

Happiness for Lawyers is More Than Just a Scoreboard

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You just got “No Caused”. That’s right, zilch, nada, zero, nothing and all that work for what? Emotions run high and you’re angry, in your mind, justifiably so. Was it the lousy charge by the trial judge? Maybe the not so ethical adversary or the dumb block of wood jury? No matter, but one thing is for sure you are not getting over this any time soon. Says who? And here is the rub, where is it written that you have to blame others and punish yourself that despite your best efforts the outcome was not in your favor?

I’m not saying it doesn't sting, it does. I have had my fair share of no causes and it hurts like hell, but for how long? And how long should it hurt? A day, a week, forever or just as long as it takes you to calmly pack your bags, thank the court attendant, console your client and take a slow walk out to your car?

Practically from the get go I have been interested in that question and after 40 years and about 200 jury trials I think I've come up with one word to describe why “poor poor pitiful me” (or countless variations on the same theme) wins out over satisfaction and fulfillment for a job well done. May I please introduce you to your (mostly) silent invisible ever-present partner: SCOREBOARD

What's Scoreboard? In a nutshell Scoreboard is a figment of our collective imagination that "over there" is better than "over here" and to get there you must appear to be a winner in the other person's mind. The short version: "Winning isn't everything it's the only thing." Whether we realize it or not, everything gets seen through the Scoreboard lens. Thus, a loss is not just a loss but a reflection of one’s status or standing on the Scoreboard. Real or imagined failure, rejection, embarrassment, ridicule often will translate to a self-assessment of not measuring up and no wonder Scoreboard has so much control over us.

It is easy to enjoy the momentary thrill of a victory and winning a fair share of our cases is of course necessary as is the bottom line and meeting a host of other demands including the most important, to fight like hell to right our client’s wrong. But why is it necessary to define who we are by our wins and losses? Where is it written that winning is more important than how we go about being a responsible, competent and principled attorney? In fact what is written is John Adams admonition to use our freedom wisely:

Posterity! You will never know how much it cost the present generation to preserve your freedom! **I hope you will make a good use of it.** If you do not, I shall repent in heaven that I ever took half the pains to preserve it. (*Letter to Abigail Adams April 26, 1777*)

So here is the inescapable question, are we making a good use of the freedom John Adams and his generation fought so hard to preserve by reducing the practice of law to a Scoreboard game? On the other hand, do we make good use of our freedom when above all else we honor what matters most to our country is our principled behavior (civility, decency and kindness)? Said another way, exactly what are we turning over to the next generation? America's freedom that rests on its citizenry to be responsible to do the right thing or a transactional identity, i.e. winning practically by any means necessary. Lawyers possibly more than any other profession or occupation should have a stake in the American experiment with freedom and lead our journey "to a more perfect Union".

Let's go back to the bellyaching over the no cause. What if instead of crying in your beer you could realize that you tried a solid case and you were satisfied with your effort, you enjoyed the challenge and appreciated participating in fulfillment of the Seventh Amendment grateful to be an American citizen lawyer. All in all a challenging day but a good day and an opportunity to build character i.e. strength, resiliency, nobility, courage and most of all, moral integrity. (After all you did what you said you would do the right way and confronted the difficulty without backing down. Your integrity is intact). How else were you expecting to build character? And can you put a price tag on character?