

Professional Insights

Opinions from Business Leaders We Know and Respect

Interview with Sandra Dawn Grannum



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Sandra Dawn Grannum

Partner, Business Litigation Group
Faegre Drinker Biddle & Reath LLP

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What’s your back story, and what prompted you to study law?

My parents immigrated from Jamaica. Like many American families, we first lived in Brooklyn, New York and then moved to Queens. My two brothers and I attended New York City public schools. I earned my undergraduate degree at NYU and then went to Harvard Law School. My decision to go into law was because, when we were younger, my mother worked as a legal secretary at a small law firm on Park Avenue. The partners at that firm had gone to Harvard and Yale, and I thought they were the most brilliant people I had ever met. I wanted to be just like them, so I always had aspirations of going to Harvard or Yale, and eventually working at a small law firm on Park Avenue. I did attend Harvard Law, but ended up at Cravath, Swaine & Moore, slightly larger than my dreamed of small Park Avenue firm.

What was that experience at Harvard Law School like?

There are people who love Harvard, people who hate Harvard, and rarely anyone in between. I absolutely loved everything about Harvard, and it was a much better experience than what I had expected. I thought that the people there would be conservative and stuffy, but they were nothing like that. Everyone there had an opinion, whether it was left, right or center, and no one was shy about telling you what their opinion was.

Unlike many people who go to Harvard, I didn’t have the burden of being the 3rd or 4th generation to attend the school, or need to achieve certain grades. The

fact that I had gotten into Harvard Law meant everything to my family, and after that I could do no wrong in their eyes. I was nervous initially, so I remained very quiet during the first two weeks that I was there. But after the second week, after realizing that I knew the answers to most of the questions they were asking, I gained confidence that I could succeed there. One of most surprising things to me about Harvard was that the most difficult part is just getting in. In fact, the school has a very low attrition rate. Once you’re there, you feel pretty comfortable. No one acts ultracompetitive, and the stories about students hiding books from each other in the library are not true. Everyone at Harvard Law figures that you’re going to get a good job when you graduate, so you can enjoy yourself and make lifelong friendships with your classmates.

How demanding was your first position out of law school at Cravath, Swain & Moore?

Cravath was much more intimidating than Harvard. They don’t hire attorneys from other firms at Cravath. They grow up through the system, and they work intensely, all the way through partnership. They never slow down. When people say that the firm leaves no stone unturned there, it’s absolutely true. While it may have changed, when I was there, it was the type of place where you are working all the time, and you have no idea that other people get Saturdays and Sundays off, and can actually go home when the sun goes down. I developed a really skewed work ethic, and I didn’t realize that until after I left the firm, because I didn’t know anything else.

I left Cravath after 6 years, because I had gotten married to a doctor doing his medical fellowship, and at the time my hours were longer than his. Then I had a baby and it was just too much for me at the time.

You've worked for large and small law firms, run your own firm, and served as in-house counsel. Which role was the most challenging?

I've worked for a big firm, a medium-sized firm, then moved inhouse to Paine Webber – which became UBS – then ran my own boutique law firm which at its height had 25 people. Then I moved back to a large firm, Drinker Biddle & Reath, which is now Faegre Drinker. So, I've come full circle in my career.

How to manage your own firm is not something you're taught at Harvard or Cravath. It's a whole different skill set. Even if you're a brilliant attorney, you can fail at managing your own business. You need to have some entrepreneurial aspect to your personality, which I did not think I had. But Joel Davidson thought that I did, and he invited me to join him. He taught me how to manage the payroll, to understand profit and loss, and to recruit and hire good people. Some mornings I would drive into our firm's parking lot and my heart would stop. I would think, "There are so many cars in this parking lot, and I'm responsible for all of these employees' mortgages. All of these people are depending on me." There is always that feeling of angst.

I was managing partner for 13 years at Davidson & Grannum, initially co-managing with Joel, and later on my own. The best part about running your own firm is that you get to pick your

partners. So I was good friends with all my partners. I also enjoyed the ability to make all of my own decisions, which can also be the worst part of having your own business. If there is a lull in the business, there is no comfort of knowing that there's a large partnership backing me up. Someone once told me that the problem with having your own business is that you work 24 hours a day, every day. You're always thinking about what you need to do next. But my experience at Cravath had already prepared me for that. In fact, that's a work ethic that has not changed over the course of my career.

