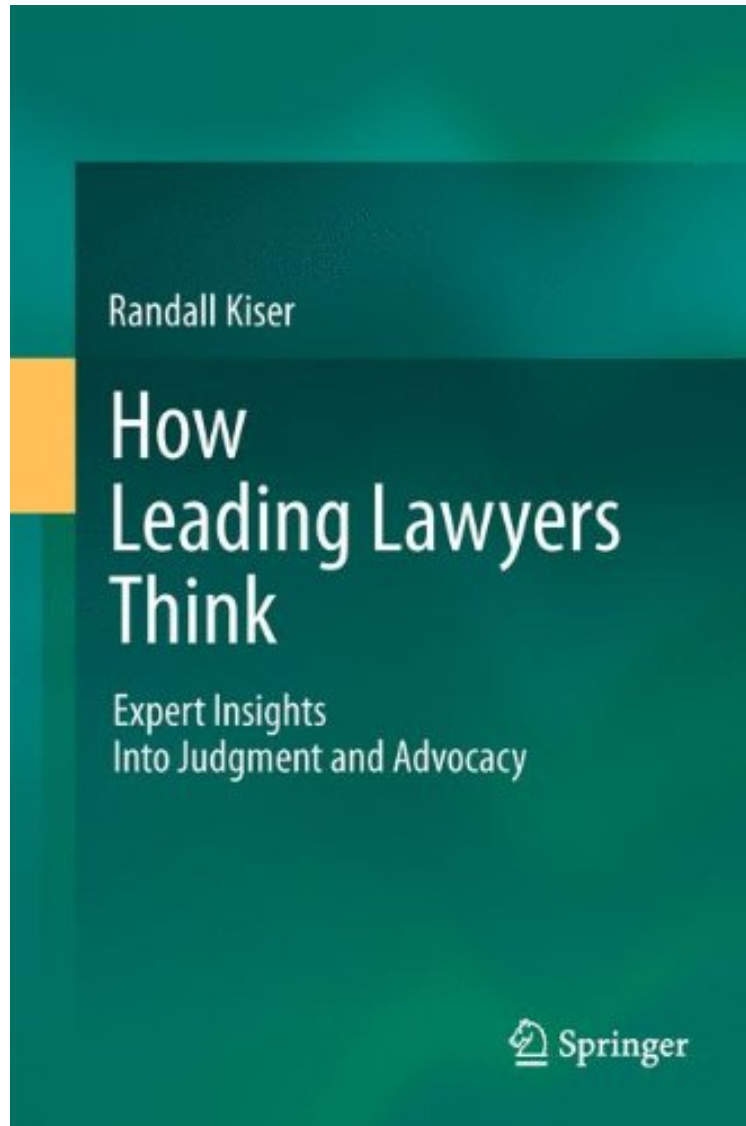


[Free pdf] How Leading Lawyers Think: Expert Insights Into Judgment and Advocacy

How Leading Lawyers Think: Expert Insights Into Judgment and Advocacy

Randall Kiser

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Randall Kiser : How Leading Lawyers Think: Expert Insights Into Judgment and Advocacy before purchasing it in order to gauge whether or not it would be worth my time, and all praised How Leading Lawyers Think: Expert Insights Into Judgment and Advocacy:

2 of 2 people found the following review helpful. Fascinating and edifying By Camber I'm an engineer rather than a lawyer, so I'm surprised that I'm the first to write a review of this book. Lawyers are missing out - or perhaps many are

reading this book secretly because they don't want their competitors to find out about it! I do work with lawyers though, and I learned much from this book. I also *enjoyed* reading the book because, in addition to the steady stream of insights, the writing is very lucid and engaging. Based on interviews with dozens of carefully selected "leading lawyers" who have an average of 29 years of experience, with extensive trial experience, this book paints a fascinating portrait of these leading lawyers, spanning many dimensions. Contrary to some of the stereotypes of lawyers, it turns out that leading lawyers have largely the same traits as top people in many other fields, and here is a summary of those traits: They have street smarts derived from reasonably diverse life experience and exposure, combined with sufficient subject matter expertise and many years of experience in their specialty. In other words, they have both breadth and depth. They have excellent interpersonal skills, and are sensitive to social, cultural, and economic context. They can relate to and understand people from various walks of life, including members of juries. They express ideas through themes, narratives, and visuals which people can understand and connect with. They generally treat people with respect and fairness, rather than aggressive bluster stemming from inexperience, insecurity, or overconfidence. They find their work intrinsically rewarding and take personal responsibility for results, holding themselves accountable for success relative to self-imposed standards which are often higher than the standard of care. Conversely, they also accept responsibility for failures, rather than reflexively and defensively blaming external factors. Their focus is on pragmatic problem-solving on behalf of their clients, rather than adversarial battle or an academic approach. They approach their work with objectivity, open-mindedness, thoroughness, attention to detail, and deep strategic thinking (rather than just going through the motions). They routinely outwork their competitors, some of which they view as being lazy. They avoid drawing conclusions prematurely, and are willing and able to challenge and revise their working hypotheses as new evidence comes in. In other words, they seek to deal with reality as it is, rather than succumbing to wishful thinking, denial, or other biases. This mindset enables them to serve as advocates for their clients and work with them collaboratively, without losing their anchor to truth and their willingness to be assertive with clients, including candidly telling clients the weaknesses of their cases. They have a realistic sense of themselves, which enables them to balance confidence and humility. They are perpetual students who always strive to improve their knowledge and skills by deliberate practice and learning from others (mentors, other lawyers, laypeople, specialists, focus groups, etc.). While some show natural ability early on, most have to develop their expertise over the course of many years of hard work, often with many setbacks which they overcome through resilience. They have a high level of mental and physical stamina. This is needed to handle the grueling ordeal of trials, which most non-leading lawyers lack experience with (this surprised me). While the above notes may be useful, they don't do justice to the richness and quality of this book. This is the kind of book you want to savor by attentively reading it cover to cover. So, of course, I highly recommend this book to lawyers, people who work with lawyers, and anyone else with a general interest in the traits of people who are leaders in their field. I wish there was a similar book on how leading engineers think!

