

2014

# PENNSYLVANIA LITIGATION DEPARTMENTS OF THE YEAR

**The Legal Intelligencer**

An ALM Publication

## AHEAD OF THE CLASS

### BALLARD SPAHR'S LABOR AND EMPLOYMENT GROUP GETS CLIENTS RELIEF

By **Ben Seal**  
Of the Legal Staff

Cash-strapped municipalities need every last bit of help they can get to balance their budgets. But scraping together extra funds by trimming the salaries and benefits paid to firefighters and police officers can be a legal and political minefield. So when Allentown and Reading needed assistance in recent years to negotiate with those first responders, the cities called on the labor and employment department at Ballard Spahr, and the firm delivered.

In 2012, Ballard Spahr attorneys found Reading some fiscal relief in the form of wage freezes for the Fraternal Order of Police, as well as reduced starting rates, the elim-

ination of post-retirement health benefits for new hires, a reduction in paid time off and more. Last year, the firm did much the same for Allentown in the city's firefighter interest arbitration. The result, which has since been appealed, included a wage freeze, reductions in pension benefits for new hires, reductions in paid time off and increased employee contributions for health care.

In an era when fiscal concerns are plaguing so many cities, achieving such positive results in labor negotiations takes on added significance, according to Ballard Spahr labor and employment group leader

— 2014 —  
**PA LITIGATION  
DEPARTMENTS  
OF THE YEAR**  
— FINALIST —  
LABOR & EMPLOYMENT

David Fryman.

“With these distressed municipalities, you have such longstanding, structural financial issues and such huge holes that without dramatic and major changes, you’re never going to get out of this hole. You’re on the verge of disastrous consequences,” Fryman said. “That’s the challenge and the great success of these stories, is being able to convince an arbitrator that this is not business as usual anymore.”

Achieving a result “that is the right thing to do for the health of these municipalities and is fair and just” is paramount, Fryman said,

— 2014 —  
**PENNSYLVANIA  
 LITIGATION DEPARTMENTS  
 OF THE YEAR**

and Ballard Spahr’s labor and employment department, led on these cases by partners Kenneth M. Jarin and John P. McLaughlin, managed to do just that.

Fryman said the firm’s work runs the full scale of employment matters, but stands out when it comes to what he called “traditional labor work,” stepping in for employers faced with putative collective or class actions.

When a rash of class actions broke out against health systems whose employees wanted compensation for work performed during meal breaks, West Penn Allegheny Health System turned to Fryman and Ballard Spahr to counter the aggressive plaintiffs

firm bringing suit. Nearly two years of “very contentious discovery” led to no resolution, Fryman said, but the firm was ultimately able to convince a district court judge to decertify the class. The U.S. Court of Appeals for the Third Circuit later dismissed an appeal for lack of jurisdiction.

“These cases really hadn’t been tested in the courts, so they were able to get some traction early,” Fryman said. “The cases were potentially very, very large in scope. If the class were certified, you’d be talking about more than 13,000 plaintiffs.”

In another class action defense, Ballard Spahr spent 12 years fighting a battle stemming from Employee Retirement Income Security Act claims against firm client Northrop Grumman Corp. Two former employees of the company claimed they were denied permanent job separation benefits when they were laid off in 1999. Through long periods of inactivity and a trip up to the Third Circuit and back, Fryman led Ballard Spahr’s defense, eventually seeing an opportunity

to secure a victory when the Third Circuit issued a ruling in a similar case. Fourteen years after Northrop Grumman laid off the employees, on May 23, 2013, the fight was finally over.

“It was a very esoteric, complex area of the law, and it just took a very long time for the issues to be sorted out,” Fryman said.

Ballard Spahr provided guidance throughout, keeping tabs on the client and waiting for the right opportunity to turn the tide of litigation. And, as it does so often, the labor and employment department came out on the winning side. ♦

Reprinted with permission from the July 29, 2014 edition of THE LEGAL INTELLIGENCER © 2014 ALM Media Properties, LLC. All rights reserved. Further duplication without permission is prohibited. For information, contact 347-227-3382, reprints@alm.com or visit www.almreprints.com. # 201-08-14-05

**BALLARD SPAHR  
 BY THE NUMBERS**

**Department Headcount**

Firmwide	49
Pennsylvania	23

**Department as Percent of Firm**

Headcount	10
Revenue	7