



Story Telling in the Court Room

WE MAKE CHAMPIONS

Lajitas Golf Resort

February 28, 2020

Presented by:

Don Flanary



TRUST



Once upon a time...



A trial is a STORY about EMOTIONS

- **Why are good BOOKS, PLAYS, SONGS and MOVIES so successful?**
 - they tell a STORY

A trial is a STORY about EMOTIONS

- **Why do people naturally follow and believe
STORIES?**
 - **they are EMOTIONALLY TRUE**

“Trials are storytelling, nothing more... The problem is that lawyers have forgotten how to speak to ordinary folks... Lawyers long ago abandoned ordinary English.”

-Gerry Spence

The Jury is your only SAVIOR

- The jury will only rescue your client if they have an emotional bond with your client
- The jury will only form the emotional bond if they trust you to tell a true story
- They will only trust you if you are totally honest with them

People think in Stories

- Storytelling is the jury's primary means of interpreting
 - evidence and
 - reaching a verdict
- They look for
 - familiar themes
 - Stereotypes
 - Patterns



5 Reasons to Use Storytelling

- Stories:

1. Make us **care**
2. Engage our **emotions**
3. Make the abstract **concrete**
4. Help **clarify** what we should do
5. Teach us **cause and effect**

**How
To!**

Be prepared!



Be Prepared

- Know your case!!!
- Don't use notes





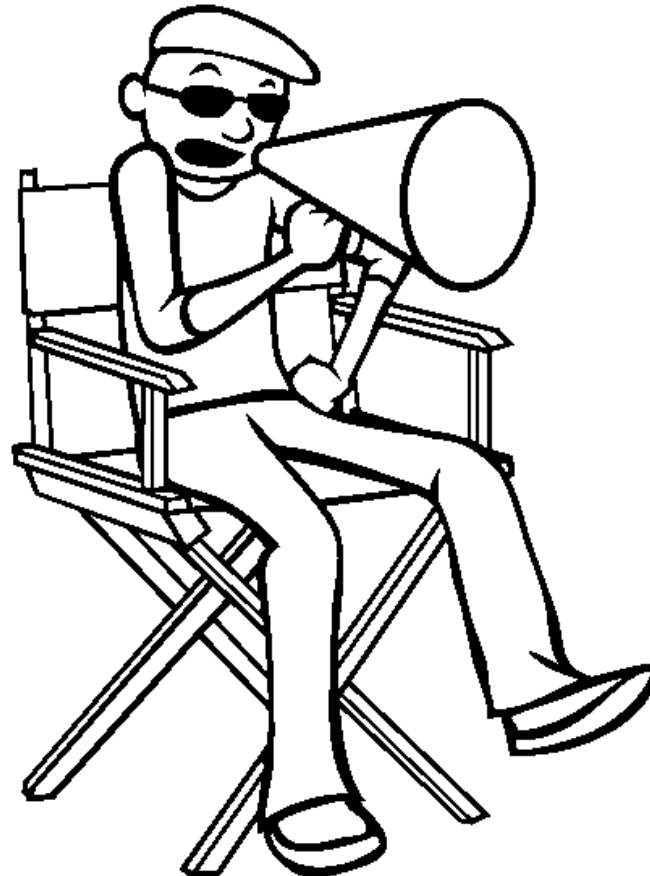
The Trial is Story

- The Court room is a Theater
- All the world is a stage



The Lawyer is the Director

- A good Trial Lawyer is a **Good Director**



Witnesses are Characters

- **Good Guys vs. Bad Buys**
- **Your client is the Protagonist**
- **Your job is to Support the Story**

**BE
AUTHENTIC**





au·then·tic·i·ty

1. transparency; genuineness
2. matching outer expression
& inner experience

Be yourself,
everyone
else is taken.

