

Litigator of the Week: The Brains Behind BlackBerry's \$815M Blowout

By **Ben Hancock**

April 14, 2017

For a trial lawyer, sometimes backing away from a fight is the smartest move to make.

That was the lesson that Sullivan & Cromwell partner Garrard Beeney said stuck with him as he argued his way to an \$814.9 million arbitration win for BlackBerry that was handed down this week.

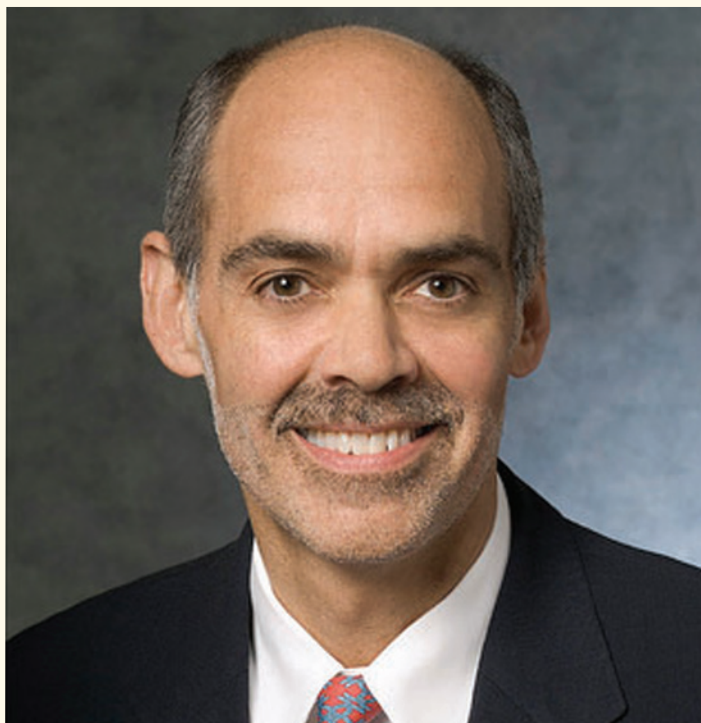
Navigating conflicting interpretations of four different documents at the heart of the royalties spat in front of the panel was complicated enough. What Beeney didn't want to do was get distracted by what the other side was throwing at him.

"The fear you have as a trial lawyer is the points you want to make are being lost in the sort of a whack-a-mole," he said in an interview Thursday. Beeney's ability to hone in on his points and deliver a big-dollar victory earn him the mantle of Litigator of the Week.

The dispute involved the hundreds of millions royalties that BlackBerry paid to Qualcomm to use patents allowing BlackBerry handheld devices to connect to cellular networks. Qualcomm operated a program that capped the amount of royalties paid after a certain threshold, but the two tech giants disagreed over whether the cap should have applied to BlackBerry's royalty payments between 2010 and 2015. (Qualcomm is facing enforcement actions, class actions, and lawsuits from other licensees like Apple Inc. over similar licensing practices.)

In order to prove his side was right, Beeney had to put on evidence about what BlackBerry and Qualcomm understood to be the deal at the time the relevant documents were drafted, and how each company has acted since. It was difficult terrain to navigate, requiring some hard decisions about what evidence to include, accept, or fight to keep out. Because the case was in arbitration, it also moved rapidly; the process began on April 20, 2016, and concluded just under a year later.

Although Beeney couldn't say much about the five-day, confidential trial--held before a panel of three neutrals at JAMS in San Diego--some other challenges presented by the case are obvious. BlackBerry announced last year it was jettisoning its phone design and manufacturing businesses, meaning that a lot of critical witnesses were no longer with the company. But Beeney said he was impressed by the willingness of former employees to devote time and energy to the case.



Garrard Beeney of Sullivan & Cromwell.

Courtesy photo

He also said he got all-star support from junior members of the trial team. Special Counsel Adam Brebner and associate Dustin Guzior went up against partners at Cooley representing Qualcomm during examinations. It's not every day that young lawyers get the chance to take the wheel in an almost billion-dollar trial for a publicly traded company. It was good practice that paid off.

"My associates went toe-to-toe with relatively experienced partners on the other side and they more than held their own," Beeney said. "When you're trying a case, there's absolutely no substitute for knowing the facts ... sometimes younger lawyers are willing to do the 20 hours a day that it takes to really understand every minute fact and detail."

Contact Ben Hancock at bhancock@alm.com. On Twitter: [@benghancock](https://twitter.com/benghancock)