

PRAISE FOR *TRIAL BY HUMAN*

“The Rowley/Halteman team has written a smart, exuberant book that shows how they have been able to win jaw-dropping verdicts over and over again. This is a particularly useful guide for lawyers like myself, who tend to stay too much in our heads and need help becoming ‘human’ in the courtroom. A must-read for 2013.”

—Rick Friedman, author of *Rules of the Road*, *Polarizing the Case*, and *Becoming a Trial Lawyer*; member of the Inner Circle of Advocates and the International Academy of Trial Lawyers; recipient of the 2004 Steven J. Sharp Award

“In this treasure of a book, the authors offer the real secret for being a great trial lawyer with a trial track record to back it up. Out of all the books about trials, this one is revolutionary because it offers the real secrets of success with examples from actual trials. This is a book with a message every trial lawyer should read and apply.”

—Paul Luvera, member and past president of the Inner Circle of Advocates, member of the American College of Trial Lawyers and the International Academy of Trial Lawyers

“Nick Rowley proves that some young men have old souls, and wisdom to boot!”

—Geoffrey Fieger, winner of more multimillion-dollar awards than any attorney in the country, Democratic Party nominee for governor of Michigan in 1998

“Brutally honest. A must-read for any trial lawyer.”

—Honorable Peter J. Polos (retired)

“I salute Nick Rowley and Steve Halteman for their professional dedication and personal courage in the defense of their clients’ rights and to their conviction to their clients. I have had the privilege to work with both authors and can substantiate that the substance of this book is not fictional, but is, unarguably, fact.”

—Marc R. Lebed, MD, MDR; OB-GYN; visiting lecturer at Pepperdine University School of Law, UC Davis Medical School, UC San Diego Medical Center; cofounder and codirector of Medical Dispute Professionals

TRIAL BY HUMAN

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To those who have the courage to stand up for their fellow humans against the big bullies. Without you, our “justice” system would be without justice, lost forever. With you, we can change the world.

—Nick Rowley

To my little girl, Fumiko, aka Superfly, my favorite little girl in the whole wide world, and to my father, George Benton Halteman, who lives on through me.

—Steve Halteman

All proceeds received by the authors from the sale of this book will be donated to Trial Lawyers’ Charities of Los Angeles.

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PUBLISHER'S NOTE

This book is intended for practicing attorneys. This book does not offer legal advice and does not take the place of consultation with an attorney or other professional with appropriate expertise and experience.

Attorneys are strongly cautioned to evaluate the information, ideas, and opinions set forth in this book in light of their own research, experience, and judgment; to consult applicable rules, regulations, procedures, cases, and statutes (including those issued after the publication date of this book); and to make independent decisions about whether and how to apply such information, ideas, and opinions to a particular case.

Quotations from cases, pleadings, discovery, and other sources are for illustrative purposes only and may not be suitable for use in litigation in any particular case.

The cases described in this book are actual cases, and the names and other identifying details of participants, litigants, witnesses, and counsel have not been fictionalized except where otherwise expressly stated.

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ACKNOWLEDGMENTS

NICK ROWLEY

To my beloved friends, family, and mentors. Deryl Edwards, Mark Helm, and Courtney Yoder are three young trial lawyers like me who started this journey with me, and with whom I have tried cases over the years. I met each of them at Gerry Spence's Trial Lawyers College in Dubois, Wyoming, and they have become my best friends in this world.

Mark and Deryl died since I started this book; they died way too young. They were the most loyal of humans.

Courtney, thank all the stars in the sky, is still here, trying cases, inspiring me, with so many years to come. She is my best friend in this world and the one who inspires me most. She is the most amazing trial lawyer I have ever seen in a courtroom and the most amazing human being I know. Courtney is our future, trying case after case and paying forward what she has been taught at the Trial Lawyers College. She has been a mentee and a mentor of mine for many years. Thanks, Courtney, for always believing in me even when nobody else did.

Gerry Spence has seen and experienced a lot through his eighty-four years of life. He is our teacher, and he brought us all together. Thank you, Gerry, for your love and relentless belief in me as a person and as a trial lawyer. Gerry is a living prophet of feeling, truth, and justice. If you want to be a trial lawyer, to be a human who stands for justice, and if you had only one hour to absorb the energy and spirit of the guru, the most real and precious Trial by Human lawyer, the one person you want to spend that hour with is Gerry Spence. Drive as far as it takes, walk as far as you must, pay whatever it takes to get the ticket, and spend time with Gerry Spence. If you say you can't afford it, I say you can't afford not to.

If there is one person who has had the most influence on me, whose soul lives within mine when I stand before a jury, it is old man Spence. He is the prophet of justice of our time, the Trial by Human lawyer of all time. There is no human like this old man in our universe. The journey I, or we, are embarking upon started with Spence. The old man started a college in the middle-of-nowhere cowboy country, Dubois, Wyoming. This is where I was first taught. The college puts on four-day and multiweek programs throughout the year; check out the schedule at triallawyerscollege.com. You must attend if you want to travel this journey and be the best you can be.

Gary Dordick has become the big brother that I never had. Gary is not only one of the most successful trial lawyers in history, but he has also been a personal mentor to me since more than ten years ago when I was a law clerk. Gary and his wife, Nava, have always been there for me through thick and thin, and what I have to give and pay forward is very much because of them. Anytime you can, go see Gary in a courtroom, meet with him, hear him speak, and learn from him. You are cheating yourself if you miss it. He is always willing to take the time to help young trial lawyers and even old ones.

William “Wild Bill” Ritner is a man from Nebraska whom I first worked for as a medical malpractice defense lawyer in Southern California. He let me take as many non-med mal plaintiffs’ cases as I could sign up, and helped me build my practice and go out on my own. He showed me that it is OK to be myself and wear cowboy boots to court, and that the way to win a case is to get your jury to care.

Rick Friedman is one of my inspirations. Anything Rick has written is a must-read. I have read and studied all of his books. If you want to be a trial lawyer, follow and learn from Rick.

Thanks to my partners John Carpenter, Paul Zuckerman, and Steven Glass. They give me unconditional support and are the forces behind and beside me when I am in trial. I am part of what I believe to be the greatest law firm ever. I would not be where I am without Paul, John, and Steve and the rest of our team at Carpenter, Zuckerman & Rowley.

