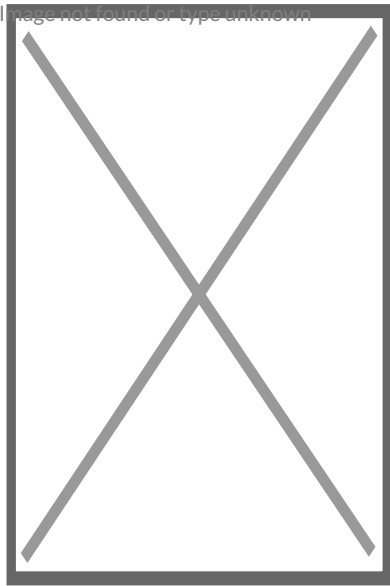


# Human Factors in Winning Lawsuits



By Lucas D. Bradley, Bouhan Falligant

## Special to *Business in Savannah*

Many people assume that the process of managing a lawsuit and trying a case is almost like programming a computer – put in the right evidence and arguments, and a final result will inevitably emerge (and that result will always be right). The reality, unfortunately, is much murkier. Law is inherently a human profession, and attorneys who understand the human element are far likelier to prevail. To be successful in trying cases, your attorney should grasp the following concepts:

**Know your own client.** Lawyers must work with clients, especially business clients, to understand their complex business objectives. A good lawyer will never offer a defense or tender evidence that wins a \$50,000 case at the expense of a million dollar trade secret or regulatory action. And a good lawyer will understand if a client wants to make an example out of trying a case – or if that client would prefer a case to quietly settle. Unfortunately, too few attorneys actually communicate with, and listen to, their clients. Understanding your actual objective is the first step to a successful legal relationship.

**Know the opponent.** This is the other side of the same coin. At times, even business litigation becomes personal. When that happens, parties do not behave as you would expect. Understanding the actual motivations of the other side can yield strategic insight into what next move may be coming.

**Know the court system.** Judges and judicial staffs are people too – dedicated and hardworking, but burdened with thousands of lawsuits all while managing local, state, and sometimes federal deadlines and pressures. Lawyers who have either worked in the judicial system as law clerks, or who have extensive experience locally, have a far better understanding of these specific and particularized pressures. Local lawyers who have established extensive relationships with court staff know how to approach them and move cases through the system.

**Know the law.** The word “synergy” is overused, but synergy of ideas is real and powerful in the law. A firm that has dedicated practitioners in multiple fields – transactional, regulatory, litigation, intellectual property, bankruptcy – can synthesize the experience of multiple attorneys to (a) find the right arguments and (b) present them simply, clearly, and powerfully. Good attorneys know that if you can present the simplest, cleanest argument, you often win – and they endeavor to always do so.

Briefs, facts, and evidence are important in winning lawsuits. But too often, people ignore the real human element that often makes the difference between winning and losing. Businesses should make sure their attorneys can handle both aspects in order to increase their chances of successfully litigating any lawsuit.

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## Practice Areas

- Business & Corporate Law

## Attorneys

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