



# ONCE UPON A CLIENT— THE POWER OF PERSUASIVE LEGAL STORYTELLING

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*“To be a person is to have a story to tell ... Within each of us there is a tribe with a complete cycle of legends, dances and songs to be sung.”*

Sam Keen

**I am a Storyteller.** Recently I have learned how to identify, shape and effectively deliver my client's story in a clear, concise, cogent, colorful, memorable, persuasive and influential manner using traditional storytelling skills and methods. Here's my story.

In Chapter One I attended a regional seminar and discovered how to get inside the skin of a witness. In Chapter Two I attended the Trial Lawyers College where I performed a fantastic archeological dig on myself. In the course of doing my work I undertook the process of discovering and telling my client's story. In Chapter Three I attended a psychodrama workshop to further develop directing skills, enhance listening skills and cultivate deeper personal insight and empathy for people. In short, I learned that the TLC methods enabled me to discover each client's true story and to be free enough to present it in the moment, but there is so much more to know about story telling.

I thought my story was at an end. Wrong! The chapters are still being written. Bill Trine and John Nolte impressed upon me that a trial lawyer is a work in progress and is always on a journey to improve. Unbeknownst to me another TLC graduate would soon be instrumental in helping me write the next chapter on my way to becoming a storyteller.

Maurice Abarr, TLC 1998, a remarkable attorney and enormously persuasive fellow, recently invited some of the Southern California TLC graduates to participate in a four-part storytelling seminar led by a master storyteller, Diane F. Wyzga, who also happens to be a nurse-attorney. Maurice had been working with Diane for well over a year. He raved about what storytelling skills and techniques had done to help him listen deeply, question deeply and deliver persuasive legal stories.

**What Is a Story?** A story is a narrative account of an event or events. The difference between an example and a story is the addition of the emotional content and the sensory details. Storytelling works like nothing else because *it thrives on imagination and listening. When we listen to the whole person and not just to the words or the information, we are able to represent them from the inside. When we listen for the themes and the metaphors in a story told to us, we are able to bring out the Truth and not just the facts. Once we become aware of our own creative force, we will become more careful and accurate listeners and better representatives of our client's interests.*

**Why Story Works.** A simple short story can reveal a truth more vividly and consistently than any laundry list of facts. Gerry Spence, a natural storyteller if ever there was one, knows this. When Gerry was in Manhattan representing Imelda Marcos, he had occasion to get into a cab driven by a fellow who had been closely follow-

ing the trial. The cabbie recognized Gerry and asked him outright, “Well, Mr. Spence, what’s the big deal about Imelda Marcos having four hundred pairs of shoes? My own wife has one hundred fifty pairs sitting in our closet and I’m just a cab driver.”

What the cabbie recognized is that good stories always have an element of Truth—they describe something we recognize as True. In this case what the cabbie was saying was that many pairs of shoes in a closet may be an ordinary thing for many women. And just because someone has a closet full of shoes does not mean that they are stolen goods. A juror listening to the cabbie might even visualize her own closet and see it cluttered with shoes. Truths with a capital “T” are timeless. We recognize them and know them without empirical evidence. A juror will resonate with the Truth in your story, remember his or her own experiences and tune into you and your message. Said another way, “*We are generally persuaded by reasons that we discover ourselves than by those given to us by others.*” [Anon.]

**What Makes a Story Powerful?**

Stories are the most powerful tools for communicating since they enter our heart by engaging our imagination. Law school fosters uniformity in thinking and problem solving by emphasizing a dependency on the cerebral power of intellectualism. However, linear thinking is not always the way that can help in the complex problems presented by our clients. What shapes the story are not just the facts but the personal, emotional, conflicting aspects B they are what changes the picture and can create different stories from the same set of facts.

**How Do We Persuade With a Story?**

People have become indifferent, apathetic, frustrated, depressed, defaulted to self-interest, cynical. A story delivered with a Truth helps them feel curious again, transforming, maybe even a little hopeful that they have the guidance to do something right, that there is meaning of which they can make sense. Also, a story helps us to hear by cutting thru the misconceptions, to get to the Truth of the experience. Art takes the complex &

brings it into something manageable.

