

COMPLEX BUSINESS LITIGATION

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Robert Kry is one of the founding partners of MoloLamken LLP, a litigation boutique formed in 2009. Over the past nine years, their firm has grown from four lawyers to more than 30, and they now have offices in New York, Washington, D.C., and Chicago. Handling a broad range of business disputes, both at trial and on appeal, in the courts and in arbitration, Robert speaks to us about complex litigation.

How do you go about developing a successful strategy in a complex business litigation matter?

The first step is developing a clear understanding of our client's needs and expectations and combining that understanding with a thorough review of both the facts and the law. We litigate cases on the assumption that they will go to trial and develop our case strategy accordingly. For example, if damages are going to be a key issue, we would retain a damages expert early on in the case, so we can start building our damages model at the outset and shape our discovery strategy around what our expert will need to show.

Then how do you go about executing on that strategy?

We put together a detailed project management plan and update it as the case progresses and new facts or legal rulings develop. Regular communication with our clients, team members, and other stakeholders in the litigation is key. Our focus is

on achieving the outcome our client wants and doing so efficiently. We don't waste resources on strategies that have little prospect of adding any real value to the case at the end of the day.

Does your firm have a particular approach for preparing for court hearings?

For arguments of any consequence in the trial or appellate courts, we do moot courts and mock examinations to prepare. In fact, we built our own courtroom in our offices to make those simulations as realistic as possible for the attorneys and witnesses involved.

Your firm is known for sharing risk with clients; in what ways do you do that in a complex business case?

Our firm regularly agrees to alternative fee arrangements that allow us to share risks and rewards with the client. In many cases, our fee agreements are hybrid arrangements that combine a substantially reduced hourly rate with a contingent payment tied to

the outcome in the case. Those arrangements are good for both the client and our firm, because they help the client manage its legal expenses while ensuring that everyone's interests are aligned.

Are there types of complex business cases we are likely to see more of in the next year or two?

One of the major trends in complex business litigation is the increasingly international nature of disputes. Cross-border litigation presents unique challenges, including not only conflicting substantive laws, but also foreign legal systems with very different procedural regimes. Compelling testimony from non-party witnesses in foreign countries raises a whole host of issues not present in United States subpoena practice. And document discovery abroad is often complicated by foreign privacy laws that may be significantly more restrictive than those in the United States. **LM**



About Robert Kry

Robert Kry's practice focuses on trial and appellate litigation. He represents clients before the United States Supreme Court, the federal courts of appeals, and other federal and state courts. He has authored approximately 20 Supreme Court briefs and has argued numerous matters in trial and appellate courts. His practice covers a broad array of subject matters, including constitutional law, sovereign immunity, arbitration, enforcement of arbitral awards, business litigation, securities fraud, criminal law, and intellectual property.

Firm Profile

MoloLamken is a law firm focused exclusively on representing clients in complex litigation. We handle civil, criminal, and regulatory matters, as well as appeals, across the United States. Our clients span the globe. Our strength lies in the intellect, creativity, and tenacity of our lawyers and our experience in applying those traits to achieve great results for clients in serious matters.

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