Litigating with Judgment: What Abraham Lincoln's Trial Practice Teaches Modern Lawyers

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Lincoln's broader approach to litigation was built on pragmatism and self-discipline. The underlying principles that guided his choices remain relevant. Effective advocacy still depends on discernment, proportion, and credibility. In an era of increasing complexity and pressure, those qualities may be more valuable than ever.

BY SAMEER SOMAL

Most Americans remember Abraham Lincoln as one of the nation's greatest presidents, but not everyone is familiar with his career as a trial lawyer. For more than 20 years, Lincoln traveled across Illinois, working on circuit and trying cases in packed courthouses, serving as counsel for both prosecution and defense. Settling disputes for both businesses and individuals, he often advised his clients on whether it was worth pursuing legal action at all. In the process, Lincoln gained a reputation as a successful attorney not through aggressive legal action or theatrical courtroom displays, but through careful and sober judgment centered on the facts of each case. He approached his role with discernment and restraint grounded in a deep and empathetic understanding of human nature, and thus he built his legal career on considerations of not only facts and evidence, but also prudence and timing.[1]

Popular folklore about Lincoln's legal career often focuses on his shrewdness in cross-examination or his cleverness in interpreting evidence. These accounts tend to mythologize the more dramatic flashes of his practice, and perhaps none are more famous than his defense in *People v. Armstrong*, in which he dismantled a murder charge by introducing an almanac to show that the testimony from a prosecution witness about the appearance of moonlight on the night of the alleged incident was impossible because it was a new moon.[2] Of course, this moment of cross-examination deserves its legendary standing, but emphasizing it runs the risk of overshadowing a more important truth about Lincoln's broader approach to litigation: his success did not derive from clever tricks or rhetorical flourishes alone. Rather, it was built on pragmatism and self-discipline. Lincoln applied his intelligence, knowledge, and discernment to recognize precisely when to fight and when to compromise, knowing that settlement or even silence often served a client more suitably than uncompromising confrontation.[3]

Lincoln established his practice in a legal culture that seems far removed from modern codes that guide procedures or decorum. He practiced law at a time of virtually no official rules or procedures for civil litigation, no written code of professional ethics, and hardly any institutional distance between the professional reputation of a lawyer and his personal reputation in the community.[4] Even in that setting, however, Lincoln was able to carve out a style of litigation focused on selectivity in taking on cases, discipline regarding the assessment of facts and evidence, and a reputation in the bar and the courtroom that mirrored his standing in the community. In his daily work, Lincoln serves as a useful reminder to modern practitioners that sometimes the success of effective advocacy can be found not so much in the intensity with which a lawyer pleads but in the way the lawyer chooses the ideal moments at which to exert that intensity.

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Choosing the Fight: Case Selection, Fees, and Litigation Risk

Among the most telling characteristics of Lincoln's practice was his selection of cases. He was not a lawyer who thought that all grievances should be put to the test through aggressive litigation. Quite to the contrary, Lincoln regularly refused to represent a client who, in his estimation, had no legal or justifiable standing in bringing a case to court. In other instances, he instructed clients to forgo all claims even when filing suit could have resulted in short-term financial gains.[5]

This level of discernment did not stem from indifference or reticence. It amounted to a perception of litigation as risk management. Lincoln acknowledged that weak cases could waste time, tarnish credibility, and present liabilities in terms of both financial and reputational outcomes, which on balance sometimes far exceeded any potential benefit. As one of his biographers rightly notes, Lincoln was "remarkably free from the common professional error of mistaking persistence for principle."[6]

This is also demonstrated by accounts of disputes over fees and decisions to withdraw from representation. Lincoln certainly cared about receiving compensation for his labor, but he was also aware of considerations about whether or not his services would further the interests of a client. In some instances recorded in his case files, he reduced or refused fees when he thought his contributions to the case were minimal, and in others, he withdrew himself from representation instead of pursuing litigation because he thought the suit would do more harm than good.[7] In one notable exchange with a prospective client, he advised candidly, "You are in the wrong, and you cannot succeed."[8]

Lincoln's approach provides a valuable reminder for modern lawyers that choosing whether or not to bring a case to court remains in itself an advocacy action. In some cases, a decision not to file suit may be worth more than winning a contested motion or a verdict, and advising a client of this risk may be the most prudent strategy. At a time when busy dockets and rising costs are among the most troubling issues in litigation, clear-eyed judgment at the beginning of a case can prove the most effective professional service a lawyer can offer.

