

## Q&A With Hughes Hubbard's Ned Bassen

*Law360, New York (April 30, 2013, 12:16 PM ET)* -- Ned H. Bassen is chairman of the Hughes Hubbard & Reed LLP's labor and employment department. Bassen's practice ranges from litigating on behalf of and counseling defense contractors, financial institutions, universities and other nonprofit institutions to individuals accused of wrongdoing in connection with employment.

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

A: The most challenging case I've worked on is one that started with an accusation of anti-competitive behavior with respect to employment, an allegation that one company hired employees with key trade secrets from a competitor to unfairly compete, that blossomed into a major anti-trust case, a criminal investigation by the U.S. Department of Justice and a government debarment proceeding by the U.S. Department of Defense.

There were significant and novel issues in numerous forms. The litigation was intense, and I was the quarterback over many lawyers. The case came to a successful conclusion for our client.

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

A: There's been a proliferation of Fair Labor Standards Act cases that are clogging the courts. Possibilities to reform this would include a requirement that FLSA claims first go through the U.S. Department of Labor or state labor departments as applicable and/or that attorneys' fees be awarded to prevailing parties.

Another area that I believe needs reform are the regulatory standards for determining whether an individual constitutes an independent contractor versus an employee. Now, a multitude of factors are considered such that it is confusing for employers without legal assistance. At the least, the factors ought to be narrowed, with only a handful of key ones set forth in the regulations.

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

A: All of the employment-at-will cases, and the narrow exceptions to them, are relevant to my employment practice. The U.S. Supreme Court case law on burdens of proof in employment discrimination cases are relevant because they provide insight as to whether I will be able to obtain summary judgment.

Judge Owen's decision in *Calyon v. Mizuho Sec. USA Inc.*, 2007 U.S. Dist. (S.D.N.Y Sept. 5, 2007) is important to my unfair completion practice in ruling that an employee otherwise authorized to access computer data violates the Computer Fraud and Abuse Act if he/she accesses data to compete because such access could not have been authorized as it is not in the employer's interest.

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

A: Steve Wahl, group counsel at L-3 Communications, with whom I have worked with for many years. He has impressed me with his ability to combine legal work and business judgment. In other words, he knows very well the business of his companies, and he applies his legal work to achieve results for that business.

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

A: Early in my career, for a brief period of time, I made the mistake of going from a firm that emphasized high-quality practice of law to a firm that concentrated more on getting the work out the door. My 18 years at Hughes Hubbard & Reed confirms not only that there is no substitute for high quality, but the latter produces better results, better clients and a better practice.

*The opinions expressed are those of the author and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.*

---