

Trial Ace: Steptoe's Reid H. Weingarten

By **Matt Chiappardi**

Law360, Wilmington (September 23, 2015, 9:44 PM ET) --

He calls himself a "'60s guy" and he cut his teeth as a prosecutor in the post-Watergate landscape, so some may find it ironic that Steptoe & Johnson LLP partner Reid H. Weingarten is now a leading white collar defense attorney who regularly represents captains of industry. But Weingarten isn't buying such easy categorization.

Over the past two decades, the Law360 Trial Ace has scored acquittals for high-profile clients including former Tyco International Ltd. general counsel Mark Belnick, former U.S. Secretary of Agriculture Mike Espy and ex-GlaxoSmithKline PLC associate general counsel Lauren Stevens.

Even the cases that haven't gone his way, like WorldCom CEO Bernard Ebbers' and Enron accounting officer Richard Causey's, were pressure-cooker spotlight trials in which his skill and talent left his colleagues in awe.

"He is fabulously gifted," said Brian M. Heberlig, a fellow partner at Steptoe and colleague of Weingarten's for the past 18 years. "He has a way of connecting with juries, breaking down complex subject matter into straightforward themes. He also puts in the work. He can't be out-prepared."

But Weingarten wasn't always the attorney corporate heavyweights thanked their stars they had on speed dial when their careers — and liberty — were under fire. One of his early roles was as a prosecutor in the U.S. Department of Justice's public integrity section, a post-Watergate division set up to stamp out public corruption.

Before that, he was a self-described product of the revolutionary 1960s, more comfortable with bohemian fare like living in Paris or traveling down the Amazon than with the buttoned-down confines of the courtroom.

He studied at The International Court of Justice in the Netherlands before graduating from The



Reid H. Weingarten

Dickinson School of Law in Pennsylvania and finding a role prosecuting public officials across the country.

So how did the anti-corruption crusader morph into a lifeline for Corporate America when it's in trouble? To Weingarten, it's all in the name of justice.

"I have one mission, and that's to do what's right," Weingarten said. "I'm not one of these guys who thinks prosecutors lie, but I also see abuses. I see ends-justify-the-means mentalities. I'm very comfortable with the idea that the government needs to be reminded, effectively, there are rules."

That ethic was on display just this summer, when Weingarten co-led the Steptoe team that cleared former BP PLC executive David Rainey of allegations he made false statements to the FBI about his role in the fatal 2010 Deepwater Horizon disaster, the last remaining charge against him.

The not guilty verdict came after U.S. District Judge Kurt Engelhardt threw out one of the lead charges against Rainey at the start of the trial in June — that he obstructed Congress' investigation into the largest spill ever in U.S. waters.

BP as an entity had already pled guilty to essentially the same charge in 2012, and to Weingarten it was another example of corporations "caught in the crosshairs" of prosecutorial efforts to exact as large a fine as possible.

"BP pled guilty and paid \$4 billion for something they probably didn't think they committed," Weingarten said. "They paid \$4 billion for the specific charge my client was acquitted of."

Another high-profile corporate acquittal came in 2004 during the trial of Tyco's Belnick, accused of taking a \$17 million bonus as a reward for helping to conceal corporate wrongdoing.

As Heberlig remembers it, Weingarten's affable style and rapport with juries was on full display when he made the unorthodox move of calling Belnick himself to the stand.

"If you feel you're in a good position, you rest without calling the defendant," Heberlig said. "But Reid did that with Mark Belnick, and Belnick held his own."

It was in situations like these, interacting with witnesses and talking to juries, where Weingarten's talent was in full bloom. The two had "an artful back-and-forth" that at times seemed like they were testifying together, Heberlig said.

The examination went a long way toward the jury acquitting Belnick on all charges, an impressive feat during a wave of high-profile corporate prosecutions and convictions, including Martha Stewart's, and it made the ex-Tyco general counsel the highest ranking corporate official to be cleared since the Enron collapse in 2001.

