

## Trial Pros: Kelley Drye's John Callagy

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John M. Callagy is a partner in Kelley Drye & Warren LLP's New York office. In 1992, he became the firm's first chairman, a role he held for 20 years. Callagy has been trial and appellate counsel for numerous disputes in various federal and state courts. Callagy represents clients on virtually all legal issues affecting large international enterprises.

Callagy has counseled and litigated on behalf of U.S. and European corporate clients in connection with investigations, securities law issues, antitrust, complex contract matters, insolvency, unfair competition, indemnity insurance coverage, product liability, intellectual property, environmental law, Employee Retirement Income Security Act, pension, and labor and personnel matters.



John M. Callagy

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

A: Representing a large money-center bank in a jury trial seeking recovery of \$1 billion after the collapse of Enron. When Enron failed, a group of surety bond issuers refused to pay the losses on certain financial transactions. The bank sued to recover. Judge Jed Rakoff pushed the case to trial in 11 months. After a six week trial to a New York jury which exposed them to complicated "erector set" financial structures, and after a summation on New Year's Eve, the case settled dramatically and most favorably on New Year's Day in a hangar at Westchester airport.

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

A: One of my witnesses began to tell a story to a jury that was not true. In the middle of a federal jury trial, it became apparent that a document we had relied on was not genuine. After on the spot analysis, we brought the matter to the attention of the presiding judge. Tense moments followed, as we were concerned that he might toss out the case. He ruled it out, but without any adverse instruction. That's the kind of curveball you need to be prepared for. And always do the right thing.

### **Q: What does your trial prep routine consist of?**

A: Complete and exhaustive preparation. All predictable issues must be nailed down. It sounds obvious but preparation is the name of the game. You need to have lived with the facts, and you need to make sure your team has a ready answer for any predictable legal issues that could arise. I "go to the mattress" in successive stages of isolation in the weeks before a trial, finally holing-up in a hotel room for the duration.

**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: Take a deep breath — and pretend like crazy that you're not scared. Everybody is but you can't show it. You have to show up in court — leaving plenty of lead time — and create the impression that you're confident of your position. And by the time you get to court — you need to believe 100 percent in your case, the facts, and the way you will present them. The time for a settlement mindset is over.

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

A: Roy Reardon. I have tried two jury trials against him. I was fortunate to have that learning experience. He epitomizes everything I've said above — he's good on the law, good with the court, great on cross-examination — and he exudes confidence.

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