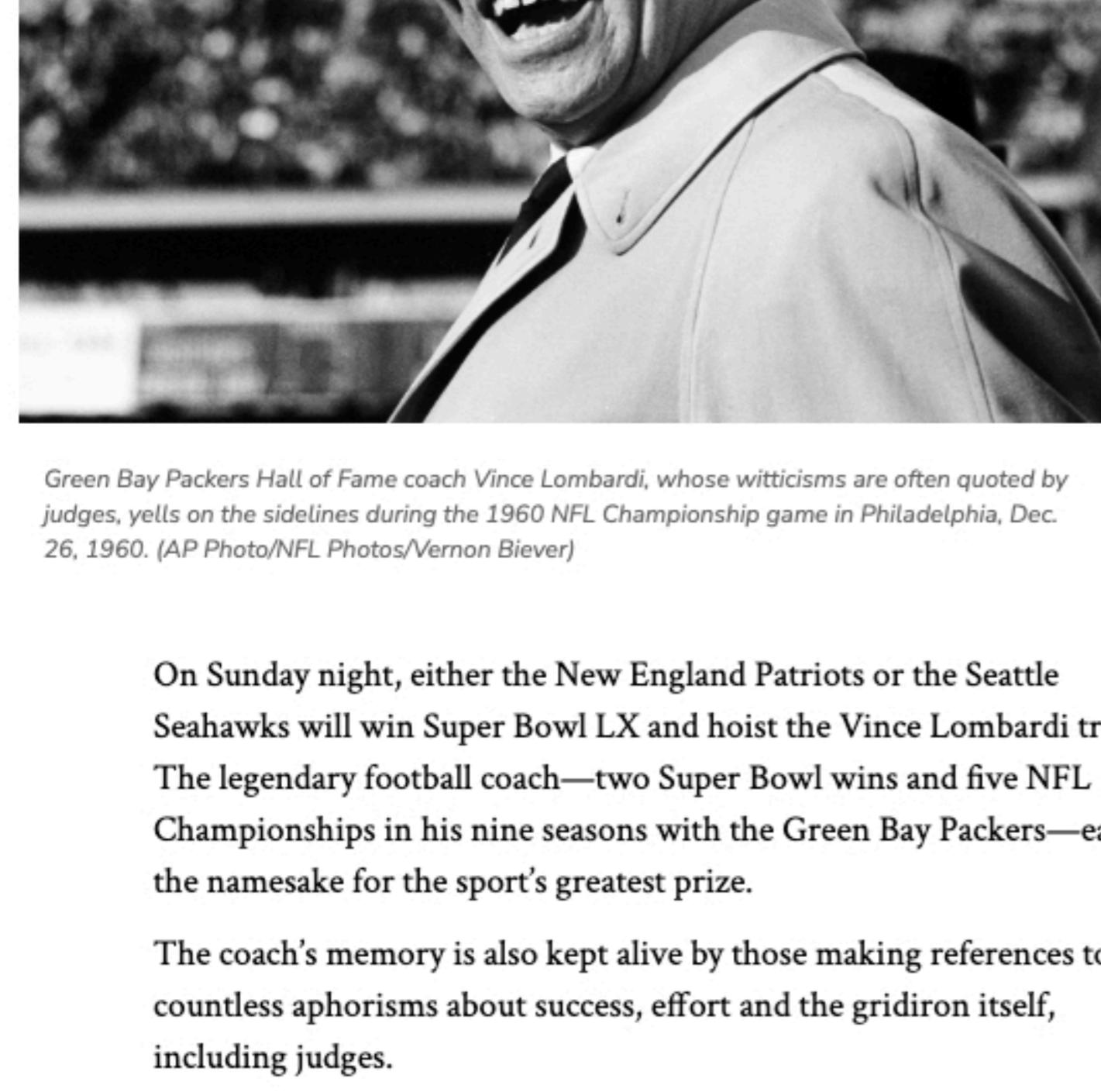


From the Gridiron to the Courtroom: Judges draw on Vince Lombardi's wisdom

BY RANDY MANILOFF

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Green Bay Packers Hall of Fame coach Vince Lombardi, whose witticisms are often quoted by judges, yells on the sidelines during the 1960 NFL Championship game in Philadelphia, Dec. 26, 1960. (AP Photo/NFL Photos/Vernon Biever)

