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Trial Lessons from Running a Campaign

by ALAN BUSH

Running a campaign is a lot like trying a case. Twelve jurors decide a trial. Now multiply that by a couple thousand. That's how many voters came out to the polls and cast votes in the school board election, in which my wife won a seat. I was her campaign manager. Jury trials and elections both leave the result in the hands of strangers. Trial lawyers could take a couple pages out of the playbook for campaign managers. Let's look at four.

LITIGATION

1. *Ready your heart.* In the heat of the election, a campaign manager is tempted to abandon his principles. To cut corners, to tear down the opposing candidate, to bend the truth, to

be someone he is not. I held my ground only because I prepared my heart beforehand. It worked to our advantage.

King David, the John Wayne of his day in Israel, had some thoughts on that. He wrote that committing his way to the Lord made his "righteousness shine like the dawn" and "the justice of [his] cause like the noonday sun." King David was also concerned that his heart would be ready for action, praying that God would be pleased by the "meditation of [his] heart."

Trial counsel face the same temptations as campaign managers. We'd better get our hearts ready before setting foot in the courtroom.

2. *Don't fear numbers.* So there we were: First day of early voting at the polls with a small team of volunteers. Between the opposing candidate's and PAC's



poll workers, our team was outnumbered three-to-one. That ratio could have been deflating. But watching the voters' reactions, the numerical advantage wasn't winning the day for the opposition. The fight was even.

Working as the numerical underdog brought out the best

in our team, allowing them to focus on the campaign's message. That works in the courtroom too. Attorneys routinely can be outnumbered by opposing counsel. Pick the right courageous players on a small team, arm them with a plan and they'll deliver.

3. *Stay positive.* Shifting into attack mode is all too easy for a campaign manager. Personally attacking the opposing candidate seems like an acceptable campaign tactic. After all, look how many campaigns go negative. Our campaign never strayed from explaining why my wife was the best woman for the job. We kept it positive.

Never forget that rolling in the mud just gets everyone dirty. It galvanizes the opposing candidate and her supporters, hardening their resolve. It may also invite payback. And for voters, it can be a turn off. The long-term benefit to personal attacks on the campaign trail isn't very evident.

In the courtroom, it's tough to stay completely positive when counsel must question the credibility of an opposing witness. Sometimes it must be done. For example, an ex-employee turned plaintiff must be asked about his poor performance reviews. Or the

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jury may need to know about a witness' bias.

Counsel's tone of voice and respect for the witness will go a long way. Objective facts can be pointed out without losing ground with a jury, but slipping into a derogatory tone can backfire. It worked the same way when voters asked me why my wife was more qualified than her opponent. Giving an honest, but respectful, answer won votes.

4. *Feed the candidate (or client).* The proper care and feeding of a candidate is critical. She'll stay at the polls for most of the twelve hours each day they're open for two weeks. She'll also work late nights. The fatigue piles up—and she's the face of the campaign! A good campaign manager keeps an eye on the candidate and empathetically insists on some rest.

For a company representative,

that sounds a lot like a trial. The company rep will work round the clock on the trial, plus do her day job at night. Empathizing with the client and encouraging her to also take care of herself makes for a better witness. Let's face it: Trials aren't easy on anyone.

My wife's four-year term on the school board just started. Hopefully by the time she's up for re-election, I will have learned a few more tricks in the courtroom that can cross over to the campaign trail. For now, I'm content to play campaign manager in the courtroom.



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