feel valued and important, while he simultaneously—politely and courteously—

nicks away toward a resolution,” Lang says.

“Of course, not every case will settle at mediation. For those that Lee has mediated but have not settled, I find the perspective I gain from him about the strengths and weaknesses of my case to be invaluable. No matter what the subject, Lee always seems to grasp the case and the elements that will drive a resolution.”

“Lee is never satisfied with a case that does not settle, and he is always on the phone with the lawyers two weeks, a month or a year later, seeing if there is anything that can be done to push a matter to a close.”

For Silver, mediation consists of one of his favorite aspects of the law.

“I really enjoy serving as a mediator, and I take tremendous pride in the fact that about 90 percent of the cases I mediate settle as a result of the mediation. I love negotiating, which is a big part of what we do as trial lawyers,” he says. “So, being in the thick of parties negotiating a settlement is a lot of fun. It’s also intellectually challenging and, if done well, is a huge benefit to the parties and the legal system by getting cases settled.”

Although Silver has no plans to cut back on his workload any time soon, he looks forward to spending more time with his family, which includes wife Julia and four adult daughters.

None of his girls has suggested any interest in becoming a lawyer, and Silver is just fine with that.

“Forget about the money,” he advises. “I tell my daughters all the time to find something you are passionate about

because it’s so much easier to excel at something you enjoy doing. If you can find that, you’ll be great at it, while also enjoying yourself at the same time.”

In his spare time, Silver is a self-professed “sports nut.” He enjoys watching games on television, and he continues to play tennis—the game that bonded him with his two younger daughters, both high-level competitive tennis players. When they were young, the family would travel the country for their tennis tournaments. Both girls got full college scholarships for tennis, and the family has been attending the U.S. Open and volunteering for the United States Tennis Association for years.

Silver’s downtime is great. And yet, he’s equally charged up when it’s time to head to the office. He enjoys working in a people-oriented business that has, for decades, let him shine as an advocate and compete on an intellectual level.

“I love what I’m doing, and I’m passionate about it,” he says. “If I had to do it over again, I would choose the same profession.” ■