

Q&A With Crowell's Jason Murray

Law360, New York (April 04, 2013, 2:56 PM ET) -- Jason C. Murray is a partner in Crowell & Moring's antitrust group in Los Angeles. He focuses his practice on antitrust litigation, counseling and complex commercial litigation. He has tried or arbitrated a number of matters as first or second chair and has successfully argued before the Ninth Circuit and the California Court of Appeal. He also routinely counsels clients on antitrust compliance issues and represents them before the U.S. Department of Justice and Federal Trade Commission in competition matters. He has handled a wide variety of litigation and antitrust counseling for companies in the entertainment, health care, technology and telecommunications areas, among others.

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

A: A current matter dealing with an antitrust multidistrict litigation, has been my most challenging case in years. First, its sheer size and the number of moving parts have made it a logistical challenge to say the least. We represent eight large U.S. companies pursuing direct actions for damages, and we are liaison counsel for many more. Until very recently, there were also direct and indirect class actions, state attorney general actions, and DOJ criminal cases all pending, and there are still multiple tracks of direct action cases. The dozen or so defendants are all very ably represented, some by multiple law firms — just keeping up with the case filings, court appearances and, toughest of all, the hundreds of emails a day was and is a serious challenge.

Second, the case has also posed a number of novel and difficult legal issues that have had to be addressed by the parties, the district court and the Ninth Circuit. At one point recently, for example, I believe we were responding to some 15 motions for summary judgment, basically simultaneously. There have been multiple criminal trials so far, one civil trial on behalf of direct purchasers, and my partners and I are preparing for the first of our clients' trials currently set for June. It's more fun than a barrel full of monkeys!

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

A: I continue to believe there should be a more efficient way to resolve huge cartel cases where there is extensive evidence of guilt (particularly guilty pleas or convictions). The vast majority of these types of cases settle, but usually not for many years, and not until after all sides have expended millions of dollars in attorneys fees, and gobbled up a tremendous amount of judicial resources. There has to be a way to streamline this process to the benefit of all interested parties, particularly the companies involved on every side of the action.

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

A: A key issue that continues to evolve in my practice area is how to deal with the extraterritorial application of U.S. antitrust law in the modern, global business environment. Many U.S. companies operate not just within our borders but all across the world, often through foreign subsidiaries, affiliates or joint ventures. Similarly, many foreign companies have substantial U.S. operations, or the U.S. may be their largest and most important export market. Unraveling the global supply chains and corporate footprints, and figuring out when U.S. antitrust laws should apply to conduct whose impact may span the globe is a difficult but critical issue.

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

A: When I first started practicing, I was lucky enough to work on a couple of cases with Bob Cooper, who was then a senior partner at Gibson Dunn & Crutcher LLP, and one of the preeminent antitrust trial lawyers in the country. Watching Bob and his very talented team, I learned the critical importance of storytelling and choosing a few, simple, compelling themes, particularly in very complex cases, that guide your fact development and trial strategy. I learned that you need to go through that exercise before discovery even begins, and always be looking forward to see whether what you are doing right now in the case will help or hurt those themes at trial. Bob is also a really nice guy to work with and very calm under fire, proving you don't have to be a tyrant to run a massive, difficult case.

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

A: This may sound a little silly, but it has stuck with me for almost 20 years. My first year of practice, I was making a court appearance in what was then the Complex Case Department in Los Angeles Superior Court. I drove in early to continue preparing and managed to leave the jacket to my suit behind. With no time to get back home and still get to court, I scoured the other offices on my floor and found that one of the secretaries had left a women's jacket (at least a couple of sizes too small and pretty clearly not meant to be worn with a men's suit) on her chair. Desperate, I wore it to court and made the appearance. As I sat back down in the audience, there next to me was a senior partner from my firm who was appearing on another case. He took one look at my jacket and said, "Murray — are we not paying you enough?" Every day since, there has been a suit, a clean shirt and a tie hanging in my office, ready to report for duty.

The opinions expressed are those of the author and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

All Content © 2003-2013, Portfolio Media, Inc.