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Rising Star: Gibson Dunn's Michael Murphy

By Abigail Rubenstein

Law360, New York (April 09, 2010) -- Gibson Dunn & Crutcher LLP's Michael Murphy helped both Lockheed Martin Corp. and Goodrich Corp. ensure their right to pursue the U.S. government for cost recovery under the Comprehensive Environmental Response, Compensation and Liability Act, making him one of Law360's 10 environmental attorneys under 40 to watch.

For three years, Murphy advised his clients as they navigated a legal dispute over what certain provisions of CERCLA meant — laying out a successful strategy to persuade the U.S. Supreme Court to adopt the interpretation they wanted.

In 2004, Lockheed Martin filed an amicus brief in *Cooper Industries v. Aviall* asking the court to examine the section of the law that gave private parties the right to recovery response costs.

The high court declined to decide the issue in *Cooper Industries*, ruling that it was not properly presented in that case. But it acknowledged and discussed the argument Lockheed Martin advanced in its amicus brief. And Justice Ruth Bader Ginsburg, joined by Justice John Paul Stevens, adopted the company's position in her dissenting opinion.

Following the *Cooper Industries* ruling, Murphy and his colleagues continued to press the issue on behalf of Lockheed Martin and Goodrich before various courts — including in an appeal in the U.S. Court of Appeals for the Ninth Circuit for Goodrich and as amicus for Lockheed Martin in the Seventh Circuit.

The cases eventually resulted in a circuit split, prompting the Supreme Court to consider the issue in *U.S. v. Atlantic Research Corp.*, in which Lockheed Martin again filed an amicus brief. Gibson Dunn's strategy paid off when the court agreed unanimously that parties that voluntarily clean up hazardous waste have a cause of action under CERCLA to recover a portion of their cleanup costs from other responsible parties.

After the *Atlantic Research* decision came down, Murphy represented Goodrich before the Ninth Circuit, which had consolidated several appeals seeking clarification on *Atlantic Research's* impact on the circuit's prior CERCLA case law. The appeals court ultimately adopted the position Murphy put forward at oral argument, clarifying the effect of the very Supreme Court ruling he had struggled to achieve.

Murphy, 39, focuses his environmental litigation practice on the intersection of environmental law and government contract work. He works out of the firm's Washington office as a member of both its environmental and natural resources practice group and its government and commercial contracts practice group.

When he joined the firm after earning his law degree from the University of Virginia in 1999, Murphy was a government contracts attorney. The firm's environmental group was busy, however, and many of their clients were government contractors. Murphy enjoyed work that allowed him to do both environmental law and government contracts then, and he still does, he said.

At the moment, Murphy represents several government contractors who are seeking to recover environmental cleanup costs against the U.S. pursuant to CERCLA at facilities that were formerly owned or operated by the U.S. Department of Defense.

“When you are working out of a big firm, you're typically a defendant, but we're in a different position because we represent government contractors, so we also work on cases pursuing the government,” Murphy told Law360. “As a result, you do walk a tightrope on certain legal issues because you don't want to create bad law.”

Murphy praised his colleagues at Gibson Dunn, and also said he enjoyed getting to work with the same clients on various matters over time.

“With certain clients that you've been able to get to know, you build up a good working relationship with people and so it becomes enjoyable to work with them, and you count them as colleagues as well,” Murphy explained.

Ray Ludwiszewski, who leads the firm's environment and natural resources practice group, described Murphy as “a terrific young partner with a huge amount of experience representing parties in very complicated litigation.”

“He has a high profile in the field for someone his age,” Ludwiszewski told Law360.