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Q&A With Dechert's Matthew Larrabee

Law360, New York (May 24, 2011, 1:05 PM ET) -- Matthew L. Larrabee is a partner with Dechert LLP in the firm's San Francisco and Orange County offices and a senior securities and antitrust litigator who has served as lead trial counsel for major businesses across the country in the financial services, mutual fund, technology and health care industries. His current practice is heavily focused on federal and state law securities class actions, derivative claims, and related investigations and regulatory proceedings. He is a native Californian who over his career has consistently been recognized as one of the leading lawyers in San Francisco, although he has a national practice that requires him to spend a sizable amount of his time in New York.

Q: What is the most challenging lawsuit you have worked on and why?

A: That is a tough one. Intellectually, I think defending Microsoft in the private antitrust litigation brought by Sun Microsystems would be hard to top, given the stakes and complexity of the evidence and legal issues. But the award for largest overall challenge imposed by a single case belongs to a California False Claims Act case brought by the attorney general and 300 California municipalities against Bank of America.

The AG and the local entities were seeking billions from the bank for allegedly failing to turn over amounts owing from its bond operations dating back nearly 20 years. We were forced to recreate those records to prove that the bank had accurately calculated the amounts owing from unclaimed bond proceeds. The paper records we had to analyze were so voluminous, they could not be stored in major office buildings without the assistance of engineers to distribute the weight — they had to be moved on pallets with forklifts. We had a team of 200 accountants and over 50 lawyers and bank personnel involved in the records reconstruction effort for more than two years.

The trial on the adequacy of these records — the first phase of many that were contemplated — was crucial and we were very fortunate to get key favorable rulings. Even then, trying to resolve the case was incredibly difficult. My mediation presentation to the plaintiffs was made in a major hotel ballroom in San Francisco, to an audience of hundreds of interested state and local officials, none of whom were thrilled with what I was telling them about their claims. And it took three sets of experts, including a Nobel Laureate or two, to help the mediator find an acceptable solution. Needless to say, we had quite a celebration after that one.

Q: Describe your trial preparation routine.

A: It is cliché to talk about complete mastery of the facts of a case, including the best parts of your adversary’s case — but in truth, I find that the cliché applies in all cases, particularly the most complex ones, and actually mastering the facts can give me a critical advantage.

Having said that, for me the art of persuasion at trial is about a small number of themes, a few ideas that will resonate throughout the trial and beyond, well-crafted articulations and word choices, and a few compelling images. My preparation focuses a lot of energy on those aspects of the trial. I also try hard to remember that trials are human events, driven by the people who will appear at the trial — preparation doesn't much matter if a witness goes south; likewise, a great witness can cover up more than a few mistakes in preparation. Do all of that extraordinarily well and you have a chance to win.

Q: Name a judge who keeps you on your toes and explain how.

A: The Northern District of California, where I have practiced a lot over the years, has a long tradition of judges who are independent thinkers and active jurists who keep you on your toes. A number of them I suspect would be disappointed not to be listed here. But years ago, I had a few cases in front of Judge Samuel Conti, who made you plan for even seemingly routine hearings more than almost anybody.

I was never quite sure what was going to happen, or how he was going to react, because he did dig into cases and he had his own views about how things should be proceeding, which often seemed to diverge from the preferences of my clients. Plus he was often quite passionate from the bench — let's just say I actively debated bringing a toothbrush to hearings, which fortunately I never needed.

Q: Name a litigator you fear going up against in court and explain why.

A: Fear is not the right word, but if I had to identify one person right now who would be the most challenging adversary, it would probably be David Boies [of Boies Schiller & Flexner LLP]. To state the obvious, he has been on one heck of a hot streak recently, in all kinds of fields, for all kinds of clients. Plus, although there are many lawyers who truly hate to lose, David seems to hate it the most and that shows up in his competitive zeal to win. I am pretty competitive myself, so it would be a lot of fun to see him across the aisle.

Q: Tell us about a mistake you made early in your career and what you learned from it.

A: As a young associate, I took a deposition of an important insurance company representative, in his lawyer's offices in New York, alone. I rapidly lost control of the witness, to the point that the lawyer (a very experienced practitioner) felt free to write down answers on his yellow pad, for the witness to read, then denied that all of this was going on in response to my infuriated accusations. He even told me, accurately, that I had no idea where New York Supreme Court was, let alone how to get help from a local judge.

That sinking feeling of impotence and incompetence stuck with me until I got a helpful declaration from the court reporter and got on a plane to the West Coast judge running the case, who fortunately did not think this was too funny. Since then, I have never gone anywhere without knowing the best way to get local help immediately.