"I was 100% convinced that the doctor did what they said to that poor lady. She deserved what her lawyer was asking for. But I decided no. We can't let lawyers damage the medical profession any more. Sometimes we have to sacrifice the individual to the big picture." -Juror comment, 12/04.

You need to take control of the way jurors think about you. Not you as part of a group, but you as an individual attorney.

I hate to say "Do what I say or die," but if you and your colleagues do not quickly start doing the kinds of things this chapter is about - without waiting for your organizations to do it for you, your profession will die, and with it a lot more.

As of this writing your profession is in intensive care. Unfortunately no one is providing the care. You have to do it yourself. The trial lawyer organizations have been using every resource, ounce of energy, and heroic effort to battle tort "reform" in the legislatures.

Little has been done to effectively join the battle on the public-opinion level. In addition, the forces behind tort "reform" have had almost unlimited resources and have not allowed themselves to be disadvantaged by truth. So in spite of the trial lawyer's organizations having fought hard in the legislatures, tort "reform" - now ominously relabeled "legal reform" - is winning huge victories that were undreamt of when the movement started 25 years ago.

But the legislative arena is not the only killing ground. So is the courtroom. As much as a third of the jury pool is now poisoned. Of the 60 people in your next jury pool, JuryWatch's research shows that in most cases, 15 to 20 will likely "know" you are dishonest; predatory; pathologically greedy; responsible for driving doctors, businesses, and jobs out of the state; damaging to American businesses by placing them at a disadvantage with foreign competitors no one sues; responsible for the lack of flu shots in the winter of 04/05; and akin to a kind of domestic internal terrorist. This is the stereotype that applies to you. And most of the population believes you and your client are likely to lie in order to win.

So what can you do? No matter what your involvement with your trial lawyer association's legislative efforts, in order to serve your clients you face an additional requirement. You must let the public see that you are different from the indelible stereotype that many now have of your profession. This task starts long before the first day of trial. This is not a call for you to fight against the larger forces of tort-"reform," or to alter the public's stereotypical image of trial lawyers. It is, rather, a call for you to show that such a stereotype does not apply to you.

Not all of this comes from tort-"reformers." Some is from plaintiff's attorneys whose advertising would turn their own other against them, and probably has. And mother is right. One lawyer in a large city - who I'm sure had a mother at one time or another - ran an ad campaign that aroused so much suspicion that entire rooms full of people groaned and laughed when they heard his name. And
they assumed that every attorney working on that kind of case had to be just as disgusting - as well as attorneys working on other kinds of cases.

So let us not merely blame the forces of tort "reform." Many plaintiffs attorneys are digging graves for the rest of you. These characters don't care what they are doing to the jury pool. They probably have no intention of ever getting in front of a jury. They want a bunch of cases to settle fast. They are every bit as harmful as tort "reformers" make them out to be. Many attorneys are decent folks who will serve their clients well. But they have all been tarred with the same brush by the bad ones. So has every other plaintiffs lawyer – because the bad ads and the bad acts are the ones that jurors see and remember.

So due to tort "reform" efforts along with the creepiness of some trial lawyers, jurors believe that you are a major crisis: You are, for example, driving physicians out of whatever state you live in. The fact that physicians are not leaving does not keep people from believing they are. " Heck, three of'em passed me on the freeway; they couldn't get out fast enough." Result? You, dear reader, are seen as the crisis. That is what many jurors think about you as you walk into court. And you can't fix it for yourself just by what you do in trial. You have to start earlier. You may be the most decent human being on the planet, the most caring, the most honest – but you are stereotyped. Stereotyping is called "attributional bias," the mechanism of, for example, racism. You can't shake it off any more than a Black man could at a Ku Klux Klan meeting. It does not go away, not over the course of a trial and probably not over the course of a lifetime.

You cannot run from the stereotype. Nor can you change it. The only solution is to transcend it.

