

Trial Pros: Schulte's Peter White

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Peter H. White, a litigation partner in Schulte Roth & Zabel LLP's Washington, D.C., office, has served as lead counsel in over 80 federal and local jury trials and many more bench trials. He recently represented a prominent D.C.-area surgeon in his acquittal. The surgeon had been indicted by a federal grand jury on 60 counts of health care fraud, aggravated identity theft and obstruction of justice. During the five-week trial, the judge dismissed the identity theft charges, and after cross-examination of their case agent, the government voluntarily dismissed other fraud counts. In November 2015, the jury found the surgeon not guilty on all 41 of the remaining charges. In another matter, he was lead trial counsel to Lockheed Martin in an ERISA class action claiming more than \$1 billion in damages. In 2015, the case settled for less than 5 percent of the sought damages. White is a former Assistant U.S. Attorney for the Eastern District of Virginia and the District of Columbia, and a recipient of the U.S. Department of Justice's Director's Award.



Peter H. White

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

A: Last fall, I tried a case in the Eastern District of Virginia representing a doctor initially charged with 60 counts of health care fraud and obstruction of justice. We were able to get some of the counts dismissed by the time the case went to the jury, but I knew we had to win all 41 remaining counts as even a single felony conviction would destroy his career. It was an extremely complicated case involving a great deal of expert testimony against a very talented and dedicated team of prosecutors. To have the jury vindicate my client and our work on his behalf by acquitting him on all 41 counts was very satisfying.

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

A: In the mid-90s I was in trial on an assault case as an Assistant U.S. Attorney in Washington, D.C. While handling status calls and pleas before the trial resumed, the defendant on trial burst into the back of the courtroom, in the midst of assaulting his lawyer. The lawyer broke free from his client and ran into the well of the court, with the defendant right behind him. After the lawyer passed by me, I instinctively lowered my shoulder into the defendant, launching him over several chairs and into the empty jury box. His visit to the hospital resulted in a mistrial in that case but a conviction in the ensuing contempt charges, where I was the sole testifying witness. I didn't expect that when I walked into court that morning.

The most amusing thing to happen to me in trial also involved me testifying, but this time I was called as a fact witness by opposing counsel in a civil case I was trying in federal court. It put me in the odd position of addressing my own credibility in closing argument. I decided to turn the awkwardness of that into a self-effacing bit about my own credibility from the witness stand, which got the jury laughing along with me. Fortunately, they went my way on that one.

Q: What does your trial prep routine consist of?

A: First, I try to define a battle ground that plays to the strengths of my case. Then I develop themes around that I believe will resonate with the decision-maker. As a defense lawyer, most of my trial work is cross-examination, and I view each one as a complex decision tree. After reading everything a witness has said and defining the areas that play to my themes, I work out lines of questioning that vary depending on what answers they might give on the stand. I always try to think through both constructive and destructive lines of questioning so I am ready whatever direction the witness goes. Then, I wake up at 2 a.m. and do it over. That's the only way I know to be able to adjust nimbly to what happens on the witness stand.

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: Expect the unexpected, and when it happens, trust yourself.

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

A: I've only given up an important witness to another lawyer at trial twice in my career, and both times it was because I knew that lawyer would do better with the witness than I would. Those two lawyers are Paul Shechtman of Bracewell LLP and Tom Connolly of Harris Wiltshire & Grannis LLP. They have very different styles and strengths, but both have the ability to explore complex topics in plain English in a way that connects with the decision-maker at trial. I've learned a great deal about being an effective trial lawyer from both of them.

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