

PROFILE IN International Business Law

‘Speaking and living two cultures was a way of life for me and my siblings.’

BY SHARI L. BIEDIGER

There's a fine line between knowing your trade and knowing how best to trade once you've crossed the border. That's when expert manufacturers and business people on both sides of the U.S./Mexico border turn to Jorge A. Garcia.

Garcia, a partner and head of the international department at San Antonio law firm Martin & Drought, PC, cut his career teeth on the North America Free Trade Agreement, enacted 20 years ago — the same year he completed his law degree and joined the firm.

Even long before, while growing up along the border — in an era when no documentation was required for entering either country — Garcia says, “I always knew that I was going to practice somewhere in Texas or Mexico, given my history on both sides.”

Most of his clients, from both the U.S. and Mexico, are already experts at their business. Setting up shop here or in Mexico is what raises questions, such as what legal structure to use when setting the company up for success.

“Geographically speaking, there's been no other place better than Texas (for NAFTA),” says Garcia. “For the most part, jobs were gained in South Texas. And in San Antonio, all the traffic and transportation comes through San Antonio from Laredo so it's a great point for storage and distribution of products.”

The early years: I grew up on the U.S.-Mexico border, just a normal life like many kids at that time. I lived in Reynosa, Tamaulipas, and attended Catholic elementary and middle schools. After school, I would cross to Hidalgo, Texas, or all the way to McAllen, two or three times a week, to take English lessons — often making the “international” trip with friends simply by riding our bicycles.

Early in life, I learned the importance and practical advantages of having a strong bilingual and bi-cultural education, which paved the way for my personal and professional life. Whether it was summer camp in the U.S., or helping my grandfather at his ranch in Mexico, speaking and living two cultures was a way of life for me and my siblings.

After a year of studies at a U.S. prep school, I went back to Monterrey to finish high school and law school at ITESM (known as Monterrey's Tech), ultimately earning a master's degree (Master in Laws) from UT School of Law in Austin.

Living at the border was such an enlightening experience, and I was continuously reminded of the differences between two different communities and their challenges. Later in life, I would realize that those were simply opportunities that existed for growth on both sides of the border.

Early influences: My late father, who was a lawyer and Mexican Notario Publico, and my mother, both taught me discipline, hard work and the importance of family values. When I was young, I would visit my father at his office and watched how he conducted meetings or had phone conver-



Jorge A. Garcia

Partner / Head of International Dept.
Martin & Drought PC

Age: 42

Family: Married to Janet; three children

Education:

- Master of Law degree, University of Texas School of Law, 1993
- J.D., Instituto Tecnológico y de Estudios Superiores de Monterrey, 1991

Career history:

- Law Clerk & Assoc. Attorney, Buffete, Navarro, Velasco y Asociados, Monterrey, Mexico, 1991-92
- Associate Attorney, Martin & Drought PC, San Antonio, 1994-99
- Partner and Head of International Dept., Martin & Drought PC, San Antonio, 2000-present

Why it matters:

Armed with a legal career that grew with NAFTA, Garcia is a 20-year expert on cross-border transactions.

sations with clients. Although not realizing the extent of the discussion, it was evident that he was a “problem solver.” That inspired me to become a lawyer.

How did you come to be in your current position at Martin & Drought? I was graduating from law school with a master's degree in the summer of 1993. I had a Mexico law license, and my law studies at UT had given me a good understanding of the U.S. legal system. Mexico, Canada and the United States had just negotiated and signed the passage of the NAFTA which eventually went into effect on Jan. 1, 1994.

At that time, our law firm was one of a handful of firms in the entire country with lawyers licensed to practice in Mexico, and also with an existing and extensive client list of U.S. and Canadian companies and individuals already doing business or anxious to do business in Mexico. Free trade between Mexico and the U.S. was the “hot

topic” those days, and given both my personal and professional background, I was fortunate enough to have found the right place to put my skills to work.

It has been almost 20 years to the date I joined this firm, and trade between the U.S. and Mexico has tripled since.

What do you love most about your job? Whether the deal involves multinational bidding for a Pemex contract, distributing U.S. products in Mexico, or a simple real estate transaction in Playa del Carmen, overcoming the challenges that every deal presents, and being part of our clients' success stories, is very rewarding.

Why is it important to be licensed in both Mexico and the U.S.? Most of our cross-border clients — whether it's the Mexican entrepreneur doing a joint venture or real estate development in Texas, or a U.S. manufacturer setting up a facility in Queretaro — come

to us with some reasonable understanding of what he needs. He simply doesn't know how to do it in the neighboring country. We understand our clients' local operations (we also have a domestic practice), and we know how to extrapolate them, and adjust them to the laws of the neighboring country.