For many years, the National Jury Project's Susan Macpherson has worked closely with such social ills. She explains that you can rarely convince anyone that their stereotypical "understanding" of you or anyone else is wrong. It is too deeply ingrained. But, she teaches, there is something you can do about it - and this is what you must start doing long before you ever get to trial: You have to do things (not simply say things) that show you are an exception to the stereotype. You can't suddenly make jurors believe they are wrong about the stereotype they have come to believe after years of powerful conditioning. That will take years, if it can be done at all.

But you have cases next week and next month and next year, and cannot wait. So how do you show (not just say) that you are an exception to the bad stereotype? How do you get the message to the jury pool? Hopefully you are convinced that you must start doing this right away. Some of us who see trials and talk to jurors day in and day know that either you start doing something about it now, or start looking for another line of work while you can still afford the bus fare to job interviews.

In addition to showing the prospective jury pool that you are an exception to the stereotype (in ways such as those described below), you also have to start showing them what the crises really are. For example, between 400 and 600 people die every day in American hospitals from medical negligence. Of course that's a crisis, but so far hardly anyone knows about it.

Are product safety standards a crisis? Look at the statistics, and of course they are. How about physicians who lie under oath to prevent recovery for a malpractice victim? Part of the crisis? Accident reconstructionists who barely know physics but earn hundreds of dollars an hour to help insurance companies get out of paying? Part of a crisis? Undrinkable ground water in the entire eastern end of a state, is that a crisis? A civil justice system so poisoned that soon it will be useless to victims of the real crisis. Is that a crisis?
THE public does not know about these crises or any of the others. And the credibility of trial lawyers has been so damaged that even if we spread the news, few would believe us. But if the public knew, imagine how much easier your next med mal case would be.

So you have two tasks in this age of tort-"reform's" dominance.

1) **Show that you are an exception to the stereotype**, and
2) **Educate your future jurors** about the real crises that can affect their decision-making.

In other words, start providing some antidotes to the poison.

Do not wait for the trial lawyer organizations to do this for you. Help them do it as much as you can, but you are your own grass roots. You need to get busy on your own. Get busy doing what? Thank you for asking.

1. **Exception to stereotype** West Virginia lawyer Jim Lees - one of the great trial advocacy teachers - said years ago that if lawyers want to change their image, they have to start doing things that help people besides themselves. This is not accomplished when you say that you are here to protect the public, because the public - already suspicious of you - knows you make your living by the things you do to "protect," and they believe that's your only motive. Nor is it accomplished when you say you are there to protect the little people. Most of the American public that has allowed itself to be poisoned could not care less about the little people. But what if you listen to Jim Lees and start doing things that help people in ways that do not profit you? And find ways to let your community know about them.

   In airports, you may have seen a large poster-ad that says, "Eat Healthy Food." It has a picture of a good healthy dinner. On the bottom is says, "American College of Cardiology." It does not say, "Heart attack? Come to us! You don't pay if we don't cure you! 800 555-5555." It is not a self-serving advertisement. It is a public service - exactly what you need to be.

   What's the lawyer's equivalent of that ad? "Wear Your Seatbelt!" for example. With nothing but the name of your firm at the bottom.

   What is the principle underlying such an ad that you can use in many effective ways? It takes the knowledge you have from your work as a lawyer - that people get hurt more seriously when they do not wear their seatbelts - and puts it to use to keep people from getting hurt.

2. **I'm all for lawyer advertising - if it's the right kind** Texas political and trial consultant Richard Jenson advises that ads that carry a public service message are just as effective as the junk ads that help ruin the profession's reputation.

   **American trial lawyers as a group know more than anyone else in the world about the ways people get hurt.** You have access to that information. Instead of just using it to sue people, use it to keep people from being hurt in the first place. You know lots of stuff the public does not, so why not tell them?

   Teach consumers how to buy safe products, how to keep themselves safe in hospitals, how to tell when a motel or a car or a work site is safe. Don't wait for people to be hurt. Prevent them
from being hurt. If doing that becomes part of your personal, individual reputation, when someone does get hurt then you will be the attorney they seek instead of those who run the sleazy ads.

