

FOREWORD

Over 30 years of teaching law students and lawyers has shown me that the lure of becoming a trial lawyer still draws men and women to attend law school. And nearly 25 years of being a federal judge has made me appreciate just how important it is for aspiring trial lawyers to have the opportunity to learn the art of effective trial advocacy. But it often seems that the opportunities to do so have diminished over time. The economic realities of the practice of law have compelled experienced lawyers to devote more and more of their time to client development and handling cases, and less and less time to teaching and mentoring young lawyers. Not to mention the clients who admonish law firms not to let first- or second-year lawyers work on their cases, because they “don’t want to pay for them to learn how to be trial lawyers.” And then there is the troubling trend of fewer and fewer cases to actually go to trial.

To be sure, some lucky young lawyers get to earn their trial chops by being prosecutors or defense attorneys in criminal cases, but even this is not as it once was, as ever-increasing caseloads for each attorney mean that there is less time to teach new recruits. And while there is value to being tossed into court to learn how to try cases largely on your own (that which does not kill you will make you stronger), this is not the ideal way to teach young lawyers how to learn to be effective trial lawyers. So where do young lawyers who yearn to be trial lawyers get the encouragement, advice, and education they need to call themselves “trial lawyers” instead of “litigators”? Enter Paul Mark Sandler, whose own passion for the art of trial advocacy has been his guiding light for over 50 years, during which he has written countless books and articles that teach young lawyers (and experienced ones as well) how to be effective courtroom advocates.

Paul Sandler's latest book, *The Fine Art of Trial Advocacy: A Young Lawyer's Resource for Success*, is one of his best. Into it he has poured all of his own extensive experience and enthusiasm as a much-respected trial lawyer to inspire and teach young lawyers how to be effective trial lawyers. And what put this "how to do it" book into a league of its own is Paul Sandler's unique approach to his task. He begins with a primer on the critical role of the common law in developing the litigation system that we now take for granted, followed by historical examples of great trial advocates from the ancient Greeks and Romans to the incomparable English barristers, and our own home-grown litigation legends from the beginning of our republic to modern times. Having shown what all aspiring trial lawyers should strive to become, he then painstakingly unpacks what they must do to achieve their goal. Starting with the foundational prerequisites of effective advocacy (ethics, professionalism and civility, substantive knowledge of rules of procedure and evidence, and the expectations of busy trial judges), he then pivots to a subject nearly forgotten in contemporary legal education—the building blocks of persuasion, as established by the ancient Greek rhetoricians, and polished over the centuries by common law lawyers in England and the United States.

With this essential backdrop in mind, he then dissects the components of a jury trial into its essential components: voir dire, opening statements, direct and cross examination, closing argument, and preserving the record for appellate review (if needed). His approach is refreshingly effective by his use of actual cases to *show* the reader how each phase is accomplished, rather than by *ipse dixit* admonitions that are so much less effective. And he ends the book in a manner seldom seen in "how to" publications—a note of humility. He acknowledges how his own path to becoming a superb trial lawyer was advanced by learning from his own mistakes, a lesson that is as essential as it should be comforting to new lawyers. Every experienced trial lawyer has had a few falls as they earned their spurs. Perhaps this is the most important message that he imparts, that to become a good trial lawyer we all must overcome our initial fears, seize the opportunity to get into court, accept that our path forward involves a few steps backwards along the way, and that if we accept this with humility and a sense of humor, success awaits us.

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I have counted Paul Sandler as a colleague and friend for over 30 years. I have had the privilege of co-authoring books and articles with him, and I have taught alongside him in seminars and CLE programs. I have been amazed and inspired by his passion for the art of trial advocacy, and his determination to help others learn this craft. And always, there is his unshakeable enthusiasm for this task, and the absolute certainty that successful trial advocacy can be learned by anyone wise enough to pick up and read books like this one, and willing enough to devote the time and practice to put its lessons into practice.

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