Reviews

Poker Courtroom

What Lawyers Can Learn from Card Players
Andy Bellin
Poker Nation
HarperCollins 2002

Steven Lubet

Games & Trials

Lawyers all realize that they must play by the rules, but is there a deeper relationship between games and law?

Analogies are inevitable. An easy case is a slam dunk, and a perfect cross examination really scores points. An overbroad document request is a fishing expedition, while a fortunate discovery hits the daily double. An inscrutable judge hides the ball, but if you complain to the court you might find yourself skating on thin ice, when all you really want is a level playing field. Alas, sometimes your opponent stoops to dirty pool, which might sorely tempt you to follow suit. The language of games seems to inform almost everything we do in law practice – preparation (coming up with a game plan), negotiation (jockeying for position), witness examination (putting the ball in play), oral argument (fielding a question), refusing to settle (rolling the dice), winning (a knock out), and losing (a strike out).

Interestingly, the analogies almost all run in one direction – perhaps because games are more common, more accessible, and more popular than trials. Whatever the reason, there are few, if any, legal metaphors in sports or games. We don't speak of pitchers cross examining hitters or bridge players delivering arguments. An angry coach might read "chapter and verse" to her underperforming players, but she would not "file a motion" or "cite precedent." True, an umpire's "verdict" may sometimes be "reversed on appeal," but those tropes are not metaphors at all. Rather, they reflect the reality that some sports are, in fact, judged.

This linguistic observation leads to an intriguing question. Recognizing the impact

Steven Lubet is a Professor of Law at Northwestern University. A note on pronouns: This essay uses female pronouns for all card players, game players, and athletes; it uses male pronouns for lawyers and witnesses. Copyright 2003 Steven Lubet.

that the language of games has had on the language of trials, to what extent might games themselves provide useful lessons for trial strategy?

This is not a question about the academic study of "game theory." Scholars in that field have long posited that their models can predict behavior in all sorts of human activities, from business to international relations to litigation. Almost none of it, however, has filtered down to actual courtrooms, at least in any advertent sense. While the argument can be made that litigators naturally employ game theory (after all, where does the theory come from, if not practice?), there is virtually no professional literature urging lawyers to run computer simulations or engage game theory consultants for even the biggest trials. Nor do practicing attorneys make a habit of speaking in the language of economic modeling. You will never hear real lawyers bemoaning a prisoner's dilemma or worrying about the tragedy of the commons. But you will hear them complain when the court moves the goal posts, thus leaving them stuck behind the eight ball (and perhaps forcing them to punt).

In truth, most games, especially sports, have little relevance to trial strategy. Apart from a few universal bromides – keep your eye on the ball; run to daylight; hit 'em where they ain't – there are very few practical lessons that are transferable from recreation to advocacy, which is primarily intellectual rather than physical.

There is one game, however, that definitely provides a useful template for law practice. And that game, of course, is poker.

There is an undeniable, though imperfect, symmetry between litigation and poker, in that each involves competitive decision making with incomplete information. In poker, a player must continually decide whether to raise, call, or fold without seeing some or all of the other players' cards. There is always a certain amount of public information in the form of exposed cards (except in draw poker) and, more importantly, in the betting behavior and physical demeanor of one's adversaries. The objective in poker is almost always to deceive the other players by misrepresenting your own cards – often by showing strength when your cards are weak (thus bluffing the others into folding their hands), or by showing weakness when your cards are strong (thus encouraging others to keep betting when they cannot win). Even honesty in poker is deceptive. A strong hand played strongly allows one to bluff more easily later in the game.

Nonetheless, there are underlying poker ethics, summed up by the phrase "cards speak."[1] In other words, the best cards always win, for those who remain in the game through the final round of betting. Thanks to the laws of probability, every player has an identical chance of drawing winning cards. The decision about whether to stay in the game is freely made by each player, as all have equal access to precisely the same information. While deception is at the heart of the game, some shady tricks, such as "string betting,"[2] are prohibited. Absent cheating, there are no alliances or side deals, no secret swapping of information.

