

Rainmaker Q&A: Kelley Drye's John Villafranco

Law360, New York (July 22, 2013, 12:29 PM ET) -- John E. Villafranco is a partner in Kelley Drye & Warren LLP's Washington, D.C., office. He provides litigation and counseling services, with a focus on advertising law matters and consumer protection. He has a particular depth of experience representing clients in regulatory matters initiated by the Federal Trade Commission or state attorneys general, in competitor challenges brought before the National Advertising Division of the Council of Better Business Bureaus or in court under the Lanham Act, and in consumer class action defense.

An editor-in-chief of the American Bar Association Consumer Protection Law Developments treatise and author of numerous articles on advertising law, Villafranco is an authority on a range of issues involving consumer protection law. He has held several leadership positions within the ABA Section of Antitrust Law, including as current chairman of the Private Advertising Litigation Committee, past chairman of the Consumer Protection Committee, and past chairman of two ABA Consumer Protection Conferences. In 2011, he was named D.C. Advertising "Lawyer of the Year" by Best Lawyers, and he is recognized consistently by the Chambers USA and US Legal 500 legal directories for his work in the field of advertising and marketing law.

Q: How did you become a rainmaker?

A: I don't like the term, nor do I think it fits me very well. If I had to explain my early success in developing business, I would say I was motivated in part by fear (what actually happens to partners without clients?) and in part by insecurity (what does it say about me as a lawyer and person if no one wants to hire me?). I told myself, you need to try really hard to develop business because you just never know what might happen if you don't. Not the most healthy explanation, I know, but true nonetheless.

My first major success occurred as a direct result of a presentation I gave at a commercial conference following the successful resolution of administrative litigation with the Federal Trade Commission. One of the attendees worked for a major Internet service provider that had just received a letter from the FTC, which had opened an investigation into the company's practices. I was a senior associate at the time and this company was known for hiring young attorneys to represent them, as opposed to the usual lawyers representing respondents in FTC proceedings. Right place, right time. I led the defense on the case and we achieved a nice result. From there, I had instant credibility having succeeded for a

major brand and I was sure to feature that experience in pitching new business. Eventually, I built a nice client portfolio of major brands. I continue to rely on that portfolio in pursuing new business. Nothing gives a general counsel greater comfort than knowing that you have realized success for other companies of stature and reputation.

Q: How do you stay a rainmaker?

A: Fear and insecurity, as well as continued attention to developing substantive expertise in my field. If you are not in command in your particular area, you not only won't get hired but you shouldn't get hired. There is no coasting. You need to identify every possible avenue available to you to raise your practice's profile and then commit the time and effort toward that objective.

For me, that has meant active participation within my section of the American Bar Association, writing articles that focus on developing areas of the law, and accepting every invitation to speak before an interested audience (no matter how small). These are the building blocks and they apply to new and seasoned partners equally.

Q: What advice would you give to an aspiring rainmaker?

A: First, be nice. To everyone. Including adverse counsel. You just never know how you might be called on to interact with a professional contact down the line. Some of my early adversaries have resurfaced as government regulators, potential clients, or even partners in practice. There is a quote that I have seen attributed to former Providence Mayor Buddy Cianci: "Be careful that the toe you step on today, isn't connected to the ass you have to kiss tomorrow."

Second, it is not enough to be smart, but you have to look smart too. That means careful attention to your in-person and written presentation. There is serious over-capacity in the market right now. I have heard this referred to as "the new normal" and I believe that is an accurate characterization. That means competition for the work is stiffer than it has ever been. When an opportunity presents itself, in the form of a request for information about your qualifications or a proposal to explain how you might defend against substantive allegations, you need to be committed completely to that response. Substance and high gloss. Be smart. Look smart.

Q: Tell us a tale of landing a big client.

A: As a junior partner, I wrote an article on a minor issue: under what circumstances can a product be labeled "new" when it contains recycled content. The article was published in an obscure newsletter that nobody read. This time, one person did read it, and she worked for one of the principal mobile carriers. Turns out, she was considering this very issue, and hired me to prepare a memo. She liked my work, and it led to other assignments, including, eventually, major class action defense and Lanham Act challenges. I have been consumer protection counsel for that same company for 13 years now. They have consistently been one of my biggest clients and lawyers at the company have become some of my very best professional friends. To this day, I try to write an article every month because — you just never

know ...

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