

Trial Pros: Proskauer's Brendan O'Rourke

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Brendan J. O'Rourke is co-chairman of Proskauer Rose LLP's litigation department and co-head of the false advertising and trademark group. From the inception of his career, O'Rourke has concentrated in the field of trademark, false advertising and unfair competition law, and has provided day-to-day trademark, false advertising and Lanham Act counseling to many Fortune 500 clients, as well as startup companies and entrepreneurs. His experience includes all phases of trademark and false advertising counseling and litigation, including complex issues involving consumer survey research and claim substantiation, and inter partes proceedings before the U.S. Trademark Trial and Appeal Board and the Federal Circuit. O'Rourke is also a very experienced commercial litigator and has represented a diverse array of well-known clients in state and federal courts throughout the United States. His clients include pharmaceutical companies, consumer products companies, sports governing bodies, teams and leagues, as well as some of the world's most well-recognized celebrities.



Brendan J. O'Rourke

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

A: I had a jury trial in the Southern District of New York in a trademark case and my client was Tommy Lee. Why was it the most interesting trial I have ever had? Have you met Tommy Lee?

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

A: This was definitely NOT amusing but it was unexpected. We had a funny feeling about a third-party witness we were considering calling to testify on our client's behalf, so we had an investigator look into his past. We found out on the eve of trial that he had multiple arrests on his record, including writing bad checks and contributing to the delinquency of minors. He had not shared any of that information with us so we were concerned about his veracity and decided not to call him to the stand.

Q: What does your trial prep routine consist of?

A: My trial prep consists of knowing every single fact and every key document better than anybody else in the courtroom. I always make a pledge to the judge or jury that our witnesses will be serious and honest, and I accurately explain what the evidence will show. In closing argument, I show methodically and meticulously to the trier of fact how we met our promises and our burdens. I also study the law so that the judge looks to me as the trusted expert on the law and the facts, and I never overstate either.

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: Preparation is the key. If a lawyer is receiving that advice on the eve of his or her first trial, it is probably too late.

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

A: James Quinn of Weil Gotshal & Manges LLP. Classic trial attorney.

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