Law practice, and litigation in particular, shares many of these characteristics. Most importantly, lawyers must make a constant series of decisions based upon a mix of available and unknown facts. The most obvious such decision is whether to settle or proceed to trial, but there are also many other, smaller decisions

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1 Richard Harroch & Lou Krieger, Poker for Dummies 228 (2000).

2 In a string bet, a player throws chips into the pot in installments – thus allowing her to observe reactions before completing her play. This is illegal; the player's bet is therefore limited to the initial amount thrown into the pot. A. Alvarez, Poker: Bets, Bluffs, and Bad Beats 125 (2002).

along the way – which depositions to take, which motions to file, which theories to pursue, which questions to ask – each one influenced to one degree or another by opposing counsel's behavior. The best lawyers, like the best poker players, have a knack for getting their adversaries to react exactly as they want, and that talent tends to separate the winners from the losers.

In poker, every mistake costs money – which makes it a terrific heuristic. A poker player, of even moderate skill, knows instantly when she has misplayed a hand. Moreover, she is immediately able to calculate the exact cost of the mistake. Because poker involves a relatively small number of variables – there are only 52 cards in the deck, and only three possible moves in each round of betting – a player can assess every aspect of her game ruthlessly and with considerable accuracy. There is no kidding yourself in poker; you either win or lose.

Lawyers have more trouble with self-assessment, and not only because of ego involvement and self-delusion. Every lawsuit has thousands of factors, and no case exactly duplicates any other. What's more, most litigation comes to a fairly indeterminate end via settlement, while ultimate negotiating positions remain unrevealed. It is therefore difficult to say whether, and to what extent, one has won or lost. Even in those few cases that go to trial, thus producing a clear winner, there is no easy way to identify which decisions worked and which failed.

In law practice, the many, many dependent variables defy isolation. Consequently, even the most well-recognized truisms can be neither validated nor falsified. Never ask a question unless you know the answer. Sounds right, of course, but can it be proven? Save your strongest argument for rebuttal. Makes sense again, but aren't there exceptions? Opening statement is the most important part of the trial. This one has become a legend, but is it really true?

In contrast, poker maxims are constantly being tested and retested. Many of them are based on clear mathematical calculations, and others have been validated in practice. Capable poker players know the precise odds of filling an inside straight (they're crappy, don't try it[3]) or completing a flush when you draw three suited cards in seven card stud (pretty good, worth betting[4]).

In short, poker wisdom represents real insight into the workings of the game, including the all-important techniques of "representing" your hand to maximize its value. Poker is extremely popular, played by as many as sixty million Americans, and every player has a cash incentive to improve the quality of her play. Consequently, it is no surprise that there are scores of books devoted to poker strategy and technique.[5] Most of them are of the standard how-to-do-it variety, but there is also a substantial amount of poker journalism, and even a category that might be called poker literature.

The latest entry in the literary genre is Andy Bellin's *Poker Nation: A High-Stakes, Low-Life Adventure into the Heart of a Gambling Country*.[6] Bellin, a magazine writer and quondam graduate student in astrophysics, successfully combines solid advice for amateur and experienced players with a series of engaging essays that cover the history, culture, and personalities that make the poker world an unusually fascinating place.

Bellin makes no broad assertions about the transferability of poker skills. He does not

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3 David Sklansky, Sklansky on Poker 64-65 (1999).

4 Ken Warren, Winner's Guide to Texas Hold 'em 199 (1996).

5 Amazon.com lists 129 poker books, and there are many others on card games in general.

6 HarperCollins 2002.

claim, as others sometimes do, that there are important life lessons to be learned at the card table. Even so, his thoughtful deconstruction of poker theory will be immediately recognizable by every lawyer who has ever made a strategic decision in the face of uncertainty. As it turns out, there are indeed poker tactics that can be applied to comparable situations in law practice.

