



LNP 314

The Elegant Warrior: Views of an Experienced Trial Attorney Heather Hansen

Kelly: Hi, welcome back to the Legal Nurse Podcast. I'm your co-host Kelly Campbell. Today we have Heather Hansen. She is the author of the Amazon Bestseller, *The Elegant Warrior: How to Win Life's Trials Without Losing Yourself*. In the book, Heather shares lessons from her 20 years as a medical malpractice trial attorney.

If you want to advocate for yourself, your ideas, your colleagues, and your clients and your customers, after over 20 years as a trial lawyer, Heather Hansen has the tools to help you become a credible advocate. She knows how to ask better questions, master objections, use credible evidence and capitalize on differences. And she knows these skills are transferable.

Heather has consistently been named one of the Top 50 Female Lawyers in Pennsylvania.

She's a trained mediator with a psychology degree, and she knows how to use words to advocate and to achieve victory. Her vast experience and her enthusiasm have led her to appear on CNN, Fox News Channel, NBC, CBS, and Sirius Radio. And she served as an anchor at Law and Crime. Heather has written a book, *The Elegant Warrior: How to Win Life's Trials Without Losing Yourself*. And she is the host of "The Elegant Warrior Podcast", which I love, by the way. She is an advocacy and credibility consultant, an international keynote speaker, and has lectured at Stanford Law School and Villanova School of Law.

Welcome, Heather, and thank you for joining us.

Heather: Thank you for having me, Kelly, it's my pleasure.

Kelly: You know we try to run our podcast 20 to 25 minutes. I'm afraid we might run longer than that.

Heather: There's a lot to talk about. I love my nurses. I love my nurse experts when I hire you guys in my cases. I love when I'm defending hospitals

and I get to work with the nurses. And I know for a fact that juries love nurses, so it's really my pleasure to be here.

Kelly: Thank you. I've been looking forward to this day. Let me tell you, there's so much to talk about. So, I mean, we've always said we're not an infomercial. Today, listeners, we are going to dive into the book, *The Elegant Warrior*. If you don't mind, so we don't give away too much from your book, let's highlight a few of your chapters if you don't mind, Heather.

Heather: Sure, I'm happy to do that. I mean, I think what I can tell you, and I think that so many of the stories and the lessons of the book are things that your audience either already knows, and they know they know it, or they know it and they just haven't realized it. It's just applying all the skills that we use in the courtroom and taking them to life. So, there's chapters on how to learn how to object, how to overcome objections, how to collect your yeses, how to nurture your team, how to be your own best advocate, and how to do things like embracing rejection. These are all things that we must do in our lives and in our careers, but also things that we see in the courtroom.

You know it's great to talk to an audience of people who have been in the courtroom and been within the system and know a little bit about the ins and outs of the system. But the book just takes all those lessons and applies them to life.

Kelly: Okay, so let's start with the first example you gave, how to be your own self-advocate.

Heather: It's so interesting. Nurses tend to be advocates for patients. I just did a podcast yesterday where we had a long discussion on who is the appropriate person to advocate for a patient. I think so often individuals/patients depend on doctors to be their advocates and that's not really a doctor's role. And so, the book is meant to give people ways to advocate for themselves, whether they're acting as a patient, whether they're at work, whether they're at home. And you know the ways to do that are like the ways that we do it in the courtroom. You want to use creativity and you want to build your credibility.

That's a big part of it. And I think maybe that's a good lesson to sort of focus on for your audience because a legal nurse expert's credibility,

as you know, is of the utmost importance. You know you want to build your credibility with your resume or your CV as a good start, but the thing I talk about most in my keynote speeches and in the book is on setting expectations for your clients or your customers, or the people who you're working with. And then meeting those expectations and making promises and then keeping them. And then maybe the hardest part is if you can't meet an expectation or keep a promise, being willing to say, "I can't do this, and this is why." Because I think that that oftentimes is an enormous way to build credibility.

An example is what you guys do. If you look at a case and you can't give an attorney exactly what it is that they think they want, as far as an opinion or recommendation or a strategy, you have to be honest enough to say that rather than trying to sort of work around it or stretch it a little bit. You build honesty and credibility by saying, "Look, I can't say that, but I can say this." That builds credibility that then takes you into the relationship and allows you to continue to be retained by that attorney. So, I think that those chapters—there's a separate chapter on credibility—those chapters are especially applicable to your audience. But we all know, even in life, the importance of credibility and trust.

Kelly: Right and not losing your integrity while earning your credibility is also important.

