



Lowenstein Sandler's Regulatory Compliance & Dispute Resolution podcast: Regulatory Matters

Episode 2 -

Law & Order: A former federal prosecutor discusses her career, both past and present.

By [Kathleen A. McGee](#) and [Rachel Maimin](#)
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Kevin Iredell: Welcome to the Lowenstein Sandler podcast series. I'm Kevin Iredell, Chief Marketing Officer at Lowenstein Sandler. Before we begin, please take a moment to subscribe to our podcast series at lowenstein.com/podcasts. Or find us on iTunes, Spotify, Pandora, Google podcast, and SoundCloud. Now let's take a listen.

Kathleen McGee: Hello and welcome to Regulatory Matters, a podcast devoted to covering the ever changing regulatory landscape affecting business today.

This podcast is hosted by a group of women partners from the law firm of Lowenstein Sandler, who collectively cover much of that regulatory landscape. Today I, Kathleen McGee am here with Rachel Maimin. We're so glad you've decided to listen.

If you have a regulatory issue you'd like to hear more about, please let us know at regulatorymatters@lowenstein.com.

And now, today's show.

Welcome Rachel.

Rachel Maimin: Thank you so much. I'm happy to be here.

Kathleen McGee: I'm really glad to have you here. America has always had a Law and Order fixation and the past few years have provided us with a veritable smorgasbord of alleged crimes, scandals, MeToo allegations of sexual harassment and misconduct and political intrigue as the cherry on top. Every day, there's another eye popping headline and as some of our listeners know, behind the scenes of every alleged crime, there's a set of attorneys who are representing the government, the alleged defendants and sometimes the alleged victims as well.

I'm thrilled to have the opportunity to speak with one such attorney today, my friend and colleague Rachel Maimin, who is a partner here at Lowenstein Sandler and one of our Regulatory Matters co-hosts. To say that Rachel has lived those Law and Order headlines is an understatement. As a lead prosecutor at the US Attorney's Office for the Southern District of New York, Rachel prosecuted some of the biggest headliners. We'll hear about some of those today and get to know Rachel a bit more in the process. We'll also hear

about how Rachel has translated her serious prosecutor chops for the service of her private sector clients and her top tips for keeping one's head above water during difficult times.

Rachel, I have always found my colleagues' backgrounds fascinating and yours is doubly so. Would you please give us a little tour of your legal career?

Rachel Maimin: Thank you, Kathleen. That's very kind. I was an English major in college and found my way to law school, like many English majors do. Wasn't quite sure what I was going to do with my degree and I went to a law school where most of the class ended up at big corporate firms, so I did that too. But I was fortunate enough to have an office mate in the white collar group. I started off my career as an associate, focusing on criminal law and it's pretty much followed me throughout my career.

After I spent a few years in private practice, I clerked for a judge in the Eastern District of New York, Judge Bianco who's on the Second Circuit now and he was instrumental in showing me the importance of public service in my career. Although I did another couple of years at a corporate law firm after clerking, I ended up, as you mentioned earlier, for about nine years at the US Attorney's Office, where I specialized mostly in the prosecution of violent crime and public corruption and then I've been fortunate enough to be your colleague here at Lowenstein for about two and a half years in the white collar group.

Kathleen McGee: One big decision tree moment for a lot of people who go into criminal law work in the public service is to be a prosecutor or to be a public defender. Why prosecution?

Rachel Maimin: It's interesting because in law school previously, I'd always considered myself more ideologically aligned, if you could even say that with the defense, but it ended up that many of the lawyers I looked up to at the law firms I was at, and especially the judge I clerked for, were all former assistant US attorneys and they said it was the best job they ever had. And as I said earlier, I knew I wanted to dedicate a portion of my career to public service so I gave it a shot and applied and I was fortunate enough to get a position in SDNY, which brings a lot of exciting cases.

Kathleen McGee: I would say that's probably a bit of an understatement. I couldn't help the Law and Order reference, although let me ask you a side question. Do you ever watch Law and Order anymore?

