

Book Review: Spinning the Law: Trying Cases in the Court of Public Opinion

By Kendall Coffey

By Kendall Coffey *Prometheus* (2010) Reviewed by William R. Terpening

"Criminal defense lawyers are the law's ultimate underdogs," writes Kendall Coffey, but "while underdogs at sporting events have fans in the stands rooting for them against the big dogs, for the defense lawyer there may be few cheerleaders." Thus, he repeatedly argues throughout *Spinning the Law*, our role in highly publicized cases includes taking measures to neutralize a news media that is quick to rush to judgment and vilify our clients. As a prominent Miami criminal defense attorney, Coffey has been at the center of some media-frenzied trials. *Spinning the Law* distills experiences from those cases into lessons on how lawyers should handle the press.

Not content to draw upon his formidable personal experience, Coffey devotes many pages to a survey of media management insights from, seemingly, every popular criminal trial from the past two millennia. The legal plights of Oscar Wilde, Martha Stewart, Scott Peterson, Gordon "Scooter" Libby, and Duke's lacrosse players attract his analysis, alongside the litigation travails of Joan of Arc, Michael Jackson, and Socrates, to name a few. "In times past," Coffey concludes, "speaking to the press was considered unprofessional." However, "now it may be unavoidable." Coffey's historical expansiveness supplies authority and interest, particularly for attorneys with appetites for historical density. It leads also to *Spinning the Law*'s sole weakness. It sometimes groans from the weight of an overloaded kitchen sink, leaping between cases in disconnected ways, occasionally more exhausting than exhaustive. This criticism seems trivial. Ultimately, however, this is a readable and passionate book, with valuable insights on controlling a media that is focused on selling an entertaining story at any sacrifice — even at the cost of fair reporting and neutrality.

Coffey's mantra is that "while lawyers represent clients, we also represent their reputations." Defense attorneys understand, too well, the experience of winning a tough legal battle, only to find that their clients have had their prospects and reputation ruined by a press that is quick to report the prosecutor's allegations, but reluctant to offer the defense perspective, or publish follow-up stories covering acquittals or prosecutorial mistakes. This book preaches the importance of managing the media to minimize, to the limited extent possible, this problem.

Spinning the Law devotes considerable space to comparing and contrasting how cases are tried in courtrooms with how they are tried in the court of public opinion. We are reminded that many tactics used in the courtroom — such as developing salient and memorable legal themes — transfer to the media. Coffey observes that jurors in high profile cases ignore sequestration instructions and other judicial attempts to avoid the taint of media coverage, and expose themselves to press coverage of their trial. Thus, it is important to develop simple, emotional, image-based, repetitive themes, and remain on point in the media.

Using examples from various trials, he argues that media themes, well designed and consistently delivered, trickle into courtroom proceedings and supplement courtroom legal themes. Coffey compellingly envisions the acquittal in the O.J. Simpson murder trial as the result, in significant part, of the defense's ability to market the trial as a battle between a purportedly racist police force and a pillar of African American society. This, he suggests, prompted jurors to acquit on a theory that looked very much like jury nullification.

In similar fashion, noting that members of the media often draw their stories from court filings, he suggests drafting pleadings and briefs to include vivid language that tells the client's story to the press as well as the court.

Defense lawyers will enjoy Coffey's sympathetic view of how they must handle a media that tends to be antagonistic to the defense (Chapter 7), and his critical perspective of how unscrupulous prosecutors sometimes improperly feed a press that is too willing to accept allegations at face value (Chapter 9). Regarding the Duke prosecutor, he notes:

"Nifong may have been an extreme example, but it is hard to believe that the only victims of prosecutorial misconduct are lacrosse players." As such, the book offers not only media-handling advice, but encouragement to a maligned defense bar in the form of Coffey's own indictment of the bias of the press. These two chapters, along with Coffey's summary of his media lessons (Chapter 11: A Media Primer for Spinners), form the practical core of this media primer, and should be the focus for busy readers. However, the entire work deserves study as a tutorial for your next high profile case.

About the Reviewer

William R. Terpening is a Partner at Nexsen Pruet in Charlotte, N.C.