

# Trying The Client's Case, Not Mine

A Trial Is Not Some Fixed System That, Once Set in Motion,  
Cannot Be Altered

By Michael A. Brown, [Miles & Stockbridge P.C.](#)

The day before a recent trial was to get under way, I met with my main contact at the client, the in-house counsel of a large manufacturing company, and asked, "What do you want from me during the trial?"

His response: "Keep proving my decision to hire you was a good one."

I knew what he meant. Not only was it my job to be successful in court, but also to do it in a way that best supported my client, the company.

As trial lawyers, we must never forget that we serve the client. There are some lawyers who tell clients "It's my case and I'm trying it this way." It is not the trial lawyer's case, however. It's always the client's case. Everything a lawyer does in that courtroom must serve the client's case.

The best way to ensure I try the client's case is to stay in close communication with my main contact throughout the trial. Some clients come to court every day, while others prefer to read the daily transcripts. Most are a mix of the two with out-of-town clients more likely to attend the opening and closing arguments rather than drop in regularly. It is also rare that a general counsel will be the one who comes. Usually, it is a member of the in-house legal team, who will keep superiors and stakeholders informed on the day's activities.

Regardless of who attends and how often, the client should be informed of strategy and objectives each day. This usually includes:

- The content and style of opening and closing statements.
- Key messages communicated about the client during that day's sessions, and the reasons for them.
- Strategy for examination and cross-examination of witnesses. This includes the information sought during questioning, and strategies for subsequent witnesses.



[Michael Brown](#) is a litigator with Miles & Stockbridge's [Products Liability and Mass Torts Practice Group](#) and leads its national trial team. He handles complex cases around the country for large corporations in the areas of products liability defense, mass tort litigation, employment law, medical malpractice, and insurance defense. He can be reached at [mbrown@milesstockbridge.com](mailto:mbrown@milesstockbridge.com) or 410-385-3439.

Mike's column appeared on InsideCounsel.com. [Click here](#) to read the article online and to visit InsideCounsel.com.

## Trying The Client's Case, Not Mine (Continued)

---

- Thoughts on how the jury perceives the trial so far, and any potential strengths or weaknesses in terms of their reactions.

In addition to the above, it is also important to keep communications open with the client representative in terms of whether or not circumstances favor a settlement. It might be that weaknesses emerge during opening statements that could push settlement as a more attractive option. Or, the opponent's case might reveal itself later on during the trial, and a new assessment of settlement options presents itself then. By staying in constant communication with the client, the trial lawyer is able to take advantage of these windows, which can be brief and close swiftly. The client's interests are only served when the result is the best possible outcome, and that could be a settlement, or it could mean pushing through to a verdict or ruling.

A trial is not some fixed system that, once set in motion, cannot be altered. Clients and their lawyers must stay in constant communication so as to adjust strategies and tactics in a way that serves the company as a whole. In this way, a litigator truly serves the client, his or her superiors, and the company itself.

---

*Disclaimer: This is for general information and is not intended to be and should not be taken as legal advice for any particular matter. It is not intended to and does not create any attorney-client relationship. The opinions expressed and any legal positions asserted in the article are those of the author and do not necessarily reflect the opinions or positions of Miles & Stockbridge P.C., its other lawyers, or InsideCounsel.*