Law360, New York (June 7, 2011) -- Jack Thomas is a partner in Crowell & Moring LLP's New York office. He is a seasoned litigator and represents clients in a variety of complex commercial matters at both the trial and appellate level, including international commercial disputes, insurance litigation, shareholder litigation, disputes arising from financing transactions and mergers and acquisitions, and class actions.

Thomas has experience handling disputes in the U.S., including disputes with parallel proceedings abroad, and has represented a broad spectrum of clients, including London market insurers, financial institutions and other companies, both domestic and foreign, many of which are listed as Fortune 500 companies.

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

A: I've had the good fortune to work on many challenging cases. (There is a reason many commercial litigators refer to their cases as "complex" commercial disputes). The cases have run the gambit from a jury trial in a securities case I took over — after liability had been found in an earlier trial — where the only issue presented to the jury was how much my client would have to pay (which is not a fun or easy position to be in), to my most recent jury trial where we had to make interesting (and understandable) a highly complex and document-intensive insurance coverage dispute involving the decommissioning of a nuclear plant in Maine, layered with underlying and inflammatory allegations of improprieties in the construction of a petrochemical plant in Indonesia. It was really like two trials in one, only with one jury.

However, I would say the most challenging case — really cases — I have had were the insurance-backed film-financing cases I worked on for several years. The cases were fascinating and just plain fun — they involved the motion picture industry in Hollywood and financing for motion pictures secured in part by complicated insurance products purchased in the London market.

The cases were a litigator's dream, as they involved scores of interesting depositions, both here and abroad, dispositive motions, jury and bench trials, and appeals. But what made them so challenging was that the cases took place simultaneously in two jurisdictions — in the U.K. and New York. Because the cases involved essentially the exact same legal issues, facts and players, the challenging wrinkle was working side-by-side with U.K. counsel to make sure consistent themes and objectives worked their way through similar but different legal systems applying similar but different substantive law.

Q: Describe your trial preparation routine.

A: From a nuts and bolts perspective, the answer is organization and preparation, preparation and preparation. I find it essential to map out each and every pretrial task, right down to the most mundane, sort out who is doing what, and then set up a critical path to make sure all that needs to get done, gets done, gets done well and gets done on time. By way of example, not only do I prepare all written materials in advance — e.g., witness outlines, bench briefs, jury instructions, etc. — but I want to know who is responsible for all the little, but no less critical, logistical tasks, like organizing exhibits and getting them to and from the courtroom on time.

Unfortunately, trial preparation requires a fair amount of micro-management. Of course, even with that level or preparation, I find that you do need to keep your sneakers loose, as no matter how much you prepare, some things don't go according to plan and the unexpected is bound to occur. This makes the ability to keep calm and adapt critical. Depending on the nature of the case and budgetary issues, mock trials can be quite valuable as well.

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

A: I have found that you need to be on your toes with all judges, and there are just so many great ones in New York. Sure, some are more low key and less outwardly exacting than others, but you had better know your case and issues with any judge. Justice Charles Ramos of the Commercial Division in New York Supreme is smart, tough and intolerant of ill-prepared lawyers.

But if I have to pick one judge who stands out, and probably most any litigator in New York will appreciate why I pick this judge; it is Justice Ira Gammerman, who only recently retired from the bench. You simply could not do anything in his courtroom without being on your toes.

He knew your objections before you stood up (sometimes even before you thought to stand up); he would tolerate no discussion of or witness examination about anything that did not go to the core of the issue before him or for a particular witness; and there was never any doubt at any time who was the smartest person in the courtroom or who was in charge. Having said that, appearing before him — and better yet, trying a case in his courtroom — was exhilarating.

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

A: This is an easy one. The litigator I would least like to face is my former partner and longtime mentor, John D. Gordan III [of Morgan Lewis & Bockius LLP].

John is an absolutely brilliant legal thinker. He has the ability not only to identify and understand every complex issue in any case, but also to see many steps down the road how those issues might and likely will play out. He also possesses an amazing ability to digest, understand and remember more information than any lawyer I've ever seen. We worked together on many large, complex and document-intensive cases, and in each one he personally undertook to read every piece of paper — with glee I might add — and then maintain a mastery of the facts that would be imposing to any adversary and impressive to any judge or jury. By the way, I also wouldn't want to face my father in a courtroom.

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

A: Certainly one thing I realized early in my career is that many more seasoned lawyers will attempt to bully junior lawyers, which I suppose is most prevalent and easy to try in a deposition. Whenever mentoring junior lawyers or conducting deposition training, I always emphasize that a more junior lawyer simply has to stay his or her ground and not allow an older or more seasoned lawyer to intimidate the less experienced lawyer away from making a point or pursuing a particular line of inquiry.

To the contrary, my lesson here is that a more seasoned lawyer who attempts to intimidate, solely on the basis of age or experience, may be afraid of where the more junior lawyer is going or may not know the facts and issues as well as the junior lawyer. So when this happens, be emboldened not intimidated.