

Rising Star: Haynes and Boone's Matthew Deffebach

By Leigh Kamping-Carder

Law360, New York (March 25, 2010) -- Haynes and Boone LLP partner Matthew Deffebach has defeated the conditional certification of a 2,000-person class of Texas hospital workers and secured a key victory for employers before the Occupational Health and Safety Administration, earning him a spot on Law 360's list of 10 employment attorneys under 40 to watch.

Deffebach, who works out of the firm's Houston office, began focusing on OSHA disputes as a second-year associate.



Now 39, the partner said this niche of employment law lets him pursue creative legal strategies and delve into the nuts and bolts of workplace safety regulations.

In one recent case in which Deffebach represented Home Depot Inc., he landed a win that may give employers more room to interpret the definition of “work-related” when it comes to reporting workplace incidents.

The case dates back to one hot Houston morning, when a Home Depot employee collapsed in the store's parking lot and later died, Deffebach said.

Employers are required to report work-related fatalities to OSHA within eight hours but Home Depot never reported the incident, believing that it was not “work-related” — and earning a citation from the secretary of labor, according to Deffebach. Although the trial judge sided with the government, the Occupational Safety and Health Review Commission ruled in favor of the retailer.

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Setting precedent.

It's too soon to see whether the September decision will be cited, but OSHA case law establishing that fatalities are not work-related could help minimize personal injury litigation risks for employers, Deffebach explained. Without an OSHA citation, a plaintiff's lawyer has one less piece to put together a lawsuit, he said.

Deffebach also defends companies against litigation in federal and state courts, particularly suits brought under the Fair Labor Standards Act.

"There's so much exposure, even though these cases have been litigated now for a number of years," he said of FLSA suits. "It's just hard for employers to deal with all the nuances of wage and hour."

In one notable case, Deffebach helped defeat a proposed class action of over 2,000 anesthesia technicians, registered nurses and licensed vocational nurses who accused Harris County Hospital District of forcing them to work through unpaid meal breaks.

Deffebach spent hours interviewing nurses in the emergency room of Houston's busiest trauma center — which he compared to a war zone — to build a case that the district had too many unique procedures for handling meal break deductions to warrant conditional class certification.

"We put on a full-court press in obtaining really good affidavit testimony from other nurses," he said. "We really came up with some good legal arguments."

Deffebach credits his success to his intensely organized work habits.

In the multifaceted world of labor and employment law, attorneys are often in emergency mode, tackling an important hearing one day and arranging an executive employment contract in a corporate deal the next, Deffebach explained.

So Deffebach keeps a master list of every matter on his docket and records what stage each case is at and the last time he spoke with each one of his clients.

"It's critical in labor and employment because we do have so many facets to our practice that are short fuse, and you can't lose sight of where you're at in something," he said.

In the Harris County case, Deffebach put together a series of spreadsheets to document the distinguishing characteristics of all the jobs at the district's different hospital facilities. He also kept detailed notes of every hospital visit.

Deffebach arrived at Haynes and Boone as a summer associate in 1999, working his way up to partner by 2007.

Although his supervisors have never quibbled about his relative youth, a few clients have needed assurances that Deffebach, as a senior associate, was old enough to handle certain high exposure cases. In one ironic twist, a client facing an age discrimination case once asked, "Does he have enough gray hair to really defend us?"

Deffebach may be a great lawyer, but his co-workers also think of him as a compassionate human being. After all, the partner shut down his practice to donate a kidney to a near total stranger.

The kidney recipient, who is the son of a colleague's secretary, was unable to find a suitable donor from among his family and friends, Deffebach said. When Deffebach learned of the man's increasingly desperate situation — and that he, too, had young children — the attorney volunteered to help.

“You hope that the community of people you live with, that somebody steps forward,” Deffebach said.

Preliminary tests revealed that Deffebach was a perfect match, leaving the doctors “floored,” he said. “You don't ever see that for nonrelatives.”

Deffebach underwent surgery in late January. Since then, the man has been thriving, and Deffebach returned to work in early March, he said. He has received a flood of e-mails — even from fellow “jaded, evil lawyers” — who have written to tell him their personal stories.

“It's been an amazing journey, that's for sure,” he said.