



TED AND HIS FORMS WERE INSEPARABLE.

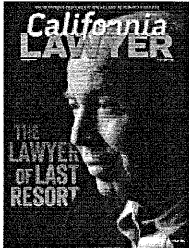


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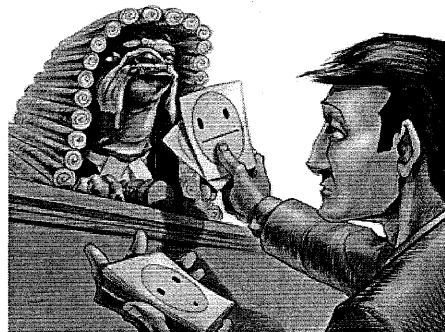
Microexpressions may help attorneys detect deception.

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By Sarah Arnuist

Fourteen years ago Clark Freshman lost a case before an appellate judge that he might have won today, had he been able to recognize that the judge wasn't buying a key argument his side was making. Now, Freshman says, he realizes that the judge's half smile indicated contempt-not approval-for that argument.



Dav Bordeleau

In the intervening years, Freshman has learned to read facial microexpressions-fleeting, subtle looks that may be imperceptible to the untrained eye but which some believe reveal hidden emotions to those who know how to look for and interpret them. Freshman began training in 2003 with Paul Ekman, who was then a psychologist at UC San Francisco and a pioneer in the science behind reading faces to detect lies and concealed emotion.

Not everyone is completely sold on Ekman's facial action coding system, or FACS, but his group is busy teaching the methods to police, security personnel, government officials, and others. Meanwhile, so many lawyers are interested in learning the techniques that Freshman-a UC Hastings law professor-now trains attorneys, negotiators, and transport inspectors under license to The Ekman Group.

"A lot of what we're doing is replacing people's false beliefs about lying," Freshman says. "People think that if someone doesn't look them in the eyes, they're lying. But that's a culturally distinct trait."

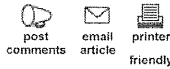
Reading expressions is useful for all types of lawyers, Freshman says. For litigators, detecting the emotions of jurors, the judge, and witnesses is crucial. It's no less important for lawyers negotiating a corporate merger, he adds, warning that it can be difficult to interpret the origin of emotions that microexpressions reveal.

Other psychologists aren't convinced that microexpressions can be the basis for any valid conclusions. Although the FACS system was "meticulously developed," according to Bella DePaulo, a psychology professor and prominent deception researcher at UC Santa Barbara, no published evidence exists verifying the efficacy of Ekman's training system. Because Ekman has not published his methods in peer-reviewed scientific journals, many unanswered questions remain, such as how much the training improves people's ability to detect deception, and whether training to detect one type of lie is useful in detecting another type.

Still, some attorneys have found FACS valuable-including Phillip R. Maltin, a partner in the labor and employment department of Silver & Freedman in Los

Angeles. "Ekman's work taught me to be a better communicator, to put the pen down and watch and listen to the witness," says Maltin. He now knows to look for certain kinds of behavior that may betray nervousness, for example, and then to pursue questioning to follow up on that perceived nervousness.

But, he acknowledges, there is a downside to using FACS: Now that he's aware how often people inaccurately detect lying, Maltin tends to second-guess himself. "It makes me more aware of people's behaviors but also makes me very sensitive to my own conclusions about honesty and dishonesty because I know there's a high error rate" in discerning deception.



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