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## A Rising Tide

Brighter deal climate lifted Bay Area firms to solid gains in 2004

The Recorder

[By Recorder Staff](#)

January 7, 2005

[Chart: Highest Grossing Bay Area Firms 2004](#)

[Chart: Top 10 Firms by Average Profits per Equity Partner](#)

[Chart: The Growth Divide](#)

The Bay Area's 10 highest grossing firms continued their upward climb in 2004, as the rebound of capital markets returned corporate work to Silicon Valley.

Nine of 10 firms posted revenue gains and increases in profits per partner, though most were in the single digits. First-place finisher Morrison & Foerster led the pack, with a 10 percent gain in revenue and an 11 percent hike in profits per equity partner.

But equity partners at Orrick, Herrington & Sutcliffe had the greatest reason to smile, as the firm became the first Bay Area-based outfit to crest the million-dollar mark in profits per shareholder.

Fenwick & West made its own stunning leap in the profits-per-equity-partner derby, bounding 47 percent over its numbers last year to achieve an average payout of \$935,000, second behind Orrick.

Fenwick, which had not made the list of top 10 firms for 2003, wrested the bottom post from Sedgwick, Detert, Moran & Arnold by growing revenue 14 percent, to \$153 million.

Fenwick also enjoyed the fattest profit margin among top firms -- 42 percent.



Morrison & Foerster's  
Keith Wetmore  
Image: Shelley  
Eades / The Recorder

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Fenwick Chairman Gordon Davidson attributed the rise to an improving deal economy and a bottom-line focus that included the firm's first billing rate increases in three years.

Heller Ehrman posted the highest revenue per lawyer, with \$750,000, while Littler Mendelson marked the lowest, with \$475,000.

For all four Silicon Valley-based firms, it was a year of doing more with less. Each reported shrinking head count, ranging from a net loss of 46 lawyers at Cooley Godward to a drop of one at Fenwick.

Only Wilson Sonsini Goodrich & Rosati reported a revenue decline. While revenue was flat at Cooley and only 2 percent at Gray Cary Ware & Freidenrich, each managed double-digit increases in profits per partner. Gray Cary, however, had the slimmest profit margin among top 10 firms at 25 percent.

Staffing levels across the top 10 firms were encouraging. They suffered a combined net loss of just seven lawyers -- a vast improvement over the 2002 bloodletting when 540 positions vanished, or 2003, when another 222 evaporated.

Combined, the top firms grossed \$3.43 billion last year.

### **MORRISON & FOERSTER**

Still No. 1 among the Bay Area's top-grossing firms, Morrison & Foerster put more distance between itself and its competitors as its revenues jumped 10 percent, to \$593 million.

The average compensation for all partners jumped 14 percent, to \$760,000, while equity partners earned \$825,000, up from \$740,000 in 2003.

"A huge pickup in M&A IPO activity delivered a bounce to our business practice that helped make the year a strong one," said MoFo Chairman Keith Wetmore.

While MoFo handled just three initial public offerings in 2003, it took 24 companies public in 2004. The lineup included Cogent Inc., which raised \$248 million; Linktone Ltd., a mobile wireless company in China that raised \$86 million; and Israeli medical device company Syneron Medical Ltd., which raised \$60 million.

MoFo also saw more than a doubling in M&A transactions, from 45 in 2003 to 92 last year. The firm represented Marketwatch Inc. in its \$519 million acquisition by Dow Jones & Co. and Atrix Laboratories in its \$855 million merger with QLT Inc.

On the litigation side, the firm negotiated a \$145 million settlement for Nikon Corp., in which ASML Holding N.V. agreed to pay Nikon to end a patent licensing dispute. MoFo also represented Olympics gymnast Paul Hamm in defending his gold medal win in a dispute regarding a South Korean competitor. And the firm is continuing to represent Hartford Insurance Co. in connection with New York Attorney General Eliot Spitzer's investigation of the insurance industry.

MoFo also helped win a settlement in a class action against the state of California over substandard school conditions. The state agreed to spend as much as \$1 billion to repair facilities and provide textbooks to California's lowest-performing schools. Wetmore said it was the biggest pro bono case in the firm's history, with attorneys spending more than 73,000 hours over a four-year period.