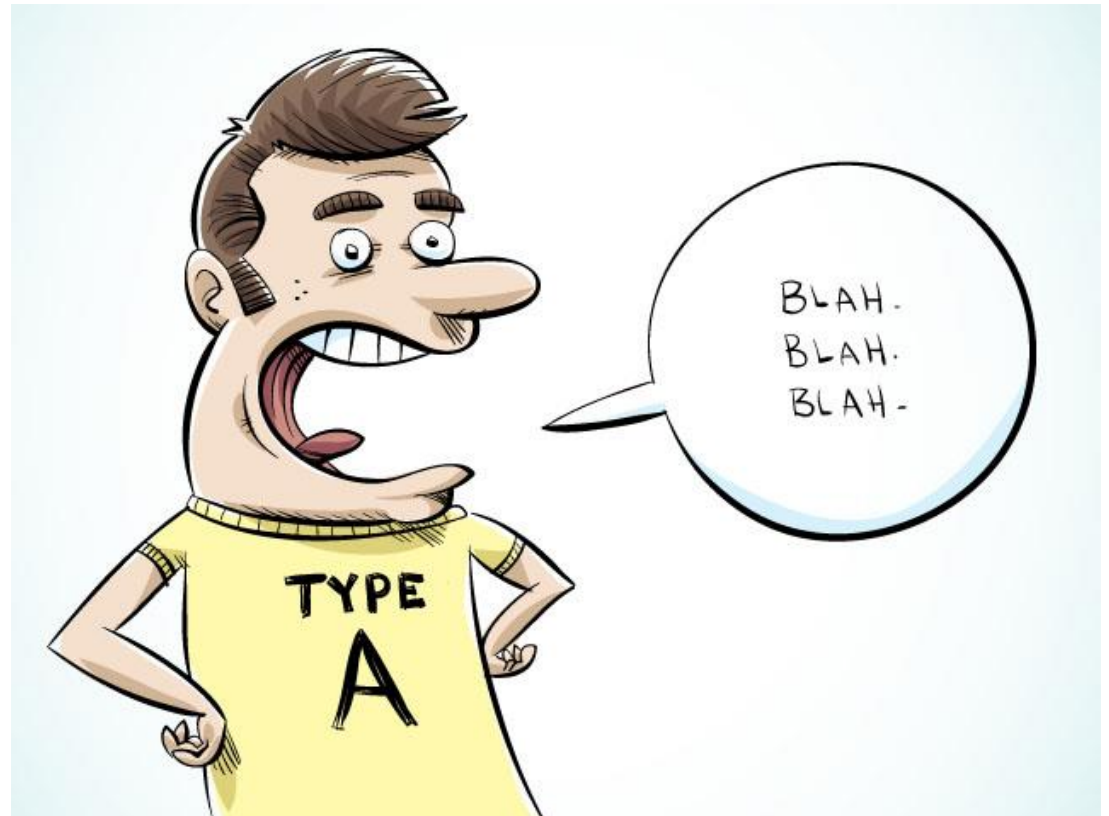
Don't talk like Lawyer

- Be yourself
- Don't be a know it all



Be Humble

- Don't be a know it all



Have a Conversation with the Jury

- Make eye contact
- Go from one person to the next
- Finish a sentence or thought with each Juror

Tell Your Story

- Be emotionally honest
- Tell the emotional truth
- If it feels right it is right



Who are you?

- What's your background?
- Why should like you?
- Why should we trust you?



Share Something

- Share something that humanizes you
- Let the jury relate to you



You have a Part to Play

- Know your part!
- And Play it!



Practice makes Perfect

- Go over your testimony
- Think about what you are going to say
- Does it make sense?



You Have Nothing to Hide

- Jury's can smell a rat



Know your Audience



*Who am I trying
to reach?*

Start in Voir Dire



Get Help with JURY SELECTION

- You need HELP!
- Who do you want on the Jury?
- Who do you NOT want on the Jury?



Emotional Approach to Voir Dire

- **What if you had no Strikes?**
 - Communicate as if you didn't
- Building a relationship with your jury
- Share who you are
- Listen, Listen, Listen
- Rethink:
 - Educate/Eliminate

Build Your Jury

- Build Credibility
- Build Trust
- Build a Group

Voir Dire

- Identify **Danger Points**
- Where does the Danger come from with me?