And thanks go to my children. I have eight of them. I work hard and stand up for people to make this world better, and no matter where I am in the world, whatever I am doing, you are with me and my beating heart, and on the forefront of my mind, Tristan Charles Rowley, Corban Anthony Rowley, Nicholas Charles Rowley Jr., Evan Justice Rowley, Elan Lethaniel Rowley, Finlay Justice Rowley, Coralin Joy Rowley, and Emma Belle Rowley. I love you all so very much. I always wanted to be a dad and have a lot of kids. You give me endless love and all make me so very proud.

STEVE HALTEMAN

I raise my glass to the following:

To the Halteman clan: George, Myrna, Jen, Jill, and Beth.
We are never alone.

To Naomi and Fumiko and all the good years.

To Nick Rowley for opening the door.

To Jim O'Donnell, who introduced me to the unusual.

To my brother, Brian Krupinsky.

To the friendship of Walter Menck, Dave Hirsh, Rob Begley, and Jeff Carter. Wherever, whenever, it's always a laugh.

To the Mississippi River crew: Tony Rowley and Joe Krueger.
This is the next generation of hard-core adventurers.

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To the clients who trusted our approach.

And finally, to all the travelers whom I have crossed paths and swapped stories with.

My thanks to you all for the shine you have brought to my life.

DOWNLOADABLE TRANSCRIPTS

The authors have provided a number of transcripts from some of their actual trials to accompany this book. These transcripts offer concrete examples of the Trial by Human method and the specific strategies the authors describe within these pages.

To download these files to your computer, smartphone, or tablet, use the following link:

<http://www.trialguides.com/resources/downloads/trial-by-human>

INTRODUCTION

Nick Rowley

Too often, we have heard lawyers complain that successfully trying cases requires too much money and experience, and that the odds are stacked against them. We are here to tell you that to try cases, you do not always need a bunch of money to pay experts or lots of experience. First, you need courage. Second, you need to love your client and the jury. We want you to commit yourself to a new method of practicing law—a method we call Trial by Human.

This method includes acknowledging that law school, for the most part, fails to teach much of anything about being a real trial lawyer. The place to go to learn about the case is not an office or a conference room, where you will sit reading records and depositions. Instead, leave your suit and tie at the office, and drive to your client's home. Sit down and have dinner with your client and his family in their home, wear regular everyday clothes, and establish a real human connection. You cannot expect a jury to care and to be human if you have not done so yourself.

Few lawyers are real trial lawyers. To be a real trial lawyer, you have to try cases regularly. You have to be willing to take on the risk of rejection, failure, and immense pain. Real trial lawyers will suffer no matter how good they become. But, as any real trial lawyer knows, when you win a trial, there is no feeling like it in the world. The feeling of success, purpose, and overwhelming emotion is a life high that only those of us who have tried cases and won can understand.

We are the turning points of every case. If we could find a way to unify better and stop the constant greedy competition for the “big” and “good” cases, and instead pay forward what we learn to the less advantaged, less lucky lawyers, we can become much more powerful than our common enemies. I am starting out by saying this because I have seen too much greed and ego in our profession, and it is something I have been guilty of and struggle to change. What we do needs to be about more than money and ego. Those things do not win over juries and don’t help us connect with clients. We need to be better. We can be better.

I often think of the younger, less experienced versions of me, the help I needed, the help that I was given, and the times when the luckier and more successful lawyers refused to give because they preferred to hoard it all for themselves. I am where I am very much because of the help and guidance I received from others. By writing this book for you, I am paying forward what I have learned so far, and I ask that you do the same.

We always want to hear how great we are, to have people tell us about our good parts and the impressive things we do. We love being adored. However, that is not what helps us become the best, not at all. To improve our trial skills, our practice, and our lives, we must commit to constructively criticizing ourselves. If we are committed, we can always get better. Gerry Spence, who is still trying cases, will tell you that he is still working to be a better trial lawyer, and more importantly, a better human. I am trying to do the same.

In this book, we are going to tell you about our journey, which includes winning and also losing. None of us want to talk about our losses. It is painful, embarrassing, and something that

we want to erase from the record books. But in order to improve ourselves, and to help others, we need to embrace and to relive our losses. We need to share our losses with those we seek to help. The best and bravest trial lawyers I know lose cases. They would tell you that they often learn more from losing than from winning. I will tell you that.

My friend and coauthor on this book is Steve Halteman, a jury consultant and trial strategist who has worked on many of my cases. Steve will explain his human perspectives and how we have evolved together and developed our method, Trial by Human. Together, we will discuss our preparation for cases and trials, what has worked, and what has not.

We must bring humanity and dignity back to the courtroom and be able to deal with the struggles of talking to jurors about difficult things, such as money. We can become close to being invincible, but it is only through the power of the heart, soul, and brutal honesty in the courtroom that we can do this.

IF YOU ARE AN ENEMY

If you are an enemy reading this book—say, an insurance defense lawyer, or a government attorney using the power of the state to put people in cages for as long as possible rather than rehabilitate them—then your soul may burn by reading any part of this book. Magic makers have sealed this book to curse anybody who reads it with an evil purpose, such as trying to bully ordinary people who are standing up for themselves against the elite power structure in the United States. Reconsider the harm you are doing to people and society. Soften your heart and help the people who are in need, rather than making their lives worse and helping the insurance defense industry.

WHAT IS A TRIAL BY HUMAN LAWYER?

Real trial lawyers, Trial by Human lawyers, are a unique breed of warrior. We must develop more of these lawyers to create the

change our justice system needs. This book is written for those who have the courage to stand up for their fellow humans against the big bullies.

Courage is the basic ingredient necessary for battles. We cannot go out and buy courage. We cannot mimic it from watching somebody else. So where do we get it? Courage is something we must find within ourselves.

Fighting courageously does not mean we stop being smart, that we lose our tempers, or recklessly run the gauntlet. Courage is the basic ingredient: the gunpowder. We still need the gun, the bullet, the sight, the barrel, and the trigger. But without the gunpowder, you cannot shoot. The good thing about having this ingredient within us is that once we tap in and find it, there is an unlimited supply.

Many of us have lost our courage. We don't know when we lost it, or where it went, but it appears to be gone. For some, courage is something we don't believe we have enough of. And, for others, the courage is fake. We will talk more about courage later. For now, just think of the times you have had courage, the times you lacked courage, and the times when you wish you had more.

