Hi and welcome back to the Legal Nurse Podcast. This is your co-host, Kelly Campbell, and today’s guest is Mr. David Kempston. Welcome, David.

Today’s podcast guest is an author. He graduated from the University of Minnesota Law School in 1992, Magna Cum Laude and Order of the Coif. He has spent over 26 years as a litigator. He has tried over 400 cases. Ladies and gentlemen, we have something to learn from him today.

He has been voted a “Super Lawyer” every year since 2000. He was recently named the 2017 County Lawyer of the Year. He frequently lectures on Minnesota’s Worker’s Compensation statute and is a contributing author to *Minnesota’s Worker’s Compensation Desk Book*: Chapter 7. And he has written a book published through Amazon in 2017 (I can’t wait to talk to you about this) entitled *That’s Why They Call It Practicing Law*. This is the main reason you want to tune in today and not fast-forward.

Okay, let’s get started. Welcome, and thank you for joining us today.

Thanks, Kelly, and greetings from the Minnesota Polar Vortex where it’s -28 degrees outside.

Aye-ya-ya, well, here in Pittsburgh it is -19, but you have us beat. So, tell us a little bit, not just about your practice, but about your book. I know at the end we’re going to talk more specifically about your book, but 18 years, since 2000, I should say, a “Super Lawyer,” that’s pretty impressive.

Thanks, Kelly. My book grew out of the philosophy of litigation. I litigate cases for a living. I’ve litigated a lot of cases. I still have about a hundred more to go before I catch up to Abe Lincoln, who tried over 500 cases. So, when you hear the phrase “trial lawyer” thrown about...
in a pejorative sense, just realize that good old Abe was the constant trial lawyer, and that will maybe get us some street cred.

In any event, I learned over the course of trying lots and lots of cases that clients did not always recognize good lawyering. In fact, they often did not. I would perhaps behave boorishly in the courtroom, and a client would be all excited about that, and I know truthfully, I wasn’t a good lawyer. Mostly I might do something subtle or very lawyer-like and the client missed it entirely.

What I did find however, was that over the years clients consistently would recognize and respond to good customer service. And so, the idea behind the book was born out of being in the courtroom and repeatedly trying lots and lots of cases, dealing with all sorts of clients on the spectrum from sophisticated to not sophisticated and realizing that one way to set myself apart was to provide excellent customer service. Because if you think about it, at its core law is a *people relationship*. At the core you have of what I do, you have the attorney client privilege. So, if you want to improve that relationship and thereby improve the representation that you provide, you work on improving the customer service that you provide.

I don’t say, “Just be nice and be kind and return phone calls, and who cares about the substantive issues. It’s not a false dichotomy that way. My emphasis is always be an excellent attorney. Know your substance and know your process, but under all of that work on developing your client customer service skills and so the book talks about that. And, I pepper it with dumb Dave stories, that will be me. These are things that you should not do.

**Kelly:** That’s hard to imagine.

**David:** Well, they call it practicing law. They don’t call it perfecting law, Kelly, and there’s a reason. That was the genesis of the book. I gave it as a seminar to trial lawyers several times, and then having written the book, I’ve had a wonderful opportunity to speak to a variety of different groups, not just attorneys, because we all deal with people. I mean, I realize there are some professions where we do not, but by and large we’re all dealing with clients or customers. So, the book,
even though it’s set in the context of a legal practice, has a much broader application.

Kelly: So true. So, what prompted you to write the book? You said you mentioned that you spoke at seminars about practicing.

David: Yeah, it was in my head for about five years, and I gave it as a seminar, and it was in my head. I’ve been married for 29 ½ years. I’m married to the most wonderful person on the planet, and her name is Lisa. And Lisa said, “Dave, you should write a book.”

Now when I commenced the process, there were some second thoughts because I do work full time. I’m a litigator and was trying to write a book on a topic that had caused a little bit of consternation in the Kempston clan, but we got through it.

