



# Beyond Right and Wrong: The Power of Effective Decision Making for Attorneys and Clients

By Randall Kiser

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## Beyond Right and Wrong: The Power of Effective Decision Making for Attorneys and Clients By Randall Kiser

Let us endeavor to see things as they are, and then enquire whether we ought to complain. Whether to see life as it is, will give us much consolation, I know not; but the consolation which is drawn from truth if any there be, is solid and durable: that which may be derived from error, must be, like its original, fallacious and fugitive. Samuel Johnson, Letter to Bennet Langton (1758)

Attorneys and clients make hundreds of decisions in every litigation case. From initially deciding which attorney to retain to deciding which witnesses to call at trial, from deciding whether to file a complaint to deciding whether to appeal a verdict, attorneys and clients make multiple, critical decisions about strategies, costs, arguments, valuations, evidence and negotiations. Once made, these decisions are scrutinized by an opponent intent on exploiting the consequences of any mistake. In this intense and adversarial arena, decision-making errors often are transparent, irreversible and dispositive, wielding the power to bankrupt clients and dissolve law firms. Although attorneys and clients may regard sound decision making as incidental to effective lawyering, sound decision making actually is the essence of effective lawyering. An attorney's knowledge, intelligence and experience are inert resources until the attorney decides how to deploy those skills to serve the client's interests. Those decisions, in turn, largely determine a case's course and outcome.

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### Editorial Review

#### Review

From the book reviews:

“Multiple research studies show that litigators are human and, as such, are subject to a whole host of biases and pressures imposed on them by their roles as advocates, client managers and strategists. A thick volume by Randall Kiser called "Beyond Right and Wrong" provides a great review of many of these studies and ... would be an interesting read for many litigators and litigation managers.” (Galina Davidoff and Wendy L. Hufford, [thelegalintelligencer.com](http://thelegalintelligencer.com), January, 2015)

“In the book, Mr. Kiser discusses various factors that might contribute to the poor quality of lawyers' decisions. ... it's worth noting that the book is very well-written. Mr. Kiser has all of the statistical data and a command of the math, but has presented the topic in a very readable and entertaining style.” (Stephen Cavanagh, [Amazon.com](http://Amazon.com), November, 2011)

“A book aimed at lawyers and law students to help them see the problem of bad decision making and learn ways to improve it. ... It should be of interest for professional responsibility as well as trial practice and alternative dispute resolution.” (Mary Whisner, Trial Ad (and other) Notes, [trialadnotes.blogspot.de](http://trialadnotes.blogspot.de), June, 2010)

“... this tome should be near at hand in the office of every lawyer engaged in predicting litigation outcomes.... Anyone with sufficient interest in this subject, particularly attorneys, should buy the book and keep it, if not on their night-stands, at least on their desks.” ([Negotiationlawblog.com](http://Negotiationlawblog.com), February, 2010)

“This is an important book. ... Everyone associated with litigation--lawyers, business executives, law professors--should read this book. ... it provides a useful summary of the results of 35 years of research by psychologists and economists in the judgment and decision making field ... . Beyond Right and Wrong will make its way as professors adopt it for use in law and business school courses and as corporate legal departments discover its value in reducing the cost of litigation.” (Michael Palmer, [Amazon.com](http://Amazon.com), February, 2010)

#### Review

“As part of the learning process, I highly recommend you obtain and read: R. Kiser, “Beyond Right and Wrong: The Power of Effective Decision Making for Attorneys, and Clients,” Springer Science+Business Media, [www.springer.com](http://www.springer.com) (2010) ...” Guy Kornblum,  
<http://resolutionadvocate.blogspot.com/2010/08/more-on-case-for-mediation.html>

#### About the Author

Randall Kiser is the principal analyst at DecisionSet®, a decision services and professional development company in Palo Alto, California. Mr. Kiser, a decision analyst and an attorney, has worked closely with litigants, insurers and attorneys in assessing risks, evaluating litigation alternatives and improving individual

and organizational decision-making skills. He is the author of *How Leading Lawyers Think* (Springer, 2011) and the lead author of the widely read article, “Let’s Not Make A Deal: An Empirical Study Of Decision Making In Unsuccessful Settlement Negotiations” (Journal of Empirical Legal Studies, Vol. 5, No. 3, September 2008). Mr. Kiser received his law degree in 1978 from the University of California, Berkeley (Boalt Hall), and obtained his undergraduate degree in 1975 from the University of California, Davis (Highest Honors). His legal education is complemented by the award in 2002 of a certificate in leadership from the Peter F. Drucker Graduate School of Management, Claremont Graduate University.

## **Users Review**

### **From reader reviews:**

#### **Clarice Johnson:**

This book untitled Beyond Right and Wrong: The Power of Effective Decision Making for Attorneys and Clients to be one of several books this best seller in this year, here is because when you read this book you can get a lot of benefit upon it. You will easily to buy this kind of book in the book retailer or you can order it by way of online. The publisher of the book sells the e-book too. It makes you quickly to read this book, since you can read this book in your Smart phone. So there is no reason to you personally to past this reserve from your list.

#### **Mildred Kelly:**

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#### **Angela Yoder:**

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