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## Of Counsel Interview ...

# After Years at a Five-Star Litigation Firm, Award-Winning Litigator Grows Her Own Boutique

Ever met a litigator who doesn't really, really like to win? Of course, you haven't. Litigators have a fierce competitive streak and lust for victory in their DNA. The flip side's also true: They really, really dislike losing.

Fortunately for Amy Brantly, and her clients, she tends to win a lot. Clients recognize that and hire her in their litigation against such big-name clients as Toyota Motor Corp., Warner Brothers Entertainment, the Los Angeles Dodgers, and the NCAA, all of which hire deep-pocket, powerhouse legal teams.

In 2013, after earning a stellar reputation at the L.A. office of Houston's Susman Godfrey—the premier litigation firm founded by the late, great Stephen Susman—Brantly co-founded and now serves as co-managing partner of the L.A.-based litigation boutique Kesselman Brantly Stockinger. Her stock has risen quickly in litigation circles in

Southern California and across the country as she brings to her practice excellent strategic thinking and top-notch oral and verbal communication skills.

Brantly's talents have not gone unnoticed by prominent legal professional publications and lawyer ranking agencies, which have honored her with numerous awards and recognitions. Talk with her just once and you'll see why she wins over juries and judges with her strong but very likable presence.

Recently, Brantly spoke with *Of Counsel* about her career, two important cases she's handled, women in the profession, and other topics. The following is the edited interview.

**Of Counsel:** Amy, you've accomplished so much in the two decades you've been

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practicing law. Why did you choose to become a lawyer?

**Amy Brantley:** I actually wanted to be a history teacher when I was in college. At the time, the job market was not good generally, and I was a little worried about going to school to get a Ph.D. for five to seven years because I wanted to teach at the university level. I thought it would be a lot of debt to take on and there wouldn't be any jobs.

I was thinking about what I could do. I'd always had an interest in justice, and I like debating things with people, and I like to write a lot, so I thought maybe I should look into law. I didn't know any lawyers; I had no family members who were lawyers; and I was the first person in my family to graduate from college. I decided that I would try to intern at [a legal aid foundation], and I liked it and thought it might be a real career path for me.

I originally went to law school thinking I might want to do family law or public interest law. And then I took more classes and had more experience, and I realized that I really wanted to do business litigation, which was never anything I thought I'd end up doing.

**OC:** You got your law degree at Fordham in New York. What did you do after you graduated law school?

**AB:** After law school, I worked at a mid-size firm in Manhattan doing business litigation. Since I was from California, I really wanted to come back here so, after about 10 months working at the Manhattan firm, we moved to Santa Monica. I got a job at Susman Godfrey in Los Angeles and worked there for the next 13 years.

## A Boutique of One's Own

**OC:** It's interesting to me to find out what prompts attorneys to decide to leave large established law firms and start their own partnerships. What was it that made you and your two other name partners want to set up shop?

**AB:** Well, I had worked with David Kesselman at Susman. We co-counseled on a couple cases. Trevor Stockinger was counsel at Irell & Manella on a related case, and I had met him that way. We just all really hit it off, were good friends, and enjoyed working with each other. As I was getting older, I thought I would like to establish something that's my own. I just got to that point in my life where I wanted to do something different, and I wanted to take charge of it. We were all on the same wavelength, and we ended up leaving our firms, and then started our own firm together.

**OC:** What was the biggest challenge you faced in 2013 when you opened up your current firm and got it up and running?

**AB:** I'd say the biggest challenge was that, even though we all had great experience at big firms, you always have to establish yourself before you really get traction and start to take off as a firm. I think we thought that it would happen a lot faster than it did. In the first year, the hardest part was getting good cases to come in the door. That first year we took a lot of cases that we wouldn't take now just because we were worried and we wanted to keep the lights on.

Once people saw that we were still around and doing great work, we started to get more referrals from our networks and things like that. I understand, because you always want to make sure when you're referring business to someone that they're going to still be around and have the capacity and firepower to handle the kind of cases that they've been handling their whole careers.

