

Rachel Skaistis
CRAVATH (NEW YORK)



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BY KATRINA DEWEY

THE PATH TO BECOMING A TOP INVESTIGATIONS

lawyer – one of the hottest practices on the planet right now – typically involves years as a federal prosecutor and then a move to a leading firm. That's not the road traveled by Rachel Skaistis, who started out as a newspaper reporter in Fort Worth, clerked in the Manhattan DA's office and then joined Cravath.

She assumed she'd leave to get those prosecution credentials. Instead, she took a year to clerk for renowned jurist Shira Scheindlin, returned to Cravath and has been leading the defense of global corporates ever since. She's currently defending Novartis Pharmaceuticals in a qui tam action and recently argued and won a motion to dismiss a shareholder derivative lawsuit against Qualcomm executives in the Delaware Court of Chancery. One of her biggest matters to date was helping Telia settle a vast Foreign Corrupt Practices Act investigation without being required to hire a compliance monitor.

She's also a leading public interest and diversity advocate. She was honored by Sanctuary for Families for her work on a legal brief on domestic violence issues that must be considered in Hague Convention abduction cases and is currently representing an Innocence Project exoneree who had been wrongfully arrested and convicted, despite having no involvement in the relevant crimes, in litigation against the City and State of New York.

Lawdragon: What drew you into the legal industry originally?

Rachel Skaistis: Before law school, I worked as a reporter for a daily newspaper in Texas. For most of that time, I was assigned to cover crime stories, and I really enjoyed working with law enforcement officers and doing what I could to help crime victims and their families. I decided to go to law school to become a state prosecutor; I saw it as a more direct way to be part of the criminal justice process, and not just primarily an observer of the process.

LD: And how did you end up at Cravath?

RS: Good question; this is definitely not what I had in mind when I went to law school.

I spent my first year summer at the Manhattan District Attorney's Office and absolutely loved it. For my second summer, I figured that since I planned to spend my career as a prosecutor, I should try a law firm just to see what it was all about. I really didn't know the first thing about law firms. I come from a family of doctors,

so law – and especially corporate law – was all new to me. As it turned out, I enjoyed firm work just as much as the DA's office, so I decided to join Cravath after graduation. But, even then, I still imagined I would leave Cravath after a few years for a state or federal prosecutor job. Clearly, that never happened. I was working hard, learning every single day from amazing lawyers and extremely happy. At some point I realized that Cravath was where I wanted to stay. Period.

LD: You have a fascinating practice in the investigations area. How did you come to focus on investigations?

RS: About 10 years ago, I became involved in my first matter before the SEC. It was an investigation by the agency into a client's accounting practices. I found the work different and challenging, and was able to use all the litigation skills I had worked hard to develop during my generalist training at Cravath, but in a new way. Since then, my practice has focused in large part on investigations work, including government, board and internal investigations, although I always try to keep some traditional litigation work in the mix.

LD: What do you find rewarding about the investigations space and what are some of the major challenges?

RS: Both traditional litigation and investigations involve a mix of skills – legal analysis, fact analysis, creativity, judgment, pragmatism and common sense. What I find both rewarding and challenging about investigations is that they tend to require a heavier dose of things like pragmatism and common sense. We are generally not in an area where there is much legal precedent to rely upon.

Investigations also require a great deal of balancing. We need to conduct a thorough investigation to ensure that we have unearthed all material relevant facts, but we also need to be aware that our clients' resources are finite and that there is a difference between finding out every single fact, and finding those facts that are important to a board or management determination. Another example of balancing is figuring out how to interact with regulators. You generally want to help regulators gather and understand the facts, but you also want to be a strong advocate for your client.

LD: What role does a white collar/investigations practice play at a firm like Cravath?

RS: I think it plays exactly the same role as our other practice areas. We are a full-service firm, and when

our clients face situations that require internal investigations – or are facing investigations by regulators – we want to provide them with the best quality legal representation in these areas.

Because investigations can come in a variety of forms, we do find ourselves collaborating with our partners in many other practice areas, including our corporate and tax partners.

In fact, our approach to investigations is fundamentally interdisciplinary. And our core white collar team is comprised of both litigators, most of whom have significant government experience, as well as corporate advisory lawyers.

I think another thing we do that is relatively unique in the investigations space, but consistent with the general approach Cravath takes in all its practice areas, is that we staff our investigations very leanly. That way each person on any given investigation is really an expert in the facts and circumstances of the matter. When I make a presentation to a board or a regulator, I like to be able to say, “I sat there with the person and heard about this experience myself, and I found it credible for the following reasons.” If my audience has questions, I can usually answer them directly. And if I don’t know the answer, one of the people sitting next to me definitely does.

LD: On the back of the group’s work this year, are there any particular trends you have noticed?

RS: Foreign Corrupt Practices Act cases continue to be a high-growth area, along with cases involving sanctions and money laundering. There is also an increased number of monitorships, which grow out of FCPA and other types of enforcement actions – Cravath is handling the monitorship of the Takata airbag recall, for example.

LD: You have had a broad litigation practice over the course of your career. Tell us about a recent investigation you’ve worked on that stands out in your mind.

RS: From approximately March 2014 through September 2017, my partner Dave Stuart and I represented Telia, a Swedish telecommunications company, in connection with corruption investigations by the U.S., Dutch and Swedish authorities.

It was incredibly interesting work in light of the number of jurisdictions involved, the facts at issue and certain legal questions that arose during the course of the investigation. We worked closely with Telia’s Swedish and Dutch counsel, and had meetings, including joint meetings, with U.S., Dutch and Swedish authorities.

Although Telia ended up paying a substantial fine, the authorities did not impose a monitor, something that was very important to our client.

These types of global joint investigations are likely to become increasingly common, and I feel fortunate to have had this early experience.

LD: Are there particular lawyers who have mentored you at Cravath or in the legal industry generally?

RS: If I gave you a list of all the Cravath lawyers who have mentored me during my career – and who continue to mentor me – I would be like one of the actors at the Academy Awards whose speech is so long they start playing music. I am thankful every day for the caliber of lawyers I work with both at the partner and associate level.

Outside the firm, my clerkship with Judge Shira Scheindlin was also a formative part of my career. She is an incredible legal mind and talent and it was an honor to serve in her Chambers.

LD: You are also a member of the Firm’s Office of General Counsel, Co-Chair of the Firm’s Diversity Committee and active in a number of public interest efforts, including serving as a firm liaison officer for the Montefiore Children’s Hospital and the Morgan Stanley Children’s Hospital. What about these efforts drives you to go the extra mile?

RS: I consider the firm-related work part of my responsibility as a Cravath partner. We all take on different roles here, and I have been able to focus on issues for the Firm that I care deeply about.

As for the pro bono work, I think that is part of my more general responsibility as a lawyer – and perhaps a way to satisfy the desire to do public service that led me to choose law school in the first place.

LD: What are your other interests outside of work? How do you maintain balance with your responsibilities to your clients?

RS: I am a firm believer that to be a good and effective lawyer, you have to have an outside life. Nothing makes me happier than spending time with my family, and especially my three children, who help put everything in perspective.

I am also pretty devoted to fitness; I run or train several mornings a week. It helps clear my head and get me set for the day. It is also a terrific opportunity to spend time with people who work in other professions. When you spend all day every day with lawyers, the occasional break is not a bad thing.