

Trial Pros: Cravath's Evan Chesler

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Evan R. Chesler is the chairman of Cravath Swaine & Moore LLP. He handles a wide variety of litigation, including antitrust, intellectual property, general commercial, environmental and securities, for clients in diverse industries. He also represents clients in government and internal investigations. Chesler is a fellow of the American College of Trial Lawyers, the American Bar Foundation and the New York Bar Foundation. He is the president of the Dwight Opperman Institute of Judicial Administration, a member of the Council of The American Law Institute and a trustee of the Federal Bar Council. He is also the chairman of the Board of Trustees of the New York Public Library. Chesler is an adjunct professor of law at New York University School of Law, where he teaches an advanced trial practice seminar. He received an A.B. in History from New York University, an M.A. in Russian Area Studies from Hunter College and a J.D. from NYU School of Law. Chesler joined Cravath as an associate in 1976 and became a partner in 1982. He previously served as the firm's head of litigation, deputy presiding partner and presiding partner.



Evan R. Chesler

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

A: Some years ago, I represented Alcoa Inc. in a patent case in Wilmington, Delaware. It was a jury trial involving a claim that a competitor was infringing an important Alcoa patent. There were two features of the case that made it very interesting: (1) it was a very complex science case that had to be distilled into an understandable record for a lay jury; and (2) the defendant was a non-U.S. company, so there was a personal element as to whether American technology was being improperly taken.

To me, all trials are interesting. I am a student of the process. That is what has kept me in the courtroom for so many years. But the challenge of making complex, arcane topics understandable, and maybe even interesting, to a jury is particularly compelling. And finding a human interest dimension in the midst of a commercial dispute is not always easy.

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

A: I was representing American Express Co. at trial in an antitrust case brought by the U.S. Department of Justice. During my cross-examination of the government's economics expert, the witness mentioned that he had read my opening statement but hadn't read the government's opening. The judge quipped that he was impressed that the witness was so familiar with my work. The witness responded that I was much more familiar with his work than he was with mine. That was both unexpected and amusing (at

least to me).

Q: What does your trial prep routine consist of?

A: I read all of the essential materials in the case: the pleadings, key interrogatory answers, dispositive motions, court orders, important depositions, key documents produced by the parties. I ask many questions — probably more questions than my team would prefer. I work with the team to identify the key themes around which we will build our case. I try to mold each examination — direct and cross — into an advocacy piece for those themes. I try to create an opening statement and a closing argument that previews and then reiterates the evidence in support of those themes. Throughout the entire process, I focus on three interrelated goals: (1) consistency; (2) simplicity; and (3) credibility.

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: There are many things I would offer as advice. But if I had to select one, it would be to really enjoy the experience. If trying cases becomes an unpleasant experience, if it is so stressful that you “miss the moment,” then why do it? Trials are a unique experience and American trials are unlike those in any other system. The goal of a trial lawyer should be to get into the courtroom. In order to pursue that goal with energy and purpose, you must actually want to get there. And that, in turn, requires that you look forward to the trial. If you don’t develop that love of the process, you should find something else to do with your life.

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

A: I have met many trial lawyers whom I respect and who have impressed me. One who comes to mind, less well known than others I could mention, is Jonathan (aka “Skip”) Greenfield of Ware Fletcher & Freidenrich LLP in Palo Alto, California. Skip was an excellent lawyer. He had been a helicopter pilot in Vietnam and had a military bearing. But I single him out for another reason. When we stood across the courtroom from each other many years ago, he was a much more experienced trial lawyer than I. Yet, he was considerate, unfailingly courteous and extremely professional in everything he did. As a very young lawyer at the time, I was so impressed by how he treated me. It is how our profession is supposed to be. And all these years later, I have not forgotten. Sadly, Skip Greenfield passed away some years ago.

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