

Q&A With Dechert's William Oxley

Law360, New York (March 19, 2013, 2:21 PM ET) -- William W. Oxley, a trial lawyer based in Dechert LLP's Los Angeles office, focuses on products liability and mass tort cases, complex business disputes and intellectual property matters. Oxley's experience includes representing clients in environmental and copyright and trademark litigation as well as patent infringement actions. He has also worked on false advertising, contract, class action and real estate disputes and has defended nutritional and health product manufacturers and distributors against Proposition 65 claims.

Q: What is the most challenging case you have worked on and what made it challenging?

A: I have tried cases where people said we were going to get "hometowned" (we never were, by the way), where I felt we had an uphill battle because we represented the big company against "the little guy" and where I was brought in to serve as trial counsel on the eve of trial. Each of those situations presented its own difficulties. But those difficulties pale in comparison to the challenge of representing a big company that is accused of causing a cancer that will end the plaintiff's life.

Realistically, a jury is always going to be sympathetic toward a dying plaintiff. I have yet to meet in voir dire, for example, a juror who starts out really wanting a big corporation to win against a person who is suffering through a horrible disease. I also think it's human nature for a juror to want to help someone who is suffering. In these cases, you have to work extra hard to earn the jury's trust, and you can't do that unless you really believe in your client and present your case in a clear and honest way.

There is a more personal reason that makes this kind of a case a challenge. When I cross-examine a dying person and the members of his or her family, I sometimes can't help but remember what my family and I went through when my grandparents passed away. That can be hard.

Q: What aspects of your practice area are in need of reform and why?

A: I try different kinds of cases across the country. But California products liability law stands out to me as needing reform the most. The law is often inconsistent from product to product, and a number of appellate cases seem not to follow an analytical framework that makes sense. This makes things difficult for the trial courts, for litigants and for many companies who require more consistency before they will do more business in California. I would like to see the California Supreme Court take up some of these issues to clean up the law and provide better direction to the lower courts.

Q: What is an important issue or case relevant to your practice area and why?

A: Federal preemption is a threshold issue in some of the commercial cases I try. On Valentine's Day this year, the Court of Appeals for the First District of Texas in Houston issued an opinion in an appeal I argued, holding that the fraud and punitive damages claims that had been asserted against our client should not have reached the jury because they are preempted by the Airline Deregulation Act and the Federal Aviation Administration Authorization Act. See *DHL Express (USA) v. Falcon Express*. This decision is the only appellate case so far that has tackled these issues head-on.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: I have been lucky enough to work with many fine trial lawyers. One of the best is George Haley out of Salt Lake City [at Holland & Hart LLP]. George is one of the best strategists on the planet. George also earns the trust of the judges and jurors he presents to by being open and honest, and he is the kind of person who understands a trial is a fight.

Kevin Van Wart from Chicago [at Kirkland & Ellis LLP] is also superb. What sticks out in my mind is Kevin's ability to master scientific literature and then pick apart an opposing expert before the expert knew what happened. Kevin has a terrific presentation style, and he is a great person to try a case with. You want George and Kevin with you in the foxhole.

Q: What is a mistake you made early in your career and what did you learn from it?

A: When I was a first year lawyer, a senior partner said he wanted to talk about a brief I had written. I had worked really hard putting that brief together, and I was excited to go into his office to hear that my brief was the best brief he'd ever read. When I sat down, he looked at me and asked two questions: "What are you doing in this brief? What's the point?" While I was stammering, he explained that there was a lot of detailed facts and my discussion of the law seemed fine, but he could not tell what I really wanted or why I should get it.

His point was that I should be more theme-driven and talk about only the important facts and cases — I did not need to go into minutia that did not move the ball. To this day, as I prepare for doing something in trial, I ask myself those same questions to help shed what's unimportant and to focus on the themes and the evidence that I think will win the case.

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