Minimize Your Losses

The first, and potentially most difficult, lesson for novice poker players is that the bets you don't make are as important as the ones you do. Since you cannot possibly win every hand, or even a large plurality of hands, a major key to success lies in minimizing your losses when you are dealt poor cards. As Bellin puts it,

> The biggest mistake inexperienced poker players make is thinking that the only way to make money at poker is to win more hands. They have not recognized that the best way to make money is by minimizing your losses by folding more frequently.[7]

It costs money to play a hand, and more money the longer you stay in it. Consequently, it saves money to fold a bad hand as early as possible, and it saves the

most money if you fold before calling a single bet. A common strategy, therefore, is to play only "premium hands," meaning those that have the best chance of winning.

This approach is called "tight" play, and it is not without some problems (discussed later), but it is far better than the frequently seen alternative of calling a few early bets and then

THE RANK OF HANDS—FROM LOWEST TO HIGHEST—IN POKER

Hand	Cards
High card (no pair)	3♠ J♣ K♠ 6♥ 10♦
Pair	4♦ 4♣ 7♥ A♠ 8♥
Two pair	Q♣ Q♠ 5♠ 5♦ 10♥
Three of a kind	9♦ 9♥ 9♠ 4♣ 3♠
Straight	7♥ 8♠ 9♦ 10♣ J♦
Flush	10♣ 4♣ 8♣ 2♣ A♣
Full house	5♦ 5♥ 5♠ K♣ K♦
Four of a kind	8♣ 8♦ 8♥ 8♠ J♣
Straight flush	4♥ 5♥ 6♥ 7♥ 8♥
Royal straight flush	10♣ J♣ Q♣ K♣ A♣

From *Poker Nation*, page xiii.

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7 Bellin at 84.

folding when the action becomes more intense. Those first few futile bets are virtually wasted money, and they can add up significantly over the course of a game. It is usually (though not always – again, more later) far better to select a few potential winners and then play them through to the end, while sitting out all the rest.

On one level, of course, it is easy to see that lawyers may prosper if they avoid losers in their case selection. Personal injury attorneys, who work for contingent fees, have been employing this sort of triage for years. On the other hand, large firm lawyers, who bill big clients by the hour, have little personal incentive to fold a losing hand so long as the meter is running – though their clients might see things differently.

In any event, the value of minimizing losses is less apparent, and therefore more important, at the micro level in an individual case. Although they will seldom admit it, many lawyers are insecure about their choice of tactics. Rather than draft a sturdy, single count complaint, a lawyer will freight it up with multiple counts, many simply repeating the same allegations, simply out of fear of waiving a valid claim. The same insecurity leads counsel to overload appellate briefs with numerous trivial arguments, rather than concentrate on a few good ones.

Of course, all of the handbooks caution against this sort of "loose play," warning that unnecessary claims and arguments inevitably detract from the good ones. Still, lawyers keep doing it, no doubt because the cost is invisible. A court will seldom base its judgment explicitly on the inclusion of an inconsequential argument in the losing party's brief. Though the wasted pages, in an age of strict limits, would have been better spent on more salient points, there is little way to reckon the direct price of verbosity.

Consequently, lawyers simply ignore the sage advice of their elders and the exasperated entreaties of the courts. A few hours of seven card stud, however, might better drive home the virtues of tighter play.

Know Why You Are Betting (and Why You Are Not)

It may seem obvious that you bet in poker, or anywhere else, because you think you will win. But it is not nearly that simple. According to Bellin,

> To simplify a very complicated concept, there are basically two purposes to betting. The first is fairly self-evident. You want other people's money. Therefore, if you genuinely believe that your hand is the best, you want to bet and raise so you can increase the amount of money contained within the pot.
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> The other reason you bet – and raise – is to narrow the field. You eliminate some, or all, of the competition and therefore have a better chance of winning. It's important to remember that these two concepts are often counterproductive. The more people you play against, the more money there is at stake. But at the same time, the more people participating in a hand, the less likely it is that you'll hold the winning hand.[8]

In other words, betting can either bring money into the pot (when other players call), or keep money out of the pot (when other players fold). Players who fold do not pay you, but they cannot beat you. Players who call contribute money to the pot, but they may end up outdrawing you and taking it for themselves.

