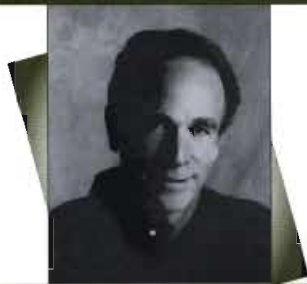


IN SEARCH OF A STORY: THE HERO'S JOURNEY



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MUCH ADO ABOUT STORY

In recent years, many have promoted the need for “story” in trial work – it seems all the rage. Many luminaries say that we are all natural born storytellers, or words to that effect. I beg to differ. I think we are natural born story *listeners*, but one need only walk into most courthouses and sit through most any portion of a trial to see that somewhere along the line, most lawyers can’t tell a story to save their souls. Most lawyers, when asked, “Tell me about what happened – *what’s the story?*” begin with something along the lines of, “It’s a *case* of wrongful death due to the negligence of D”, or some such claptrap. Very few know the words, let alone the structure, of a decent story. The nearly universal choice of the word “case” to describe a story is a perfect example. People don’t have “cases”, they have stories.

I suspect that most of us lost the ability to tell a story in law school when we were forced to adopt the appellate court model of story telling, which is to say, “none”. All is not lost, however. We can recover from the brain damage inflicted by law school by going back to the basics, because “To be a person is to have a story to tell,” Isak Dinesen.

WHY TELL A STORY?

In *Tell Me a Story*, Roger Schank, an electrical engineer and computer scientist, makes the point that human beings are “hard-wired” for story. In other words, all of us have story

“receptors” that allow us to more easily track, process and understand material that is presented in story format. So, if we as lawyers, can present what happened in a way that fits the receptors of our listeners – our jurors – we have accomplished a great deal. But, that means that we, as the tellers, need to know the format of a classic story, so that we can structure our *stories* (not our *cases*) accordingly. This means we must learn something about where story comes from, the role of the teller, structure, the classic characters, and the universal truths which all compelling stories must offer.

WHO IS THE TELLER?

Who are *you*?

Self-knowledge is the root of all great storytelling. A storyteller creates all characters from the self by asking the question, “If I were this character in these circumstances, what would I do?” The more you understand your own humanity, the more you can appreciate the humanity of others in all their good-versus-evil struggles. Robert McKee

Few people will listen unless they have some sense for who the storyteller is, and that requires getting to know you a bit, which must happen way before opening, when most lawyers start their stories. It must happen during voir dire, where you must spend time not only on your jurors, but on yourself. I don’t mean this in the fake, pretend, bad-lounge-singer way that so often happens during voir dire. Rather, you have to give the jurors a piece of yourself, an honest piece, a genuine piece, and often, a piece that you are not terribly proud of. In a recent trial, I said the following:

You’ve got to give yourself to your jurors, before they will give themselves to you.

You know, Martin Luther King fought against racism, and we still have that as a problem. But there is, in society, something called ageism. You know, the attitude that the old don’t matter, that they all look the same. My grandmother was 101 when she died. I didn’t visit her in the last six months of her life, and I felt, and still feel, real bad about that. I think that’s because when I was in college, I had some of that in me. It’s not a part of me that I’m proud of. It’s a part of me that lives inside me.

You’ve got to give yourself to your jurors, before they will give themselves to you. You can’t do this unless you’ve spent some serious time doing the personal work to find out who you are. You won’t find the answers in a book, or at the typical CLE seminar. You might on a therapist’s couch, or through psychodrama, which is a form of human development which explores, through dramatic action, the problems, issues, concerns, dreams and highest aspirations of people, groups, systems and organizations. It is mostly used as a group method, in which each person in the group can become a therapeutic agent for the others in the group. Developed by Jacob L. Moreno,

psychodrama has strong elements of theater.¹

MAKE THE STORY ABOUT THE LISTENER

“If a story is not about the hearer, he will not listen.” Steinbeck, *East of Eden*. Steinbeck knew how to tell a story. He knew that to get the listeners’ attention, the story had to be about them, on some level. All good stories are about the

listener, because all good stories deal with universal Truths, with a capital “T”. For example, in *Moonstruck*, Nicholas Cage says to Cher:

Love don't make things nice, it ruins everything. It breaks your heart. It makes things a mess. We aren't here to make things perfect. The snowflakes are perfect. The stars are perfect. Not us. Not us. We are here to ruin ourselves. And, and, to break our hearts. And to love the wrong people. And die. I mean, the story books are bullshit!