Do this on your own. Don't wait for trial lawyer organizations to do it; there's no time. Start offering yourself for talks to community groups in which you explain how to help keep people safe. Develop a web site that does the public some good, rather than one that touts your abilities and degrees and big verdicts. A good web site should include:

- Annotated links to help groups that provide guidance and support for injured people.
- Annotated lists of resources such as books that injured people have found helpful and inspiring.
- Guidance – beyond just "get a lawyer" – for people who have been injured. What kind of doctors should they see? What kind of records should they keep? What kind of support groups and other resources are available?
- Guidance for families on how to keep themselves safe in various situations. Show how to avoid the dangers involved in something - such as the measures to take when in the hospital, or the local roads that are most dangerous for younger kids on bikes.
- A list of your favorite charities - and call it that: "Favorite Charities and Service Organizations." List each one, explain why you chose it, and describe how people can help. Part of this section should also explain why and how to be careful choosing charities and helping organizations to support.

Your website should carry the feel of an organization dedicated to helping people. And this is honest for you to do, because that is the impulse that led you to do plaintiffs work instead of any of the myriad of other fields of law, almost all easier and more lucrative. So go back and remember who you really are, and let that shape your website and the rest of what you do. Make sure your site shows that you are the kind of human being that does not match the stereotype of plaintiffs attorneys. Your website should show that you are there to help people - and not just those who might become your clients.

There are many other ways to set yourself outside the stereotype. Some of these ways also happen to be excellent and inexpensive methods of drawing in new clients. [Talk to folks] about things people want to know about: the neighbor's tree hanging over my roof, things new immigrants should be concerned with, legal steps newlyweds or new parents or new divorcees should be concerned with, etc. And discuss trials of local and national interest. You will never run out of material.

Tell a story-of-the-week: something that illustrates the value of what your profession - not just plaintiffs lawyers - does. A "Paul Harvey" kind of human interest story, or a quick tale of a trial and how it came out - and why. Then run a … feature of something of service some local attorney has done recently: taken the reigns of a local charity, helped incorporate - pro bono - a new non-profit social service agency, taken on a cause - also pro bono - for legal services, coached a little league team, etc. This will accomplish two things: It will help show people that lawyers are decent contributors to their community, and it will encourage lawyers in the community to be just that.

[How about a] "fact of the week" - a believe-it-or-not, and provide the source of the fact. The number of negligence deaths per day in American hospitals. Statistics showing that verdicts are going
generally down, not up. The increase in the number of doctors in your state over the past year. The number of dangerous defects in a particular manufacturer's car over the past three years. How long a pharmaceutical company knew its medicine was causing harm. Facts that show the dishonesty on which tort "reform" is based. Don't argue. Just give facts.

You can accomplish this without all that much work.

You will enjoy doing this. A little local celebrity is always fun, it brings in business, and will demonstrate that you are not part of the bad stereotype that stigmatizes your profession. And on behalf of your profession, you'll have more effect on the grass roots than any amount of paid advertising could ever have.

There are many other things to do that will separate you from the stereotype. But any will do. And don't hire anyone to do the work. Volunteer to speak anyplace that will have you. Schools. Service clubs. Professional clubs. Talk to your local chamber of commerce; tell business owners how to make sure people don't get hurt in their stores and workplaces. Tell drivers the horror stories that happen when a driver does not have enough underinsured motorist coverage. Again, the topic is not how to avoid lawsuits but how to protect people. Teach people how to protect themselves and their children from the kinds of harm that lawyers know so much about. In these talks (as well as in the radio/TV/newspaper projects), start by educating about the nature and extent of the dangers you are going to talk about (600 hospital death per day, etc.), or cite a recent serious case about those dangers. Then teach folks how to protect themselves from them.

Don't sell your services; don't even talk about them. This is your chance to give something back in a useful way. And when your audience needs a lawyer or wants to recommend a lawyer to someone, you'll be the one likely to get the nod. You don't need to ask them for it.