

How Highly Successful Attorneys Prepare For A Day In Court

By **Aebra Coe**

Law360 (June 22, 2018, 4:48 PM EDT) -- Preparing for trials or oral arguments can be the busiest and most stressful times of attorneys' careers, and yet there are a number of ways top attorneys have identified to successfully navigate the experience.

Whether it's eating a good breakfast, going for a long run while reviewing a cross-examination, or drawing inspiration from Hollywood, partners from Quinn Emanuel Urquhart & Sullivan LLP, Weil Gotshal & Manges LLP and Covington & Burling LLP, among other law firms, have found tried and true methods to prepare for big days in court.

Here, some of the industry's most successful litigators share how they get ready to face a judge, justice or jury.

Getting Active During Final Prep

Walking, running or other forms of activity while going over how an argument might unfold one final time before the big day was one of the most common ways attorneys who spoke to Law360 put the final touches on their trial or oral argument preparation.

Deanne Maynard



Deanne Maynard is co-chair of Morrison & Foerster LLP's appellate and Supreme Court practice. Maynard has argued 14 cases before the U.S. Supreme Court. She also argues complex, high-stakes cases in the federal courts of appeals.

Before joining her current law firm, Maynard served as an assistant to the U.S. solicitor general for five years and, early in her career, served as a Supreme Court clerk for Justices Stephen Breyer, Lewis Powell and John Paul Stevens.

— Morrison & Foerster LLP

Deanne Maynard, co-chair of Morrison & Foerster LLP's appellate and Supreme Court practice, says that if she's in a hotel, which is often the case, she'll walk around the grounds the night before oral arguments, "having colloquies" with herself.

She says she essentially role-plays with herself while being physically active, pretending to be the judge, asking herself questions, answering the questions, and even interjecting with more questions, and then starts over and does it again and again until she's fine-tuned her responses.

Weil partner Diane Sullivan, O'Melveny & Myers LLP partner Pamela Miller and Covington & Burling partner Jennifer Saulino all say they go for a run leading up to a big trial, using the time to review the material they plan to use with more clarity.

Diane Sullivan



Longtime trial attorney Diane Sullivan is a partner in Weil Gotshal & Manges LLP's litigation department, where she specializes in high-stakes cases. Sullivan has served as lead trial counsel in a slew of major cases.

A few examples include her role as lead trial counsel for Merck in the legal battle over Vioxx, in which she obtained a defense verdict in a plaintiff-friendly jurisdiction; for Philip Morris USA in a class action over claims brought by tens of thousands of smokers, in which she secured a unanimous defense verdict following a three-week trial; and for General Electric in a suit related to the construction of a clean-energy power plant, in which Sullivan's team won the dismissal of claims of over \$1 billion in damages.

— *Weil Gotshal & Manges LLP*

"It allows me to clear my head and focus on the key themes of the case," Sullivan said. "I've come up with some of my best ideas for closing arguments or cross-examination themes while on an outdoor run during trial."

King & Spalding LLP partner Cory Hohnbaum prefers lifting weights to running, but the idea is still the same.

"You get yourself out of the office or hotel setting where you're typically working. It frees my mind in a way," Hohnbaum said. "I find that at that point, I've done the work and [reviewing the case while exercising] sparks a little bit of extra creativity."

Finding the Inspiration to Push Through

While trials are "a lot of fun," pretrial work can be "miserable," with long days and nights spent at the office going over material with a fine-tooth comb, said William Price, co-chair of Quinn Emanuel's trial practice group.

Cory Hohnbaum



Cory Hohnbaum is a partner in King & Spalding LLP's trial and global disputes and product liability practice groups who has successfully tried cases in a wide variety of subject matters, including product liability, securities, construction, patent infringement and insurance coverage.

He has served for the last three years as lead trial counsel for R.J. Reynolds Tobacco Co. in nine smoking and health-related jury trials, and has represented national banks, securities firms, international manufacturers and hedge funds in high-stakes cases.

— King & Spalding LLP

Price says he counteracts the drudgery of pretrial work by getting pumped up about the day he'll finally be able to step foot in the courtroom by watching movies about trials.

Some examples of the movies he watches include "A Few Good Men," "Anatomy of a Murder," "To Kill a Mockingbird" and "My Cousin Vinny."

Joseph Terry, co-chair of Williams & Connolly LLP's accounting malpractice group, says he listens to "one of the many cheesy inspirational mixes" he makes for his cases the morning of an argument or witness examination. Some songs that could make it on the list include "Run This Town" by Jay Z, "All I Do Is Win" by DJ Khaled and "The House That Heaven Built" by Japandroids.

William Price



William C. Price is co-chair of Quinn Emanuel Urquhart & Sullivan LLP's national trial practice group. He takes on cases in areas including intellectual property, antitrust, media and entertainment, government enforcement, government contracts litigation, securities, class action and trade secrets.

Price was profiled in a number of publications in 2001 after he achieved a winning streak of 30 trials, which was ultimately extended to 35 trials. Among his work on major cases, he successfully defended Micron Technology Inc. from a \$12 billion Cartwright Act lawsuit.

— Quinn Emanuel Urquhart & Sullivan LLP

Maynard says that leading up to oral arguments, she draws inspiration from a tradition that reminds her of family.

When she first began arguing cases before the U.S. Supreme Court, her parents would travel to Washington, D.C., from North Carolina and bring a chicken pot pie that her mother had cooked for dinner the night before the arguments.

