

Q&A With Foley & Lardner's Pamela Johnston

Law360, New York (November 08, 2010) -- Pamela L. Johnston is a partner in the Los Angeles office of Foley & Lardner LLP and a leader in the firm's government enforcement, compliance and white collar practice group. Johnston represents companies and individuals in government enforcement actions, white collar criminal matters, securities enforcement matters and False Claims Act matters. Prior to joining Foley & Lardner, Johnston was a federal prosecutor in the U.S. attorney's office in Los Angeles, where she was a deputy chief of the criminal division's major frauds section. She also handled civil affirmative cases as a federal prosecutor.

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

A: When I was a civil assistant U.S. attorney, I handled one of the U.S. Department of Justice's first enforcement actions under the Freedom of Access to Clinic Entrances Act, 18 U.S.C. § 248. These cases involved the DOJ investigating and litigating injunctive actions in order to set up "no-egress" zones around doctors who worked at women's clinics in order to keep the peace and protect the safety of the doctors. In the case I handled, it was the first time that the DOJ sought to bring an action against an organization (Operation Rescue) for the activities of its members.

This high-profile case, which involved complex First Amendment issues and significant safety concerns, was fascinating. With only the statute and analogous authority to rely upon, it required great thought and consideration of fundamental constitutional principles to craft the complaint, proposed injunction and briefs. We prevailed in the case both at the trial court level and on appeal.

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

A: Training generations of young lawyers how to handle themselves in court, how to write persuasive briefs and how to grow into great lawyers.

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

A: There is a strong need for Congress to address criminal discovery in white collar cases and other nonviolent cases and provide the defense with early access to the government's full file. The time has come in the development of federal criminal practice for the playing field to be level between the government and the defense. Right now, too much individual practice by individual prosecutors and local custom govern this important aspect of federal criminal law. Someone's liberty and ability to defend him or herself should not depend on the identity of the prosecutor assigned on a particular matter. Civil defendants have better access to the government's file than criminal defendants do.

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

A: I see two areas: 1) more international cases, and 2) more health care/pharmaceutical cases. We are continuing to see a growth in international criminal cases, including more Foreign Corrupt Practices Act cases. The global pharmaceutical

industry is under the microscope at the moment by the DOJ. As businesses have become more global in their focus, federal enforcement practices have followed suit. The passage of the health care reform law this year will also result, in my view, in more criminal and False Claims Act health care investigations.

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

A: Gregory Poe. He has a small firm [The Law Offices of Gregory L. Poe PLLC] in Washington, D.C. He focuses on appellate work often in the criminal context. He writes intelligent, thoughtful briefs that raise issues in innovative ways. His appellate briefs are works of art. Plus, his briefs tend to persuade appellate courts that something did go awry at the trial court level, which is not unusual. The difference is that he often can persuade an appellate court to reverse the case because of the error that occurred. He brings great depth of thought, integrity and passion to the work.

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

A: Learn to write clear, persuasive briefs and then have the good fortune to join a dynamic U.S. attorney's office.