

NELSON KIRKMAN



THE COURTROOM CAN BE A JUNGLE.

IS YOUR DIVORCE LAWYER PREY OR PREDATOR?

By Paul Nelson, Esq

Have you watched a nature documentary lately? It's brutal stuff. Picture an orca dismembering a seal. Or a lion ripping out a giraffe's insides. Not exactly the kind of feel-good cinematic fare you want to show the kids. Guess what?

A family law courtroom is not unlike the great outdoors. In fact, it's downright kill or be killed, a place where signs of weakness will be mercilessly exploited. In this sense, a good divorce lawyer is an *apex predator*, someone who can quickly recognize vulnerabilities—then go straight for the jugular.

Over the years, I have seen both predator and prey in action. Knowing the virtue of being the former in any legal setting, it's my job to sniff out weakness.

Your Lawyer is Anxious About Going to Court

Some attorneys are worried about appearing before a judge. Maybe they're frightened of public speaking. Maybe the prospect of face-to-face confrontation sends shivers down their spines.

Not me. Trial is always my last option—due to the time, expense, and stress involved. But when it comes up, I relish the opportunity to participate.

This is not true of all lawyers. Some truly *fear* going to court, especially due to its unpredictability. When I sense this, I use the weakness to my client's advantage. I make the threat of court so intense the other side must roll over, giving us what we demand before ever mounting those courthouse steps.

Disingenuousness

American treasure and author Mark Twain said it well: "If you tell the truth, you don't have to remember anything." I also like British statesman Benjamin Disraeli's quote: "There are three types of lies—lies, damn lies, and statistics."

In court, I love it when I'm up against someone who isn't 100% truthful.

And the more brazen, the better. Why? Nothing destroys a lie better—or faster—than the truth. If I can catch the opposition in a lie and produce evidence that proves it, there's nowhere to run. I can virtually dictate the terms of the other side's surrender.

Uncertainty

Opposing counsel needn't lie on behalf of their client or even exaggerate to demonstrate their vulnerability. Simple hesitancy and doubt concerning a fact can be all I need to strike a mortal blow. Side note: This is why pre-trial

depositions can be so valuable.

Moreover, when my opponent qualifies a response, equivocates, or is otherwise less than 100% confident in their response, I know this is a point I can attack in court, pressing my client's advantage.

In his brilliant 2005 book *Blink: The Power of Thinking Without Thinking*, award-winning author Malcolm Gladwell explores how humans developed the ability to make snap judgements. He explores our acumen in assessing dangerous situations or sizing up a stranger in literally microseconds.

Such intuition is a key reason our species has survived for millennia despite our many physical deficits when compared with other animals. (We certainly can't outrun a lion!)

Experienced lawyers hone the ability Gladwell explains. Competing in our judicial jungle, we perfect our senses to a fine edge. Like a predator stalking prey, we pick up on those little, but critical, cues revealing vulnerability.

For just as in nature, the wrong move can be very costly.

This begs the question: Is your counsel predator or prey? Knowing the difference can be life-changing—especially when everything you value is on the line.

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Family Law Attorneys & Advisors

When the stakes are highest

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