How does one resolve the betting dilemma? Is it better to bet aggressively and drive out weaker hands, even at the cost of a much smaller pot? Or is it better to bet cautiously, or not at all, thereby encouraging others to stick around and raise the stakes? As you might guess, there is no single correct answer. Rather, the best approach depends upon an

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8 Bellin at 33.

intricate assessment of both the cards and your opponents' attitudes.

In brief, the optimum strategy is always to misrepresent your hand. The better your cards, the less aggressively you bet. If your hand is unbeatable ("the nuts," in poker slang), you do everything you can to indicate weakness, "slow playing" in the hope that the second best hand will begin raising aggressively. When you do bet or raise, you will want it to look like a bluff, encouraging inferior, but still pretty good, hands to raise back. If you hold a weaker hand – good enough to keep playing, but not a sure winner – you will probably show strength, betting and raising to drive out the competition. This is especially true when your hand is incomplete but potentially powerful, say four cards to a flush or an open-ended straight. The chances of filling your hand may be pretty good (usually about 30% to 50% if there are two cards yet to be dealt[9]), but there are never any guarantees. Consequently, you may play as though you have already made your hand, encouraging the competition to fold. This is called semi-bluffing, since you can win either by forcing everyone else out, or by actually drawing the winning card.

The point is that winning players evaluate the consequences of each bet, measuring it against a complex matrix of possible results. They are betting not only on the value of the cards, but also on their opponents' predicted reactions. Better players engage in a further calculation, called "pot odds," that also estimates the long-range future value of each bet. The best players are able to vary their technique to avoid predictability – sometimes they play strong hands strongly (which makes their subsequent bluffs more convincing); sometimes they intentionally fold winners (to encourage other players to bluff with weak hands, planning to call them later, in larger pots).

With that in mind, let us now turn to cross examination. Again, the handbooks caution brevity, advising lawyers to cross examine only on sure points, and as few of those as feasible. And again, too many lawyers persist in conducting long, searching, counterproductive cross examinations. Why do they do this? Because they haven't followed Bellin's rule. They don't know why they are betting.

As lawyers know, the purpose of cross examination is not to gather information, but rather to tell a story. The goal of a good cross examination is to extract useful answers from a – usually – uncooperative or unwilling witness. In essence, the lawyer wants to be the narrator, explaining his client's case, with the witness merely providing the necessary affirmation of the lawyer's points. Witnesses resist. Having been called by the opposing party, they are often resentful or wary of the cross examiner, if not genuinely biased or hostile.

In essence, every cross examination question actually represents a bet. The lawyer wagers his control of the witness (and personal credibility) against the chance of a favorable answer. Some questions are low-risk, designed to encourage cooperation and keep the witness in play. Aggressive questioning raises the stakes, increasing the possibility that the examination will backfire. The witness may become recalcitrant or uncooperative, or the jury might be alienated by the attorney's browbeating.

As in poker, success depends upon an accurate assessment of the likely response. Some witnesses are naturally cooperative, and can easily be led wherever counsel wants to take them. Some witnesses have to be "disciplined" by tough questioning, while others will simply be intimidated into sympathy-engendering silence.

Thus, every question has both a potential positive value (in terms of getting an answer), as well as a potential negative cost (clamming

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9 Bellin at 31-32.

up the witness, incurring the judge or jury's anger). The values, however, are not constant, varying from witness to witness, and even as a single cross examination progresses.

