

# 4 Tips For Attorneys To Emotionally Prepare For Trial

By **Rachel Lary** (November 19, 2024)

In the course of litigation, trial lawyers face a number of scenarios that can incite an emotional response.

For instance, when a trial lawyer faces a motion to disqualify, a case can become very personal. Suddenly, their own reputations and actions are front and center, as opposed to the fact patterns of the case itself.

Unfortunately, it is becoming a routine part of any case as both sides jockey for an advantage in the current litigation environment. Yet knowing this does not lessen the emotional impact on a trial lawyer when it happens to them.

Regardless of the emotions at play, however, it's the trial lawyer's job to put this aside in order to provide the best representation for their client.

Formulating a mental strategy, therefore, is equally as crucial as formulating a legal one. And just like the legal strategies, the mental game plan shifts with each case. You must know your opponent — and you must know yourself.

Here are some pointers for developing your mental game plan as you prepare for trial.

## **1. Identify your buttons.**

Your opponent is studying what vulnerabilities lie just below your surface. They might try to exploit your vulnerabilities to rattle and unsettle you.

The first step is identifying and recognizing these vulnerabilities in yourself — recognize your "buttons." If you fail to acknowledge them, you cannot develop a mental strategy to manage them.

We all have these. Some are rooted in impostor syndrome and insecurities, others come from stereotypes we've strived to overcome. Understanding what triggers your emotional response — a racing heart, clouded judgment or anger — is essential.

The buttons may relate to your limited trial experience, your lack of familiarity with the jurisdiction or judge, or even your gender. Imagine how often young lawyers are told they're doing things differently, or out-of-state lawyers are reminded they're outsiders, or female lawyers are told not to get upset.

These scenarios feed into self-doubt: Am I too young and inexperienced? I really am the outsider, and I am not on my home turf, which I know so well. Do I know what I'm doing? Am I too emotional?

We all have an inner voice that feeds our self-doubt. The first step to a strong mental game is recognizing your inner voice of doubt.

## **2. Expect your opponent to turn it off.**



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We have often lived with the case and the opponent for several years before facing a jury. Many times, the opponent has identified and pushed every button that we have, leaving us to carry that baggage into trial.

The jury, of course, is unaware of the discomfort your opponent has caused you and your client. They don't know of the derogatory remarks your opponent has flung your way, the sanctions motions filed against you, or the general disrespect you've endured.

Just like it is up to the jury to reach their own conclusions with respect to the case, it is up to them to form their own opinion of your opponent.

Effective opponents can switch off their unpleasant traits the moment they step in front of a jury. Brace yourself for your opponent to turn these off. And if your opponent can effectively turn it off, then your jury may like your opponent.

The last thing you want is the jury to think you are the unreasonable party. Step in front of the jury with a clean slate and a fresh mindset — treating your opponent as an entirely new entity.

The good news is that very few opponents manage to effectively turn it off. As we know, trial days are long and stressful, and it's usually only a matter of time before your opponents' true colors show. The jury may not like it, and if you have kept a clean slate, they likely won't hold it against you.

### **3. Be still and breathe.**

So, how do you maintain your cool? How do you create a clean slate mindset? Alan Eagle and Eric Poterat's book, "Learned Excellence: Mental Disciplines for Leading and Winning from the World's Top Performers," offers a solution used by top athletes to manage stress in high-pressure situations.

I like to think that trial lawyers are like athletes. We are in the arena. One of the tools offered in the book is simple: Breathe.

While easier said than done as adrenaline is coursing through your body — and especially difficult in the face of a relentless opponent — it is hugely beneficial. As adrenaline surges and creates energy, the body wants to dispel the extra energy through movement. But unlike athletes, we do not get the benefit of movement. So, you have to learn to harness this energy instead.

It can be very calming to repeat the mantra, "be still and breathe," both in your head and on paper. You may find that, as you grow more composed, your opponent may sometimes become more erratic or aggressive, moving around in stark contrast to your calm stillness.

There is strength and power in quiet resilience. Once you are physically and mentally still, your whole demeanor changes, and you command the room because you have harnessed the energy.

Not all control needs to be dramatic. Even the smallest gesture can convey power if you're otherwise still in the face of chaos. These slight movements — even a step toward the witness or a glance at the jury — gain importance due to the energy you've harnessed.

To hold that type of energy, you must recognize it, harness it and then use it.

#### **4. Keep your focus, but dare greatly.**

President Theodore Roosevelt's 1910 "Citizenship in a Republic" speech, also known as the "Man in the Arena" speech, speaks to the challenges we face as trial lawyers in the courtroom:

It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; ... who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly.

It takes courage to step into the arena of a courtroom. It is not a place for the weak. Preparing a mental strategy to maintain your mental and emotional strength can set you apart.

It helps you stay focused on what is important. It can change the dynamic in the room. It can shift the power.

By investing in the development of a mental game plan, you can take comfort in knowing that no matter the outcome, you have dared greatly.

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