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Thomas A. Mauet

TRIAL TECHNIQUES

EIGHTH EDITION



Wolters Kluwer
Law & Business

ASPEN PUBLISHERS

TRIAL TECHNIQUES

Eighth Edition

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Wolters Kluwer

Law & Business

AUSTIN BOSTON CHICAGO NEW YORK THE NETHERLANDS

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Aspen Publishers
Attn: Order Department
PO Box 990
Frederick, MD 21705

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-0-7355-9441-8

Library of Congress Cataloging-in-Publication Data

Mauet, Thomas A.
Trial techniques / Thomas Mauet.—8th ed.
p. cm.
Includes index.
ISBN 978-0-7355-9441-8
1. Trial practice—United States. I. Title.

KF8915.M38 2010
347.73'75—dc22

2010014984

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PREFACE

My experiences as a trial lawyer and trial advocacy teacher have made me realize that effective trial lawyers always seem to have two complementary abilities. First, they have developed an effective method for analyzing and preparing each case for trial. Second, they have the technical skills necessary to present their side of a case persuasively during trial. It is the combination of both qualities — preparation and execution — that produces effective trial advocacy.

This text approaches trial advocacy the same way. It presents a method of trial preparation and reviews the thought processes a trial lawyer uses before and during each phase of a trial. In addition, it discusses and gives examples of the basic technical courtroom skills that must be developed to present evidence and arguments persuasively to the jury. This is done in the firm belief that effective trial advocacy is both an art and a skill, and that while a few trial lawyers may be born, most are made. Artistry becomes possible only after basic skills have become mastered.

In trial work, as in many other fields, there is no one “right way” to proceed. There are just effective, time-tested methods that are as varied as lawyers are numerous. Consequently, while the text presents standard methods of examining witnesses, introducing exhibits, and making arguments, there are different approaches to all the tasks involved in trial work. Thus, the examples in the text are not the only way of effectively accomplishing the particular task involved. The text uses these examples because inexperienced trial lawyers need specific examples of effective techniques they can learn and use in court. Other effective ways of doing things are necessarily a product of experience, and only through experience will you learn what works best for you.

The emphasis of this text is on jury trials, since a lawyer who can persuasively try cases to a jury should also be competent during a bench trial. The examples are principally from personal injury and criminal cases, since they involve easily isolated examples of trial techniques, and they constitute the substantial majority of cases tried to juries. If the method and techniques applicable to uncomplicated, recurring situations presented here are mastered, more complex cases can be handled competently as well.

Trial Techniques covers the fundamental skills trial lawyers need to understand and master to be successful in the courtroom. For a more psychologically oriented treatment of trial advocacy, you may wish to consider another of my texts, *Trials: Strategy, Skills, and the New Powers of Persuasion*, 2nd ed., also published by Aspen Publishers.

Thomas A. Mauet

Tucson, Arizona
May 2010

TRIAL TECHNIQUES

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