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The Art of Switching Gears: Preparing For Three Major Arguments at Once

By Ross Todd

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The black binders were everywhere. Last month, **Drew Tulumello**, co-chair of litigation at **Weil, Gotshal & Manges**, found himself preparing dispositive motions in three very different cases headed to court in rapid succession.

"The preparation obstacles are significant," Tulumello told me this month while on vacation in Wyoming. "You don't have two weeks or three weeks to just bury yourself and focus exclusively on one particular matter, and you end up surrounded by reams of black binders, one ream for each case."

First came a July 13 argument in Baltimore state court over whether public nuisance law could be used to pursue plastics manufacturers, including Weil client PepsiCo, for pollution allegedly caused by discarded plastic products.

Two days later, on July 15, Tulumello argued for the University of Michigan in a Title VII discrimination suit brought by a former diversity-programming leader.

Then on July 24, he appeared in the Eastern District of Virginia on behalf of Hilton Worldwide Holdings in a complex contract dispute.

The wins started rolling in before the argument whirlwind concluded.

On July 23, Baltimore Circuit Judge Audrey Carion dismissed the City of Baltimore's remaining public nuisance claim. The next day, U.S. District Judge Leonie Brinkema

entered a judgment of more than \$33.6 million against hotel owner Sam Hirbod and affiliated entities in the Hilton case the same day she heard summary judgment arguments. Then on July 28, U.S. District Judge Shalina Kumar in Flint dismissed the complaint in the University of Michigan case.

How does a lawyer in Tulumello's position keep his legal theories and facts straight, let alone manage all the logistics needed to get to court on time?

Tulumello said he realized in late June that the arguments were going to stack on top of one another.

"I sort of realized I had these three cases all coming up, and I started almost immediately," said Tulumello of his preparations.



Weil partner Drew Tulumello.

Courtesy photo

The answer was not to finish one case and then move to the next. Instead, he prepared for all three simultaneously.

“Litigators have to be able to multitask on multiple cases at the same time,” he said.

His approach was to devote blocks of several hours at a time to one matter before switching to another, spending the two weeks before argument cycling among the three cases. Only during the final 48 hours before each appearance did he narrow his focus exclusively to the argument immediately ahead.

The challenge wasn’t merely mastering three legal issues. It was preparing for three different audiences.

Judge Brinkema, he said, expressed her views in the Hilton case at the outset. Judge Kumar, in the University of Michigan case, allowed both sides a little more room to develop their arguments before questioning. Judge Carrion, meanwhile, arrived with highly specific concerns she wanted addressed in the plastics case. Each required a different approach.

“You need some good intelligence on how the judge is likely to ask questions,” he said.

Sometimes that means calling local lawyers. Sometimes it means finding attorneys who have previously appeared before a judge. In other situations, he sends team members to sit through unrelated proceedings simply to observe how the court operates.

“How does she run the courtroom? Is it a hot bench, a cold bench?” he said. “Getting as much of an understanding of what the environment’s likely to be is incredibly helpful to your advocacy.”

But no amount of scouting eliminates uncertainty.

“Part of the challenge is no single person acts the same way on the bench in every case,” he said. “Someone could have a reputation for being an extremely hot bench, and you don’t get any questions.”

Changing the Preparation Process

From talking to Tulumello, what stood out about his preparation was how prominently artificial intelligence featured in it.

He said he used to rely more heavily on traditional moot courts. While he still values them, he increasingly supplements that process with AI tools designed to mimic skeptical judges.

“I find ... I can have incredibly lengthy exchanges with some of the AI tools and work on crafting, shaping my own responses, just for one, two, three hours at a time,” he said.

The advantage, in his view, is repetition.

A moot court may provide only a single opportunity to work through a difficult issue. An AI-generated exchange allows him to test multiple answers to the same question until he finds language he likes.

“You can work on a bunch of different approaches to a single question until you get it to a point where you’re satisfied with it,” he said. “It’s a modern version” of the old practice of carefully scripting and memorizing responses to anticipated questions.

Asked which of the three matters was most difficult to prepare, Tulumello didn’t hesitate.

“The public nuisance cases are the hardest,” he said.

The Baltimore case fit into a broader series of plastics-related public nuisance lawsuits that Weil has defended for PepsiCo. The resulting July ruling concluded that Maryland law does not permit public nuisance liability based on

alleged harms stemming from lawful single-use plastic products.

For Tulumello, the difficulty lies in defining the limits of a doctrine that can seem expansive.

“Public nuisance is not a substitute for products liability,” he said. “It can’t be defined at such a high level of generality that anything that is foreseeable becomes actionable.”

The challenge, he added, is helping judges understand where public nuisance law ends and other legal doctrines begin.

“It’s very easy to slip into abstraction,” he said.

The Physical Grind

The intellectual challenge was only part of the story.

The arguments required travel among different jurisdictions at a time of year when, as anyone who flies through Washington knows, summer storms routinely create delays and disruptions.

Tulumello said he tries to arrive not merely the day before an argument but two days early whenever possible.

“You get a free full day,” he said.

That extra day becomes preparation time. A hotel near the courthouse becomes a temporary office.

And when travel does intervene, he squeezes work into planes, airports and spare moments.

“It really does come down to teams,” he said.

“When you travel or you just [run] out of gas,

your teams can be cranking on talking points, case summaries.”

Partners **Arianna Scavetti** and **Claire Chapla** have been working on the PepsiCo cases with him for years. Partner and firm management committee member **Chantale Fiebig** has worked on all three cases alongside Tulumello.

Ultimately, he said, there is no substitute to preparation for finding the best crisp turn of phrase to encapsulate an argument and to identify the concerns a court might have with any weakness in your case.

“It’s truly just a matter of preparation and starting as early as you can,” he said.

Tulumello has already started again. Before ending our conversation, he noted he has another cluster of major arguments already looming in September.

“It’s going to be this same process,” he said. “Actually, this has helped me reflect a little bit and think about how I can make my process more effective.”

To him, that process remains largely unchanged. The goal is to develop enough familiarity with every case so that when it’s time to switch gears once again, the argument is still there waiting.

“You’ve got the muscle memory,” he said. “You just need to bring it back out.”