Kelly: I can only imagine. Wow, I think legal nurse consultants, and I as a life care planner, can glean a lot from it. You had briefly mentioned that you work with people and the clients. And what we can glean from that, simply the title alone, it prompts our interest as legal nurse consultants.

David: Right.

Kelly: So, why and how did you choose that title?

David: Well, it goes to this idea that we can improve what we do. You can always be better at what you do, but one way to get better is to accept input from other people, to accept advice. So, a client comes to you or a peer, a lawyer, for you, another nurse, and says, “Kelly, or David, you’re doing this this way. Is that really how you want to do it?” Instead of being defensive and saying, “I got this. I’m a pro,” stop, pause, choose, listen, and accept the idea that the wise person accepts rebuke.

Rebuke is an old word, but the wise person accepts instruction, and that goes to the idea of constantly perfecting, trying to improve what it is that we do. I realize, Kelly, we all start with a different inherent set of people skills. Some people might say, “Well, Dave, I wasn’t voted President of Glee Club in high school and I wasn’t on the yellow team, and I’m just not good with people.” Fine, I’m not saying you all of a sudden have to be
a rock star people person. What I am saying is that although relationships are organic, they’re organic, and if you’re fake, you’re fake, and that doesn’t work.

Kelly: Right.

David: But that being said, your relational skills are also a technical set of skills, and you can improve those as a trial lawyer. I can improve how I present client’s case in a courtroom. I can refine the art of an opening statement, cross examination, direct exam. In similar fashion, I can refine how I interact with my clients. The book gives about 22 practical pointers. You’re not going to read it and go, “Oh, Dave, I never thought of that.” It’s not one of those books where I’m providing you with some epiphany.

It’s 22 practical ways to improve personal relationships, and my hope is that you might read the book. And, I’ve learned I have to go to seminars all the time to keep my licensure intact. I teach a lot of them, but I also attend them. My goal when I go to a seminar is, “Can I take away one thing?” If I can take away more than one thing, great, but can I at least take away one thing and put it in the Dave toolbox, thereby improving my skill set? So, I think when you read this book, you’ll go, “Yeah, yeah.”

I was an English major in college. I hardly ever get to throw it down, but here we go. Alexander Pope, hundreds of years ago, said about something, “What oft was thought, but ne’er so well express’d.”

All right, so what I’m hoping is that I’ve distilled some common commonsensical items and put them maybe at a level where someone can go, “Yeah, I can work on that.” I mean, for example, I am a plaintiff lawyer. Okay, I’ve been a plaintiff lawyer for over 23 years. I was an insurance defense lawyer for about three years before that, and one of the things I can’t stand is lawyers who don’t return phone calls. Granted we’re now on email, I get that. I don’t care for lawyers who don’t return inquiries.

But I try not to be that guy with clients. So, what I do with clients is I say, “Look, one way I can demonstrate and care for a client is to be timely, to respond to their inquiries, and I want to set a good expectation.”
In my book I talk about the 24-Hour Rule. Tell a client, “Hey, you’ll hear back from me within 24 hours unless I’m dead, out of town or something bad happened” because sometimes you’re stuck in court, and you come out and you got a ton of email and you got a ton of voicemail. You might just dig out and say, “Look, Billy or Susie, I’m getting back to you. I’m sorry I’m not ready to talk about this yet, but I wanted you to know that you’re on my list, and I’m just working my way down the list.”

And, if you give the client an expectation that they will hear back from you within a period of time, it puts them a little more at ease. Plus, then if you follow through on it, they’re flabbergasted.

That’s my favorite “F” word. A client just goes, “Oh my gosh, you got back to me,” and that’s funny. But what’s really funny in all this, Kelly, is that it’s going back to what I said at the very beginning, “Clients don’t recognize good lawyering.”

Usually they don’t, but they do recognize if you do what you say you’re going to do, if you’re timely, if you’re responsive. So, you could be a middle-of-the-road lawyer in terms of your trial skills but say you’re attentive and you provide good customer service. Your client is going to think, as my mother-in-law used say, that you’re the cat’s meow. Your client is going to appreciate that. They’re going to be like, “Wow, this person gets back to me.”

