

Q&A With Seyfarth's Alan Baron

Law360, New York (March 26, 2013, 12:27 PM ET) -- Alan Baron is senior counsel with Seyfarth Shaw LLP in Washington, D.C. He has tried more cases in the United States Senate than any other lawyer, having served as special impeachment counsel to the House of Representatives for the impeachment and removal of four federal judges. He previously served as an assistant United States attorney for Maryland. He has represented corporations and individuals in Foreign Corrupt Practice Act and False Claim Act cases, as well as general commercial litigation.

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

A: This was the defense of L. Patrick Gray, former acting head of the FBI who was indicted for allegedly authorizing the FBI to conduct warrantless break-ins. His co-defendants were Mark Felt ("Deep Throat") and Ed Miller. Gray steadfastly maintained his innocence. The difficult challenge was to prove a negative — that he did not authorize the break-ins. The difficulty was compounded by the notoriety of the case and the fact that Gray was the "big fish" among the defendants.

Our investigation established through numerous witnesses that Gray had never authorized the conduct that was alleged by the government. With Gray's permission, our evidence was turned over to the government to persuade prosecutors of his innocence. Felt and Miller went to trial and were convicted. President Reagan later pardoned them. The government Nolle Prossed the case against Gray because the evidence we developed and turned over established that prosecution was not warranted. It doesn't get better than that.

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

A: In the criminal area, abuses by prosecutors in failing to turn over Brady materials is a serious problem. I testified before Congress about the need for reform in the wake of the Ted Stevens prosecution fiasco. Afterwards, I was approached by several members of Congress who were considering introducing legislation to limit prosecutorial discretion in deciding what materials need to be turned over as Brady. That reform is long overdue.

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

A: Many financial and other institutions have been hit with substantial criminal and civil penalties for various fraudulent activities. The impact of these sanctions falls largely on innocent shareholders. The issue of whether and when individuals acting on behalf of these institutions should be prosecuted needs to be the subject of serious discussion. Corporations act through individuals. When should they be held personally accountable?

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

A: I have to name two attorneys whom I admire and with whom I have worked: John Nields of Covington and Plato Cacheris of Trout Cacheris. Both of them are highly skilled, highly ethical and utterly devoted to the interests of their clients. They are a credit to the profession in every respect and, incidentally, a pleasure to work with.

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

A: While I was an assistant U.S. attorney, one of the cases I was handling was featured on the front page of the New York Times. Virtually simultaneously, (it may have been the same day), another case I was prosecuting was featured in the Wall Street Journal. Naively, I proudly bounded into the U.S. Attorney's Office and showed him both articles. I was mentioned. He was not. He was not amused.

Lessons learned: (1) It is not a good idea to upstage your boss, even unintentionally; (2) I realized I was not cut out to be a politician.

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