

Q&A With Mayer Brown's Lucia Nale

Law360, New York (October 26, 2010) -- Lucia Nale is a litigation partner in Mayer Brown LLP's Chicago office and is co-group leader of the firm's consumer financial services litigation and class action group. Her practice focuses on consumer class action defense and related regulatory compliance advice, with a particular emphasis on the defense of financial institutions in the consumer financial services industry.

Nale represents banks, mortgage lenders and finance companies in matters brought under federal and state consumer protection and unfair trade practices statutes and serves as national consumer class action defense counsel for bank clients.

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

A: By far, the most challenging and dynamic case I have worked on was a lending discrimination class action suit brought against a captive auto finance company. The allegations of the complaint, as well as the characters and tactics involved, were surreal in nature, and opposing counsel's strategy from the outset was to use all means to extract an exorbitant settlement.

To that end, the complaint was loaded with page after page of highly inflammatory and disturbing racial epithets, and the suit was launched in conjunction with an equally aggressive negative media and orchestrated public protesting campaign. Opposing counsel, who was quite capable and well-financed, would repeatedly send us letters strongly encouraging settlement, or risk facing their continued negative media campaign.

Despite such challenges, we tackled the plaintiffs' claims and tactics head on. After nearly two years of hard-fought litigation, we demonstrated that there were no discriminatory lending practices and that the plaintiffs' allegations to the contrary were unsubstantiated. Indeed, in a related case brought contemporaneously by the plaintiffs' prime witness to the purported epithets, the court dismissed the suit due to, among other discovery abuses, the witnesses' apparent destruction of evidence related to that very subject.

In response to yet more aggressive tactics, we succeeded in disqualifying certain counsel in both the class case and the related companion witness case for inappropriate ex-parte contacts with our client. Ultimately, the plaintiffs' lead counsel, the same attorneys who threatened to smear the client's public image early on, lost interest in the suit and the case quickly came to an amicable resolution with newly brought on counsel.

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

A: Successful disposition of any of a number of cases readily comes to mind. More generally, however, I'm particularly proud of the mentoring and leadership role I have been privileged to serve during my 21-year career at Mayer Brown LLP. Together with others in my practice group, we have built a thriving and growing financial services class action defense and related regulatory compliance practice.

Through that practice, and the experiences the work affords to new and developing lawyers, I have watched many young lawyers mature and grow and ultimately build their own careers in the same practice. Even if my only contribution was to give someone an entre into the field, it's particularly rewarding to have someone pick your practice area as the path for their own successful career development.

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

A: While there are certainly exceptions, far too many "consumer" class actions seem to have nothing to do with promoting "consumer" interests, but instead are simply lawyer-driven litigation. That leads to abuse and cases brought for nothing more than attorney pecuniary gain. We lack the proper mechanisms to weed out and dispose of such cases early on and cost-efficiently.

Courts and the federal and state legislatures alike need to devise mechanisms to curb and discourage such abuses. This could be as simple as rules that require that courts rule on dispositive motions before allowing discovery to proceed, to perhaps more aggressive limits on class action fee awards, or possibly even fee shifting statutes that more fairly distribute the risks of frivolous lawyer-driven filings.

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

A: In the consumer credit field, the new Dodd-Frank legislation, and the creation of the new Consumer Financial Protection Bureau, will very likely give rise to a new wave of consumer credit litigation and related enforcement proceedings, both from the bureau and from state attorney generals. Put simply, the Consumer Financial Protection Measures, particularly Titles X and XIV of the legislation, provide multiple layers of uncertainty and complexity to a number of important regulatory compliance and legal issues, and that alone will provide ample ammunition for new consumer credit suits and prolonged, complicated litigation and enforcement proceedings.

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

A: I have met a number of impressive lawyers in my career, but one who stands out in my mind the most is Don Hubert, who passed away suddenly in late 2006. Don was a prominent Chicago lawyer who was dedicated to public service and was the embodiment of excellence, ethics, civility and professionalism. He was a generous man and treated all people with dignity and respect.

I worked with Don as co-counsel on a variety of difficult matters over the years, and he became, as he liked to put it, a self-appointed mentor to me. He always emphasized the importance of public service and interaction, particularly in the Chicago legal community, and helped me become more dedicated and active participant in that regard.

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

A: Clients hire lawyers, not law firms and they hire lawyers for their expertise, in-depth knowledge of the client's business, and for excellent and efficient client service. If you want to grow your reputation and career in any given practice area, you need to invest the time and personal effort needed to become an expert in your field, and show the same interest in learning and understanding the client's underlying business, as you do in trying to land it.