

# TRIAL LAWYER

# Meet Us In MEMPHIS!

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**DONALD CAPPARELLA**  
EDITOR, TTLA

This magazine has another slate of good and useful articles that we are grateful to be able to publish. I want to remind everyone about the TTLA List Serve. It is a great way to network with other members to solve problems. I recently have received some excellent help from colleagues in the List Serve that helped me in my cases.

I also want to point out how willing members are to help others. I have several members that I can call any time to help me think about cases, and I know of other members who reach out frequently for help. Articles on useful subjects are great. But also take some time to personally help a colleague out if you can. We have a wonderful organization, and I renew my offer to answer the phone calls of any TTLA member who has questions about tort law or appeals. Good luck to everyone, and stay safe during COVID-19. And thanks again to Theresa Grisham for her amazing work on this magazine.

Sincerely,

Donald Capparella,  
Editor

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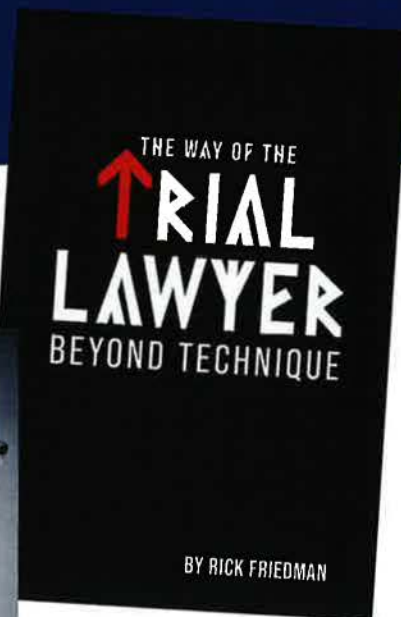
# BOOK REVIEW

## The Way of the Trial Lawyer Beyond Technique

BY RICK FRIEDMAN



by Randy Kinnard



Imagine trying all your cases, arguing all your motions with your heart leading the way, instead of worrying about technique. How liberating would that be? In his latest book, *The Way of the Trial Lawyer Beyond Technique*, this is exactly what Rick Friedman teaches us to do. Lead with the heart.

As Rick points out, the best trial lawyers do not hide from their hearts, but instead grow comfortable with them and listen to them. Rick teaches how to cultivate a good heart, pay attention to it, and lead the jury with it. Charismatic lawyers are effective, but the kind of energy and emotion effective lawyers show goes beyond charisma. Persuasiveness dwells in the heart of the lawyer in command. "To speak from the heart, we must be emotionally honest, first with ourselves, then with our audience," he says.

Rick demonstrates how the earnest trial lawyer loses interest in himself and puts his undivided attention on his audience. He speaks from his heart to the heart of his audience. There is no room for anything else.

After decades of practicing law, contemplating how he could improve himself, always striving to better himself, and finally finding the inner peace he longed for, Rick shares secrets to overcoming fear and feelings of inadequacy like no other trial lawyer ever has before.

We all have experienced self-pity, fear, insecurity, feelings of inadequacy. Rick shows how to conquer these emotions. As he personally has learned, the greatest

sources of our suffering are the lies we tell ourselves. We have to stop telling ourselves lies. We have to stop believing them. Rather, we need to recognize bad emotions for what they are--drags on us. And snuff those emotions out and march ahead with confidence.

In one of the chapters called "The Dark Alley," Rick tells us this story:

A police officer, walking the beat on a cold winter night, sees a man on his hands and knees on a sidewalk, under a streetlight.

"What are you doing?" asks the police officer.

"I am looking for my house keys," says the man, looking up from the sidewalk and gesturing toward the front door of his house. The house looks prosperous, safe, and warm.

The police officer starts searching the ground himself. After a few minutes, he asks, "Where did you last have your keys?"

"Over there," says the man, pointing to a dark alley that runs along-side the house. "I pulled them out of my pocket while I was walking home, and they slipped out of my hand."

"If you dropped them in the alley, why are you looking out here on the sidewalk?"

*continued to page 41*



"The light is better here."

Funny, but true. We all prefer to look for answers (keys) in places we are most comfortable looking. Unfortunately, most answers are not that easy to come by. We have to go into the dark alley – the place we have been avoiding all of our lives.

We've all seen rock stars perform in concert. They are not just voice-gifted entertainers. They entertain with their heart. They connect to their audience with heart. Rick says, "If we could bring the energy and power of a rock concert into a courtroom, we would win every time."

His book shows that being kind, courteous and respectful to everyone is vital to effective leadership in the courtroom. Gone are the days of the arrogant, brow-beating lawyer. Mean, bullying lawyers are doomed to defeat. Furthermore, the most technically skilled lawyer does not always win. In fact, Rick says, "It is awfully common for the most technically skilled lawyer to lose." Something else--besides skill--goes on in the courtroom. Some kind of invisible force or energy moves through the room, affecting the actions and decisions of everyone. And that energy can make the difference between winning and losing.

It's difficult selecting which part of this book I like the most because I like them all. If forced to choose, I'd pick the many chapters on dealing with what Rick calls, "the uncomfortable parts of the case," such as how to handle jurors' commonly felt notion in a death case of "money won't bring the dead person back." Or in the soft tissue case, "there were no broken bones, so what's the big deal?"

The last third of the book provides practical tips on how to lead with your heart during voir dire, opening statements, direct examination, objections, cross-examination, and closing in four different case scenarios: (1) Death of a six year-old child; (2) Soft-tissue injury; (3) Plaintiff with admissible burglary conviction; and (4) Plaintiff with poor job history. Rick shows you how to arm yourself with the right attitude going in, and how to handle the special challenges of cases like these. The practical tips alone in this part of the book are well worth getting yourself a copy.

The Director of the Institute for Justice Reform and Innovation at Drake University School of Law says this

about Rick's book:

For forty-five years as a trial lawyer, teacher of trial advocacy, and federal district judge, I have read every book on being a trial lawyer I could get my hands on. This book stands heads and shoulders above all of them. Unlike the others, Rick Friedman reveals the key to unlocking the psychological barriers that prevent 99.9 percent of trial lawyers from reaching their full potential.

Rick Friedman has stood on the shoulders of trial giants and indeed has seen further than any. In my view, it is akin to legal malpractice to go to a civil or criminal jury trial without mastering the concepts in this book, no matter how much or little trial experience you have. (Hon. Mark W. Bennett, retired US district judge)

All lawyers -- regardless of how long we have practiced -- suffer through spells of feeling stale. We can get a little rusty. This book will absolutely perk you up, remind you of why you always wanted to help people and be the very best at trial work you can be. And to be your personal best self. The book will provide you with methods of how to feel more relaxed and how to let your heart lead the way to victory.

I will keep Rick's book on the shelf I call "My Favorite Books" and pull this treasure down for another read often. Once you read it, it's quite possible that you will think that this is the best book for trial lawyers you ever read.

**You can order this book on [Trialguides.com](http://Trialguides.com).**

## ABOUT THE AUTHOR

**Randy Kinnard** is a Past President of TTLA. He represented Erin Andrews in her invasion of privacy lawsuit, handles all sorts of personal injury claims, and has tried over 250 jury trials in four decades.

**Rick Friedman** is a trial lawyer based in Bremerton, Washington. He is the author of *Rules of the Road: A Plaintiff Lawyer's Guide to Proving Liability* (with Patrick Malone), *Polarizing the Case: Exposing and Defeating the Malingering Myth*, *The Elements of Trial* (with Bill Cummings), and *Becoming a Trial Lawyer: A Guide for the Lifelong Advocate*.

