

# LITIGATING IN A DIVIDED NATION

**Toning up Our Interpersonal Skills:  
Navigating Opinions and Presumptions While  
Seeking Justice**

**43<sup>rd</sup> Annual Page Keeton Civil Litigation  
Conference – Austin, Texas**

**Speaker: Claude E. Ducloux**  
Board Certified, Civil Trial Law, and Civil  
Appellate Law, Texas Board of Legal Specialization

**LAWPAY**<sup>®</sup>  
AN AFFINIPAY SOLUTION



1

## 2 Agenda

- The Biology of Decision-making
- Nature and Sources of Worldview
- Are We More Divided than Ever?
- Understanding Your Legal Environment
- The Influence of Politics on Law Practice
- The Limits of Your Own Tolerance
- Uncontrollable Input (aka “Info Gone Wild”)
- Asking Ourselves the Hard Questions
- Changes You Can Make

**LAWPAY**<sup>®</sup>  
AN AFFINIPAY SOLUTION

2

### 3 Unconscious Bias – Our Worldview

Factors which form our unconscious views and preferences:

- How and where we are brought up
- Biological differences
- Our friendships then and now
- Media influences
- Individual experiences

We are hardwired to to prefer those who look, sound, and share similar interests.

*Emerging from the Shadows: Unconscious Bias in the Workplace* – Katrina Grider, 2018 UT-CLE 25<sup>th</sup> Annual Labor Law Conference.

3

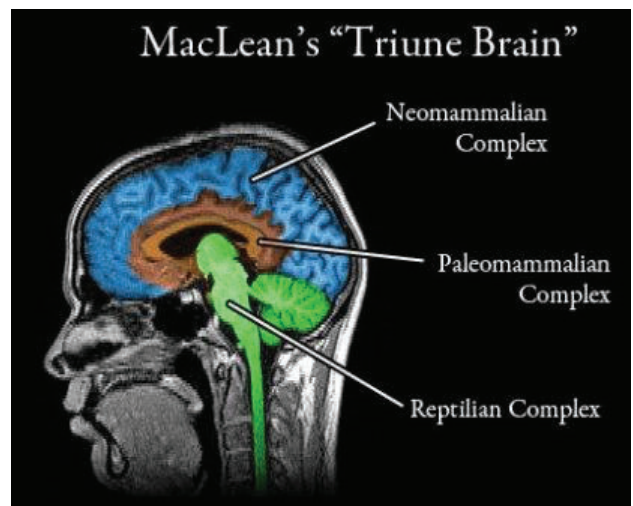
### 4 The Biology of Decision-making

The brain's **frontal lobe** presides over reasoning, self-control, and decision-making, including:

- Social behavior
- Complex cognitive behavior
- Your personality

By contrast the **limbic cortex** (also nicknamed “lizard brain”) is associated with emotion, addiction, and mood. It is much more primitive in development.

**OUR DECISIONS RELY ON BOTH PARTS OF THE BRAIN.**



[blogs.scientificamerican.com](https://blogs.scientificamerican.com)

4

## 5 The Psychology of Decision-making

The world is complex. To simplify, we rely on a range of cognitive mechanisms to cope with adverse environments where we face the unknown.

**Heuristics:** Confidence-sustaining “mental shortcuts” that help us make quick decisions. However, relying on heuristics is at the expense of rigorous logic and rational reasoning.

**Why do we use heuristics?** We don't have time (or perhaps the mental ability) for complex analysis, so we limit the information we will consider.

*Example: relying on a brand name over analysis of a product's quality.*

5

## 6 How We Influence... and Are Influenced

### **The variables:**

- Framing the problem (in **our own** mind)

How you see the problem has a significant effect on how you make decisions. If we think we're winning, we become risk-averse. If we think we're losing, we're likely to take more risks to recover losses.

*Thus—we go to trial when “we have nothing to lose.”*

- Framing the problem (in **others'** minds)

The car crash video: words matter

Groups of students were shown the same video and asked, “How fast were the cars going when they [smashed][collided] [bumped][touched] the other car?”

The verb made a huge difference in their answers. “Smashed” resulted in higher estimated mph.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Litigating in a Divided Nation: Toning Up Our Interpersonal Skills: Navigating Opinions and Presumptions While Seeking Justice

Also available as part of the eCourse

[2019 Page Keeton Civil Litigation eConference](#)

First appeared as part of the conference materials for the  
43<sup>rd</sup> Annual Page Keeton Civil Litigation Conference session

"Litigating in a Divided Nation: Handling Strong Political Views During Trial"