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O'Melveny lawyer is leader in business interruption litigation

By Blaise Scemama
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Asked what propelled him to the top of the litigation department at O'Melveny & Myers LLP, Richard B. Goetz said it was a combination of heeding his mentors' advice to "get out of your comfort zone," and being able to capitalize on luck.

"I tell our lawyers this, but in any career, there's a huge role of luck, good or bad," Goetz said. "I try to train our lawyers to know when you're lucky and see these opportunities, so you can convert them."

"You will have many more opportunities to be lucky if you get out of your comfort zone," he added.

"Get out of your comfort zone," was the advice his friend, former secretary of state to President Bill Clinton and O'Melveny partner Warren Christopher, told Goetz before he embarked on a weeklong journey to observe military commission hearings in Guantánamo Bay in 2013.

Sent there on short notice by the Pacific Council On International Policy — a nonprofit, non-partisan, foreign policy organization — Goetz acted as an official observer of the pretrial hearings in the case of *U.S. v. Khalid Sheikh Mohammed*. Mohammed is accused of masterminding the September 11 attacks on the United States and multiple other acts of terrorism between 1993 and 2003. His trial is set to begin Jan. 11.

Recalling his trip, Goetz said at night he would send correspondence to his family and friends, detailing his court experience sitting in what he described as a smallish steel building in a compound behind barbed wire. After nominal edits, his correspondence eventually became his final report submitted to the Pacific Council.

In his report, Goetz noted the three principal differences between the procedural rights afforded to criminal defendants in federal court

and detainees prosecuted under the Military Commission Act.

"Specifically, (1) the MCA does not provide a detainee with a right to a speedy trial, (2) the MCA may allow the admission of some coerced statements into evidence, and (3) the MCA may allow the admission into evidence of hearsay that would otherwise be inadmissible in federal courts. The principal criticisms of the MCA are based on these differences," the report reads.

After speaking with members of the international press, Goetz said the detention center at Guantanamo had hurt America's image of diplomacy. Goetz, along with a group of legal scholars, recommended in a 2016 report, that federal judges be sent there to mitigate the military court's deficiencies and the delayed setting of trial dates.

Goetz graduated in 1981 summa cum laude from Dartmouth College and received his law degree in 1984 from the University of Chicago. Once he joined O'Melveny, he never left.

He is now the firmwide co-chair of O'Melveny's litigation department and he previously chaired the firm's consumer class actions, product liability, mass torts and insurance practices. He also serves on the firm's executive committee.

In defending pharmaceutical, medical device, computer, and insurance companies, among others, at the pleadings and trial stages, Goetz has defeated allegations of negligence, false advertising, improper labeling, defective manufacturing, and personal injury liability in multi-million-dollar actions.

In July, with at least 400 people from around the nation listening in, Goetz spoke before the judicial panel on multidistrict litigation in Washington D.C. on the behalf of 33 insurance companies accused of unfairly denying business interruption insurance during the pandemic.

Representing his own client, Chubb, he argued remotely before a seven-judge panel that consolidating



Courtesy of O'Melveny & Myers LLP

Richard B. Goetz, head of litigation at O'Melveny & Myers LLP, tells young lawyers to capitalize on the role of luck in their careers.

hundreds of business interruption suits brought by restaurant and other business owners in almost every state would not be efficient.

The panel ultimately agreed, finding insurance policies were too varied, with different coverage conditions and language.

Upon stepping into a leadership role at O'Melveny some years ago, Goetz made several innovations. He hired Pulitzer Prize-winning journalists and other writers to help O'Melveny lawyers "punch up" their writing in legal briefs.

"It's often the case that a lawyer thinks something is really interesting but a more general audience just doesn't. So you need somebody to be a reality check to help you tell the story of your case, to help you communicate more effectively," Goetz said. "I have found reporters to be aces at that and they've been great additions to the team."

Asked about his duties, Goetz said O'Melveny has a "flat organizational structure," and if one asked other litigation partners at the firm, none would say they worked for him.

"We spend most of our time as leaders at O'Melveny practicing law. That's what we enjoy. That's why we

went to law school," Goetz said. "We have a flat organizational structure, so it's . . . certainly different from the hierarchical structure most of our clients are used to."

Goetz did take some credit for helping his firm navigate the uncertain waters of the pandemic.

One of the things O'Melveny did at Goetz's suggestion was to create what he called "Zoom rooms," with studio quality lighting, and professional microphones so lawyers appearing remotely could still project an image of professionalism.

Asked what the future holds for O'Melveny, having collectively gone through a lockdown with colleagues and clients, Goetz said while remote appearances will likely become a permanent fixture of the court, personal interaction, particularly for younger lawyers, is critical.

"I can Zoom with my partners, associates and of counsel that I've worked with over the years with ease. But as new lawyers come in, and this becomes all they know, I think we're going to have to find a way to make sure that it's not all remote," Goetz said. "I don't believe the office is gone."

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