What customs laws trip business owners up the most? Details, details and the fine print. NAFTA is all about the free flow of goods and services between the three countries, however that does not mean that all products and services can be freely exported to and from each participating country without any duties or non-tariff barriers, including permits and authorizations. There are a number of specific rules and standards that have to be met and satisfied in order to reap the benefits of NAFTA, and even the treaty also has some exceptions and domestic industries in each country that remain under protection from foreign products or foreign investment.

Describe a transaction that you've been able to help a local business through. One time — when a local food distributor was looking to do distribution in Mexico — the product's labeling was only compliant with U.S. laws and were written in English. The distribution required certain processing in Mexico using equipment located in Texas. We successfully helped the client reach a joint venture with a Mexican processing plant, which imported the equipment under an IMMEX license (duty free). This also lowered the client's overhead by processing additional products for the U.S. market. The labeling was also made compliant with Mexican law. Today, the food distributor has products in all major grocery chains in Mexico, and looking to expand to South America.

See GARCIA, Page 31

FROM PRECEDING PAGE

What's tricky about export documentation, packaging and handling? The trick is finding the right customs broker — one that has the expertise in your industry. Most customs brokers, whether in the U.S. or Mexico, can handle almost any type of international transaction in connection with the crossing of goods and the clearance of customs. However, an incorrect tariff classification on goods that have been imported under perhaps a lower tariff can cost a company a lot of money in fines and penalties. Companies looking to export products to Mexico need to invest time in finding the right broker, and understanding the rules applicable for exports.

How has NAFTA affected intellectual property issues? Any time products and goods are manufactured in one country and shipped to another, the issue of intellectual property comes into play. An example could be figuring out how a patent in one country becomes enforceable in another. NAFTA created the highest legal standards for protection and enforcement of intellectual property. It did so by requiring the three countries to improve their domestic laws protecting and enforcing intellectual property. The rationale is that proper laws and enforcement are consistent with free trade principles such as market access and non-discrimination.

Thoughts on NAFTA, 20 years later? Early on, NAFTA was marketed as a treaty that would fully integrate the three economies, while raise the living standards of many Mexican families, under the assumption that U.S. and Canadian families were already living reasonably well. It was also praised as a treaty that would promote and protect foreign investment coming from one country into any of the other two signing countries, and remove many obstacles or protections for domestic industries. Twenty years later, many NAFTA critics will argue that those goals were not achieved. Sure, there are casualties, but one should not overlook the benefits of NAFTA. Trade has tripled between the three countries since 1994; many jobs have

stayed in the region that would have gone to Asia or lost all together, and laws and standards have been enacted or amended to protect foreign investment and remain consistent. Still ... it is important to recognize that NAFTA may require some form of continuous update and review. Trade can still be enhanced and administrative costs can still be reduced. Laws and standards can be made more consistent among the three countries. Government verifications, as well as licensing requirements in some areas, can be consolidated into one "multi-country" agency, much like in the European Union.

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Some firms which may have ranked on this list, did not respond before press time.

DND- did not disclose

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Largest San Antonio Litigation Firms

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Ranked by total number of litigators locally