True warriors are not defined by their wins, but by their ability to stand up and find courage again and again, regardless of the number of times they've been beaten and even knocked out cold.

THE DISEASE AFFECTING OUR JUSTICE SYSTEM

Insurance companies have injected antilawsuit propaganda into the minds of our jurors. Many people think of lawsuits for money as dirty and greedy. Many people are turned off by our system of justice. Because of this, our system is dying. Most Americans don't know about the crisis, or don't believe it exists. Ordinary people, the people we represent, have been convinced that there is nothing wrong with our system. Worse, the American public has been brainwashed to believe that trial lawyers—the ones who are there for them at their most desperate moment—are the bad guys. Many of our jurors and our judges have been brainwashed.

It is our duty to fix the brainwashing. We must inoculate. And to do this, we have to start in our schools (high schools, colleges, and most definitely law schools), because the propaganda is being injected into the students and implanted into our youth. Far too often, young jurors, college students, have a bad view of money lawsuits and the core belief that they are wrong and frivolous.

Everywhere we turn, we are told not to go to trial. Courts order people into mediation, and accused people are forced into plea bargains for crimes they did not commit. Judges warn us not to go to trial and successfully pressure lawyers into giving up and settling cases for far less than true justice.

Effectively, the power structure is steadily killing the jury trial method. Less and less money is paid to settle legitimate cases. Laws like the “three strikes” mandate life imprisonment for twenty-year-olds for minor crimes. Judges warn those who are mustering the courage to go to trial about the dangers. Statutes punish those who will not be beaten into a cheap settlement. Jurors are poisoned with propaganda before they ever show up for jury duty. Our media praise juries for convictions, and insult and punish juries when they bravely find the unpopular truth. The Nancy Graces of the world rally the public to convict without a trial, and the politicians who instill fear into their constituents about trial lawyers damaging our country make it easy for people to just give up. Many times, lawyers themselves succumb and force clients to settle cases rather than go to trial.

Not enough people address this problem. When we pick up a book on becoming more effective at trying cases, we don't hear enough about the virus infecting our justice system. We don't hear the brutal truth that real trial lawyers are a dying breed. I know this because I have seen the numbers dwindling. Our leaders among trial lawyers smile and talk about justice, but I question whether they truly do care or whether they are mostly in it to get rich or stay rich.

I would rather hear about how much better the world would be if we helped develop more Trial by Human lawyers, teaching them how to find their courage and win the cases that deserve to be won.

1

TRIAL BY HUMAN STARTS WITH YOU

Nick Rowley

In order for this book to have its full effect, we are going to ask that you do something. This is something you may not have done before. There's a good chance that if you think you have, you really have not. Trust us with this. Do this exercise.

Get out a note pad. There are some questions and answers we ask that you write out. They are not questions for us. They are questions for you! You, the human! The human who loves, feels, hurts, cares, hates, betrays, fears, loses his or her cool, offends, regrets, and who has that so very important ego to protect. Do not use a computer to do this. Use a blank piece of real paper and a pen or pencil. Stay away from the computer when you read this book. Even if the very notion of having to get out a paper and pencil and write at the beginning of reading a book is annoying to you, give it a shot. Try something different.

You need to be brutally honest in going through this exercise and answering the questions. "Brutal honesty" is a phrase you will see a lot of in my writings and when I am in trial. I start every trial

with this phrase, and it's one of the methods we are going to learn about and practice. The end result is you being more effective at every part of being you.

I write to you and pour out my heart and soul with the hope that if you have been beaten down, you can find the courage to pull yourself back up, keep fighting the enemy, and never give up. This is for you if you have suffered the deep, sharp, and chronic pain of rejection, so piercing that you can still place your hand on your chest and take a deep breath and feel it. Feel that pain, such that the depth of it brings tears to your eyes. This feeling is not one that can be contrived; rather, it overwhelms, takes control, and creates a glow of truth around your body, one that brings out the humanity in other humans. By feeling these emotions, you will allow other people to relate to you more closely.

Those who can feel, who still have their humanity and are not afraid to share it and show it, are the most powerful lawyers to try cases. What do we mean by having “humanity”? We're referring to people who are able to truly feel their own emotions and empathize with others. They acknowledge their flaws and are motivated to fix them. They are authentic, honest, and able to communicate truth in a sincere way. Those are the ones who can be the most successful. Those are the warriors who can keep the fire alive and provide hope for the future of justice.

We are going to learn to identify and embrace the parts of us that are good, bad, and even ugly. When we learn to do this with ourselves and to accept ourselves, we will be able to better understand and communicate with those humans we need in our lives and those humans who are involved with our cases.

The human, the whole you, the “brutally honest” you, the one who wants to be a more successful trial lawyer and better human being and is willing to continuously struggle to get there—that is where we must start. My mentor, the best trial lawyer in history, Gerry Spence, taught me that “it all begins with you.”

The answers to the questions we are going to go over are not something you need to share, not with anybody. However, we suggest that you write them down. Go to a quiet, peaceful place. No cell phone. No text messaging or emails. No iPod. No

sounds of the hustle and bustle of modern life. Spend some time pondering and feeling the questions. Ask them out loud to yourself. Hear the words you say; feel them. Don't jump to answer each question. Take your time. Answer them. Listen to whether the answers are true. Are you being brutally honest? The answers might bring tears. Tears are good. They are produced by raw, brutally honest human emotion, our feelings. True tears do not lie.

When we do this exercise, we might find that the answers are not brutally honest. If we cannot be brutally honest with ourselves, then how can we begin to connect with our clients and our jury? The answer is that we can't. If we sugarcoat, if we hold back the brutal honesty and are unwilling to share our true feelings and beliefs, then we have no right to ask our clients or jurors to do what we need them to do. So, it might be tough to do this exercise. And, that's OK. It may take a lot of work; it sure did for me! I remain a work in progress.

So, commit to yourself. Commit to working on being brutally honest, and promise yourself that you will do whatever it takes to get there. In the end you will have evolved to a better version of the human being that exists within your body.

Here are the questions. Write each question out one by one. Do not start answering them until you write them all out. Some of these questions I learned from others; some of them Steve and I wrote.