Rachel Maimin: I religiously watch Law and Order. I am extremely good at suspending disbelief for legal shows. While it's not necessarily realistic, I find it very entertaining.

Kathleen McGee: Love it. And I did reference it because your cases really have been ripped with the headlines and have captured our collective imagination. You talk about how you worked on violent crimes and public corruption. Can you give us maybe two or three matters that you consider to be the most significant? And when I say that, I don't necessarily mean to you or to us listeners, just generally, you have to decide which.

Rachel Maimin: Okay, thank you. That's a great question. As you mentioned, I worked in the violent crimes unit for a while. My main concentration there for the most part was making large scale racketeering cases against street gangs that committed murders, attempted murders, home invasions and other violent crimes and drug dealing in the Bronx. One of the most significant of that type of case I prosecuted, involved take down of two rival gangs in the Bronx that had turned a beautiful residential neighborhood into a war zone.

One of the gangs had actually set up its main headquarters in a playground. We ended up arresting a 120 members of those gangs in one day, which was a major law enforcement operation. We were able, as I said, to prosecute numerous murders and other acts of violence in that case but the most gratifying and to me, significant part was that we were actually able to see statistically that violent crime dropped in that neighborhood as the result of the efforts of law enforcement. It was a massive multi year and complicated undertaking, involving a lot of hard work and heroics by law enforcement and I was very proud to be a part of that.

Another case I am aware of in terms of its national significance but which I'm also personally proud of is my work on the prosecution of Michael Cohen, the former personal attorney to President Trump. I was the senior prosecutor on that case. It landed on my desk during my first week in the public corruption unit at the US Attorney's Office and I worked on it through sentencing and it was an extraordinary experience but I concentrated on the parts of the case relating to the campaign finance charges and related legal issues associated with catch and kill tabloid journalism, where people try to rather than bring out the truth in the media, hide damaging stories. It was extraordinary to be in a fishbowl nationally and deal with so much media attention, while trying to build a case built on fairly novel legal theories. But I saw the impact of that case, forced us to think about the importance of fair elections and adherence to campaign finance regulations. And we all know we can't take that for granted.

Kathleen McGee: So true. And you talk about seeing things in the tabloid press and being in a fishbowl. How did that affect your ability to be a prosecutor at that time?

Rachel Maimin: One thing you realize from day one of being a quote unquote baby prosecutor, is although everyone makes mistakes, you're really not allowed to make mistakes as a prosecutor. Even if you're working on a case that's never going to be in a newspaper, you have to make sure that your work on it is impeccable and that you handle everything just right. In the Michael Cohen case, it was the same principle except much more pressure. But I think by the time in our careers that I and my teammates had been on that case, we were all used to the general pressure of being a prosecutor, which affected all of us and we were able to just do our jobs and treat the case as any other, the same importance as any other.

Kathleen McGee: I love the notion of serving the law regardless of content, as you would any other service of law in any other case.

Rachel Maimin: Yes. There's one way of looking at things where the end justifies the means and I don't look at being a prosecutor that way. I don't look at being a

defense attorney that way. It's important to uphold ethical standards and follow the law, even being the most zealous advocate for your client.

Kathleen McGee: Well, that was really going to be the focus of my next question, which was, what are the attributes of being a good prosecutor? And how do those attributes or characteristics translate into your work in the private practice?

Rachel Maimin: Well, I should ask you that too, since I'm sure you are an excellent prosecutor, we can talk about this another time. But here are some of the ones that come to mind as you ask me. First of all, fairness, which in the context of being a prosecutor it's to me, the ability to see both sides of an issue. You can't just think about what you think is right, you also have to think about what the other side thinks is right and that's not just to anticipate their arguments and win in court, but it's to make sure that you are doing the right thing at all times because that's the top job of a prosecutor is to do the right thing. You have to have compassion and understanding for everyone involved in a case, be it the defendant, the defense lawyer, the people working in the courtroom, the police, the victims, you have to be able to talk to anyone and help them be comfortable even if you've never talked to anyone like them or met anyone like them before or you're very familiar with them. Everyone gets treated with equal respect.

