

Ted Lasso for Trial Lawyers

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Introduction

This Article explores six lessons for trial lawyers based on the wit and wisdom of Coach Ted Lasso from his eponymous Apple TV original series. According to Apple TV, Ted Lasso is an American “football coach leading a British soccer team. What he lacks in knowledge, he makes up for with optimism . . . and biscuits.”¹ *Ted Lasso* has, up to the date of this Article, won eleven Emmys and has earned back-to-back Outstanding Comedy Series Emmy awards in 2021 and 2022.² The show’s twenty Emmy nominations in 2021 were the most for the first season of a comedy in Emmy history.³ *Ted Lasso*, which is based on a character created by Jason Sudeikis, Brendan Hunt, and Joe Kelly for a series of NBC Sports television commercials in 2013,⁴ has won widespread appeal, at least in part because of the show’s lighthearted comedy and uplifting messages, which were well-received by audiences when the show debuted during the COVID pandemic.⁵

This Article discusses key lessons that trial lawyers can learn from *Ted Lasso*. From “be curious” to “be yourself” to “be a goldfish,” trial

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¹ *Ted Lasso*, APPLE TV, <https://tv.apple.com/us/show/ted-lasso/umc.cmc.vtoh0mn0xn7t3c643xqonfzy> (last visited Dec. 8, 2023).

² *Id.*

³ James Gemmill, *How Ted Lasso Just Made Emmys History*, LOOPER (last updated Mar. 23, 2023, 10:39 AM EST), <https://www.looper.com/460437/how-ted-lasso-just-made-emmys-history>.

⁴ Selome Hailu, *Long Before Winning Big at the Emmys, ‘Ted Lasso’ Got Its Start as an NBC Sports Promo*, VARIETY (Sept. 26, 2021, 5:53 PM PT), <https://variety.com/2021/tv/news/ted-lasso-nbc-sports-promo-emmys-jason-sudeikis-1235074640>.

⁵ *17 Pop Culture Moments That Define the COVID Era*, N.Y. TIMES (Apr. 8, 2023), <https://www.nytimes.com/interactive/2023/04/08/opinion/covid-culture-tiktok-burnham.html> (“Yes, ‘Ted Lasso’ is a ‘feel good’ show. Like the best TV, however, it has sadness at its core. Ted may have helped many of us feel a little better during the pandemic.”).

lawyers have many lessons to learn from Coach Lasso.⁶ Although *Ted Lasso* is a fictional show that is often silly, its lessons for real-life trial lawyers are serious. Using curiosity to your advantage, exercising self-control, and normalizing care for your mental health are Lasso's pithy, sometimes funny, but often dead right lessons for litigators.⁷

“Be Yourself”

The advice to “be yourself” is just as useful outside as inside the courtroom. Early in the first season of *Ted Lasso*, Coach Lasso and the team's owner, Rebecca, have what seems to be a meaningless conversation about whether they would rather be a lion or a panda.⁸ Ted chooses to be a panda, and Rebecca selects a lion; as you may discover later in the show, those choices are not surprising.⁹ At the end of the conversation, the team's talented but vapid star player, Jamie Tartt, emerges from the locker room.¹⁰ The following exchange ensues:

Ted: Hey, Jamie, what would you rather be, a lion or a panda?
Jamie: Coach, I'm me. Why would I want to be anything else?
Ted: I'm not sure you realize how psychologically healthy that actually is.¹¹

The joke is, of course, Jamie is so self-centered that he cannot possibly imagine why he would choose to be anyone but Jamie Tartt. But Ted's reaction is one of the first times we see that Ted is much wiser than his critics believe.

⁶ See generally *Ted Lasso* (Ruby's Tuna Inc. Aug. 14, 2020).

⁷ My friend Steve Benesh also wrote an excellent article about *Ted Lasso* and the legal profession, and although Steve and I came up with our ideas independently and take mostly different approaches to the wisdom of *Ted Lasso*, I highly recommend his article as well. Steve Benesh, *Dealing with Opposing Counsel the Ted Lasso Way*, AUSTIN LAW., Oct. 2022, at 1.

⁸ *Ted Lasso: Biscuits* (Ruby's Tuna Inc. Aug. 14, 2020).

⁹ *Id.*; see, e.g., *Ted Lasso: Rainbow* (Ruby's Tuna Inc. Aug. 20, 2021) (in which Rebecca demonstrates how she makes herself feel powerful and assertive).

¹⁰ *Biscuits*, *supra* note 8.

¹¹ *Id.*

Teaching trial advocacy can be challenging for many reasons, especially because there is no one right way to do most aspects of trial work. Indeed, what can be the right way for one person to approach a situation may be the wrong way for another. One method we use to teach students and younger lawyers is by modeling best practices for them. Although useful, this approach carries risk because there is an unhelpful tendency for many who are learning the art of trial advocacy to simply imitate the techniques they see used by successful lawyers. In the end, simply imitating models is not the best form of advocacy because the best way to connect with your audience is to be yourself.¹² For instance, I practice in Texas and definitely do not have a Texas accent. Early in my career, I saw many fantastic trial lawyers mesmerize jurors with their slow, dramatic, Texas drawls, and I will confess that I actively wished I sounded like that. If you have ever seen or heard renowned trial attorney Gerry Spence slowly and methodically hammer home a brilliant point in his signature country accent, you know what I mean.¹³ When learning to argue motions in limine, I was taught to talk to the court about how you “can’t un-ring the bell” or “can’t get the skunk out of the jury box.” But then I watched a lawyer walk into a courtroom one day with this slow eastern Texas drawl and say, “Your honor, you can’t unbake a biscuit.” He could not possibly have made his point better. But I knew, even as I listened in awe to this perfect motion in limine metaphor, that it was just never going to work for me. We can always learn lessons from other lawyers, but in the end, the best advice is not to try to be like other lawyers. Be yourself.

