



Why Storytelling is Your Best Defense

By Merrie Jo Pitera, PhD, Senior Director of Jury Consulting

The Problem

As we know all too well, plaintiffs often have a ready-made underdog tale in civil trials: David (their client) against Goliath (your client). And nobody roots for Goliath.

That's strike one against you, before you even start. Add in the fact that many jurors assume your client must have done something wrong if it is being sued in the first place. Strike two.

With such a [case strategy](#) practically served up on a silver platter, plaintiffs have free range to play to jurors' emotions, biases, and fears. They can put together a convincing story, painting the case in simplistic terms: small vs. big, good vs. evil. This is no more evident than in the increasing use of "Reptile" tactics we've seen across the years.

Many defense attorneys believe that the best response is to stick to the facts and evidence. They believe their reasoned arguments can combat the plaintiff's narrative and emotional appeals—i.e., that logic will prevail.

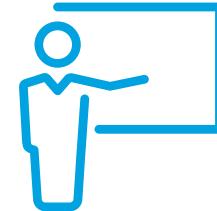
But on their own, the evidence, logic-based arguments and legal citations that seem like they should be the most persuasive don't tend to play out with jurors. Most jurors haven't attended law school; they don't necessarily think in the same terms. Instead, they rely on heuristics (mental shortcuts), life experiences, and assumptions to build a story out of what both sides present.

So, if you don't provide your own persuasive narrative for the jurors—if you don't weave the evidence into something greater—you've lost control of the process by which they'll absorb and deliberate the case. You've left your opponent's story running unopposed.

The Solution

As Barbara Hillmer and I explain in detail in our book, *Storytelling for the Defense*, you don't need to (and indeed absolutely shouldn't) cede this narrative power to the plaintiff.

Over 30 years and counting, we've confirmed that the best way to combat your opponent's story is with your own, better story. You have the power to reframe and retell the events in a way that makes your characters—and your case—favorable in jurors' eyes. The best narratives also make it easy for supportive jurors to argue for your side in the deliberation room.



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Why Stories?

Scientific research continues to extoll the importance of storytelling in successful communication. Humans think in stories, using them to connect separate events in a way that makes sense to them. We've done so for all of known history.

So, in a litigation context, jurors who aren't offered a story structure to go along with your arguments and evidence are left to piece it together for themselves. And the story they come up with might not be what you intended. You're also likely to leave gaps in jurors' knowledge, which they then fill with their pre-existing attitudes and beliefs—a risky gamble to take (especially if you're "Goliath").

Building a Persuasive Defense Story

Some major steps toward a successful story include:

- Identifying what your jurors will be receptive to, and what they want to know about your case
- **Identifying the jurors** most unlikely to hear your case fairly, so they can be stricken
- Boiling your case down into simple, relatable, and repeatable themes so your story is easy to absorb and remember
- Prepping witnesses and **creating visuals** specifically to augment your story/themes
- Testing and shaping your case as needed to maximize its effectiveness

Crafting a truly effective [defense story](#), however, involves far more than this article can provide. For further information on all of these points and more, we encourage you to pick up a copy of [Storytelling for the Defense](#), which offers a full discussion and breakdown of our eight-step persuasive story methodology.

(Book proceeds benefit [JDRF](#) and [KC Pet Project](#).)

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