We know that good stories are about universal truths, because good movies or books cut across languages and cultures. In a good book or movie, the reader or viewer, strangers to one another, will likely feel the same emotions at the same time in the story. So, too, our trial work must contain such universal truths: that good should triumph over evil; that justice should prevail; that love, while it may ruin things, can find a way to rise triumphant. And, ultimately, that the ones to make it so are the twelve good men and women seated before us, empowered by our society to become heroes, should they wish to rise to the occasion.

THE HEROCENTRIC STORY STRUCTURE

The hero's journey is probably the most well known of classic story structures. Sam Goldwyn put it the simplest: “We introduce a hero, we chase him up a tree, and then we get him down again.” In *Hero of a Thousand Faces*, Joseph Campbell sets out multiple examples of such stories in cultures across the ages and across the planet. Vogler's, *The Writer's Journey*, works similar magic using more modern examples.

Essentially, the hero begins in an ordinary world—think Neo in the Matrix, Bilbo in *The Hobbit*, Luke Skywalker

in *Star Wars* – where as best the hero can tell, all is well. In fact, unknown to the hero, all is not well. Then something happens, an inciting event, that shows the hero that all is not well – the knock at Neo's door and his introduction to the Matrix; Gandolf's knock at Bilbo's door, R2D2's projection of Princess Lea calling for help. Usually there is a call to adventure, at which the hero, or someone in his life, balks – Neo's initial refusal to confront the Matrix; Bilbo's reluctance to leave the Shire; Luke's uncle's admonitions that he stay home and work the farm. At some point the hero is helped over the threshold, into a new world, where he meets allies and enemies and undergoes tests of his will – Neo's “unplugging” from the Matrix

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and teaming up with Morpheus and his crew; Bilbo's travels with Gandolf, the dwarves and the elves; Luke joining up with Obi-Wan-Kenobi, Hans Solo and Chewbacca. There is usually a mentor who helps the hero – for Neo it is Morpheus; for Bilbo it is Gandolf; for Luke it is Obi-Wan. At some point the hero must confront the ultimate enemy – for Neo the Agents; for Bilbo the dragon; for Luke, Darth Vader and the Deathstar - at which point there is often a true or metaphorical death, from which the hero returns through the help of some universal truth. In *The Matrix*, for example, Neo dies, but is brought back to life by Trinity's love and belief that he is “the One.” The hero then returns with the solution, or elixir, to the problem originally posed in the beginning – Neo now has the power to see, understand, and control the code of the Matrix; Bilbo returns to the Shire with the Ring; Luke has The Force. One way to structure the story in

your case is by using the following structure:

Once upon a time... [the ordinary world]
And every day... [the ordinary world]
Until one day... [the inciting event]
And as a result of that... [the new world]
And as a result of that... [the new world]
And as a result of that... [the new world]
Until, finally... [the climax]
And ever since then... [the moral of the story]

The herocentric story structure is hardwired into our brains. We all “get it”. So will our jurors. To that end, we must find ways to show and tell the elements of this structure to our jurors. We must show them the “ordinary world”, not just of our client, but of the defendant, and of the jurors. We must deliver to them the inciting event, which drags our client, the defendant, and the jurors into a new world, for certainly the courtroom is a “new world” to the jurors, and one where they need a mentor. We must show the trials and tribulations in that new world, the motivations of the client or the defendant. We must show the ultimate battle. And finally, we must deliver the story to the jurors, the ultimate heroes, to write the ending.