1 of 1 people found the following review helpful. Kiser moves from the analysis of large bodies of data to close analysis of a group of select lawyers chosen for their ability to beat the odds and make accurate case assessments and good settlements or good decisions to instead try the cases. He examines their habits of mind and approach to their clients, cases, colleagues and opposition in an effort to isolate practices that can assist all of us as advocates and mediators to calibrate our own case assessments and to understand the importance of certain criteria and disciplines in predicting case outcomes. The body of Kiser's work is really a must for anyone who seeks an improved understanding of good judgment and impediments to good judgment generally and in the more specific context of case assessment.

0 of 0 people found the following review helpful. Reading *How Leading Lawyers Think* is the next best thing to following lawyers like Gerry Spence. By Michael Palmer. Reading *How Leading Lawyers Think* is the next best thing to following lawyers like Gerry Spence, David Boies, Michael Tigar, Clarence Darrow, and John Edwards around for six months. In this superbly organized book, Randall Kiser shares the results of an extensive study of how 78 top litigators do their work. We learn what they do and how they do it in all areas of litigation practice, from the first meeting with a prospective client to final judgment in a case. In five major parts, the author shares summaries and extensive quotations on the roles and responsibilities of attorneys, frameworks and connections, feelings and traits, techniques and strategies, and learning and advice. Because it is not possible in a short review to do justice to the richness of insights and scholarly material in the book, I will select a few topics that illustrate the quality of the whole. Case valuation is discussed at length in Part IV (Techniques and Strategies). Beginning lawyers may be surprised to learn that the legal and factual merits of a case constitute only a part and not always the most significant part of the study lawyers' assessment of a case. Client likeability and credibility can be decisive factors not only in the value of a case but also in whether the lawyer accepts the client in the first place. The knowledge, skills, and experience of the lawyer on the other side is a major factor. Other factors include, the type of case, the severity of the injury, the degree to which the jury might react emotionally for or against one side, and where the trial takes place. We learn that poor case evaluators leave money on the table and, conversely, often do worse when they take cases to trial that they could have settled for a larger amount than the eventual verdict. (This latter problem is the subject of much of Kiser's first book, *Beyond Right and Wrong*.) Mistakes

and Oversights. Books of lawyer success stories abound. I've never seen even a thin volume with the title, Mistakes I've Made. With me, such a book would consist of hundreds of pages of blunder after blunder. Can I take a Mulligan? Admirably, the study lawyers shared their own thoughts not just about specific mistakes made but about the types of errors lawyers make. Inappropriate attitudes, including aggressiveness, overconfidence, overvaluation, exaggeration, undue emotional involvement, lack of objectivity, premature assessments, and intransigence are all discussed in detail. Inadequate skills, bad habits, the failure to prepare, and more are examined as well. A large part of lawyer shortcomings can be summed up in the phrase: Lazy lawyers lose lawsuits. But even hard-working lawyers fall short more often than they should, in part because they don't know how to do it right. For those lawyers who want to get better and have their hard work pay off, this book is a treasure trove of insights and advice. Legal risk management is a statistics stepchild in the era of Big Data. The amounts and kinds of relevant information that we need to assess where legal risk resides, how to measure and reduce it, or even how much it costs individual companies and society in general are largely unavailable. Randall Kiser is among the stalwarts who are doing something to improve that sad state of affairs. I recommend that every lawyer who wants to do right by her clients buy, read, study, reread, and put into practice the lessons of How Leading Lawyers Think.

In this book, 78 leading attorneys in California and New York describe how they evaluate, negotiate and resolve litigation cases. Selected for their demonstrated skill in predicting trial outcomes and knowing when cases should be settled or taken to trial, these attorneys identify the key factors in case evaluation and share successful strategies in pre-trial discovery, negotiation, mediation, and trials. Integrating law and psychology, the book shows how skilled attorneys mentally frame cases, understand jurors' perspectives, develop persuasive themes and arguments and achieve exceptional results for clients.

