

Trial Pros: Carlton Fields' Mike Pasano

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Michael S. Pasano, shareholder at Carlton Fields, focuses his practice primarily on complex criminal and civil litigation in both federal and state court. He also handles appeals. His areas of concentration include the defense of a variety of white collar matters, including fraud and money-laundering; forfeitures; tax issues; FDA, FTC and SEC cases; antitrust and environmental issues; and others. He has represented professionals in the corporate arena, including attorneys, doctors, accountants and corporate executives. Pasano worked for seven years in the U.S. Attorney's Office in Washington, D.C., and the Southern District of Florida, where he was a member of the major crimes, public corruption and fraud units, and where he served as chief of the Broward and West Palm Beach satellite offices. In March 1983, he became chief of the Miami Fraud Section and in October of that year was named chief of the U.S. Attorney's Ft. Lauderdale and West Palm Beach offices. Pasano is former chairman of the American Bar Association Criminal Justice Section and remains active in the ABA, which has published a book he authored on trial practice. He frequently lectures and has received awards and commendations for his legal work.

Q: What's the most interesting trial you've worked on and why? A: I have been fortunate to have tried a lot of cases over the years. Perhaps my most interesting case was U.S. v Aceveda Vila and Inclan Bird, a federal corruption case charging the governor of Puerto Rico with election fraud. I represented the governor's top aid. Both went to trial, which lasted two months. Ten flipped witnesses testified against them with deals from the government. The case had incredible press coverage. Every morning and afternoon we walked a gauntlet of media and political supporters and opponents. (Politics in Puerto Rico is a blood sport.) The courtroom fights were fierce. I came close to being held in contempt by the judge when I protested a comment he made about the length of my cross-examination of a key witness. I likely would have been stepped back, but the judge stopped when he saw my client crying. At that time, the government thought they won the case. The jury deliberated for an hour. Not guilty on all counts! Big parties followed. They even named a drink after me at a local bar.

Q: What's the most unexpected or amusing thing you've experienced while working on a trial? A: There are many, but one in particular that still hurts happened a few years back at a trial in Philadelphia, which involved a federal securities fraud case based on a sting operation. The client was considered to some, overconfident, and perhaps too intelligent a businessman. He urged me to call as a witness for the defense, his best friend, another businessman who had invested and lost money with the defendant.

This "best friend" kept ducking my calls. Fast forward: my client testified. In his mind, genius. We rested. The government called a rebuttal witness — the 'best friend.' And with every question and answer my client's face fell. One last question probed to the "best friend": "Did you and the defendant talk about anything after he was charged?" Best friend: "Yes, he asked me if he testified and lied if I thought he would go to hell.' Pure fact. Incredibly, the jury took a week to convict. **Q: What does your trial prep routine consist of?** A: Prep and more prep. The idea is to outwork the other side. Read and reread documents. Study the proposed government exhibits. Work with the client a lot for possible testimony. Interview witnesses and put together the defense case. Build witness folders for cross examination of the government witnesses. Essentially it involves long hours. **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: Try to de-stress. Take a breath. Give an opening WITHOUT reading from prepared text. Trust your knowledge of the case and your skill. And know that every trial is a learning experience and you will get better each time out. **Q: Name a trial attorney, outside your own firm, who has impressed you and tell us why.** A: This is an unfair question. I am blessed to have tried cases and to know a large number of terrific attorneys whom I watch and have looked up to in my career. But to name one: Tom Green from Sidley Austin in D.C. He defended the governor in the Puerto Rico case I referenced above. Tom is smart as a whip, collegial and self-deprecating. He towers over many and has a booming voice. He can command the courtroom and jurors like him. He made his points with style. It was a pleasure to work with him. *Republished with permission by Law360 (subscription required).*

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