

# TEXAS LAWYER

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## 6 Litigation Lessons Learned As Temporary Prosecutors

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To gain valuable trial experience for its lawyers, Akin Gump Strauss Hauer & Feld has sent litigators to the Dallas County District Attorney's Office since 1999 to work as "Lawyers on Loan" for a 10-week period with the goal of trying 10 jury trials. The relationship has proven to be mutually beneficial: The county receives helpful pro bono services, and Akin Gump's developing litigators gain considerable courtroom experience.

Such a concentrated amount of trial experience has a way of surfacing key takeaways applicable for any civil trial lawyer working in a large law firm.

**1. Working as an Assistant District Attorney means instant responsibility.**

We were pleasantly surprised by how quickly we were handling matters on our own and how much responsibility we



were given to handle our cases. For both of us, by the second week we were arguing at hearings and first chairing jury trials. We always had excellent guidance from the other ADAs, but at the end of the day, these were our cases. We gained huge respect for the take-charge attitude that all ADAs must dem-

onstrate to be successful in their work.

**2. The devil is in the details.**

Whether we're litigating a multimillion-dollar dispute or a Class B misdemeanor, we learned the importance of always training a critical eye on our cases. With the high burden of proof in a criminal case, juries need specific details to

return a conviction. This might mean asking a police officer witness a few more questions to confirm a defendant's license plate number, or obtaining receipts from the local bar to show just how many drinks the defendant bought on the night in question. These types of details help the jury not only to understand the case, but also to feel comfortable returning a verdict in your client's favor. We have applied this lesson of adding specific detail to witness examinations in our civil cases with great results.

### **3. Full throttle is not always the right speed.**

After our time at the DA's Office, we understand that justice comes in many different forms. At first, we started plea negotiations with defense counsel by seeking the maximum punishment, much like seeking the most relief possible in a civil case. But we soon learned that there is not a universal outcome that is right or just for every defendant, and there is certainly no "one size fits all" approach to every case. It was important to find a resolution that afforded justice for the state and placed the defendant on a track towards rehabilitation.

Similar situations arise in civil disputes as well, and in many cases settlement or a more creative means of resolution may be the best outcome for the client.

### **4. Efficiency is key.**

As civil trial lawyers, we're fortunate to have opportunities to appear in court. But these opportunities are infrequent compared to the near-daily occasions we had to argue motions, present plea agreements, and try cases before a jury or the bench as ADAs. It was certainly exciting, but also challenging, to prepare arguments in a short time while balancing a large caseload. Although government legal work is not driven by the billable hour, being as efficient and judicious with resources as possible is just as important, or even more so, because of the incredibly fast pace and large docket of cases that every ADA must juggle.

### **5. Learn what works—and what doesn't—from the jury.**

The consistent practice of presenting a case and arguing that case to a jury as ADAs was invaluable for us. We relished being able to talk to the jury after trial to hear what resonated and, more importantly, what didn't. What might appear to be a slam-dunk argument in preparation could have no impact at trial if the presentation to the jury falls flat. The lessons we learned from our juries informed how we take discovery and build cases for trial in our civil practice.

### **6. 'Tart words make no friends.'**

Long ago, Benjamin Franklin noted the importance of being amiable in interactions with others, but this axiom is sometimes lost in the adversarial world of litigation. We were struck by the collegiality we encountered at the criminal courthouse. Everyone from each court was always open, available and willing to lend an ear to answer our questions, including defense attorneys. We were incredibly impressed with the level of professionalism and courtesy that all attorneys tended to show each other and how this collegiality allowed the courts to more efficiently handle cases. Our experience as ADAs has taught us that we can fiercely advocate for our clients while remaining cordial with our opponents.

These six lessons only scratch the surface of our time as prosecutors and the impact it has had on our civil litigation practice. We would like to thank all of the ADAs for allowing us to work by their sides to seek justice for the citizens of Dallas County. We learned these lessons and so much more about being trial lawyers that we will carry with us for the rest of our careers.

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