**OC:** I'm sure when you first started the firm you had to focus on marketing more than you were used to. Were you doing most of that on your own, the three of you?

**AB:** Yes.

**OC:** What has been effective on the marketing and business development front in terms of elbowing your way into the competitive Southern California legal market?

**AB:** I think having a position in the California Law Association antitrust section. David and Trevor have full-time positions on those boards. So we've been able to network with all the antitrust lawyers in L.A. for a long time. And I was president of the Women Lawyers Association of Los Angeles. I served on the board of that organization for more than a decade, and I was president in 2017, which really raised my profile and allowed me to appear at events every week. Both of those things allow you to meet many professional people, and you really get your firm's name out there. I think that's probably been the most helpful.

We've also received some awards, and that's also helpful. We have had some articles in the *LA Daily Journal* and, of course, doing things like talking with you right now helps. I think anytime you're featured somewhere it's really beneficial.

**OC:** As you may know, I often write about women and minorities in the legal profession. How is the legal profession faring here at the end of 2020 in terms of hiring and promoting women?

**AB:** I think it's doing better but it could still do a lot better. The number of women equity partners in big firms is still abysmal, and it gets even worse when you get to women of color. Evening out that playing field has not only failed to happen, it has occurred in such small increments every year that it's like we won't have achieved parity for a hundred years or something like that. It's crazy. So there's a lot that we still need to do.

I think things have gotten better in government and there are definitely improvements in the judiciary. More female judges are being appointed to the bench. And we see more female general counsel than ever before, but the number still could be better—especially at the big law firms.

## Compelling Cases

**OC:** Amy, you've handled a lot of major cases. When you think of one that was really important or intellectually stimulating, what comes to mind?

**AB:** A case that we were on the defense side of, an antitrust case, was recently at the California Supreme Court. Beckman Coulter [Inc.] had sued the Quidel Corporation, which is a San Diego company, and we were defending Quidel as co-counsel with another firm. The issue, in that case, was really important because Beckman Coulter had entered into a contract with Quidel, and it was sort of a joint venture and had some exclusivity to it. Quidel wanted out of the contract and it wanted to do things on its own.

California has a non-compete statute, and they claimed that the contract was a per se unlawful non-compete and restrained them from competing. It has huge implications because having an exclusive contract is not illegal and courts have generally found that pro-competitive, and if the court was going to hold that any exclusive dealing-type contract in California is a per se violation of California's non-compete statute, it was going to have huge implications. So it was really important to us that we went on that issue.

Beckman ended up bringing a motion for summary judgment early in a case on that issue without discovery, basically saying, just as a matter of law, they should win on this. The case was in Superior Court in San Diego and the judge ruled against us. So we appealed and the Court of Appeal agreed with us. And then Beckman appealed to the

California Supreme Court and that court ruled in a related case, which essentially had great implications for us, that an exclusive dealing arrangement is not a per se violation and that the rule of reason should apply and you have to look at the pro-competitive benefits and a bunch of other things in deciding whether the contract is a restraint of trade or not.

We are expecting that that case will be back in a trial court shortly. But that was a very important case to us and we feel like it came out the right way for California businesses. So that was exciting.

Another case that I'm personally very proud of is a bit of a smaller one. In Hawaii, we represent a bankrupt entity called Aloha Sports that ran collegiate football bowl games. Aloha Sports sued the NCAA over a decade ago and the case has just been bouncing around the Court of Appeals in Hawaii going back up and back down. [Eventually], it went to the Hawaii Supreme Court, basically to keep the case alive.

In that case, we believe that the Court of Appeals in Hawaii had misapplied the law about what a plaintiff has to show under Hawaii state antitrust statutes. So that was basically what was before the Hawaii Supreme Court, and I was fortunate enough to be able to handle the argument in that case. I was able to spend some time in Hawaii and argue before the justices. It was a great experience and we won. So that case is now back before the trial court, and we'll see what happens there. That was also a very fun experience and a case that I'm very excited about.

