

Litigation Luminaries

Eric Holder and Craig Pollack are shaping Covington & Burling's ambitions to be at the forefront of international dispute resolution. Both have clear ideas on how to solve complex global disputes – and how to harness the best legal talent in doing so

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Two men. Two lawyers. Two leaders. **Eric Holder** and **Craig Pollack** at first blush, might seem an unlikely duo to head up United States-headquartered **Covington & Burling's** international dispute resolution function.

One is a former US attorney general, widely regarded for his tenure in office, often considered a potential candidate for higher office still, a Covington veteran, whose commitment to the firm's better values is seen as total.

The other; once the head of disputes at legacy SJ Berwin, is coolly strategic, quietly charismatic, commercially minded, cosmopolitan, having been educated in Cape Town, Jerusalem and London. He is relaxed in himself, easy to trust and a real addition to Covington's London ranks.

However, such differences as exist are far outweighed by the things they share in common. Both men are energised about their role in shaping Covington's global disputes practice. Counsellors, yes; Holder's considered disputes thought for his role, and Pollack's positive, pragmatic attitude, both stand out – but first and foremost they are litigators.

Managing complex disputes

When asked to define what it is they do, Holder relates the answer straight back to what clients want. Put simply, he says: "Most companies want to do the right thing. They want to abide by the regulations and relevant laws and make

sure they do not get into trouble. This is not an impossible task, but can be hard to achieve due to a series of factors, including the ever-changing regulatory landscape, the complexity of global supply chains, as well the pressure to deliver value for shareholders."

Such disputes, he notes, at the intersection of litigation and policy raise particularly complex challenges. Indeed, he tells *CDR*: "Disputes that make or break organisations are often the ones that are the hardest to plan for," given that such situations are multifaceted.

Pollack expands on those thoughts: "We try to see the problem with all of its angles, both legal and non-legal, sometimes looking at policy issues, sometimes political issues and often with multi-jurisdictional elements."

He explains: "What we are talking about is problem-solving of complex and consequential issues for clients. The question is how do we actually solve the most complex problems clients face? Dispute resolution can be part of the solution, but not necessarily the only part. It also often involves 'commercial diplomacy'. We use both aspects to deliver a result for the client."

In formulating a global problem-solving offering, Holder says the firm's capabilities were not in issue, nor experience, it just required a distinct vision. "We were in a fortunate position when all we needed to do was present our vision to the partnership, which was extremely receptive."

"We try to find the right team of people who are going to address the problem; what Covington has is a very deep bench-strength of expertise across a variety of areas which allows



Eric Holder

Craig Pollack

us to do that,” adds Pollack. “Matters may start domestically, by something that in the first place seems routine, but can evolve into an issue with much wider and greater implications.”

Diplomatic solutions

Pollack illustrates this, saying: “The advice we provide may come from the lawyers who alerted the issue in the first place, or from our former diplomats or government officials, alerted through their contacts in a region, who might be attuned to problems on, say, a national scale, or commercial entities who happen to be in-country, and have a problem which they can’t resolve easily domestically.”

The expertise of these former diplomats, as part of the firm’s public policy group, provide valuable “insights, into the *modus operandi* of governments around the world”; one of the distinguishing features of the firm’s offering, says Holder.

Holder goes further, explaining how the firm draws on its ‘knowledge bank’ – the collective experience and judgment of those personnel – harnessed by “making a conscious effort to understand the depth and breadth of that experience”.

He adds: “We believe that our ability to call on the experience of senior litigators and problem-solvers, alongside our seasoned former

government officials and diplomats, allows us to bring a holistic approach that is a compelling proposition for clients.”

Both men cite an example of a client which faced possible expropriation of a significant portion of its land holdings. Thanks to the work of former US diplomat, now a senior adviser at Covington, **Arturo Valenzuela**, and his 40 years of experience, the firm’s litigators identified a relevant strategy to resolve the situation, engaging with high levels of the relevant government, including cabinet ministers, and the president. Negotiations centred on the negative implications of expropriation for potential investors, enabling the matter to be resolved satisfactorily.