The whole family would eat it — she and her parents, her husband and her children. And to this day, her husband will cook pot pie the night before oral arguments, she says.

Practicing With Distractions

Boies Schiller Flexner LLP partner Randall Jackson says that once he had an opening or closing statement together, he'll go over it again and again, "dozens of times" in an effort to get it just right.

Randall Jackson



Randall Jackson is a litigation partner at Boies Schiller Flexner LLP. His practice focuses on government and internal investigations, white collar criminal defense, complex civil litigation and regulatory compliance.

Jackson has served as lead or co-lead attorney in 17 federal trials and has briefed and argued numerous appeals in the U.S. courts of appeals. Before joining Boies Schiller, he served as an assistant U.S. attorney in the Southern District of New York, where he worked on matters including securities fraud, accounting fraud, wire fraud, money laundering, public corruption, tax crimes, terrorism and international narcotics trafficking.

— *Boies Schiller Flexner LLP*

He said one way he knows he truly has it down and is confident with his ability to deliver the statement is if he plays loud music in the background and can still do it unperturbed.

"I think that, really, practicing to focus on delivering the messages in the opening statement with something distracting like loud music blaring in the background as close as possible simulates the high-intensity moment that you can encounter in the courtroom," Jackson said.

"When I'm comfortable delivering an opening statement the way I want to deliver it in total comfort, even with distractions going on in the background, I know I will be comfortable in the courtroom," he added.

Getting a Good Night's Sleep

Jackson says he prioritizes sleep leading up to a trial. Many of the attorneys who spoke to Law360 emphasized getting a good amount of sleep the night before an important court appearance, but Jackson said he believes it takes more than one night to be at peak physical and mental acuity.

Pam Miller



O'Melveny & Myers LLP partner Pamela Miller represents banks and insurance companies in litigation relating to bank liability, regulatory improprieties and securities fraud, and has conducted internal investigations involving anti-money laundering compliance, allegations of securities fraud, internal and corporate fraud, accounting fraud and market manipulation.

She regularly appears in state and federal courts and most recently served as lead trial counsel in the successful defense of a \$250 million claim against a major financial institution alleging that it had breached its contract with a private equity partner.

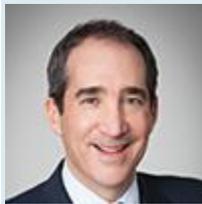
— *O'Melveny & Myers LLP*

"While in the course of preparing for trial, there are a lot of late nights," he said. "As I get close to trial, I do everything I can to enforce very strict sleep discipline."

That usually means getting to bed by a certain time each night and getting a "full night's sleep."

"I've found that whatever benefits are gained from an extra hour or two of work, once you get that close, the benefits are offset by the detriment of a week's worth of sleep deprivation," he said. "It can be difficult to focus and have the level of attention I need in the courtroom if I haven't enforced that sleep discipline in the days before the trial."

David Lender



David Lender is co-chair of Weil Gotshal & Manges LLP's global litigation department and has 25 years of experience trying and litigating complex international commercial disputes in state and federal courts around the country, as well as in arbitration proceedings.

Lender's practice encompasses matters involving the Racketeer Influenced and Corrupt Organizations Act, patents, antitrust, consumer fraud and contracts, among other issues, including in the class action context. He has tried numerous cases to verdict, many of which have resulted in his clients obtaining, or avoiding, hundreds of millions of dollars in damages.

— *Weil Gotshal & Manges LLP*

O'Melveny & Myers' Miller says that as a mother, going into a trial she treats herself the way she would her own children the day before a big exam.

"Get a good night's sleep, get up and exercise and get fresh air, eat a good breakfast with protein," she said.

Others agree a good meal is vital when it comes to being ready to go the day of a major court appearance.

Hohnbaum says he always has bacon, eggs and a small glass of orange juice for breakfast before a major argument, explaining that he's "not as sharp without a good breakfast." And Saulino swears by grilled salmon, mashed potatoes and steamed broccoli the night before an opening or closing statement, saying she's eaten the meal at numerous restaurants and hotels across the country when traveling for trials.

Finding Time to Decompress

The final step in preparing for a big trial or oral arguments does not involve work, but involves making an effort to unwind in order to go into the courtroom relaxed and ready to go.

Joseph Terry



Joseph Terry, co-chair of Williams & Connolly LLP's accounting malpractice group, focuses his practice on complex, high-stakes civil and criminal litigation. He has represented clients in federal and state trial courts throughout the country and before the U.S. courts of appeals.

Terry has represented multinational media companies, financial services companies and executives, public officials, and public accounting and law firms in litigation matters including criminal investigations and prosecutions, U.S. Securities and Exchange Commission investigations and enforcement actions, private securities fraud suits, and actions alleging professional malpractice and defamation.

— *Williams & Connolly LLP*

David Lender, co-chair of Weil's global litigation department, says he gets up the day of oral arguments or cross-examinations and eats pancakes and drinks coffee, goes through his outline a few times, and then watches about 30 minutes of "mindless TV."

"It won't be the news or anything substantive, but a show like 'Married With Children' or 'SpongeBob.' And then I am ready to head to court," Lender said.

Williams & Connolly's Terry said he wakes up at 5 the morning of an important day in court and works out, listens to music and then makes an effort to walk to the courthouse.

"Walking helps clear my head, work out any tension, avoids the stress of traffic, reduces the chances of catastrophic coffee spills on my shirt and tie, and offers a last bit of fresh air before spending an indeterminate amount of time in a windowless courtroom," he said.

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