

## Competition Group Of The Year: O'Melveny

By **Nadia Dreid**

*Law360 (January 24, 2019, 11:21 AM EST)* -- O'Melveny & Myers LLP led the charge for AT&T and Time Warner against the U.S. Department of Justice's challenge to the companies' merger and won, earning the firm a spot as one of Law360's Competition Groups of the Year.

The firm's competition practice group, made up of more than 50 attorneys, scored headline-grabbing wins in 2018, securing the go ahead for AT&T and Time Warner cable to complete their merger and negotiating Samsung Electronics' exit from multidistrict litigation accusing it of fixing optical disk drive prices seeking \$3 billion in damages.

But some of the group's biggest accomplishments are the problems they were able to fix privately for their clients, like the three nonpublic DOJ investigations that the firm closed in 2018, practice group co-chair Ian Simmons told Law360.

"Nobody will ever know about those and we consider those massive victories," Simmons said. "We know how to handle matters so nobody ever hears about them. You don't make a career out of them. You get the client off the first exit ramp."

In its most notable victory of the year, O'Melveny was selected as lead counsel in one of the most closely watched antitrust suits of 2018, where it beat the government's challenge to the AT&T-Time Warner merger in a D.C. federal court.

"We're really proud of what we can do to make peace, to make matters go away that nobody ever hears about, but we can also make war and win the wars in a very public fashion, as [partner Daniel M. Petrocelli] did in AT&T-Time Warner against the U.S.," Simmons said.

O'Melveny attorneys spent months sequestered with the AT&T and Time Warner legal team in a 37,000-square-foot Washington, D.C., office space strategizing, and Petrocelli, who argued the case for AT&T and Time Warner, said he was one of many attorneys who moved their lives to D.C. for the first half of the year so that they could work out of the centralized trial site.

"Everybody was committed to the single-minded objective of winning the case. We had the righteous



side of the case but whenever you're up against the government, especially in a very high-profile case, it's risky business," Petrocelli said. "The government is used to winning these cases."

U.S. District Judge Richard J. Leon ruled in June to reject the merger challenge, which is now on appeal.

"The judge issued an opinion in excess of 170 pages, grounded in the evidence set forth ... that the government had failed to prove its claims at trial," Petrocelli said.

The firm also served as lead counsel for Samsung and secured the company's exit via summary judgment from multidistrict litigation at the tail end of 2017 and reached a final settlement in August. The tech giant was accused of participating in an industry-wide conspiracy to rig the price of optical disk drives, which are used to help computers write data.

Several executives from Hitachi and LG had already pled guilty to related criminal charges, making the practice group's job more challenging, Simmons said.

"It was a difficult situation because in a conspiracy, what your adversary tries to do is taint person number three with the conduct of person number one and two, your alleged co-conspirators," Simmons said.

Also on the docket of O'Melveny's antitrust accomplishments in 2018 was a settlement extracting American Airlines from multidistrict class action litigation accusing the airline and others in the industry of conspiring to restrict capacity on flights in order to hike airfare prices. The deal was "very favorable" to the airline, which chose O'Melveny as its lead counsel for the litigation, Simmons said.

"It was a very great accomplishment," Simmons said. "The case did go forward but we got out before class certification."

The DOJ launched a probe into the allegations, but announced in early 2017 that it wouldn't be taking legal action against American Airlines.

Simmons credits the firm's antitrust wins this year to the attorneys he works with every day, saying he finds them set above the rest.

"One of the reasons O'Melveny is great is we are very capable lawyers," he said. "When you look at a lot of the antitrust lawyers, I don't think they have all the attributes that we have. We have very, very brilliant talent. Really top notch minds."

--Editing by Alyssa Miller.