MoFo gained 18 lateral partners during the year, with San Diego the firm's fastest growing office. Wetmore said that in the coming year the firm would continue to grow in London and New York.

Other than that, Wetmore said, "there is no particular geography that we aren't already in that is compelling right now."

### **ORRICK, HERRINGTON & SUTCLIFFE**

Orrick, Herrington & Sutcliffe continued its steadfast growth in 2004 as revenue rose 8 percent, to \$484

million.

Average compensation for all partners similarly climbed 9 percent, to \$780,000. But Orrick stood out from the pack of Bay Area firms by posting profits per equity partner of \$1.09 million, the first local firm to cross the million-dollar mark. About half of the firm's 267 partners hold equity status.

Orrick Chairman Ralph Baxter Jr. attributed the firm's strong financial performance to its focus on high-value engagements in litigation and sophisticated transactions in the financial world.

"All of the litigation practices -- product liability, mass tort, securities, white-collar and intellectual property were all booming," Baxter said. And on the business side, "the structured finance and public finance practices once again had record years."

Orrick, which has the most active bond practice in the nation, easily snagged lead counsel for the state of California in its sale of \$11 billion in bonds to refinance the state's budget deficits. Promoted by Gov. Arnold Schwarzenegger, the bond sale was approved by voters when they passed Proposition 57 last year.

Among the firm's major litigation victories in 2004, Orrick won a defense verdict for Union Carbide Corp., which was sued by Kelly-Moore Paint Co. for \$1.3 billion. The paint company claimed Union Carbide did not warn it about the dangers of a type of asbestos it sold. The firm also won a defense verdict for Dow AgroSciences LLC in a patent infringement suit brought by Syngenta Seeds Inc.

Orrick continued to expand its national and international presence in 2004. It acquired a small firm in Rome early in the year. And it brought in numerous laterals, most notably 11 former Brobeck, Phleger & Harrison securities litigation partners who had joined Clifford Chance in 2002.

In the coming year, Baxter said the firm would continue to grow its key offices in New York, San Francisco and Silicon Valley, as well as build its European outposts. He said Orrick also expects to open an office in Taiwan in the early part of 2005 and to continue to grow its presence in Asia.

"We're in most places we need to be," Baxter said, adding that Germany and China are "obvious candidates" for Orrick to set down roots in the future.

### **HELLER EHRMAN WHITE & MCAULIFFE**

Heller Ehrman White & McAuliffe boosted attorney head count 10 percent last year, the biggest increase among the top 10 firms.

The firm paired that with a 10 percent increase in gross revenue, reaching \$472 million in 2004. It managed to boost net income 13 percent, to \$170 million.

With the addition of 19 equity partners, that worked out to profits per partner of \$855,000, just 2 percent higher than last year.

Heller Chairman Barry Levin considered the results particularly positive as they followed major additions to the firm in 2003. The firm merged that year with Venture Law Group, absorbed Brobeck, Phleger & Harrison's San Diego office and scooped up a 19-lawyer firm in Hong Kong.

"Growth is expensive," Levin said. "As you work to integrate more people, you run the risk of not realizing on your investment in that growth. We were happy to get to the end of the year and be able to realize on all that we did."

The growth led to new engagements. For example, VLG's long relationship with Yahoo Inc. led to Heller being hired to handle a case filed in 2003 by Overture Services Inc., claiming that Google's paid search advertising services infringed Overture's pioneering patent. (Yahoo acquired Overture in 2003.)

Heller also represented one of the largest telecom software companies in the U.S., Telcordia Technologies, a subsidiary of San Diego-based SAIC, in its sale for \$1.35 billion to Providence Equity Partners Inc. and Warburg Pincus LLC. And Heller also represented GIC Real Estate in one of the largest real estate deals

of 2004, the formation of a \$2 billion real estate venture with Tishman Speyer Properties.

In New York, where Heller now has 95 lawyers, it signed a lease in Times Square Tower for space to house up to 165 lawyers.

