

Rising Star: Orrick's Mel Bostwick

By Annie Pancak

Law360 (October 4, 2019, 4:01 PM EDT) -- Orrick Herrington & Sutcliffe LLP's Mel Bostwick has argued before the Federal Circuit five times over the last two years, including scoring a landmark win for 90,000 veterans in an en banc case, earning her a spot as one of five appellate attorneys under 40 honored by Law360 as Rising Stars.

THE BIGGEST CASE OF HER CAREER:

Bostwick's biggest case so far was when she secured a win for Vietnam War veterans in an en banc Federal Circuit case.

In January, the appeals court ruled that U.S. Navy veterans who served offshore during the war, called Blue Water veterans, are entitled to benefits for diseases linked to Agent Orange, a toxic herbicide used in the war.

"The thing that was particularly challenging about [the case] was the same issue had come up before the Federal Circuit in a case in 2008 and they had held that the statute was ambiguous and so deferred to the [U.S. Department of Veterans Affairs]," Bostwick said.

The department had denied these benefits to Blue Water veterans because they had been offshore.

But after arguments in December 2018, Bostwick persuaded the full court to overturn the 2008 decision and rule that the phrase "served in the Republic of Vietnam" in the Agent Orange Act covers not only military service on land and inland waterways, but also service in the territorial waters of Vietnam.

In June 2019, the U.S. Department of Justice told the U.S. Supreme Court that it wouldn't appeal the Federal Circuit's ruling.

RISING ★ ★ ★ ★ ★ STAR



**Mel Bostwick
Orrick**

Age: 37
Home base: Washington, D.C.
Position: Partner
Law school: Harvard Law School
First job after law school: Law clerk
to Circuit Judge Timothy Dyk of
the U.S. Court of Appeals for the
Federal Circuit

HER PROUDEST MOMENT:

Standing at the podium for the en banc argument before the Federal Circuit was also Bostwick's proudest moment as an attorney, she said.

It was her first en banc argument and only her fifth appellate argument overall.

"A large contingent of Blue Water Navy veterans showed up to attend the argument and knowing they were sitting behind me in the audience and also getting to face the full panel of judges on a court that's really been a home in the law for me was just incredible," she said.

WHAT MOTIVATES HER:

There are multiple sources for motivation in Bostwick's work, she said. In addition to her veterans work, she focuses on patent cases.

"I really love [patent cases] because I get to learn about a new technology with every case and that's both a lot of fun and also really motivating because ... you learn about what these companies are doing in the real world and the value that they're adding to people's lives," she said.

Another motivation for her is setting an example for the next generation of attorneys, particularly women.

"I'm in two practice areas that are heavily male dominated: appellate law and patent law. And there's clearly been a lot of improvements in the past few decades, but there are still a lot of challenges that women face in this profession," she said. "Anything I can do to be a role model and a mentor to women who are coming up behind me is a big motivation for me."

WHY SHE'S AN APPELLATE LAWYER:

Bostwick said she is an appellate lawyer because the practice plays to her strengths: writing and being able to explain an argument clearly.

"Understanding what it means to write for an audience is key to being an effective appellate advocate, and that's a strength that I bring," she said. "The other is cutting through the complexity and being able to present issues and arguments clearly to a court that is coming to this case brand new, and it's especially important in a field like patent law where the facts of the case involve really complicated technology."

HOW APPELLATE LAW WILL CHANGE OVER THE NEXT DECADE:

Bostwick predicted that the influence of technology will impact appellate law in the coming years like it has already influenced other practice areas.

"I think appellate law has been [less] influenced by technology just because it's a little more traditional. It's writing and thinking and argument. But I expect that we're going to see more of an influence on legal tech innovations in the coming years," she said.

"I also hope we will continue to see progress on improving diversity in appellate law," she added.

— *As told to Annie Pancak*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2019 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 years old as of April 30, 2019, in order to be considered for this year's award. This interview has been edited and condensed.