1. Who am I?
2. What am I?
3. What are the things I am most afraid of? Why?
4. What do I really care about? Money? Fame? Myself? Other people?
5. How selfish am I? Why? Is it OK to be as selfish as I am? Why?
6. Why am I really reading this book?
7. Do I like my current professional life, or do I want to change it? Why?

8. What are the things I dislike most about myself? Why?
9. What are the things I like about myself? Why?
10. What is the best thing about me?
11. What is the worst/ugliest thing about me as a person (not physical appearance, but rather what is beneath the surface)?
12. How do other people see me?
13. Do I show others, including jurors, my true self?
14. Do I even know my true self?
15. What are the monumental experiences in life that brought me to where I am and made me the way I am?
16. What are the things I want to change about myself? Why?
17. Apart from money, success, and changing my physical appearance, what do I want most in my life? If I could push a button and make my life different tomorrow, how would it be? Why?
18. Am I mostly happy or sad? What makes me this way?

While you are doing this, don't ask for solutions. Don't judge your answers. Just focus on writing brutally honest answers. Accept that the answers are what they are and don't necessarily need fixing. There doesn't need to be a solution to everything. But knowing who we are is important to the process we are going to teach you.

We make it a point to get you away from your appearance. It is rare to find a person who doesn't want a different nose, face, breasts, penis, feet, belly, and so on. Those are the surface things, the things that take us away from the human being that we are, and the things that we all (certainly including me) get too tied up with.

So, before you read any further, take some time and answer these questions. Think about these questions again after you are done with the book, and think about them the next time you are about to step in front of a jury. Our answers often change. For

me, they have certainly changed over the years. Write out the answers and put them somewhere safe.

To help you with this step, we are going to tell you a bit about us. We are digging deep and sharing things with you in the hope that you will do the same for yourself. Why reveal all of this personal information? Well, I have been taught that if you want a person to open up, you need to show them how, by first doing it yourself. I will answer the questions I am asking you to write out and answer. Steve will answer these questions too. We are not asking you to do something that we ourselves are not willing to do first. You need to be in touch with, and connected with, yourself and know your good, bad, and ugly in order to be brutally honest and connect with your client and the jury. So we are going to tell you our stories and who we are, including the good, the bad, and the ugly.

NICK ROWLEY

I was born in Stormlake, Iowa. My earliest memories are running around our little white farmhouse, patrolling through our garden to scare away the rabbits, going to my grandparents' farm in Jefferson, Iowa, and seeing all my cousins, aunts, and uncles. My grandparents had a red farmhouse with a big red barn and raised cattle, hogs, and chickens, and tended to endless fields of corn and soybeans.

Life was perfect during my first years, as I remember them. My dad, aside from being a hardworking man from sunrise to sundown, was also a stoner, a hippie, and had hair down to his waist. After a drastic change in the livestock industry in Iowa, my dad decided to leave the small farming town we lived in and pursue his dream of being an artist. So, off we went to the University of Iowa, Iowa City, where we lived in family student housing for the next four years. I was exposed to many different cultures, and I loved it. Many of the kids in student housing were from other countries and were of different color and spirit than what I was used to. At this point in my life, I did not know or understand prejudice. My parents were liberals and I was a carefree kid. My mother was my everything, and she was a sweet, loving mom.

Things changed a few years later. When I was seven years old, my dad's first teaching job took us to Nogales, Arizona, a town on the border with Mexico. During this time, I learned Spanish fluently. I also learned what racism and prejudice were firsthand, and I was on the receiving end. I was the only blond-haired white kid in my class, one of a few in the entire school. Those Mexican kids were mean, and in turn, I learned how to be mean. Starting at age seven, I learned to fight and cuss with the best of them.

In Nogales, I wasn't just bullied. I was brutalized. Classmates and neighbor kids beat, tormented, and humiliated me, multiple times a week, for five straight years of my childhood (before I moved back to Iowa at age twelve). I did not have a big brother to stand up for me. I didn't have any friends. I was the oldest of my brothers and sisters. I was the one who had to become tough to protect them against very horrible bullies, kids whom I still believe were evil.

We were very poor. Often, we had no hot water and no running vehicle, and we rarely had a phone line. Adding to this, my parents had their own major issues from their childhoods, and they were still children having children.

It was during this time in my life when my parents split up. My mother had an affair and left my father for a Vietnam veteran, a Navy SEAL: the complete opposite of my father. Mom moved back to Iowa with my six younger brothers and sisters when I was in fifth grade. The same issues that plagued my parents when they were married to each other continued when they eventually remarried. My parents and stepparents all fought horribly, and they were always splitting up and getting back together.

When my parents divorced, I refused to abandon my father. My mother had been the most important person in my life, the only person I really loved. When I realized what was going on, and why my mother left my father, I stayed with my father because I was afraid he would kill himself. I was angry, and I lost my connection with my mom. My dad went into a deep depression. At times, I moved back and forth between Iowa and Arizona, and then to California, where my dad eventually moved. Things did not go well. I got in a lot of trouble, challenged all authority, and

moved out at age fifteen after a fistfight with my dad. I became emancipated at age sixteen and joined the military on my seventeenth birthday.

Growing up, I had a choice to either be broken or strong. I chose strong. There was no room for me to complain or ask for help. It didn't do any good anyway. I learned very young that I was the only one who could protect me. I was not a whiner. I learned that whining made me weak. I had to stand on my own.

Moving out at age fifteen was the beginning of my life. I graduated from high school at age sixteen. From age twelve, I worked as much as I could, often full time. I worked as a paper delivery boy, as a farmhand, as a small engine mechanic, and on a cement crew building pig confinements in Iowa. I did roofing jobs and worked fourteen-hour days on different construction crews. Even on the days I was "on vacation," I worked. I would work or go to the office or study on every holiday. I served on active duty from 1994 to 1998 and was in the army reserves for three years after that. I worked without a day off up until age twenty-eight.

The G.I. Bill got me through college and law school. I moved to California for law school at the University of La Verne, not even knowing the difference between an ABA school and a Cal Bar-approved school. I finished law school in 2001, studied like a crazy person, and passed the bar exam on my first attempt.

