# FUNDAMENTAL TRIAL ADVOCACY

SECOND EDITION

CHARLES H. ROSE III

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#### **Second Edition**

## Charles H. Rose III

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#### **Dedication:**

"For my wife, Pamela. Where ever she has been, there has been my Eden."

"[W]e shall be better and braver and less helpless if we think that we ought to enquire, than we should have been if we indulged in the idle fancy that there was no knowing and no use in seeking to know what we do not know;— that is a theme upon which I am ready to fight, in word and deed, to the utmost of my power."

PLATO, mathematician and philosopher, (427?-347 BC)<sup>1</sup>

"In seeking wisdom, the first step is silence, the second listening, the third remembering, the fourth practicing, the fifth—teaching others."

IBN GABIROL, poet and philosopher (AD 1022–1058)<sup>2</sup>

<sup>&</sup>lt;sup>1</sup> PLATO, *MENO* 56 (Benjamin Jowett trans., Digireads.com 2005). Plato's exact date of birth is unknown.

<sup>&</sup>lt;sup>2</sup> THE PAINTER'S KEYS, http://www.painterskeys.com/auth\_search.asp?name=Ibn+Gabirol.

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Finally, first, last and always, I must thank my muse. Pamela you are the song that my heart sings. I am so fortunate not to sing alone.

The mistake within, and I am sure that there are many, are, as always, my own. Enjoy!

Charles H. Rose III Summer 2010

#### ACKNOWLEDGEMENTS First Edition

Writing a book is a Herculean task, and one that is frankly impossible without the assistance of more people than can possibly be mentioned, but I must take a moment to express my gratitude to those that truly made this text possible. First, last, and always is my wife Pamela. She rescued me many years ago and stands beside me now, making possible the time and focus necessary to accomplish all that I have done. My late father-in-law Patsy James Richards taught me the worth of each person, regardless of their status, and shared with me his passion for a good argument. His memory is captured in the faces of my children and the chapter of this book addressing closing arguments.

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Charles H. Rose III Spring 2006

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It is considered normal in texts such as this to identify the substantive law contained in appellate cases that are referenced in the following pages. This, however, is a book about oral advocacy, and it rests primarily on the foundations of my own experiences, the substantive procedural law, and the wisdom of those from whom I have learned. The book identifies the first two well, but is woefully meager in identifying the third. The following list, incomplete though it may be, is my small attempt to identify the many excellent friends whose ideas I have used and teaching I have admired. If I left you off it was not intentional. I can only plead the advancing effects of middle age. These are the true resources for anyone who practices the art of advocacy, may your list be as long some day.

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