Why did you focus on the financial services industry?

My pathway into financial services was unintentional. In fact, I did not take one single securities class in law school. At the time I joined Cravath in the 80s, the firm was doing a lot of hostile takeover work. One of the last cases I worked on at Cravath was a lawsuit for the FDIC, brought against Michael Milken, so I knew everything about him and Drexel. As it turned out, that experience was very helpful when I joined the Tenzer Greenblatt firm, which was engaged by Drexel for its bankruptcy work. I absolutely loved bankruptcy court, which is very much like arbitration.

After Drexel went into bankruptcy, the firm developed a significant practice involving several "high pressure" broker-dealers, and I worked on those cases. It was an initiation by fire. I did a high percentage of FINRA's (then NASD) mediations during the very first year the NASD began its mediation program. I tried those cases, and I also taught other people at the firm how to try those cases. There were so many cases that I developed a "watch it, do it, train

it" system: I sit with you as your second; you sit with me as your second; then you are on your own. I really enjoyed that work because, unlike many other types of litigation, they actually went to trial, and I loved trials. For me, cross examining experts was the best part of the job.

At that point in my career I had two kids, and for my sanity, I needed to take an inhouse position. I really wanted to continue to try cases, and except for brokerage firms, there are very few inhouse positions where you can do that. So, I left Tenzer Greenblatt to join PaineWebber, and it was a great fit because I had a very lengthy history of arbitrations under my belt. The day I walked in, there was already a pile of cases on my desk, and a mediation scheduled for two days later.

What type of work are you doing now, at Faegre Drinker?

These days, my work is broadly based because of my background. When I had my own practice, we needed to diversify beyond broker-dealer litigation/arbitration, so we started doing a lot of regulatory work which involved representations of brokers and broker-dealers before FINRA, the SEC and the DOJ, and we did trials against the SEC, and appeals to the NAC. We also did employment law work. When I was at UBS, I moved into the employment law group, which has a unique aspect to it when it involves the financial services industry. Therefore, employment law for broker-dealers became one of our niche specialties. We would also create written supervisory procedures for our clients, often to address the needs of particular groups, such as brokers who do work for municipalities.

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I currently still do all those types of cases, including working on the Best Interest Compliance regulations. We also create procedures and policies for the DOL's fiduciary rules. We also handle ERISA type work, as well as bankruptcy adversarial proceedings, which I started out doing for broker-dealers in clawback cases. On occasion, I do general commercial litigation, including general employment law cases that have nothing to do with broker-dealers.

If you give me a trial, I will try it regardless of the subject matter. That's the difference between a trial attorney and litigation attorney. If you give me the subject matter, I will dive into it and become an expert on that topic, and that's why I love being a trial attorney.

How has working from home during COVID-19 affected your ability to conduct business in a normal fashion?

I have not been on a plane since the first week of March, and that is extraordinary for me. I miss not being able to meet my clients in person, as we all have restrictions on travel and visitors. Our firm is still working remotely, so I also miss interacting in person daily with my partners and associates. However, flexibility is the key to success so we have all become quite proficient at Webex, Zoom and Google Meet. I make it a point to meet up socially on a virtual platform with people I care about, which includes both my firm mates and my clients (who are really mostly my friends.) In a way, the pandemic has forced me to focus on personal relationship and to take more care to foster them. And quite frankly a successful legal practice is the fostering of personal relationships.

What piece of advice do you give most often to financial services firms?

Keep good books and records, from top to bottom. I can't tell you the number of good brokers I've defended who spoke to their client every day for years, who have only three notes in their file. They are making it impossible to defend themselves, and it ends up being a "he said / she said" contest. Brokers need to have documentation that proves they actually made contact, and details the instructions or advice that were given. This will be all the more important in the Reg BI era.

