

Five Questions

for Edgar James, Steven Hoffman, and Kathy Krieger of the offices of James & Hoffman

Founded in 1995, 11-lawyer James & Hoffman specializes in union-side labor and employment litigation. One firm partner currently serves as general counsel to the Service Employees International Union, another to the pilots' association of the world's largest airline.

Last week, *Legal Times* Special Reports Editor Jenna Greene visited the offices of James & Hoffman to ask "Five Questions" of partners Edgar James, Steven Hoffman, and Kathy Krieger. Below is a transcript of their conversation, edited for reasons of space and clarity.

Why did you decide to start your own practice?

Edgar James: Most people here are second-career people, with a few exceptions. Steve [Hoffman] was a professor of literature at a college. I was a labor organizer before I went to law school.

I think it's very hard having done something to then go become a beginning associate at a large law firm. We all did



that, but we longed for the idea of having more independence and a more collegial, less rule-bound environment.

Steven Hoffman: From my perspective, I came out of Rogovin, Hugel and Lenzner, which was an independent Washington firm and then merged with a New York firm [Donovan, Leisure, Newton & Irving]. I became a partner there, but that firm was run out of New York, not Washington, which gave me a pretty good view of what it was like to have your life run from somewhere else. I left there thinking, "That's not going to happen again."

I met Ed, and our thinking seemed to jibe together. . . . We decided it seemed like a good idea to go out on our own. We were also doing the same type of work—litigation, with an emphasis on labor and employment.

James: I always wanted to have a firm with people I respected, smart, good lawyers. . . . Steve happened to be in a situation where he could be recruited. [Partner] Kathy [Krieger] had been general counsel of a large union for years. Kathy and [partner] Judy Scott I always viewed as stars of the labor bar—in our community, people who were very well-regarded and very smart. I didn't know Kathy very well, but a friend of ours happened to mention that she might be looking.

Kathy Krieger: I came not at the founding of the firm, but about a year later. I might have been the first person to come to the firm who wasn't a second-career lawyer.

I really was attracted to the idea of going into practice with a small, collegial group of really creative, passionate

people. It was as much like working with family as it was with respected colleagues.

It's a very friendly place for women, very egalitarian, with an equal number of women and men partners. It had that identity for me from the start—a good place for a woman to practice. We now have more women than men. . . .

I like the flexibility. I was inside a large organization, so I came the opposite way—not from private practice, but from an institutional setting. I really do like the ability to be our own boss, and work as a team. There's no hierarchy here. We do our own research and our own writing, collaborate on cases, and get to pick each other's brains. That's the kind of almost think-tank environment that we have.

Tell us about your clients.

James: There's a range of clients, but if there's one theme, it's probably labor and employment—*employment* writ large.

One of our biggest clients is the Service Employees International Union, which is the largest AFL-CIO union, with about 1.6 million members. And one of our partners is general counsel to the SEIU, Judy Scott, who happens to be traveling to Cambodia and China on labor rights issues right now. . . .

We represent the pilots of American Airlines. We do a lot of work for non-profit entities, and political firms—polling firms and public relations firms.

I spend a fair amount of time representing law enforcement officers. We represent an organization called the Federal Law Enforcement Officers Association. In that capacity, we do more of their personnel and legislative work. They're not allowed to form a union—they are a professional association.

We also do some pension and ERISA litigation. I'd say we do a lot of litigation: boutique litigation, generally in federal court, and generally not here. It just depends on where the case happens to be filed.

Hoffman: On the employment side, we go from blue collar workers to pro-

fessionals, academics, scientific researchers, World Bank staff. . . . We do fairly traditional anti-discrimination work. We do a lot of whistle-blower work. We do a lot of advice work, negotiating entry packages and exit packages for professionals and executives, dealing with noncompetition issues.

Because people tend eventually to go off on their own, we've done some corporate formation work as well. We represent small consulting and scientific research type of organizations that develop out of work we had done for the individuals when they were employed somewhere else.

Krieger: A lot of our clients are actively engaged in organizing. They're very creative. There's a lot of strategic work, not just litigation. We like to get in there and shape some of the policy decisions and find creative ways to use the law.

I like working with some small start-up unions and grass-roots organizing entities that really like to get out there and engage. There's always something new. I've been practicing 25 years and almost every other case is a case of first impression.

