

# LAWDRAGON

## Teaching to Win: How DiCello Levitt is Shaping the Future of Trial Science



*Bobby DiCello, co-founder of the DiCello Levitt Trial Center*

*By Alison Preece*

Bobby DiCello stood before the jury and a packed courtroom to deliver his closing arguments for his client, Arnold Black, who was suing the city of East Cleveland over a matter of brazen police misconduct that had captured the nation’s attention.

“There’s a right way, a wrong way, and an East Cleveland way,” DiCello said, citing testimony of one East Cleveland officer. “This case is about how many others have been involved in the East Cleveland way.”

Over the preceding five days, DiCello painted a vivid picture of Black’s traumatic ordeal. He described a Saturday night in April 2012, when Black was pulled over by a plainclothes East Cleveland detective who handcuffed and beat him before bringing him to the police station, where he was locked in a cockroach-infested storage room for four days without access to a

bed, a toilet, or any real food. He laid bare Black’s complicated yet inspiring history of substance abuse, recovery and building a family. And he told the story of a city that had been brought to its knees by police violence, by the organized and systemic abuse of its citizens, and how Black was a glaring example among many who had been caught in the machinery of that vicious system.

“This is a human spirit case,” DiCello told the jurors. “We cannot let the human spirit go like this anymore. We cannot. And your voice has to cut loud enough so that we can hear it.”

Such appeals to emotion – combined with visceral storytelling and evocative imagery – are a deliberate choice honed by years of research. Co-founder of the DiCello Levitt Trial Center, DiCello has spent years studying neuroscience, the psychology of jurors, and the type of effective storytelling that can sway minds. The focus groups and mock trials that he conducts with the other partners at DiCello Levitt have led to groundbreaking insights into what it takes to win at trial.

And the research has paid off: The jury returned a \$50M verdict, one of the largest civil rights verdicts for any single person in the history of the United States and a life-changing victory for Arnold Black.

## **TRIAL FIRST**

Since DiCello’s brother, Mark DiCello, and Adam Levitt founded DiCello Levitt in 2017, the firm has grown rapidly but strategically. Starting with 11 attorneys in Chicago and Cleveland, the firm has since expanded to more than 80 lawyers and added offices in Birmingham, New York, San Diego and Washington, D.C., with affiliated attorneys in the UK, throughout the EU, and in Brazil.

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Through its careful but explosive growth, DiCello Levitt has earned its status as a top-tier complex issues and trial firm, known for taking on – and winning – some of the largest and farthest-reaching class action, mass tort, public client, business-to-business and whistleblower litigations in the United States and internationally. The firm’s attorneys lead numerous multidistrict litigations and have secured more than \$20B on behalf of plaintiffs against what Bobby DiCello refers to as “some of the world’s most resourced and fortified perpetrators of environmental pollution, corporate misconduct, civil and human rights abuses, and violations of the public trust.” Among their recent headline-grabbing wins are a \$102.6M jury verdict in a rare class action trial against General Motors over defective piston

rings and a \$90M settlement in a data privacy case against Meta, Facebook's parent company.

The firm's founders credit their success largely to their trial-first approach to every case.

"The ultimate safety valve for any lawyer is the ability to tell their opponent, 'Let's go to trial,'" says founding partner Adam Levitt. "That ability drives cases, discovery, and ultimately, larger settlements. We at DiCello Levitt pride ourselves on our ability to do that at the highest levels and across all of our practice groups."

At the heart of this approach is the DiCello Levitt Trial Center and the advanced scientific methods pioneered by Bobby DiCello and his partners.

## LEADING THE WAY IN TRIAL SCIENCE

A living, working monument to the art of trial practice, the DiCello Levitt Trial Center has been an internal asset for the firm and a select set of partner firms for years. Earlier this year, however, the Trial Center opened the doors of its new building in Cleveland to trial lawyers



across the United States. The Center includes two state-of-the-art courtrooms, carefully designed to look and feel like actual courtrooms, where attorneys can test and tailor their cases with focus groups, mock juries and other science-informed methods of trial preparation.

But the Trial Center is much more than a building for training sessions. It's a scientific system designed to reveal the nuances of a jury's mindset and provide insights into what persuades, connects and wins, ultimately leading attorneys to elevate their trial messaging into an art form.