“Be a Goldfish”

One of the most likable characters on *Ted Lasso* (and it is a show full of likable characters) is Sam Obisanya, a Nigerian-born player chasing his dream of big-time soccer (football) in London.¹⁴ Early in the show,

¹² See, e.g., BRENÉ BROWN, BRAVING THE WILDERNESS: THE QUEST FOR TRUE BELONGING AND THE COURAGE TO STAND ALONE 40 (2017) (“True belonging doesn’t require you to *change* who you are; it requires you to *be* who you are.”).

¹³ See GERRY SPENCE, <https://gerryspence.com/> (last visited Oct. 15, 2023) (noting that Gerry Spence is from Wyoming, not Texas, and acknowledging that Gerry Spence has never lost a criminal case).

¹⁴ *Ted Lasso: Pilot* (Ruby’s Tuna Inc. Aug. 14, 2020).

Ted believes Sam is not living up to his enormous potential because Sam is too hard on himself.¹⁵ The following interaction occurs immediately after Sam makes a mistake:

Ted: You know what the happiest animal on Earth is?
Sam: [Very confused, shakes his head]
Ted: It's a goldfish. You know why?
Sam: [Even more confused] No.
Ted: Got a ten second memory. Be a goldfish, Sam.¹⁶

To quote *Top Gun*, good lawyers, like pilots, are “compelled to evaluate what’s happened, so [he or she] can apply what [they have] learned.”¹⁷ It is absolutely critical that we, as lawyers, learn from our mistakes because that is one of the ways we get better. Although it is important to learn from our mistakes and improve, it is also important that we do not dwell on them, especially while we are still in the courtroom. Yes, you might have missed an objection at trial, but if you spend the next ten minutes beating yourself up about your mistake, you might miss one or two more opportunities for objections. As real-life sports coaches are fond of saying, “[d]on’t let one loss beat you twice.”¹⁸ Ted’s goldfish advice helps you learn how to do just that: understand how you came up short, figure out a plan to not do that again, and then forget about it and get back to work.

Although it is an extremely popular belief that goldfish have a short memory or a short attention span, research suggests neither belief is true. Experimental results show that goldfish remember things they learned weeks or months ago.¹⁹ While Ted’s goldfish advice might not be rooted in science, this scientific revelation gives Ted’s advice a second context. Do not just be a goldfish. Assume your jurors are goldfish, too. The

¹⁵ *Biscuits*, *supra* note 8.

¹⁶ *Id.*

¹⁷ TOP GUN (Paramount Pictures 1986).

¹⁸ Sheldon Mickles, *Will Wade to Team: ‘Don’t Let One Loss Beat You Twice’ as LSU Tries to Get off the Mat at Kentucky*, THE ADVOCATE (Jan. 22, 2021) (quoting LSU basketball coach Will Wade), https://www.theadvocate.com/baton_rouge/sports/lsu/will-wade-to-team-dont-let-one-loss-beat-you-twice-as-lsu-tries-to/article_ac08817e-5d06-11eb-a992-97c6795dc565.html.

¹⁹ See, e.g., Harry Baker, *Do Goldfish Really Have a 3-Second Memory?*, LIVE SCI. (May 22, 2021), <https://www.livescience.com/goldfish-memory.html>.

difference here is how to apply the metaphor. As a lawyer, you should forget your mistakes and move on so you can keep doing *your* job, but you should also find a way to get your jurors to listen and remember what you have said so that they can do *their* job. Remember, experiments have suggested that goldfish do not have short memories and can remember things they *learned* weeks or even months ago.²⁰

Microsoft claimed in 2015 in a widely debunked report that human attention spans have dropped to eight seconds, which is lower than Ted’s proverbial goldfish’s attention span, but basic logic and Netflix binging patterns show that human attention spans are longer than eight seconds.²¹ We know that capturing jurors’ attention is a key task of a trial lawyer, so take a lesson from the studies on goldfish memory.²² If you can get jurors to *learn* something, perhaps they, like their domesticated fish friends, can remember what they have learned for a meaningful period. Therefore, do not just *tell* your jurors something—*teach* them something. Did you know that goldfish are a type of carp?²³ Now you do. Hopefully, that is not the only thing you have learned and thus will remember from this Article.

“Be Curious, Not Judgmental”

The moment when Ted said to “[b]e curious, not judgmental” might be the most profound, memorable moment of the series.²⁴ To re-cap, Ted, an American football coach who knows nothing about soccer, is hired

²⁰ *Id.*

²¹ *Attention Spans*, Consumer Insights: Microsoft Can. 1, 6 (Spring 2015), <https://dl.motamem.org/microsoft-attention-spans-research-report.pdf>; Shane Snow, *Science Shows: Humans Have Massive Capacity for Sustained Attention, and Storytelling Unlocks It*, FORBES (Jan. 16, 2023, 8:32 AM EST), <https://www.forbes.com/sites/shanesnow/2023/01/16/science-shows-humans-have-massive-capacity-for-sustained-attention-and-storytelling-unlocks-it/?sh=568a782d1a38> (noting Microsoft has removed this report from its website and that a majority of television consumers have “watched [five] hours of content in a single sitting”); *Biscuits*, *supra* note 8 (claiming that a goldfish has a ten second memory).

