

Trial Pros: Akin Gump's Sean O'Donnell

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Sean E. O'Donnell is a partner in the litigation practice at Akin Gump Strauss Hauer & Feld LLP. He focuses on complex commercial litigation with a concentration on complex financial restructurings, valuation disputes, merger and acquisition disputes, partnership/investor disputes, real estate related matters and general commercial disputes. O'Donnell regularly provides litigation advice to hedge funds, private equity funds, creditor committees, debtors, public and privately held companies, real estate developers, insurance and financial advisors, venture capitalists and other individual professionals.



Sean E. O'Donnell

Q: What's the most interesting trial you've worked on and why?

A: This is a difficult question to answer, because I don't think I've ever experienced an uninteresting trial. One particularly interesting trial I worked on was 330 Acquisition Co. v. Regency Savings Bank. We represented the plaintiff and the trial was on damages for tortious interference with a contract. The case highlighted a common key to succeeding in "complex commercial litigation trials" — developing themes and keeping things simple. In order to prove damages, we were required to establish (1) that the plaintiff and a nonparty had reached agreement on a multimillion dollar loan restructuring agreement (there was no final integrated contract), and (2) the value of the equity kicker our client would have received as a result of the restructuring. The defendant pushed for a jury trial, presumably thinking that the issues were fairly complex and difficult for a jury to follow and, hence, problematic for us to satisfy our burden of proof as the plaintiff. Well, the trial took place in Manhattan and we were able to fill the jury box with some fairly smart individuals. We also worked hard to simplify the issues by focusing on an extremely tight theme and making good use of our demonstratives and colorful witnesses. Our witnesses were very likeable and credible, and seemingly won the popularity contest with the jury, which was just as important as streamlining the presentation. And we won, or I wouldn't be telling you about the case.

Q: What's the most unexpected or amusing thing you've experienced while working on a trial?

A: Using the videotape from the deposition of an arrogant witness and watching it bury him in the courtroom during his cross-examination.

Q: What does your trial prep routine consist of?

A: Spending an extraordinary amount of time familiarizing myself with the relevant documents and

deposition testimony, learning about the inner workings of an industry or company, and working intimately with our expert and fact witnesses to learn the ins and outs of the case.

Q: If you could give just one piece of advice to a lawyer on the eve of their first trial, what would it be?

A: Listening is key.

Q: Name a trial attorney, outside your own firm, who has impressed you and tell us why.

A: J. Wiley George of Andrews Kurth LLP. We were opposing counsel in a trial involving the valuation of a reorganized semiconductor company. Like any great litigator, Wiley knew the strengths and weaknesses of his case as well as (if not better than) anyone in the courtroom, he tackled his weaknesses head-on and he found ways to repeatedly stress his strong points and press his theme throughout the presentation of evidence.

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