

An Interview With...

Rafael Sámano Palacios

Managing Partner of Sámano Abogados, S.C.



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This month Lawyer Monthly had the absolute privilege of interviewing a passionate hard-working and successful lawyer from the sunny shores of Mexico. Rafael Sámano Palacios, Managing Partner of Sámano Abogados, S.C., here tells us about his fight for justice and an adventure in service of his nation. He tells us about the difficulties he has faced in time, the cases that taught him to keep pushing forward, and about the rewards of being a lawyer in service, rather than for money or success.

As the founder and managing partner of a leading Mexican business law firm, what challenges do you face on a daily basis?

My foremost challenge on a daily basis is to keep the balance between family and work. It is easy to lose sight of the really important things in life even when you have them flashing in front of you.

Over the past 15 years our law firm has grown from a one-person garage outlet into a respected 25+ member of the Mexican Forum. In this same period, I got married, adopted two dogs and my three children were born (ages 11, 8 & 6 now). No respect is more important for me than that from my family, and it is the hardest earned. No feat has been trickier than making it during office hours to their school festivals, teacher appointments, football games, ballet & gym open classes; and to be home in time for the nightly storytelling & occasional parental talk with either (or all) of them.

Children process everything, and grow increasingly observant and pugnacious, generating an opinion along the way. In many respects, the challenge of meeting their expectations have prepared me well to better serve my client's needs.

How has the Mexican corporate law sector evolved since you founded the firm back in 2001? Has it changed for the better or for the worse?

The Mexican corporate sector has evolved enormously in the last 15 years. In my opinion, important

progress has been observed in three main areas: awareness, compliance and accountability.

For years, implementation of the Rule of Law remained elusive. However, in the last 5 years several new laws and regulations have brought new hope to an otherwise ineffective, complex and at time futile judicial system. Constitutional reforms have created a new Anticorruption system, an independent Administrative Court, as well as new Antitrust and Telecom Commissions. New laws and regulations have strengthened the role of the Congressional Office of Accountability, of the Transparency and Privacy Institute, of the Taxpayers Protection Agency and of the Ministry of Finance to fight money laundering. They have also enhanced the reach and scope of the Amparo Writ, while government institutions can be held liable for damages and a new Era of the Supreme Court with an emphasis on Human Rights has begun. Corporations have been recognized as subjects of Constitutional guarantees, but also capable of engaging in criminal conduct & responsibility (previously restricted to individuals only).

Indeed, challenges remain, but our lawyer's chest is better outfitted than ever. It is our responsibility as corporate lawyers to put the new tools in good use to identify and mitigate risks while contributing to foster awareness, compliance and accountability.

How healthy is the Mexican business world at the moment? How has this impacted your practice?

It is my opinion that the Mexican business world is in a stage of deep transformation. Current international trends, a wave of new rules and regulations, and the upholding of the Rule of Law are fostering change at unprecedented levels at most corporations operating in the country, both local and international. Legal departments are evolving and assuming new and enhanced responsibilities, participating more

actively in the shaping of business models, and in the identification and mitigation of risks. Corporate lawyers are being requested to assist revenue-generating units in reshaping many of its procedures, rethinking and streamlining the existing modus operandi. Nothing is taken for granted now. A new relationship is developing between outside counsel, legal departments and operating units. Boundaries are being crossed, interaction of skills and concepts are permeating productive activities, setting off new communication and team working challenges. Compliance & corporate governance issues are also taking centre stage, raising discussion about the cost of doing business the right way. I would say it is an exciting time to be a corporate lawyer.

payments in the first action, and annulment & restitutory damages in the second. Our first action's main challenge was setting jurisdiction to obtain a fair and thorough ruling, away from compromised venues. The litigation eventually reached the Supreme Court and jurisdiction was set under Federal Court. This case is important in setting precedent in the struggle to reach an undisputed rule for venue in cases involving non-payment from government entities in contracts derived from public procurement procedures (wether Federal, state or municipal).

Our second action encompassed a two-tier suit calling for the annulment of the illegal act incurred by a government institution, and the restitution of caused damages. For more than 20 years our client ran a

member of our organization has to attend regular sessions of continued education related to its area of expertise, including me. We are active members of the National Association of Business Lawyers (ANADE, www.anademx.com), which conducts regular sessions covering current topics of law presented by specialists in their respective fields, and participate in many of these forums for updates, shared experiences and trends. We also have a 2-hr weekly session to review our assignment load where attorneys in charge present the state of their affairs and also the fundamentals behind their work, both academic and legal.

Finally, we have an enhancement program to foster academic excellence and gender

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Can you tell me about any major cases that you have recently worked on that stand out particularly in your mind?

