

# Trial Advocacy: A Chamber of Secrets and Strategies Revealed

BY VICTOR A. FLORES

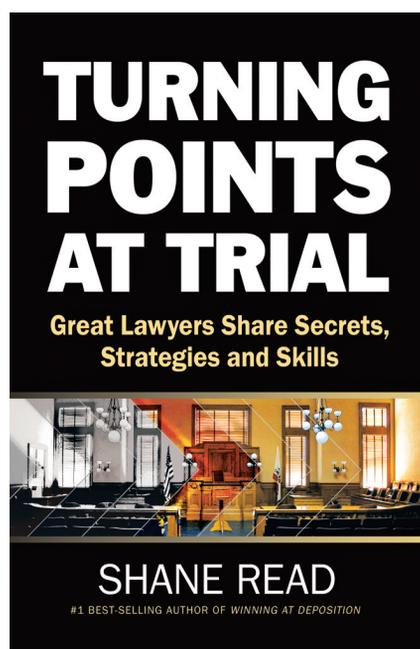
Trial advocacy requires more than just a satisfactory understanding of the Texas Rules of Evidence, the Civil Practice and Remedies Code, and the Code of Criminal Procedure. Nothing beats practical lessons that are acquired from courtroom experience or even attending one of the many great trial academies. Still, if you can't afford to attend a weeklong seminar or don't have access to a seasoned trial attorney for guidance, how do you get that experience? *Turning Points at Trial: Great Lawyers Share Secrets, Strategies and Skills* (Westway Publishing, 2017), by Shane Read, is a sound place to start.

Read does a good job of lifting the veil and digests key aspects of trial advocacy, including opening statements, direct examinations, cross-examinations, cross-examinations of an expert witness, closing arguments, depositions, and appellate oral arguments. Read, an adjunct professor at SMU Dedman School of Law and trial advocacy lecturer, engages the reader by sharing practical and real-life trial secrets from prominent attorneys across the country.

Many Texas attorneys will recognize a few names on Read's list of elite litigators, including Houston attorney Mark Lanier and Dallas attorneys Frank Branson, Windle Turley, and Don Tittle. He also surveyed others including University of Texas School of Law graduate Lisa Blatt, a Washington, D.C., appellate attorney who has argued 35 cases before the U.S. Supreme Court, prevailing in 33; Alan Dershowitz, a New York attorney who represented Mike Tyson and O.J. Simpson, among others; and Tom Girardi, a California attorney who secured a \$333 million settlement for

650 residents of Hinkley, California, made famous by the film *Erin Brockovich*.

Under Part 5 of the book, Read covers closing arguments. It's prefaced by a short introduction and followed by real courtroom examples presented by Lanier (Chapter 10), Girardi (Chapter 11), and Branson (Chapter 12).



In Chapter 10, Read uses excerpts from Lanier's closing arguments in *Ernst v. Merck* to demonstrate how to engage and empower the jury. Here, the case alleged that one of Merck's painkillers, Vioxx, caused Bob Ernst (Lanier's client) to have a heart attack when Merck knew the drug was dangerous. Read presents an outline of how Lanier used themes to frame his arguments. In *Merck*, Lanier applied the analogy of David and Goliath to further emphasize "denial, deception, and damage" as a powerful alliteration to complete his closing arguments.

Lanier also disclosed other strate-

gies used during closing arguments, including summarizing exhibits, rebuttal arguments, and presentation of punitive damages. In the book, each point is readily highlighted for quick reference. In addition, Read emphasizes important tips and quotes by restating them within page margins.

At the end of Lanier's chapter on closing statements, a bullet-point checklist is provided that includes summarized lessons learned, memorable quotes, powerful images and themes, addressing defendant's closing, using opponent's argument and turning their words against them, and presenting a damages argument in rebuttal.

Each chapter is well written and similarly organized throughout the book. The sheer volume of information—500 pages of material, a marathon that winds through every phase of trial advocacy—makes this more daunting than Read's previous books, *Winning at Deposition* and *Winning at Trial*. But Read's mastery of writing in the narrative softens the edges to these academic and complex topics through storytelling, illustrative cases, and transcript excerpts. Great trial attorneys are masterful oral storytellers. Read does the same here, just on paper.

The diverse collection of attorneys that Read showcases provides an interesting mosaic of courtroom strategies and skills for attorneys, young and seasoned, to learn from. This is a great reading selection for all attorneys. **TBJ**



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has served municipalities across Texas by providing legal counsel on issues related to government law, including land use, procurement, governmental immunity, elections, open meetings, and open records.

Currently, he serves as an assistant city attorney with the Plano City Attorney's Office and is president-elect of the Texas Young Lawyers Association.