

WINNING AT LAW

By Donald W. Hudspeth

#Winning. Most of us recognize the infamous hashtag of Charlie Sheen, who at the time was in the middle of an incredible episode of self-destruction. So, what is winning exactly and how winning apply in the practice of law?

The first question we will have to skip because the quest for an answer may parallel the search for the “good life” which has varied from pleasure (Epicurus) to the good death (times of Homer and radical Islam). But, we can shed a few words on winning at law.

Every client wants – and probably defines “winning” as – triumph where a court or jury proclaims the client was right all along. For this reason lawyers often hear from clients “it is not about the money; it is the principle.” But, as lawyers soon learn it’s about the money – not because clients are hypocrites but most often because the great time, expense and emotional travail of litigation just wears them down. Ironically, it is the great hardship of litigation that causes many cases to settle. But for the terrible cost perhaps nine out of ten cases would go to trial instead of settling.

As a practicing business lawyer I have a broader view of winning at law. To me “winning” includes not only the case that is won, but the case well settled; not only the case well argued at trial but the case well argued before trial and most of all the case avoided.

Statistics show that settlements often result in a better outcome than litigation. The question is how to know when to proceed. At our firm we use a combination of factors to make recommendations to clients. (3 rules and then decision analysis)