

Q&A With Foley & Lardner's Mike Lueder

Law360, New York (August 19, 2011) -- Michael C. Lueder is a partner in the Milwaukee office of Foley & Lardner LLP, where he is chairman of the firm's consumer financial litigation practices group. He represents businesses in the financial services industry. His practice is concentrated in several areas, including banking, class action, contract, employment and consumer litigation. Lueder has also served as an adjunct faculty member at the Marquette University School of Law.

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

A: They all seem easy when they are over! For that reason the most challenging case is usually the one on my desk right now. Seriously, the most challenging cases are individual consumer cases. The law is complicated, but the damages are often nuisance level. It is very difficult for a company to defend them in a cost-effective way.

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

A: Many consumer protective statutes encourage little more than a "gotcha" game. A perfect example is the failure to provide two copies of a notice of right to cancel under the Truth in Lending Act. Who gets hurt if only one is provided? Nonetheless most courts hold such failure provides a rescission remedy and statutory damages.

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

A: The Concepcion case will likely prompt many companies to introduce or amend arbitration clauses to avoid class actions. This should have a great deterrent effect on class cases, at least until Congress or the Consumer Financial Protection Bureau steps in to change it. However, if these clauses are not drafted with care, they can be a nightmare. Smart pro se plaintiffs and plaintiff's counsel can make collections prohibitively expensive. Many give up on collection due to the high cost of a contested arbitration. We recommend small claims carve outs to avoid this problem.

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

A: Nessa Feddis of the American Bankers Association is a tireless advocate for common-sense banking regulation. She states with clarity the risks associated with heavy-handed government interference.

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

A: I had a great mentor who really pushed me to be a tough guy. (He used a different word.) One day, I took a break from a deposition to give him an update. He challenged me for not being tougher on my opponent. I then pointed out to him that I had not lost a case. (This was a long time ago!) He tapped his fingers, looked at our client, and said, "I think Mike just said there is more than one way to skin a cat." He never again pushed me to be hard-nosed. The moral: You have got to be true to yourself. You cannot be effective adopting someone else's style or personality.

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