²² Baker, *supra* note 19.

²³ *Goldfish*, BRITANNICA, <https://www.britannica.com/animal/goldfish> (last visited Oct. 15, 2023).

²⁴ Watching the first eight episodes of the first season are pretty much worth it for this moment alone. *Ted Lasso: The Diamond Dogs* (Ruby’s Tuna Inc. Sept. 18, 2020).

to be the new coach of a professional soccer team in London.²⁵ The team's new owner, Rebecca, has hired Ted for the sole purpose of running the team into the ground, an event she believes will bring great pain to her cheating and manipulative ex-husband, Rupert, who used to own the team and is a huge fan.²⁶ Eight episodes into the show, Ted and Rebecca run into Rupert and Rupert's new fiancée at a pub.²⁷ At this point in the season, the audience knows why Rebecca hired Ted, but Ted does not.²⁸ However, Ted does know that Rebecca has significant trauma stemming from Rupert's bad behavior and from their divorce.²⁹ In an effort to help Rebecca, Ted makes a bet with Rupert that both Ted and Rebecca absolutely cannot afford to lose.³⁰ To settle the bet, Rupert challenges Ted to a game of darts, and Ted, over Rebecca's objection, accepts the wager.³¹ Rupert pulls out a fancy custom set of darts.³² Dread seeps into the audience since it is clear Ted has been hustled.³³ Rupert begins obliterating Ted in the darts game.³⁴ As Ted comes down to his final three throws, the scene goes like this:

Rupert: [With a seemingly insurmountable lead, Rupert says something degrading and sexist about Rebecca that I will not reprint.]

Ted: [To Rupert, firm and loud, but with a megawatt smile on his face] Hey! Better manners when I'm holding a dart. Please. [To May, the owner of the pub] May, what do I need to win?

May: Two triple twenties and a bullseye. [She says it sadly because it would be an incredible feat.]

Rupert: [Laughing] Good luck. [Sips champagne. Literally.]

Ted: You know, Rupert, guys have underestimated me my entire life, and for years I never understood why. It used to really bother me. But then one day I was driving my little boy to school, and I saw this

²⁵ *Pilot*, *supra* note 14.

²⁶ *Id.*

²⁷ *The Diamond Dogs*, *supra* note 24.

²⁸ *Pilot*, *supra* note 14.

²⁹ *Ted Lasso: For the Children* (Ruby's Tuna Inc. Aug. 21, 2020).

³⁰ *The Diamond Dogs*, *supra* note 24.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

quote by Walt Whitman, it was painted on the wall there and it said, “Be curious, not judgmental.” I like that. [Ted throws a dart, confidently. It is a triple twenty. The crowd cheers.]

So, I get back in my car and I’m driving to work and all of a sudden it hits me. All them fellas that used to belittle me, not a single one of them were curious. You know, they thought they had everything all figured out, so they judged everything, and they judged everyone. And I realized that their underestimating me—who I was had nothing to do with it. Because if they were curious, they would’ve asked questions. You know? Questions like, “Have you played a lot of darts, Ted?” [Ted throws another dart, with a smile on his face. It’s a triple 20. The crowd cheers a lot.]

Which I would have answered, “Yes sir. Every Sunday afternoon at a sports bar with my father from age ten until I was sixteen when he passed away.” [Pause.] Barbecue sauce. [Ted smiles. Ted throws a dart, confidently. It’s a bullseye. Ted wins. The crowd erupts.]³⁵

“Be curious, not judgmental.”³⁶ Just as this scene may be my favorite moment in the series, it is also my favorite lesson for lawyers from *Ted Lasso*. There are indeed so many ways that being curious serves lawyers well; however, I will offer just three examples.

First, curious depositions are effective depositions. Many lawyers, especially defense lawyers who are hoping to dispose of a case on summary judgment, use deposition testimony as a means to cabin the testimony of an adverse witness and to get the witness to agree to the lawyer’s version of the facts. Certainly, this is often a highly successful use of deposition testimony. Once upon a time, I had a case where an employee was fired for threatening a co-worker in the workplace. During the plaintiff’s deposition, I asked him flat-out, “The company says they fired you for threatening [name] by [describe highly aggressive behavior

³⁵ *Id.*

³⁶ Ted claims this is a quote by American poet Walt Whitman. Co-director of the Walt Whitman Archive and University of Iowa Professor Ed Folsom has said there is no evidence Whitman authored this quote. However, it appears the Internet has attributed the quote to Whitman long before Ted did, and it is highly plausible that a wall in Kansas would indeed contain this quote and attribute it to Whitman. The earliest known in-print use of the phrase was authored by Marguerite and Marshall Shearer in their advice column in the January 1986 edition of *The Charlotte Observer*. Dan Evon, *Did ‘Be Curious, Not Judgmental’ Originate with Walt Whitman?*, SNOPE (Aug. 5, 2021), <https://www.snopes.com/fact-check/be-curious-not-judgmental-walt-whitman>.

and language here]. You did, in fact, threaten [name] by [describe highly aggressive behavior and language here], didn't you?" And his answer was, "Yes, I did." That quote from the deposition was the first line of my motion for summary judgment that was granted and then affirmed on appeal.

