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Global Compliance Readiness – Law Firms

For NYC Litigation, Corporations Around The World Choose A DuPont Primary Law Firm

The Editor interviews James K. Leader, Partner, Leader & Berkon LLP.

Editor: Jim, please tell our readers about your firm.

Leader: Leader & Berkon represents clients primarily in litigation and business-related counseling to avoid or minimize litigation. We seek to contain and manage the litigation risks and business disruptions that our clients face. We are neither a trendy boutique nor a multinational legal behemoth. Our firm handles a wide range of sophisticated commercial, securities and product liability matters for clients in a variety of fields: the financial industry, private equity, chemicals, home appliances, manufacturing, technology and insurance. We have a substantial asbestos practice, acting as national coordinating counsel for one manufacturing client.

We are the “go-to” firm for out-of-state and foreign clients who have litigation in New York, either as defendants or plaintiffs. A substantial amount of our work comes as referrals from law firms that do not have New York City offices or have a conflict. I am particularly proud that they entrust their clients to us and view that as a professional

James K. Leader is a Partner at Leader & Berkon LLP. The 2004 recipient of the DuPont Leaders’ Circle Award, he is a member of the Product Liability Advisory Council and the IADC. He has litigated high-stakes commercial and product liability matters for more than 30 years and is available at (212) 486-2400.

compliment. We owe much of our growth and success to our client relationships, including DuPont.

Editor: How did you come to DuPont’s attention and why did DuPont select your firm?

Leader: Fred Berkon, Mary Faucher and I were litigation partners at another firm in the 1980s and left to set up our own firm in 1988. At our former firm, we had handled significant pieces of litigation for DuPont. We achieved successful results in cases ranging from the seizure of a DuPont manufacturing facility in Iran during the Iran Hostage Crisis to handling a major product liability case involving nearly 1,000 New York City subway cars. It was that prior experience that brought our new firm to DuPont’s attention in 1992 when DuPont embarked on its convergence program, which became known as The DuPont Legal Model.

It was truly a marriage made in heaven. DuPont was favorably inclined toward the lawyers at our new firm because of our prior successes, the chemistry among our attorneys, and our enthusiasm for new approaches to litigation – to jettison old concepts about how to litigate, to embrace new techniques and strategies, and to implement prudent business skills in our practice of law.

Editor: Could you comment on the



**James K.
Leader**

DuPont convergence process?

Leader: It was a very interesting time, mirrored in some ways by the legal environment today. In the late 1980s and early 1990s, litigation dockets had grown tremendously, and the cost to litigate those cases had escalated. Two significant factors combined to cause DuPont to take a bold new approach to litigation.

First, the cost picture was similar to the environment in our profession today – attorney salaries were rising on an annual basis, billing rates were going up dramatically and many law firms felt that, given the immense demand for legal services, they did not have to reach out or cater to their clients. Second, with the explosive growth in litigation dockets and soaring legal expenses, corporate management was no longer willing to allow in-house legal departments to escape scrutiny. More and more, corporate executives were looking at their legal departments and expecting them to apply the same prudent business practices followed in other parts of the corporation. General counsel were expected to perform better, and for the first time, to establish and stay within budget forecasts.

It was in this setting that DuPont chose to take a bold new approach to managing its legal department and outside firms. It probably was using 400 law firms and after its convergence program reduced that number to 35 firms. Among all the firms that DuPont could have picked in the New York Metropolitan Area, Leader & Berkon was selected as DuPont’s Primary Law Firm.

Editor: Does the DuPont Legal Model

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involve a partnering relationship with its Primary Law Firms?

Leader: Yes. DuPont was a pioneer in developing a partnering relationship with the law firms that it regularly retains. We are beginning to see other corporations adopt similar approaches and attitudes. DuPont and its law firms have a relationship built on trust and loyalty. It is a relationship that extends far beyond work assignments and payment of bills.

DuPont has gone out of its way to promote the interests of its Primary Law Firms and its Preferred Service Providers. It has taken out ads publicizing our relationship with DuPont and has promoted us to other corporations around the world. It has established a website at www.dupontlegal-model.com, which describes the attributes of the DuPont Legal Model and promotes the use of its Primary Law Firms.

DuPont is interested in helping us succeed and we are very interested in DuPont's business and helping it succeed. We watch each other's bottom lines.

