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Q&A With Sheppard Mullin's Andre Cronthall

Law360, New York (July 29, 2009) -- Andre J. Cronthall is a partner in Sheppard Mullin Richter & Hampton LLP's business trial practice group in the firm's Los Angeles office, and is a leader of the firm's insurance practice group.

Cronthall handles complex business litigation, with a focus on insurance matters, has tried numerous cases in the past 25 years and is a member of the American Board of Trial Advocates and the Association of Business Trial Lawyers, among other organizations.

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

A: I had to "prove a negative" in a jury trial a few years ago; that is, I had to prove that an armed robbery from a jewelry wholesaler did not occur even though building video cameras depicted the "robber" entering and leaving the premises, and the owner was found by maintenance personnel and police officers bound and gagged in his office.

It was a well-staged robbery, but proving this to a jury required a painstaking, "Columbo"-esque dissection of the "crime" and the use of a number of forensic experts. The principal of the insured wholesaler of course argued that my client's denial of the insurance claim was in bad faith and warranted punitive damages.

Fortunately, we demonstrated to the jury's satisfaction that the robbery indeed was staged. The local press referred to the case as having the aspects of a film noir detective story. It was a fun case, but very challenging.

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

A: Winning trials like the one discussed above provides the most satisfaction for me because I believe trying a case before a jury is the ultimate test for a litigator.

It also is the ultimate compliment and sign of trust from a client to be given the responsibility to present the client's case to a jury when millions of dollars potentially are on the line.

In a recent case the plaintiffs' pretrial demand was in the low eight figures, and we obtained a defense verdict after a lengthy trial. I'm as proud of that verdict as any other.

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

A: For insurance cases, especially in California, there needs to be renewed vigilance to curb abuses of the class action litigation device, especially cases brought under Business and Professions Code Section 17200 and similar statutes.

In California, Proposition 64 was a positive step in this direction, but the recent Tobacco II Cases decision is already being interpreted by certain lawyers as abrogating Proposition 64's requirement that class members have standing to seek relief under the Unfair Competition Law. Courts and the Legislature should not permit a return to the "shakedown" lawsuits of years past.

Another area that warrants attention is the need to make it easier for the courts to weed out unmeritorious cases earlier in the litigation process. In many, if not most, insurance cases, the insurance contract is a focal point of the case; yet often the all-important policy is not even attached to the complaint.

It would benefit everyone involved to ensure that the policy is always attached to the pleading so that in appropriate cases courts may construe the terms at the outset, get a better handle on the issues raised (or not raised) by the contract and possibly avoid the need to litigate through summary judgment.

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

A: Unfortunately, based in part on the Tobacco II Cases opinion, there likely will be an uptick in class action filings.

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

A: Justice Antonin Scalia. I enjoy reading his opinions, but what also impresses me is the way in which he can handle a large room full of lawyers attempting to cross-examine him concerning points of law or matters of judicial philosophy.

After more than 20 years on the high court he's still willing to engage in "verbal combat" with all comers, and I've not seen anyone get the better of him.

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

A: I would recommend soul-searching to determine whether the lawyer will be more comfortable representing insurers or policyholders, and then doing the homework necessary to identify the most reputable firm that will provide solid training and an opportunity to get involved in handling cases on a day to day basis.

A sophisticated insurance practice will provide a wide variety of fact patterns and legal issues to stimulate the lawyer intellectually and cause the lawyer to look forward to getting to the office.