On the other hand, many trial lawyers know the awful feeling of heading into a jury trial wanting to ask an adverse witness a question on cross-examination but being unable to because they never asked that question in the witness's deposition.³⁷ It is useful in a deposition to confirm your version of events, but it is also critical to make sure you have a complete picture of the witness's knowledge. Consider this exchange in the deposition of a corporate representative whose company fired an employee for punching another employee in the face:

Q: You fired my client [the plaintiff] for punching [name] in the face at work?

A: Yes.

Q: You were not present when the punch allegedly occurred?

A: No.

Q: To your knowledge, no one was present at the time except the plaintiff and [name]?

A: Correct.

Q: You interviewed the plaintiff, and he denied punching [name]?

A: Correct.

Q: You did not interview [name]?

A: No, I did not.

Q: So, just to wrap up, you were not there, you did not identify any person who was there other than the plaintiff and [name], the plaintiff denied punching [name], and you didn't talk to [name] at all?

A: Correct.

Of course, the lawyer thinks he has nailed the corporate representative to the wall. But the lawyer should have heeded Ted's advice. "Because

³⁷ See FRANCIS L. WELLMAN, *THE ART OF CROSS-EXAMINATION* 44 (1903) (noting an attorney should never ask a witness a question the attorney does not know the answer to); see also *infra* "Control Yourself" (discussing in part the old adage of cross-examination that you never ask a question to which you do not know the answer).

if they were curious, they would have asked questions. You know?”³⁸ Questions like, “Why did you feel so confident that the plaintiff punched his co-worker?” The witness would have answered, “Because we had security cameras, and the entire incident was caught on tape from two angles. I watched the tapes multiple times.” Whether you are taking depositions, interviewing witnesses, reviewing documents, meeting a new client, or negotiating with opposing counsel, be curious. Ask questions. Listen. You might learn something that will save you from embarrassment.

Second, model curiosity for the jury in your courtroom behavior. During the trial, jurors are hungry for any guidance they can get. Judges, as they should, make every effort to keep their poker face and not send signals to the jury about what is important or interesting.³⁹ But lawyers are under no such obligation. If a juror cannot glean helpful clues from the judge, that juror will then look to the lawyers. It is human nature; when a person, in this case, a juror, looks at another person, in this case, a trial lawyer, the juror’s gaze is naturally drawn to wherever the trial lawyer is looking.⁴⁰ This behavior is called “gaze following,” and it is such a fundamental aspect of human interaction that scientists have studied how children with autism spectrum disorder exhibit less ability to engage in gaze following than neurotypical children.⁴¹ Trial lawyers and other public speakers use gaze following by looking where their audience is looking to gauge whether they are maintaining the audience’s interest. When trying to engage jurors, remember that gaze following works both ways. When a juror looks at you, they will then automatically look to where you are looking.⁴² So, model curiosity for your jurors.

³⁸ *The Diamond Dogs*, *supra* note 24.

³⁹ See MODEL CODE OF JUD. CONDUCT r. 2.2 (AM. BAR ASS’N 2020) (“A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”).

⁴⁰ Qiandong Wang et al., *Gaze Response to Others’ Gaze Following in Children with and Without Autism*, 129 J. ABNORMAL PSYCH. 320, 321 (2020) (“[W]e not only respond to others’ gazes passively but also interpret others’ responses to the direction of our own gazes and modify our attention accordingly.”).

⁴¹ *Id.* (noting that gaze following is important for learning language and social cues).

⁴² *Id.*

Look where you want them to look. Pay attention to what you want them to pay attention to. If jurors see that you or your client are not paying attention to the testimony, they are likely to conclude that you believe the testimony is unimportant.⁴³

Third, consider Ted's advice to "[b]e curious, not judgmental" when you prepare for cross-examinations, especially when crossing a witness whose credibility you doubt. Remember, "[m]ore cross examinations are suicidal rather than homicidal."⁴⁴ In other words, in their effort to make witnesses look bad on cross-examination, lawyers more often succeed in making themselves look bad.⁴⁵ This is especially true when lawyers try to impeach witnesses.⁴⁶ In fact, lawyers should always plan for impeachment to occur at the end of a cross-examination since it gives the lawyer more opportunities to decide whether to skip impeachment altogether.⁴⁷

If you truly believe the need to impeach exists, heed Ted's advice. If you know a witness's testimony is wrong and, in your professional judgment, decide it is worth the cost to try to impeach the witness, remember that not every incorrect witness is a dishonest witness.⁴⁸ Sure, some witnesses give false testimony because they believe the testimony, despite its falsity, will be helpful for them. On the other hand, some

⁴³ Janet Lee Hoffman & Andrew Weiner, *The Juror as Audience: The Impact of Non-Verbal Communication at Trial*, OR. STATE BAR LITIG. J., Fall 2013, at 1, 2 (discussing a trial where some jurors believed "the parties were not paying attention to witnesses' testimony if the litigants did not believe the testimony was relevant to their case"). Of course, sometimes you do not want jurors to think a particular witness's testimony is important, so it is usually bad advocacy to glare intently at your opponent's witnesses while they are on the stand testifying on direct examination.

⁴⁴ HERBERT J. STERN, TRYING CASES TO WIN: CROSS-EXAMINATION 1 (1993) (quoting Emory R. Buckner).

⁴⁵ See *infra* Section, "Control Yourself."