| Rank | Firm name Address Phone, Web address | Total no. of litigators | Total no. of AV rated litigators/ lawyers locally | No. of litigation cases handled in 2011 | Represent Defendant Plaintiff | Percent of firm's work in litigation | Head of litigation area/ E-mail address | Managing Partner/ Year est. locally |
|------|---------------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------------------------------------------|-----------------------------------------------------|-------------------------------------|-----------------------------------------------|--------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 1 | Fulbright & Jaworski LLP 300 Convent St., Suite 2100, 78205 224-5575, fulbright.com | 34 | 17 55 | 5 | Both | 50% | John Weber jweber@fulbright.com | George Scofield 1980 |
| 2 | Langley & Banack Inc. 745 E. Mulberry Ave., Suite 900, 78212 736-6600, langleybanack.com | 29 | 20 53 | DND | Both | 60 | Emerson "Buddy" Banack Jr. ebanack@langleybanack.com | Steven R. Brook 1986 |
| 3 | Strasburger Price Oppenheimer Blend 300 Convent St., Suite 900, 78205 250-6000, strasburger.com | 23 | 13 42 | DND | Both | 55 | J. Alex Huddleston alex.huddleston@strasburger.com | Edward F. Valdespino 1969 |
| 4 | Cox Smith Matthews Incorporated 112 East Pecan St., Suite 1800, 78205 554-5500, coxsmith.com | 22 | 11 88 | 977 | Both | 25.3 | Thomas E. Sanders tsanders@coxsmith.com | James B. Smith Jr. 1939 |
| 5 | Akin Gump Strauss Hauer & Feld LLP 300 Convent St., Suite 1500, 78205 281-7000, akingump.com | 22 | DND 25 | DND | Both | DND | Neel Lane nlane@akingump.com | Mike Elrod 1984 |
| 6 | Bracewell & Giuliani LLP 106 S. St. Mary's Street, Suite 800, 78205 226-1166, bgllp.com | 15 | 15 18 | DND | Both | DND | Glenn Ballard (Houston) glenn.ballard@bgllp.com | Victoria Garcia (San Antonio) 1999 |
| 7 | Jackson Walker LLP 112 E. Pecan St., Suite 2400, 78205 978-7700, jwv.com | 15 | 5 36 | DND | Both | 40 | Robert Soza rsoza@jwv.com | Patrick Tobin 1991 |
| 8 | Cokinos Bosien & Young PC 10999 IH-10 W., Suite 800, 78230 293-8700, cbylaw.com | 14 | 2 14 | 20+ | Defendant | 85 | Marc Young & Stephanie O'Rourke myoung@cbylaw.com, sorourke@cbylaw.com | Stephanie O'Rourke 2007 |
| 9 | Brin & Brin PC 6223 I-10 W., 78201 341-9711, brinandbrin.com | 12 | DND 12 | 5 | Both | 85 | Bruce Anderson banderson@brinandbrin.com | R. Barry Brin 1986 |
| 10 | Pulman Cappuccio Pullen & Benson LLP 2161 N.W. Military Highway, Suite 400, 78213 222-9494, pulmanlaw.com | 11 | 5 16 | 100+ | Both | 75 | Randall A. Pulman rpulman@pulmanlaw.com | Randall A. Pulman 2004 |
| 11 | Haynes and Boone LLP 112 E. Pecan St., Suite 1200, 78205 978-7000, haynesboone.com | 10 | 3 17 | 15 | Both | 35 | Steve Allison, Lamont Jefferson & Stan Perry lamont.jefferson@haynes-boone.com | Lamont Jefferson 1988 |
| 12 | Ogletree Deakins Nash Smoak & Stewart PC 2700 Weston Centre, 112 E. Pecan, 78205 354-1300, ogletreedeakins.com | 8 | 5 8 | DND | Defendant | 16 | DND | Lawrence D. Smith 2001 |
| 13 | Schmoyer Reinhard LLP 3619 Paesanos Parkway, Suite 202, 78231 447-8033, sr-llp.com | 8 | 3 8 | 156 | Both | 90 | Annalyn G. Smith asmith@sr-llp.com | Shannon B. Schmoyer and Christine E. Reinhard 2008 |
| 14 | Rosenthal Pauerstein Sandoloski Agather LLP 755 E. Mulberry, Suite 200, 78212 225-5000, rpsalaw.com | 6 | 8 23 | DND | Both | 20 | Jonathan D. Pauerstein jpauerstein@rpsalaw.com | Robert A. Rosenthal 2006 |
| 15 | Davidson Troilo Ream & Garza PC 7550 W. Interstate 10, Suite 800, 78229 349-6484, dtrglaw.com | 6 | 3 19 | DND | DND | DND | J. Mark Craun | Lea A. Ream 1962 |
| 16 | Barton East & Caldwell PLLC 700 N. St. Mary's, Suite 1825, 78205 225-1655, beclaw.com | 5 | 4 12 | 50+ | DND | 45 | G. Wade Caldwell gcaldwell@beclaw.com | G. Wade Caldwell 1993 |
| 17 | Martin & Drought PC 300 Convent St., Suite 2500, 78205 227-7591, mdtlaw.com | 5 | 3 14 | DND | Both | 40 | Gerald T. Drought gdrought@mdtlaw.com | Frank Burney 1978 |
| 18 | Prins Law Firm 4940 Broadway St., Suite 108, 78209 820-0833, prinslaw.com | 4 | 0 4 | 4 | Both | 60 | Todd Prins taprins@prinslaw.com | Todd Prins 1997 |
| 19 | Pipkin Oliver & Bradley LLP 1020 N.E. Loop 410, Suite 810, 78209 820-0082, pipkinoliver.com | 3 | DND 3 | DND | Both | 55 | DND | William H. Oliver 1998 |
| 20 | Baucum Steed Barker 1100 N.W. Loop 410, Suite 260, 78213 349-5311, baucumsteadlaw.com | 2 | 1 7 | DND | Both | 25 | Jerry Steed jtsheed@baucumsteadlaw.com | Michael Baucum 1984 |
| 21 | Winstead PC 300 Convent St., Suite 2700, 78205 277-6800, winstead.com | 1 | 1 10 | 12 | Both | DND | Merritt Clements mclements@winstead.com | M. Paul Martin 2003 |