On Sunday night, either the New England Patriots or the Seattle Seahawks will win Super Bowl LX and hoist the Vince Lombardi trophy. The legendary football coach—two Super Bowl wins and five NFL Championships in his nine seasons with the Green Bay Packers—earned the namesake for the sport's greatest prize.

The coach's memory is also kept alive by those making references to his countless aphorisms about success, effort and the gridiron itself, including judges.

Gavin McDonald came in second place in the Ventura County, California, spelling bee. He believed the student he lost to should not have been allowed to compete in the countywide bee. McDonald filed suit against the local newspaper that sponsored the contest.

The state's appellate court was incredulous that such a suit would be brought. The panel in *McDonald v. John Scripps Newspaper* (1989) blamed it on someone taking Vince Lombardi too seriously when he said: "Winning isn't everything, it's the only thing."

The Delaware Chancery Court was called upon to determine if the price paid to PetSmart's shareholders to take the company private provided fair value. The judge in *In re Appraisal of PetSmart Inc.* (2017) concluded that the valuation process employed "while not perfect, came close enough to perfection to produce a reliable indicator."

As precedent for this standard, he cited Lombardi, who he noted, after years of striving for it, finally concluded that perfection in human endeavors is not attainable. The jurist recounted the words Lombardi used to open his first Packers team meeting in 1959: "Gentlemen, we are going to relentlessly chase perfection, knowing full well we will not catch it, because nothing is perfect."

It's all about the results

Bruce Wall was fired as head football coach of a high school team after winning just two games in four seasons, including being outscored by 361 points in his final campaign. The coach challenged his termination in court.

An Iowa appeals court, in *Jesup Community School District v. Wall* (2011), concluded that the coach's termination, being based on performance, was improper. Nowhere in the school district's four-page list of a coach's responsibilities was any mention of win-loss records.

A dissenting judge was less sympathetic, citing a Lombardi admonition: "Some of us will do our jobs well and some will not, but we will be judged by only one thing—the result."

In *North Star Alaska Housing Corp. v. United States* (2007), the U.S. Court of Federal Claims concluded certain government officials acted in bad faith—going so far as engaging in vigilante justice—in their administration of a contract for U.S. Army housing.

Lombardi once described football as a "game that requires the constant conjuring of animosity." The judge concluded the coach could have just as easily been describing the government's administration of the contract at hand.

Samuel Molina III was seriously injured by an elbow to the mouth while playing flag football. He sued. The defendant countered that his conduct was not "extreme and outrageous" as required to be liable.

