



# Moe Levine On Advocacy

Review by Anthony J. Skemp

There is no doubting that Moe Levine was and remains a “giant” in the field of plaintiff’s personal injury law. This book is the first chance that plaintiff lawyers have to study his advocacy techniques, however. *Moe Levine On Advocacy* is a collection of his essays, lectures and trial transcripts on various subjects; ranging from general lectures on advocacy (Part I), to lectures on anatomy and physiology (Part II) to lectures on medical malpractice (Part III) and closing argument (Part IV). While this compilation includes lectures and summations that were delivered over forty years ago, this writer believes that some of the concepts and arguments advanced in the book would still be effective today, even in the era of tort “reform.”

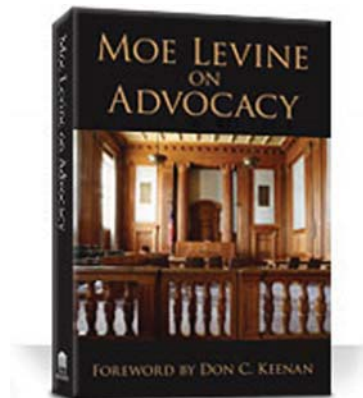
The first concept that stood out to me was Mr. Levine’s ability to elevate the jury to be the conscience of the community. To decide the question of what is going to determine a meaningful verdict, Mr. Levine asserted:

I struggled with this for many years, and finally I decided, and I have applied this decision to many cases, that a meaningful verdict is a verdict in which the juror, when he is allowed to talk about the case after he has decided it, can go back home and say to his wife, children, and neighbors, ‘Neighbors, I was just on a case. These were the facts. This is the decision I made,’ with the expectation that the decision he rendered upon the facts and arguments that he will present will be acceptable to his community.

On this topic, Mr. Levine implores advocates to tell the jury directly that they “are the voice of the community. When the jury speaks [it] speaks for community attitudes.” According to Don Keenan, who wrote a compelling “Foreward,” this approach makes jurors “feel singularly

important in their role of setting community standards” and has been utilized in his recent book, *Reptile: The Manual of the Plaintiff’s Revolution*. Thus, at the end of many of his summations Mr. Levine reminded jurors that when they rendered their decision, they “do not speak alone” for themselves, but they also “speak for justice and the community.”

The second concept that I found to be



compelling was the “Thesis of the Whole Man.” This concept stands for the proposition that you can never only injure “part” of a person; in other words, when you injure “part” of a person the “whole” person is adversely affected. According to Mr. Levine, “the destruction of part of a whole man has destroyed in part all of him.” This is a thesis that is “unasalable”:

It is so true that it requires no discussion. A headache does not just affect the head. It affects the whole man. Similarly, a sprained ankle, and a splinter in the finger affects the whole man.

The concept of “anything less than full justice is injustice” and “that what you leave a man is more important than what you take from him” are also developed throughout the lectures and summations. With regard to the latter concept, Mr.

Levine offers a powerful anecdote about two bums who lived on “skid row,” a man and a wife. They had no children, they had no work. All they had was each other. The wife was subsequently killed. While the defendant conceded liability, they questioned the damage component of the claim asserting that it did not have any significant value. In response, Mr. Levine answered, “He did not lose very much, did he, but he did not have very much and he lost everything he had. Where is he going to get another companion? That is finished. He must live the rest of his miserable life in loneliness. She wasn’t much, but she was all he had.”

Another concept that is repeated throughout the book is that “the greatest injury you can inflict upon a human being is the impairment of the enjoyment of living.” According to Mr. Levine, this is “the most serious of all damages.” On this topic he cites Ecclesiastes where it says “it is right and good that when a man has finished his day’s labors, he shall enjoy living.” He also asserts that “if all that is left in this tense world of ours is survival, who needs it? Who needs just survival? Just labor. Just work. No pleasure. No enjoyment of living. Is there a worse injury than the impairment of the enjoyment of living?” This certainly is a concept that still resonates today.

While the lectures on anatomy and physiology are “dry,” the lectures on advocacy and closing argument, while somewhat repetitive, certainly provide good “fodder” for trial lawyers, even today. Therefore, I think this book belongs on every trial lawyer’s book shelf.

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