The new techniques and attitudes we have developed and implemented help us attract and retain new clients. We are very interested in our clients' businesses and how best to protect our clients' assets, brands and reputation. We seek to establish long-term relationships with all our clients.

Editor: Give us some examples of how being part of the DuPont Network attracts new clients.

Leader: It has been very helpful in two respects. Clients frequently come to us because they have gone to DuPont, learned about The DuPont Legal Model or have asked for a recommendation. In addition, our clients benefit from the techniques for success and best practices that we have learned – skills that enable us to provide the business interests we represent with a new approach to litigation.

Editor: How has your firm's ability to serve other clients been enhanced?

Leader: The information sharing that takes place within the DuPont network enables us to draw on the knowledge and best practices of the other Primary Law Firms in an atmosphere of collaboration rather than competition. We have referred business to them and they have referred business to us. We collaborate with them on cases where different law firms bring different skills to the table and on multijurisdictional cases where each firm covers a different jurisdiction. For example, we participate as a mem-

ber of a science team in several litigations around the country utilizing our expertise in dealing with medical and scientific issues and working with world-class experts in those fields.

Editor: Tell us about the ways in which technology can be used to serve clients.

Leader: DuPont has invested, at great expense, in a web-based facility that can be used to exchange information relating to our work for DuPont. In connection with work for DuPont, we, other Primary Law Firms and DuPont's attorneys can establish litigation "war rooms" for individual cases and families of cases. These web-based facilities can be accessed from anywhere by both the client and the law firms to exchange information on a real-time basis. Documents are encoded and electronically stored so that they can be securely accessed from any location.

We use our knowledge and experience with technology for all our clients. For example, Leader & Berkon was retained in a case involving a significant corporate divestiture that did not go exactly the way the parties expected. One of the large New York City law firms represented our adversary. The litigation culminated in a hotly contested mediation that dragged on for five long days. We participated in that mediation with three lawyers with laptops. In responding to issues or questions during the mediation, we felt we were better prepared and able to use our laptops to search electronically through our stored documents to find the right documents and answers. Our skill and flexibility in using technology contributed to what our client considered a very successful outcome.

Editor: Do your other clients benefit from using service providers who are part of the DuPont Network?

Leader: Just as DuPont promotes use of its law firms by other companies, it also promotes such use of its service providers, including those with special skills in litigation support, court reporting, legal research, forensic accounting, medical record analysis, or contract attorneys and temporary employees. Where the client agrees, I have used these service providers because they are familiar with the way we operate, have great expertise in what we ask them to do and bring value at a fair price to our other clients.

Editor: How does your support of diversity initiatives bring value to your clients?

Leader: Diversity is a core value for many of our clients and for us. For law firms practicing in New York, diversity is a proven and appropriate business imperative. Judges and juries in Manhattan, the Bronx, Queens, or Brooklyn are a diverse group and our firm reflects that diversity. Forty percent of our attorneys are women. Twenty to twenty-five percent of our attorneys fall into various minority categories. Diversity generates new ideas and the creativity for which our firm is known.

Editor: What characteristics make your firm more valuable to clients?

Leader: We focus on the skills and techniques that successful general counsel look for in a law firm, including implementing business practices in our approach to litigation and enthusiasm for our clients' business and reputation.

As it did in the 1980s, our profession seems determined to flaunt higher salaries and to impose higher billing rates. Law firm mergers are reported daily. I expect that will cause a backlash among prudent companies which will seek value from firms like Leader & Berkon.

More and more in the field of litigation, general counsel are finding that bigger is not necessarily better. Firms like Leader & Berkon will have increasing opportunities, by demonstrating value, to build long term relationships and use what we have learned through involvement in the DuPont Network.

We invest the time and energy to do an early strategic case assessment evaluating strengths and weaknesses to devise a strategy that will achieve a client's goal as quickly as possible. Clients like nothing better than an early and successful exit from the litigation process. Using business disciplines, we have trained our attorneys to balance cost and value. The strategic case assessment and budgeting process enable us to offer alternative fees that focus not on the billable hour but on performance, predictability, value and risk sharing. We have almost as many paralegals as lawyers. Paralegals are very cost effective professionals on each of our litigation teams. We believe in constant communication with our clients. We encourage the use of alternative dispute resolution (ADR) opportunities when possible. Most significantly, we believe that it is critical to have a "post mortem" after each case where the litigators and in-house counsel as well as the business representatives examine the lessons learned and discuss how to implement change. We strive for continuous improvement.