

Last Minute Trial Representation

It is an inconvenient truth that the ability to prepare cases for trial at the last minute is a rare skill, and one that is in decline. This is especially true among business litigation lawyers. Few law firms have the capacity and depth to take on a trial when the stakes are high and time is limited. Only a small handful can marry the ability to advocate adeptly in court under such demanding circumstances with exceptional briefing skills. While a cogent opening statement can turn the tide, so too can a well-framed motion during the course of trial.

Willenken is one of a select few law firms that can provide highly effective trial representation at the eleventh hour. Led by seasoned attorneys with more than 150 trials among them, Willenken's last-minute trial group can quickly evaluate a matter and leverage a client's existing pretrial preparations, informed by our extensive and diverse experience. When we are brought in to try a case in such a situation, we respect and honor pre-existing attorney-client relationships and cooperate with other legal professionals. We achieve winning results through cooperation, not infighting.

The skills we bring to the table have virtually become a lost art. Since the post-World War II enactment of the Federal Rules of Civil Procedure (and similar state rules of discovery), many litigators have not learned the art of uncovering and developing evidence and witnesses during trial. Instead, the vast majority of lawyers think that the close of discovery fixes the evidence. At Willenken, we strongly disagree. We have developed key evidence right in the middle of trial, and more often than not, we have been successful in getting the new evidence admitted.

Finally, and most importantly, we have unsurpassed presentation skills. We view our role as storytellers, charged with weaving our clients' position into a compelling narrative of law and fact. Our opening statements and closing arguments appeal to both the heart and mind. Further, we have devastated adverse witnesses on cold-cross. When a

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case is at a crossroads, we have what it takes to step in and transform the core story and, through this, the final outcome.

The matters in which Willenken was retained to prepare a case for trial on very short notice include:

- On behalf of AbbVie, **prevailing in a liability phase expedited trial before the Delaware Chancery Court** in one of the most significant cases in the pharmaceutical industry involving the breach of an exclusive supply contract for a potentially life-saving cancer drug.
- A last-minute trial situation forced upon us by the court just 49 days out in a patent indemnity action on behalf of Southern California Gas Company (“SoCalGas”), resulting in Willenken **winning a \$9.6 million judgment for full indemnity**, which SoCalGas collected in full.
- Taking over the defense of a leading alternative energy company **against allegations of fraud and breach of fiduciary duty** leveled by a former co-owner less than 30 days before trial.
- Invigorating a flagging defense less than 60 days before trial on behalf of the world’s largest electronic component contract manufacturer against **a claim of breach of a patent royalty agreement**.

As these representative examples illustrate, Willenken’s aggressive, creative trial preparation strategies enabled us to obtain superior outcomes for our clients without even having to call a single witness.



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