

Lawyers urged to show the human side at trial

BY JOHN D. TUERCK

HOT SPRINGS—The public's perception of lawyers — particularly trial lawyers — is lousy, according to the experts.

Some studies show that the vast majority of Americans believe that lawyers will lie to win, that they care more about money than their clients, that they cannot be trusted, and that there are too many lawsuits.

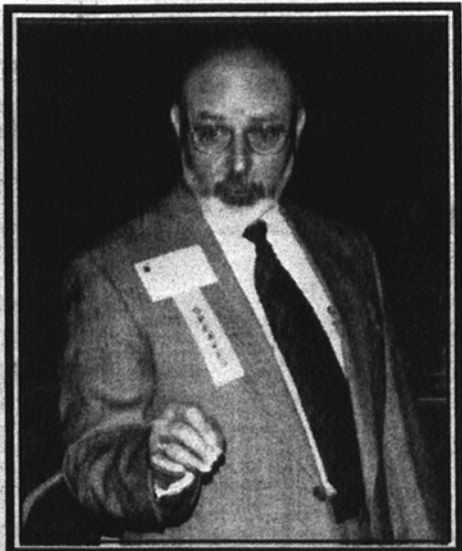
It is in this atmosphere of distrust and adversity, argued Alabama litigator Gregory S. Cusimano, that a trial lawyer must persuade a presumably hostile jury to carry out justice in American courtrooms.

His approach: Empathize with the jury. Show your human side. Emotions are natural in the courtroom, and the trial lawyer needs to manage them, including his or her own feelings.

A balding, nattily attired, hyper-energetic speaker, Cusimano addressed a packed house on March 30 at the Virginia Trial Lawyers Association annual convention at The Homestead.

Determined to emphasize the emotional part of trial lawyering, Cusimano called his talk, "Connecting with the Jury: Being Human." The overall theme of the meeting was "A Passion for Justice."

Cusimano contended that the most effective way to win over jurors was to find common ground. "What do we have in common with people who serve on our ju-



GREGORY S. CUSIMANO
Lawyers should manage emotion

ries?" he asked.

What lawyers most emphatically *don't* have in common with jurors, he argued, is an arrogant bearing, symbolized by everything from a total lack of empathy to the unconscious use of legal vernacular.

"Take the stand, we'll say. Take it where?" And "state your name." Said Cusimano, "Let's become bilingual. Let's speak English as well as legalese. Remember, they don't like lawyers — so why do you want to act like one?"

Wading into the audience talk-show-
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host style, Cusimano asked, "How many of you have ever been in a witness stand?"

A few hands went up. "Isn't it horrible?" he said.

Close observation of the jury and its nonverbal cues pays dividends, said Cusimano. "You better do the bidding of that jury," he observed. "Yessir, they'll tell you what to do."

But before lawyers can connect with juries, he said, they must learn to conquer their inevitable fear by acknowledging it. Adopting an almost evangelical style, Cusimano said, "Don't suppress it. Another way is to confess it."

Moments later, he added, "Without fear, there can be no courage. And if anything, we have to be courageous. Why should our emotions be held in contempt

just because we're lawyers? It makes no sense. To connect with the jury, we have to recognize these emotions."

Cusimano constantly emphasized the need to manage feelings in the courtroom: "Strong emotion without reason has no direction. Strong reason without emotion has no motivation. You have to appeal to the intellect of the jury, but you have to emotionally motivate them to do the right thing."

In that vein, Cusimano had earlier remarked, "Learn to respond rather than to react. Learn to insert a thought after the stimulus and before the conduct. You follow what I'm saying?"

Near the end of his speech, Cusimano reminded his audience not to let ego get the best of empathy. "It's easy to measure our success by the amount of money we make," he said. "But we gain nothing by filling our pockets at the expense of emptying our souls."

— Deborah Elkins