

You Can Never Be Wrong If It's Your Job To Be Right

BY MARK LEWIS



In the opening scene of “Thank You For Smoking”, we meet handsome, smooth-talking Nick Naylor, lobbyist for the tobacco industry. Nick sits as a panelist on a talk show whose other guests rail against the evils of smoking, all to rousing audience applause.



When the host confronts Nick with evidence that big tobacco has chosen profits over safety, he attempts to turn the rhetorical table. He claims that it is, in fact, the tobacco industry that wants to keep smokers healthy and regularly smoking, whereas the government safety groups want more smokers dying to drive budgetary dollars to their agencies. More smoking, not less, is the answer to the problem created by anti-tobacco watchdogs, as Nick would have us paradoxically believe.

We next see Nick in his son's sixth-grade classroom for “What Do You Do Day.” When confronted about the dangers of children using tobacco, Nick again seeks to reframe the debate, this time around values that appeal to his young audience – questioning the authority of parents trying to tell kids what to think. He exhorts the elementary school class to challenge those who claim to be experts and to find out for themselves if cigarettes are good or bad. Cigarette smoking for children is really about challenging the misplaced authority of over-protective parents who aren't experts anyway, says Nick. Who wouldn't oppose such ignorant, controlling authority in the name of freedom, choice and self-determination?

Or so Nick would have us all believe.

The movie then treats us to Nick at home one evening helping his son with a school essay project: “Why is American Government the Best Form of Government?” Nick challenges the premise of the question, i.e., how do we know it's the best? How do we measure “best” anyway? As Nick undermines the homework question, he encourages his son to reject the premise of the assignment. Instead, he should create a new premise to change the subject and control the issue.

It is here that Nick introduces what he calls his “BS” argument ethos, telling his son no one can possibly answer the homework question in the mere two pages allotted, so he should write about whatever he wants to fill the pages. Pick any subject or practice America performs well, he tells his son, then make an argument. If he argues well, he can “never be wrong.” That’s “the beauty of argument,” Nick triumphantly concludes.

The finest example of this comes near the end of the first act as father and son walk-and-talk in Los Angeles, where Nick has been sent to woo Hollywood in service of big tobacco’s campaign to encourage smoking. His son finally asks what a lobbyist does. Nick tells him the job requires “moral flexibility” that goes beyond most people. Seeking to please his father, the young boy asks if he too has flexible morals like his dad.

Nick answers by floating the example of the lawyer who must defend a child murderer. The law says everyone gets a fair trial; shouldn’t corporations get fair hearings too, asks Nick? We watch yet again as Nick moves the rhetorical goalpost. He conflates fundamental constitutional due process in criminal cases with private corporate lobbying in the court of public opinion, just to name one false analogical move. But by seeking a different or higher level of generalization or value abstraction (procedural fairness over individual guilt), Nick reframes the argument on terms everyone will agree. After all, who isn’t for fairness?

“Argument is a zero-sum game for Nick. The only point to argument is to “win” by showing the other side is wrong. Nick makes it his job to be right, so that he can never be wrong.



**Every plan is
one of a kind.**

You can rely on our
estate planning experts.

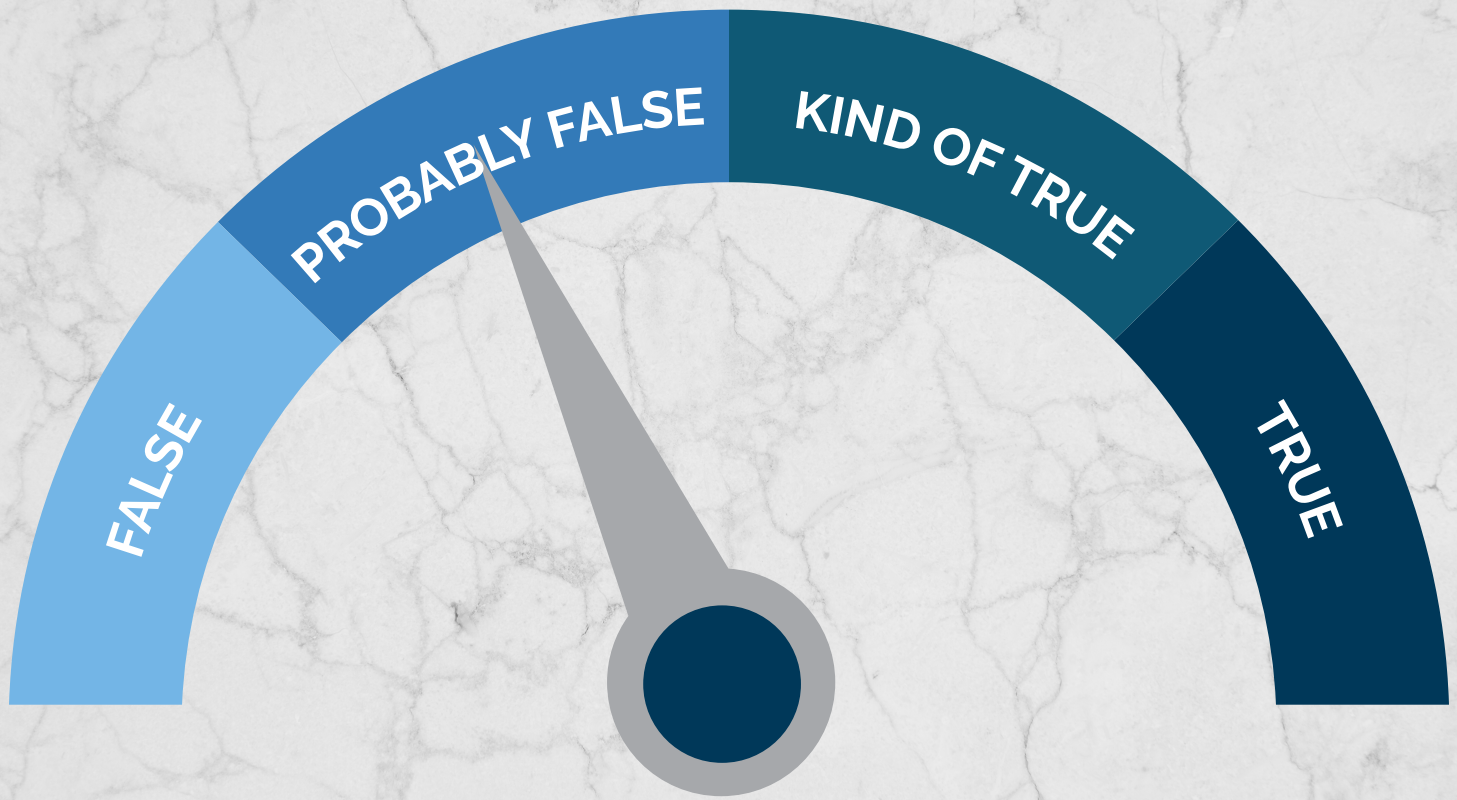
Call us today!