⁴⁶ See STERN, *supra* note 44, at 20 ("Because whenever we attack the credibility of a witness and fail, we thereby impeach and impale our own.").

⁴⁷ See *id.* ("The most common error during cross-examination is the assumption that every cross-examination should attempt to *impeach* the adverse witness.").

⁴⁸ See DANIEL L. SCHACTER, THE SEVEN SINS OF MEMORY: HOW THE MIND FORGETS AND REMEMBERS 92-93 (2001) (discussing misidentification of suspects and how a witness can "incorrectly attribute[] a face's familiarity to the wrong source because [he or she] unconsciously transfers memory of the individual from one context to another").

witnesses give inaccurate testimony because they did not perceive, understand, or remember something accurately.⁴⁹

Dallas attorney Quentin Brogdon created a wonderful continuing legal education (CLE) program on this very topic called “Lessons From the Kennedy Assassination for Cross-Examination.”⁵⁰ I highly recommend this CLE program not only for the lessons taught about cross-examination and the accuracy of eyewitness accounts, but also because it is a fascinating history lesson. As most people know, United States President John F. Kennedy was assassinated in 1963 while riding in his car through Dealey Plaza in Dallas, Texas.⁵¹ Hundreds of people witnessed this horrific event.⁵² Yet those witnesses do not all agree on basic facts about that day, including “the number of shots fired, the direction from which shots came, and the number of assassins firing shots.”⁵³ In a world before the twenty-four-hour news cycle, there appear to be few, if any, reasons that eyewitnesses to this event would intentionally misstate their recollection.⁵⁴ Yet many eyewitnesses did not agree on these simple facts about the event.⁵⁵ Brogdon’s point in bringing up these diverging descriptions of the assassination is that just because a witness is wrong does not mean the witness is lying.⁵⁶

⁴⁹ *Id.* at 91-93 (discussing how significantly eyewitness Tom Kessinger misremembered the physical description of the Oklahoma City bombing suspects in an FBI interview he gave mere days after seeing the suspects and the potential reasons for this misidentification).

⁵⁰ See generally Quentin Brogdon, *Lessons from the Kennedy Assassination for Cross-Examination*, TEX. L. CLE (Apr. 2022), <https://utcle.org/ecourses/OC9050>; Quentin Brogdon, *Lessons from the Kennedy Assassination About Eyewitness Testimony*, TEX. LAW. (Sept. 20, 2021, 11:06 AM), <https://www.law.com/texaslawyer/2021/09/20/lessons-from-the-kennedy-assassination-about-eyewitness-testimony/> [hereinafter *Lessons from the Kennedy Assassination*] (Brogdon also wrote an excellent article on the same topic.); *Quentin Brogdon*, CRAIN BROGDON LLP, <https://www.crainbrogdon.com/quentin-brogdon> (last visited Oct. 16, 2023) (identifying Quentin Brogdon as a trial attorney practicing in Texas).

⁵¹ *Lessons from the Kennedy Assassination*, *supra* note 50.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *CNN Launches*, HISTORY (last updated May 28, 2020), <https://www.history.com/this-day-in-history/cnn-launches#> (stating the first twenty-four-hour news network launched in 1980).

⁵⁵ *Lessons from the Kennedy Assassination*, *supra* note 50.

⁵⁶ See *id.*

If you need to correct a misstatement by an adverse witness on cross-examination (*i.e.*, by impeaching the witness), do not start from the assumption that your job is to make them look like a liar. Your job is to persuade the jury that the statement the adverse witness made is not to be believed. Being curious about the witness's reason for giving inaccurate testimony (*e.g.*, failure of memory, failure of perception, or failure to understand the question) allows you to take the best approach possible when impeaching that witness. Sometimes, the best possible impeachment is the kindest possible impeachment. If you do not believe me, watch Vinny's outstanding impeachment of Mrs. Riley in *My Cousin Vinny*.⁵⁷ Vinny does not suggest that Mrs. Riley is being dishonest, and he does not take a tone of anger or aggression.⁵⁸ Instead, Vinny exhibits curiosity about Mrs. Riley's vision problems and frequency of new eyeglass prescriptions and is thus able to demonstrate conclusively, but kindly, that her eyewitness identification of his clients is useless.⁵⁹

“Control Yourself”

Roy Kent, played with Emmy-winning brilliance by Brett Goldstein, is Ted's team captain and a former star player who is now past his prime.⁶⁰ Roy is also enormously grumpy and extremely fond of cursing.⁶¹ Roy's outward persona is summed up best by Keeley Jones as she, in a ridiculous-but-accurate impression of Roy, drops her voice several octaves and grunts, “I'm Roy Kent, and I get paid to play a game, but I'm mad all the time.”⁶²

⁵⁷ See *MY COUSIN VINNY* (Twentieth Century Fox 1992).

⁵⁸ *Id.*

⁵⁹ *Id.* Vinny's cross-examination of Mr. Tipton, though somewhat less kind, is also a great example of using curiosity to get a witness to go where you need them to go.

⁶⁰ Bryan Kalbrosky, *The Awesome Story of How 'Ted Lasso' Writer Brett Goldstein Turned Himself into Roy Kent*, FOR THE WIN (July 23, 2021, 7:59 AM ET), <https://ftw.usatoday.com/2021/07/ted-lasso-roy-kent-brett-goldstein-jason-sudeikis-casting>; Harriet Sherwood, *Ted Lasso Actor Wins and Swears Again at Emmys*, THE GUARDIAN (Sept. 13, 2022, 8:50 EDT), <https://www.theguardian.com/tv-and-radio/2022/sep/13/ted-lasso-actor-brett-goldstein-roy-kent-wins-and-swears-again-at-emmys>.

