

THE LAW OFFICE OF KENNETH E. BERGER, LLC

Safety First,
Justice Always
SEPTEMBER 2022 NEWSLETTER

“Learning – A Lifelong Course”

I recently interviewed attorney Ken Levinson on my podcast. Ken is a voracious reader, thought leader, and trial attorney. He has conducted numerous focus groups and spends an immeasurable amount of time teaching and learning from other lawyers. I asked Ken about the common denominators he found amongst the highest achieving people he knew. The first factor he mentioned was a dedication to lifelong learning. That made sense as Ken, a lifelong learner, is in turn a very high achiever.

A couple weeks later I had renowned trial attorney, Joe Fried, on the podcast and the topic once again turned to learning. I mentioned that even before getting sworn in, I was told to identify which seminars brought together truly world class presenters, and to attend so I could learn from the best. Joe added that while the advice I received was true, we should recognize that every interaction – no matter whom with – provides an opportunity for learning.

I enjoy being a student. It’s one of the reasons I started the podcast; it’s why I surround myself with folks who know and have accomplished more than I have; it’s why my bedside table typically has two books (one legal, one not) on it; and it’s why I still travel around the country for conferences before coming home and listening to what folks in my everyday interactions have to say.

I strongly believe that a special type of learning comes from teaching and that experience remains the best teacher. At the same time, in a profession and world where so many want so badly to be heard, I would argue that each of us has more to say by first listening and learning.



Disclaimer: Any result I may achieve on behalf of one client in one matter does not necessarily indicate similar results can be obtained for other clients. In addition, some of these results were obtained in connection with other firms. I am a South Carolina injury lawyer, not a miracle worker. I evaluate every case on its own merits and only accept a limited number of new cases every year.

For Referring Attorneys

If you are one of our many referring attorneys, we want to thank you for allowing us to serve. Your trust means a great deal.

We seek to strengthen your relationship with the client by providing him/her with a great experience, as well as a great result. Additionally, we always make it a point to emphasize that you are truly the person to thank, as it was your good judgment that allowed us to take part in their representation.

If questions arise in the coming month concerning a life-changing injury or wrongful death case, we are here to help. From simply answering your questions to being associated on or referred the case, please let us know what we can do to benefit you and the client. Likewise, if you have a potential client call us directly, be sure to have him/her say who made the referral so we know who to thank.

To discuss anything from litigation tactics to our core values, call us at (803) 790-2800 or email kberger@bergerlawsc.com.

Efficiency

Attorney Brad Lanford

Efficiency is one of my favorite words. Efficient is defined as achieving maximum productivity with minimum wasted effort or expense. What a great concept. In the world, or at least in our country, it seems that hard work is often rewarded without much thought to efficiency, but rather how much effort is put into something. I am reminded of everyman and perpetual planner Clark Griswold in *Christmas Vacation*, as he puzzled over the thousands of lights he stapled to his house for the holidays that would mysteriously not turn on. His daughter Audra, valiantly defending her dad, told the family, “He worked really hard.” The



response from the callous father-in-law? “So do washing machines.” Ouch. But in fairness to Art, nobody really cared how much effort went into the task, only that the lights looked amazing when they came on, which they eventually did thanks to Clark’s wife of course.

What does this mean for what we do here? We obviously believe in working as hard as we can for our clients. Does that mean spending hours in the office at night and on weekends? Sometimes, but not always. In our world, efficiency means focusing on what is important in a case. For some cases, it might be the police report; in other cases, it might be an important medical record or finding the right expert. Even the most complicated case usually boils down to one or two crucial issues. It’s why Robert Duval in *A Civil Action* slept through most of the multi-week trial while his corporate client was accused of dumping chemicals into a local river and causing a cancer cluster. The reason? He knew that nobody witnessed his client dumping the chemicals and to him that was the only real issue in the case and everything else was just white noise.

Cutting through the white noise, and in the legal world there is plenty of it, is no small task. But fortunately, with a lot of hard work, it leads to efficiency, which in turn usually means great results for our clients.

Firm Snapshot

Free Bike Helmets Provided to South Carolina Families

On Saturday, June 4, we hosted our first free bike helmet giveaway at our office on Forest Drive to help keep kids safe while bicycling this summer. At the event, we provided free helmets to local families and kids, along with educational flyers to teach parents how their children can stay safe while biking.

Kids had fun playing with James and customizing their helmets with fun, waterproof stickers. Tasty snacks and refreshments helped families beat the heat as they learned about bike safety and how to make sure their child's helmet is properly fitted.

We had a great turnout and are grateful for all the families who stopped by the event. We can't wait to have another giveaway soon!



The Practice of Law

Empowering Your Client & Witnesses

Years ago, I spent a lot of time at seminars and workshops led by Don Keenan. He is a brilliant, polarizing man to whom I am deeply indebted. Don taught me about “foreseeability” in a way I never learned or appreciated in law school. He also gave me a wonderful education in client and witness preparation. Since being introduced to Don – which fortunately occurred shortly into my career – I’ve never tried to coach a witness. That type of coaching doesn’t work since you’re just trying to get another human being to parakeet your words in a flimsy, manufactured way that is almost certain to fall apart.

Instead, Don showed me how to empower witnesses with...wait for it...the truth! And not just any truth, but their core truths. Irrefutable, unchanging facts that explained, in a person’s own words, why they were deserving of full civil justice. Once a witness – be it a client, expert, or lay person – arrives at their own core truths, they’re hard to shake. In fact, much of their

anxiety and apprehension gets replaced with confidence and determination. They realize that no matter what the other side says or does, the core of their testimony can’t be altered, hidden, or undone. In fact, the more time and effort the other side puts into attacking these fortified truths or nitpicking at largely irrelevant points, the worse they look and the more sympathetic the witness becomes.

Most witnesses only have 1-3 core truths, yet every important answer and critical element of their testimony is rooted in such truth. I think of supporting facts like spokes on a wheel or rays on a sundial, and at the core/center is the core truth that makes all subparts factual.

Another human being’s core truths are theirs alone. I cannot substitute my perspective for their experience. My job is to empower, and for that I have Don and other wonderful teachers to thank.

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Season two of Best Practices with Kenny Berger is now live! Be sure to subscribe so you don't miss these incredible conversations with trial lawyers from across the country.

You can find both seasons on Apple Podcasts, Google Podcasts, Spotify, or on our website, with new episodes coming out every other week.



BEST PRACTICES
WITH KENNY BERGER

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