Brutal honesty: I have often been my own worst enemy. I am in a constant struggle to be a better human, to lessen my ego-driven desires, and to focus more on the people I love. I work to identify my faults, and I strive to improve upon them. I have made progress, but I have so much further to go. I am better than I used to be as a human. I have discovered those people I enjoy being around—those who are honest with me, steadfast, and true—and spend more and more time with them. I have become a more dedicated father. However, I often feel I have progressed forward only to realize I am worse off than when I began my journey. I have an ego that has often controlled my insecurities and that has needed constant love, attention, and validation. My insecurities have also been my drive. Sometimes I have not wanted to change anything about me, as selfish as that is.

Anger and rage. I am still an angry person—I have been since I was young. I control it now and use it as a source of power rather than something that is destructive. The personal work I have done over the years has helped me realize that the anger comes from scars within me, deep wounds, experiences I had growing up, starting in Nogales, Arizona, through my time in the service, and betrayals I have been victim of as an adult.

Impulsive is a word that most people who know me well would say describes me. *Spontaneous* is the word I prefer, because it sounds better. I am a flawed person who acts on impulse, overwhelms myself, and spreads myself way too thin. I live with fear and anxiety, and often with the overwhelming feeling of the whole world on my shoulders. I have a constant fear of death and loss. I was still a teenager, a combat medic, when I was trained to deal with death by being detached. I was trained to become numb, and I did. Life and death became no big deal for me. I saw it. I felt it. I was trained to help deliver it.

For many years, what I experienced as a soldier did not affect me on the surface. Then suddenly, it changed. Visions and sounds started coming into my head, and I was unable to stop or control them. Work shut them out when it first began, after I lost a few loved ones. It began during law school, and I worked full-time, usually more than fifty hours per week, so I could shut it out.

Until recently, I have been a very lonely person. I don't like to be alone. Even when I am with somebody, I am alone. Because of this, I have made decisions that were wrong and that have hurt people I love. Until now, it has been impossible for me to trust women. I felt the betrayal and loss of my mother as a fresh wound. I have not spent enough time with my children.

Getting to where I am now has been a lot of work. I still have a life of work ahead. I went through many years anxious and depressed. An example of the anxiety I will share happened a year ago: I was on a plane to Los Angeles, looking at snowcapped mountains; it was a beautiful view. Without any notice, I had a ten-minute panic or anxiety attack: heart racing, respiratory rate up, heart thumping in my chest. This is something I have experienced many times since serving in the military. It's fear of death.

It's the only thing I fear. I am not afraid of flying, just of dying. I have had no problem jumping out of a plane, driving fast, driving motorcycles, doing dangerous and adrenaline-rushing activities, and living on the edge. But death is something I fear immensely, and this has disabled me regularly. The lack of control and the unknown is what I fear.

There was no rhyme or reason for when my anxiety would come and go. It came from a culmination of experiences. There have been times in my life and in the military where I have been trapped, stuck alone, and I believed I would never see another human being again, sure to die. People close to me have died. People I cared about died right in front of me. Patients and soldiers whose lives were in my hands died even though I tried my best to save them. I sometimes wake drenched in sweat just hours after falling asleep, unable to catch my breath, everything vivid as if I am still in those places. So I am, I have been, disabled at times by my brain—fortunately, not permanently or continuously, just sometimes, and it is better now. This is who I am, a man who is afraid. Yet many people, those who don't know what is inside me, describe me as fearless.

About five years ago, my wife and I lost a child. The grief brought all those other losses to the surface. It was raw. The hurt, the fear, and reliving many experiences I had when I was a medic became unbearable. The frequency and intensity got worse and worse, and out of control. The more I tried to ignore it, the worse it became. I worked harder and longer to fill my mind with other things, and distanced myself from my family.

It got to the point where I would find myself crying while alone, driving in the car, up in the middle of the night, unable to sleep. So I filled my life with more and more work, trial after trial, always keeping myself surrounded by people. For a long time, I never talked to anybody about it. Finally, I went to some therapy and support groups. It turned out that I had never grieved for many of the deaths of people who were important to me.

I found ways to temporarily avoid dealing with the problems. Being in love helps; being loved helps. Staying busy and ignoring what I need as a human does not help. For a while, I was

running all over trying cases. I did everything I could to try case after case. One day I'd be in Iowa. Two days before that, Chicago. The next day, Los Angeles, then to New York or Florida. My life and schedule were in constant flux. Going to battle for clients, one after the next, meant I didn't have to focus on myself. And, if I died along the way, then I would never have had to face my demons. I thought that working constantly and having no time alone was good, and eventually the struggle with myself would pass or I'd grow up; keeping crazy busy with trials, I would never have time to be lonely. Focusing on work and others can be much easier than focusing on myself. And maybe I thought that by fixing other people's problems, I might fix myself. So when I wasn't helping others and I had space to think and reflect, I would get depressed and my anxiety worsened. So my method, in the long run, didn't work.

I still try lots of cases, but I have started to slow down. I saw a therapist and got some good direction. I am a quick study, I got the help I needed, and I even started taking antianxiety medication. I started reading books, working on myself, and most importantly, being brutally honest about my relationships, happiness, unhappiness, and loneliness.

I have started facing the experiences that haunt me. It is with the realization that I am flawed, but that I am in fact in control of the rest of my life, that I have decided to make life different from this point forward. I continue to work very hard to make changes. I am learning how to live happily and to enjoy life more. I am getting there, but sometimes it is still a day-to-day struggle.

As a father, I have always cuddled my children. I love to sing, and I know without doubt that I fill my children with love and attention that is unique and special. I tell them stories, ones that are old and many that I create. My stories for them are fun, and each child plays a part and has special names as characters in the stories. When I am present, I am a fun-loving father. I hope that makes up a bit for not being a come-home-every-day father.

My children know I am out in battle, slaying dragons and standing up for people against bullies. Physically and emotionally, I am in the heat of a battle. I talk to my children almost every

day, but I have not spent enough time with them and have not been an everyday dad. My place over the years has been standing in front of juries, fighting bullies and protecting people who would otherwise have no chance in the world but for me. But, even with that, I know that children and mothers need a father at home, and there is no substitute for my absence. I can only strive to be present more, physically and emotionally. The one thing I tell my children every time I can is: "No matter where I am in the world, I miss you and I love you more than anything."

Up until now, my favorite times and places in this world have not been on vacations and home with my family. This is my brutal honesty. I feel very bad about this truth, but it is who I am. I heard a great man, my mentor Gerry Spence, once say that regrettably, he thought he was not a good father because he focused on being a great trial lawyer instead of being the father that he now wishes he had been. I have followed a similar path, but am struggling, trying to get better at balancing this.

