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Q&A With Locke Lord's Elizabeth Mack

Law360, New York (August 10, 2009) -- As chair of Locke Lord's environmental section, Elizabeth Mack leads one of the largest groups of dedicated environmental practitioners in a major law firm. She has substantial experience in environmental compliance, environmental litigation and environmental transactional work.

Mack employs creative solutions to environmentally challenged projects, and is leading site remediation efforts in 11 states. She has also handled many types of federal environmental matters, including such diverse issues as the Comprehensive Environmental Response, Compensation and Liability Act; the Clean Water Act; the Resource Conservation and Recovery Act; the Safe Drinking Water Act; and the National Environmental Policy Act.

Mack is the immediate past chair of the litigation section of the State Bar of Texas.

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

A: The "seagrass" case. A client's operations allegedly damaged a very rare seagrass, which only grows in three places in the world, one of which is in the Laguna Madre off the Texas Gulf Coast.

The case involved numerous issues, including, among others, claims brought by the Department of Justice under the Clean Water Act and the Rivers and Harbors Act; the fate of a particular migratory bird (the piping plover), which depends on the seagrass habitat; and the unfortunate occurrence of the Brown Tide, a regional algae bloom, which also impacted the ability of the seagrass to grow.

The litigation was heavy and contentious, but we were also quietly experimenting with helping seagrass regrow in the area.

With the help of expert botanists, we brought the seafloor to a grade that we hoped would sustain the seagrass even with Brown Tide.

We then transplanted tufts of seagrass from nearby areas. Against the odds that the Brown Tide would kill all the transplanted seagrass, the seagrass took hold and began to spread, first little tufts and then slowly blanketing the seafloor.

All the while, we were minimizing the claimed \$25,000 daily penalties for the alleged existence of spoil that impacted the seagrass, and the other federal demands that would have put the client out of business (not to mention the numerous cross-claims by independent contractors also involved).

Ultimately, with the regrowth of the seagrass, the DOJ agreed to a settlement.

In the challenging world of high stakes environmental litigation, there was a bit of a happy ending: the work to restore the seagrass ultimately landed the client a United Nations environmental award for preservation of the environment.

The seagrass case had the advantage of also being fun. No other case has allowed me to scuba dive as part of my job!

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

A: I am most proud of being a part of one of the largest recycling efforts the country has ever seen — Brownfields redevelopment work. I have helped numerous clients address contamination economically and efficiently at hundreds of impacted urban infill sites in 35 states across the country.

These remediated sites are now the anchors of urban redevelopment, even in this tough economy. What were once contaminated, underutilized eyesores are now esplanades, residences, shops and restaurants.

This revitalization has created more community in cities across the country.

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

A: All remediation programs need to be site-specific and health-based. Site-specific, health-based programs allow for a more rational approach to resolving impacts for the specific site needs, while considering human health and the environment.

Additionally, programs need to be reformed so that they are adequately staffed or converted to semi-privatized programs in order to allow for more responsiveness to the regulated community.

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

A: Over the next few years, we expect to see increased enforcement at both the state and federal level. We also expect greater demand in air and climate change issues.

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

A: My dad, Theodore Mack, is an old-school general practitioner who still practices law full time. He is an intelligent and practical lawyer, understands the client's objectives and tells it like it is. He has been a mentor to me and many others.

And I will never forget one particular piece of advice he gave me nearly 25 years ago, on a long father–daughter walk as I was leaving for law school: “A lawyer knows many things; a great lawyer integrates that knowledge and uses it wisely.”

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

A: Environmental law is a fantastic, multidisciplined practice area. Environmental issues range far and wide, and can be independent or impact many other areas of law from transactions to real estate deals to bankruptcy to litigation.

A young lawyer should seek out a firm, large or small, where he or she can be mentored by someone who knows how environmental issues interplay with the law, how to discuss technical issues with clarity and purpose, how to think like a businessperson, how to assess the risks so the client can make an informed business decision, and how to bring all of those components together to be the best counselor and advocate for the client.

That all comes from experience, so hanging out with and learning from good, experienced environmental lawyers is essential.