

Rising Star: Jackson Lewis' Douglas J. Klein

By Beverly Banks

Law360 (July 19, 2024, 2:04 PM EDT) -- Douglas J. Klein of Jackson Lewis PC has defended employers against class and collective actions, including federal court cases involving a "naked" class waiver at Insomnia Cookies and wage-and-hour claims against New York's Metropolitan Transportation Authority, earning him a spot among employment law practitioners under age 40 honored by Law360 as Rising Stars.

Most interesting case:

Klein represented Insomnia Cookies against class and collective action claims under the Fair Labor Standards Act and New York state labor law, or NYLL, including allegations the company failed to compensate delivery drivers with minimum wages.

In March, U.S. District Judge Frank P. Geraci Jr. dismissed the class and collective claims against Insomnia Cookies when granting a motion for partial summary judgment. The judge found the allegations couldn't proceed, because the delivery driver who brought the case signed a class action waiver agreement.

Jackson Lewis thinks this ruling is the "first published decision enforcing" a so-called naked class waiver, "which is a class action waiver outside of arbitration," Klein said.

He said that if the agreement hadn't been enforced, "the plaintiff would have sought to conditionally certify a collective action and send notice nationwide to delivery drivers of the company."

Klein's working relationship with Insomnia dates back more than five years, he recalled, saying the cookie company is "probably more near and dear to my heart than any client."

Klein takes a "we want to work with you forever" attitude in representing Insomnia Cookies and other clients, crediting his mentor Felice B. Ekelman, a principal at Jackson Lewis, for teaching him this approach.

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STAR**



Douglas J. Klein

Jackson Lewis

Age: 40

Home base: New York City

Position: Office managing principal

Law school: Brooklyn Law School

First job after law school: Associate at Martin Clearwater & Bell

"I'd like to think that at the end of the day, when [Insomnia Cookies needs] to make a very significant legal decision, they want me in the room with them making that decision," Klein said.

His biggest case:

In the past few years, Klein has defended New York's Metropolitan Transportation Authority against FLSA and NYLL claims.

Klein said he secured a significant win for the MTA in March 2020 when then U.S. Magistrate Judge Ramon E. Reyes Jr. only permitted the distribution of a conditional certification notice to subway operators on a single line. The plaintiff in the case was an operator on the 7 line, Klein said.

Jackson Lewis demonstrated that the "realities of [the plaintiff's] job experience, even at the conditional certification stage, were not similar to" the experiences of operators on other lines, "and that notice to thousands of subway operators was inappropriate," he said.

Of the challenges faced in the case, Klein said they pinpointed the differences in the experience of subway operators that "really cut against the theory" that sending notice to "all subway operators on all lines as similarly situated was appropriate."

"Courts very often in the Southern and Eastern District in New York are reluctant to get into the nitty-gritty of the facts at the conditional certification stage under the FLSA, but here the court was, I think, compelled by what we were able to demonstrate albeit through a limited evidentiary standard," Klein said.

More recently, Klein notched a win for the MTA again over NYLL allegations. U.S. Magistrate Judge Steven Tiscione issued a report and recommendation in February supporting MTA's bid to toss the labor law claims related to overtime and frequency of pay and its bid to dismiss FLSA claims.

In March, U.S. District Judge Joan M. Azrack backed the magistrate judge's recommendations in connection with the overtime allegations under New York state labor law.

But an opinion regarding objections to the magistrate judge's recommendation over the claims related to frequency of pay under NYLL and allegations under FLSA is pending, Klein said.

His proudest moment:

Taking the mantle as the office managing principal last year in New York City is Klein's proudest moment as an attorney, he said.

One of his top goals is to "attract lateral partners in this market," Klein said.

"I want this to be a place people want to come," Klein said, mentioning the firm's recent hires of Evan Citron and Andrew Sherwood in the New York City office.

"We have so much opportunity just to continue to grow and develop in this market," Klein said. "Based on the caliber of attorney that I believe we can attract, and we are attracting here, I think the sky's the limit."

What motivates him:

Helping companies be "proactive in complying with the law and really creating a great employee experience" are part of what Klein enjoys in his legal practice, he said.

"Partnering with clients that want to know what the rules are, know how to comply, and then create an environment where employees want to be there and feel positive, all of that is really what I think energizes me," Klein said.

As the office managing principal, Klein said, he wants to support junior attorneys, remembering the help he received early on during his time at Jackson Lewis.

"I think about the thousands of hours that I sat in partners' offices when I was an associate listening to them give advice" and discuss litigation strategy, he said. "That's sort of the apprenticeship aspect of it that I think is so critical to junior attorneys."

Why he's an employment attorney:

Klein's path to employment law stems from an interest in American labor history and internships as a law student, he said.

While in college, Klein said he took an interest in collective bargaining and union relations within American history. Klein also interned at the National Labor Relations Board Region 2 office and at a union-side firm during law school, he said.

He appreciates learning the "ins and outs of the business and the industry," he said.

"The way that the MTA thinks about delivering their service is very different than Insomnia Cookies thinks about delivering cookies, but you have to really get into the weeds and understand what their pain points are, what their goals are, the language, all of that," Klein said.

On the future of his practice:

Given the rise of remote work, companies are faced with varying state and local requirements, Klein said, with employers needing to be flexible and up to speed on recent developments.

Jackson Lewis is "at the forefront of all of these developments, not only telling clients what the law is now, but also telling them what's coming down the pike," Klein said.

The firm is also investing time and resources in artificial intelligence, Klein said, remarking on a conversation when he pitched a client who asked, "What is Jackson Lewis doing with respect to AI?"

"Companies are asking themselves these same things, and when they look to partner with outside counsel, I think they want to understand how that's going to impact the relationship too," Klein said.

--As told to Beverly Banks. Editing by Lakshna Mehta.

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2024 Rising Stars winners after reviewing nearly 1,200 submissions. Attorneys had to be under 40 as of April 30, 2024, to be eligible for this year's award. This interview has been edited and condensed. All Content © 2003-2024, Portfolio Media, Inc.