What I wanted to be most in the world was a good provider for my family. I am a great provider, but I am not the best father. So what I wanted to be the most in the world, because it is what I grew up without (a good financial provider), is insufficient. I have worked so hard on being a good provider that I have missed my kids' concerts, parent-teacher conferences, and dinners around the family table. The times I was there for my children's concerts and games, I could see the happiness in their eyes. Therefore, I know the disappointment they must have felt the many other times when I was not there. For the next thirty-five years of my life, I am set on changing this!

Even though I appreciate what I went through and who I am, I have flaws that I must deal with every day. My chronic wounded ego and anger can be brutal enemies, which I have to fight. But I need them both. They are often my source of power and motivation. The key is controlling them and finding balance with the love I have within me.

What I like most about myself is my ability to love other humans. I am a lover and protector. I have always wanted story-book love and companionship. I've been this way since I was a kid.

I have always been one to come to the aid of others without thinking twice. It has always been instinct for me, and it has been that way since I was a child. I didn't stand up for others because it felt good. I just did it because it was the right thing to do.

Making people feel good about themselves, seeing the beauty and goodness of who they are, is also something I am very good at and love to do. I am able to be brutally honest with people who need to hear the good things about themselves. Again, that is something I starved for as a child. When I am with my children, I am connected tight with them. I do my best to make up for my absence. I embrace them, fill them with attention, turn off my phone, and give them love.

I have always extended my hand to help almost anybody in need. I rarely say no to a request for help from another, even if I hardly know the person, and even if we are strangers.

I feel much older than I am. I have always felt that I have an old soul. I love old people. Where I come from, there are no face-lifts or cosmetic surgery. Old people are beautiful. I hope I get to be old someday, see my children have children, and be there for their games and activities.

I love the people who are less fortunate in our world. I enjoy being around the poor more than I do being around the rich. But I question whether that is because I have that luxury, or maybe it is because I used to be very poor.

When it comes to those in the higher echelons, the people we are supposed to bow down to and defer to, even the great ones whom I actually respect, my mentors, I butt heads. Part of it is that I want to prove I am just as good as they are. Part of it is that I want them to know my value, because I doubt it myself when I look in the mirror. The other reason is that those on thrones, sitting up high, need to be reminded that they are just humans, just a few cars and bank accounts away from being in a very different set of shoes. The rich are not better than the poor; often, it is the opposite. Those with fancy homes are no better than the men and women walking into homeless shelters, living in the slums, or pushing grocery carts. We are just a few strokes of bad luck away from where they are. We are all humans with similar stories, just a few shades of gray apart.

I am not one to complain or seek attention because of what I went through. I wouldn't trade any of what I went through for anything; it all made me strong and became the foundation of who I am, the good, the bad, and the ugly. Experiences turned out to be both curses and blessings. Good, bad, and ugly—they forged me into who I am.

You want to be the best you can be. I want to be the best ever! That is, the best version of me ever. There are many “bests.” This is not a world where there is only one best. Once, my goal was to be better than everybody else as a trial lawyer. Now I just want to be among the best when it comes to our side of this war. I want there to be many bests. The more bests who exist thirty years from now, when it comes to Trial by Human lawyers, the better our country and justice system will be. Gerry Spence is the best of his time. His goal, as I have heard and believe it, is to make many more bests. That is my goal too. We need to dedicate ourselves to making each other better.

In order to be great trial lawyers, the best trial lawyers, we must first become better people by better knowing ourselves and how we can improve ourselves. I look forward to a life of passion, love, commitment, and living life to its fullest. I am not naïve, however, to think that I can have that without a lifetime of personal work.

If we can learn to love ourselves and our clients unconditionally, and be brutally honest about who we are as humans—good, bad, and ugly—then we will become more powerful than our opponents. Our opponents will be weak because they are fake, false, and without love.

STEVE HALTEMAN

When I am not consulting on a trial somewhere in the United States or mediating a dispute somewhere else, I am home in Costa Rica with my wife and nine-year-old daughter. In my spare time, I run long distances, bodysurf, and design and build both houses and unusual furniture. I also try to help out at the nonprofit school my wife and her business partner founded here in Costa

Rica. I'm constantly in search of building projects so that I can keep my special crew of Costa Rican men employed and content.

Most recently, I have been working on finishing the restoration of a long project, mating a 1951 GMC truck body with a 1995 Chevy Tahoe frame and motor. The goal is the ultimate Costa Rican off-roader. I am doing the work in Costa Rica between trials in the United States. My thought processes are similar, while my clothes and vocabulary are not.

The rest of the story, or how I stumbled into becoming a trial consultant, is as follows. One day, one of my wife's oldest friends, John, visited Costa Rica. John Carpenter is a trial lawyer in L.A. He brought along some friends, one of whom was from Iowa, but seemed more like from another planet. Enter Nick Rowley. At some point, it came out that I have a law degree, taught law in Japan, and served as a night court commissioner. As aligned or misaligned as the stars are, Nick and I shared our life stories up on the side of a mountain and became fast friends of the same cloth. We believe our world only has hope if people are willing to become humans again. As Nick always insists on personal histories, here is mine.

My father was a preacher with four churches in western Pennsylvania. My mother stayed at home until she returned to teaching some years later. I was born in 1963, just a few miles from where an airplane would one day crash into a field on September 11th.

My earliest memory was of seeing semifrozen people huddled in our living room as I came down the stairs in the morning. Our house lay on the alternate to the turnpike. When snow shut the turnpike down, people would try to make it home using the alternate. The police brought the lucky ones to the preacher's house. They took the unlucky ones elsewhere.

One day, when I was three, not long after my sister was born, my father came home and announced that things were warming up between Russia and the USA, so we should go over and have a look around.

I spent my fourth birthday in Leningrad. Somehow, my parents shipped our Dodge van to Poland and procured a six-month camping visa to the Soviet Union, and we roamed, overstaying

our visa by many months. My fate was sealed by events I had no say in.

We returned to the States with eight dollars. Dad took on three churches, my parents had two more daughters in Maryland, and we settled down for seven years. Then my father stumbled upon the Mojave Desert. He made another announcement, and our family moved across the country to a part of the California Mojave Desert called California City. My father took on two churches. There, I learned how to run far and catch snakes, and I also learned about the injustice of being the shortest kid in high school. To pass the time, I bought an old MG convertible and tried to restore it. At that point, I was still small enough to fit in the car. Yet, my father made another announcement. No more churches; we were moving to Nevada.

