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Q&A With Duane Morris' Rudolph J. Di Massa Jr.

Law360, New York (June 26, 2009) -- Rudolph J. Di Massa Jr. is a partner in the Philadelphia office of Duane Morris LLP and chair of the firm's business reorganization and financial restructuring practice group. He concentrates his practice in the areas of commercial litigation and creditors' rights.

Di Massa is a member of the American Bankruptcy Institute, the American Bar Association and its business law section, the Commercial Law League of America, the Pennsylvania Bar Association and the business law section of the Philadelphia Bar Association.

Q: What is the most challenging case you've worked on, and why?

A: The confluence of two cases that hit during my first year at Duane Morris: Braniff Airlines and Brooks Shoe.

We represented secured creditors in one and the debtor in the other (I joined the firm thinking that I had been placed in the litigation group).

The Bankruptcy Code was still a young statute at the time, and much of the firm's work in these cases took us into untested waters.

Thankfully, with David T. Sykes as a mentor, I survived a tough initiation into the world of bankruptcy.

Q: What accomplishments as an attorney are you most proud of?

A: A case that jumps immediately to mind is the insolvency of Reliance Insurance Co.

Duane Morris' clients were policyholders that had been sued by the liquidator under the Pennsylvania Insurance Insolvency Act.

This was the first time in Pennsylvania that policyholders had been sued, under the preference provisions of the statute, for payments they had received to cover insured losses.

The case involved a mix of state law, statutory and common law, and bankruptcy law. There was very little case law from any state that assisted either side, so we were left to craft our arguments without much precedential guidance.

The case was argued before the Pennsylvania Supreme Court last year, and we achieved a total victory. I was fortunate to join forces with some terrific lawyers whose clients were in the same boat, and we worked very well together to obtain this favorable result.

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

A: The absolute priority rule is currently topical, and some recent cases highlight the rigidity of Section 1129 of the code.

Bankruptcy judges are often torn between the need to avoid legislating and the desire to confirm a plan that a majority of the parties-in-interest deems to be the most desirable (or least objectionable) alternative available.

I'd be in favor of some revision to Section 1129 that gives judges more latitude when it comes to approving plans and settlements that contain "give ups" by senior creditors.

In the same vein, the code seems, in some respects, to be ill-equipped to accommodate the mega-cases that are filing in today's economic environment.

Congress should take a close look at the code and determine whether certain sections like 1129(b)(2) need to be revised.

Q: Where do you see the next wave of cases in your practice area coming from?

A: Sectors that are most susceptible to the decrease in consumer demand: media, auto, travel, retail and gaming.

Real estate will continue to suffer as a consequence, as there will be softer demand for office, retail and industrial space.

Q: Outside your own firm, name one lawyer who's impressed you and tell us why.

A: My dad, Rudolph Sr. He immigrated to the United States from Italy as a young teen. He went to Penn Law School on the GI Bill, and was a sole practitioner until he passed away in 2008.

He was the first to teach me about the right way to deal with all counsel, including adversaries. I am so grateful to have had him as my first mentor.

Q: What advice would you give to a young lawyer interested in getting into your practice area?

A: Take business and accounting courses. You'll be glad that you did. As importantly, understand from your first day as a bankruptcy attorney that you will be swimming in a relatively small pond, no matter where you practice.

Your reputation and your own integrity will become known in a short time. Practice zealously, but always treat others with the courtesy, dignity and respect with which you would expect to be treated.

As a consequence, you will not only enjoy your practice, but you will be grateful to know that you have developed that kind of name for yourself and for your firm.