

MVP: Greenberg Traurig's Marc Mukasey

Law360 (December 14, 2018, 3:30 PM EST) -- Marc Mukasey of Greenberg Traurig LLP outmaneuvered the U.S. Department of Justice in two high-profile cases this year, including a jury acquittal in a speedy trial in which his client was facing up to 25 years in prison for commodities fraud, a feat that has landed him among Law360's 2018 White Collar MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

In *U.S. v. Flotron*, Mukasey defended former precious metals trader Andre Flotron, who was charged with manipulating market prices of commodities through a practice known as spoofing, in which large orders are entered onto the exchange and then cancelled before they're executed. He secured what is believed to be the first-ever jury acquittal in a spoofing trial, and the first time a spoofing defendant has defeated the DOJ.

"I thought we tried a terrific case against a strong government team and a strong government case and pulled off an incredible victory for the client that was the right result, and the only just result," he said.

When the verdict was announced, emotions were running high, he said.

"That's the first time in my career — and I've tried scores and scores of jury trials — where when the verdict came in I started crying," Mukasey admitted. "I think the whole team was in tears by the end of the polling of the jury."

Part of the reason the acquittal was so moving was that they won by using a risky strategy that Mukasey called the most reckless, and the smartest, of his career. Requesting a speedy trial ultimately proved to be successful despite government warnings that he wouldn't have enough time to review all the discovery.



Marc Mukasey
Greenberg Traurig

"I thought it was the way to win the trial. I thought it was aggressive, it was a way to tell the government, 'We're not scared of this case, bring it on,'" he said. "It was a way to tell the court, 'We're not here to delay or plead guilty or get adjournments, we're here to fight.' We were ready, the government wasn't."

WHY HE IS A WHITE COLLAR ATTORNEY:

Although law runs in the family — his father Michael Mukasey was the U.S. attorney general under former President George W. Bush — what really drew Mukasey to criminal law is his irrepressible competitive streak.

"It's you against the other guys, and there's a very clear winner and a very clear loser," he said. "There's no settlements, there's no 'let's work this out' kind of thing. It's a competition; you either win or you die."

He also very much enjoys the thrill of working with and against highly intelligent people, and using his ingenuity to come out on top, he said.

"Being able to sit down with a very, very smart group of people on my team, and very, very smart clients, and to poke holes in the government's theories and present those in a courtroom to a group of jurors who know nothing about the case is incredibly challenging and rewarding," Mukasey said.

HIS ADVICE TO JUNIOR ATTORNEYS:

Mukasey offered two pearls of wisdom to fresh-faced attorneys. The first is to find what you like and what you excel in, and to direct all your efforts there.

"I think you have to specialize as soon as you realize what you want to specialize in and focus on it," he said. "Pick what you love; pick what you're willing to work at until 4am on a Saturday night in a city 1,000 miles away from your home."

For any aspiring trial lawyer, Mukasey said that there is no better training ground than the DOJ, specifically a U.S. attorney's office, where he served as a prosecutor for 11 years.

"You get pushed into the courtroom as a young lawyer, and you're forced to drink from the fire hose and handle all different kinds of cases," he said. "You're getting experience on your feet in front of the most sophisticated judges in America, practicing against the best defense lawyers in America at a young age. It's very difficult to duplicate that in a law firm."

HIS OTHER NOTABLE CASES THIS YEAR:

In what he labeled a "massive victory," Mukasey said U.S. v. Shapiro et al. was his other major triumph this year. His client, former bond trader Michael Gramins, was acquitted by a jury on eight out of nine charges in the high-profile case. In a post-trial motion, Mukasey successfully reasoned that the lone remaining count in the residential mortgage-backed securities suit should be thrown out.

"The government wins 95 to 96 percent of trials, so to have a nine-count indictment against Gramins where there are no convictions now, and then the Flotron case where we got an acquittal, as well — that was like winning the lottery two times in a row," he said.

— *As told to Reenat Sinay*

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2018 MVP winners after reviewing nearly 1,000 submissions.

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