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Q&A With Hunton & Williams' David Craig Landin

David Craig Landin is a partner with Hunton & Williams LLP in the firm's Richmond, Va., office and chair of the firm's product liability practice. He focuses his litigation practice on product liability, toxic tort, environmental liability and mass tort litigation. A past president of the Virginia Bar Association, the Virginia Association of Defense Attorneys and the Virginia Law Foundation, Landin has been named to The Best Lawyers in America and is a fellow with The Virginia Law Foundation.

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

A: There have been many challenging cases through my career, each of them for different reasons. However, if I were to pick a couple of cases, one was the direct result of a criminal proceeding brought by then New York Attorney General Eliot Spitzer against the insurance broker Marsh & McLennan.

This one case spawned numerous similar prosecutions in other states against smaller national insurance brokers, such as Richmond, Va.-based HRH, which I defended. The case in federal court claimed HRH defrauded policyholders, and was made even more complex by the fact that HRH is a public company whose shareholders were concerned about the effect on stock values. We ultimately secured a dismissal for HRH.

Another complex case involved a Fortune 50 petroleum company which sold naturally occurring radioactive material (NORM) — contaminated scrap steel from oil fields and fertilizer processing plants to a scrap dealer, which in turn sold it to the Chinese steel industry without disclosing that the steel had NORM levels of radioactivity.

The Chinese government impounded the first shipment and refused to let the second shipment be off-loaded by the cargo vessel carrying it. The case involved claims by the shipping company and by the scrap dealer.

After depositions of Chinese government officials in Hong Kong confirmed that the scrap dealer had failed to disclose the presence of NORM contamination to the Chinese, the case settled for less than the cost of trial.

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

A: It is that I have had the good fortune to represent many interesting clients in cases that challenge me intellectually, and which present broad issues that can have a significant impact on an industry. I've also enjoyed expanding the geographic scope of my work, dealing with cases in new jurisdictions.

I'm also grateful for the luck that I have had in continuing to move forward in this practice area. When I started my career, a trial was three days long and mostly local in scope. Now, I am national counsel for Alcoa on all types of litigation.

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

A: There is an intense effort to undo the significant reform that occurred in the past three to five years. In Texas, for example, there is a bill pending to reverse the requirements established by the Texas Supreme Court for the amount of proof needed from plaintiffs in order to have a case proceed.

Moreover, even when there are good laws on the books or good judicial opinions, too many courts still fail to apply those laws to stop cases at an early stage before everyone has spent too much money. For example, electronic discovery, or E-discovery, in addition to discovery of paper materials, adds multiple thousands and sometimes millions of dollars to cases.

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

A: There seems to be a clear push to reinvigorate asbestos litigation through junk science by expanding the definition of what constitutes an asbestos-like disease, by broadening the mineralogical definition of what constitutes asbestos and by minimizing the dose that is required to cause disease. This is true for other chemical claims generally.

I also foresee an increase in labor and employment claims stemming from the current economic downturn and reductions in work force. These will include workers' compensation claims and class action suits involving retaliation or whistle-blowing. These cases will grow as people who lose their jobs seek a remedy.

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

A: René Tatro, lead partner at a small firm in Los Angeles called Tatro Tekosky Sadwick LLP. I've worked with Mr. Tatro as co-counsel on some of my cases for Alcoa. He has a very strong sense of strategic judgment about cases, good analytical skills, and is a very good, stand-up trial lawyer. He's tried a lot of cases, and was involved on the defense side in the Erin Brockovich case.

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

A: Clients are always interested in the amount of trial experience that an attorney has had, and this begins at the associate level. This means pushing higher level work down to associates whenever possible as they need to develop experience in making judgments about what needs to be done (and, equally important, not done) and how to do it.

At the same time, there are limited opportunities for associates to gain trial experience, because very few cases actually go to trial and, when they do, the clients want the lead attorney handling the majority of the case.

So, it's important for new lawyers to figure out other ways to get on their feet in front of judges and juries. They should take every opportunity to face risk so that they understand the process and choices in taking something all the way. The result is a sense of confidence and a reality of experience that allows a young lawyer to grow to become a trial lawyer.