

# FERN TREVINO

## Law Practice Helps Clients Move Forward

by Olivia Clarke



Fern Trevino likes having the opportunity to change a client's world.

"It is a wonderful feeling to be able to make a difference, and to help clients feel vindicated for what they went through," says Trevino, of the **Law Offices of Fern Trevino**.

Her firm handles workplace-related cases involving such areas as discrimination, sexual harassment, severance and non-compete agreements, Family and Medical Leave Act matters, and retaliation and whistleblower claims. The firm represents employees at all levels, from highly compensated corporate executives to hourly employees, she says.

"Occasionally, a client will ask how a small firm can succeed against large firms, and multinational corporations," she says. "The law is not about the size of the firm or the employer. The law is about facts that support the claims. Success comes from careful case selection and analysis, anticipating the moves of the opposing counsel, having the determination to wade through and carefully read piles of documents and painstaking preparation for depositions.

"Cases have to be built brick-by-brick, with bits and pieces of evidence."

All too often, Trevino says, workplace managers either have not been trained on employee rights or do not take those rights seriously. When her firm exposes managers who tried to recreate history or lost track of their lies in deposition, they are powerless—regardless of the size of their company, she says.

For example, Trevino's firm recently settled a case against an international employer. The client, a senior manager, alleged that her employer discriminated against her by passing her over for a promotion.

Early on, this particular client had no documents and no other witnesses—all she had was her own testimony. Ultimately, the firm filed the complaint because the client wanted to litigate, and she was highly credible and qualified for the promotion, she says.

In discovery, the firm tracked down and deposed a key witness out of state, and he refuted the primary reason given by the employer for not promoting the firm's client. A couple of days after that deposition, the employer initiated settlement discussions.

"Armed with evidence that the employer had lied, we were confident about what we could do at trial, so we held out for and obtained a settlement amount close to what I believed our client would receive from a jury," she says.

Michael Leech, a partner at Hinshaw & Culbertson, who has mediated a number of Trevino's cases, says Trevino not only possesses strong legal knowledge, but also exhibits good negotiation skills.

"A lot of lawyers will sort of have one approach to negotiating," Leech says. "But Fern is someone who really works at it. She's always looking for a different way to get where she wants to get. She can be persistent, and she can be very, very creative about how to overcome an obstacle in negotiations.

"She really internalizes what her client wants to do. She doesn't come at things with her own agenda. She comes at things with a real burning desire to do for the client what the client is after."

### Counselor to Lawyer

Before becoming a lawyer, Trevino was a psychiatric social worker who did individual and family counseling. While getting her master's degree in social work, she took a law and social work course, and found it very interesting.

After a couple years as a family counselor, she met a female lawyer. After meeting her, Trevino thought about taking the LSAT, and her husband encouraged her to do it, she says.

"Back in my day, most women were either nurses, school teachers or social workers," she says. "It really occurred to me for the first time that I could be a lawyer. So I took the LSAT, and applied to law school and became a lawyer.

"I went to Loyola [University Chicago School of Law.] At the time I had young children, and

the campus was very close."

While in law school she worked for the Illinois Attorney General's office, and assisted with civil servants' hearings.

She began practicing law in 1983, and worked as an assistant corporation counsel for the City of Chicago in its employment litigation division. Her job involved prosecuting police officers for misconduct in administrative discharge hearings.

Some of these police officers had been acquitted of a crime under the "beyond a reasonable doubt" standard. The police department could still terminate the police officer if it could prove by "clear and convincing evidence" in an administrative hearing that the officer had committed the crime or engaged in some type of misconduct, Trevino says.

"That was a wonderful experience because some of my opposing counsel were very well-known criminal defense attorneys," she says. "These criminal defense lawyers would represent the police officers. I was fortunate to be on the other side, and learn some of their tricks."

She then worked, beginning in 1987, as an employment law attorney in the regional counsel's office of the Internal Revenue Service. From 1990 to 1992 she was employed at Banta Cox & Hennessey, a small defense employment law firm.

But she heard about a female litigator who was looking for assistance on a class action age discrimination case so she "jumped at the opportunity" to help, she says.

While working on that case, other cases were referred to her.

"I really came to enjoy tremendously the opportunity to help individual employees, and so at that time I changed sides and made the decision that I would only represent employees," she says.

"People started referring business to me and I needed more space. I needed a place for a clerk, and I moved to a larger place. And from there my practice grew."

She started her law firm in 1993—an experience she continues to enjoy.

Trevino says she's fortunate that she doesn't have to deal with the office politics of a large law firm where attorneys compete against each other to get ahead. She, her two associates, and two law clerks work together for the betterment of the firm, she says.

"Having my own firm gives me the freedom to hire people I want, and have the final say on

case selection and management,” Trevino says. “With that decision-making comes a huge responsibility for every case we take on.”

Trevino has practiced employment law for 24 years. In addition to working a 40 hour week, she tries to make herself available to clients during non-working hours, such as in the early morning, evening and on weekends because many clients cannot talk during the day because of their jobs.

