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## Q&A With Foley & Lardner's Barry Mandel

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Law360, New York (May 19, 2011, 11:29 AM ET) -- Barry J. Mandel (<http://www.foley.com/people/bio.aspx?employeeid=29585>) is a partner with Foley & Lardner LLP (/firms/foley-lardner) in the firm's New York office and chairman of its securities enforcement and litigation practice. Prior to joining Foley, Mr. Mandel, who has been in practice for nearly 40 years, was senior vice president and head of global litigation, employment and regulatory affairs at Merrill Lynch & Co (/companies/bank-of-america-corporation). Inc. Prior to Merrill Lynch, Mr. Mandel was a partner at Baer Marks & Upham where he handled civil, criminal and regulatory securities and commodities litigation matters. He began his career as an attorney with the New York office of the U.S. Securities and Exchange Commission (/agencies/securities-and-exchange-commission), where he served as a branch chief in the Division of Enforcement.

### Q: What is the most challenging lawsuit you have worked on and why?

A: The most challenging litigation on which I have worked was a criminal commodities tax fraud case. I represented one of the two defendants who went to trial in an 11-defendant case. The other nine defendants testified against our client. If that wasn't enough of a challenge, the case also required that we simplify highly complex commodities and tax issues for the jury. The trial lasted three months and ended in a hung jury. We then had to retry the case again for another three months.

### Q: Describe your trial preparation routine.

A: Trial preparation is all consuming. Trials require total preparation and organization, including personal knowledge of all legal issues, testimony and every document. The ability to quickly identify critical testimony and relevant documents can make the difference between a persuasive argument or examination and an unprepared presentation.

### Q: Name a judge who keeps you on your toes and explain how.

A: Kevin Thomas Duffy [of the Southern District of New York] is a judge who keeps the lawyers in front of him very much on their toes. While he is very smart and highly experienced, he also is unpredictable. Thus, lawyers who appear in front of Judge Duffy have to be prepared for virtually anything to happen in the courtroom.

### Q: Name a litigator you fear going up against in court and explain why.

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## White Collar

### Money Managers Arrested Over \$45M Ponzi Schemes (/whitecollar/articles/292040/money-managers-arrested-over-45m-ponzi-schemes)

Federal authorities on Thursday arrested two investment managers based in Texas and California after they were indicted separately on charges that they orchestrated Ponzi schemes that scammed investors out of a combined \$45 million.

### Cargolux Execs Cop To Air Cargo Price-Fixing Conspiracy (/whitecollar/articles/292036/cargolux-execs-cop-to-air-cargo-price-fixing-conspiracy)

Two executives of Luxembourg-based Cargolux Airlines International SA pled guilty Thursday in Florida and agreed to serve 13 months in prison for conspiring to fix fuel surcharge prices for air cargo shipments to and from the U.S., bringing the tally of executives sentenced to four.

### Fund Manager Accused Of Fraud Out On \$1M Bail (/whitecollar/articles/292053/fund-manager-accused-of-fraud-out-on-1m-bail)

A mutual fund manager arrested for allegedly defrauding investors out of \$11 million by lying about his fund's holdings in Facebook Inc. can remain free on \$1 million bond, a New York federal judge ruled Thursday.

## New York

### Port Authority Draws Fire For \$2B WTC Spending Plan (/newyork/articles/292009/port-authority-draws-fire-for-2b-wtc-spending-plan)

The Port Authority of New York and New Jersey's plans to spend \$2 billion on the World Trade Center, revealed Thursday in its 2012 budget, quickly drew flak from New Jersey Gov. Chris Christie in the latest round of criticism for the embattled agency.

### Toll, REIT Join On \$134M NYC Development Blockbuster (/newyork/articles/291865/toll-reit-join-on-134m-nyc-development-blockbuster)

Luxury home builder Toll Brothers Inc. and real estate investment trust Equity Residential have joined forces on a \$134 million residential development project in New York, Toll Brothers announced Wednesday.

### Tudor Wins Transfer of \$96M Defamation Coverage Row (/newyork/articles/291747/tudor-wins-transfer-of-96m-defamation-coverage-row)

A New Jersey federal judge on Tuesday transferred First Advantage Litigation Consulting LLC's suit against Tudor Insurance Co. and other insurers over coverage for a defamation action that sought \$96 million, finding the case mirrors one pending in New York federal court.

A: David M. Brodsky [of Latham & Watkins LLP (</firms/latham-watkins>)] is an excellent litigator with whom I have tried a case and against whom I have tried a case. He is bright, totally prepared, experienced, very comfortable in court and aggressive.

**Q: Tell us about a mistake you made early in your career and what you learned from it.**

A: In one case I made two mistakes from which I learned good lessons. First, in a regulatory enforcement case tried in the old federal courthouse, we "won" the case in that we were able to prevent the government from obtaining the relief it had requested. Nevertheless, the court granted the government other relief that had a dramatic adverse effect on the client's business. While, at first, I thought we had been victorious in defeating the government, I then realized that victory is not in "winning" the case, but in achieving a successful result for the client.

The second mistake I made was when I stood to make an argument in the case. Unbeknownst to me, the large easy chair used in the old courthouse had tipped back and fallen silently on the carpeting. When I went to sit down, the chair was gone and I ended up on the floor. From that mistake, I learned to "look before I sit."

## Securities

**Money Managers Arrested Over \$45M Ponzi Schemes**  
(</securities/articles/292040/money-managers-arrested-over-45m-ponzi-schemes>)

Federal authorities on Thursday arrested two investment managers based in Texas and California after they were indicted separately on charges that they orchestrated Ponzi schemes that scammed investors out of a combined \$45 million.

**Fund Manager Accused Of Fraud Out On \$1M Bail**  
(</securities/articles/292053/fund-manager-accused-of-fraud-out-on-1m-bail>)

A mutual fund manager arrested for allegedly defrauding investors out of \$11 million by lying about his fund's holdings in Facebook Inc. can remain free on \$1 million bond, a New York federal judge ruled Thursday.

**Goldman Sachs Didn't Shortchange EToys IPO: NY Court**  
(</securities/articles/291799/goldman-sachs-didn-t-shortchange-etoys-ipo-ny-court>)

A divided New York state appeals court ruled Thursday that Goldman Sachs Group Inc. didn't undervalue a \$178 million initial public offering for a now-defunct online toy retailer so that the investment bank's other clients could cash in.

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