Facts themselves have no life. A story breathes life into a set of facts. Most legal cases consist of a stale set of facts and at least two different stories which interpret the facts. The party with the more persuasive story generally prevails in the litigation. Why is that? We are an information overwhelmed society. Thanks to computers and the internet there is more information being developed and thrown at us every moment of every day. We know what happens when we give our jurors too much information. We lose. A story simplifies information and gives it meaning. The most moving story is usually the most meaningful. The listener actually wants to trust us. TLC teaches that we must show them ours first, in order to earn the listener’s trust.

**Meaning and Creativity.** “*No man listens long to a story that isn’t about himself.*”

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[John Steinbeck] The difference between giving an example and telling a story is the addition of emotional content and added sensory details in the telling. Like an artfully woven tapestry the story intermingles images, facts, imagination, emotion and details. They become more than just the bare facts. The listener puts his own view of the world into the story as it is developing. In Gerry’s anecdote the cabbie heard a story that he could align with—he saw his own wife’s shoes collected in the closet of their home. The cabbie and Gerry shared an image and a Truth. To that extent the listener and the teller became collaborators in the creation of the story.

**Storytelling for Legal Communication: Getting Inside the Listener’s Mind & Imagination.**

When listeners follow a story, they journey—virtually—with the teller into a different world, an imagined reality, a different mental location where the story exists all the while never having left their physical state. How vividly or dimly this world exists depends on the

skill of the teller and the interest of the listener. Listening to a story is not just a matter of registering the teller’s words but creating an entire virtual world. The process of transition from physical world to virtual world is active with the listener energetically conniving and conspiring with the teller all the time to actually will the virtual world into existence. Despite being an audience of separate listeners there is a sense that they are nevertheless connected. Imagine, then, how effective a story can be to communicate an idea, a concept, knowledge, a notion, a belief—even one that is comprehensive and profound in its implications. If the story stimulates the listeners to come inside the story, to think actively about the implications of what is being conveyed in the story, the expectation is that they can collaborate to imagine further implications, recreations of ideas, new concepts, become co-creators of knowledge, fresh perspectives and solutions. All because they heard a heartfelt story artfully told.

**Storytelling In the Courtroom.**

Stories are everyday communication devices. A story not only focuses attention and judgment on certain key ideas or behaviors, but it has the capacity to focus attention on understanding the significance of the behavior. Therefore, storytelling is the most common sense means of presenting legal issues and cases in ways that make sense to attorneys, judges, jurors, witnesses and defendants.

**How Does Storytelling Persuade a Juror?**

- Legal judgment involves more than just a series of formal justice procedures for resolving disputes in our society. The formal justice procedures such as case law, opinions, rules of evidence must engage some parallel form of social judgment that anchors legal questions in everyday understanding.
- Through the techniques of telling and interpreting stories, players in the judicial system organize, analyze and present the evidence.
- In order to understand, take part in and communicate in the judicial system, people transform the evidence

into stories about alleged activities.

- The legal team organizes and analyzes vast amounts of information involved in making a legal judgment. Stories are systematic means of organizing, storing, rearranging, comparing, testing and interpreting available information about all sorts of issues and behaviors. Getting a case together in the form of a story is much like reading a detective novel with multiple points of view, subplots, time lapses, missing information, and ambiguous clues.
- Also, if the impact of certain evidence is understood according to the way it fits into a developing story, it is easier to explain certain outcomes.
- Jurors torn away from routines, placed in unfamiliar settings and asked to make profound decisions after having been handed complex legal terminology that is supposed to help them address conflicting versions of the same facts
- How do they do it? Formulate a story that explains the situation in familiar terms using three or four key messages or themes that define the case from their point of view
- Organizing information, especially conflicting information into meaningful structures, is how we as humans sort out affairs. The right brain takes the artistic and creative information and meshes it with the left brain organizational structure and casts a story
- Storytelling becomes persuasive when the juror can place himself inside the story with ease, listen deductively, develop a story that explains the conflict early on then filter the evidence selectively to maintain a consistent picture

**Learning the Story Crafting Techniques.** TLC started me on the storytelling path. The TLC method impressed upon me the use of the first person narrative to tell my client's story. First person narrative is powerful. Yet, telling from the position of the third person allows me the choice to enter the

client's story at a particular place for effect. The third person also enables me to shift the viewpoint from character to character, or to that of the teller. And use of the second person invites the listener to fully enter the story.

