

## MOST FEARED PLAINTIFFS FIRM



By Dani Kass, Law360, New York (October 7, 2015)

**A**FTER GETTING A VERDICT AGAINST ARAB BANK for providing services to a terrorist group, taking on the manufacturers of transvaginal mesh, and inking wrongful death and personal injury settlements between smokers and three major tobacco companies, Motley Rice LLC has again earned a spot among Law360's Most Feared Plaintiffs Firms.

The South Carolina-based firm joins Law360's list for the second time after bringing in several \$100 million settlements and breaking barriers with new uses of the Anti-Terrorism Act in the last year.

Motley Rice was part of the first team to bring a bank to trial under the Anti-Terrorism Act, leading to a jury's finding Arab Bank responsible for knowingly supporting the Palestinian Islamist group Hamas. The five-week trial ended in September 2014, with a jury finding the bank liable for 24 separate attacks.

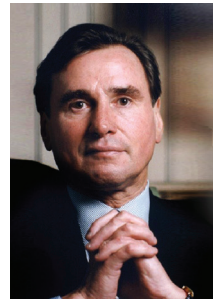
The attacks, which included suicide bombings in public places that led to the deaths of scores of civilians, took place during the second intifada, where for more than four years during the early 2000s, Palestine fought against the Israeli occupation of the West Bank and Gaza.

U.S. victims and families of victims of the terrorist attacks brought the closely watched suit, saying the bank facilitated terrorism by allowing tens of millions of dollars in payments to flow through its accounts to the families of Hamas terrorists who were killed, injured or imprisoned during the unrest.

Motley Rice, along with Osen LLC, Turner & Associates PA and Sayles Werbner PC, argued on behalf of the families.

"For us, it was an interesting and complex case that had a potential for great social benefit and it sought to answer important questions in terms of the application of the Anti-Terrorism Act and the Alien Tort Statute," Michael Elsner, the firm's lead attorney on the case, said.

The case was filed in 2004 by firm co-founder Ronald Motley, who passed away in 2013. Elsner said the principles and work ethic Motley instilled in those who work for him is what helped the firm win the case.



Ronald L. Motley  
1944–2013

"He was enormously successful in gathering evidence to prove the cases that he sought to prove and I think he instilled in all of us this drive to collect evidence and to meet with every witness and try to gather evidence and documents wherever you could," Elsner said. "He used those same skills to be extraordinarily successful in litigation, and I think we took that same sort of dogged approach to collecting evidence in this case."

Co-founder Joseph Rice said the 75-attorney firm prides itself in being able to go "toe-to-toe" with larger firms that have "unlimited resources."



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—Michael E. Elsner, Motley Rice member

That tenacity and ingrained practice of working closely with clients stood out to Mike Grady, former associate general counsel at Babcock & Wilcox Co., who, after working across the table from Motley Rice on asbestos cases, asked for its help in taking on medical device companies that made transvaginal mesh implants.

After his wife suffered complications following the insertion of a transvaginal mesh implant she was unknowingly given after a hysterectomy, Grady asked the firm to take on the manufacturers, for which there was already an ongoing multidistrict litigation. Motley Rice sued American Medical Systems and reached a settlement in just over six months, Grady said.

"If it wasn't for plaintiffs firms like Motley Rice, this stuff would still be on the market," Grady said.

With another plaintiff, they secured a \$100 million jury verdict against Boston Scientific Co., which failed to warn doctors and patients that the mesh was dangerous. The verdict included \$75 million in punitive damages and \$25 million in compensatory damages.

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*—Mike Grady, Motley Rice client*

Rice said case selection is one of the biggest keys to being a successful plaintiffs firm, as shown in the Boston Scientific case, where attorneys from Murphy & Landon served as co-counsel.

"We look for something that the conduct of the defendant is just going to make the jury mad or is going to disappoint the jury in human nature," he said. "How can you take a [product] that the component part says 'This material should not be used in human body' and use it to make a product to be put in a sensitive part of a woman's body? That's outrageous conduct. I look for something that's going to be the theme that 'You can't believe this happened but it did.'"

Grady was especially impressed with how the firm handled a case that could be so personal for plaintiffs.

"There was a can-do attitude," Grady said. "These people listened. They were very thorough. They kept their records. Corporate lawyers are very fastidious about what they do and how they do it. I found often with the plaintiffs bar, the smaller folks can't keep their act together because at the same time they're working for their client, they are also looking for new clients. It seems like you're getting rushed off, no one's returning your call, they really don't have the answers, but what I have with Motley Rice — these people were very aggressive, they pursued the case, they understood my wife's individual issues and you didn't have to update them every time you talked to them."

That closeness with clients is very deliberate, Rice said.

"You can't lose sight of the fact that this is a client's case and they're the ones you have to stay in touch with," he said. "You don't want them to go to a hearing or mediation and hear something for the first time."

Motley and Rice scored a huge win in 1998 when they helped finalize the \$246 billion Tobacco Master Settlement Agreement, where the four largest tobacco companies — Altria Group Inc., R.J. Reynolds Tobacco Co., Brown & Williamson and Lorillard Inc. — agreed to pay states back for publicly funded public health care costs and advertising campaigns related to the negative effects of tobacco.

After they founded the firm in 2003, they continued to work against the tobacco industry. In February, Rice reached a \$100 million settlement with Lorillard, Philip Morris International Inc. and R.J. Reynolds over smokers' personal injury and wrongful death claims. Lieff Cabraser Heimann & Bernstein LLP and The Wilner Firm PA served as co-counsel.

The firm also brought in more than \$350 million in securities class action settlements in 2014. Institutional Shareholder Services ranked the firm as the sixth-highest in its count of aggregate amount recovered for investors in securities fraud class actions.

In 2014, the firm reached 105 approved settlements worth a total of \$2.4 billion, which put it at No. 5 on ISS' list for the most settlements.

But Rice said they don't take cases unless they're fully prepared to bring them all the way to trial.

"We don't take a case to get ready to settle," he said.

*—Additional reporting by Stewart Bishop.  
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