We have recently worked on two relevant areas related with Accountability and IT's implementation in Public Services. Regarding Accountability, we represent two Mexican corporations in unrelated service fields, both of which suffered from unlawful conducts that resulted in a serious breach of contract from continued non-payment events in the first case (topping USD\$400 million over 2+ years), and in the inability to continue operating as an on-going concern in the second case. We filed independent suits before Federal Courts seeking owed government

transportation company operating under an administrative concession, which was left impaired by the illegal act. After more than 8 years of litigation, the Supreme Court recently ruled that the administrative act was both illegal and subject to damages, as sought by our team. This case is very relevant for it is testing the court's resolve to hold public institutions accountable for their acts.

How do you keep up to date with the inevitable regulatory changes that affect your work?

By keeping up the study habit. Knowledge is the core element of our work. We could not produce without it: our lines would go dry and deliver faulty results. Every

diversification. The Firm commits to paying higher education in top ranked institutions to our lawyers in exchange for excellent grades. And we also participate in Abogadas MX (www.abogadasmx.org), a private initiative led by Honeywell's Latam General Counsel to promote leadership & business development of young talented lawyers in recognized corporations and law firms.

What motivated you to establish your own firm and what led you to specialise in the area that you do?

I firmly believe in entrepreneurship as an engine of growth, innovation and creativity; and what a better way to prove it than starting your own business? Building a law firm is pretty

much like launching a start-up: you come up with a business plan that you think is feasible, then you put in your hopes and dreams to give it a solid moral underpinning, and dispense long hours of resolve and commitment to bring it to life. You fight your way through, entertaining the idea more often than not that you made a terrible mistake, and then you go back behind the wheel. After a while you find yourself out of the woods, look back and realize that the road that took you there resembles nothing the business plan you originally devised. You have survived, adapted and along the way it turns out you built something good, something that can endure and influence people the right way. And this is how we ended up shaping who we are: corporate lawyers, with a clear vision and a goal. To innovate, to create and to help our clients grow their own businesses, like we did ourselves; with resolve and commitment - the right way.

eventually landed an investment banking job with Bear, Stearns. A head-hunter took me to Merrill in 1998 where I joined their Latam M&A group, but after a redefinition of strategy the group left the region and I was left unemployed. The need to move forward led me to think for the first time about relying on my own means. And so Sámano Abogados came to life in mid-2001. Graduate school, Wall Street and New York City prepared me well, made me tough and enduring, and taught me a new set of abilities and skills. But the stint also came with a high personal cost. As I succeeded as a young professional I lost sight of some of the elements that got me there in the first place: humbleness, caring, balance, patience. As a consequence, I lost loved ones along the way.

So in retrospect, I would advise myself to pause more often to reflect about balance in life. To focus on values and family, as they constitute

development and public service. To drench on all audiences the urge to actively participate at all levels and join efforts to strengthen our institutions. Breaking the pervasive link between power and corruption is this generation most urgent challenge. Winning this war is paramount to restore social hopefulness and mobility, underpinnings in the fight against crime and impunity. I would very much like to be an active player in this lengthy process and witness its accomplishments.

Is there anything else you would like to add?

On a final note I would point out

that being a lawyer, from my perspective, implies choosing a life of commitment to service, not to wealth or fortune. We devote so many hours of our lives to work that it only makes sense if it keeps feeding our hearts and souls, with proudness and joy. Let me remember some words from Khalil Gibran in this respect: "I slept and I dreamed that life is all joy. I woke and I saw that life is all service. I served and I saw that service is joy."

We must not lose sight of our professional choosing, of what a life of service implies. Stay focused, remember to nourish the heart and soul. The rest will come, you can count on it. **LM**

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If you could go back to the beginning of your career, what would you do differently and what would you tell your younger self?

This is a tough one, since things look clearer through the rear-view mirror. You see the road driven and it is easy to envision the better choices. In my case, I didn't always have the opportunity to choose, it was more about jumping in and making the best out of the situation. In 1994 I left Mexico to pursue a Master's Degree in Public Policy in New York, but after the devastating financial crisis of December that year, I had to switch gears and ended up studying business and economics. Turned out I was good at finance. I met a couple of Business School professors and

the foundation of everything we build. Better choices will ensue, although we might not notice them immediately.

What else would you like to achieve during your career?

I would like to more actively participate in the implementation & improvement of the new National Anticorruption System, to be an influential engine of change at the cultural & social level in Mexico. I would very much like to find the time to go back to the Academia to teach again, to spread as much and in as many forums as possible the fundamental importance of society's participation to expunge corruption from business

About Sámano Abogados

Sámano Abogados is a law firm comprised of talented Mexican professionals that combine youth, capacity, and experience to provide exceptional legal services. Founded in 2001, Sámano Abogados has developed important working relationships with leading corporations in the health, financial, IT, entertainment, real estate, and public sectors.

"As a firm, we are not, nor interested in becoming, a 'big' firm; we prefer to join forces to make our clients 'big'. Sámano Abogados favors long-term client relationships and strives for the success of the people and organizations that place their trust in the work and results of the firm."

"Sámano Abogados takes on challenges and assumes responsibilities with efficiency, integrity, professionalism, and pleasure. We enjoy what we do and are proud of our standing with clients who constitute the firm's best recommendation." - Sámano Abogados.

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