Twice in my legal life now, and I’ve represented a lot of people, I’ve had a client come back and say, “David, I know it wasn’t true, but I felt like I was your only client.” Now the flipside of that—

Kelly: That’s the ultimate compliment.

David: It is, and the flipside of that is that you want to be accessible and available, but your boundaries are important. So, I’m not saying, “Be a lawyer, be on call 24 hours a day.” I’m not saying that at all. In fact, in the book I talk about self-care and how important it is to establish boundaries and what if you don’t do that. We’re all finite creatures. We’re all limited in capacity, and we can’t go hundred percent all the time. I have a friend who says, “David, it’s very easy to create
boundaries, but it’s very hard to enforce them,” and what you find is this constant erosion.

I have four children. I have three grandkids, and so in family there are boundaries, but those boundaries—any parent or grandparent will know this—erode, and they periodically have to be reestablished. And so, I’m trying to balance that in my practice, and I don’t pretend to be perfect, but again in my book I give some ideas on how to go about doing those sorts of things.

**Kelly:** One thing that stood out to me was your 24-Hour Rule, even if you don’t have the time right then to address the specific issue, it’s just acknowledging the email and saying that you will be responding. That’s something we can take into our practice right now as legal nurse consultant. “Yes, we received your email, and we will be responding very shortly.” That’s something fabulous that we can insert into our practices.

**David:** If you think about that, Kelly, every relationship you have has equity. It’s like a bank account, and you’re making deposits and you’re making withdrawals from that relational equity. And, what you want to do is make as many deposits into the relational equity account as you can because nobody is perfect and people get irritated, and lawyers make mistakes. I know nurses do not, but lawyers make mistakes once in a blue moon and so it’s nice to have a little bit of relational equity in the bank. And, I think by being available, being responsive to the client, you can achieve that goal.

**Kelly:** Yes, absolutely. So, as a litigator, you find your principals to be effective in an adversarial system. What do you think of that?

**David:** I do. Picture a lawyer, and picture a litigator, and you probably see a shark in your mind if you close your eyes and picture a litigator. An unpleasant thought comes to mind, and you go law school, and that is kind of how you come out. You think, “Okay, I got to be a bulldog.” If you would’ve asked me when I was younger, “Hey, David, what do you do for a living?” All right, I kid you not I said this and drove my wife nuts. I would say, “I’m a paid mercenary with a spear.” All right,
and you go, “Well, what does that even mean? I mean, are you like Spartacus? What is this?”

Okay now fast-forward, I’m 51 years old. I’ve been doing this for over half my life. Now when someone says, “David, what do you do?” I say, “Well, I’m a glorified tour guide,” and people go, “I thought you were a lawyer.” Well, I am, but think about it. My job is to take my clients through a complicated system, so I navigate them through a complex procedural process and it’s substantively complicated too.

The second thing that I do trying a lot of cases is that I am telling their story to a fact-finder, to a judge. My trials are bench trials. I try them to the judge, and so when we get to court or along the way I’m telling my client’s story to other witnesses, to expert witnesses to garner support and ultimately to the fact-finder in hopes that my presentation, my client’s story, is going to prevail. And, I don’t mean something we made up.

It’s an adversarial system, and that’s the beauty. It’s the beauty of the adversarial system is that if it’s having a hard time floating, the other side is going to poke some holes in it, and you’re going down. So, how does that work in litigation?

The reality is that the client’s story is going to be told, and there’s a couple of different ways to do it. One is where you’re really focusing on the evidence, and you’re leaving your ego out of it. You catch more flies with honey, and I mean all of the clichés that I can unload on you right now, it does work. It is effective.