Nevada was where I learned about perception and understanding themes. Between my sophomore and junior years, I grew eight inches. At the end of that growth spurt, I arrived at my new high school. In California, no girl ever looked sideways at the desert midget I was, a kid who spent his hours looking for snakes. In Nevada, the perception and themes were different. Now, I was the tall, filled out, blond surfer boy from California. Growing eight inches, driving my convertible, and coming from California labeled me a cool surfer kid who was the one to hang out with, though the waves of Southern California remained far out of reach for us desert kids. Almost overnight, I had become socially desirable. The world saw a different person. I didn't. The human me, my feelings, beliefs, insecurities, and attitudes, had not changed, not one iota. I remained the kid who was happiest driving through the cold back roads of the USSR with my parents and sisters, trying to learn a new language, and meeting people.

Off to college, education secondary to fun, my first serious girlfriend, and the inevitable, suicide-worthy broken heart. I was so depressed after that breakup that I could not continue with my education. I returned home with an announcement of my own for Mom and Dad. I had decided to take the year off to relax on the couch and take stock of my life. My parents said, "No you're not." A conversation followed that has since thrown my life sideways.

My dad asked me how much money I had in the bank.

“Fifteen hundred dollars.”

“So you’ll need to get a job.”

That didn’t excite me.

“Well, then why don’t you hit the road?”

“Hit the road?”

“Tell you what, Son,” he said. “I’ll match your \$1,500. Travel the world and go for as long as the money lasts you.”

It was George Orwell’s year, 1984. The wall still stood. I was twenty years old. My father’s parting wisdom was, “Hitchhike. It’s cheaper.”

So I took my father’s advice and always hitched, always alone—through Europe to Turkey, then through the Middle East, into Africa, finally arriving in Egypt. I traveled through Eastern Europe behind the Iron Curtain. I learned parts of different languages, customs, religions, cultures, and learned much about the commonness of humanity.

Surprisingly, there were so many similarities between different cultures and religions. I learned that Muslims, Christians, Jews, Hindus, Buddhists, and so on, are born, develop, reproduce, eat, breathe, live, die, mourn, and love very similarly.

What lessons did I learn? One, that collecting experiences rather than money would be my goal in life. Two, always go with my gut. Without exception. When I was about to climb into a car with people I didn’t know, whom I didn’t share a language or culture with, whose motivations were unclear, I had one best friend: my gut. Three, if I wanted to learn about people, I needed to *listen to them*. Shut up and listen. Listen with my heart and ears. That is how I learned to hear things worth hearing. Four, that in 1984, \$3,000 bought you about nine months of very frugal travel.

I came back to finish college, and with no other prospects, ended up going to law school. San Diego is a great place to live, but a poor choice to endure the drudgery of law school. Distractions abounded. After two years of hovering at the bottom of my class, I lost interest in the program altogether. From my perspective, law school was a fraud. At a minimum, it lacked a hook for my attention and it revealed the shallowness of my intellect. Regardless, I

was done. After repeated inquires, the admissions office confessed that a two-year leave of absence was possible. So I packed again and headed to Turkey. I took a few classes, and then flew to Egypt, where my plan was to follow the Nile to its headwaters.

This is when I met a woman from California named Naomi. She was hanging out in Cairo. We teamed up and headed south. In southern Sudan, we ran into the civil war. What to do? We turned west and dropped into the Central African Republic, crossed Zaire, went through Uganda, and eventually arrived in Kenya. This trip from Egypt ended up taking over ten months. We starved, were in gun battles, ate anything, were arrested, were jailed, and saw unexplainable things. We also survived, grew close, and opened our eyes wide. This new collection of life and cultural experiences provided more education than what I had been getting in law school. And the tuition was cheaper.

After wandering around Eastern Africa, Naomi and I took a break. She stayed in Africa and I left for India and Nepal. This was before the Internet and cell phones, so we stayed in touch by telegram, paying by the word. In Africa, I had studied the act of being patient. In India, I perfected the act by wandering around for six months. Nothing moves in India at the pace you prefer.

Eventually, Naomi and I reunited in Thailand. We rounded out the last of my two-year escape from law school by seeing Asia. Naomi went to Japan to teach, and I returned to San Diego to get a piece of paper. What did I learn? One, that perhaps I'd be happier living overseas. Two, that people watching is great entertainment, but to do it without judgment is extremely challenging. And three, it was time to settle down and start a legal career.

I returned to law school. All I remember about finishing law school was the monotony of trying to stay awake in class, and my guess that most of what I was learning had nothing to do with being a practicing lawyer. Following a squeeze-by graduation, I was hired by a big-name firm in Las Vegas, I got a nice plush office, and I bought some suits. Soon thereafter, my dad showed up and took a look around.

I puffed out my chest and said, "Well, Pop, what do you think? Your son has arrived, eh?"

Very calmly, he said, "I don't know, Son. This doesn't seem like you."

He was right; it didn't. My experiences growing up, coupled with world travel and the love I had for different cultures, made the idea of spending my life as an attorney-at-law less than desirable. I left for Japan.

Naomi and I married. We lived and taught in Japan for ten years. I taught English and U.S. law. In Japan, I learned that everybody has a public face and a private face. The two are not necessarily similar.

Our time in Japan had a great fringe benefit: six months of vacation per year. To Naomi and me, that meant six months of travel per year. For ten years, we traveled the world six months out of each year. The way we traveled was on the cheap: we would stay in hostels, eat what the locals eat, do what the locals do. Learning and becoming part of the different cultures was our preference.

At the end of the nineties, Naomi was hit by a drunk driver in Japan while riding her bike. It was a good way for any husband to learn hate. The surgeries she needed required us to return to the States. We settled in Maryland.

I tried work as a cabinetmaker, handyman, and wilderness skills instructor for Outward Bound, but I finally had to make some decent money, so I got involved with the U.S. legal system. I applied and was hired as a district court commissioner, serving as a night court judge. Most of what I did was set bail and decide whether to release criminal defendants who were arrested at night. I usually went with my gut, but I was proven a few times to be wrong. Specifically, I recall a few parking lot video surveillance tapes that police officers forced me to watch. Some of the accused I had released took my goodwill only to go out into the court parking lot and break into police cars. Some people just don't want to go home. I could relate to that.