"Randall Kiser, in his new book *How Leading Lawyers Think*, provides us with an intriguing insight into the accomplished minds of lawyers at the top of their game. Kiser has interviewed 78 attorneys, all with a broad range of experience, to bring us a unique and revealing account of the world of advocating, negotiation, mediation, prediction and litigation from those who know it best. [] Kiser successfully accomplishes a thorough and insightful look into the real lives and pressures of being a practicing lawyer." (Lisa Cherkassky, *International Journal of Law and Management*, 2012, Vol. 54 Iss: 3, pp. 243-245) *How Leading Lawyers Think* is a rare inside look at decision making, mediation, negotiation and case evaluation from the perspectives of leading attorneys who have successfully taken thousands of cases to trial. The insights, experiences and values of these attorneys are masterfully woven into a story that allows the reader to rethink how decisions are made and how cases ought to be evaluated. It's a book that will make readers not only better practitioners but better human beings. (Monique McKay, Co-Founder, Master Mediator Institute) Errors in case evaluation can be very expensive. Kiser has previously quantified the frequency and cost of such errors in acclaimed empirical research. Here, we get a peek behind those statistics to see how talented trial lawyers avoid errors and decide whether and when a case should be settled or tried to verdict. It's a must read for clients, advocates, and mediators in the crucible of litigation. (Don Philbin, Attorney/Mediator, ADR Toolbox) From the interviews of 78 leading attorneys, Kiser extracts the perspectives and insights that form the foundation of mastery of case evaluation, client counseling, negotiation and case resolution. By posing open-ended questions, he was able to illuminate the hearts, minds and souls of these lawyers as they make difficult, high-stakes decisions under risk and uncertainty. The reflections of the seasoned lawyers are analyzed and collated brilliantly, and the reader is guided effortlessly on a memorable journey of professional enrichment. (Robert A. Creo, Founding President, International Academy of Mediators) "*How Leading Lawyers Think*' by Randall Kiser is a rare inside look at decision making, mediation, negotiation and case evaluation from the perspectives of leading attorneys who have successfully taken thousands of cases to trial. [...] Lawyers, mediators and other professionals in the legal field will find useful insights to become better decision makers, facilitators of decision making and advocates in the justice system. [...] '*How Leading Lawyers Think*' will read like a novel for those who are self-motivated and seeking to enhance their self-awareness, enhance their skills and connect in a meaningful way with all people in the legal system. For those looking for concrete methods to improve their ability to take a client from the initial meeting to a successful outcome, the book provides a complete context to gain insightful perspectives about what really matters." (Robert Creo, Monique McKay, Mediate.com) "In *How Leading Lawyers Think*, Kiser moves from the analysis of large bodies of data to close analysis of a group of select lawyers chosen for their ability to beat the odds and make accurate case assessments and good settlements or good decisions to instead try the cases. He examines their habits of mind and approach to their clients, cases, colleagues and opposition in an effort to isolate practices that can assist all of us as advocates and mediators to calibrate our own case assessments and to understand the importance of certain criteria and disciplines in predicting case outcomes. The body of Kiser's work is really a must for anyone who seeks an improved understanding of good judgment and impediments to good judgment generally and in the more specific context of case assessment." (Laura A. Kaster, *New York Dispute Resolution Lawyer*, Spring 2012, Vol. 5, No. 1, pp. 79-80) From the Back Cover In this book, 78 leading attorneys in California and New York describe how they evaluate, negotiate and resolve litigation

cases. Selected for their demonstrated skill in predicting trial outcomes and knowing when cases should be settled or taken to trial, these attorneys identify the key factors in case evaluation and share successful strategies in pre-trial discovery, negotiation, mediation, and trials. Integrating law and psychology, the book shows how skilled attorneys mentally frame cases, understand jurors perspectives, develop persuasive themes and arguments and achieve exceptional results for clients. About the Author Randall Kiser is the principal analyst at DecisionSet, a decision services and professional development company in Palo Alto, California. Mr. Kiser, a decision analyst and an attorney, has worked closely with litigants, insurers and attorneys in assessing risks, evaluating litigation alternatives and improving individual and organizational decision-making skills. He is the author of *How Leading Lawyers Think* (Springer, 2011) and the lead author of the widely read article, *Lets Not Make A Deal: An Empirical Study Of Decision Making In Unsuccessful Settlement Negotiations* (*Journal of Empirical Legal Studies*, Vol. 5, No. 3, September 2008). Mr. Kiser received his law degree in 1978 from the University of California, Berkeley (Boalt Hall), and obtained his undergraduate degree in 1975 from the University of California, Davis (Highest Honors). His legal education is complemented by the award in 2002 of a certificate in leadership from the Peter F. Drucker Graduate School of Management, Claremont Graduate University.