Internationally, Heller kept its focus on China by adding 10 litigators to the firm's Hong Kong office and opening an office in Beijing. The firm now has 40 attorneys in Hong Kong, including five China-licensed lawyers, and four attorneys in Beijing.

International arbitration is a new focus for the firm. This year, Heller lawyers represented Deloitte Touche Tohmatsu in connection with the Parmalat debacle in Italy and Philip Morris USA in litigation against cigarette importers.

In '05, Heller will focus on how best to enter the European market.

"We will look initially in London," said Levin. "We think it is important to be there."

### **PILLSBURY WINTHROP**

Pillsbury Winthrop started 2004 with a bang, moving its New York office into glitzy new quarters near Times Square and bulking up its new outpost in Houston. But overall, the firm's head count shrank 4 percent.

The firm lost 28 attorneys, most of them non-equity partners.

Revenues were flat. The firm grossed \$432 million, about 2 percent more than in 2003. Average profits per equity partner increased 4 percent, to \$775,000.

Pillsbury said it handled 65 public and underwritten securities offerings with a total value of \$24 billion. Ten were IPOs, including representation of the issuer in a \$132 million offering for SiRF Technology, a manufacturer and distributor of aeronautical GPS systems. The firm also represented Australian clothing manufacturer Pacific Brands Limited in its \$867 million IPO in March.

Other big deals this year included a piece of California's \$11 billion bond issue, a \$2.6 billion debt offering for Westfield REIT and handling Public Service Enterprise Group Inc.'s acquisition by Chicago electric utility giant Exelon Corp. for \$12 billion in stock.

Firm leaders are optimistic about the coming year -- especially as the capital markets continue to recover.

"We've had a very good year, and I think that we will have an even better year," said David Snyder, the executive vice chair of the firm. "We are really bullish about 2005."

### **WILSON SONSINI GOODRICH & ROSATI**

Wilson Sonsini Goodrich & Rosati paved the road to its future in 2004, opening an office in San Diego to broaden its representation of emerging life science companies. But the firm remained cautious about its financial outlook.

Wilson, which ends its fiscal year Jan. 31, estimates it will see a 3 percent dip in revenue. The firm estimates it will gross \$370 million.

Profits per equity partner fell 3 percent, to \$835,000. The firm is the only top 10 firm without a non-equity partnership tier.

Head count shrank by about 5 percent. In 2003, Wilson shed about 15 percent of its lawyers.

Donna Petkanics, Wilson's managing partner, attributed the declines to the still-sluggish corporate environment. IPO and M&A activity roared back to life in 2004, giving Wilson a hand in 18 IPOs, up from a handful in 2003. But that was still far below what the firm saw during the boom.

Still, the firm handled the Google IPO, which raised \$1.6 billion. Chairman Larry Sonsini incorporated the Mountain View-based company in 1998.

Wilson also has IPOs in the pipeline for '05, including one for San Francisco-based Dolby Laboratories that's expected to raise \$460 million.

The firm also represented Documentum Inc. in its acquisition by EMC Corp., as well as Juniper Networks in its purchase of NetScreen Technologies.

Litigation was a saving grace. Petkanics said the firm saw a 30 percent increase in 2004 in hours recorded by the litigation department.

In the coming year, the firm is betting on business from Asia. Wilson brought in Peter Zhang from China's largest telecom equipment manufacturer, Huawei Technologies, with plans to open an office in China, its first outside the United States.

That should happen in 2005, according to Petkanics, barring bureaucratic hurdles.

Meanwhile, Petkanics said the firm is planning to grow its numbers with a crop of 66 summer associates this year and -- fingers crossed -- a significant number of lateral hires.

### **COOLEY GODWARD**

While Cooley Godward's gross revenue was flat last year at \$289 million, the firm was able to boost its profits per equity partner 11 percent, to \$850,000.

The firm's revenue per lawyer also jumped 10 percent, to \$690,000, while lawyer head count shrank 10 percent, to 418.

Mark Pitchford, Cooley's chief operating officer, said that absent growth in gross revenue, it's "important to run a tight, efficient business, and we did that."

Pitchford attributed the firm's increase in profitability to its active litigation practice "combined with an uptick in general corporate work, including robust M&A activity."

