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Q&A With Early Sullivan's Bryan Sullivan

Law360, New York (September 28, 2011, 5:17 PM ET) -- Bryan Sullivan is a founding partner of Early Sullivan Wright Gizer & McRae LLP. He has been involved in cases with a wide range of legal issues, with a particular focus on intellectual property, sports law and entertainment law. He represents entertainment and sports industry clients, such as Miley Cyrus, William Morris Endeavor and Roadside Attractions. He was also a writer's apprentice on the television show "JAG" and wrote the English screenplay for the Bollywood hit "Blue."

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

A: As a junior associate, I represented Bangkok-based Bank of Asia against Red Chamber. Bank of Asia sought to collect on a series of bills of exchange that were used to secure payment for shrimp purchased by Red Chamber from a third-party shrimp seller. This was the first case I handled as a lead associate, and the partner thought it was very straightforward — Red Chamber did not pay money owed to Bank of Asia on the bills of exchange. As we learned more about the case, we discovered that Red Chamber appeared to be the victim of an apparent fraud by the third-party shrimp seller, which became a key defense in the case.

The fraud was very difficult to uncover because we did not understand Bank of Asia's record-keeping, or the true nature of the transaction. Once we realized the case was far more complicated than we first thought, we went through every document in the case, and, in the process, one of Bank of Asia's employees made a summary of the bill of exchange transactions that became our primary exhibit in our motion for summary judgment. The court granted that motion and awarded over $7 million in damages. As a result of working on this case, I now meet with my clients as early as possible to learn everything about the case and the client's business. This leads to more effective and efficient representation.

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

A: The focus on the billable hour. Associates at big firms are taught to bill every single minute of the day, and their compensation is primarily based on their billable hours. Good associates are not the smartest ones, or those who do the best work; rather, they are the ones who bill the most hours! Sorry, but clients hate it when they are billed a quarter of an hour of time for the drafting of an email they know takes less than two minutes to draft. I have found that not charging a client for very simple and mundane tasks builds incredible goodwill with the client.

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

A: Effects Assocs. Inc. v. Cohen, 908 F. 2d 555, 557 (9th Cir. 1990), which holds that, under 17 U.S.C. § 204, if a copyright holder agrees to transfer ownership to another party, that party must get the copyright holder to sign a piece of paper saying so. This may seem like a simple tenant of law, and most movie studios comply, but many production companies forget to obtain this necessary writing when acquiring copyright rights, thinking that a handshake or understanding is "good enough." Thus, a production company can invest a substantial amount of work to develop a property, and then lose the property because it did not obtain an enforceable transfer of the rights to the copyright.

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

A: Wayne Levine, the general counsel of Lionsgate. I have had the opportunity to work with Wayne on a few Lionsgate matters, and he is incredibly intelligent and savvy. He always clearly defines his goals, and develops strategies to accomplish those goals. Also, he is nice and personable. I thoroughly enjoy working with him.

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

A: When I was a mid-level associate, I represented a successful executive suing his former employer for wrongful termination. When we got hit with a series of discovery requests (oppressive discovery, in my opinion), my client wanted to hit back hard by submitting a lot of discovery and third-party document subpoenas on his former employer. I assumed that my client was well versed in litigation and its cost. I was wrong. While the case quickly settled after discovery was submitted, my client was angry when he got a final bill that contained numerous hours of discovery and third-party subpoena drafting.

He said he thought the discovery requests were "just forms," and that it would take an hour to check the boxes on the form interrogatories, the only set of discovery he knew about. From that point on, I always make it a point to apprise clients of tactical costs (risks) vs. potential outcome (return) when discussing case strategy and tactics. For example, a client might want to depose every potential witness in a case, yet some witnesses have very limited knowledge, and the cost of deposing that witness is not worth the minimal information we might gain.