

# Litigators Balance Competing Needs in Dispute Resolution

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As complex litigation grows increasingly expensive, litigators must be able to manage their cases effectively while controlling costs. This means lawyers must be simultaneously experienced, aggressive, and strategic. Aligning legal strategy with a client's business objectives is critical to resolving disputes. Litigator and Goulston & Storrs' shareholder, [Nicholas Cutaia](#), discusses certain recent trends in successful dispute resolution. An experienced trial lawyer, Nick handles corporate, commercial and securities litigation in federal and state court. He also defends elite law firms in high-stakes professional liability matters.

**CRAIN'S: What are some of the key priorities that litigation practitioners have focused on this year?**

**NICHOLAS CUTAIA:** Complex business litigation is becoming increasingly expensive. A key priority for sophisticated litigators continues to be managing cases with precision. An efficient lawyer is aggressive, yet tactical, using technology and staffing decisions to ensure that litigation costs are aligned with clients' goals. At Goulston & Storrs, we spend a lot of time tailoring staffing on high stakes matters. We avoid overloading a case with lawyers. A shareholder leads the case, usually paired with one or two associates. With this targeted litigation team, case knowledge is centralized, and client outcomes and communication are improved.

**CRAIN'S: How has the field of litigation, as a whole, evolved in recent years? Which changes have been especially noticeable?**

**NICHOLAS CUTAIA:** Litigation takes time, and some believe too much. Notably, the Southern District of New York (SDNY) appears to be taking this concern seriously. Our research shows a trend that's been occurring in the SDNY, toward imposing a "rocket docket"— which means discovery must be completed in only four months absent exceptional circumstances. More than 50% of SDNY judges now have a rocket docket, in fact. While exceptions exist, this trend bodes well for quicker resolutions for clients. At the same time, it means litigators need to be very proactive regarding fact investigation and strategy development, and clients need to prepare for active litigation immediately.

**CRAIN'S: Which challenges have litigation professionals overcome this year, and how exactly have they overcome them?**

**NICHOLAS CUTAIA:** It's amazing how quickly COVID-19 upended the traditional way we litigate. After courts shut down in 2020, everything (depositions, hearings, conferences, trials, etc.) was

conducted remotely, using tools like Zoom. We learned a lot about efficiencies, and we still handle some functions virtually for a host of reasons. With courts reopened, litigators and judges have spent the last year figuring out a balance between in-person and remote formats for litigation, weighing the benefits and detriments to everyone involved. Ultimately, this process is an opportunity to bring greater efficiencies for clients.

**CRAIN'S: How will the prospect of a recession influence the field of litigation, its professionals and clients in the coming months?**

**NICHOLAS CUTAIA:** Financial losses often lead to litigation. When you add COVID-19-related issues, finger-pointing escalates. With a potential recession, along with continuous supply chain disruptions occurring in the future, we expect litigation to pick up. For instance, we have seen an increase in lender disputes, related to real estate projects that are under water. Firms are preparing for this reality by bolstering capabilities in core areas. At Goulston & Storrs, this includes complex business disputes and high-stakes legal malpractice defense. We get hired to defend elite lawyers and law firms themselves, and a recession is likely to lead to an uptick in these claims too.

**CRAIN'S: How exactly is the field of litigation preparing for its up-and-coming professionals and their long-term success?**

**NICHOLAS CUTAIA:** Firms need strong associate attorneys to achieve successful outcomes. At Goulston & Storrs, associate development is foundational. Unlike many other firms, we strive to ensure associates receive on-their-feet training early in their careers. If associates haven't argued a motion or taken a deposition within the first couple of years, we make sure they have those opportunities (subject to shareholder supervision). Early skill-building is important because we believe every associate can be tomorrow's shareholder. And by developing strong lawyers who have a broad-based skill set, we provide clients with legal teams who can manage disputes in a well-planned and efficient manner.

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