CLASSIC CHARACTERS

Most stories have a villain, a victim, a mentor and a hero. Many attorneys give in to the temptation to label the final instrument of harm as the “villain”. For example, in a nursing home or hospital negligence story, many times the immediate cause of harm is a nurse aide or nurse. But if the story stops there, it leaves untold the story of the real villain: Who put that overworked nurse aide or nurse in the position he or she is in? Who is the villain behind the scenes calling the real shots? Perhaps the frontline staff member is as much the victim as our client.

It is also easy to label our client as a victim, a term that does not endear the client to the jurors, because people don't like victims, they like heroes. In many stories, the same character may play different roles, so why not show the heroic parts to your client? That she did not give up, that she fought on against the storms and cataclysms visited on her by the villain (defendant)?

Who should be the mentor? Certainly not the judge! We don't want the jurors following the judge, we want them following us. So that must be a role we own, and to do so we must have the credibility necessary to be accepted as mentor, which requires that we address our own demons.

Unlike a finished story, where the author or director determines the ending, our trial stories are not finished until the endings are written in the courtroom, and only the jurors can write the endings. This means that in the final analysis, the jurors must be the ultimate heroes, for they are the ones with the power to make a difference. To that end, we must help them acknowledge, accept and utilize their power. We should do this in all parts of trial - voir dire, opening, direct, cross and closing. For example, in a recent trial on behalf of a profoundly disabled man who was raped in a group home, I said in voir dire:

MR. BETTINGER: All of you here have something in common, and what you have in common is that you showed up in response to the summons. There are empty chairs and empty spaces where people who received summons decided, for good or bad reasons, "I'm not coming." And so what I'd like to talk with you about now is that in exchange for coming, if you're selected to be on the jury, the State does vest you with immense power at the end of the case. You'll be the most powerful people in the State,

and we'll talk about that in a little bit, but what I'd like to start talking with you about is why. Why did you decide to come in response to the summons, and how do you feel about this system we have of juries deciding things? And someone help me, because I'm up here all by myself, and I need to hear from you.

In closing in the same trial, I returned to that theme:

When first we met I told you that you all had something in common, no? You showed up. And I told you that in exchange for that, if you were selected, as you have been, to sit as the actual jurors, that you would -- that society, that we as a society would vest in you tremendous power. Remember that? Society in exchange for the time that you have given to us of your lives vests in you the power to do certain things. It vests in you the power to hold accountable that [the Defendant] which up 'till now has said, "it's not our fault, we're not responsible, talk to our lawyers." It vests in you the power to put a value on an injury which in some ways may be worse than death, because it leaves a scar on the soul. It vests in you the power, should you decide to exercise it, to make sure that this never happens again.

In short, in exchange for your service, society makes you into heroes, because it vests in you the power to save the day, and that's what heroes do.

Now, you should note that you all have this power in equal amounts, a woman, or man, younger or a bit older, whether you have a Ph.D or a GED, on the keyboard of this courtroom, all of your notes sound equally, and if you choose to work

those notes together, you have the opportunity to transform an injustice into a justice.

CONCLUSION

A trial provides an excellent opportunity to tell a great story. So, ask yourself:

- What about myself am I going to share with the jurors so that I, as the storyteller, have credibility?
- Whose story do I want to tell?
- Which facts lend themselves to the different classic story elements - ordinary world, inciting event, new world, climax, return home?
- Which of the classic story characters - villain, victim, mentor, hero - should be filled by the different players?
- How can I use *each* part of the trial to further empower the jurors as the ultimate heroes of the story, the ones who, by their verdict, literally have the power to save the day?

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- Hero of a Thousand Faces*, Joseph Campbell
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ENDNOTES

- 1 See <http://nationalpsychodramatrainingcenter.com> for more information on this remarkable methodology.