

FRIDAY, OCTOBER 9, 2015

—LAW FIRM BUSINESS—

Small Firm, Big Impact

Veteran appellate specialist Charles Kagay and his firm, Spiegel Liao & Kagay PC, are highly regarded for their expertise in antitrust work, often representing the state attorney general's office.

By Joshua Sebold
Daily Journal Staff Writer

It's impossible to see it all in one lifetime, but it's fair to say that Charles Kagay has seen most of it. He investigated the Clinton administration working under independent counsel in Washington, D.C.; he pursued Microsoft Corp. as a special deputy attorney general in California; he became an appeals specialist, winning seminal cases involving unfair competition and antitrust; and he's become the president of the International Network of Boutique Law Firms, which recently held its annual meeting in the grand hall of the U.S. Supreme Court, right outside the courtroom.

Kagay is the sole remaining partner of Spiegel Liao & Kagay PC, a firm founded by his mentor Michael I. Spiegel.

Spiegel headed the San Francisco antitrust office for the state attorney general when Kagay came aboard there in 1976. Spiegel died a few years ago. Another partner, Wayne Liao, who was also a deputy in that office, became of counsel in recent years.

Don Smaltz and Bartholomew Lee round out the firm's of counsel ranks.

Kagay, an appellate specialist who also does some general litigation, says the firm's small size suits him well. At this stage of his career, he has enough connections to rally the troops when a big case arrives.

"I have sort of a network of contract attorneys and our of counsel and so forth," he said. "We field a pretty big team when it has to be done."

Scott A. McMillan, a litigator at The McMillan Law Firm APC who often enlists the boutique's assistance for cases, says the firm is far less heralded than it should be.

"I think that its influence on California law is grossly disproportionate to the number of people in the firm," he said.

McMillan, who refers to Kagay as



Sam Attal/Special to the Daily Journal

"the Tao master of law," said that the firm's litigation has resulted in an impressive list of published decisions, but its true impact will probably never be known.

"He's ghost-written a lot of material as well, he doesn't need the glory," McMillan added. "That stuff has ended up being published. So we truly don't know the full extent of it."

In the early years, the firm leveraged its antitrust experience. The attorneys were quickly recruited by their old employers to help out on massive antitrust cases too large for the attorney general's ranks to handle single-handedly.

Kagay got his first taste for appellate work when the firm took the lead for five states in their case against oil companies over price fixing that essentially led local and state agencies to be overcharged. They initially lost the case, but got a summary judgement reversed by the 9th U.S. Circuit Court of Appeals after three years of deliberation and the cases settled for \$140 million in 1990.

Kagay said the district court process was frustrating, with piles of documents to dig through and hundreds of depositions, but the appeal was different — and alluring.

"There was no more fighting and backbiting, it was very cerebral and intellectual," he said. "You only talk

about things that are important, not all the minutia."

Soon afterwards he got certified in California's then-fledgling program for appellate specialists.

Smaltz later hired Kagay to be the appellate specialist for his independent counsel office, where they investigated Michael Espy, the secretary of agriculture under Clinton.

"He had actually represented our firm in a fee dispute," Kagay said. "So he had been my attorney and got to see my work and thought it was worth bringing into the independent counsel's office."

Liao also got involved in the Espy investigation at the later stages.

Kagay and Liao continued working on antitrust cases over the years, including taking a major role in the remedy trial for the state's antitrust case against Microsoft after it was upheld on appeal. More recently, they were recruited by the attorney general's office to work on a price fixing case targeting DRAM computer memory chips, where a settlement is pending.

Kathleen E. Foote, a senior assistant attorney general, said the firm's members were pioneers in civil procedure and legal tactics at the attorney general's office, bringing many forms of litigation for the first time, such

as creating class actions representing local government agencies harmed by price fixing.

"A lot of things about state antitrust practice and the powers of the attorney general's office were just being discovered at that time," she said.

Liao, a massive sports fan, also took a lead role representing the owners of the Los Angeles Memorial Coliseum & Sports Arena in a dispute with the National Basketball Association when the league tried to relocate the Los Angeles Clippers and send them back to San Diego.

"The situation with a team that does not control its arena is that it loses out on revenue streams," Liao said. "The NBA argued the arena was dangling out too good of a lease deal."

The case was eventually settled and the Clippers remained in Los Angeles.

In recent years, Kagay has become more of a general litigator, but still takes on antitrust cases. Much of his time is now dedicated to running the International Network of Boutique Law Firms. Kagay recently succeeded the organization's founder, Steven Spielvogel, as president.

The group connects about 300 regional and independent law firms around the world, who collaborate and refer work to each other.

Kagay has recently been introducing the organization to U.S. embassies around the world, expanding its influence by leveraging President Barack Obama's SelectUSA initiative, which encourages investment in the U.S.

"That means the local embassies are working hard to find local companies that want to have relations in the United States and they need lawyers," Kagay said. "We've got a lawyer in the country, we've got lawyers almost everywhere in the United States in every specialty you can imagine."

Reprinted with permission from the *Daily Journal*. ©2015 Daily Journal Corporation. All rights reserved.

Reprinted by ReprintPros 949-702-5390