



Top 100 Trial Lawyers in America



Q&A with Evan Chesler

Evan Chesler is a universally revered trial lawyer in the New York office of Cravath, Swaine & Moore, the firm he interviewed for upon graduating law school and has remained with ever since. When queried about his role at the firm, Chesler quips, “All I do is try cases – that’s all they let me do here.” Although speaking with obvious humor, Chesler is acknowledged by many as “the embodiment of a trial lawyer.” Speaking with *Benchmark* editor Michael Rafalowich, he speaks to his relatively humble beginnings, his successful literary pursuits, and his career highlights, as well as offering advice to aspiring trial lawyers and discussing what turned out to be his last-ever job interview.

What is your general approach to and attitude about being a trial lawyer? Was it always your ambition to assume this role?

Yes, it was because when I became interested in law, to me, a lawyer was always a trial lawyer. I actually didn’t know any lawyers before I went to law school. My parents didn’t go to college, so I didn’t grow up around academia or have exposure to the legal profession other than what little I knew about law, which was trial law. To me being a trial lawyer and being a lawyer were synonymous. My understanding of what a lawyer did was, you went to court and you tried cases.

It’s impressive that your parents didn’t attend college and you didn’t grow up around legal academia and yet you’ve arrived where you are today.

It’s a long story and I won’t bore you with the details but I started plotting this when I was about 14. I obviously needed a plan and the first phase of the plan was to get a scholarship to go to college because without one I wasn’t going at all. I actually passed on going to a particular prestigious high school because I knew going to that school would diminish my scholarship chances because I would be surrounded by students who were smarter than me! So instead I went to a community high school and earned the unhappiness of the principal of my former school, who summoned in my parents and told them what a mistake I was making.

But I followed my path and worked hard toward my goal. In the meantime I earned money working all of these odd jobs, selling shoes and all sorts of other jobs. Then I wrote a book. The book earned me an advance and I used that money to put toward law school.

You wrote a book? And you got that big of an advance on your first book?

Yes, it was called *The Russian Jewry Reader*, and it sold about 10,000 copies and was actually used as a high school textbook. I did



“The great thing about this profession is that every case is a new career. They’re all different.”

a Masters in Russian Soviet studies and was actually thinking of becoming a history professor but changed my mind.

The backstory to this is, at a certain point I got a job as a headhunter, where there was no salary but I got money if I placed people. On the Saturday before my first day on the job, a drunk driver ran a red light and hit my car head-on, which landed me in the hospital and put me on crutches, so I wound up losing the job. So there I am sitting home on crutches and – you want to talk about a divine hand intervening – I got a phone call asking me if I could come up with a textbook for this Russian study course. I said, “Well, I can if you can give me an advance.” I wound up getting a \$2600 advance, which was a lot of money for the time.

How did you end up at Cravath?

While I was in law school, I was reading in the library when I discovered a book called *Lions in the Street* by Paul Hoffman. The book chronicled the top law firms in New York at the time, and the very first chapter references Cravath. The chapter is actually called “The Congress of Vienna Sits on the 57th Floor” – at the time that’s the floor that Cravath was on in the building. I thought, “Wow, that’s impressive for a firm to be referenced as the Congress of Vienna,” and immediately inquired more about them. A professor told me, “If you want to be the best lawyer you’re ever going to be, call this number.” He gave me the number of Wayne Chapman, who was the hiring manager for Cravath at the time. So I called Wayne, he eventually called me in for an interview, and that was the last job interview I’ve ever had.

While you are identified as one of the country’s most celebrated generalist trial lawyers, would you view yourself as having somewhat of a slant toward a particular practice area? For instance, in recent times it seems like you’ve been especially noted for your antitrust work. Or do you just go where the work is?

