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PAUL B. MURPHY

L - R Cam Ellis, Jessica JM Hagen, Christopher C. Burris, Paul B. Murphy, Amelia Medina, Meredith P. Young.

The Law is in His Blood

By Jan Jaben-Eilon

Some budding attorneys voraciously consume novels by best-selling authors like John Grisham or Scott Turow, seeking insight into the legal profession. Not Paul B. Murphy. One could say that law is in his DNA. His father, Harold Murphy is a federal district court judge; his brother, Mark Murphy is a juvenile court judge; his cousin, Tom Murphy was a well-known lawyer and speaker of the Georgia House of Representatives; and, Tom Murphy's son, Mike Murphy is a superior court judge.

"I kind of thought this is what I'd do," smiles Murphy, a litigation partner at King & Spalding LLP, a more than century-old international law firm. "Dad talked about his job a lot as I was growing up. I remember as a kid going to work with him when he was a superior court judge and later when he became a federal judge. I always enjoyed tagging along with him. Dad is one of those guys who absolutely loves what he does. He loves talking about his job and the interesting issues he's dealt with."

While there's no question that Harold Murphy was a huge inspiration to his son, he was not the only one. Paul Murphy was fortunate to be mentored by former U.S. Deputy Attorney General Larry Thompson. Prior to his appointment to that position – the second-highest ranking position at the Justice Department – by President George W. Bush, Thompson worked at King & Spalding. There he headed the special matters/government investigations practice and gave Murphy some early opportunities. Murphy joined the firm in 1988, after first receiving a bachelor's degree from Vanderbilt University and his law degree from the University of Georgia.

Murphy worked closely with Thompson from the very beginning. "I saw him build up the white-collar criminal defense practice at King & Spalding. And, when I was a relatively young lawyer, Larry was good about giving me smaller criminal cases that I could, for the most part, handle on my own," recalls Murphy. "He was there for me when I

needed guidance, but I could pretty much run with those cases. That helped me to develop as a lawyer, to develop skills in that practice area at a relatively young age.”

Thompson also asked Murphy – then working as an assistant U.S. attorney for the Southern District of Georgia – to come to work on his staff at the Justice Department in Washington, D.C. Murphy served there as an associate deputy attorney general and also as chief of staff to the deputy attorney general. “I went up in early October 2001. In fact, I interviewed with Attorney General John Ashcroft on the Friday before 9/11. It was an exciting time to be at the Justice Department. The department changed in many ways and became much more focused on counter terrorism immediately after 9/11.” During his time in D.C., Murphy had a broad portfolio of responsibilities. Among other things, he oversaw the department’s criminal and civil health care fraud enforcement program and also sat on the committee that evaluated and made recommendations to the attorney general in all cases that were eligible for seeking the death penalty. He also oversaw certain Justice Department components, such as the United States Marshals Service and the Federal Bureau of Prisons. “I was in D.C. three years and it was a great opportunity to get good experience doing something worthwhile and important from a public-service standpoint.”

Ashcroft eventually sent Murphy back to Savannah to serve as the United States attorney for the Southern District of Georgia, under an appointment by the attorney general and later the district court.

Murphy returned to King & Spalding in 2004, and now represents companies – and some individuals – who are under investigation by the government. Murphy’s practice includes a mix of white-collar criminal defense work and civil cases brought by the Department of Justice under the False Claims Act, which are frequently initiated by whistleblowers. The companies he represents often face parallel criminal and civil investigations by the Justice Department.

Murphy says his background perfectly prepared him for his practice today, from his early work with Thompson and former Judge Griffin Bell at King & Spalding, to his work at the Justice Department. “It’s literally work I’ve been doing for 25 years,” he says. “I’ve been on both sides of the table and seen matters as a prosecutor and defense lawyer, which I think gives me a better perspective to guide my clients through these situations.”

During those 25 years, Murphy has seen a lot of changes. Probably the biggest change is the increase in whistleblower cases filed under the civil False Claims Act, which is attributable in part to the size of recoveries in many of these cases and the bounties that the government pays to the whistleblowers. “If

the government takes a case and it achieves a successful result, the whistleblower’s share of the recovery can range between 15 to 25 percent. In a case that yields a substantial recovery for the government, the whistleblower’s share obviously can be significant. There have been more and more cases brought by whistleblowers and I don’t see that stopping anytime soon. I think a lot of whistleblowers are motivated by money. So much money is at stake that it makes me wonder if we as a country have created an environment in which employees who think they see a problem are not incentivized to report it within the company. Rather, they go straight to the government instead of working to correct the situation within the company.”

Since the Civil War, the False Claims Act has allowed individuals to file a lawsuit in the name of the United States and allege that someone has filed false claims with the government. These claims can involve, among other issues, the filing of false Medicare claims or the submission of false claims under a government contract. Murphy does a lot of work defending companies in these cases, and says that companies can protect themselves if their compliance policies are strong and if when a problem is identified, it is dealt with in a timely and comprehensive fashion. “One of the benefits of having



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strong compliance processes in place is that it may give you the opportunity to identify and address potential issues before they erupt into a larger problem,” he says.

Another big change Murphy has seen in his career is the sheer number of documents that are part of a case, particularly cases involving a corporation. “Twenty years ago, before email was so common, a big document case might be 100,000 pages. Now that’s a small case. Today we’re producing documents in the millions of pages. A lot of it is email,” he says. White-collar criminal investigations are especially document intensive and can require a lot of manpower. “If you are turning over four million pages to the government, you need to know what’s in them in order to mount a defense. It can be an expensive proposition,” he explains.

Some cases Murphy works are not prompted by a government investigation. “We will often represent a company when they learn that they may have an issue of some kind. Sometimes there is an internal allegation that an employee or a group of employees engaged in criminal conduct. The company will ask us to conduct an internal investigation to determine the validity of the allegation. If there is any, then we advise them about how to remediate it and whether to make any disclosures,” he says.

Murphy has served as lead counsel representing companies in a broad range of industries, such as pharmaceutical companies, chemical companies and financial institutions among others. He has handled an equally broad range of government investigations for his clients, from environmental investigations to immigration-related investigations to investigations involving different kinds of fraud allegedly committed against the government. When he was a prosecutor, Murphy focused heavily on health care fraud. Today, he spends a great deal of time defending health care providers, such as hospital systems,

nursing home chains and home health providers. And he’s been recognized for his white-collar criminal defense work by Best Lawyers in America and Chambers USA: America’s Leading Lawyers for Business.

“I find this work really interesting,” he says. “The stakes are significant and every case is different. These cases require a lot

of factual development and a lot of strategic thinking and we end up working closely with our clients.”

Murphy recommends that individuals interested in entering the legal profession find an area that they can be passionate about. “I love what I do. You spend so much time working, you need to have passion to maintain that over time and represent your clients as well as possible.” Murphy’s own 17-year-old son Blake, who fences competitively, is now saying he might want to be a lawyer. “I think he’d be a good lawyer; he thinks like a lawyer,” Murphy says proudly.

When Murphy isn’t working or spending time with his wife Tanya and his son, he likes to keep up with the news. “I’m a political junkie,” he laughs, noting that his father was in the Georgia

General Assembly for 10 years before his cousin Tom Murphy succeeded him in the House. “I refuse to read legal novels. It’s the last thing I want to read in my spare time.”

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KING & SPALDING, LLP

1180 Peachtree Street
Atlanta, GA 30309
(404) 572-4600
www.kslaw.com