⁶¹ Kalbrosky, *supra* note 60.

⁶² *Ted Lasso: Trent Crimm: The Independent* (Ruby's Tuna Inc. Aug. 14, 2020).

At the beginning of *Ted Lasso*, Keeley is dating Roy's arch-nemesis, Jamie Tartt.⁶³ However, during season one, Keeley dumps Jamie, and Keeley and Roy explore whether they want to be romantically involved with each other.⁶⁴ Unfortunately, Roy cannot get over the fact that Keeley used to date Jamie.⁶⁵ Roy comes to Ted for advice, or rather, to express his anger; Ted is the one who converts Roy's venting session into a learning opportunity:

Roy: [Angrily] I can't control my feelings!

Ted: [Loudly, with wild hand gestures] Well then by all means you should let them control you!⁶⁶

Now, sarcasm is not Ted's typical mode of persuasion. Fans of the show would likely say that it is Ted's earnest approach to communication that makes him so endearing.⁶⁷ However, the best way to create emphasis is often through contrast, and Ted contrasting his typical down-to-earth and straightforward style with over-the-top sarcasm grabs the attention of both of his intended audiences—Roy Kent and the audience streaming from home.

What do I like about this moment? One of my first advocacy teachers used to talk about the subject of control on cross-examination.⁶⁸ He said that people will tell you that on a good cross-examination, you control the witness. However, he noted that this advice is not exactly accurate since it is nearly impossible to control another human being.⁶⁹ The only

⁶³ *Pilot*, *supra* note 14.

⁶⁴ *For the Children*, *supra* note 29; *The Diamond Dogs*, *supra* note 24.

⁶⁵ *The Diamond Dogs*, *supra* note 24.

⁶⁶ *Id.*

⁶⁷ See *Ted Lasso: The Signal* (Ruby's Tuna Inc. Aug. 27, 2021) (The coaching staff came up with a signal to let star player Jamie Tartt know when it is acceptable to aggravate the opposing team. The signal involves flipping Jamie off, and Ted looks decidedly uncomfortable doing so.).

⁶⁸ Thanks to Walter L. Taylor, my first mock trial coach and the person who taught me this and many other lessons that I still use to this day.

⁶⁹ See, e.g., Julia M. Walker, "For Each Seem'd Either": *Free Will and Predestination in "Paradise Lost"*, 20 MILTON Q. 13, 13-16 (1986) (addressing Milton's relationship with free will and noting that some believe humans had free will before the fall of Adam and Eve). *But see* ROBERT M. SAPOLSKY, BEHAVE: THE BIOLOGY OF HUMANS

person you can control is yourself. And that is what you must do on cross-examination. The way to win on cross-examination is to be disciplined. Think about some of the following all-time classic pieces of advice on cross-examination:

- Never ask a question to which you don't know the answer.⁷⁰
- Know the facts even better than the witness does.
- Keep your questions short.
- Only ask one fact per question.⁷¹
- Avoid adjectives and adverbs in your questions.
- Keep up your pace to encourage “yes” momentum.
- Never exaggerate.
- Only impeach when it is truly worth it.
- Do not get into a fight with the witness; in the eyes of the jury, the witness almost always wins.⁷²

Teachers of cross-examination have described the above tools as ways to control the witness. But if you look carefully, each is simply a rule about controlling yourself. Think of cross-examination techniques as an analog of the Japanese martial art Aikido, which was famously described as “not for correcting others; it is for correcting your own mind.”⁷³ Everyone wants to throw a knockout punch and have a Perry Mason moment on cross-examination.⁷⁴ When a witness under cross-examina-

AT OUR BEST AND WORST 584-86 (2017) (“Thus hardly anyone believes that we have complete conscious control over our behavior, that biology never constrains us.”).

⁷⁰ Harry M. Caldwell & Deanne S. Elliot, *Avoiding the Wrecking Ball of a Disastrous Cross Examination: Nine Principles for Effective Cross Examinations with Supporting Empirical Evidence*, 70 S.C. L. REV. 119, 124 (2018).

⁷¹ *Id.* at 129.

⁷² *Id.* at 139 (“Cross-examiners perceived as unnecessarily aggressive or disrespectful will pay the cost with their jurors.”).

⁷³ Josh Gold, “*Memoir of the Master*,” by Morihei Ueshiba with Commentary by Stanley Pranin, AIKIDO J. (Dec. 24, 2014), <https://aikidojournal.com/2014/12/24/memoir-of-the-master-by-morihei-ueshiba-with-commentary-by-stanley-pranin-2-2>.

⁷⁴ The Perry Mason Method, TV TROPES, <https://tvtropes.org/pmwiki/pmwiki.php/Main/ThePerryMasonMethod> (last visited Oct. 18, 2023) (noting the Perry Mason method is “[n]amed for the iconic 1957-1966 Law Procedural TV series *Perry Mason*, in which Perry’s client was always innocent, and Perry always won the day by getting the guilty party to confess on the stand during cross-examination”).

tion fights, wanders, explains, or even lies, it is easy to, as Ted sarcastically advises, let your emotions control you.⁷⁵ It is easy to lash out. But do not let your emotions control you. Control the witness by controlling yourself.