614-228-0063
parknationalbank.com

Investments are not FDIC insured, not
bank guaranteed, and may lose value.

Sensing his father’s fallacious ploy, the boy asks what if you’re wrong? To which Nick replies with a grin, “You can never be wrong if it’s your job to be right.” Nick then serves up one more illustration of his ethics on how to argue: chocolate vs. vanilla ice cream.

If you can’t win the argument whether chocolate is better than vanilla, Nick begins, then change the



terms of that argument. “You want *only* one flavor, just chocolate? Don’t we need *more* than just that one flavor? Shouldn’t we all have freedom and choice to enjoy many flavors. That’s liberty for us all . . .” And so it goes.

The son reminds his father that they weren’t actually talking about freedom and liberty. They were talking about ice cream. Nick says, yes, but liberty and freedom are what “*I’m* talking about.” Control the issue, reframe the premise, never be wrong. Show that the other side is wrong, and then you win, as Nick would put it.

Lawyers know all these dubious moves well. We too fall prey to the same easy but often false rhetoric of persuasion. Like Nick, we can confuse the sense of “being right” with factual accuracy and even moral rectitude. They are not the same. But Nick doesn’t care. He only uses argument as a way to get what he wants, not as a way to truth, problem solving or consensus, to name a few of argument’s more salutary uses. Argument for Nick simply means “spin” designed to “win.”

Nick actually doesn’t argue well in the formal sense, but rather argues cunningly and manipulatively. Most of his “arguments” are fallacious and in bad faith. He changes the subject, attacks the person, ignores counter-evidence, creates straw arguments and attributes false premises to his opponent. He’s a kind of argument super-villain who claims to be following the rules of argument when in fact he’s doing so in name only, turning arguments on their heads as weapons in a verbal game.

In the end, Nick is a bullshit artist. He doesn’t care about the truth. He cares only about spinning his client’s interests in the most positive light while also impugning his opponents in the most negative one. Argument is a zero-sum game for Nick. The only point to argument is to “win” by showing the other side is wrong. Nick makes it his job to be right, so that he can never be wrong. He sets up every argument so only he can win.



Our job is to humbly aim our arguments in the direction of truth, accept our inevitable failure to hit that mark and then take aim again – together.

The cruel irony for Nick, and for those who adopt a similar ethics of argument, is that they are always playing a losing game. Nick's "you can never be wrong if your job is to be right" is, first of all, very poor logic, as a moment's reflection will reveal. But, more importantly, his "never be wrong" mantra is self-refuting and ultimately self-defeating. Our ability to argue necessarily entails the likelihood of error. It is built into us. There is no escaping it. Denying that reality is not a workable long-term strategy. It is a pitiful short-term one, too. If right and wrong are simply verbal placeholders for our desire to win, show others are wrong or grasp at some predetermined endgame, then argument becomes willy-nilly rhetorical jousting or, worse still, mere means to self-involved ends. Our satisfaction – the *feeling* of being right – is the poorest measure of truth, let alone morality.

The further irony – one that surely escapes Nick – is that he can only persuade others by shutting up. He must listen to others while asking sincere questions about the experiences and emotions that underlie their beliefs. Only if we create the conversational conditions that allow others to reveal *their own thinking to themselves* can we expect to change people's beliefs. People don't change beliefs because we convince them with more facts or logic or rhetorical tricks; they change when they *convince themselves* to examine the emotions generated by the experiences that shaped their beliefs. The surest way to lock someone into their beliefs is to try to convince them to believe something else, different or new. Our open-minded, good faith questions are keys to the lock. The ultimate irony is that we're most likely to persuade someone when we're not trying to convince them of anything.



And so what becomes of the arguer who adopts Nick's "BS" ethos? Like Nick, they run the greater risk of becoming just as vacuous as the verbal game being played. Worse still, that game leads to a lonely existence. It is eventually that vacuous loneliness that reminds us of an ancient lesson for lawyers, one too often re-learned the hard way (at least for this lawyer). Our job is not to be right or to show others to be wrong. Au contraire, Nick. Our job is to humbly aim our arguments in the direction of truth, accept our inevitable failure to hit that mark and then take aim again – together.

Mark Lewis, Esq.
Kitrick, Lewis & Harris Co., L.P.A.
mlewis@klhlaw.com