Heather: Absolutely, one can't happen without the other. You know it's impossible to earn credibility if you're lying or if you're being untrue to yourself. I mean, Kelly, you bring up a good point. So, the reason I named the book *The Elegant Warrior*: some people assume that it's meant for women, and it's not. The word “elegant” comes from a Latin word that means to choose. It's the same root as elect. And so, I believe that you choose your elegance.

So, to your point, your elegance could be like your integrity.

- "What's important to you?"
- "What do you most want to remain true to?"

And then the hard part is maintaining that during times of trial when you must be a warrior. So, that's sort of the bottom line of the book,

but a lot of that is knowing and being true to yourself and what your own personal truth is, your integrity.

Kelly: So true. So true. You must be true to yourself, be true to the patient/the injured person and serve not only them, but your hired attorney. So, you're being an advocate for yourself, the injured party and the attorney all while earning credibility. Is that a good summation?

Heather: It's a great summation. Being an advocate is a term that we oftentimes throw around, but it's true that that's part of the role that you play, the audience plays in what you do every day without even maybe knowing it.

Kelly: Okay. All right, so that's the keys for one of the chapters. Let's move on to a different chapter. I'm telling you; I've listened to your podcast. I have not yet bought the book. When we hang up today or by the weekend, I will be an owner of the book.

Heather: Well and you know you can get a lot... For those who aren't readers, I narrated the audio version of the book as well, which was a lot of fun. But one of my podcast episodes is sort of a little primer on the book and a lot of the same issues come out in the podcast.

I would love if the audience all bought books, but I really think that the more people can recognize their own elegance within the legal system especially, the better we all will be. It is such a contentious and stressful and difficult thing. There's a chapter in the book, Kelly, about seeing my mentor have a heart attack in the courtroom. But that happens. You know there are studies that show that the stress of litigation is more detrimental to the parties than the event that caused the lawsuit. So, these cases are stressful, and they're stressful for every player in the case, including the experts, including your audience.

So, I think that wherever you get your source of resilience and ability to be more mindful about it, whether it's from my book or from my podcast or from your podcast or something else, I say go for it. Because it's a difficult job and there's compassion fatigue. I spoke to a group of female doctors on Monday night, and I spoke to a group of lawyers last week, and both groups had questions about compassion

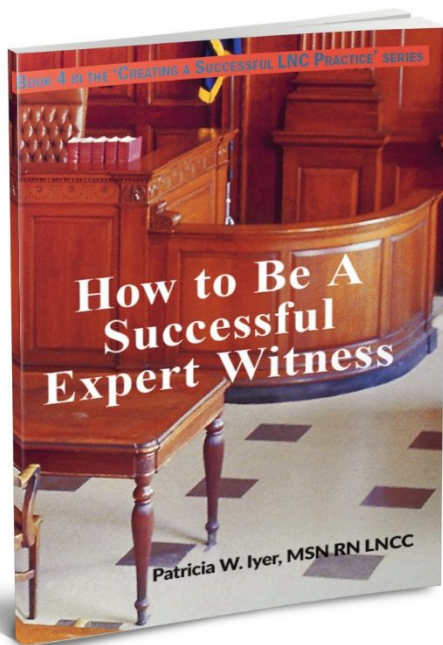
fatigue. And I think that it is something that happens in all our respective careers.

Kelly: That is very, very true. Very true. So, how do you prepare for a trial so that we can translate it into experts preparing for trial?

Heather: It's an interesting thing. My mentor, John, who lived through his heart attack continued to be my mentor for many years before he retired. I would get frustrated with myself, Kelly, because we have two years about from the time a case is filed until the time that it goes to trial. And in those two years, I always felt like I knew the case as well as anyone would ever know it. And yet when it came time to trial, I'd always find things that I hadn't seen before, and I'd always recognize issues that hadn't come up before. And John used to call it, "The Microscope of Trial." Things do change in the context of trials, so I prepare starting the day that the case is filed by making sure that I know every single document in the case and really understand it.

And then the other thing that I do that I think that has led to some of my successes and may be something that's helpful to your audience, is I work really hard, really hard, to overcome what's called "The Curse of Knowledge." "The Curse of Knowledge" is a term that was first named by some researchers at Stanford University. But what it really comes down to is the idea that sometimes we know things so well that it's hard to imagine not knowing them.

So, a perfect example is at trial, during their openings, other attorneys will start talking about vascular doctors and osteomyelitis, but I will talk about blood doctors and infection in the bone because those words are words that the jury can understand. So, a big part of what I ask my experts to help me with is to take those really confusing medical terms and medical concepts and bring them to a level that I can then talk to the jury in ways that they understand.



Let's stop for a moment. This is Pat Iyer. There is a lot at stake in medical malpractice cases. You want to do your best. I put together a book specifically for LNCs who are expert witnesses or considering taking on this rewarding role. It is called *How to be a Successful Expert Witness*.