“Can I Get Real a Second?” De-Stigmatizing Mental Health Issues and Self-Care

Finding sobering statistics on the Internet about attorneys and mental health is not difficult. A study commissioned by the American Bar Association (ABA) and published in 2016 found that of the nearly 13,000 lawyers who responded to the survey, twenty-eight percent suffered from depression, nineteen percent had anxiety, and nearly twelve percent had previously experienced suicidal thoughts.⁷⁶ The study also found that over twenty percent of the lawyers who responded scored at a level consistent with problematic drinking, nearly double the score registered by a general highly-educated workforce.⁷⁷

More recently, an ABA study in early 2021 found that a significant number of lawyers had recently considered leaving the profession because of mental health concerns.⁷⁸ Specifically, twenty-five percent of the women and seventeen percent of the men who responded to the survey had considered leaving the profession.⁷⁹

⁷⁵ *The Diamond Dogs*, *supra* note 24.

⁷⁶ Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 46, 50 (Jan./Feb. 2016) (presenting the findings of the study); *New Study on Lawyer Well-Being Reveals Serious Concerns for Legal Profession*, AM. BAR ASS'N (Dec. 2017), <https://www.americanbar.org/news/abanews/publications/youraba/2017/december-2017/secretcy-and-fear-of-stigma-among-the-barriers-to-lawyer-well-being> [hereinafter *Study on Lawyer Well-Being*] (discussing the findings of the above mentioned study and noting that the study “revealed high rates of substance use and mental health disorders among law students and lawyers [and has] put the issue of lawyer well-being front and center for the profession”).

⁷⁷ Krill et al., *supra* note 76, at 51.

⁷⁸ Stephanie Francis Ward, *As Lawyer Stress Escalates During Pandemic, LAP Agencies See Significant Increase in Calls*, AM. BAR ASS'N (May 26, 2021), <https://www.americanbar.org/groups/journal/articles/2021/as-lawyer-stress-escalates-during-pandemic--lap-agencies-see-sig>.

⁷⁹ *Id.*

Ted Lasso's most dominant theme is dealing with personal trauma. For instance, Ted takes a job in London in a failed attempt to avoid the trauma of his impending divorce half a world away.⁸⁰ Rebecca hires Ted in a failed attempt to avenge the trauma inflicted upon her by her ex-husband.⁸¹ The entire second season of the show explores how our experiences with our parents or parental figures create, perpetuate, prevent, or soothe trauma, even leading Ted to joke that he loves meeting people's parents because "[i]t's like reading an instruction manual as to why they're nuts."⁸² Indeed, the plot of *Ted Lasso* is often driven specifically by characters refusing to deal with their trauma. For instance, early in the second season, Ted makes repeated jokes about his refusal to seek mental health support from a professional.⁸³ One of the truly transcendent cultural moments of the show is when Ted is reluctant to allow Dani Rojas, a new star on the team who hails from Mexico, to seek advice from a therapist hired by the team.⁸⁴ Ted is at dinner with his assistant coach and best friend, Coach Beard, when the following conversation happens:

Ted: Hey, Coach, can I get real a second? Forget my meal a second?
Beard: Put down your beer and tell your buddy how you feel a second.
Ted: Yeah.
Beard: [Smiles kindly] Sure.⁸⁵

Ted then tells Coach Beard he is not comfortable with Dani seeing a therapist because Ted is not comfortable with the idea of people seeing therapists at all.⁸⁶ The revelation comes as no surprise to the audience, who has heard Ted make the same types of dismissive jokes about therapy that lawyers have often heard from their co-workers, peers, and bosses.⁸⁷

⁸⁰ *Pilot*, *supra* note 14.

⁸¹ *Id.*

⁸² *The Signal*, *supra* note 67.

⁸³ *Ted Lasso: Goodbye Earl* (Ruby's Tuna Inc. July 23, 2021).

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

Fortunately, events in season two lead Ted to change his mind about the value of seeking therapy, and Ted begins to accept that he needs help with his mental health.⁸⁸ He allows himself to be vulnerable with people about the trauma that led him to this point in life.⁸⁹ As Ted begins to heal, it is of no coincidence that he also begins to win.⁹⁰

Being a lawyer, especially a trial lawyer, is a stressful job. Members of our profession suffer at unacceptable rates from conditions like depression, anxiety, and substance abuse.⁹¹ Although many lawyers, including myself, are not qualified to help colleagues treat these issues, we *can* help de-stigmatize them. We can accept and even applaud lawyers who are brave enough to take the first few steps of seeking help. Additionally, we can be honest and vulnerable about our own personal struggles, which is a sentiment that researcher and storyteller Brené Brown would echo.⁹²

Lawyers do not have to be alone in this journey. Across the country, numerous state bar associations provide confidential services to attorneys who may need assistance with mental health or substance abuse concerns. For example, the amazing Texas Lawyers' Assistance Program here in my home state provides services and resources for attorneys who need help.⁹³ In 2014, one commentator noted:

[A]t least [twenty-five] percent of attorneys who face formal disciplinary charges from their state bar are identified as suffering from addiction or other mental illness, with substance abuse playing at least some role in [sixty] percent of all disciplinary cases. Furthermore, approximately [sixty] percent of all malpractice claims and [eighty-five] percent of all trust fund violation cases involve substance abuse.⁹⁴

⁸⁸ *The Signal*, *supra* note 67 (Ted has a panic attack during a game.); *Ted Lasso: Headspace* (Ruby's Tuna Inc. Sept. 3, 2021) (Ted goes to therapy.).