This also applies on the business level. If your firm's books and records are not up to snuff, you are going to be penalized for that, regardless of whether or not there was true client damage. Firms are obligated to ensure that clients are treated fairly, and if your written supervisory provisions do not adequately satisfy what regulators believe are appropriate practices for your brokers and branch managers to follow, then you are exposed. You need to make sure that these practices are kept up to date and distributed, and that your brokers and managers have signed off that they have read them. You need to demonstrate that your firm has done its part to ensure that nothing goes afoul.

Do you anticipate that recent market volatility will significantly increase investor litigation or arbitration?

Absolutely. Litigation will come, no matter what. Even in the best of markets people sue because they believe they did not have a well-managed account and could have made more money.

Even 90 years old widows believe they should have been in equities, because the market ran up and they lost the benefit of that run up because they were in fixed income securities. Those cases will always be around. But problems often arise when there is volatility because people chase the market in the wrong direction. They sell when it's down and they buy when it's up, and they always believe they were given the wrong advice.

This pandemic will create a unique set of problems, and across all asset classes. Day to day, the market is up, and the market is down. It's not on a steady decline, where many people bunker down and try to hold on. When it's gyrating up and down, people try to time the market, which inevitably leads to litigation. In the arbitrage, they are working the volatility, so that makes the market even more volatile. Even fixed income investors will be affected, as companies file for bankruptcy and municipalities default.

It typically takes a little bit of time for this legal trend to gain momentum, and we probably will see it starting in the Fall. I expect it to pick up in all markets, not only in equity or fixed income. The current crisis will negatively affect everyone's 401k, unless you were invested 100% in medical equipment.

Have regulators adjusted any of their deadlines because of the virus?

On the arbitration front, all in-person arbitrations have been put off past July 31st for now, which is an indicator that everything is going to be extended out a little. They seem to be making decisions prior to any state-level decision-making. For example, FINRA extended out a little

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They seem to be making decisions prior to any state-level decision-making. For example, FINRA extended its order in advance of New York State's stay-at-home order. There may be a window during the summer when we will go back to life as usual; then when flu season starts things could start to re-emerge and we may find ourselves closeted in our homes again.

On the regulatory front, Reg BI and CRS deadlines are firm. The SEC and FINRA made it clear that, although they recognize the pandemic has hindered some efforts, they believe compliance is due on June 30th and they are going to start reviewing after that date notwithstanding the pandemic. Firms should make a good faith effort to have their house in order by June 30th.

Which aspects of the Form CRS Checklist do you think will be most challenging for firms?

FINRA has been conducting "Look / See" reviews since last Fall, and they have reviewed certain brokerage firms. They looked at some small, medium and large firms to see how they were doing on their preparedness for Reg BI and CRS, and there's a report on the FINRA website. It's not a critique, doesn't name any firms, and does not say whether a firm did something well or poorly. It simply describes what firms are doing, without endorsing anything. The report's value is that it suggests what FINRA will be looking at when they start examining.

The examination group of the SEC issued a Risk Alert both on Reg BI and CRS, and they explained exactly what books and records they are going to be examining. In both cases, firms need to make sure they have exercised a good faith attempt to comply. At this point,

on June 30th they claim that they are not looking for "gotcha" opportunities, but instead are making sure that firms have made a good faith effort to comply by that date.

Because they have provided the list of books and records, firms need to ensure that they are up to date, I believe it will be very difficult to prove a good faith effort to comply without some documentation. In this particular area, as it is in so many things, it's not just that you have to be doing well, you have to demonstrate that you have been doing well. When an inspector shows up, you need to PROVE that you've made good efforts. Do you have a team that looks at the fees that are charged? Do you have a team to ensure that communications to clients are sent out on a timely basis? Have you been training your brokers? This type of activity must be documented, so that you can prove what you've done.

Any chance the regulators will take advantage of this period while firms are under duress to find wrongdoing?

I don't assume any nefarious intent. However, regulators often get their teeth into something and then can't step away from it. If they believe there is a conspiracy, they will find a conspiracy in everything they look at. There might be some firms that are playing it pretty close to the line, so they may be looked at more critically than the others. I believe for the most part, however, regulators are looking for good faith effort on the part of the houses to comply with the rules. Compliance for one firm is different than compliance for another. If you're a big wirehouse you probably have a lot of foot soldiers; if you're a small broker-dealer you may have one person; and

if you're a regional firm, you may have a small team.