In addition, linear or chronological telling is only one way to tell a story. Actually, there are nine plot forms to choose from. A plot form is a way to tell what happened. The choice of plot form simply enables the teller to choose how you want the facts to come out. I have become savvy in the uses of the various plot forms as well as themes and the emotional arc (how I want my listener to feel as I tell the story).

**A Success Story.** Recently I settled a case to the satisfaction of my client and I owe the wonderful result to learning how to discover, shape and effectively deliver my client's story. My client is a Navy physician who suffered a re-injury to his neck in what appeared to be a routine rear-end

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vehicle collision. He had suffered a neck fracture two years before and I was concerned about his damages. Although this story did not appear to be any different from any other client's I decided to use the storytelling skills and techniques I had learned to see what, if any, difference it would make in deeply listening to and understanding my client's story. I will call my client Dr. Marco Rodriguez. I discovered that Marco grew up in Brazil. His father was an architect and his mother a nurse. I began to understand how Marco formulated his values and who influenced him. As I listened to Marco's story I was reminded of a question Diane asked us as we began the storytelling seminar series. "What, she asked, makes a great storyteller?" She got the usual responses from attorneys accustomed to using theater skills as oral advocates. "What makes a

great storyteller is first a great listener." After this listening I felt that I now understood the current impact that his otherwise routine accident has had on his life. I now had images of his youth and early adulthood. I felt the rhythm of what drives, motivates, and inspires him. I then could paint his story. Here is Dr. Rodriguez's story:

*Marco Rodriguez grew up in a suburb of Rio Di Janeiro where concrete buildings blended into blue and pink stucco row homes. His father was an architect and his mother was a nurse. Marco learned early in life that he was interested in science and good with numbers. A priest at the parochial school told Marco that he had talent and that if he worked very hard and followed the rules he could succeed at whatever he wanted. Marco took that advice to heart and demonstrated his abilities on the soccer field and in learning to scuba dive at age ten. He also became the youngest Eagle Scout in Brazil. Marco graduated number one in his class at medical school and joined the Brazilian Navy. Shortly thereafter he was sent to work in the jungle on the banks of the Amazon River with painted face native Indian medicine men. They taught him the use of natural medicines and he showed them Western medicine. Marco then trained to become a paratrooper in the United States. He enjoyed jumping out of planes and feeling his parachute pop open. Marco always worked hard and set his goals high. As a result he was invited to apply to an American medical school. He passed the foreign graduate test and went on to study at the University of Pennsylvania, Yale University and Johns Hopkins University. Marco was always driven and it was not unexpected that he develop an interest in neurology and ophthalmology and became a board certified neuro-ophthalmologist. Marco became a U.S. citizen and joined the U.S. Navy and is only one of five neuro-ophthalmologist in the Navy. He has traveled all over the world in that capacity. He is now head of neurology at Portsmouth Naval Hospital. But he has a problem. And he will need your help with this problem. Marco can no longer see as many patients as before his accident. His neck pain is too*

*great. He has always been able to overcome obstacles in his life by hard work, diligence and perseverance; but not this time. He has not been able to recover from his injuries and for the first time in twenty years he did not pass the Navy's physical fitness test, which is a requirement. He cannot do the push ups required because of his shoulder pain. He is a Commander but wanted to achieve the rank of Captain. He is now at a crossroads over which he has no control.*

**Hero's Journey Story.** Marco's story is a classic "hero's journey" plot form. I was able to tell Marco's story in this way by listening to him and deciding the best way to present the story of who he is as a man, a doctor, a Naval officer, not just my client. Knowing storytelling skills and techniques empowered me to go beyond the facts to see his life story and present the several themes of the case: a wounded military doctor at a career crossroads, a career officer precluded from realizing his dream of achieving the rank of Captain, a man who has devoted his life to public service no longer able to serve the sick because of someone's momentary carelessness.

