

Q&A With Sheppard Mullin's Anna McLean

Law360, New York (July 6, 2011) -- Anna S. McLean is a partner in the San Francisco office of Sheppard Mullin Richter & Hampton LLP. Her expertise is in the defense of complex class actions. She represents financial institutions, insurance companies, and other providers of consumer products and services with regard to alleged unfair business practices, consumer disclosure issues, and mortgage and auto lending claims.

Recently, McLean has litigated issues at the vanguard of California law regarding the enforcement of consumer arbitration clauses. She has also represented major manufacturers in the tobacco, building products and chemicals industries in multistate class actions and public entity cost-recovery litigation.

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

A: Before the Class Action Fairness Act, I worked on a case in one of the "hellhole" jurisdictions that led to the act. Local lawyers had copied the papers of a national plaintiff class action firm and moved for class certification without having done any work. There was already a nationwide class pending in another state.

The judge refused to listen to our presentation. We had flown in experts and had a sophisticated (for the time) audio-visual presentation in opposition to class certification. He called the plaintiff counsel "our boys." It was very demoralizing for our team because we realized there was nothing we could do that would affect the outcome. He certified a nationwide class. Thankfully, we ultimately got a very good settlement for the client, and CAFA has now eliminated that kind of home-towning.

Q: Describe your trial preparation routine.

A: I do class action defense principally, so our cases rarely go to trial. The risk is too great. Instead, the ball game revolves around summary judgment motions and the opposition to class certification. In addition, since *Twombly* and *Iqbal*, we are winning more motions to dismiss. I am ruthless about motion practice. We don't view them as milestones on the way to trial. Motions are how we win our cases.

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

A: Judge Steven Brick in Alameda County, Calif. He just issued an 18-page tentative ruling in a matter. He works incredibly hard and reads everything.

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

A: I'm always impressed by Elizabeth Cabraser [of Lief Cabraser Heimann & Bernstein LLP]. As one of the few women in a mostly all-male crowd, and an intellectual among bombastic "trial lawyer" types, she stands out.

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

A: I don't know that it arose out of a specific mistake, but I have learned to be more proactive about heading off potential problems with the clients I represent. As litigators, we tend to get hired when there is already a lawsuit, or, at a minimum, the treat of one.

You focus on that particular issue, and if there is a way to improve the client's business practices in that regard, you may assist in doing so alongside your defense of the lawsuit. Now I'm more attuned to issue spotting with regard to the sorts of minor consumer complaints that can become class actions if not dealt with properly.

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