

Trial Pros: Milbank Tweed's Antonia Apps

Law360, New York (July 27, 2016, 3:19 PM ET) --

Antonia M. Apps is a partner in the New York office of Milbank Tweed Hadley & McCloy LLP and is a member of the firm's litigation and arbitration group. Her practice focuses on white collar criminal defense and complex commercial litigation. She represents financial institutions, corporations and individuals in government investigations and in state and federal cases in the areas of securities fraud, insider trading, violations of the Foreign Corrupt Practices Act, criminal antitrust investigations and health care fraud. Apps has tried numerous cases in federal court, and has argued appeals before the U.S. Courts of Appeals for the Second and Sixth Circuits.



Antonia M. Apps

Before joining Milbank, Apps served for more than seven years as an Assistant United States Attorney for the Southern District of New York, Criminal Division, where she prosecuted a wide range of financial industry cases involving investment fraud, accounting fraud, broker-dealer fraud, market manipulation, money laundering and obstruction. She was the lead prosecutor in many high-profile white collar cases, including the prosecution of S.A.C. Capital LP. In 2014, she received the Executive Office of U.S. Attorneys' Director's Award for Superior Performance.

Apps is a frequent speaker at white collar and securities enforcement programs and is teaching a course at Harvard Law School on white collar criminal law and high-profile trials in the 2016-17 term. She has been recognized in Lawdragon's 500 Leading Lawyers in America in 2015, and profiled in Global Investigations Review's Women in Investigations feature in 2015.

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

A: I've been fortunate to be lead counsel in a number of high-profile white collar trials involving insurance fraud, investment fraud and insider trading, among other areas. While I found every trial interesting, the most interesting was *United States v. Newman*, an insider trading case for which I was the lead trial attorney for the government. The case involved a circle of hedge fund analysts who shared inside information with each other and passed it on to their respective portfolio managers for trading. The case was interesting because of the dynamic between the two hedge fund managers whose interests were not always aligned and because of the excellent defense lawyers who threw every conceivable defense into the mix. It was challenging to parse through the multiple themes and facts and present them to the jury in a simple and powerful way. We managed to do just that and secured convictions. The defendants' convictions were subsequently overturned when the Second Circuit, in a landmark ruling, significantly changed the law of insider trading.

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

A: Near the end of an uber-serious, six-week criminal case I was trying in Manhattan, one moment of levity stands out. Late one afternoon, at a particularly stressful juncture, a man in his 40s entered the large and imposing courtroom, walked directly into the well and took a seat in the jury box. It took a few minutes for the examiner, the judge and the jury to react, but, upon being asked by the judge what precisely he was doing, the man told the judge that he was there for a mock jury exercise for a law school class, which was actually taking place in the courtroom next door. The judge invited him to stay, but he wisely declined, and the entire courtroom burst out laughing.

Q: What does your trial prep routine consist of?

A: In a very real sense, trial preparation begins the moment you first get a case. This is typically before a complaint has been filed, because success at trial frequently turns on evidence and strategies developed through discovery. My "trial prep" in the lead-up to trial consists of keeping a notebook where I jot down ideas and themes and the evidence that will support them as I review documents, prepare witnesses and draft cross-examination outlines. These ideas and themes form the basis of motions in limine, jury addresses and witness examinations. I always keep in mind the following thought: if you have just five minutes to persuade someone (a judge or jury) to rule in your favor, what would you say and how would you say it? This forces you to be disciplined in how you spend your time in trial prep and to focus on presenting the case in the simplest and most powerful way possible.

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: Prepare as much and as hard as you can, but when the trial starts, have fun! A trial is a lot like a hotly contested sporting event. There is no substitute for being prepared: like training for a marathon (or, in my case, a figure skating competition). If you're fully prepared, you will be able to perform at your highest level. The rest is just a matter of staying relaxed and focused.

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

A: I've been lucky to try cases with and against some truly great trial lawyers — Mark Hansen, Reid Weingarten, Karen Seymour, just to name a few. My last trial as a federal prosecutor was against Barry Berke, who represented a hedge fund manager accused of insider trading. Barry had great presence, was quick on his feet, and knew the facts inside and out. Those are the qualities of a great trial lawyer.

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.