The argument before the Supreme Court was in 2018, so that was before COVID and I was able to go to Hawaii and actually argue in person. It's taking a while for the case to get reassigned and so unfortunately we're stuck during this time of coronavirus still litigating the case. I'm not sure how slowly the Hawaii courts are going to be moving because of the virus, but the last hearing we had was via video.

**OC:** That's a good segue to this question: When it comes to the pandemic and doing things through Zoom and other platforms and video conferencing, what has been the toughest challenge for you as a litigator?

**AB:** The toughest challenge for me, at least for hearings before the court, is that usually there's a natural flow you experience being in a room with other people, and you know when you can start talking. It's a little more awkward when you're on a phone call or you're on a video and you find people are talking over each other a lot more because it's hard to tell when someone is done or not. That's a little frustrating and makes things a little more difficult to be an effective advocate. There's a certain amount of energy that's missing when you're on a telephone call or a Zoom call. So I'd say that's the hardest thing. It probably works out okay but it's not ideal.

## The Bad and the Good

**OC:** To shift gears, here, Amy, what do you dislike about the legal profession that you think needs to change?

**AB:** Probably the number one thing is something you've already touched on, which is that there's still a ways to go in who's holding power at firms or in companies. It's not unusual for me to be the only woman in a room. It's not unusual to *not* see any people of color in a room. And that's frustrating because it hasn't changed all that much since I started practicing almost 20 years ago. I feel like everybody has been trying, and it seems like there's more diversity and there are more women in powerful positions in government and certain places, but it's just not happening at the big firms and nor even at many medium-sized firms and at many companies. And that's frustrating.

I know that it's very hard for women to juggle family and work, and then with the pandemic, I think it's even worse. I don't know what a lot of the big firms have been doing

to address that and if it's been working. From what I've read in the legal press, it seems to me that there are a lot of exhausted and very unhappy women out there who are trying to do a lot, and that also frustrates me. I believe there's just a general unfairness in that regard. So that's the biggest thing that I hope will change, that we can get more women in power at every level of the law.

**OC:** Now for the positive. What is it that you really enjoy about being a lawyer?

**AB:** I enjoy the collaborative aspect. I really enjoy the people I work with, the associates and my partners. I really like talking about strategy with them and bouncing ideas off of one another. I think there's a sense because of email and how fast things move in your inbox that you need to be reactive and answer questions right away. But I believe to be a good lawyer, it's very important to stop and think about some of the tougher issues and get in the room with other lawyers and talk about them. And that's definitely my favorite part.

That's been hard during the pandemic too because we're a firm in which you just walk down the hall and talk to your colleagues about issues you wanted to talk about and pick their brains. We can't do that as readily, although we can still call each other, and we do. So collaboration is my favorite aspect of practicing law.

Obviously I also really like winning a lot; nothing quite compares to winning an

argument, whether you're on the plaintiff or defense side, and helping your clients on an important motion or trial. That's pretty amazing.

**OC:** I can see that you like winning. You seem to do it a lot. You have a very good track record. Amy, what do you do well, and don't feel like you're bragging when you answer that question. After all, I asked.

**AB:** What I've heard is that I am a very good writer and that I am very good at crafting and presenting arguments. Those are probably the two highest compliments that I received from clients and colleagues.

**OC:** What about judges? Do they mention your writing skills or do they keep quiet about that?

**AB:** [*laughter*] No. I guess I don't talk to my judges on a personal basis like that, so I don't get opinions where they're saying, "This is well written." But judges do compliment counsel a lot of times at arguments, which is nice. I would like to think that they appreciate good writing, too.

**OC:** Yes, that would be nice—but not as nice as winning, of course. [*laughter*] Thank you, Amy.

**AB:** Thank you. ■

—Steven T. Taylor