

FOREWORD

There are over 1.3 million active lawyers in the United States. The overwhelming majority of these lawyers do not engage in litigation and even less actually go to trial.

What separates the lawyers who go to trial from the ones that don't? A myriad of reasons exist but the major two involve the fear of trial and the mystery of how to win at trial. **WINNING** addresses these issues and provides any law student and attorney with the fundamental tools to be confident and prevail at trial. In fact, by embracing the tools in **WINNING**, you will enhance the chances of prevailing at trial four to five-fold and you will become a powerful lawyer.

When one goes to trial, he/she has the goal to win the case. Winning the case can take various forms. If you represent the plaintiff in a personal injury case, winning is gaining a verdict that fairly compensates your client. For the defense in that case, winning is either gaining a defense verdict of no damages or gaining a verdict where the defendant, while liable to the plaintiff, is comfortable with the damage award. In a criminal case, a guilty verdict on the charges is a win for the prosecution while a not guilty verdict or even a hung jury is a big win for the defense.

As a lawyer, how do you win a case? Is it your charm and good looks? Your charisma? Your #1 class standing? Your pedigree from Harvard, Yale, Michigan, UCLA, University of Chicago, Duke, Princeton, Berkeley or the like? **HINT:** None of the above. And, spoiler alert: your charm, good looks, and charisma may very well be a hindrance if you believe they are the key to victory.

Or, do you win a case because you have years of practice under your belt? Or, you studied trials for years? Or, your close relatives were trial

lawyers and you inherited the “necessary” traits? Or, you feel you have the innate trial abilities? Or, you took first place in Moot Court or Mock Trial competitions. HINT: None of the above and not even close!

If not the foregoing, how do you win a case?

Many judges and veteran lawyers will advise you that you will be measured as a lawyer by your integrity, fair play, and ethics. While you will be measured by these traits, they don’t by any means translate into the keys to winning cases. I do believe that integrity, playing fair, and being ethical are all essential to winning cases and should be paramount in every interaction you have but there is so much more.

In *WINNING, The Formula for Success at Trial*, you will learn exactly what it takes to be a successful trial lawyer. Quite frankly, it is not some secret recipe that will ensure victory in a case that is fraught with dismal facts; rather, it is a combination of several factors along with strong common sense.

As a side-note, *Winning* is not intended to be a detailed discussion of the duties of a trial lawyer from the case assignment through the conclusion of the trial. For example, the brief chapter on jury selection centers on key factors in jury selection rather than a detailed discussion and learning tool. Similarly, the chapter on discovery concentrates on the goals of discovery, as it is related to trial rather than an exhaustive treatise on all discovery’s nuances. Instead, *Winning* focuses on the necessary tools for trial success.

Throughout *Winning*, I use the male and female pronouns in order to achieve brevity in my writing. There is no intention in excluding any person through the use of these terms. I am fully supportive of every human being regardless of how they identify. Finally, there is some repetition in this book. Please be mindful that this repetition is purposeful since many key issues overlap plus there are many points that I seek to strongly emphasize.