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Q&A With Sheppard Mullin's Blaine Templeman

Law360, New York (July 03, 2012, 2:27 PM ET) -- Blaine Templeman is a partner in Sheppard Mullin Richter & Hampton LLP's New York office, where he co-chairs the firm's life sciences practice. His practice focuses on counseling U.S. and international clients in the protection, development and commercialization of their products and intellectual property portfolios through domestic and cross-border intellectual property transactions, precision manufacturing, contract manufacturing, clinical trials, research and outsourcing. His transactional work includes mergers and acquisitions, asset deals, collaborations, licensing transactions, distribution arrangements and co-promotions. Templeman also works on technology transactions focusing on licensing, distribution arrangements and contract manufacturing (including original equipment manufacturer), as well as assets transactions, product development collaborations and joint ventures.

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

A: The most challenging transactions I work on are those between private company clients and large publicly traded pharma. Disclosure requirements and layers of over-processed decision making may provide some comfort for investors, but it can also hamper innovation if the process is permitted to reign over the results. Innovation and cooperation are needed to survive in this market, and some companies seem unable to get there. The world is yearning for revolutions in medicines, and improved healthcare access and delivery. My job is to make sure the parties keep that in mind when cutting the deal.

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

A: Clinical trials contracting should be simple. The agreements should be clear and reflect modern legal practice. Two things need to change to help this happen. First, governmental agencies need to use forms that reflect best legal practices. Recently, I read a National Institutes of Health form that included a provision that required the sponsor to automatically license to NIH the right to continue development of the study product if the sponsor ceased development.

The idea that a commercial sponsor with a duty to its shareholders would hand over nonexclusive rights to continue development of its products, even what appears to be a poor candidate, seems pretty “out there” to me. Why spend everyone’s time even trying to negotiate such a provision? NIH forms should be clear, easy to negotiate, and anchored in reality. Process should not rule over good sense. Second, it is time that we moved to a single form of clinical trial agreement, such as is used in the U.K. Our clients are spending too much money, and institutions are spending too many resources, on negotiating such agreements.

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

A: The U.S. needs a better system to address treatment of injuries in clinical trials. Clinical trials provide incredible new treatments and, in some cases, provide medical treatment to people who would not otherwise have access. Patients need to know they will be cared for if they are injured, and sponsors and institutions need certainty as to how the treatment will be paid for. The Centers for Medicare and Medicaid Services refuses to be clear on this point, but past administrations have worked hard to incentivize participation in clinical trials, while protecting study subjects. This is something that can be fixed. We need to entertain the use of insurance funds (Germany does this) for trial injury and limitations on recoveries.

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

A: Richard Eaton (Bird and Bird, U.K.) and Kevin Kaster (IP strategy consultant, California) remind me of what a great attorney can do for a client. Both are smart and attentive, but most importantly, guides and counselors to their clients. I have seen both come to the rescue of many clients, thereby saving investments and livelihoods. And I must add that both Richard and Kevin are loyal friends — and who can ask for more than that from another attorney?

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

A: When I first saw that baby pig in formaldehyde, I should not have walked out of Biology 101. While medicines and public health intrigue me, I learned on that day that I should be an attorney.

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