

Trial Pros: Goodwin Procter's Rich Strassberg

Law360, New York (March 17, 2016, 2:10 PM ET) --

Richard M. Strassberg, co-chairman of Goodwin Procter LLP's securities litigation and white collar defense group, chairman of the firm's white collar crime and government investigations practice and a member of the firm's executive committee, specializes in white collar criminal defense, U.S. Securities and Exchange Commission enforcement proceedings, Foreign Corrupt Practices Act compliance and investigations, corporate internal investigations and complex business and financial litigation. Strassberg, a fellow of the American College of Trial Lawyers, has twice been recognized by the American Lawyer as Lawyer of the Week as a result of his trial victories for clients.



Richard M. Strassberg

Prior to joining the firm, Strassberg was the chief of the major crimes unit in the U.S. Attorney's Office for the Southern District of New York, responsible for supervising approximately 25 assistant U.S. attorneys in the prosecution of white collar criminal cases.

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

A: I've been lead counsel on some pretty exciting trials — from the Martha Stewart trial, to the first ever insider trading trial involving credit derivatives, to the largest tax shelter fraud case ever brought to trial, to name just a few — but my most interesting, and unique, trial has to be the one charging slavery in modern-day New York City.

I was the lead prosecutor in a trial charging a husband and wife with keeping two young girls as slaves, forced to take care of the defendants' house and children under constant threat of physical and psychological violence.

The case began when the first ten year-old girl set fire to a basement apartment where the defendants lived. Perhaps the best New York City Fire Marshall of all time was dispatched to examine the scene, and he immediately identified the arson and sensed that it was actually a cry for help from a child likely being abused. When the defendants prevented him from speaking with the young girl, he hand-walked over a referral to Child Protective Services the next morning, just as the office opened for the day.

As fate would have it, Child Protective Services assigned a case worker from that area of the city to investigate the case; a case worker who also happened to be one of the defendants! In the several weeks before it was uncovered that one of the defendants had been asked to investigate her own family, the child was shipped out of the country, never to be seen again. The result was that the case file

was closed and the incident soon forgotten. A short time later, another young girl was brought from overseas, and the pattern of abuse continued. Eventually, the plight of the second girl came to the attention of Catholic Charities, and a case charging violations of the anti-slavery laws was filed against the defendants.

At trial, the main defense was that the second girl was really the husband defendant's illegitimate child, and that the defendants, as parents, were entitled to keep her in the manner they did. We had agents travel deep into the undeveloped areas of the girl's birth country in order to find her real parents, who were, literally, living in a one-room, tin-roof hut in the jungle. They were illiterate and had both been duped into believing that their daughter would be getting an education and a better life in America. They proved to be devastating witnesses a trial.

One of my most bizarre cross-examination experiences occurred when the defendants called to the witness stand a supposed tribal chief, who appeared in full headdress and flowing robes, with a constantly waving hand fan. The chief was there to try to substantiate their claims and deny the validity of the testimony from the child's true parents. When the chief was exposed on cross as having no true knowledge of the key facts and as likely being part of the defendants' cabal, the husband defendant decided to take the stand and tell his story directly to the jury. My cross-examination of him was aggressive, heart-pumping fun. The defendant was accustomed to having his word taken as fact, without being questioned, as was customary in his home country based on his tribal standing and wealth, which made for an especially delicious cross-examination. The defendants were convicted of all counts shortly after the case was given over to the jury and sentenced to substantial prison terms by the court.

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

A: One pretty unexpected moment occurred during the KPMG tax shelter trial, when the government, in its closing argument, told the jury that:

"Let there be no doubt about it, [the cooperator] was a catastrophe, [he] got destroyed on cross-examination by Mr. Strassberg. There's no question that Mr. Strassberg will be telling that story for years. But personally speaking, I wanted to crawl under the table."

Getting such a ringing testimonial from the opponent prosecutor at the crucial closing phase of the trial was a little like entering into the "bizarro" world, where up was down and black was white. I was quite surprised to hear such explicit admissions, but there was a strategy behind the madness, as the prosecutor was trying to concede what he thought was obvious to the jurors, in order to win back their trust and focus their attention on other evidence he argued was still enough to convict my client. My cross of the cooperator had allowed me to take the moral high-ground in closing, asking the jury to question why we had been able to show the cooperator was lying in our examination, but the government, despite years of investigation, had never even bothered to test his veracity before calling him as a witness and having him testify falsely for hours on direct. The jury agreed and my client was acquitted of all charges.

Q: What does your trial prep routine consist of?

A: To summarize in two words, endless preparation. I try to immerse myself as deeply as possible into the facts of the case prior to trial, so that I feel I know the facts better than anyone. Because many of my trials are criminal matters where we often do not have prior witness testimony, I like to outline in advance different lines of cross-examination to the same key questions, anticipating as many possible

answers and follow-ups as possible from the known evidence. As we get to the eve of trial, I also like to try out my jury addresses on nonlawyers, including my wife, to get honest insight into how the arguments and any audio-visual slides we are using, will likely be perceived by the jurors.

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: My advice would be to understand that everyone is nervous on the eve of their first trial; it is normal to feel an almost electric excitement mixed with ample amounts of terror, and to be thinking that you may need to throw up before you can speak. But hang in there, be yourself, rely on your preparation and you'll soon be a trial veteran like the rest of us.

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

A: Elkan Abramowitz of Morvillo, Abramowitz Grand Iason and Anello has been a model for me since I was a young associate, and is a terrific white collar attorney who maintains a mastery of the courtroom.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

All Content © 2003-2016, Portfolio Media, Inc.