Where do you find your clients?

James: Most of them come from other lawyers, and not infrequently opposing counsel.

Hoffman: That's true especially in the employment work that we do. It's not unusual at all that some lawyer who's on the other side in employment litigation, when that lawyer has a friend or a colleague who subsequently has an employment problem, they refer them over here. So we get a lot of referrals from lawyers, but also from clients.

When you represent people in academics, the word gets around and we have professors from various places calling us—tenure problems, academic freedom problems, compensation problems. That's because word of mouth has developed.

Krieger: I've had clients come to me because a [member of a] union that I represent may be friends with somebody who

is not represented by an organization, and they say, "Hey, I've got a problem on the job with a different employer. Do you know someone who can help me?"

James: Some of the political firms we represent come out of old, old, old friendships.

Hoffman: Having an academic background myself, I think, does help me with academic clients because I have a visceral understanding of the way life is for academics.

How do you measure business success?

James: For me, it's: Do you want to come to work? Would you change careers if you had the opportunity? Obviously, you've got to meet certain fundamental economics. That's a reality. We do quite a bit of pro bono work, and still manage to meet the bottom-line necessities.

You're always trying to balance the caseload and ensure that people are doing the kind of work they want to do, and sometimes it's push and shove.

David Dean, for example, a partner here, represented farmworkers in a case against the secretary of labor. It had to do with setting pay rates for migrant farmers. That ate up a lot of time, and it was always a kind of juggling between the cases you want to take—national security cases, a low-income migrant farmers case—versus having to get the regular work of the firm done.

Krieger: I think we do our best work when we're passionate about what we do. . . . Everybody is working at top capacity with all their creative juices flowing, and we can step back and say we've contributed some positive work to the development of law . . . in making justice available.

How do you balance that? You can't always pick your cases, but we've been fortunate enough to have a really great range of work.

James: Another lawyer here in town in a similar line of work said, "One of the problems with your firm is it's law with a point of view. You identify with your clients." That's certainly a fair criticism, because we do.

Hoffman: I'm probably closer to the day-to-day review of the books. Business success is being able to provide people here with the financial security that they want and they deserve, and at the same time having the kind of work that they're excited about. The social-consciousness factor enters into it. There's a healthy dose of social consciousness at this firm. If it was just a matter of paying the rent, we wouldn't have a firm. So there's the balance.

James: The kind of people we recruit want to do more like what you'd consider public interest law. We've had three people leave recently. One founded a legal aid program, one is doing international human rights work, another one went to the ACLU.

The trick for us as senior people is to juggle for the junior people so they don't get a steady diet of just one kind of case. . . . It's not just providing a mix of work for a more junior person, but it's developing them as young lawyers, and it's really difficult for a small firm. It's why we moved away from hiring people out of law school. We're only looking for

people with clerkships or who've had some experience.

My preference has always been to get someone out of a larger firm because they've been through the disciplinary practice of a large firm, somebody's hammered them on their writing.

What challenges to your practice do you foresee?

James: An increasingly ideological judiciary makes it harder to practice. It's more conservative. . . . It's a different bench.

Hoffman: Part of it is the typical small-firm challenge. You're in the middle of a big project and you can't help but think, "When's the next one coming?" Now, they always have, but that thought at a small firm is always in the back of your mind. And here it's complicated by the fact that the work we're looking for is work that will appeal to people's sense of right and justice, and

be varied enough so people maintain the enthusiasm that's necessary for the whole thing to fit together.

Krieger: When you're a small practice, [another challenge is] trying to keep taking your temperature. Are you the right size? Are you still practicing as the kind of team that you envisioned? Are you changing? Staying the same? Do you want to change? Those are things that, with a collegial, egalitarian government structure, you always talk about. It's not something that gets decided once and for all.

Hoffman: We're certainly open to the notion of enlarging somewhat, but I don't think anybody here has any thought that we'd ever aspire to be anything other than a small firm.

Krieger: Somebody once said there's a boundary line between when you're running something like a family and when it becomes a company.

I don't think we're anywhere close to that line. I don't know where that line would be. It's probably very individual. But I think all of us have that sense of wanting to stay as a much more collegial type of environment. ■