



LAW360

2015 Trial Aces

Robert C. 'Mike' Brock

From an Alabama state court trial the day he passed his bar exam to massively complex civil litigation for the likes of BP PLC and Merck & Co. Inc., Kirkland & Ellis LLP partner Robert C. "Mike" Brock has cultivated a deceptively simple philosophy summed up in a Southernism: "Let the rough end bump."

Brock's roles leading the BP Deepwater Horizon trial team and tackling product liability cases for Merck over its Vioxx and Fosamax drugs have meant countless hours immersed in the minutiae of those matters, but he never loses sight of the need to make the key things clear to the judge or jury hearing a case.

"If you're driving a truck and you've got a piece of wood hanging off the back end, every time you come along to a bump in the road, your log hits the road," Brock said. "In some of our cases, especially on the defense side, we can't answer every question; we don't need to try to answer every question. We try to figure out which ones we should answer, and for the rest of them, we'll just let the rough end bump."

That approach has served Brock in good stead as he's racked up 55 trial wins — including 45 as first chair — in suits as varied as grocery store

slip-and-falls, medical malpractice fights, personal injury class actions and multibillion-dollar cases against powerhouse corporations, making him one of *Law360's* Trial Aces.

Building and keeping credibility with judges and juries is central to his approach, Brock said.

"That often means making sure we don't overstate our case, and making sure we understand where the weak points in our case rest, to acknowledge those and address them," Brock said.

While Brock comes across as an easygoing Southern gentleman, there's no question who's in charge of his cases, said Hariklia "Carrie" Karis, a Kirkland & Ellis partner who has worked with Brock since he joined the BP group in December 2010.

"If you have a bet-the-company piece of litigation, he is the go-to person," Karis said. "He is very

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humble, very respectful of everyone's view and opinion, but in the end he's in complete command of the situation, whether that's managing a massive team from a number of different firms or in the courtroom."

Brock honed his work ethic under legendary University of Alabama football coach Paul "Bear" Bryant, playing as an All-SEC lineman on two national championship teams for the Crimson Tide in the late 1970s.

"People who've been involved in athletics have a way of picking themselves up, dusting themselves off and getting back to it," Brock said.

“We’d hear from Coach Bryant every day — everyone wants to be a great player on game day, but it’s too late then if you haven’t prepared.”

After attending the University of Alabama School of Law, Brock wasted no time getting his first taste of a trial, working on a police shooting case for Alabama firm Rushton Stakely Johnston & Garrett PA on the same day he passed the bar exam. Brock then spent more than 25 years honing his craft with the firm, gaining especially valuable experience in sorting through the complex issues involved in medical malpractice cases.

Kirkland & Ellis partner Matthew T. Regan, another longtime member of the BP team, said Brock’s early experience tackling trial upon trial shows in his consistent professionalism.

“Mike never tries a case like he’s never going to see anybody again,” Regan said. “Short-term gain is going to come back to bite you. You’re much better off getting the respect of people, because you never know when you’re going to need it.”

Brock began the transition to a more national practice in the early 2000s, coming to prominence defending Merck in litigation around its arthritis drug Vioxx — although it was a chance he nearly fumbled away when first offered, Brock said.

“In probably the worst business development move in history, I turned it down,” Brock said. “It was in a county that was a hundred miles from Montgomery, they were going to remove the case and have it transferred to an MDL, and I was like, ‘Why don’t you get my friend up in the county to help you with that?’

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Fortunately, they did come back.”

Brock scored wins for Merck in New Jersey, Florida and California as well as Alabama, including a signal victory in Florida state court in 2007 in a suit brought by former professional soccer player Refik Kozic claiming Vioxx caused his heart attack, putting paid to the theory that the company would have trouble winning a Vioxx suit against a plaintiff in good physical condition.

Venable LLP partner Stephen E. Marshall, who has worked alongside Brock on Vioxx and Fosamax litigation for Merck, said Brock has a special knack for making extremely complex scientific, medical and regulatory issues comprehensible to a jury.

“A lot of people who are very, very smart understand the science and medicine, but can’t distill it down and translate that to the jury in a way that’s helpful to your case,” Marshall said. “Mike has that ability, and it’s a rare ability.”

Brock’s sincerity, honesty and sense of fun also help to win juries over and make his own witnesses more comfortable, Marshall said.

“Everything that we do, we have to have the jury in mind,” Brock said. “We could be making the most clever point in the history of the world on cross-examination, and if the jury

doesn’t understand the difference between the point we’re making and no point at all, we might feel good about it, but we really haven’t advanced the ball for our client.”

As Brock’s nationwide profile continued to grow, he moved to Covington & Burling LLP in 2009, becoming before long BP’s lead trial lawyer for around 3,000 civil cases consolidated in Louisiana federal court around the Deepwater Horizon oil spill.

Brock’s track record, Southern background and calm under pressure made him the right fit for the high-profile case, which was “a very challenging situation, especially in the earliest days,” according to BP America Inc. managing counsel Karen K. Gase.

“There are a lot of personalities to navigate both internally and in the courtroom, for lots of different parties, and it was very key to have somebody with Mike’s personality in charge,” Gase said.

Brock earned particular kudos for his cross-examination of the lead plaintiffs’ expert witness during the first BP trial beginning in February 2013, and he helped cut down the potential exposure faced by a BP subsidiary by more than \$4 billion in the second phase of the trial.

Hostile witnesses may try to steer their testimony in a particular

direction, but they soon learn they have to give the bulldog-like Brock the answers he's looking for, Regan said.

"In controlling a witness on cross-examination, one of the things Mike will do is basically put his glasses on the end of his nose, hold his hand up politely and say, 'With respect, not my question,'" Regan said. "It's the kind of thing you see in a movie. That's authority, is what that is. That's somebody who's in control and has the respect of the court."

But he's not above a joke at his own expense to make a point, Marshall says, recalling the beefy ex-lineman physically spoofing the suggestion by plaintiffs counsel that a document favorable to Brock's client might have been manipulated in some way.

"Mike is a big guy," Marshall said. "He was kind of mocking this theory that someone had snuck in in the middle of the night and altered this medical record. That was an instance where he could use his humility and make fun of himself to make a point."

Brock's busy schedule shows no signs of slowing down, as he is currently representing General Motors LLC as trial counsel in more than 1,200 personal injury suits connected with its ignition switches and other safety issues, with bellwether trials slated to get underway next year.

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Brock, who moved to Kirkland in October after teaming with the firm's lawyers for years in the BP litigation, prides himself — in his modest way — on seeking to give young lawyers the chance to try cases early on in their careers, as he had the chance to do.

"If I have any talent I think is unique, it's that I do a good job figuring out who the really good lawyers are in any situation, and make sure they're playing lead roles," Brock said.

Brock is always willing to talk about his grandkids, but for all his accomplishments, he prefers to keep the spotlight off himself, Regan said.

"He's the last person to tell you he was a really good college athlete," Regan said. "He doesn't wear his resume on his sleeve. You have to pull it out of him a little bit."

But there was at least one occasion — on an SEC rival's home turf, no less — when Brock wasn't afraid to politely blow his own horn.

At a November 2011 status hearing in Louisiana federal court, Alabama Attorney General Luther Strange appeared wearing the purple and gold of Louisiana State University after losing a friendly wager on the recent LSU-Alabama football game.

After the judge encouraged Strange to turn and show his outfit to the court, Brock had the chance to introduce himself.

"Good morning, Your Honor. Mike Brock for BP," reads the transcript. "I had the privilege of playing football at Alabama from 1976 to 1979."

"4 and 0 against LSU," Brock said.

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