

Trial Pros: Morrison & Foerster's Arturo Gonzalez

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Arturo Gonzalez is chairman of Morrison & Foerster LLP's commercial litigation and trial practice group. He is a fellow with the American College of Trial Lawyers and an associate with the American Board of Trial Advocates who specializes in high-stakes, bet-the-company litigation and trials.

Gonzalez has successfully defended three trials where the plaintiffs sought more than \$1 billion in damages: a trade secrets trial on behalf of Cypress Semiconductor Corp., a national bank in a class action trial and a former member of the Oakland-Alameda County Coliseum board of directors sued for fraud by the Oakland Raiders.



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Gonzalez has also won four verdicts in excess of \$10 million. He won a \$13.8 million jury verdict in a breach-of-duty and trade secrets case, including a finding that multiple employees acted willfully. He also won a \$39.3 million verdict in a trial involving medical robotics, where the jury found that the defendant willfully misappropriated trade secrets and breached two contracts. He obtained a \$63 million verdict in a wrongful death trial, and he obtained a \$12.5 million verdict in a civil rights trial.

Gonzalez served as the 2010 president of the Bar Association of San Francisco.

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

A: The most interesting was probably representing the City of Oakland and Alameda County in breach of contract litigation against the Oakland Raiders. The stakes were very high. Al Davis was seeking over a billion dollars as a means of getting out of his lease so that he could move back to LA and get another payday. I lived in Alameda County and have been a Raiders season ticket holder since the team returned to Oakland in 1996. Wearing a Raiders jersey, I took the depositions of Al Davis, many Raiders senior executives and a number of former Raiders players, including Jim Otto and Darryl Lamonica. After five years of intense litigation, including a three month trial and a trip to the court of appeals, our clients prevailed and "my" team stayed in Oakland.

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

A: In a civil rights trial, I was examining a deputy who was standing on the sidewalk in front of a home as "cover" for a SWAT team from another police agency that was raiding the home. What happened in the home was quite tragic. Police shot the father 15 times. One of the questions at trial was whether the

SWAT team complied with knock-notice requirements. This deputy had testified in deposition that he did not hear a knock or any announcement. We called him at trial to make that point. I noticed in the video from a police car camera that he was wearing a military type hard helmet on the date of the incident and anticipated that defense counsel might suggest that the helmet interfered with his hearing. I asked the deputy's lawyer to bring the helmet to trial, just in case. (The deputy and his department were not parties.) Sure enough, on cross, defense counsel elicited that he was wearing a helmet. On redirect, I stood and asked, "Sir, you were asked some questions about a helmet, did you bring that helmet to court today?" He answered yes. I retrieved the helmet from his lawyer in the gallery and asked the deputy to put it on. The deputy looked a little like Dukakis in that tank. I asked from the podium in low voice, "Can you hear me?" When he answered yes, I walked back, stood in the last row of the large federal courtroom and asked, "Can you still hear me?" He said yes. I then knocked on the wall and asked, "did you hear that," and he again said yes. I walked back to counsel table, said no further questions, and sat down. The deputy walked out, still wearing his army helmet. The jury returned a verdict of \$12.5 million.

Q: What does your trial prep routine consist of?

A: I try to read every deposition in the case. I want to know the facts better than anyone. I prepare summaries as I read the depositions and then use those summaries to prepare my outlines. I review every trial exhibit and know which ones will matter. I think a lot about what a jury will think of the facts, or a piece of evidence, hearing it for the first time. Although it is subject to change, I always give considerable thought to damages. I divide witnesses among our trial team so every member knows what to expect. I try to prepare my examination outlines before trial, understanding they may change during trial. My war room is set up before jury selection. I try to exercise before trial because exercise during trial can be challenging. I am always familiar with the jury instructions and like to practice portions of my closing argument by myself.

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: Be prepared. That means thinking about what you have to prove (jury instructions), and what the adversary will say or do during trial (see helmet example above). Try to focus on the key issues that will matter to the jury.

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

A: Robert Y. Chan. I tried three civil rights cases as co-counsel with Bob. He is a good tactician who thinks a lot about what moves the opponent would make and how we would counter them. He is probably a good chess player. In addition to knowing the facts cold, he has a very nice demeanor in court and was always very respectful to opposing witnesses, even while calmly tearing them apart. I thought the jurors appreciated his thoughtful examinations. Seeing him work caused me to "tone down" my approach ... a little bit.

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