This underscores the utility of Bellin's insight. All raises are not the same. Just as there are multiple *contradictory purposes* for betting, there are multiple *contradictory techniques* for cross examination. The lawyer's challenge is to match the technique to the occasion.

Imagine, for example, that a witness's direct examination has changed a small but relatively important detail from her deposition testimony. Does the lawyer want to impeach her? And if so, when? This decision can be approached by recalling the default rule in poker betting: Show strength when holding a weak hand, bet slowly when holding great cards.

Thus, if the lawyer believes he has little to gain in the cross examination (weak cards), he may want to impeach the witness sharply and immediately. On the other hand, if the witness is likely to be useful to the lawyer's own case (strong cards), the impeachment may cost more than it delivers, by essentially driving the witness out of the game.

Even when the impeachment is absolutely essential, counsel must still decide where to situate it in the cross examination. An early impeachment, like a large opening bet, is likely to have the most powerful impact. It might succeed brilliantly, disciplining the witness into eager compliance. But it is also more likely to boomerang, in any of several ways: It might generate sympathy for a witness who, at the outset of the examination, does not yet seem to deserve harsh treatment. It might provoke an otherwise tractable witness to become unnecessarily contentious. Worst, it might fail with a thud, putting the lawyer on the defensive and tipping the scales in favor of the witness for the balance of the cross examination.

The trial advocacy books (mine included) all caution against impeaching witnesses unnecessarily.[10] Poker theory provides an additional way to quantify the decision. You do not impeach a witness just because you can, in the same way that you do not bet strongly simply because you hold good cards. Sometimes "slow playing" is the right way to go – allow the witness to remain uncontradicted, the better to keep him in play.

BLUFFING (MISDIRECTION ALWAYS WORKS)

The surest way to win money in poker is to convince other players to bet against you when you hold the better hand. Not being dummies, most players will not do this intentionally; they have to be lured into it. Bellin explains it this way:

> In its most rudimentary form, poker is a game where one player says, I am willing to bet that my hand is better than yours. It takes another player to doubt that, to assume that *his* hand is actually the best, for the game to continue. If you play … very mechanically, where the amount you are willing to wager increases proportionately with the strength of your hand – then as a player, you become extremely predictable. Other players would be able to accurately guess the strength of your hand as soon as you made a wager. The only time you would ever have a bet called (and possibly make more money than the ante) is when you actually hold the weaker hand, which makes for a really long night.[11]

Players who bet only on "the nuts" will quickly find themselves with no callers, resulting in the paradox that the very best cards will win the smallest pots. Effective play, therefore, requires that opposing players always doubt your intentions. They have to wonder whether

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10 Steven Lubet, Modern Trial Advocacy 153-58 (2d edition 1997).

11 Bellin at 76-77.

you are betting from strength or from weakness, and sometimes, inevitably, they will guess wrong – folding when they should call and calling when they should fold.

In fact, the creation of doubt results in four possible outcomes, three of which produce positive profits. If you are betting from strength and your opponent folds, you will win a relatively small pot. If you are betting from strength and your opponent calls, you will win even more. If you are bluffing and your opponent folds, you win. Finally, if you are bluffing and your opponent calls, you lose. Or do you?

Bellin's insight is that there is a great strategic value to occasionally getting caught – it demonstrates that "you have the capacity to bluff. It's like an advertising budget."[12] Since you always want other players to believe that you might be bluffing, they have to see you actually do it once in awhile. And the more often you are caught, the more often they will call your bets, and even raise them. The trick, of course, is to strike the right balance, so that your play will always come as a surprise and the opposing players will always be off guard.

In litigation, there is no precise parallel to bluffing, since the opposing side rarely simply folds. What's more, there is seldom an advantage to be gained by inducing the opposition to continue playing – it is usually much better to obtain their maximum offer as early as possible.

