In my opinion, the addition of this title would benefit any library supporting a clientele interested in the education field.


Reviewed by Cindy Guyer

¶39 How do I cut down my brief by ten pages? Do I really need to conduct a legislative history search? How should I address the judge? What is the correct pronunciation of voir dire? How do I respond to this amicus brief? Why did the judge give me that funny look?

¶40 These are only a few of the questions answered in Making Your Case: The Art of Persuading Judges, written by Associate Justice of the United States Supreme Court Antonin Scalia and prolific legal writing author Bryan Garner. In their book, the authors concisely yet thoroughly outline the foundations and finer details of effective legal advocacy in both its written and oral forms.

¶41 Making Your Case methodically examines the issues that arise when trying to persuade judges. The first two chapters present the foundations of persuasion. In chapter 1, explaining the principles of argumentation, the authors’ advice includes instructing advocates to lead with their best arguments and to buttress arguments based on fairness with a citation to some jurisprudential maxim whenever possible. The second chapter focuses on legal reasoning. The authors provide an overview of syllogistic reasoning and encourage attorneys to be especially attentive to the relative weight of different forms of precedent. All of the advice offered by these two respected authors is, without question, highly credible. At times, the authors disagree on a point, bantering back and forth in an attempt to win the argument. This in no way undermines the book’s credibility; rather it allows readers to see the disputed topic from differing perspectives and to make up their own minds.

¶42 For the litigator, the remaining chapters, which cover briefing and oral argument, will be the heart of the book. Tasks relevant to both are organized chronologically based on the stages of litigation. On briefs, the discussion ranges from overarching topics such as the key components of a brief and the actual writing process to details including footnoting and use of contractions—a divisive topic between the authors. On oral argument, the authors superbly address a range of topics, including presenting a rebuttal, using pauses effectively, deciding who will argue the case, seating arrangements, and mannerisms to avoid (don’t chew on your eyeglasses!).

¶43 While the authors stress the formalities that govern effective advocacy, they have written Making Your Case in a casual, conversational tone. Humor and noteworthy legal quotations can be found throughout the book. For example, in conveying the importance of a good first impression, the Honorable Robert H. Jackson is quoted as saying, “[y]ou will not be stopped from arguing if you wear a race-track suit or sport a rainbow necktie. You will just create a first impression that you have strayed in at the wrong bar” (p.162). While imparting a substantial amount of
advice, Scalia and Garner make learning the tricks of the trade a pleasurable experience.

¶44 Making Your Case is easy to navigate, with a detailed table of contents and index. Thus, if a reader needs a quick refresher on how to handle questions during oral argument, he can easily find and read the applicable topics. A valuable addition to the book is a list of recommended sources on effective advocacy. Rhetoric guides, books on writing briefs, journal articles on oral arguments, and books on logic and critical thinking are included in the list.

¶45 I highly recommend Making Your Case for all law libraries, including law firm libraries, government agency libraries, and academic libraries. Practicing attorneys, law students in moot court programs, clinics, trial and appellate advocacy courses, and pro se litigants will find it especially valuable. The priceless advice offered by Scalia and Garner far outweighs the nominal cost of the book, making it a worthwhile purchase for any collection.


Reviewed by Isa Lang

¶46 While I was reading this book for review, I saw Swing Vote,7 a movie about a close presidential election. In Swing Vote, Bud Johnson, a citizen of below-average curiosity and motivation, has the opportunity to determine singlehandedly the outcome of a presidential election. The candidates and the press flock to Bud Johnson's small New Mexico town to buy his influence with empty promises, and Bud becomes "King for a Day."

¶47 Are we, as American voters, fooling ourselves into believing that each of our votes holds the power to implement change through our elected leaders? Professor Steven Teles, political scientist and author of The Rise of the Conservative Legal Movement: The Battle for Control of the Law, advances the thesis that political, legal, and social changes come about in a different way. Beginning with the New Deal reformers of the 1930s and continuing with the social activists of the 1960s and 1970s, networks of lawyers, professors, and policy analysts implemented those changes through Congress, the media, and the courts.

¶48 Professor Teles begins his book with a review of the founding and growth of the liberal legal network (LLN). The author's use of this acronym reminded me of the acronyms used for radical groups in the 1960s and 1970s—SDS (Students for a Democratic Society), for example—but the LLN was far from radical. According to Teles, the LLN made great progress in several areas of legal rights: consumer, women's, civil, and welfare. Teles characterizes the Supreme Court of this era as playing an "heroic" role and law professors as gaining an "elevated status" (p.45).

¶49 The LLN achieved social change through legislation and high-profile cases. Teles attributes the LLN's success to an educated elite responding in a civilized way to demands for social and legal change. Nonetheless, many individual Americans (the "silent majority" of the era) were concerned about the Supreme Court deci-

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7. Swing Vote (Walt Disney Pictures 2008).