It’s definitely the latter. At the moment, I happen to be doing a lot of antitrust work. But the first four years I was a partner I only did trade secrets cases. People used to ask me “How did you come to be an IP lawyer?” I said, “I’m not an IP lawyer, I’m a trial lawyer who is learning my craft, and at the moment it happens to involve a lot of trade secrets work.” Then I had the luck of handling an antitrust case for three months. I had been on antitrust cases before but never as the lead trial lawyer, examining witnesses and so forth. This was in the winter of 1987 – I spent that whole winter in Philadelphia! So after that, I started developing a name as an antitrust lawyer. Then again, in the 1990s, *The Wall Street Journal* described me as “a well-known securities lawyer” because at that time there was a spate of 10b-5 cases that I was handling.

What are the personal qualities one must bring to being a trial lawyer? Are there any specifically, or do you feel that it is open to anyone who puts in the effort and receives proper training?

I don’t think it’s open to anyone. It is not something everyone is comfortable doing, for several reasons. There is no ambiguity in

being a trial lawyer, and many people are simply more comfortable with ambiguity, situations where everyone walks away somewhat satisfied with the result. Situations like that are not binary like a trial, where there’s clearly a winner and a loser. There is more of a level of success or victory that you can spread around the table, and for a lot of people that is a better model than someone walking out a winner and someone a loser. There are also some basic personality traits you must have. You need to be able to deal with the absolute certainty of the outcome. You need to prepare with an enormously calculated ratio for the time you are on your feet in court. For every hour that you are there, a huge amount of preparation is involved. That takes patience, that takes discipline, and that takes being able to work with a team. The mythology of the star who stands up in court and just makes magic happen by themselves is just that – a mythology. Everything I do is a product of a great team behind me. You don’t have time to verify everything yourself and do all of the heavy lifting yourself. You have to have a network of people that you can trust, and they have to trust you implicitly. It’s a whole constellation of personality traits and skills. This is all in addition to the obvious, which is that you have to stand up in front of strangers and be confident, and also appear to be confident, which are two different things. You have to be at your best when things are at their worst. It’s easy to fly when you have a tail wind but it’s when you run into the headwinds that you really begin to build your mettle as a trial lawyer.

What advice would you give an aspiring trial lawyer in today’s environment?

The rules have changed and the environment has changed. The number of cases going to trial is shrinking. It’s a minority that actually go at all these days. The results of a trial being binary and clients being as risk-averse as they are means that often a settlement, even a less-than-ideal one, is the preferred option to the risk of a trial.

When cases can’t be settled and they do go to trial, clients often go to lawyers who are proven commodities. This makes it harder for young, aspiring lawyers to build a book

of experience. However, I still firmly believe that there are great opportunities for those who really want it. There will always be a place for people who can be others’ voices, and that’s what trial lawyers are. The advice I would give is be patient – don’t be in a hurry. It’s important to know what you’re talking about and not just be someone who likes to hear your own voice. Take the time to learn the subject and craft the right way to approach it. That’s not easy; if it were easy everyone would do it. Once you have the ability on your feet, take every opportunity you can find. Once you have the forensics down, do whatever possible to get the experience.

Who do you view as your equals in the field of trial law?

There are a number of really great ones around – there are those whose reputations are better than reality and there are those whose reality is better than the reputations! There are some truly superb trial lawyers that just don’t have the notoriety. Some of the best trial lawyers that immediately come to mind are David Boies, Ted Wells, John Keker, Dan Webb, and Bill Lee.

Are there any cases that stand out to you as real career highlights?

I always struggle with that question because I have learned something about what I do in every case that I’ve tried. They’re all different, and that’s the great thing about this profession. Every case is a new career. There are great moments, things that I was proud of, things that were challenging, but each case has its own personality, each has moments of personal development. Some of the things I’ve gotten more notoriety and recognition for were things that at the time I didn’t think were any different or more significant than anything else I did.

I tried a breach-of-contract case for Ross Perot once. I was on TV and in the media, but to me it was just a breach-of-contract case. It was not that complicated and it was not any different than many other cases that I’ve done but because of who the client was, it made me look like I’d done something amazing. I was constantly being asked “How did you do that” and I was amused by it.

Cravath, Swaine & Moore LLP