Heberlig says those results come not just from raw litigation ability, but by living and breathing trial preparation.

That's allowed Weingarten to perform in court with little scripting, just a few jotted notes to deliver arguments and powerful cross-examinations.

One of the more salient examples of Weingarten using witness interaction to try to turn a case on its head came during the Ebbers trial while questioning Scott Sullivan, WorldCom's chief financial officer, who was the government's key cooperating witness.

During his testimony, Sullivan acknowledged he had misled WorldCom's board, and Weingarten walked him through an examination Heberlig said showed the jury that the CFO's credibility itself was in question.

The line of questioning culminated with Weingarten telling Sullivan that the CFO had looked those people in the eye and lied his head off, a point that was carefully crafted to hammer home to the jury that the witness's credibility was less than stellar, Heberlig said.

"Reid wants to cross-examine the most hostile witness against his client," Heberlig said. "He has never shied away from that."

In 2011, when Weingarten defended GlaxoSmithKline's Stevens, who was indicted on counts she obstructed a federal inquiry and made false statements to investigators, it wasn't a presentation to the jury that cleared her of the charges; it was what the client herself said was a masterful argument on what is normally a perfunctory motion.

Called a Rule 29 motion, a defense team can move for an acquittal before even calling its first witness if it can make the case that the prosecution doesn't have enough evidence to sustain a conviction.

Usually entered as an afterthought with the expectation it will likely be denied, the motion was the key to victory in Stevens' case, as U.S. District Judge Robert Titus made the surprise move of granting it — the first motion of its kind he said he'd ever approved.

"When Reid stood up and actually delivered the [Rule 29 argument] I wasn't thinking this was going to go anywhere," Stevens told Law360. "Reid was eloquent, compelling and very methodical. He completely captured the judge's attention. The only thing I regret is that it wasn't videotaped."

Stevens also said that during the trial she "marveled" at how quickly Weingarten developed a rapport with the jurors, never talking down to them and always being able to deliver a poignant presentation.

Those litigation chops may have started to develop before Weingarten even graduated law school.

In the early 1970s, while studying at Dickinson, the Newark, New Jersey, native took a job working for District Attorney Roy Zimmerman, who later became Pennsylvania's attorney general, under what he said was a rule at the time that allowed law students to try cases if a practicing attorney was with them.

"The minute I stepped up to the podium I was at home," Weingarten said. "I knew this was what I was going to do."

Weingarten said Zimmerman became his mentor, and he worked roughly two years in Harrisburg before heading off to Washington to spend a decade with the public integrity section — alongside legal luminaries including former U.S. Attorney General Eric Holder.

"It was 10 incredible years," Weingarten said. "I loved every minute of every day."

But Weingarten says he didn't fall in love with the punitive aspect of his job. He didn't like sentencing, and he began to grow disillusioned with policies that made him uncomfortable in a position he saw as one that was trying to right wrongs.

"I've seen prosecutors who send out subpoenas like they're Christmas cards," he said. "When a person gets a target letter, it's a big deal to them."

There were even times when he wound up secretly admiring some of the people he was prosecuting and eventually made the leap to the criminal defense bar, quickly becoming one of the country's most sought-after white collar attorneys — one who refused to boil a case down to black-and-white thinking.

"There was always gray for me, so it was not difficult to jump to the other side," Weingarten said. "The gray was the same. Whenever you're representing an individual there's always something to salvage. There's always something to save."

Weingarten said he believes in what he calls "the magic of the system" — that there should be justice in everything an attorney does.

"I view my mission as similar on either side," he said.

He added that when moving to the defense bar, one has to be fearless going up against organizations like the FBI and one has to know when to make hard strategic calls.

The decision turned out to be the right one for Weingarten, and it was a move that allowed many of his clients to breathe a much-needed sigh of relief.

"Reid turned out to be my hero," Stevens said. "He's absolutely a brilliant jurist."

--Editing by Jeremy Barker and Kelly Duncan.