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NJ Law Director Brings Privacy Focus To New Role

By **Martin Bricketto**

Law360, New York (April 24, 2014, 8:42 PM ET) -- Helping the New Jersey Attorney General's Office become even more active in privacy-related consumer affairs enforcement and furthering e-discovery improvements are among former [Debevoise & Plimpton LLP](#) partner Jeffrey Jacobson's goals as he settles in as the new director of the state's Division of Law.

Jacobson, who spent about 17 years at Debevoise building up a resume in consumer and securities class actions and e-discovery challenges, told Law360 that he also wants to bring senior-level experience to bear earlier in cases against the state to ultimately reduce payouts and do more to keep and attract midlevel talent. And while lauding the division's roughly 550 attorneys, Jacobson said he won't shy away from using outside counsel in major cases.

Acting Attorney General John Hoffman on March 17 announced Jacobson's appointment atop what many describe as the state's largest law firm. With a \$13.9 million budget, the division within the Department of Law and Public Safety not only represents state agencies when they are sued or bring suit but also acts as their general counsel.

"It's a fantastic, fantastic position for a civil litigator who wanted to work in government service at a high level," Jacobson said during an interview at his Trenton office.

A contributor to Republican candidates, Jacobson, 44, said he didn't have any prior relationships with Gov. Chris Christie's administration or the AGO, apart from his mother. Carol Jacobson was an assistant attorney general who retired last year but remains a role model for her son.

Jacobson said he met the division's former director Christopher Porrino at his mother's retirement party and reached out to express interest in working for the state. When Porrino was tapped to become Christie's chief counsel, he asked Jacobson if he wanted to interview for his old job.

The Montclair, N.J., resident and married father of two is well suited for the position, according to former U.S. Attorney General Michael Mukasey, who joined Debevoise in 2009 and praised his ex-colleague's focus and intelligence.

"People want to work with him because he is somebody who rolls up his sleeves and gets into it," Mukasey

said. "He doesn't direct from the outside; he is very much involved."

The division doesn't set enforcement policy or choose which parties to sue, according to Jacobson. However, consumer affairs is an exception, and the division works hand in glove with the AGO's Division of Consumer Affairs to decide which cases to bring, he said. It could be one area where Jacobson leaves his mark.

The division's consumer fraud section "was doing great work long before I got here, and they'll be doing great work long after I leave. But because I have experience in that area, I'm paying a lot of attention to it, and I think we're going to get even more active as appropriate," Jacobson said.

Jacobson pointed to privacy issues in particular and noted the prior formation of a privacy group within the division.

"The state is pursuing several privacy-related investigations, either data breaches or practices that we think are violative of consumer privacy," he said. "I think that probably you will see more of that, not just because it's a hot area of the law but because it's an area that really affects New Jersey consumers."

Jacobson also wants to use his experience to help the state respond more quickly and more cost effectively to discovery requests. The state has been moving aggressively in that direction, Jacobson said.

"To the extent that we can harmonize email around the state, it will be easier for us as the lawyers for all of the departments to help them extract information when it's needed, and we can improve the archiving system so we can cut back on our hiring of outside vendors," he said.

To dent what the state pays in tort and other litigation, Jacobson said he wants to employ senior thinking early in such cases to avoid making key strategic decisions late in the game.

"I think over time it will pay dividends, and we'll be able to have a meaningful impact on the amount that the state has to pay out in tort and other cases," he said.

Last year, the division secured \$304 million in settlements and judgments for the state, a 52 percent increase compared to 2012. That sum includes two settlements totaling \$165 million over Passaic River contamination. The use of [Jackson Gilmour & Dobbs PC](#) and Gordon & Gordon PC alongside state counsel in that litigation is among more than \$29 million that the state spent on outside attorneys in 2013.

For Jacobson, the overall value of outside counsel is more meaningful than the raw price tag, and he said he would be comfortable with that figure increasing during his tenure if it means greater savings.

"I think that taxpayers should be concerned with our getting the best deal possible for them, and in high-stakes cases, if bringing in specialty counsel will help us either win the case outright or achieve a fairer settlement for New Jersey, I'll hire outside counsel every time," he said.

"We have absolutely wonderful deputies, and 98 percent of cases are being handled entirely by deputies within the division, but it's those 2 percent of cases where the plaintiffs are seeking millions of dollars in damages where we have to be willing, and we are willing, to partner with outside counsel either to join our trial teams or to lead our trial teams. And yes, they cost money — but they yield savings," he added.

Another example of the state deploying outside counsel is [Kanner & Whiteley LLC's](#) representation of the

Department of Environmental Protection in its suit against ExxonMobil Corp. over discharges from refinery sites in Linden and Bayonne. Damages could amount to nearly \$9 billion.

“In these big stakes cases like the \$9 billion Exxon trial, New Jersey should and will be happy that we had those outside partners working with us,” Jacobson said.

A former member of Debevoise's hiring committee, Jacobson said the division has no trouble recruiting young talent or senior attorneys with successful careers in private practice and an interest in public service. The challenge is recruiting midlevel laterals and retaining homegrown attorneys because they can earn more in the private sector, according to Jacobson.

The division can't compete for those attorneys in terms of money, but it can in terms of experience, Jacobson said.

“I think what we can say to a fourth- or fifth-year associate at a firm or even to an eighth-year who may have fallen just short of partnership is: 'Come here, take the experience that you've gained in private practice, put it to good use in the division — where you will get trial experience, where you will get a chance to counsel some of the largest departments in the state while working on matters on the front page of the paper — and see what kind of lawyer you are in three years,’” he said.

--Editing by Jeremy Barker and Philip Shea.

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