Use this book to read through, refer to, and consult to gain a greater understanding of the role of the expert witness. I urge you to approach being an expert on a case as a tremendous opportunity and a huge responsibility. Engage in your work with professionalism and commitment. The attorney and his client are counting on you.

This book draws on my experiences both as an expert witness and one who has trained hundreds of experts – nurses, physicians, and a variety of healthcare professionals. Order your copy at <http://LNC.tips/expertwitness> and use the code listened to get a 25% discount on this book.

Now let's return to the show.

Kelly: Yes, I have a fair amount of editing or publication, not extensive by any means. But I've learned that the jury, you should talk to them at the ninth to twelfth grade level. Not to diminish their education by any means, but basically to understand the medical or the legal terms just because they're gathering in so much information in such a short time that that's the best way for them to understand and receive the information. Is that something that you would agree with?

Heather: I couldn't agree with you more and there's two ways of looking at that, one is that for doctors talking to patients in their practices. So, I know that the American Academy of Orthopedic Surgeons recently within the past few years put out an article that talked about the fact that most of the patient materials that they provide to patients, despite the concerted effort to make them easier to understand, are still written at a level that's too advanced for the typical patient. So, for patient care that's a problem because if patients aren't understanding and are too afraid to ask questions, which is another reason I wrote the book, to

help patients to ask those questions. But if they're not understanding, then they're not going to get the full effect of the medical treatment.

But to your point, Kelly, in the courtroom, it's a huge problem. I read a book one time, it's about trial techniques, and in the book the author said that if an attorney says one word that the jury doesn't understand, they don't even hear the next 10 words that you say. Because your brain... the jury's brain, each of their brains, is trying so hard to figure out what that word was that it's no longer focused on the next words. So yeah, I mean this is probably the biggest part of preparation to my mind is taking those terms that we know so well and finding a way to unknow it. That's why "The Curse of Knowledge" is a curse so that you can communicate in a way that the jury understands.

Kelly: Right. Well, I go to trial next week, so I'm going to have to remember that you don't always have to be impressive with your vocabulary. It is about communicating or educating the jury.

Heather: Kelly, you hit the nail on the head. I do a lot of CLEs, continuing legal education for lawyers, and lawyers are often shocked at this when I talked to them about it because they so want to impress the judge and opposing counsel and the expert, but who cares to be honest. I mean, obviously you have respect and you want to treat the judge with respect and the professionalism that is due. But the person or persons that you're most wanting to impress and to have understand you is the jury. And we oftentimes worry so much about, "Am I using the right words? Am I looking like I'm smart?" But jurors, they don't care how smart you look. They care how much you're able to make them understand and that will make them think that you're smart. So yes, absolutely.

Kelly: Okay. All right. I'm learning a lot. I think everyone else too. All right, let's go to another chapter here. You had mentioned dealing with rejection.

Heather: Yeah. I tell this story of waiting for a jury to come back is like some sort of purgatory. You know you're just pacing. So, most of my cases, I would say more than 50-percent of my cases, I try in Philadelphia, but my office is in Plymouth Meeting, Pennsylvania. So, I don't go back to the office when the jury is out as some of the other lawyers

do. I just pace city hall. I do crossword puzzles, but mostly I walk because of the nervous energy.

I had a partner. She's no longer at our firm, but she used to go down and eat hotdogs like one after the other, Kelly. She'd eat like seven hotdogs during the time that the jury was out and make herself so sick. But that period when you're waiting with the full understanding that there is a 50/50 chance that you're going to be publicly rejected is hard.

But the lesson that you learn is the fact that that case, that trial, that rejection is not you. You have not been rejected. The case has been rejected. The care has been rejected. And helping doctors and nurses and healthcare providers to also understand that and not take the case so personally is a big part of my job. I have my psychology degree, and I take my role as counselor very seriously. Because for doctors and nurses who have been sued, they need to understand that this case is not a reflection on them, but rather a reflection on one moment in time, one treatment of a patient.

Kelly: Right, right. I'm trying to process this, and it is so true. Because you know prior to this industry, I did work as a clinician and it is so true to not personalize your whole care. You can only live with your own integrity, your own self-definition onto yourself.

Heather: Yeah, and we all make mistakes. There are studies. There's both a *New England Journal of Medicine* and a Harvard study that show there's no correlation between negligence and lawsuits, which is a problem in and of itself. Because it means that when there is negligence, and we know that it happens, those cases don't tend to be litigated. And then the cases that are litigated tend to be ones where if an independent peer review were to happen, they would find that there was no negligence.

