

He Did What?

Attorney Julian Poon tackled three different appellate arguments in just 7 days last month.

By Shane Nelson

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Longtime appellate attorney Julian W. Poon said he can count on one hand the number of all-nighters he's pulled over his more than two decades at Gibson, Dunn & Crutcher LLP.

"I do value the importance of sleep," Poon said with a chuckle. "Otherwise, you can't really function and think about things the way you should."

Poon said he didn't lose any sleep early last month when he conducted three different appellate oral arguments over the course of just seven days in three different cities across the state.

"It was a pretty jam-packed, fun-filled few days," Poon recalled.

On June 5, Poon argued in front of the California Supreme Court in Los Angeles on behalf of his client PricewaterhouseCoopers LLP in a case against the City of Los Angeles involving monetary sanctions for misuse of the discovery process. *City of Los Angeles v. PricewaterhouseCoopers LLP* S277211.

Poon then traveled a few days later to San Francisco, where on June 10 he argued in the morning before a 9th U.S. Circuit Court of Appeals panel on behalf of his client Global Industrial Investment Limited in a matter concerning a district court confirmation of an earlier arbitration award. *Global Industrial Investment Limited v. 1955 Capital Fund I GP LLC* 4:2021CV08924 (N.D. Cal., filed Nov. 17, 2021).

Later that afternoon, Poon flew to San Diego, where on the morning of June 11 he argued in front of a 4th



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District Court of Appeal, Division 1 panel on behalf of his client San Diego Gas & Electric Company in a case against the City of San Diego. *City of San Diego v. San Diego Gas & Electric Company* D081883 (Cal. App. 4th Dist., filed March 8, 2023).

"It was intense but exhilarating, and I'd do it all over again," Poon said of the whirlwind tour of the state. "Although if I had my druthers, I wouldn't mind spacing each one out a few days more. But if it has to be back-to-back like that, bring it on. I love it, and I love what I do."

A firm believer in a thorough

moot court process before any appellate oral argument he tackles, Poon said one of the larger challenges of the three-arguments-in-seven-days schedule was conducting the necessary moots before each case.

"I usually try to do them one to two weeks beforehand," Poon said, noting he typically avoids a moot court the day before an actual argument. "Then you're just needlessly exhausting yourself or setting yourself up for last-minute drama. I always try to give it a bit of a breather. ... That way it leaves time to synthesize and think through the

points from each moot court to get the biggest bang for your buck."

That approach was a trickier proposition, however, last month.

"I think I had a couple of days where I was literally being mooted on one case in the morning and then another one in the afternoon," Poon said, noting he took part in a total of nine moots beforehand - three for each case.

Gibson Dunn partner Debra W. Yang, who is a former Los Angeles County Superior Court judge, participated in one of the moot courts for Poon's argument before the 9th

Circuit, and she said she was “astounded” when she learned about her colleague’s schedule of oral arguments early last month.

“We were in our mock courtroom, and I said to him, ‘Julian, do you actually have these other arguments?’ And he looked at me and he said, ‘Yes,’ and I said, ‘Are you not exhausted?’” Yang recalled. “And he said, ‘No. This is fantastic!’ And he was just grinning from ear to ear.”

Although the three cases were quite different, Poon said he applied a common strategy during his argument for each of them, an approach he’s used routinely throughout his career.

“I tried to first look at why we’re right as a matter of law,” he explained. “The plain meaning of the text of the statutes or contracts in those cases or the judicial precedents - why they support us as a technical, legal matter in those cases, and why we should win under the law.”

But in each case, Poon said he also tried to explain things “at a gut level on the equities.”

“So, to the person on the street, ‘Is this fair?’” Poon said. “Does this make sense - the position we’re advocating for? Who’s on the side of the angels here?’ ... I always find it important to step back and explain why this makes sense once again at a basic, common-sense level.”

Poon provided an example in the high-profile state Supreme Court case *City of Los Angeles v. PricewaterhouseCoopers LLP*, involving an earlier FBI raid of the Los Angeles City Attorney’s Office and a range of corruption allegations.

“The city had basically engaged in years-long discovery abuse,” Poon said. “And people have gone to jail over this. ... So, the facts really helped to play it out in terms of ‘If you apply the law, how do you construe the statute?’ And shouldn’t you say, ‘Wait up a second. Under the city’s reading, a lot of this would just seep through the cracks, and that can’t be right. It would hobble the ability of courts to adequately remedy and deal with the worst and most system-wide, systemic forms of years-long, sophisticated discovery abuse.’”

Another common thread for Poon through each of the oral arguments was his use of what he described as a “one-pager.”

“It’s one, double-sided piece of paper,” he explained. “I usually bang it out on my word processor, and I try to boil down the entire case to that one piece of paper. ... And that’s the one I always have in front of me at the lectern.”

Poon said the approach is a variation on a discipline he learned while clerking for U.S. Supreme Court Justice Antonin Scalia in 2000 and 2001.

“For him it was actually two pages; he didn’t do double-sided,” Poon recalled. “We were limited to two pieces of paper to boil down the whole case and provide a recommendation. ... Then we’d all sit down and talk to him about it, too. It certainly wasn’t just one clerk’s view.”

Poon said focusing on what’s truly important is critical in an appellate oral argument, noting that he had roughly 30 minutes in front of the state Supreme Court and then a little over 15 minutes before the 9th Circuit and 4th District panels.

“An appeal can go on for months - years possibly - and then everything is distilled in this grand coda at the end,” Poon explained. “Everything is just boiled down to a crisp at the end or the summit of the case, and that’s what makes it so exhilarating.”

Yang, who’s known Poon for more than 16 years, watched his argument on June 10 before the 9th Circuit panel remotely.

“He was in complete control and command of the facts,” Yang said. “And you could see he was energized.”

Yang again recalled some of her initial surprise when she first learned about Poon’s seven-day appellate argument tour around the state.

“I remember thinking to myself most lawyers would be exhausted from this process,” she said. “Instead, he went the other direction and had an incredible surge of energy and excitement about it. He literally was excited, and he just couldn’t help himself from smiling.”

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