Founding partner Mark DiCello sees the trial training as a central component to building a long-lasting firm. "To truly create a firm in a way that is legacy building, successful and impactful, we have to train lawyers," he says. "It can't be a cult of personality with only a few top dogs. Every single lawyer at the firm needs to be outstanding. And that's what we strive to build."

Led by Bobby DiCello, alongside Cleveland Office Managing Partner Ken Abbarno and a host of the firm's top courtroom talent, the Trial Center has, for six years, conducted thousands of targeted focus groups, applying scientific rigor and proprietary methods to

every step of trial preparation, from juror decision-making analysis to case framing. With sometimes as many as 20 focus groups being conducted in preparation for a single trial, the Trial Center's work resulted in more than \$400M in verdicts and settlements in 2022 alone and over \$2B since the firm's inception – and that doesn't even account for the Center's contributions to victories by other firms.

To achieve the deep insights that lead to such consistent wins, the Trial Center's lawyers apply a combination of research findings in linguistics, literacy, information processing and cognitive neuroscience to interpret focus group feedback and learn the concepts, biases and prejudices that emerge when these particular people hear the facts of a case. They even figure out how jurors feel about money and the value of damages.

“We seek to understand the ways in which people process and solve the complex problem that is the case,” Bobby DiCello says. “We make sure that we understand what jurors are typically imagining and what biases they bring. The truth is that we are not just influenced by our biases; our decision-making is utterly dominated by biases.”

The focus groups offer attorneys a chance to try a case, sometimes dozens of times, in front of a wide variety of demographically diverse people before they ever step in front of a jury.

“We're looking at the context and the patterns that exist in their brains from their culture and life's history,” DiCello says. “We plot their emotional reactions, then tweak our presentation of the facts for the next group until we get that revelation that says, ‘You're with us.’”

## TEACHING THE CASE

Getting juries to agree – with a trial lawyer and with each other – is a challenge for many. But through years of exploration, analysis and real-world testing, DiCello has developed a system and a process that reveals the winning message in nearly every case.

“Not many people have done the level of research that Bobby has done,” says partner Justin Hawal, who has worked closely with DiCello on many cases, including the Arnold Black trial. “It's hard to say you're just going to start focus grouping cases if you don't really know what you're doing and haven't done all the reading on storytelling and neuroscience to really understand how it works and how to do it effectively.”

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Deep investigation and iteration of process have given DiCello and his partners an edge over opponents in and out of the courtroom, and part of that edge comes from a shift in focus.

“Here’s the secret,” DiCello says. “Argument is no longer a lawyer’s first and primary tool. What has taken its place is teaching. When we teach, every student in the room matters. Every student – every juror, every person, and the judge – has a perspective. I don’t go into court as a lawyer. I’m a teacher.”

And he is. That method – to teach through storytelling – was an approach that DiCello innately realized was effective even well before he became a lawyer.

At 26, after completing a master’s degree in classical guitar at Northwestern University, DiCello began teaching music history, theory and appreciation as an adjunct professor at McHenry County College in Illinois.

“It was just like being a trial lawyer,” he recalls. “I’m standing in front of a room full of people who mostly don’t want to be there, and I have to teach them stuff that they mostly don’t know anything about, and they don’t know why it will ever matter to them. In this case, it’s Mozart and it’s Haydn.”

One day, he posed a question to his class: “Who was the first rock star?” The room of previously half-interested students perked up and started shouting out guesses, leaning in.

He had caught them with his question. He would keep them with a detailed narrative.

“The first rock star,” DiCello recalls saying, “would have not one but four or five gigantic, hundred-candle chandeliers around him that would throw enough light to bathe the first four rows of small theaters. He would have gloves on that went up to his elbows. And amidst all this fire and heat, he would pull the gloves off, unhook his cape, pull up to the piano, and start – lightning-quick lines of music they had never imagined could come out of a piano, chord configurations with his massive hands that ordinary people can’t reach, the very low notes and the very high all together at the same time exploding in front of them. They can’t even believe that it’s happening. He’s got control of the piano like it’s talking through his body, and when he’s done, he stands and they roar with applause, fire all around him.

