

# The Metropolitan Corporate Counsel®

Northeast Edition

[www.metrocorpcounsel.com](http://www.metrocorpcounsel.com)

Volume 13, No. 8

© 2005 The Metropolitan Corporate Counsel, Inc.

\$10 per copy

August 2005

## A Litigation Department At The Top Of Its Form

*The Metropolitan Corporate Counsel:* Interview with Louis M. Solomon, Proskauer Rose LLP. Solomon has just been named co-Chair of the Firm's 200+ lawyer Litigation Department.



**Louis M. Solomon**

**Editor:** Mr. Solomon, would you tell our readers something about your background and professional experience?

**Solomon:** I've been litigating since I graduated from Harvard Law School in 1976. Before joining Proskauer, I was with Solomon, Zauderer, Ellenhorn, Frischer & Sharp, which focused almost

exclusively on litigation and advice to clients at the cusp of litigation.

**Editor:** How did you come to Proskauer?

**Solomon:** Together with most of my colleagues at the time, I was looking for a firm with a quality and style of litigating compatible with our own (Proskauer litigators try cases, as did we) but with a size that could accommodate our growing practices. In Proskauer, we found not only a litigation department that is second to none but a strong and truly impressive corporate department and of course a labor/employment group that is the envy of the bar. More important, the quality of the people and the Firm's commitment to public service have made the match a terrific and I trust an enduring one.

**Editor:** Your reputation is as a trial lawyer, but your career has required you to develop substantive expertise in a large number of practice areas, from antitrust to insurance, IP and patent work as well as

corporate governance and takeovers. Please tell us about your practice and how it has evolved over the course of your career.

**Solomon:** Over the course of my career we have all witnessed what has been an extraordinary increase in the complexity of many significant commercial disputes. To resolve these disputes efficiently, litigators — or teams of litigators — need two skills sets at least: an ability to grasp the complex concepts yet the experience to express them simply so that the trier of fact — be it a judge, jury, or non-expert arbitrator — can understand the fundamental points quickly and just as quickly discern where fundamental fairness lies. These resolvers of disputes typically don't have the in-depth knowledge of substantive area of commerce under consideration, and they deserve to have it made understandable without losing too much of the actual reality. These dual tasks demand both detailed knowledge of certain areas of the law yet lots of experience in the discipline of "resolving disputes" — that is, both depth and breadth.

**Editor:** It sounds like you are making a pitch for the generalist litigator. Isn't that a notion whose time has passed?

**Solomon:** I think I would describe my pitch as something closer to a team approach to litigation in the context of the partnering relationship that we think is indispensable with all our clients. In my book partnering goes well beyond a willingness to share risks with the client, though that is part of it. It involves seeing the client's needs realistically and as paramount. In part because of the breadth of the businesses of our clients, in part because of the internationalization of disputes and "smallerization" of the world, modern day complex litigation needs a number of specialties working together. If it's a generalists' pitch, it's a rather specific kind of generalism that I'm pitching — a team approach is really what it is.

**Editor:** What is the "team approach"?

**Solomon:** It's the need to have both substantive expertise of the area yet a high degree of sophistication in the process of resolving disputes. Clients are disserved when their counsel lacks either of these; the world has become very complex, and commercial disputes mirror that complexity. So you need to have people with real depth in the subject matter. At the same time, clients are at a distinct disadvantage if they have counsel who cannot present a credible ability to go and try the case if the other side forces that. What I call the team approach — think of it as "depth within scope" — delivers both service and, most important, results in a great many substantive areas of the law — areas that are where the most complicated disputes are arising. It's what clients are demanding and I think are entitled to. That, by the way, is one of the ways I believe the Proskauer litigation group is close to unique.

**Editor:** How so?

**Solomon:** Proskauer's litigation department can field practitioners with national expertise and renown in more substantive areas of the law than any other firm I know. For example, in two of the three overarching practice areas within the litigation department of the firm — business practices and corporate governance and responsibility — we have more than 100 litigators with substantive expertise in areas ranging from antitrust to class actions to insurance recovery to criminal and regulatory defense and securities litigation. In the third general area within the litigation department, what we call "the three eyes" — that is, innovation, information, and ideas — we have nearly another hundred litigators with extraordinary depth in such diverse areas as the new media, patent, copyright, and trademark, as well as the entertainment and professional sports industries.

**Editor:** Are there any common themes in your practice? Say, the representation of international pharmaceutical companies or disputes involving international trade regulation?