Understanding that there are many ways to craft and effectively deliver a story emboldened me to identify, shape, design and deliver Marco's story in a memorable and persuasive manner. Those to whom I told the story (mediators, defense attorneys, insurance adjustors) told me that they could actually see the priest talking to the young Dr. Rodriguez, the doctor working in the Amazon jungle, and working his way up the ranks to be the best doctor he could be. I learned from listeners of this story that they actually went on a journey and became involved with the story, they shared the emotion, they put themselves in the story by the way they interpreted the images. I never directly said he was a "good doctor" yet one listener "filled it in" and told me that he just knew Dr. Rodriguez was a good doctor and a highly driven individual. These story images lent themselves to helping understand the person of my client.

Over time I shaped and delivered Dr. Rodriguez story in an imaginative and creative way that tapped into the listener's emotions. The story had meaning beyond the simple facts of the story. The emo-

tional content of the story directed the thoughts of the listener and suggested the true personality and good character of Marco. I can tell this story in the moment because I know it is real and I can see and feel the story in my own imagination unfolding in the moment with the listeners.

Marco's story did not really insist that the listener accept it. It merely invited them to listen to the story and join in it with their imagination, if they chose to do so. There was nothing adversarial about telling it. This is the kind of story that would hold together in the jury room and will be remembered longer than the specific facts and figures of the case. The story may be tied to facts and logic, but through emotion the story influences the listener on a deeper than factual level. By giving a colorful vivid story it is much more likely that the listener will accept it as true because the listener has adopted the story and feels as though his opinions come from his own personal experiences.

**On the Eve of Trial.** This story has a "happily ever after" ending: on Monday, October 15, 2003 I learned that my case had settled for much more than we had expected, my client was spared the costs and rigors of going to trial, and that's the rest of the story. I just know that this was a victory. Dr. Rodriguez got justice and I got the proof I wanted that telling his story in a clear, concise, cogent, colorful, memorable, persuasive and influential manner using traditional storytelling skills and TLC methods made all the difference. *Here is my new slogan: "Storytelling is the Trojan horse of argument."* And you can quote me.

**Personal Applications.** Learning how to tell a good story definitely has increased my ability to persuade on even a personal level. As in many courtrooms, I was scheduled to appear before a particularly stern judge in San Diego. I had inadvertently scheduled a trial to begin while I had hoped to be on vacation skiing in the Andes of Argentina. Oh how I wanted to go! You can imagine the sweaty palms and shaky knees I had when I went to ask this judge for a continuance. The judge sternly reminded me that the case had already been continued and that as a responsible attorney I should have recognized the conflict. I agreed that although

I had been practicing for thirty years it was more than likely I had overlooked the conflict. "But, actually, Judge, I'm not sure how much longer I will be able to make these ski trips." The judge paused and said, "Thirty years is a long time." There was silence. Then he tilted his head and said, "I hear they have good chocolates down there." I just knew I was going to pack my skis.

Now, was it something about my story that made it personal for the judge? Did he tap into his own visit to South America and, for a moment at least, remember his own enjoyment? I utilized several story techniques: I got specific, I used images, I brought the listener into my dilemma, I relied on emotion, and I knew enough to let my story rest and stop talking. I believe that he and I connected as men over the power of a story.

**Stories Are the Stuff of Daily Life.** I recently had to discipline my grandson about using and not appreciating other people's property. He had borrowed his mother's car for a week and by the end of the week it was filthy. He was about to bring it back to her in that condition. Now, I could have laid into him with the usual tirade, but I didn't. Instead I said "You know, Randy, when I was in high school my brother had a brand new cherry Pontiac Grand Prix tricked out with the shiniest chrome and most vivid red leather upholstery you ever saw. What a beauty with the stick on the floor! I was stunned when he loaned it to me to go on a date. I returned it to him washed it and waxed. After that he never hesitated offering me the use of his car and even let me drive it to my Senior Prom." It was no surprise to me that Randy's mom ended up with a spotless car in her driveway.

**The End.** I have found that using storytelling skills and techniques to craft a persuasive legal story has enabled me to become a better storyteller, not of my own story—TLC did that—but of each client's story in a clear, concise, cogent, colorful, memorable, persuasive and influential manner. I am learning how to discover and present truth in a heartfelt story artfully told. And in this way I am developing skills of deep listening and oral expression. **I am a storyteller.** 