Her adversaries have included such large corporations as PepsiAmericas, Inc., Motorola, Northern Trust, Weyerhaeuser, Schneider National, Inc., and Worldwide Flight Services.

Her firm, she says, has an aggressive discovery practice, with initial discovery requests often prepared before the complaint is even filed. She says the firm is also very selective in the cases it takes on.

“As a business owner, I have to think of the bottom line and what is in the best interest of the firm,” Trevino says. “That means that if a case carries too much risk, I might have to turn away the client, even though I want to help the client and I believe the client has been wronged. I don’t like doing that.”

She says she must first know that the client actually has a claim.

The firm will counsel people who don’t have claims, and help them understand why they don’t have a case so they can move forward and put their energy elsewhere, she says.

### Collegial Praise

Roselyn Friedman, who is now in-house counsel with a real estate development firm, says she’s referred a number of potential clients to Trevino over the years.

Trevino’s maturity and wisdom make her a good choice for representing the “little guy or bigger guy” who needs help in difficult employment situations, Friedman says.

“She deals very well with the client,” Friedman says. “Fern treats the client respectfully, and she is able to sort out the legitimate issues. She addresses their needs, and relates the legal issues to those [needs], rather than vice-versa.”

James J. Roche, a litigator at James Roche & Associates, says he and Trevino litigated against each other on past cases.

“She’s a very good litigator, a hard-working attorney, and a very strong advocate for her client,” Roche says. “She knows the merits of her case, and she has a very good rapport with the federal judiciary.”

Trevino says she tries to understand what is in the client’s best interests. Some people want to move on, and others can’t move on until they feel they’ve been vindicated, she says.

“What makes it most exciting is to have the facts, and the law and a very capable client on your side,” she says. “One thing I feel has been tremendously helpful to me is my background in psychiatric social work because it’s helped

me see the whole person, and to look at each person individually. That is really what guides me.”

One type of case that Trevino says she must handle delicately is the whistleblower claim. Her firm tries to help its clients take whatever steps they must take to protect themselves in advance of actually “blowing the whistle.”

Working through this type of claim can be intellectually challenging because it requires lawyers to analyze complex information, she says.

Overall, employment law cases carry a very personal component, she says.

“Many of our clients have either been terminated for the first time, or they believe they are about to be terminated,” Trevino says. “Either way, it is a very painful experience. In large part, we get our feelings about ourselves from how we are treated at work. Aside from the emotional pain, a termination can mean a serious career derailment or even a threat to survival.”

For example, one client was harassed, and then fired after she complained about sexual graffiti on the bathroom walls, Trevino says. At the time she was pregnant, and she lost her health insurance when she lost her job.

By the time the client’s baby was born, she did not have bus fare to get downtown to look for a job. But the firm obtained a significant six-figure settlement for her, which helped dramatically change her life, Trevino says.

David Holmes, a partner at Wilson Elser Moskowitz Edelman & Dicker, has been opposing counsel to Trevino.

“I would describe her as aggressive, persistent and fair,” Holmes says. “I think she does a great job for her client. I think she and those that work for her are very good at developing the issues to support their case.”

### Family Support

Raising a family can be just as challenging as building a legal career, Trevino says.

She met her husband, Luis, a Chicago pediatrician, in France while he was on vacation. She had recently completed a junior year

abroad program in Aix-en-Provence.

After Trevino returned to the U.S. and resumed her coursework at the University of Alabama, he visited her every other weekend for almost a year. They married a year later, and have three children.

“He was very supportive of my decision to go to law school, and has been supportive of my career throughout,” Trevino says. “We just celebrated our 40th wedding anniversary in Greece this past June.”

“I attended law school when [the children] were in grade school, and took attorney positions with the government until they were older so that I could be at home in the evenings, and my mother helped care for them during the day.”

Trevino says she worked hard to provide her children with quality time, but it was sometimes a challenge to balance a career and family.

“You can always put in more quality time with your children or work a little harder on that brief,” she says. “I really struggled with guilt, especially when my children were young... When I was at work, I felt I should be at that soccer game or whatever, and when I was with the kids, I was often thinking about work.”

She says she likes the litigation challenges, and the variety of her work. In addition to an active litigation practice, she frequently mediates and negotiates on behalf of her clients. She has successfully negotiated hundreds of severance, separation, and non-compete agreements.

“I’ve been a tennis player all of my life, and my friends often tease me about being so determined to win,” she says. “I do have a competitive spirit, and I think you need that in court. Just like in tennis, you have to be on your toes, always in the ready position and charging forward.”

“Every case is different—a new legal twist, different facts, workplaces, opposing counsels, witnesses, judges—the employment law field is never dull.” ■

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From Left to Right: Alice Norman, Law Clerk; Fern Trevino, Principal; Antoinette Choate, Associate; Alenna Bolin, Senior Associate; and Sorah Kim, Law Clerk