The firm handled 70 M&A transactions in 2004, coming in at No. 14 in Mergermarket's ranking of firms by deal volume. Cooley represented Tularik Inc. in its \$1.3 billion acquisition by Amgen Inc., counseled InVision Technologies Inc. in its \$900 million purchase by General Electric Co., and handled a string of acquisitions for eBay Inc. and Siebel Systems Inc.

Cooley also completed 13 initial public offerings, up from four in 2003, and formed 40 investment funds during the year.

Pitchford said the life sciences practice was also vibrant, representing a big chunk of the firm's public offerings and emerging company work. The technology transfers group, which primarily focuses on hardware, software and semiconductor businesses, also saw a surge in work last year.

On the litigation side, Cooley worked out a settlement in AT&T's patent infringement suit against Microsoft Corp. While the terms were not disclosed, Pitchford said they were "very significant." And Cooley freed Synopsys Inc. from a suit Monolithic System Technology Inc. filed when Synopsys canceled its plans to acquire the company. Monolithic kept a \$10 million breakup fee for the derailed deal and agreed to withdraw its complaint.

Cooley Godward had a major role in the PG&E bankruptcy, which wrapped up last year. The firm billed about \$14.1 million for its work on the three-year case. Cooley also won a pro bono victory on behalf of Larry Lucas, whose death sentence was vacated by the California Supreme Court last year.

Looking to 2005, Pitchford said he expects the same practices to remain busy. A merger with another firm

remains a possibility.

"Throughout any given year, we will have discussions with any number of firms. Some don't go beyond hello, and others go further," Pitchford said. "Nothing is imminent."

### **THELEN REID & PRIEST**

With a slowdown in its mergers and acquisitions practice, Thelen Reid & Priest turned to its busy litigators to nudge revenue to \$240 million, up \$5 million from the previous year.

"The transactional practices ran at a slower pace this year than in 2003," said Mark Weitzel, the firm's San Francisco-based vice chairman. "But it kind of shows the benefits of diversification. In an economy that was a bit quieter, our litigation practices picked up the pace."

For the second year in a row, fees from asbestos litigation and energy-related work made up a substantial part of Thelen's revenue. But unlike in 2003, when the Enron bankruptcy kept much of the firm busy, this year's energy work mainly entailed power plant refinancings.

Weitzel said the firm has intensified its focus on these deals and has completed three this year, including the refinancing of a plant in Contra Costa County's Crockett. Many of the same lawyers, he said, are increasingly working on financing arrangements for privatized military housing.

The 413-lawyer firm's partnership ranks decreased by eight in 2004, due to a round of retirements and defections of lawyers who became in-house counsel to Thelen clients. And a reworking of compensation formulas for several junior partners meant a drop in equity partners from 130 to 112.

But Weitzel said the firm plans to grow its partnership ranks through lateral hires and said 11 laterals brought on last year bolstered Thelen's antitrust and labor practices.

As a result, he said, the antitrust workload increased dramatically midway through 2004.

While expansion through lateral hires or acquisition of smaller firms remains a goal for 2005, Weitzel said he expects real estate costs to drop, since the firm has moved five of its six offices since 2002 and is now ready to stay put.

### **GRAY CARY WARE & FREIDENRICH**

It was showtime for Gray Cary Ware & Freidenrich in 2004 as the firm prepared for its three-way merger with Piper Rudnick and London-based DLA.

Gray Cary saw its profits per equity partner increase 25 percent, to \$770,000, last year. It did so even though revenue was up just 2 percent, to \$213 million.

Along the way, Gray Cary shrunk by 24 attorneys -- about half of them partners -- and ended the year with about three-quarters of the number of lawyers it had in 2001.

Chairman J. Terence O'Malley said some partners looked to leave as the firm shifted its emphasis to key practice areas over the past two years.

O'Malley said the departures provided opportunity for promotions, and some 20 attorneys made partner mid-year.

The firm enjoyed significant growth in its patent litigation practice, O'Malley said. Gray Cary also benefited from the rebounding of the capital markets.