Winning by Narrowing the Field: Evidence, Narrative, and Restraint

In cases where Lincoln did go to trial, his advocacy was characterized by paying stern attention to decisive facts. He was never prone to fight exhaustive evidentiary battles or unremitting objections. Instead, he frequently allowed minor points to pass without challenge, choosing to devote his energy to the issues that contributed the highest degree of value to the result.[9]

This strategy appears in numerous records of Lincoln's various criminal and civil litigations. Known for his meticulous preparation, Lincoln pored over witness testimony and physical evidence with great care, but he withstood the temptation to contest every minute detail. He realized that even judges are prone to lose sight of the larger, more important issues in a case when they are inundated by the noise of minor details, so surely this would be even more pronounced among juries. By eliminating distractions and maintaining focus on the essential details of a case, he made it easier for judges and juries to view the case the way he wanted them to see it.

Even the well-known almanac defense is not an exception to this broader approach. In *People v. Armstrong*, Lincoln did not base his defense on dramatic confrontation and lengthy cross-examination. He instead took his time and led the prosecution witness through a litany of factual commitments to allow him to hang his credibility on one statement regarding visibility and moonlight. Lincoln then presented the almanac to the jury as an implicit contradiction that shook their faith in the witness's entire account.[10] As a contemporary viewer later recounted, Lincoln "did not confuse the jury with many facts, but fastened them to one."[11]

Ultimately, Lincoln's sense of restraint not only extended to the selection of cases or assessments of evidence but also included his demeanor in the courtroom. He appeared as a straight-talking, plain-spoken man from rural Illinois by avoiding legalese in circumstances where it was not necessary and resisted treating jurors like passive spectators in the proceedings. He relied

on juries to follow an intelligible factual narrative, and he did not insult their intelligence by quibbling over minor details or distorting the opponent's position. His trust in their ability to interpret the facts of a case, in turn, frequently won their trust in him.[12]

Silence, Concession, and Settlement as Strategy

Arguably the most undervalued aspect of Lincoln's litigation style was his readiness to compromise, to remain silent in cases where it proved effective. He operated from a viewpoint that unneeded hostility could often diminish advocacy rather than reinforce it. Therefore, objections were not impulses, but instruments. He did not argue for the sake of broad antagonism but instead crafted claims for a specific purpose.[13]

This restraint led his contemporaries to comment on how Lincoln could allow testimony to be presented without interruption, even in cases where it presented an inaccuracy or exaggeration that could have been refuted easily. This was not oversight, but rather calculation. When appropriate, he allowed small mistakes through so that in times when it was most effective to correct the record, or when it mattered most, he maintained the highest degree of credibility. Silence, wisely utilized, was incorporated as a powerful component of his persuasive and rhetorical repertoire.[14]

These strategies amounted to a kind of common-sense pragmatism that influenced Lincoln in his approach to settling cases. He often encouraged clients to settle litigation out of court when a suit showed the potential to heighten conflict without any significant beneficial outcome. In short, he carefully weighed the facts of the case in terms of a cost-benefit analysis and landed on terms that were reasonable and fair, even if it meant receiving less tangible or short-term reward for himself or his clients. This was especially true in disputes between neighbors or family members, and he was careful to avoid any collateral

damage to relationships in the process. Lincoln knew that even a legal victory might leave some permanent harm in its wake, and he did not mistake achieving a quick judgment – one characterized by short-term benefits – with reaching one that was just or permanent.[15]

In business disputes, as in cases involving railroads and other recurring players, Lincoln understood that the enemy of today could easily become the customer or partner of tomorrow. Therefore, he understood that a short-term victory filled with contention and vitriol could potentially damage future partnerships and endeavors; another reason to remain measured and deliberate, remaining attentive to future relationships.[16] To the modern practitioner operating in an increasingly litigious social environment in which clients often demand firmness in the face of conflict, this element of Lincoln's practice remains relevant, showing how restraint and compromise can sometimes lead to more beneficial long-term results than unprincipled inflexibility and unproductive contests of wit.

