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Q&A With Mayer Brown's Tom Skinner

Law360, New York (May 28, 2009) -- Tom Skinner is the firmwide practice co-leader of Mayer Brown LLP's environmental law group. His primary practice areas are environmental litigation; federal and state civil and criminal enforcement matters; regulatory and permitting issues; and counseling, including response to environmental and corporate crisis situations.

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

A: In the environmental field, cases involving the Clean Air Act New Source Review ("NSR") program. Air emissions issues generally are the most complex.

The vagaries of and uncertainty surrounding NSR create an extremely challenging work space. Even the courts have failed to reach consensus on the meaning of some of the relevant Clean Air Act provisions, which leaves advocates on both sides in a difficult position.

Outside of the environmental field, earlier in my career I worked on a legislative redistricting case that was extremely challenging in all respects.

Learning the federal Voters Rights Act and how it affected the drawing of legislative districts, working with expert witnesses whose careers (and in a few cases, lives) were spent mastering the minutiae of redistricting, and creating arguments that could be understood by laymen was difficult enough.

Combined with the necessity of doing so in a very compressed time frame — at one point we pulled three all-nighters in five days — created a combined mental and physical grind that I had not experienced before, and (fortunately) haven't since.

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

A: Maintaining a strong ethical approach to both the legal and business parts of the practice.

The practice of law has evolved into a very tough, competitive endeavor, and never more so than in the current economic climate. At the end of the day, however, one's reputation and relationships are critically important, both professionally and personally.

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

A: Clarity on issues related to the Clean Air Act and the Clean Water Act is critical. Congress needs to act to resolve ongoing confusion about jurisdiction over wetlands under the CWA, as well as what was and is intended under the complex New Source Review provisions of the CAA.

This clarity will help government regulators, who, for example, have devoted considerable resources to prosecuting NSR cases only to be confronted with conflicting court decisions; regulated entities, because it will allow more effective planning and increased operational efficiency; and the public, because it will lead to considerable gains in air quality and quality of life.

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

Conventional wisdom is that climate change is the next big area of environmental law. The current challenge is to divine from where within that broad subject the legal work will come.

New laws and regulations undoubtedly will face court challenges, and the regulatory development process will offer some short-term possibilities. The unresolved question is what long-term possibilities climate change will offer to environmental practitioners.

We also recently have seen a slight increase in enforcement actions from U.S. EPA. It is too early in President Obama's term to extrapolate this into a trend, but it is likely that once his political appointees are in place at EPA, the number of actions will increase further.

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

A: I have been fortunate to work with a number of outstanding lawyers over the years. Dan Webb and Jim Thompson of Winston & Strawn, Tony Valukas of Jenner & Block, Judge Joel Flaum of the U.S. Court of Appeals for the Seventh Circuit, and Judge Charles Kocoras of the

U.S. District Court, ND IL, are legendary, and every bit as good as their reputations.

However, one of the lawyers with whom I've worked more recently that has impressed me is Ann Klee, vice president of corporate environmental programs at General Electric and former general counsel of U.S. EPA. She is smart, incisive, committed and demanding (in a positive, productive way).

Her experience in the public sector, on Capitol Hill and in the executive branch provides her with a broad perspective. This combination makes her very effective.

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

A: First, environmental law is perceived as a hot practice area, in part because of the prominence of the global debate over climate change. But don't worry about specializing in environmental law in school. Gain a broad understanding of the law — the environmental practice includes elements of litigation, corporate and regulatory work.

Second, be open to all possibilities. Don't hesitate to work for the government or a not-for-profit if you're so inclined — it is interesting and rewarding and has the ancillary benefit of providing a perspective that is valuable no matter where your career ultimately takes you.