Nonetheless, there is a reasonable analogy in the process of pre-trial negotiation, especially as it is played out in the course of discovery. While the ostensible purpose of discovery is to exchange information in preparation for trial, in reality it is much more a "settlement dance," where the parties bluff and posture about the strength of their respective cases (and witnesses) in order to

extract the maximum offer from the other side. Discovery tactics can be either aggressive (resisting disclosure) or accommodating (volunteering information). Lawyers who invariably follow a single approach become predictable, and therefore lose the ability to influence their opponents' settlement position.

For example, some attorneys are vigorous, nearly to the point of obstructionism, in defending depositions. Lawyers who invariably follow this approach quickly develop reputations as blusterers, and no one takes them seriously. Thus, their own constancy renders the technique ineffective. But what happens when such a lawyer uncharacteristically encourages his own witness to begin volunteering during a deposition? The departure from the norm may become freighted with meaning, suggesting that the lawyer has exceptional confidence in both the witness and the case, which might in turn cause the opposing side to reconsider its view of settlement.

Then again, the unexpected turn toward cooperation might be, in effect, a bluff – intended only to convey a contrived attitude of confidence. Opposing counsel will have no way of measuring the true meaning of counsel's move, but will surely have to wonder what he is up to. Sometimes that uncertainty may lead to reevaluation and even self-doubt.

Bellin draws the poker player's conclusion that there is no such thing as an unsuccessful bluff. "If it works, fantastic, you win the pot."[13] And if it doesn't, you have at least laid the groundwork for winning other hands in the future.

This principle has to be amended for lawyers. Let's say, there are no unsuccessful surprises.

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12 Bellin at 80.

13 Bellin at 80.

Don't Bet Your Liver
to See the River

Bellin tells the story of Crazy Rich, a New York City poker player who did not understand the difference between betting and gambling. In brief, a bet is "[a]n agreement between two persons or sides that the one proved wrong about an outcome or fact will … pay a stipulated sum of money to the other."[14] Gambling, on the other hand, means "play[ing] games of chance for money." The distinction is crucial: all gambling involves betting, but not every bet is a gamble. It all depends on how much control you have over the result.

In poker, the best players do not depend at all on luck. They bet only on predictable outcomes, either because they hold "the nuts" or because they are able to make other players believe that they do. The worst players gamble, betting that they can get lucky and fill their hands.

Crazy Rich was a bad player of the worst sort (or maybe the best sort, if you were at the same table). Although he was brilliant in every other aspect of his life, a successful investment banker with a JD/MBA from an Ivy League school, he could never bring himself to fold a hand unless there was absolutely no possibility of winning.

In Texas Hold 'em, the preferred game in most casinos and many New York card rooms, the final card is called "The River." More often than not, Crazy Rich would stick around to see the last card, making bets and calling raises, even when it was obvious that he was holding a hopeless hand. When better players would have folded with four cards yet to come, Rich would keep playing. After all, there was always the chance that he would draw the last

two clubs to his three-flush or fill an elusive inside straight. Hence, Bellin's observation that Rich would bet his liver to see the river.[15] It was not a compliment.

Basic Rules of Texas Hold 'em
(aka Seven-Card Crack)

Each player (there can be up to ten at a time) is dealt two cards down, called pocket cards. On the strength of these alone, the participants have to decide whether or not to play in that hand. The five community cards are placed in the center of the table. They are shared by everybody. And from those seven cards (your two pocket cards plus the five on the board) each player makes his best five-card hand. The cards are revealed in the following pattern: the first three at once (known as the flop), then the fourth alone (called the turn card), and then the last (the river card). There are betting opportunities between each round.

From *Poker Nation*, pages 4-5.

In poker, gamblers, even smart ones, always lose in the long run (and usually in the short run as well).[16]

The same holds true in litigation. A lawyer's job is to reduce risk for his client, not take chances on it. We see this principle in the oft repeated admonition that a cross examiner must "never ask a question if you don't know the answer." Asking a question out of curiosity is the equivalent of hoping to fill your hand on the river – you might get a good outcome, but don't bet on it. The chance of a damaging reply is at least 50/50, and often worse.