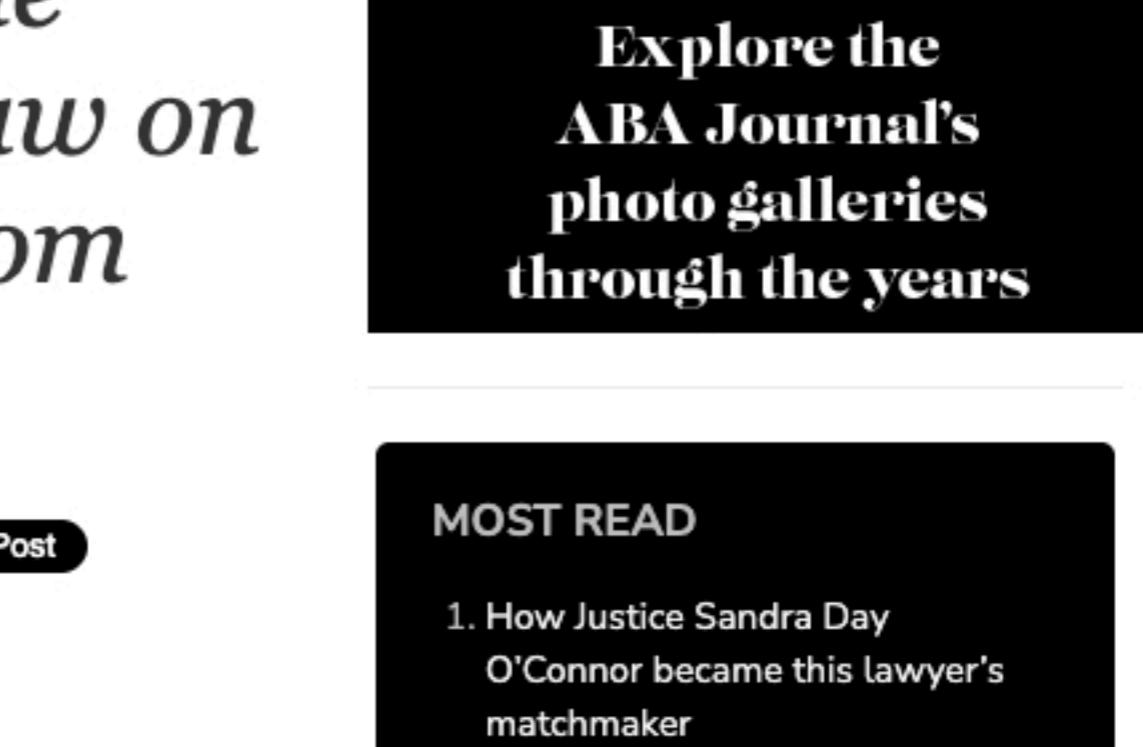
The Connecticut trial court in *Molina v. Sacred Heart University* (2009), agreed. Noting that Lombardi once said that "football is not a contact sport. It's a collision sport—dancing is a contact sport," the judge concluded that even in noncontact flag football, physical contact is not unexpected.

In *Du Jardin v. City of Oxnard* (1995), the California appeals court reversed a jury verdict in favor of the city. The municipality had been sued for injury to an individual who fell through a hole in a city trash dumpster. The city's attorney intimated in closing argument that a verdict for the plaintiff would result in a reduction of the jurors' own public services. The court concluded that this was prejudicial.

The court noted that the city's attorney took Lombardi's words, about winning being "the only thing," too literally and added its own caveat: "provided that you play fairly and according to the rules."

Indeed, the wise coach himself once offered advice well-suited for lawyers: "The objective is to win: fairly, squarely, decently. Win by the rules, but still win."

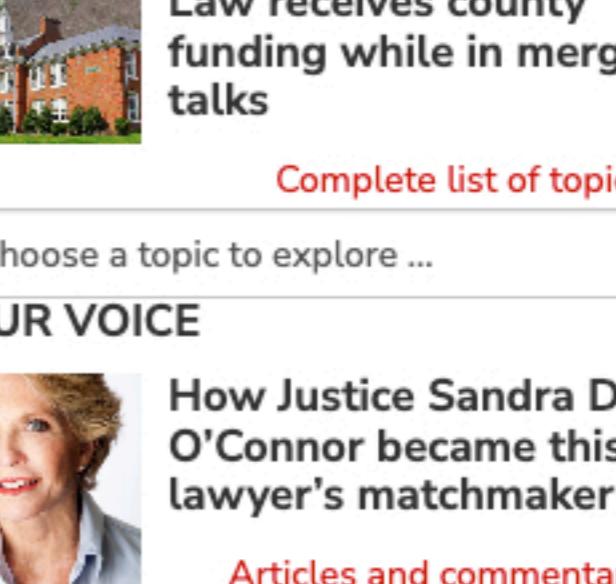
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