

Q&A With Patterson Belknap's Daniel Ruzumna

Law360, New York (December 13, 2010) -- Daniel S. Ruzumna is a partner in Patterson Belknap Webb & Tyler LLP's New York office and a leader in the firm's white collar defense and investigations group. Ruzumna represents corporations and individuals in criminal and regulatory investigations involving alleged violations of the securities laws, antitrust laws, tax laws and the Foreign Corrupt Practices Act. He also conducts investigations on behalf of a sports league, financial institutions, and media and entertainment clients.

Before joining Patterson Belknap, Ruzumna spent six years at the U.S. Attorney's Office for the Southern District of New York, where he last served as acting chief of the major crimes unit. As a federal prosecutor, Ruzumna investigated and prosecuted white collar criminal cases and handled civil and criminal asset forfeiture actions.



Daniel Ruzumna

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

A: One of the most challenging cases that I've worked on, at least in the recent years, has been a forfeiture action brought by the Department of Justice against a not-for-profit foundation alleged to have performed unlawful services on behalf of a disfavored foreign government and, thus, violated the International Emergency Economic Powers Act. Litigating forfeiture claims is always difficult because the law is heavily weighted to the government's advantage, but when combined with allegations that a client has ties to a politically unpopular government, defending against a forfeiture action becomes even more difficult.

The case against our client began with the forfeiture complaint and a contemporaneous seizure order, which either froze or resulted in the seizure of essentially all of our client's assets. Through the appointment of a court-approved monitor, we have allowed our client to continue its operations during the course of the litigation and to mount a defense. We have filed a motion to dismiss the action and feel that we have a strong chance of success. But even getting the client to this stage of the litigation has been challenging.

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

A: I am very proud of several trial victories obtained when I was a federal prosecutor. But having been out of the government for several years and working closely with many clients, I find that obtaining a favorable disposition for a client charged with a crime, or threatened with regulatory action, can be even more rewarding. As a defense lawyer, I am proud of other accomplishments, including assisting clients who, after a government investigation, were not charged and did not become the subject of a regulatory action. And, of course, it is always gratifying to assist clients who prevail after an action has been filed.

A couple of years ago, I represented a medium-sized corporation charged with grand larceny and a variety of other offenses by the Manhattan District Attorney's Office. The alleged victim was a state agency, and the agency's office of inspector general was very aggressive in all aspects of the investigation and prosecution. We repeatedly tried to resolve the case with the district attorney's office to no avail. This was a case that we should have won, and thankfully we did. We argued in pretrial motions that the district attorney's office was trying to criminalize what was, at most, a breach of contract. After extensive briefing, the court agreed and dismissed most of the charges. The victory was short-lived, however, because the district attorney's office re-presented the case to the grand jury. But we moved to dismiss again, and after lengthy argument and further briefing, the court dismissed all charges. The prosecution took an enormous toll on the client, but the case ended without a conviction and with the client's reputation intact.

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

A: There are several areas of the criminal law that are in need of serious reform, but the rules regarding discovery in criminal cases are near the top of my list. We recently represented a client being investigated by the Department of Justice after having been prosecuted (and acquitted) in a European country for the same allegedly criminal conduct under investigation. The volume and types of evidence produced to the defense by the foreign authorities before trial far surpassed what U.S. prosecutors would be required to provide in discovery in a similar case. Imposing similar obligations on U.S. prosecutors would substantially even the playing field when preparing for trial, and even when discussing with prosecutors why charges should not be brought.

Though all criminal defense lawyers attempt to learn as much as possible about the evidence against their clients, the most relevant evidence, including witnesses' interview notes and prior statements, often remains hidden from the defense until trial or shortly before trial when Jencks Act materials are turned over. Because the risks of going to trial are so great, many defendants make the decision to plead guilty knowing very little about the government's case, and defense counsel's ability to offer sound advice is limited by his or her lack of knowledge as to the nature and quality of the government's evidence. The discovery process should be reformed to provide criminal defendants greater access to the government's evidence and to require the production of impeachment materials at an earlier stage of the proceedings.

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

A: The next wave of white collar cases will almost undoubtedly involve insider trading allegations and will likely focus on hedge funds and research firms that serviced these funds. In a speech given to New York City Bar Association in October of this year, U.S. Attorney Preet Bharara of the Southern District of New York warned that the Department of Justice and the federal agencies were trained on pursuing improper leaks and use of material nonpublic information. Based on published reports of government activity and private conversations with other defense lawyers, U.S. Attorney Bharara's statements already have proved to be anything but idle threats. It is not clear whether the recently disclosed investigations and prosecutions will be on the same scale as the Galleon prosecution, but the government's actions thus far have prompted a good deal of conversation in the defense bar and a lot of anxiety on Wall Street.

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

A: This may be cheating, but my former partner, U.S. District Judge Paul Gardephe of the Southern District of New York, has always impressed me. In private practice, he invested himself completely in his cases, and his clients relied on his counsel for their most important decisions. Clients knew that Judge Gardephe's advice was always informed by a great deal of thought, research and creativity, and was honest even if it was hard to accept. I have tried to conduct my practice in much the same way, advocating aggressively for our clients, trying to be creative in devising legal strategy, and always being honest about what a client can and should expect.

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

A: The advice that I give young lawyers interested in practicing in the white collar defense or investigations area is that they should focus on developing their general litigation and advocacy skills first, and not limit themselves to any one type of case, be it white collar or otherwise. White collar cases are exciting and offer great learning experiences for young lawyers. But if we are doing our jobs well, most of our clients will not be charged with an offense or become a defendant in an enforcement action.

The opportunities to conduct a direct examination, to cross examine a witness or even to conduct a deposition simply do not arise with enough frequency to develop all of the skills a successful white collar defense lawyer needs. Litigating civil cases, while often less fun, can offer valuable learning experiences even for budding criminal defense lawyers. Being a good white collar practitioner starts with being a good lawyer.