

Q&A With Sheppard Mullin's Andre Cronthall

Law360, New York (April 10, 2013, 12:27 PM ET) -- Andre Cronthall of Sheppard Mullin Richter & Hampton LLP is a trial lawyer specializing in complex commercial litigation and has experience as lead counsel in civil jury trials involving business disputes. He has litigated matters from inception through appeal, with expertise in insurance-related litigation, products liability, commercial contract disputes and professional liability. Cronthall served two terms on the board of the Association of Business Trial Lawyers and also serves on the board of Public Counsel.

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

A: My partner Scott Sveslosky and I handled a complex marine insurance coverage case that required extensive travel to several countries that are not signatories to the Hague Convention. It was a supreme challenge to arrange and take the depositions of dozens of third-party and party-affiliated witnesses located halfway around the globe, especially since our adversaries moved to quash all depositions that were potentially adverse.

On two occasions, motions to quash and thereby prevent key depositions were brought on the eve of our departure overseas, which created uniquely challenging legal and practical dilemmas. For example, one of the depositions was to occur at an Indonesian prison. After numerous discovery motions and appellate proceedings, we prevailed on these issues and were permitted to use all of the testimony we obtained overseas.

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

A: For complex litigation and for business disputes, generally, I believe it is important to ensure that the court system is properly funded so that we do not see a return to five-year backlogs and repeated continuances of trial dates through no fault of the parties that we saw in Southern California back in the 1980s and early 1990s.

When judges are stretched too thin, the litigants do not receive the attention they deserve, and the costs of litigation skyrocket. Recent courthouse closures in Los Angeles County and other counties throughout California, reductions in staffing and increases in caseloads will prejudice litigants in complex cases. The judicial branch must be treated as a co-equal branch of government.

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

A: The “genuine dispute doctrine” as discussed in cases such as *Wilson v. 21st Century Insurance Co.*, 42 Cal. 4th 713 (2007). The doctrine is and should be a valuable tool to limit “bad faith” claims to those situations where the insurer has indeed acted unreasonably or without proper cause. The doctrine, properly applied, should permit insurers to obtain summary judgment or summary adjudication in those cases where the insurer’s denial of coverage was based on a genuine disagreement or lack of clarity concerning a legal or factual point.

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

A: Earl Rogers. Rogers practiced in the early part of the last century and was an innovator and a lawyer’s lawyer. For example, he once represented Clarence Darrow when Darrow was charged with jury tampering in the aftermath of Darrow’s representation of the defendants in the dynamiting of the Los Angeles Times Building. With Rogers as lead trial counsel, Darrow was acquitted. When he was indicted for attempting to bribe a second juror, Darrow chose to represent himself without Rogers, and the result was a hung jury (leaning toward conviction) and an eventual agreement by Darrow never to practice in California.

Rogers’s success (183 acquittals, 20 convictions) resulted from a scientific method, Sherlock Holmes-like attention to detail and theatrical flair. Rogers once used a victim’s intestines as an exhibit to prove the defendant could not have fired the fatal shot based on the trajectory of the bullet. He once convinced a jury that mining magnate Griffith J. Griffith (who donated 4,000 acres for the park bearing his name) was not guilty of attempted murder after Griffith shot his wife in the head at almost point-blank range. His daughter told a story of an elderly Chinese man who visited Rogers’ office and asked what he charged for defense of murder. The man paid the fee in cash and started to leave the office. When Rogers asked him where he was going, the man responded “I go kill the man now. Then I be back.”

Unfortunately, Rogers died after a long bout with alcoholism at the age of 52. He inspired and mentored numerous others, including his protégé, Jerry Giesler, who became a legend in his own right representing Hollywood stars such as Charlie Chaplin, Errol Flynn, Lana Turner and Robert Mitchum and gangster Bugsy Siegel.

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

A: Perhaps being a bit too formal in dealing with opposing counsel. As a young lawyer, I was concerned with being perceived as inexperienced and was a bit too wary of opposing counsel. Although it’s important to always be professional and careful in dealing with adverse counsel, I learned that being congenial and courteous not only can make the practice of law more enjoyable, [but also,] it can pay dividends for clients.

Establishing a good rapport with opposing counsel can save clients money, facilitate early settlements and prevent costly discovery battles. A 10-minute discussion over coffee may end up saving \$100,000 in litigation costs.

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