

MVP: Cleary Gottlieb's Jeffrey Rosenthal

By **Caroline Simson**

Law360 (December 18, 2019, 3:31 PM EST) -- Cleary Gottlieb Steen & Hamilton's Jeff Rosenthal helped secure a \$2 billion arbitral award for the Brazilian mining company Vale SA in a long-running dispute over a Guinean mining project, earning him a spot among Law360's 2019 International Arbitration MVPs.

HIS BIGGEST ACCOMPLISHMENT OF THE YEAR:

In April, Jeff Rosenthal persuaded an arbitral tribunal to issue an award worth about \$2 billion to his client, Brazilian mining company Vale SA, following a dispute with Israeli billionaire Beny Steinmetz's mining company, BSG Resources Ltd., over a stymied Guinean mining project in one of the world's most valuable unexploited iron ore deposits.

The award, for \$1.2 billion plus interest, is believed to be among the largest commercial arbitration awards ever issued. A London Court of International Arbitration tribunal concluded that BSG Resources had bribed its way into obtaining certain mining licenses and fraudulently sold a share of those licenses to Vale, perpetrating an elaborate systematic fraud scheme.

The licenses had been revoked by Guinean authorities after the bribery was uncovered, but Vale was never implicated in the scheme.

Rosenthal told Law360 the award has stood out among his accomplishments not only for its size, but also because of the case's complexity.

"It's not every day you get a \$2 billion award — one that we had been fighting hard for five years to obtain," he said. "I think that's what made the case particularly challenging. It involved bribery and corruption [that] was pretty well buried when we filed the arbitration ... it's not something that a tribunal is going to find easily unless you can hit them with overwhelming evidence."

WHY HE'S AN INTERNATIONAL ARBITRATION ATTORNEY:

It was by chance that Rosenthal ended up focusing on international arbitration, he said, considering that



he never took any international law and arbitration classes in law school. In fact, he ended up choosing Cleary just because of the quality of its litigation group generally, he said.

Long recognized as one of the nation's top international arbitration firms, Cleary nevertheless has a philosophy of creating generalists over specialists. Still, Rosenthal said he's continually finding himself drawn to international arbitration. In part, that's because he considers himself a trial lawyer, and such a large proportion of arbitrations go to a hearing — a more rare occurrence in litigation.

But it's also because of the style of cross-examinations in arbitration, which he described as "uniquely challenging." He noted that in litigation, witnesses will typically have given a deposition that lays out their story, while in arbitration, depositions are more rare — meaning there isn't already a transcript for the witness to follow in arbitration.

Preparing for an arbitration cross-examination means getting familiar with all the documents and witness statements to potentially poke holes in a witness' story, without necessarily knowing beforehand how that might happen.

"Arbitration cross-examinations are more of a matching of wits," he said.

WHAT MOTIVATES HIM:

Because he specializes in international arbitration, it might be surprising to hear that courtroom work is what Rosenthal said has kept him excited about his practice over the past 27 years. But it just goes to show how his practice aligns with Cleary's tendency to promote its lawyers as inter-disciplinarians, he said.

In fact, most of Rosenthal's arbitration cases end up in court at some point — whether that's to compel an opposing party to arbitrate or to enforce an award when the losing party won't pay.

It also means that if he's required to go to a bankruptcy court for a client — as the firm was obligated to do in the Vale case involving BSG Resources — he can easily do so.

"I really like being able to combine both aspects in my practice," he said. "Because Cleary doesn't have lawyers who are only familiar with arbitration, we're able to give balanced advice on how to strategize with court proceedings and arbitration. That's a great motivation for me."

HIS ADVICE TO JUNIOR ATTORNEYS:

Like any good lawyer, the best thing someone just starting out in the practice can do is learn the record from front to back — perhaps even better than the partners who are also working in the case, Rosenthal said.

Noting his preparatory work for an arbitration cross-examination, he said it's critical for young lawyers to know everything that's been written in the case and every underlying email, knowledge that will make them "indispensable" to his or her team, he said.

"The person who I call first to do something on a case, or the person I ask to second seat the examination ... is the person who shows me that they know the record, that they know everything out there," he said. "While legal research and understanding how the facts fit the law is critical, I find mastery of the facts even more crucial. That's what positions you to react on your feet."

— As told to Caroline Simson

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2019 MVP winners after reviewing nearly 900 submissions.

All Content © 2003-2019, Portfolio Media, Inc.