The correlation that they find is in communication, so that's a whole different podcast in a whole different topic. But we know that clinicians and providers make mistakes. Everyone does. And the hard part is for a clinician who has made a mistake to be able to go on and continue to treat patients. You know I've had more than one doctor say, "If I did this wrong, how can I treat a patient tomorrow and do the same thing?" I've had radiologists who have had to leave the practice

because they missed a spot on a scan. And then for the rest of time, they keep going back and looking at scans repeatedly because they're afraid that they're going to miss it. So, to be able to sort of remove not only yourself, but your professional acumen from one case or one mistake or one moment in time and not make that such a personal thing, it's hard as can be.

You know many times I'd say, "I wrote this book because I need these lessons." This stuff isn't easy, but you know Maya Angelou used to say, "Know better, do better."

Kelly: Right, yes.

Heather: Right, so I think the better we know, the better we can do.

Kelly: Right, right. Yeah, I'm thinking back to my clinical days and seeing the process and evolution of even just medicine and technology. My specialty was cardiac back when ECMO and LVAD artificial hearts.

Heather: As I mentioned, I do a lot of speaking. And I do a lot of speaking to doctors and we talk a lot about technology in the treatment but also in the electronic medical record, which is the bane of all of our existences, even us experts because you know the records have changed so much. The stuff that you guys review has changed so much. And sometimes I know that I struggle with the fact that they're in backwards, chronological order, and then the tabs aren't all printed. I'm sure that the audience is all nodding their head in agreement because this is a problem.

Kelly: All I can say is aye, aye, aye.

Heather: Yeah, it's a big part. And it's hard for doctors, especially doctors my age and older who are not as accustomed to living in this technological world and technological natives, I guess they call the younger generation. But it's changed medicine and it's led to more depersonalization, which I think is a problem in all aspects of what we do. With experts, for example, I love to get on the phone with my experts and/or meet them in person. Because there's nothing like eye contact, tone of voice and body language to get a sense of what's really going on. I don't think you can ever communicate in the same way by email.

- Kelly:** So true. The spoken word versus the written word, the interpretation. Very true.
- Heather:** It makes a huge difference.
- Kelly:** Very true. Oh goodness. There's just so much. I don't want to keep you all day. I know you're very, very, very professional. Just one more question for our listeners. When choosing an expert, what are two top things you look for?
- Heather:** The number one thing is something we've already touched upon a great deal. It's the ability to make the case easily understood by a jury. So, someone who can talk in terms that a jury is going to understand, someone who's creative. You know I think that sometimes we look at our cases and think that they're so black-and-white and logical. But in truth, a creative analogy that will help the jury to understand things in a way that they understand is of the utmost value to me. So, I think that that's the number one thing. And then the number two thing. Well, I'm going to give you three because I can't... the next two are to be tied.
- Kelly:** Okay.
- Heather:** Number two would probably be the way that the person presents. The way that they use their hands and their body language and their tone of voice, and their eye contact. Because again, that creates a connection with the jury. You know when I give my keynote speeches, I talk about the five C's of advocacy. They are "Compassion," "Connection," "Curiosity," "Creativity" and "Credibility." So, if you have those five C's, you're an expert that I'm going to want to hire. And then I think the third thing is the ease with which we can work together. You know, if you're relatively accessible and easy and fun. Every human is the same. We like to work with people who we like and trust. And so, if you are likable and trustworthy, that makes a big difference as well.
- Kelly:** Right. So true, so true. All right, well thank you. Thank you so very much.
- Heather:** It's my pleasure.

Kelly: For our audience... Well, we've already said about The Elegant Warrior Podcast, which I highly recommend. Where can I for sure get your book?

Heather: So, you can get the book. If you go to my website, you can kind of see everything. The podcast is there a little bit about what I do is there. It's heatherhansenpresents.com and my last name is spelled with an E-N, so heatherhansenpresents.com and there you can buy the book. It's also available in every bookstore. I'm going to a bookstore in Brooklyn tonight to do a book signing. I'm going to Connecticut tomorrow, so it's available in bookstores as well, or if you like audio books, it's available on audio.

And then the other thing that you should know is I'm a partner at my law firm and that firm is O'Brien and Ryan in Plymouth Meeting, Pennsylvania. So, if you want to reach out to me in that respect, it's O'Brien and Ryan in Plymouth Meeting and obrlaw.com is the website. And then my website is heatherhansenpresents.com.

Kelly: Wonderful. Well thanks for joining us today and listeners, don't forget to listen to her podcast. I'm telling you, for sure, you must do it. And don't forget to tune into Legal Nurse Podcast next week. Thanks, bye-bye.

Thanks Heather.

Heather: Thank you so much, Kelly.

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