Culture of collaboration

Drawing on such collective knowledge, Holder says, “requires a conscious effort to ensure regular communication and sharing of information and contacts between partners”.

By putting that effort in and tapping into that collective wisdom, “we find we are able to adapt to complex and often rapidly changing business and political developments and to respond in accordance with our clients’ needs”, he adds.

Although a relative newcomer, Pollack agrees: “The firm lends itself to a culture of collaboration;

it struck me, early on, that the firm has a real breadth of expertise in all disputes-related matters, running across the full suite of potential resources that a client might require.”

This culture of collaboration is embraced by all of the partners, he says: “People may think it is slightly old-fashioned, but I can attest to it. What we do is try to identify the right people with the relevant expertise and seniority who can bring their skills to bear on an issue, and identify them early on, be they people with African, Asian, Russian or Middle Eastern experience, to which we can add value over and above the work of a national or local law firm.”

Holder agrees, saying: “The trust quotient among our partners is exceptionally high. No-one is looking over the shoulder of anyone else, so it is leadership by example and a shared commitment to the firm and our clients, rather than command. What we aim to do is to provide immediate and constant support when called upon by colleagues to get involved.”

Pollack illustrates how this works: “While decisions are not made spontaneously, the firm balances in-depth consideration with quick decision-making when needed, and also, considering when not to take a decision, or to pass on an opportunity. There is no paralysis by analysis.

“There is a special kind of rigour in the firm’s thinking, tested against what the firm wants to say or do as a whole, of which the firm’s chairman, **Tim Hester**, has the broadest – and best – view.”

London calling

In an age of Brexit, Holder says the London-based team has “given us the capability of handling the most complex disputes in one of the key forums for global disputes resolution”, which is a “significant additional piece to our jigsaw”.

Unsurprisingly, Pollack asserts: “It is important to have a stand-out disputes team in London, because London is such an important global centre for dispute resolution.”

“We are better placed today to serve as global disputes counsel for these types of multi-jurisdictional matters. We are already benefiting from this added firepower and there is an increasing amount of cross-border litigation that we are exposed to,” Holder says.

To Pollack, global disputes “will continue, despite Brexit, to be concentrated in London for the foreseeable future, because of our tradition in history of upholding the rule of law, because of the quality of the judiciary, because English law is this magnificent invisible export, and because London is a pre-eminent financial centre; none of those things are going to go away anytime soon”.

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Structure and strategy

In terms of ambition, Pollack says: “We want to be as equally well-known for global disputes as we are for our US domestic litigation, one where we are managing all the ancillary litigation in a matter, be it with other law firms, coordinating all aspects, leading the London arm, looking at Asian or offshore aspects, and so on.”

Pollack himself is serving as counsel in a complex litigation spanning multiple European Union jurisdictions, Asia and the Caribbean, in a multimillion dollar conspiracy claim in the English High Court, where there are related Dutch proceedings, as well as lawyers engaged in Liechtenstein, the British Virgin Islands and Curacao.

The clients engaged him to set the overall case strategy and to manage teams of lawyers across multiple jurisdictions, having litigated for 25 years in virtually every emerging market possible.

Experience has taught Pollack that integration is fundamental, recognising “the importance of commercial litigation, but also international arbitration, and white-collar crime and investigations work. Having a credible offering in each regard is a fantastic proposition to put to clients”.

He adds: “The growth proposition for disputes work recognises that, while US litigation will be the single and most important area of importance for the firm, incremental growth lies in the emerging markets and regions, such as EMEA.”

As Pollack concludes, the bottom line is simple: “The firm understands that is what true lawyering is about, which is you try and help the person who approaches you if it’s in your skill-set.” There can be no finer summary. 