

Q&A With Duane Morris' Phil Matthews



Law360, New York (March 29, 2013, 11:24 AM ET) -- Phil Matthews counsels clients in complex insurance matters at Duane Morris LLP. His work relates to underlying litigation and claims handling, to settlement and mediation of underlying litigation and coverage disputes, to coverage advice, to handling large coverage litigation, trials and appeals and counseling with respect to bankruptcy and coverage issues pertaining to mass torts.

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

A: Any case where the answers are not readily apparent. A couple come to mind. Legally, the Manville Coverage Litigation and Shell Rocky Mountain Arsenal Coverage Dispute with Shell were most challenging since there was a dearth of law about dozens of policy provisions which were in dispute. Unearthing the history of 30 years of placements for major Fortune 50 companies with their insurers and presenting arguments based upon the meaning of contract provisions where billions of dollars were at stake and convincing the court and your opponents to accept your arguments on a completely clean slate was an exhilarating, rewarding experience where both sides were passionate about their positions.

Logistically, both the Texaco and Exxon Environmental Litigation were daunting since they involved thousands of sites where long-term pollution allegedly occurred over decades. The number of witnesses and documents were measured in the hundreds of persons and tens of millions of pages, respectively.

Organizing a defense group, negotiating a resolution of discovery issues with capable opponents (and largely without any court intervention), managing that massive set of evidence and distilling it to its essence in a presentable way for a court of law was perhaps the most challenging logistical experience of my legal career.

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

A: Medicare law as it impacts resolution of mass tort cases. I find the Medicare Secondary Payer legislation and positions taken by various parties in complying with it very troublesome. The government has been behind giving meaningful guidance to the parties in mass tort cases, and it is complicating resolution of disputes. There should be an easier way to cut through the red tape here and devise an easier way to address Medicare issues.

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

A: Without a doubt, court funding is a crucial issue. While the Great Recession has affected a number of states, being from California, I have seen the continued cutbacks of court staff and funding. These affect the important right of equal access to the courts for our citizens. The judicial branch was designed by our founders as an important arm of government and is critical to the protection of our liberties and the resolution of disputes in a civilized society.

The cuts facing state courts like California border on denying that equal access to courts and with it, the independence of one of our most sacred institutions. It is affecting all, including those who have complex disputes involving mass torts and insurance.

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

A: I could name a few of my opponents by name, but there are three who come to mind immediately. They are John Heintz, the leader of Dickstein Shapiro's insurance coverage group, and Larry Hobel and Don Brown of Covington & Burling.

They all have two very important qualities: first, candor to get to the heart of the matter to enable the most efficient resolution of the dispute; second, engaging in settlement discussions early on and often, so both sides communicate about the strength and value of their respective cases. While there may be a lot of disagreement about the issues and the settlement, these two important qualities, candor and willingness to engage on settlement, enhance communication and serve clients of all sides well to get an efficient, early resolution of a case.

To name just one example, I had the privilege of working with John Heintz in one case involving environmental and toxic torts claims related to a Fortune 50 company. John and I resolved thousands of the claims inside of two years without any environmental coverage litigation pending.

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

A: Communicating, prioritizing and getting to the heart of the matter. As a young lawyer, I tended to address some issues and get to others when I could. I realized sometimes that did not work out if a client wanted to know about an issue much earlier, or an opponent needed to resolve a concern with his client. Getting to the core of the matter counts most to courts and clients.

As a lawyer, you are constantly bombarded with information, documents, phone calls, meetings, etc. Interacting effectively with the clients, the court, your opponents, co-defendants and colleagues is a must. That means communicating in a timely manner. I realized early on that staying the extra time at night and drafting a letter or waking up early the next morning and making an early call about the status of a case is critical to keep things moving forward positively.

In the age of email and significant travel, learning triage and getting the right message to the right parties at the right time is even more critical. But putting your finger on the burning issue and pushing it forward to resolution is what the courts and clients want most.

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