At this point, notwithstanding legal proceedings, I do not believe Reg BI is not going to be overturned. I don't see any intervening factors between now and June 30th or between now and December 31 that's going to spare you from having to comply. To the extent that your firm has not yet done so, it's time to get going. If you do not have enough people, then hire some. Get help. Hire a consultant or an expert. Find a law firm that knows what they are talking about. Make sure that you can prove that you've made an effort.

Next year might be different, but in this first year, if it looks like your firm has done nothing, you don't want to be the one that is used as an example for non-compliance.

You've received many professional recognitions and awards. Is there one that is particularly meaningful?

I'm honored and humbled by all of the awards that I've received. I think there is an underlying theme for most of those awards that I find fulfilling, which is for helping to advance the success of other attorneys in the profession, whether it's women or minorities. That's something important to me, and really what I have tried to do. All of my mentors were white men and I appreciate every one of them. But sometimes just seeing someone who looks like you in a position makes you think it's possible that you can be in that position too. For that reason, I've tried to be visible, so that people can see me and know that it's possible for them to be in a fairly senior position, and to have some say in how policy is created.

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The Kay Crawford Murray Award from the New York State Bar Association was specifically designed for that purpose. So that award means a lot to me.

I also was recently elected as a Fellow in the College of Trial Lawyers, which is an incredible honor because you are chosen by your peers, and is based on an evaluation of your skill set. I'm very proud and honored to be part of the College.

What is the Buttermilk Club?

The Buttermilk Club is a group of securities industry legal and compliance professionals of color that I started with a Harvard Law School classmate and friend, Chris Reynolds, about 15 years ago. What began with 6 people who had breakfast together at a SIFMA (the SIA) Annual Compliance and Legal conference now consists of 160 members. The purpose of the group is to promote diversity in the securities industry, and specifically the recruitment, promotion

and retention of people of color. We now have members who are general counsels, chief compliance officers, and senior regulators all over Wall Street.

The group got its name at that first breakfast meeting, while we were discussing the industry's lack of diversity. Chris told us the story about his grandmother, who always said, "No matter how much you churn it, there is always a fly in the buttermilk." We started out calling ourselves the Buttermilk Breakfast Club, but now it's simply Buttermilk Club. It was a fabulous idea and it's been supported by many other people, not just me. It really is a great organization. I think it was one of the reasons I received the Kay Crawford Murray Award.

Any insights into your personal life?

I have two great kids, and I would like them even if I didn't have to love them, because they are nice people. My husband is a doctor, but neither of my

kids is a doctor or a lawyer. My son is a mathematician who's working on his PhD at Howard University. My daughter is an environmentalist who just finished her masters in Ocean Preservation at the University of Miami. It's not currently a very environmentally friendly job market, so in the meantime she works with her dad in his medical office. My husband's patients have kidney disease and are high risk for COVID-19, so it's been traumatic listening to all his stories and having him get undressed in the garage before he come into the house, to keep it pandemic free.

For relaxation I do oil paintings, and have a particular love of portraits, which I give away. For fun, I have always collected antique desks and all kinds of lamps, and have one or the other, or both, in every room of my house.

Sandra Dawn Grannum Biography

Sandra Dawn Grannum is a Partner in the Business Litigation Group at Faegre Drinker Biddle & Reath LLP, where serves on the Firm's governing board and she is co-chair of the Firm's nationwide Securities and Financial Services Litigation Team. Sandy is a fellow of the American College of Trial Lawyers and concentrates her practice on securities, broker/dealer arbitration, litigation, mediation and regulatory defense. Sandy has written and lectured widely on securities and ethics issues. She assists in preparing clients for SEC Regulation

Best Interest and Interpretation RIA. She chairs the full-day PLI Securities Arbitration Seminar conducted annually in New York City and regularly speaks at the SIFMA C&L Annual Conference, ABA Conferences and on other CLE programs addressing securities and employment law. Sandy was one of 13 individuals on the FINRA Dispute Resolution Task Force. Sandy earned her law degree from Harvard Law School and her bachelor's degree from New York University.