Now I’ve spoken to groups of trial lawyers, and I’ve had people come up to me afterwards and say, “Kempston, do you really believe in this kumbaya stuff?” and I say, “Yeah.” And I’ve had people say, “Well, it doesn’t work for me” and my response is, “Have you tried? Are you just always a growly bear?” Never confuse being firm with being gentle. You can be both. Just picture a brick in a velvet glove.

Kelly: Nice analogy. Okay.

David: I can’t take credit for that one. A judge whom I knew when I was a young lawyer and very upset after a terrible mistake in the courtroom consoled me with that, and she was trying to explain, “David, you
don’t have to be a growly bear. You don’t have to be a paid mercenary with a spear. You can be a tour guide, David.”

Kelly: Well, yeah, just the facts, ma’am! You can do that and get the point across, right.

David: Very good.

This is Pat Iyer, pausing this interview for a moment to relate this podcast to one of my 2 newest books: *How to Create Lasting LNC-Client Relationships*. It is Book 10 of the *Creating a Successful Legal Nurse Consulting Practice Series*. It provides a deep dive into the relationship between legal nurse consultants and their clients. Working with attorneys is challenging and rewarding. Without a steady stream of attorneys who love working with you, your legal nurse consulting business collapses. Does this worry you? It should!

The core of being a successful LNC is being able to effectively work with attorneys.

You can have an aggressive marketing program to bring in new clients, but if you cannot retain them, you’ll be endlessly spinning your wheels. Your clients will stay with you when you understand what they want, how they are wired, and how you can do a great job for them.

When I ran my independent LNC business, some stayed with me for more than 20 years.

*How to Create Lasting LNC-Client Relationships* explains the best way to build a solid client retention program, using strategies that work to identify the desirable clients and avoid the trouble makers.

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This is an essential reference for every LNC. Get your copy by going to this podcast’s show notes on podcast.legalnursebusiness.com. You can order this book or any of the others in the series. Now let’s return to the show.

**Kelly:** Okay, so what application does your book have for other service industries? As you’re talking, I’m receiving it and knowing what I can do in my industry, but let’s spell it out for our listeners. What else can you do?

**David:** Thanks. Again, you can take what I put in the book, these 22 pointers, and you can apply it to any setting, whether it’s a business setting or an insurance sales setting or a nurse setting. I’ve had some physicians read the book and say, “David, this is excellent for dealing with my patients.” And, the idea again is that at the core of what we do we are dealing with people, and so we want to improve our people skills.

Technology was supposed to set us free, right? We were going to have all this free time. We weren’t going to be stressed. Remember that? I mean, I’m sure you’re 29, but I’m 51.

**Kelly:** Oh yeah, thanks.

**David:** And I’ve seen some changes over the years, and one of the things that I’ve seen is that technology has not given us more free time. If anything else, it’s made things increasingly cold. You have less face-to-face interaction I was trading emails with my client yesterday, and I sent an email that said, “Hey, can you call me? Let’s just talk this out.” And so, she picked up the phone, and she called me, and we talked for 10 minutes. And I said, “I can type really fast, but I can talk way faster, can’t I?”

**Kelly:** Oh, I’m so with you on that.

**David:** But, oh my gosh, she talked fast. And so, in the age of increasing digitization, a hard word for me to say. In the digital age, as we are more and more removed from personal contact, I think emphasizing customer service is so huge.

One of the things I talk about in my book is being available. If you’re a waiter, a wait person, they call it touching the table. You don’t want to be the
wait person who’s omnipresent and hovers, and makes small chat when you’re like, “Go away, we’re trying to eat our dinner.” But the flipside is, you don’t want an inattentive wait person. So, they call it “Touching the Table.” You want to have appropriate touching of the table in all of the industries whether you’re working as a nurse consultant, a life care planner, you’re doing patient care, LPN, RN, or whatever. The principles apply across the board because we’re dealing with people. We’re talking about improving our people skills.

**Kelly:** That’s so true, because many of the legal nurse consultants or the life care planners end up being the expert witness. So, your clients are the attorneys, but your clients are also patients. So, we look it from both ends, and there’s a lot of compassion and people skills. It’s so true.