In 2004, with my wife put back together and a new baby daughter named Fumiko in our arms, we headed south to Costa Rica, where we had purchased some land in the early 1990s. That is where we have been ever since.

Enter Nick Rowley. The above conversation concluded, though with a few more stories added trying to make me seem more like Indiana Jones.

Maybe after a few beers, Nick leaned forward and said, “How would you like to come help me on my next trial?”

I said, “What’s that got to do with my life story?”

Nick said, “Never mind that; it’s a simple question.”

“What would I do exactly?”

“Help pick the jury, watch the trial, tell me what you think in the role as a juror.”

“Hell, I don’t know. I’ve never even seen a jury picked. I have no idea how it is done.”

Nick smiled and said, “Exactly. This is why I need you.”

That is how it began, how I became a jury consultant and trial strategist many years and trials ago.

I do not maintain any license to practice law in any state as a matter of personal choice. I probably couldn’t pass a bar exam anyway. I do not do legal research or write briefs. What I do is to stay in touch with the humanity in the courtroom. My job is to stay in tune with the human story: to keep the case grounded at the basic levels of humanity and feeling that drive the decisions jurors make.

Focusing on the “human” aspect of a case is a nebulous concept if ever there was one. I’ll try to clarify. Human beings’ right brains dominate. I believe that most jurors will take a creatively told story to prove a point any day over a detailed, long, verbal, left-brained explanation delivered from a lectern. I count myself in that group.

What Nick and I do is always different. However, we approach every case beginning with the client, and we discover the human stories. My approach to trial has and continues to evolve. Still, common threads exist and continue to exist. I’ll speak of these common threads throughout the book, but first some unfinished business.

If you’ve made it this far, you’re aware of the chronology of my life. I haven’t answered the hard questions Nick suggested earlier. There’s a reason for that. Publicly analyzing one’s personal issues is something I don’t like, and I don’t want people to do it to me. That’s not to say I don’t privately wrestle with my issues and demons. It’s just that I am not open to discussion, unlike Nick,

who puts it all out there. After looking for ways to avoid answering, I have recognized the fairness of answering, and that we should never ask others to do what we are unwilling to do ourselves. I'm not afraid of the answers, just about publicly revealing them. So I guess I will just have to jump. Or walk away from the book.

I've decided to jump.

1. Who am I?

I am a forty-nine-year-old male in the midst of a midlife crisis, wondering which way to turn.

2. What am I?

A human being who is finally learning that life is harder than I always thought. A human being who is good at many things, but a master of none.

3. What are the things I am most afraid of? Why?

Rejection, because I like being liked more than I should. I am afraid of the second half of my life being a letdown. I am also afraid of turning out to be a coward in the toughest situations ahead of me.

4. What do I really care about? Money? Fame? Myself? Other people?

My daughter most of all. Second, what other people think of me. Third, the unknown and what's around the corner.

5. How selfish am I? Why? Is it OK to be as selfish as I am? Why?

I am very selfish. I put my happiness first. Even before that of my family. I can even be selfish in the face of generosity. I am ashamed of that and hope to be better.

6. Why am I really reading this book?

Let's try: why am I writing this book? First, Nick asked. Second, I've always wanted to tackle writing a book. (Next, for something completely unheard of, I'm going to try my hand at a novel.) And third, my ego loves to hear me say, "I have a book coming out."

7. Do I like my current professional life, or do I want to change it? Why?

Not right now, but I get bored easily and am not one to stay in one place for too long. Right now, I have a good balance, but I have no idea how long it will last.

8. What are the things I dislike most about myself? Why?

That I never properly grieved for my father. I wasn't there the day he died, and I feel horrible about that. I want, but am struggling hard, to be a better father. My daughter is growing up, and I don't believe I am good enough to be the father she needs in the years to come. I am unable to forgive when I should. I hold grudges. While I put out a front of being very confident, I am in fact often insecure, which makes me feel like a fake. I can be arrogant given the right set of circumstances. Sometimes I should shut up.

9. What are the things I like about myself? Why?

I'm self-entertained. I enjoy being with people or alone equally. I generally try to do the right thing. I side with the underdog. I am a calm person and think before I act. I'm allergic to panic. I would rather build something with my own hands that is worth less than take from somebody else and have better.

10. What is the best thing about me?

That I make my own way in the world, and always will.

11. What is the worst/ugliest thing about me as a person (not physical appearance, but rather what is beneath the surface)?

I'll keep that one private, as you can do with yours, but trust me: I know what it is. This is an important thing for us to know about ourselves, to know what is ugly and how to beat it back.

12. How do other people see me?

Ah, the great unanswerable question. Not a clue. I know it depends on the context of our interaction, but why some look at me favorably and others do not is quite mysterious.

People are just too complex to give a general answer to this one. Sorry, I get a failing grade on number twelve.

13. Do I show others, including jurors, my true self?

Only after evaluating the other person for trustworthiness. Or after a number of beers.

14. Do I even know my true self?

I thought I did, but with so many major shifts going on, I'm beginning to doubt it. I have a plan, though, to get reacquainted.

15. What are the monumental experiences in life that brought me to where I am and made me the way I am?

The big six would be getting molested at four years of age; rolling my convertible MG at age seventeen; hitchhiking alone from London to Cairo at a young age; meeting Naomi, my wife-to-be, in Cairo in 1989; the birth of my daughter; and the death of my father.

16. What are the things I want to change about myself? Why?

I'd like to become deeper in thought as well as calmer. I'd like to simplify myself a great deal. I'd like to believe in a God.

17. Apart from money, success, and changing my physical appearance, what do I want most in my life? If I could push a button and make my life different tomorrow, how would it be? Why?

I'd move the clock back two years and make the changes that I should have made, and be there when my father died, holding his hand.

18. Am I mostly happy or sad? What makes me this way?

I'm happy 80 percent of the time, and sad 20 percent of the time. I have always been lucky that way. Although a big shock has been that as I age, the times of sadness are in the ascendency.

I need a beer. And I suspect you are wondering how any of the above is going to help you in the courtroom. This is a fair question, and one that we will try to answer starting with chapter 2.