

Trial Pros: Ahmad Zavitsanos' John Zavitsanos

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John Zavitsanos is co-founder of Ahmad Zavitsanos Anaipakos Alavi & Mensing PC or AZA and is board certified in civil trial law by the Texas Board of Legal Specialization and the National Board of Trial Advocacy. He is ranked in commercial litigation by Chambers USA. He has tried more than 75 cases to verdict in complex commercial disputes involving energy, financial services and other areas. In addition to his jury trial experience, Zavitsanos also helps clients in bench and administrative trials, and federal and state appeals. He frequently lectures on trial and litigation techniques.



John Zavitsanos

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

A: It would be a 1995 jury trial, *Brady v. Fort Bend County*. It was a cutting edge political discrimination case and the first significant case we handled after our firm started in 1993. It turned out to be a landmark Texas First Amendment case. We took the lead in representing seven sheriff's deputies who were terminated because of political expression.

Our clients campaigned for their boss, the sheriff, but he lost the election. Under Texas law, in counties with no unions or civil service rules, when a new sheriff comes in, all deputies have to be redeputized. They suddenly were on pins and needles and didn't know if they would get their jobs back. Our clients did not get their jobs back when the new sheriff refused to reinstate them.

We won a jury verdict in 1995. The case went up to U.S. Court of Appeals for the Fifth Circuit twice and the verdict stood along with every penny of the \$800,000 or so award and attorney's fees.

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

A: In 2014 we were up against a lead defense lawyer who desperately wanted a continuance. The judge had already granted him several postponements and this time refused him. The lawyer suddenly just fell to the courtroom floor and said he had tripped and could not get up. The judge, normally one of the most patient on the bench in Harris County, was extremely irritated because it seemed like a blatant attempt to get yet another continuance by faking an injury. The lawyer just stayed prone on the courtroom floor for what seemed like about an hour as others walked around him, pretty much universally not believing he was injured. A photo of him on the floor became very popular in local legal circles after it was confirmed that he didn't need medical attention.

His instincts were right to want a continuance for his client. The jury came in for our client with \$11.4 million in actual and punitive damages in a business disparagement lawsuit for a Houston technology company. It was the largest business disparagement verdict in Texas for at least the last 10 years and it settled confidentially two weeks after the verdict. The lawyer seems no worse for the trip or his time on the courtroom floor.

Q: What does your trial prep routine consist of?

A: This is a conventional answer, but I take a deep dive, a complete immersion into the facts. I try to know microscopically every exhibit, every deposition. You just can't do the best job for your client if you rely on others to know the details. You have to own it yourself.

I also try to think in advance of every pop culture reference I can use to help the jury relate to these facts. In a trial we just finished (we won), one of the main issues is whether a certain large industrial machine had been "energized" (as defined by a certain technical document in evidence). We made several Star Trek references during trial to "energize" to bring some levity to the trial and, more importantly, so that the jury would remember this critical term.

I use a lot of references to TV shows "Seinfeld" and "Survivor," the voting-off-the-island thing. You have to keep the jury engaged, interested and give them a point of reference they can understand and remember.

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: Most lawyers do not know the Rules of Evidence inside and out. I read the evidentiary rules before the first day of every trial and try to think about the applicability of every evidence rule and how the evidence for that case will flow in light of those rules. For example in my current trial, the plaintiff is mentioning religious beliefs. There is a rule that applies to that, and if the judge enforces it strictly, some of the evidence the plaintiff wants in may be kept out.

It's important to think ahead about how the Rules of Evidence apply to what you want heard and what your opponent wants heard. A lot of times, probably at least half the time, a judge listening to your objections and arguments will also listen subconsciously for your confidence in what you are saying and your depth of knowledge on the point.

When I take younger lawyers to trial with me I make them read through the evidentiary rules and I quiz them on it in advance so they view the evidence through the rules and are forced to evaluate these questions before they walk into court.

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

A: Walter Workman was a senior lawyer at Baker Botts when I was a summer associate there. I actually thought I'd go to work in Chicago, but then I saw Walter in trial defending a utility company against Ron Franklin, a pretty good lawyer, in a serious injury case. I was hypnotized by Walter's effortless, natural and compelling presentations. It sounds ridiculous, you had to be there, but he actually started crying for the utility company. It sounds a little asinine, and yet it was one of the most remarkable and effective things I'd ever seen.

I have to name a second, the late Dick Miller who was most famous for losing the Texaco-Pennzoil case

to Joe Jamail. He doesn't get his due. He was quick-witted, prided himself on using no notes and he started one of the most talent-heavy litigation boutiques Houston has ever had in Miller, Keeton Bristow & Brown. I saw Dick go up against Julius Glickman and it was amazing. Dick, who passed away in 2013, is still highly rated, but the ratings should be even higher.

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