

## Trial Pros: Liner LLP's Angela Agrusa

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Angela C. Agrusa is a partner in Liner LLP's litigation department, with a practice focus in consumer marketing and branding litigation and class action litigation for companies in a wide range of industries. Agrusa has experience with both making and defending against consumer and competitor challenges. She deals with consumer false labeling claims and competitor false advertising challenges in state and federal courts, as well as with matters that fall under the general purview of unfair or deceptive trade practices.



Angela C. Agrusa

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

A: A year ago, I was lead counsel for the plaintiff in a remarkably interesting case — from both a legal standpoint as well as from a larger political viewpoint. I represented a group of national investors in an action against the State of California: California First LP vs. State of California, No. CGC-10-505436 (SFSC). This not-so-simple case of a broken contract, blurred by political motivations and a shifting electorate, was headline news.

In late 2010, amid one of the state's worst financial crises, the California Department of General Services signed a binding agreement to sell a portfolio of 11 of California's marquis government properties for \$2.3 billion. The 31-page contract, inked under Gov. Arnold Schwarzenegger and authorized by California lawmakers, called for the plaintiff investor group to then lease back the properties to the state. Just a few months later, newly-elected Gov. Jerry Brown announced that he was cancelling the contract for his own policy reasons. My investor group client sued for breach of contract.

The trial commenced in November 2014 after several failed motions by the state to dismiss the case or reduce the claim amounts. At the crux of this highly politicized case that had polarized the issue of whether governments should sell assets to reduce debt, was the crucial question of whether an elected official's policy change is a legal excuse to breach a contract. After several months of trial, the state, previously unwilling to accept responsibility for the governor's decision, agreed to pay California First \$24 million in settlement.

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

A: I began the California First vs. State of California trial boldly by calling as my first witnesses the government officials responsible for directing and contracting for the sale of the state buildings. During the intense examination of these high-level state government witnesses, and in a cinematic moment of

cross-examination, I coaxed the revelation of a deliberate destruction of critical evidence by the state. The trial was adjourned to require a forensic review and investigation of the state's culpability. The state swiftly settled the matter before the trial court ever issued sanctions.

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

A: I am a collector, analyzer and sorter. I start with my main trial themes and hone my case by creating "buckets" reflecting those themes. I sort my evidence into these thematic buckets. And, as I prepare for trial, these buckets get processed and whittled and strengthened until they ultimately reflect the core evidence required to win. Decisions about witnesses to call, scope of direct and rebuttal examination and cross-examination strategy all reside in these buckets. I guard these buckets like a leprechaun guards his pot of gold, as they reflect years of litigation strategy and analyses.

**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: Practice your opening statement on your family. Prior to the start of the California First trial, I asked my two teenage sons (ages 15 and 13) to listen to my opening statement and give feedback. I was blown away by their insightful and helpful comments and notes. Generally speaking, teen boys, or at least mine, are direct and less inhibited about expressing their opinions. As a consequence, I received unfiltered reactions and insights about areas they thought might be unclear or could be better developed. I made changes to the opening based on that evening's events which led to a stronger final presentation.

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

A: As a baby associate, I had the privilege of being part of a team of lawyers representing Exxon, in what was the largest antitrust action of its time. Every major oil company was implicated as a defendant in a case alleging a crude oil price fixing conspiracy that spanned decades. By the eve of trial, all of the defendants had settled, except Exxon. In a moment, I went from being a very young associate among dozens involved in that multiparty case to a key member of a very small trial team.

Howard Privett, one of the nation's best trial lawyers, led our team and I worked directly with him for what turned out to be a 187 day trial that spanned over a year. Howard was masterful in the courtroom — he was this patrician leader, full of strength, reason and intellect. He spoke to the jurors with directness and respect. And, he was a mentor to me — this young budding trial lawyer. He tasked me to conduct cross and direct examination of witnesses and to argue key motions. He saw my ambition and trusted my skills as a lawyer and made sure that regardless of my youth, as the only female trial attorney in the courtroom, I was not marginalized. Those 187 court days were the best legal education any attorney would be lucky to have experienced.

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