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Q&A With Hodgson Russ' Daniel Oliverio

Law360, New York (October 22, 2010) -- Daniel C. Oliverio is a senior partner in the Buffalo, N.Y., Toronto and New York offices of Hodgson Russ LLP in the firm's business crimes, regulatory offenses and corporate investigations; business litigation; and intellectual property and technology practice groups. He focuses on business and commercial litigation; intellectual property law; white collar crime and regulatory investigations; New York state and federal False Claims Acts matters; and criminal trial practice.

Oliverio is among Hodgson Russ's practice leaders in both civil business litigation and white collar criminal and regulatory matters, including corporate investigations and compliance. He has also appeared in numerous federal False Claims Act cases on behalf of both relators and defendants.

A former assistant U.S. attorney and special prosecutor, Oliverio has served as counsel in numerous commercial cases; intellectual property cases, including patent disputes; and in white collar criminal investigations involving taxation, fraud, antitrust and environmental crimes.

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

A: The most challenging case I ever worked on is when the U.S. district court appointed me a special prosecutor to monitor and criminally enforce various injunctions during a controversial and large abortion protest in Buffalo, N.Y., in the mid 1990s. It was called Operation Spring of Life. After half-a-dozen or more years as a defense lawyer, I was suddenly thrust into the role of a prosecutor in one of the most controversial and politically charged cases in the community.

I was assigned to act independently of the court and the U.S. attorneys office and had a handful of investigators from various federal law enforcement agencies. Essentially, I was

"stuck" between the court who issued the injunction orders, the pro-life advocates and the pro-choice advocates. At the end, the advocates on either side were mad at me, and the court was happy the case was over. I feel like I won.

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

A: As an assistant U.S. attorney and after about 10 years of practice, I studied for and passed on the first try the bar exam for admission to practice before the U.S. Patent and Trademark Office. The first time pass rate that year was 18 percent. I am also proud of the fact that I took four years of my career and did public service as an assistant U.S. attorney. I would like to do public service again to end my career.

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

A: The U.S. sentencing guidelines still need work even though they are advisory only. There is still too much "gaming" of the guidelines as part of the plea and sentencing process. In my view, they have been a disaster.

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

A: When money is tight, state and local governments look for ways to find money in the private and public sector. In New York, there is a huge criminal sales tax initiative. Watch out for tax, antitrust, false claims and government procurement fraud. Throw in a little additional health care fraud to boot, and there you have it. Bank robberies don't generate money for the government.

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

A: I tried a case in federal court in Owensville, Ky., against this 75-year-old lawyer named Uhell Barrickman. We tried the case to verdict and I won. He was an absolute gentleman about everything and everybody. The court also was something out of "To Kill a Mockingbird," and he taught me more about civility in a couple of weeks than I'd learned in my entire career. A great credit to the profession.

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

A: Get used to losing. Criminal cases, especially federal criminal cases, usually have a bad ending. Learn how to keep your cool, how to handle people, and how to stand on your own

two feet. As for the law, anybody can learn that. Learn the facts, understand your clients and take the high road.

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