

## International Trade Group Of The Year: Grunfeld Desiderio

By **Rae Ann Varona**

*Law360 (February 23, 2024, 3:16 PM EST)* -- Grunfeld Desiderio Lebowitz Silverman & Klestadt LLP continued to rack up critical wins for foreign exporters in the past year, including a major Chinese tire manufacturer for which it secured a rare 0% dumping rate, and successfully defended against fraud allegations by U.S. Customs and Border Protection, earning the firm a spot among Law360's 2023 International Trade Groups of the Year.

Grunfeld Desiderio served as lead counsel for Shandong New Continent Tire Co., Ltd., for which the U.S. Department of Commerce had calculated an anti-dumping duty rate of over 68% in its most recent administrative review of passenger vehicle light truck tires from China.

Getting a dumping rate down to 0% is a difficult feat, but the firm also helped the exporter fend off allegations by Customs that its client had committed customs fraud.

Ned Marshak, a partner at the firm's New York office, said that shortly after the dumping rate win, the firm noticed that Customs had placed a document on the record at Commerce claiming that Shandong had reported incorrect values.

The firm ended up handing over a huge submission to Commerce to prove that there wasn't any fraud by Shandong and that all the values given to the department in the initial investigation leading to the zero rate were accurate. And it wasn't a situation in which Commerce sent over a questionnaire or told the firm what it should file, Marshak said. The firm had to decide which documents to give.

"We ended up giving them thousands" of documents, Marshak said. That included sales tracing documents — from the resale, through the sale, to proof of payment — from every single shipment where Customs had claimed the firm's client did something wrong.

Marshak said that if the firm had lost to Commerce, "the entire Chinese industry would have been dead."

"This made us very proud," he said.

Jordan Kahn, a partner in Washington, D.C., said defending Shandong also involved the firm fighting its way into litigation.



Kahn said that while no petitioner had challenged Shandong's zero rate, another company had gotten a high rate and lodged an appeal to the U.S. Court of International Trade. During that appeal, Commerce received a referral from Customs to look into Grunfeld Desiderio's client.

"We had petitioner, besides screaming 'fraud!' at every case, saying we shouldn't even be allowed to be in the case," Kahn said. "We really had to defend ourselves."

Getting the CIT's favor ultimately required the firm to use its litigation, price discrimination and customs skills, Kahn said.

Grunfeld Desiderio also secured highly unusual negative-injury rulings for foreign exporters before the U.S. International Trade Commission.

It got Commerce to conclude in a final determination just before Christmas 2022 that Sri Lanka's only nail exporter, Trinity Steel Pvt. Ltd., didn't deserve any antidumping duties and needed only a low, 4.41% countervailing duty rate. The firm also got Commerce to assign a low antidumping duty rate of 2.94% and a similarly low countervailing duty rate of 2.93% for India's largest nail exporter, Astrotech Steels Pvt. Ltd.

The firm was then in a good position to convince the ITC that the U.S. domestic industry wouldn't be materially hurt by imports from the South Asian countries. The ITC ruled in their favor in February 2023.

Grunfeld Desiderio also secured a win for Chinese exporters and U.S. importers of fabricated structural steel, which the Federal Circuit affirmed in September.

Marshak said that anytime China is involved in the ITC, one could expect an "absolute uphill battle." But he said the case was nevertheless one of his favorites.

He recalled the firm using an economist, a sophisticated economic analysis and a "larger than life" witness from Texas who was responsible for getting steel for Hudson Yards in New York, the Meadowlands Sports Complex in New Jersey and SoFi Stadium in Los Angeles.

He recalled watching the Super Bowl at the Los Angeles stadium in 2022.

"It was like, 'Wow, we were able to help them get the roof,'" Marshak said.

According to Grunfeld Desiderio, no other law firm has a better record before the ITC, and that's thanks to several things.

For one, the firm was one of the first to get involved in China-related cases in the 1980s, which allowed it to develop special expertise. Marshak said that aside from partnering with a law firm in China, the boutique firm also has Chinese and Chinese-speaking employees, including accountants, paralegals and attorneys.

And as the international trade landscape changes — due to China setting up in other countries like Malaysia, for example — Grunfeld Desiderio makes sure it's well positioned.

"We go where the practice goes," Marshak said.

Kahn added that in the last few years, there has been a mushrooming of trade cases against India, for instance, and that the firm had been investing in resources and employees with knowledge of the country.

But also playing a role in the firm's success are the firm's focus and the dynamics between colleagues the firm has fostered.

Marshak described the 40-attorney firm as a "unicorn" in that it started as a boutique in the 1980s and stayed that way, focusing solely on customs and international trade law.

Of the 40 attorneys, he said, 28 do customs work, and 12 do trade work.

"That mix doesn't exist any place else," Marshak said, adding that the firm has people in other countries like Hong Kong, Germany, India, Vietnam and China, in addition to its offices in New York, D.C., Los Angeles and Milwaukee.

Marshak said he liked to think that the firm also had the "perfect balance" of senior partners, partners like himself who were present at the creation of modern customs and trade law in the late '70s and into the 1980s with the 1979 Trade Agreements Act, the harmonized tariff schedule coming into effect in 1989 and the Customs Courts Act of 1980.

"At the beginning, we were there," he said.

Marshak, who came to the firm 20 years ago, said it helped that he works with people who are not only hardworking but also fun to work with.

Marshak said he also enjoyed the breadth of work the firm does — economic work, industry analysis, legal analysis and arguing cases before the Federal Circuit.

Kahn, who came to Grunfeld Desiderio after working at two other boutique trade firms, echoed Marshak and called the breadth of work "astounding."

He said it's also been exciting working with colleagues all around the world.

"Just the worldview is really exciting," Kahn said.

--Editing by Karin Roberts.