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“They called him a maestro,” DiCello takes a breath, the images all now painted clearly. “The first rock star was Franz Liszt.”

Conveying information as visually, and as unforgettably, as possible – whether in classrooms three decades ago, getting teens to care about choral polyphony, or in courtrooms today, getting jurors to care about clients with whom they might have little in common – is an art that DiCello has meticulously cultivated. And, he will tell you, is the key to winning verdicts.

That's what happened with the Arnold Black case.

"We have to teach, not argue, our cases," DiCello says. "And that's an extremely important difference between how we approached the case and how the City of East Cleveland defended itself. They argued that what they did was justifiable. We taught the jury that what happened was unbelievably wrong and inexcusable."

## A PROVEN PROCESS

The insights gained from the Trial Center have guided DiCello Levitt attorneys to numerous groundbreaking victories.

To prepare for the recent automotive defect class action trial against General Motors, the DiCello Levitt trial team, led by Adam Levitt, conducted 20 focus groups in the district where the case was tried, an exercise that helped them map out an ultimately successful strategy. They used GM's own engineers and internal documents to show the jury that the company had known about the defect for years yet failed to take adequate steps to fix it.

After a mere four hours of deliberations, the jury came with a verdict for the full damages requested: \$2,700 each for 38,000 class members.

"Class action trials are rare," Levitt says. "And class verdicts are even rarer. The GM verdict is testament to the effectiveness of our trial-first approach."

Even when a case never goes to trial, preparing for trial from the outset can lead to better results for clients – and greater degrees of justice.

When Bobby DiCello took on the case of a young girl whose fingers were severed by a faulty clothesline at her housing complex, other local lawyers and reporters told him the value of a finger might be \$50,000 or \$100,000. A thumb could maybe be \$300,000. But when he presented the case to focus groups, he learned that jurors would be willing to set the value much higher. He then brought those findings to the defendants.



“We settled the case for \$1M,” he says. “We did that because we understood what the jurors were going to do and what they were going to think and say about this particular issue – that is, the value of her young life as a human being, the value of disfigurement, and, ultimately, of her story.”

## THE TRUE STORY AND AUTHENTIC SELF

Getting jurors to connect emotionally with clients’ stories, as articulated not only by their attorneys but also by the clients themselves, is one of Bobby DiCello’s main focuses – in his own practice and in teaching other lawyers.

“If I have a case that is rich in what actually happened, I can just put my client in front of somebody,” he says. “Testimony, in its richest form, is secret sharing.”

Helping clients feel comfortable with revealing the closely guarded truths that move jurors requires DiCello – and all the legal teams he trains at the Center – to begin with emotional vulnerability themselves. “I ask them if I can show them something that I believe or that I fear or that I need, and then I get permission, and then I do it. I share with them first. I model that.”

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It’s also about being authentic, a component that has emerged in the firm’s research and experience as being crucial to gaining a juror’s trust.

The ability to present authentically can be one of the biggest barriers for lawyers who are coming to the Trial Center for the first time. There, they’re introduced to methods that help them unlearn barriers to communication with other human beings. And once they realize that everything they need is already in them, it can be liberating.

“A lot of what we’re doing is unraveling prior training,” says Mark DiCello.

Nonviolent communication, or NVC, is among the groundbreaking methods employed at the Trial Center. NVC is a method of communicating that avoids coercion, instead aiming to find points of connection between or among parties in conflict. “NVC is about shared needs,” says Bobby DiCello, “whereas conflict at its core is just conflicting needs.”

In a conflict-based system of advocacy, looking for the humanity in the person across the table can feel like a revolutionary concept. But it’s also key to DiCello Levitt’s science-based approach to influencing jurors and ultimately winning trials.

For Bobby DiCello, it's about synchronizing lawyer, client and jury on a psychological, narrative and emotional level. In untangling the unique circumstances of each case and the unique makeup of each jury, he and his partners at the Trial Center are in search of the one common thread capable of bringing together, at least for a moment, a room full of adults who have lived vastly different lives.

“What is the one beautiful, human need that we all share in common that we can be in service of together?” DiCello says. “When you do that, and you ask that question, everyone starts thinking about the same thing.”



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