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Let the jurors see your soul

Being raised in southern Indiana, as the second-youngest of 14 children I experienced a lot of life at an early age.

My family struggled to make ends meet. My siblings and I all had jobs by the fifth grade. We competed against each other for our parents' attention, and for the best piece of fried chicken at dinner.

But with a family that large, we had to get along in order to survive real-world challenges.

Observing the many highs and lows and the joys and pains of my older siblings gave me lifetimes of human experience before I was even 20 years old.

Without a doubt, it toughened me, but it also taught me about compassion and understanding.

Like many of us though, education brought me opportunity. I eventually obtained a law degree and became a patent lawyer.

My view of the legal world at that time, well more than 25 years ago, set the tone for my legal practice.

I adopted the style of a hard-nosed litigator. I believed that a tough image was necessary to win cases.

It seemed the legal profession demanded I behave that way, and so I did. I was aggressive and unforgiving — a “gladiator” for my clients.

I slashed opponents with sharp words and piercing arguments.

I had many successes, but I also had failures.

Then, after a hearing a mock juror's comments during deliberations in a mock trial for which I had argued very aggressively for the defendant, I had a career-changing revelation.

Not knowing the lawyers were listening, a

juror said, “That Vogler must be an actor. There is no way he can be a lawyer.”

Other mock jurors agreed.

That comment hurt me deeply. I was being seen as an actor, playing a role on TV, not as a confident, credible attorney.

After that, I transformed my litigation style completely.

I decided to alter my approach to match my “true self,” which was molded from my youth experiences.

I began seeing and treating jurors as my own brothers and sisters.

In addition to still working hard during a trial, I tried to be more humble, compassionate and understanding.

After all, these lay jurors are asked to decide extremely complex cases.

In essence, I began to let the jurors see my “soul.”

I believe my courtroom behavior changed the jurors' perceptions of me.

It also allowed me to relax, think more clearly and actually enjoy the trials. Everything now seems to come naturally. (I also sleep better!)

An example of this metamorphosis is the way I cross-examine an inventor.

Rather than making personal attacks on what he or she had done or said wrong, I frame questions in a way that distinguish my client's work from that of the inventor — highlighting the positive, the innovation and hard work of my client.

I no longer badger witnesses, I badger the facts instead.

Make no mistake, I still have that competitive drive in which I pour my entire heart and soul into a case for the client.

But I do so in a way that is respectful of the jurors, the judge, witnesses and even opposing counsel.

I believe it is the true and the only right way to win jury trials.

For example, my last jury trial in February resulted in a Michigan jury verdict awarding \$70 million to my client in a patent infringement case.

In my jury trial right before that, a Texas jury held for my client and found noninfringement and invalidity of the opponent's patent.

But what struck me in that Texas case is what the individual inventor who lost told me.

After the jury knocked out his patent, preventing him from recovering millions of dollars, he shook my hand and said: “Greg, I appreciate how you respected me at trial.”

While everyone has to find his or her own litigation style, to be successful one does not have to be aggressive, brash and show no signs of weakness.

In the world of patent litigation — which is full of technical complexities — lay juries respond and relate to the positive culture of the client and the personalities of the attorneys; not so much to the complexities of the cases being argued.

Juries want to do the right thing, and as such, are persuaded by what they believe is right, which is heavily influenced by the lawyer's trial conduct.

I made a decision to be seen by juries not as just another tough guy in a suit, but instead as a compassionate human being that believes in justice and my clients' right to it.

In addition to experienced attorneys, today's junior litigators and law school students might want to give this some thought.

It could change the course of their whole careers. ■

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