

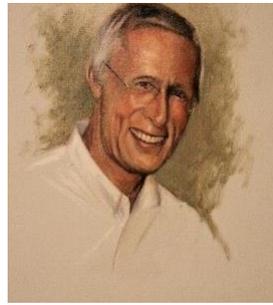


THE VICKERY LAW FIRM
TRIAL LAWYERS | JUSTICE SEEKERS

Trial's Life Lessons

ANDY VICKERY
TTLA SEMINAR
NEW ORLEANS, LA
FEBRUARY 12, 2016

My Three Mentors



Judge Brown



Be Creative

As *Proctor* of this dispute between the representative of many manufacturers of household detergents and the Board of Commissioners of Metropolitan Dade County, Florida, who have promulgated regulations which seek to control the labeling of such products sold within their jurisdiction (largely to discourage use which pollutes their waters), the Court holds that Congress has specifically preempted regulatory action by Dade County. Clearly, the decision represents a *Gamble* since we risk a *Cascade* of criticism from an increasing *Tide* of ecology-minded citizens. Yet, a contrary decision would most likely have precipitated a *Niagara* of complaints from an industry which justifiably seeks uniformity in the laws with which it must comply. Inspired by the legendary valor of *Ajax*, who withstood Hector's lance, we have *Boldly* chosen the course of uniformity in reversing the lower Court's decision upholding Dade County's local labeling laws. And, having done so, we are *Cheered* by the thought that striking down the regulation by the local jurisdiction does not create a void which is detrimental to consumers, but rather merely acknowledges that federal legislation has preempted this field with adequate labeling rules.

Congress, of course, has the *Cold Power* to preempt. Of the three situations discussed by the Court, the first (direct conflict) is easy, for it is *Crystal Clear* that the state law must yield. The third, in which the ordinance may *supplement* the federal law and thereby extend or increase the degree of regulation, is more troublesome. For where Congress has chosen to fashion a regulatory scheme that is only the *Head and Shoulders*, but has not opted to regulate every aspect of the area, the states have implied power to flesh out the body. It is where Congress fails to clearly signify, with an appropriate preemption clause, its intent to fully occupy the area regulated that the problem arises. With some *Joy*, the Court finds there is such a clause.

[Chem. Specialties Mfrs.' Ass'n, Inc. v. Clark, 482 F.2d 325, 328 \(5th Cir. 1973\)](#)

Paul Waldner

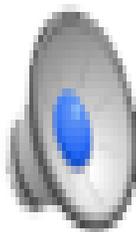


Be Brief



My Cousin Vinnie's Opening Statement

Be Brief



Opening Statement: Davenport v. Menards

Be Funny

Karin Shepherd

From: Paul Waldner
Sent: Tuesday, September 23, 2008 8:20 PM
To: Karin Shepherd
Subject: Out of Office AutoReply: TTLA ANNUAL MEETING---Hyatt Regency Austin

The good news is that we are back in our office....finally. The bad news is that we're on generator power and will be operating at about 50% efficiency....which isn't that bad a deal when you think of it....since before Hurricane Ike we only operated at about 60% efficiency. If you're a claims adjuster and are trying to get in touch with us to point out the deficiencies in our cases, please go suck an egg. If you're a defense lawyer calling to whine about discovery responses that are overdue, please go suck what's left of the egg the claims adjuster was sucking on. If you're a client, please be patient and understand that the priority of our response to your request for information will bear a direct relationship to the size of your case and your attitude. If you're a judge, state rep, or U.S. Congressman calling for a campaign donation, please check with your respective campaign managers and find out whether you can accept FEMA vouchers.

Be Funny

Dear Tom:

Chickenshit (term of speech)

(From Wikipedia, the free encyclopedia)

Chicken, or chickenshit, when used as an insult, is generally used to suggest a lack, or absence of courage. Its use as a motivator, or manipulator, is similar, but hopes to appeal to the wish of the target to prove that they in fact do have courage, i.e. "Do the right thing, don't be a chickenshit." Calling someone yellow, or yellow bellied, usually has a similar purpose.

It really surprised me, Tom, when I Googled "chickenshit" just how many sites I found that discuss, define and interpret that term. In the last fifteen minutes, I've found out that it's both a noun (You're a real chickenshit) and an adjective (Not faxing your response to our motion and just handing it to Fred in the courtroom was a real chickenshit thing to do).

Let me tell you why I feel that both terms of speech apply to you and the way you practice law. . . . I just wanted to write you personally and express to you just what a chickenshit thing it was for you to try and ambush us at the hearing, and to assure you that everyone at this end is convinced that you're a first class, board-certified, card-carrying chickenshit.

Be Visual

Communication is 70% visual

Power Point is a great visual tool -- when used properly

But, it is not the only effective visual aid

DR. MALTSBERGER'S RECOMMENDED WARNING

“PHYSICIANS SHOULD BE AWARE THAT IN RARE INSTANCES SSRI COMPOUNDS SUCH AS PAXIL MAY PRODUCE ACUTE HOMICIDAL AND SUICIDAL STATES. CLOSE MONITORING OF PATIENTS IS INDICATED IN THE COURSE OF THE FIRST SIX WEEKS OF PRESCRIPTION OF THESE DRUGS, ESPECIALLY WHEN THERE IS A HISTORY OF UNUSUAL ANXIETY, HYPOMANIA, OR AKATHISIA.”

Be Proud

Obituary: The American Trial Lawyer

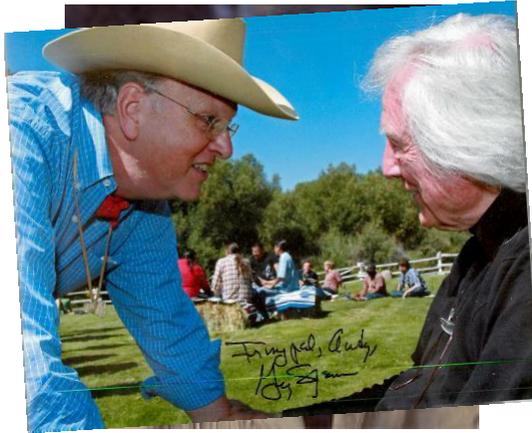
Honorable Mark W. Bennett

The American trial lawyer (ATL), who, in innumerable ways, enhanced the lives of so many Americans and made the United States a fairer, healthier, safer, more egalitarian, and just nation, passed away recently. Although a precise age is uncertain, ATL is believed to have been at least 371 years old at the time of death. The cause of death is uncertain.

- Iqbal & Twombly;
- the vanishing civil jury trial
- parasitic belief that trial judges should be “litigation managers” and that jury trials are a “failure of the system”
- the media, which, spread inaccurate information about allegedly frivolous lawsuits and verdicts like the McDonald’s “hot coffee” case.



Gerry Spence



Be Yourself

How I trained my reptile to sing the betrayal song without breaking the rules of the road

Spence/Betrayal

Keenan/Reptile

Friedman/Rules

Bettinger/Hero



Be Vulnerable



Brene Brown, Ph.D. – TED Talk

Role Reverse



Dr David Feigal
former FDA,
Principal, NDA Partners LLP

Trust the Jury



Other Teachers/Lessons

Winning with Stories – Jim Perdue, Sr.

Forum Shop - *McCuin v. Tex. Power & Light Co.*, 714 F.2d 1255, 1261–62 (5th Cir.1983)

Choose Your Theory – *Tietz v. AbbVie*

Talk to Your Clients - Pablo's Infamous Winky Dink