Okay, we’ve already talked about the benefits of providing good customer service, but is there something else that you feel we should give the extra oomph to make our listeners more aware?

**David:** Sure. If you do this, it’s going to accrue to your benefit alright. You’re going to keep your existing clients satisfied. You’re probably going to generate more referrals. The buzzwords these days are *market share* or *branding.* Well, what a great way to brand, a personal touch, and again you don’t have to overtly say, “I’m going to give you really good customer service.” As a matter of fact, why don’t you under-promise and over-deliver? *Just do it,* the old Nike phrase. And, I think that it’s a great way to set yourself apart, to be excellent.

No matter what you do for a living, it’s a great way to be excellent because again people are going to have a good impression of you. Now, not everybody is all right. Again, I’ve been doing this for a long time, and the reality is it’s not even five percent. Maybe it’s two percent that you can’t please no matter what you do, and for nurse consultants who are dealing with lawyers, maybe it’s 10 percent of the lawyer clients. I don’t know, but there’s always going to be a segment that no matter what you do, it’s not enough, alright. So, let’s put them in a box because we’re not going to be able to appease them or satisfy them no matter what we do, but everybody else is going to recognize and respond to it, and in the long run it’s going to improve your business. That’s what it’s going to do.
Kelly: Right, and since 2000 you’ve been a “Super Lawyer.” I’d say you pretty much know what you’re talking about.

David: Or, all my peers in Minnesota just really like me and vote for me every year. That’s one other possibility.

Kelly: Let’s go with what I think you’re talking about. Okay, so in your book what are—obviously, we don’t want to give too much away—but what are some specific ways you recommend?

David: Well, it’s very helpful to understand as an attorney that the relationship isn’t about you. It’s called the *attorney-client relationship*, but the *attorney* is not the focus, the *client* is. So, I open the book with a discussion about understanding that it’s not about you. I delve into setting realistic expectations and how you do that. The 24-Hour Rule is a classic example of that.

I talk about the importance of listening. You go to law school, and it might teach you how to talk. They teach you how to argue. They teach you how to identify the issues and knock them down and bring your evidence to bear on this particular issue. They call it adducing the evidence all right, but they never teach you how to *listen*. And, it’s interesting because God gave us two ears and one mouth, and form often follows, or function often follows form. So listening is such an important skill set in the lawyer world because if I don’t listen, I’m going to miss the mark. I give some examples of that.

I talked about being available. This is a funny one. I’m a trial lawyer. I tell my clients to tell the truth all the time. Okay, I tell them to tell the truth because it’s the right thing to do. It’s the easiest thing to do and I live in an adversarial world, so the other side is going to find out anyway all right, so tell the truth. Now I’m not saying don’t be an advocate, but truth wears well. In the courtroom what I’m looking for, I’m not the fact-finder, but what I want to hear, what my veteran ear longs to hear is what I call the “Ring of Authenticity.”

“What is that?”

It’s truth. Okay now grant it, I’m not omniscient. C. S. Lewis once said, “What you see and hear depends a lot upon what kind of person you are and where it is that you’re standing,” and I get that, okay. I’m a Minnesota
Vikings fan. If I watch a football game with my Green Bay Packers buddy. I mean, it’s—we’re doing this the whole time—it’s like, “Whoa, I didn’t see that.” “Oh yeah, it’s right there, Dave. Look.” And so, I get that alright. We’re not omniscient.

We’re not omni anything, so sometimes the truth is elusive. I mean, you’ve heard the story. There are three sides, their side, your side, and the truth. I get that, but to the extent we can encourage truthfulness, we want to do that, and I’m not saying that you don’t advocate. I have a buddy who says, “David, you can put the same picture in a thousand different frames.” All right, that’s true.

Okay, it’s like a football field, and there’s a lot of room between the markers, between the hash marks. Okay, there’s clear out of bounds and don’t go there, and that’s a dead ball when it goes there, but between the sidelines there’s a lot of room to move.