⁸⁹ *Ted Lasso: No Weddings and a Funeral* (Ruby's Tuna Inc. Sept. 24, 2021).

⁹⁰ *Ted Lasso: Inverting the Pyramid of Success* (Ruby's Tuna Inc. Oct. 8, 2021).

⁹¹ *Study on Lawyer Well-Being*, *supra* note 76.

⁹² See Brené Brown, *The Power of Vulnerability*, TEDX (June 2010), https://www.ted.com/talks/brene_brown_the_power_of_vulnerability (describing her desire to understand “messy” topics and how shame can interfere with human connection).

⁹³ See TEX. LAW. ASSISTANCE PROGRAM, <https://www.tlaphelps.org/lawyers> (last visited Oct. 18, 2023).

⁹⁴ Patrick R. Krill, *If There Is One Bar a Lawyer Cannot Seem to Pass: Alcoholism in the Legal Profession*, 44 THE BRIEF 47, 48 (Fall 2014) (citation omitted).

Considering the stigma that has long driven lawyers to conceal mental health or substance abuse problems, it is highly likely those numbers are understated. Many states provide assistance to lawyers struggling with mental health or substance abuse, and a simple Internet search should help you find an assistance program in your jurisdiction if you or your colleagues need help.

“Enter the Arena, But Bring a Knife”

During season two of *Ted Lasso*, a minor character claims to be reading a new book written by Brené Brown titled *Enter the Arena, But Bring a Knife*.⁹⁵ In reality, there is no such book from Brené Brown, although she is obviously a fan of the show and enjoyed the joke.⁹⁶ However, there is an actual quote from Dr. Brown that might be the source of this joke:

If you are not in the arena getting your ass kicked on occasion, I’m not interested in or open to your feedback. There are a million cheap seats in the world today filled with people who will never be brave with their lives but who will spend every ounce of energy they have hurling advice and judgment at those who dare greatly. Their only contributions are criticism, cynicism, and fearmongering. If you’re criticizing from a place where you’re not also putting yourself on the line, I’m not interested in what you have to say.⁹⁷

As discussed in the section on mental health above, lawyers as a group suffer disproportionately from mental health issues.⁹⁸ I believe at least

⁹⁵ *The Signal*, *supra* note 67.

⁹⁶ See Brené Brown (@BreneBrown), TWITTER (Aug. 31, 2021, 5:13 PM), <https://twitter.com/brenebrown/status/1432828942495453190?lang=en> (stating that she is releasing a new book, but it is “not titled ‘Enter the Arena but Bring a Knife’”). Dr. Brown has since done interviews with *Ted Lasso* cast members. Brené Brown, *Brett Goldstein on Comedy, Creativity, and Roy Kent*, UNLOCKING US (Oct. 20, 2021), <https://brenebrown.com/podcast/comedy-creativity-and-roy-kent>; Brené Brown, *Sarah Niles on Life, Truth, and Ted Lasso*, UNLOCKING US (Sept. 29, 2021), <https://brenebrown.com/podcast/life-truth-and-ted-lasso>.

⁹⁷ BRENE BROWN, DARE TO LEAD: BRAVE WORK. TOUGH CONVERSATIONS. WHOLE HEARTS. 20 (2018).

⁹⁸ See *supra* Section “Can I Get Real a Second?”.

one reason the legal profession is so stressful is that we sometimes forget what we do and do not have control over.⁹⁹ We do not control the facts of our cases. We do not control whether or not opposing witnesses are willing to lie on the stand. And, with limited exceptions, we do not control who the ultimate person or set of people are who will decide our case. But, most importantly, we do not control the outcome of cases that go to trial. After all, “[w]e are not in the outcome guarantee business.”¹⁰⁰

Conclusion

As discussed above, some of the major themes of *Ted Lasso* are optimism, integrity, and dealing with trauma. But another recurring concept in the show is the idea that while it is easy to criticize, critics simply do not matter as much as those who choose to enter the arena and do the hard work.¹⁰¹ Being a trial lawyer is hard. If you try enough cases, you will lose some. If you try enough big cases, you will lose some big. Our job as trial lawyers is not—because it cannot be—to achieve a winning result for our clients.¹⁰² Instead, our job is to do the very best we can do. Our job is to be as prepared as we reasonably can, to take on cases that we are reasonably qualified to take on, to practice and study and learn to be the best we can, to take care of our mental and physical health so that we can perform the best we can, and then to walk into court and give it our all. Afterwards, like the goldfish, try not to dwell on the case excessively. Celebrate the wins, grieve the losses, get back up, and do even better next time. When a case, a hearing, or an objection is over, let it go. Your sanity—and good results for future clients—depends on it. Most importantly, do not let critics, whether internal or external, stop you from doing your job. Do not let fear keep you from entering the arena. Just be sure to enter the arena with a knife.¹⁰³

⁹⁹ See *supra* Section “Control Yourself.”

¹⁰⁰ Justin Bernstein & Spencer Pahlke, *Protest Committee of One*, UNSCRIPTED DIRECT, at 44:47 (Nov. 2022) (accessed through Spotify) (interviewing Elizabeth M. Fraley, Gerald Reading Powell Chair in Advocacy at Baylor University).

¹⁰¹ BROWN, *supra* note 97.

¹⁰² See Bernstein & Pahlke, *supra* note 100.

¹⁰³ *The Signal*, *supra* note 67.

