



DAVID MARRIOTT
partner, **CRAVATH, SWAINE
& MOORE LLP**

“HE IS A TALENTED STRATEGIST, MANAGING CLAIMS, COUNTERCLAIMS, DISCOVERY DISPUTES, AND VERY DIFFERENT AREAS OF LAW”

Amy F. Sorenson

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Lorin DeMordaunt,
Deloitte

Profile of Cravath’s David Marriott, one of America’s leading litigators

Partner David Marriott of Cravath, Swaine & Moore LLP has earned a reputation as a skilled advocate with impeccable judgment. His clients have included Colgate-Palmolive, CSX, Delta Airlines, Frontier Communications, IBM, Mylan, NCR, Novartis and PPG Industries. Here we take a look back at some of the career-defining cases of one of Leaders League’s most influential litigation attorneys and one of America’s leading litigators.

At the start of 2016, Marriott led the Cravath team that defeated a \$4 billion lawsuit brought against IBM by software company, The SCO Group, which was claiming rights to both the UNIX and Linux operating systems. The case lasted nearly 13 years and involved a wide variety of claims, including breach of contract, copyright infringement, unfair competition and tortious interference.

Winning that case not only required mastery of several areas of law, but also the handling of an extraordinarily complex set of facts. The lawsuit, during which the parties produced many millions of documents, also involved plunging into the intricacies of software programming code.

Attorneys who have worked with Marriott say intelligence, expertise across multiple disciplines and formidable advocacy skills are the hallmarks of his practice. Amy F. Sorenson, a partner at Snell & Wilmer familiar with the SCO case, noted Marriott’s impact, saying he has “*a particular talent for synthesizing and presenting almost unimaginably dense, complicated facts in a clear, concise and understandable way.*” She added, “*he is an equally talented strategist, managing claims, counterclaims, discovery disputes, and very different areas of law, as well as the people, facts and machinery that complex litigation entails today with a sure hand from the first move.*” She further emphasized, “*he really is world-class.*”

In a world where lawyers increasingly focus on one area of law, it is common to find ultra-specialized individuals at the top of the profession. Marriott is an exception and has distinguished himself across many different legal disciplines.

Lorin DeMordaunt of Deloitte, a keen observer of the legal industry who has followed David’s work for years, noted: “*In a world that is becoming increasingly specialized, Dave Marriott stands out for maintaining a super diverse practice... [T]he fact that he works on the most complex cases for the most discerning clients who could have anyone represent them, makes him unique. He’s the real deal and without any doubt part of the next generation of great American lawyers.*”

Illustrating the diversity of his practice, Marriott has represented a leading US railroad company in a securities case against a hedge fund that had acquired derivatives tied to the railroad’s publicly-traded shares; a Hollywood producer in a dispute with a media conglomerate regarding royalties concerning a popular cable television show; the estate of a high-profile individual in a case involving the First Amendment of the US Constitution; and one of the world’s largest glass companies in an antitrust action alleging price-fixing among the world’s largest glass makers.

Other notable victories include one for a multinational healthcare company in an arbitration involving a contract purportedly worth more than \$10 billion and another for the City of New York in a case accusing the NYPD and various police officers of excessive force and/ or false arrest.

Though most American litigators’ influence is limited to the US, Marriott is often called upon for cross-border litigations. For example, he represented Italian television manufacturer Carlo Vichi and his company Mivar in a long-running dispute with Philips NV concerning a €200 million loan to LPD (LG Philips Displays), a joint venture between Philips NV and LG Electronics. Courts from eight different countries played a role in the discovery phase of the case. The trial court was required to evaluate and apply three different bodies of law: English, Italian and US. Sworn testimony was taken from witnesses throughout Europe and at least one witness testified at trial by video feed from Asia. The case was ultimately settled but not before it was tried in the Delaware Chancery Court and appealed to the Delaware Supreme Court.

Vitorio Necchi, who acted on behalf Vichi and Mivar, called Marriott “*a litigation maestro.*” According to Necchi, Marriott displayed an extraordinary ability take a complex set of facts, the laws of multiple jurisdictions and witnesses from very different backgrounds and put them all together to form a compelling case. He said Marriott is “*a spectacular advocate, with excellent judgment.*” Necchi stressed that Marriott did not always tell Vichi and Mivar what they wanted to hear, but he always told them

what they needed to hear.

Alberto Saravalle, former Managing Partner of BonelliErede and head of its international arbitration practice, echoed Necchi's sentiments. He said Marriott is one of the best trial lawyers he has seen in action, with a special talent for winning over his audience, no matter the language, venue or subject matter. According to Saravalle, who has worked with Marriott on complex international litigation, "David masterminded a brilliant strategy and demonstrated exceptional litigation skills." In particular, Saravalle singled out Marriott's "brilliant and effective advocacy in court. Clients feel reassured and trust him fully."

Marriott has also represented several of the world's leading law firms in their own legal matters. He recently handled claims brought against a firm in connection with both a commercial mortgage-backed securitization and a proxy contest involving the investment company of the owner of the Washington Redskins NFL team. In the last year alone, Marriott has twice argued such claims in the New York Court of Appeals, the state's highest court.

While he routinely handles appeals, Marriott is a consummate trial lawyer. In one 12-month period, he tried four different, significant cases and, in 2015, Marriott and his colleagues at Cravath concluded their fourth trial for NCR Corporation – an American computer hardware, software and electronics company which makes consumer transaction technology – over alleged river pollution with polychlorinated biphenyls or PCBs. The Cravath team sought to convince a US federal court that NCR played no meaningful role in the pollution of Michigan's Kalamazoo River and should not be required to bear any of the more

than \$1 billion that some have estimated it will cost to clean up the river. A decision is expected in the case before the end of 2016.

Geoffrey Fields, a Michigan lawyer familiar with the case, said Marriott "is one of the best trial lawyers I have witnessed in the courtroom where, without fail, he focuses on the key issues before the court based on solid legal reasoning and a solid grip on the facts – good and bad ones alike." He added, "David has a rare combination of talent and experience that produces sterling courtroom work."

In a civil-rights case Marriott tried in federal court in New York, Marriott won a jury verdict that established a new benchmark in First Amendment cases of the kind. The presiding judge noted that Marriott is "a special talent," and "a stand out as a trial lawyer" with "exceptionally good judgment." The judge said Marriott has the well-deserved reputation of being "one of the very top trial lawyers in New York City: smart, fair, wise, personable, always fully prepared, cordial, effective, a great writer and brilliant advocate" and "he is totally trustworthy."

When he is not trying cases and arguing appeals, Marriott is an adjunct professor at NYU School of Law, where he teaches trial advocacy, and a lecturer in law at Columbia University School of Law, where he teaches antitrust and intellectual property.

Next up for Marriott is a high-profile copyright lawsuit filed against the well-known appropriation artist Richard Prince. The case is expected to break new ground in the field, a common characteristic of Marriott's cases. ♦

Editing by J.S.
(www.leadersleague.com)

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U.S. District Court Judge

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Geoffrey Fields

