Law360

June 12, 2013

Q&A With Hunton & Williams' Greg Robertson

Greg Robertson serves as chairman of the Hunton & Williams LLP's global employment litigation and labor management relations practice and co-chairs the firm's health care reform initiative. He focuses on all aspects of labor law and has litigation experience in labor and employment cases, including, for example, successful Racketeer Influenced and Corrupt Organizations Act actions in response to several multiyear, multifaceted corporate campaigns against Fortune 100 companies. He has represented employers in labor negotiations and disputes, including strikes that involved violence and resulted in 10(j) and other injunctive and contempt proceedings.

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

A: The two RICO cases we filed in 2007 and 2009 on behalf of Smithfield and Sodexo, respectively, in an effort to bring to a close corporate campaigns of which each was a target are far and away the most difficult cases I have handled in a long time. We had the privilege of working with two great clients in an effort to obtain results which met their objectives.

The legal theory — that corporate campaigns amount to extortion — was fairly unique and had never really been tested in federal court. The extraordinary lawyering from the Bredhoff & Kaiser firm on behalf of the defendants made the work infinitely more challenging. The true upside was the opportunity to work in the trenches with numerous colleagues within the firm as well as outside consultants and experts all of whom were instrumental in achieving our clients goals.

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

A: In the labor and employment field, the pendulum of enforcement activities by government agencies always swings as administrations in Washington change or mature. I have always thought the trick is for the pendulum not to swing too far from center. Unless the balance between employee rights and the employers right to do business is well struck, the economy and job opportunities can be adversely affected.

To the extent that the politics of enforcement have dictated extreme results over the last decade or more, I think the best interests of employers and employees have not been served in the long run. In my view, today's pendulum, whether it be on the labor or the employment front, has swung far enough to inhibit job growth, business expansion and entrepreneurial enterprise.

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

A: Because I spend the majority of my time in the practice of traditional labor law, there is little doubt that the Noel Canning case finding that today's National Labor Relations Board lacks a quorum to do business is the most important case out there today in the labor and employment field.

The possibility that most all of the cases decided by the NLRB since the Becker recess appointment in 2011 will be vacated and redecided is staggering. Until the propriety of the president's recess appointments is resolved, the NLRB and all of its work and rulemaking over the past several years will be in question and under a cloud.

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

A: One of the labor attorneys whom I admire most is Forrest Roles from Charleston, W.Va. Forrest has always been a student of the law, applied outstanding and mature judgment to its interpretation and application and communicated its requirements to clients, judges and layperson with clarity, simplicity and insight. I've always thought him to be a true lawyer's lawyer.

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

A: In the course of negotiations, whether over a collective bargaining agreement, settlement of a dispute or an individual employment contract, too often, I have watched in years gone by and still today the emergence of bad deals because of the perception of the need for a deal. Thus, I learned to inquire from my clients as to their objectives and negotiate toward those objectives, stopping short if the objectives remain while the offer fell short.

The point is the clients usually do not make deals which serve their long-term interests if the deal is the product of negotiating momentum and the belief that not striking a deal amounts to failure. Often, not striking a deal invokes the need for patience rather than capitulation.