There is also a less well recognized corollary to the principle. As much as lawyers should avoid open questions on cross examination, they should utilize them freely during

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14 Webster's New Universal Unabridged Dictionary 176 (2d edtion 1983).

15 Bellin at 121.

16 Hence, the famous line in the W.C. Fields film, "My Little Chickadee."
    Tenderfoot: Is this a game of chance?
    Fields: Not the way I play it.

Selected Terms from *Poker Nation* (pp. 252-55)

All-in: When all your chips are in play. You got nothing left on the table to bet.

Bad beat: When a huge hand is beaten by an underdog with an improbable draw.

Coffeehousing: Poker play that is augmented by lots of talk or dramatics.

Dead Man's Hand: Two pair, aces and 8s. This term became part of the poker vernacular August 2, 1876, when a cowhand named Jack McCall walked into Carl Mann's Saloon Number 10 in Deadwood, Dakota Territory, and shot the legendary Wild Bill Hicock in the back of the head. Hicock slumped over dead, still holding his poker hand of two pairs – aces and 8s – which has been known as Dead Man's Hand ever since.

Drawing dead: When a player has no chance to win even though they are still drawing cards.

Muck: The pile of discards.

Outs: Any cards that, if drawn, will give you the winning hand.

Put: Assuming someone's hand. If you think they have a pair of aces, then you *put* them on aces.

Splash: When a player throws his chips into the pot before anybody can confirm that it is the right amount of money.

Tap: To bet all your chips; to go all-in.

Tell: A player's mannerism that gives away his hand.

Tilt: When a player get[s] knocked off his game and starts to play badly. This usually follows a bad beat.

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depositions. Here, every inquiry pays off, since virtually any answer may turn out to be valuable. In fact, the lawyer has at least three ways to win. First, the answer to the open question may be helpful, providing information that supports the lawyer's case. Second, even a bad answer provides data than can be used in evaluating settlement strategy (and better to know it sooner rather than later). Finally, advance knowledge of even the most devastating fact can assist the lawyer in preparing for trial. In other words, depositions demand curiosity; there is no gambling involved.

And, of course, depending on what you learn in discovery, you just might decide to fold your hand long before you see the river. Alas, Crazy Rich never learned that lesson. As his poker losses mounted he began "borrowing" money from client accounts. He ended up a fugitive, which is a pretty steep price to pay for gambling.

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Some people claim that poker is a metaphor for life itself, promising that the card table can deliver all sorts of useful examples for general welfare and success. One popular book, claiming that "poker is life in a nutshell," concludes with "Ten Real-Life Poker Lessons" that will allegedly make it much easier to "survive" in the world at large.[17] Another character promotes himself as the founder of his own "University of Poker, Gaming, and Life Strategy."[18]

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17 Harroch and Krieger at 277.
18 Mike Caro, Caro's Book of Tells: The Body Language of Poker 8 (2000).

Bellin recognizes this as nonsense. Poker is a competitive, zero-sum game, based in large part on secretiveness and deception. Poker skills can be useful in similar competitive activities, but it is hardly a model for a healthy, productive life. Bellin admits that poker has ruined nearly "every relationship I've ever had in my life" because "coming home at four in the morning smelling of booze and cigarettes, with a couple of thousand dollars less in my pocket than I left the house with, just ain't good for a relationship."[19] He goes on in that vein for pages, debunking the romantic myths of the gambling life.

So let's be clear. Poker provides an interesting set of parallels to strategic situations encountered in litigation. It offers some meaningful comparisons, particularly when it comes to risk quantification, but it is not an overall guide to law practice or anything else.

Then again, it is hard to disregard one last piece of general advice. If you look around the table and you can't tell who the sucker is, it's you.[20] *GB*

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19 Bellin at 206.

20 Bellin at 1. Bellin quotes the film "Quiz Show" for this bon mot, but there are many other sources.