I talk about doing the work. Abe Lincoln, a second time I go to Abe, he had a great quote, “Work, work, work is the main thing.” There is no substitute. Earnest Hemmingway, all right. Two of my siblings were also English majors, and he’s their favorite American writer. He’s not mine, but that’s okay. He had an interesting thing about writing. He said, “Work every day no matter what happened the day before. Get up in the morning and bite on the nail.”

There are no substitutes for doing good work. You can’t just be nice and kind and follow. You’ve got to do the work. That’s like saying, “Gee, Dave shouldn’t wear a blue tie or a gray tie because he’s got a blue shirt on.” No, that’s silly. They’re not mutually exclusive. I can do them both alright, so do the work. Be prepared, communicate clearly.

One of the things I talk about is maintaining perspective. We’re the experts all right. In your field as a nurse consultant, you are the expert. People are coming to you with a problem and again you’re not perfect, and you’re not omniscient, but bring your expertise to bear. Share that with the client. Make good referrals.

Kelly: Something nurse consultants shouldn’t forget. We are the experts. Thank you for reminding them and me. Thank you.
David: So, I also talk about self-care and how important that is. In the modern age, I belong to a health club. I go to the health club, and they’ve got this magazine, and you read the magazine and you begin to think, “I can do it all. I can be a great lawyer and I can be a great runner, and I can be a great husband, and I can be a great dad, and I can be a great grandpa, and I can have lots of friendships, and I can have tons of hobbies.” And what, we’re finite and you need to have boundaries, and not just in your professional relationship. But you need to be taking care of yourself because a healthy lawyer or a healthy nurse is going to do a better job taking care of their clients, and so I talk about that too.

I think that gives you a flow for the book. Those are the main elements that I get after as I work my way through how we can improve the customer service that we provide to clients.

Kelly: Okay, well you’re going to find an uptick on Amazon purchase because as soon as we’re done here, number one, I’m going to find you on LinkedIn, number two, I’m going to purchase your book. So, let’s tell our listeners how do we find you and follow you?

David: Well thanks. Yeah, LinkedIn “David Kempston.” You can go there. The book looks like this.

Kelly: Perfect.

David: If you go to Amazon and you type in “David Kempston,” the book should pop up. It’s if you’re a Kindle person, if you have Kindle Unlimited you can get it that way. With Kindle, I think it’s $4. Paperback is $10, $9.99, and it’s available on Amazon. It has received a lot of good reviews from a variety of different people. Like I said, I’ve got law professors who have highly endorsed it and insurance people and medical professionals, and a lot of input from attorneys, so, it’s available on Amazon.

It’s a quick read. It took about 18,000 words, and I find I’m an avid reader leftover from being an English major. I do like short books. I mean, it’s seldom I read a book and go, “Gee, I wish that was longer.” Now once in a blue moon I do read a book and go, “This writer really was on it,” and then I wish the book was longer. By and large, I’m getting to the
finish line and I’m thinking you should’ve stopped writing about 10 pages ago. So, you’re going to find it to be a quick read, but you’re going to find some good pointers in here that will challenge you in your practice and hopefully help you to improve your practice.

**Kelly:** Thank you. Thanks so much for your time today. It was very informative and enjoyable. All right, so LinkedIn “David Kempston” and “Practicing Law” on Amazon. Thanks so much.

All right, audience, join us next week, tune in. Bye-bye.

Be sure to get a copy of my new book, *How to Create Lasting LNC-Client Relationships*. This book focuses on what really counts as an LNC - having strong relationships with your clients drives your success. Working with attorneys is challenging and rewarding. You can have an aggressive marketing program to bring in new clients, but if you cannot retain them, you’ll be endlessly spinning your wheels. Go to http://LNC.tips/creatingseries.

I’ve got a phenomenal resource for you just waiting on LegalNurseBusiness.com. My online training and books are designed to help LNCs discover ways to strengthen their skills and businesses. Check them out at legalnursebusiness.com.

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