Key work included leading the \$110 million Salesforce.com IPO, handling Bayer's Baycol litigation on the West Coast and representing Hewlett-Packard Co. in its litigation with Gateway Inc.

In October, Gray Cary partners voted to approve a merger with DLA and Piper Rudnick effective Jan. 1,

forming DLA Piper Rudnick Gray Cary, a firm with 2,700 attorneys, 49 offices and revenues of more than \$1 billion.

O'Malley says Gray Cary's 350 lawyers are already reaping the benefits.

"Over the last 60 days, we've been able to jointly counsel about two dozen clients in both transactions and litigation with our new parents," O'Malley said. "We are well along in the integration process, and our clients are voting with their enthusiasm and with delivery of new business."

Gray Cary partners recently brought in DLA partners to assist with an M&A transaction for Invitrogen Corp., a San Diego-based life science company, and brought Piper lawyers from New York into litigation on behalf of client Qualcomm Inc. in San Diego.

"We in our new firm will have a large number of new lateral announcements in the first quarter," said O'Malley. "We have been pleasantly surprised at the number of lateral partner inquiries over the last 60 days."

### **LITTLER MENDELSON**

A busy year for labor unions and the employment plaintiff bar meant more work for Littler Mendelson, whose 2004 revenue of \$187 million represented an 8 percent jump from 2003.

Litigators at the labor firm were kept employed by a rising number of wage-and-hour class actions, said President and Managing Director Wendy Tice-Wallner. While there was no single major suit responsible for a wealth of billable hours, she added, a large number of smaller cases created "a juggernaut of work combined."

The firm's workplace training practice also generated rising revenue in California, Tice-Wallner said, as companies prepared to comply with a state antidiscrimination law.

The work bumped profits per equity partner to \$435,000, up from \$420,000 in 2003, and inching toward the firm's short-term goal of \$500,000.

Littler saw significant personnel movement in 2004, with 18 lateral hires offsetting 13 departures, lifting the equity partnership ranks to 140 from 135.

In January, the firm opened a Boston office. This followed moves into Miami and Charlotte, N.C., in 2003. And the firm was able to get its name on the Las Vegas office it had maintained for years as Hicks & Walt when Nevada changed a state law requiring a firm's name partners to have state bar registration.

"With the offices that we've opened over the past couple of years and the money we've invested into them, we'll start to see them pay back in the next year," Tice-Wallner said.

Littler just signed a 10-year extension to its current lease in San Francisco and will begin reconstruction of the space next month.

Tice-Wallner said she expects growth to continue next year in response to labor unions' proclamations of redoubled nationwide organizing efforts, particularly in retail chains. "What's happening in the union arena is going to be significant over the next couple of years," said Tice-Wallner. "It looks like there's some chain rattling going on."

### **FENWICK & WEST**

Fenwick & West leapfrogged back into the Bay Area's top 10 in 2004, posting 14 percent revenue growth and a whopping 37 percent increase in the bottom line. Revenue for the year was \$153 million; net was \$64 million.

Profits per equity partner rocketed an eye-popping 47 percent, to \$935,000 -- second only to Orrick among top 10 firms.

Chairman Gordon Davidson attributed the success to a strong year in the firm's litigation and corporate practices.

He said Fenwick was able to raise billing rates by an average of about 10 percent this year, the first time it has raised rates in three years.

And while head count was flat, Davidson said billable hours grew.

An added boost to the bottom line came with the completion of the firm's transition to new space in Palo Alto. In 2003, it had paid double rent.

Davidson said those three factors each accounted for about a third of the firm's growth in profits.

During the year, the firm represented longtime client Symantec Corp. in its acquisitions of Veritas Software and Brightmail, helped sell NetScreen Technologies to Juniper Networks and took tech client Cisco Systems Inc. through a dozen deals.

Fenwick handled IPOs for Salesforce.com, Shopping.com and SiRF Technology.

Davidson said 2005 should be another good year. Fenwick represents eight companies in the IPO pipeline, and client Compuware Corp. is headed for a February trial in major litigation against IBM Corp.

*This article was reported and written by senior writer Brenda Sandburg and reporters Marie-Anne Hogarth and Justin Scheck.*

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