Reputation as Litigation Capital

As mentioned, Lincoln was always mindful of litigation's impacts on reputation, and this awareness remained an underlying consideration in his decisions involving case selection, evidence, and settlement. For Lincoln, reputation was a kind of personal and professional currency, especially within a small, interconnected legal community, and he invested in it carefully and prudently.

By consistently presenting the facts honestly and directly, Lincoln gained the trust of judges, and jurors tended to believe him when he referred them to a point that mattered. The opposing attorneys understood that when Lincoln offered concessions, these were not mere tactics. The result of this was a degree of trust that resulted not from one dramatic victory at trial, but from many years of steady and persistent conduct. Lincoln's word in court, as one of his colleagues remarked, "stood for more than another man's oath."[17]

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Lincoln's approach to litigation is not relevant only to the nineteenth century. Modern lawyers, especially those working in regional or specialist areas of law, function as part of reputational ecosystems that generally reward consistency and punish extravagance. By building a reputation on trust, fairness, and consistency, a lawyer may discover that one's arguments carry weight even before they are properly explained, whereas a lawyer prone to zealous overreach might face skepticism or challenges convincing juries, even in situations where the law is in one's favor.

The example of Lincoln shows that reputation is not an abstract virtue but a practical advantage. It helps determine how judges and juries accept or dismiss arguments, and it can help shape the outcomes of negotiations and the ways in which clients evaluate counsel. To develop such an asset, decisions and strategies must extend beyond any individual case in favor of consistent and ethical practices.

Conclusion

Abraham Lincoln did not earn success as a trial lawyer by being unnecessarily flamboyant or aggressive. His accomplishments in litigation were based on discernment concerning the selection of cases and emphasis on particular facts. He understood instinctively when to speak and when to keep silent.

For modern lawyers, the lesson is not that Lincoln's methods should be copied wholesale or romanticized without context. The legal system has changed in profound ways, but the underlying principles that guided his choices remain relevant. Effective advocacy still depends on discernment, proportion, and credibility. In an era of increasing complexity and pressure, those qualities may be more valuable than ever. **WL**

ENDNOTES

[1]Mark E. Steiner, *An Honest Calling: The Law Practice of Abraham Lincoln* (Northern Ill. Univ. Press 2006).
[2]*People v. Armstrong* (Ill. Cir. Ct. 1858), reprinted in *The Law Practice of Abraham Lincoln: Complete Documentary Edition* (John R. Duff, Frank J. Williams & Paul Findley eds., Univ. of Ill. Press 2000).
[3]Brian Dirck, *Lincoln the Lawyer*, 14 J. Sup. Ct. Hist. 1 (1989).
[4]Henry C. Whitney, *Life on the Circuit with Lincoln* 58-63 (1892).
[5]John R. Duff, Frank J. Williams & Paul Findley, *The Law Practice of Abraham Lincoln: Complete Documentary Edition* (Univ. of Ill. Press 2000).
[6]Isaac N. Arnold, *The Life of Abraham Lincoln* 96-102 (1884).
[7]Duff et al., *supra* note 5 (documenting fee reductions and withdrawals).
[8]Abraham Lincoln, *Notes for a Law Lecture* (July 1, 1850), in *Collected Works of Abraham Lincoln* 81 (Roy P. Basler ed., 1953).
[9]Steiner, *supra* note 1, at 112-120.
[10]*People v. Armstrong*, *supra* note 2.
[11]Whitney, *supra* note 4, at 61.
[12]David Herbert Donald, *Lincoln* 152-166 (Simon & Schuster 1995).
[13]Abraham Lincoln, Letter to George Robertson (Aug. 15, 1855), in *Collected Works of Abraham Lincoln*, *supra* note 8, at 323.
[14]Arnold, *supra* note 6, at 101-2.
[15]Allen C. Guelzo, *Abraham Lincoln: Redeemer President* 64-71 (Wm. B. Eerdmans Publ'g Co. 1999).
[16]*Illinois Cent. R.R. Co. v. McLean Cnty.*, No. ___ (Ill. Cir. Ct. 1857), reprinted in *The Law Practice of Abraham Lincoln*, *supra* note 5.
[17]Arnold, *supra* note 6, at 99. **WL**