You have to be able to tell when a witness is telling the truth or telling you what you want to hear or what is advantageous to them. You have to have comfort in court before both judges and juries. You need a lot of practice in court. And of course you have to be able to organize and juggle an enormous amount of work and detail at the same time.

Kathleen McGee: When you're serving clients here at Lowenstein Sandler, is it all criminal defense work? Or are you handling other regulatory matters as well?

Rachel Maimin: Fortunately, I have a diverse practice. I do a significant amount of criminal defense but I also do a lot of regulatory work and I also do civil litigation when necessary when my clients need it. As we all know as lawyers, it's our job to learn whatever case it is that we happen to be working on. And while my area of expertise is criminal law, we have to be flexible, especially because criminal cases often go along with civil regulatory matters and related investigations and you have to be able to handle them all or at least help coordinate them all.

Kathleen McGee: The last year or two in particular have seen a real increase in MeToo internal investigations. Have you had clients who've come to you for assistance in those? And have you been surprised by any of the client needs in that area?

Rachel Maimin: Well actually, something I think I've noticed in the last year or so of MeToo investigations is the intersection between MeToo investigations and remote work because I had to conduct a MeToo investigation, including very, very sensitive victim interviews over Zoom. It really drove home how important it is, which I already knew, but it always helps to confirm it, to prepare, to empathize, to understand that both the accused and the victims are in this for the first time, there are all different considerations, from business considerations, to legal considerations and doing it remotely where you can't

sit across the table and look someone in the eye to assess them, it's challenging. It's definitely possible but it's challenging.

Kathleen McGee: That's a really great point. And unfortunately, I think for those of you listening at this time, we're still in the middle of a pandemic. Maybe someday you'll come across this recording and we won't be but for now, we are. Probably something that will continue for some time.

Another subject that I've seen you've been actually presenting on a bit is anti-money laundering, known by that AML. And that seems to be, as I'm seeing it a bit of a hot topic as well these days, what's making it so hot?

Rachel Maimin: The reason why it's coming up a lot right now is because legislation was passed relatively recently, drastically overhauled money laundering regulations here or in the United States, expanding the reach regulators, expanding the information that regulators in the private sector are able to share and basically significantly increasing the burden on the private sector to collect and analyze a lot of information they wouldn't have had to previously in order to assist law enforcement in prosecuting money launderers. There are new unknown obligations that our clients are facing now as a result of this legislation and they have to come into compliance very quickly. I'm assisting our clients comply with that law and balance the burden of that with the rest of their business considerations.

Kathleen McGee: In my intro of you today, I had talked about top tips for keeping one's head above water during difficult times, which I'm sure you provide to your clients regularly, but if you had to dispense free information on top tips for companies generally, what would your advice be at this point? And I just mean generally.

Rachel Maimin: The most important thing one can do is what I call essentially fake till you make it. Even if you don't feel calm, remain calm. There isn't any problem that cannot be dealt with, with thought care, preparation and hard work that we're facing in the legal world right now. There are other much more intractable problems in other areas but we can deal with everything. A lot of what I think goes on in the adversary system is the other side tries to shake things up for you and you just can't let them do that. I think particularly as women, we have to show extreme calm in order to combat whatever stereotypes there might be about us and we do that every day, I think with the law.

Kathleen McGee: I agree. I've seen you handle amazingly, emotionally charged situations and just kept so calm and it really focuses the client and gives them a sense of assurance. And it's a great thing to watch. I love it. It's been a real pleasure speaking with you, Rachel, thank you so much for your time. I appreciate the hard work and critical eye you bring to regulatory matters and love having you as a friend and a colleague. I look forward to hearing your next hosted podcast on Regulatory Matters.

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