**Solomon:** I've had the privilege of representing companies like that, but I think the most common theme would have to be broader to encompass the practice. It surely has to do with trying cases to conclusion if that is what the other side insists on before it will be reasonable. If there is a common thread other than the resolution of complex disputes I think it may relate to the interfaces between bodies of law.

**Editor:** Please explain what you mean by "interfaces between bodies of law":

**Solomon:** When you look at some of the most interesting aspects of the law, and among the most challenging for lawyers and problematic for clients, often I see that you have overlapping and conflicting public policies that the law is needed to mediate between. There are boundaries between these areas of the law, and they are not static but shifting and more important shiftable. Where does antitrust law start and the protections of conduct in patent law stop. Where do the rights of U.S. citizens being discriminated against by a foreign debt issuer stop and the rights of a foreign company to restructure its debt start. Interfaces are among the most intriguing places to observe in the physical, chemical, and biological worlds — I have found them to be the most challenging and fun in the world of litigation and dispute resolution, too.

**Editor:** You just had an exciting series of wins in the New York courts on behalf of the New York Jets. Did that case present the kind of interface issues you are describing?

**Solomon:** Exciting it was, but I don't see that as that kind of a case. There the issue was whether the litigators could succeed in getting the judiciary quickly to understanding that the claims Madison Square Garden was making were bogus and should not be allowed to delay or interfere with the political process. I have to say that the New York Judiciary, from Justice Cahn in Supreme Court to the Appellate Division, showed itself to be extraordinarily fast as well as nimble and wise in throwing out MSG's claims in record time.

**Editor:** You have also represented many foreign clients, or U.S. companies in disputes involving foreign countries or laws. Please tell us about the international dimension of your practice.

**Solomon:** I have been privileged to have clients involved in some of the most interesting aspects of private international law. In the U.S. the disputes often involve the standard set of issues that all commercial litigations typically share, but they also involve questions such as whether a U.S. forum is available, what law governs the privileges that exist, whether foreign persons can be compelled to testify at trial and on what issues; is discovery here in the U.S. available to foreign proceedings, what deference is due to foreign regimes.

**Editor:** Are these cases in litigation, or are they arbitrations?

**Solomon:** I've litigated many of these types of cases. Many of them have been extensive litigations and have involved trials or appellate court review. We also have a separate and very active international arbitration practice.

**Editor:** Do you have a message to new and younger litigators?

**Solomon:** Yes, I do. Their professional lives should be characterized by the dogged pursuit of excellence — while having a whole lot of fun.

**Editor:** Is that a message that you think resonates any longer among more junior lawyers?

**Solomon:** I really do. It may be my own unwillingness to admit to aging, but I believe that more junior litigators aren't all that different from the lawyers in my generation. Our message at Proskauer is that each lawyer, no matter how junior or senior, needs to work hard, since mastering the tasks and talents required by our profession is quite demanding. At the same time each of us needs to have fun — fun in learning, fun in doing. And each of us needs to see that commitment to excellence as both personal and global — everything you touch make it your own and make it the best, yet look beyond yourself to the larger needs of the bar and community. By the same token, any associate has the right to demand that he or she be given the best litigation training we know how to give. What we promise recruits and more junior lawyers is that professional development.

**Editor:** I noticed on your resume that you acted as co-counsel on behalf of the City and State of New York against the Bureau of the Census for failing accurately to report census population data as part of the census process we undergo every ten years. Was that done pro bono?

**Solomon:** Yes, it was. I calculated that I satisfied 47 lifetimes of pro bono requirements — though actually it's a fraction of the public service that Proskauer lawyers engage in. The firm is simply amazing when it comes to that.

**Editor:** In what way:

**Solomon:** The firm's commitment to public service and in particular pro bono publico is deep and broad and serves as an inspiration to those of us at the firm as well as to the broader community. We boast more Presidents of bar associations than any other firm — in fact in one year in the late 1990s the firm had members serving as the presidents of three of the most prestigious bar associations: the City Bar, New York County Bar Association, and the Federal Bar Council. The New York State Bar Association just conferred its President's Pro Bono Service Award on Proskauer, for longstanding commitment — which actually goes back over a 100 years. And this commitment is not limited to partners or senior lawyers or counsel. Three of our associates won the Legal Aid Society's Pro Bono award last year. But the commitment is far broader and deeper than what several high profile positions and awards suggest. It's deeply woven into the fabric of the firm.