

**An Interview With:  
Ann Klee***Former General Counsel of EPA*

When Ann Klee, former general counsel for the Environmental Protection Agency, joined Crowell & Moring's Environment & Natural Resources Group as partner last August, she was, in a sense, coming home: she had come to Crowell right out of Penn in 1986.

"I ended up being an environmental lawyer because I liked the people I worked with initially at Crowell & Moring," she laughs. "But, I really enjoy the balance. When you think about issues that people care about fundamentally, they want clean air, clean water, they care about their neighborhoods. We all want to leave the world a better place."

For Klee, however, working to create that better place took her down an unexpected career path. In 1990, she switched firms to start the new environmental practice in the DC office of Preston Gates, and then in 1995, she surprised colleagues by leaving her partner position to work as environmental counsel for a then-junior senator, Dirk Kempthorne. Today Kempthorne is Secretary of the Interior.

"It was a job that I knew I was going to love," says Klee of her unusual career move. "It didn't have a fancy title and the salary was miniscule, but I'm contrarian by nature and what was being offered to me looked so intellectually fun. Plus, I liked going to work for a person who I thought was a rising star – and I was right."

For the next decade Klee was the chief counsel to the Senate Environment and Public Works Committee, counselor to the Secretary of Interior and then, in May 2004, appointed by President Bush as general counsel of EPA, where she oversaw 350 lawyers and support staff in the DC headquarters and 10 offices across the country through some of the trickiest environmental issues – including Hurricane Katrina.

Mary Westbrook recently talked with Klee for Bisnow on Business.

**You were a GC in the federal government, both the executive branch and Congress. What does it mean to be a GC there? Is it more a legal or a political function?**

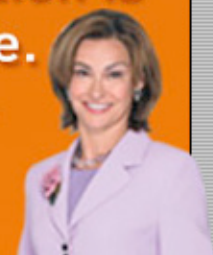
It's a little bit of both. The issues you deal with in a big agency are pretty far flung – from managing huge contracts to handling novel legal questions. The big difference, when you are working for the government, is that you have an opportunity to help develop national policy. For me, that was a really fun aspect. The other difference is that you are the steward of the legal credibility of the agency. You've got to make sure that the cases an agency brings and the arguments that it makes are the best. If you start to lose cases, courts notice and it takes a long time to recover. That's a very different kind of legal function than in the private world. And then, there's always the question of who your boss is – the White House? OMB? The head of the agency? You often play a mediating role.

**What was your daily work life like at EPA?**

My hours were long – 13, 14, 15 hours a day. In a typical day you are booked -- or double booked -- in meetings from 8 am to 6 pm, so your high-quality reading and thinking time would be before or after that. A regulatory agency like EPA has a constant suite of deadlines – it wasn't unusual for

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me to work on 20 hot legal questions every day. You're filing dozens of briefs a week, plus you have client meetings, rule-makings, etc., constantly. The frustration I can remember is that I never got as much done as I wanted to do. It was a rare day that I got beyond No. 2 on my to-do list.

**Is there something – a specific case, transaction or piece of legislation – that you'd liked to be remembered for professionally from your work at EPA?**

There are a few. I am incredibly proud of what we were able to do in the first 60 to 90 days after Hurricane Katrina. So many new issues came up that had no precedent. For instance, when the flooding occurred and they needed to pump water out of the city, the question was raised, "Do they need a Clean Water Act permit to pump the water into Lake Pontchartrain?" We were able to craft the legal basis on which, under an emergency situation, they did not need a permit, and that expedited the pumping of the city. After Katrina, there were dozens and dozens of those kinds of questions, which, intellectually, were very challenging.

**Another example?**

The Clean Air Mercury Rule in 2005. In that case, EPA required power plants to reduce mercury emissions for the first time ever, based on a cap and trade program that allows power plants to trade emissions credits. It's extremely effective in reducing acid rain and it did it in a way that's incredibly cost effective. We put together a strong legal argument in the rule's preamble and it will be defended in the legislation. It will have dramatic air benefits.

**Do you ever turn on the news now and, after hearing about an EPA story, wish that you were back in the thick of things?**

I miss the ability to help drive national environmental policy. Nanotechnology is raising a lot of legal issues, and the agency is in its infancy in thinking about them. They're having to ask questions like, How do you evaluate the risks of nanotechnology? How do you address gaps? It's challenging because it's so new, technologically and legally. Climate change is another subject I would like to be working on from the inside. It's constantly evolving, and now it's my job to help clients navigate through these issues.

**Are there character traits a person needs to be successful in government?**

I think there are, but they probably apply to the private sector, too. Recognize your role – you are there as a legal advisor and to help solve problems, but policymakers make decisions. When I was at EPA, we had nearly 350 lawyers, and I looked for people who were creative and smart but who also realized that the legal arguments they have to make might not be ones they personally agree with. That's a very difficult position to put passionate lawyers in."

**How have you been able to apply that experience to the private sector?**

It makes me a more effective advocate because, having seen what it's like in government, I have a different perspective on how to solve problems, particularly novel ones. Sometimes, it's as simple as reframing an argument in a way that will be more appealing to an agency head or a Hill staffer. I have been struck since coming back that clients don't often think about using the legislative process, including hearings, or approaching the regulatory agencies to address their problems.

**What lessons have you learned professionally that you wish others had told you about when you started?**

Be willing to take risks. I left Preston Gates as a senior partner to work for a junior lawmaker. That was the best thing I'd ever done. When I talk to young lawyers, I encourage them to take risks.

**How do you carve out time to read and think?**

I live on a farm 90 miles outside of the city with 150 acres, five dogs, and a whole lot of cows. We also have a place in Alexandria, but we go home a couple nights a week – and then we're about as far as we can be from DC. It's a nice juxtaposition, and I like to think of it as my first step toward the West Coast.

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No. For me, DC is the most exciting place to practice law. I could just do without the climate.

**If you weren't a lawyer, what would you be?**

I've thought about that a lot. There's going to come a point where I'm going to want to go out and water plants for a living. Or, maybe give pet massages. I make a mean dog cookie.

**Care to share the recipe?**

I'm a cook! I improvise :)



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