Voir Dire

- Share my **fear**
- Invite Jurors to share/show theirs
- **Accept** and **honor** the Jurors gifts



Voir Dire

- Build a Tribe
- Include Yourself and Client in the Tribe



Opening vs. Closing

- Opening is the story of the Case
- Closing is the story of the Trial

Opening

- Set the Scene



Tell a Story About the case

- Present the case in story form, not offense report narrative
- Find the emotional truth
- If it feels right it is right

WHAT'S
THE
STORY

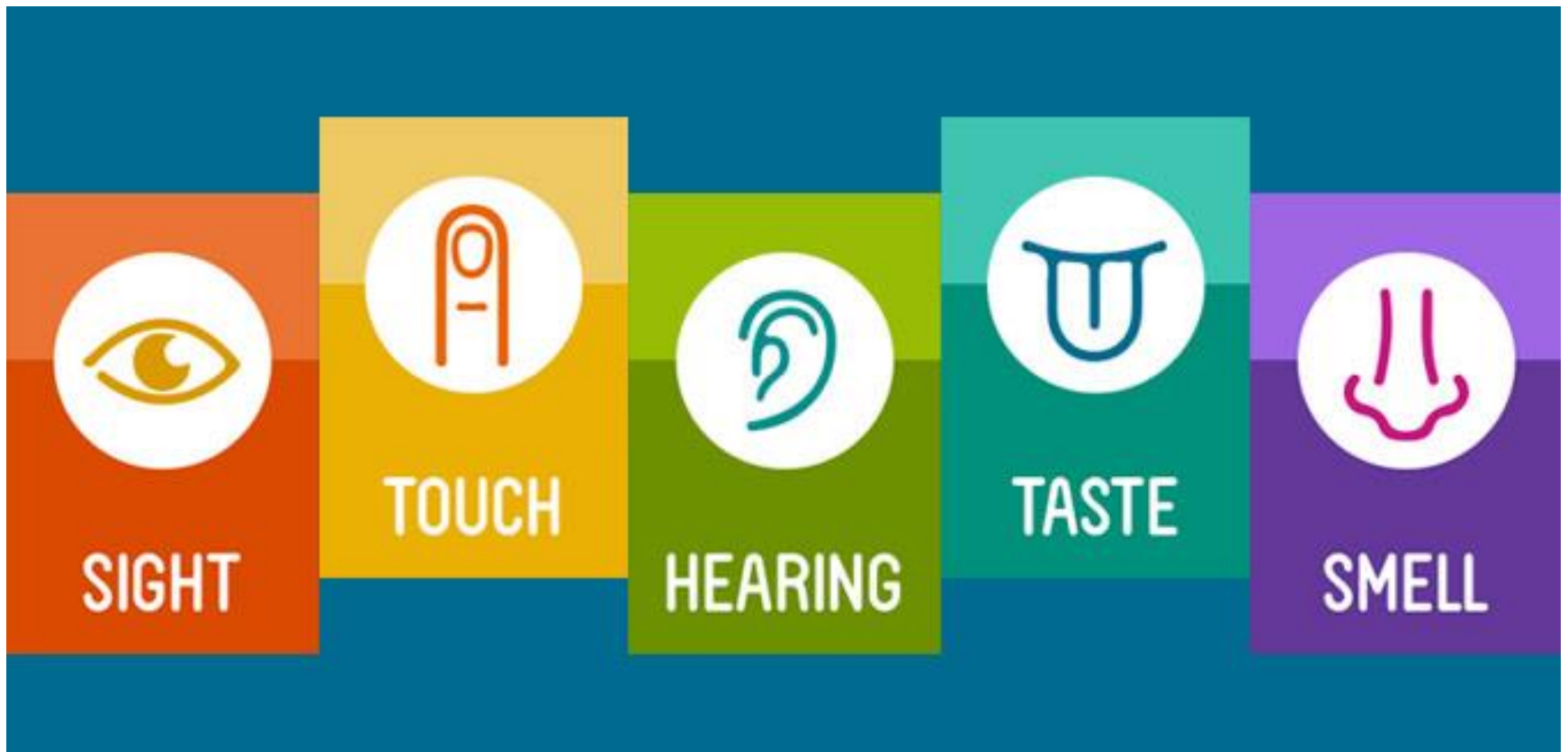


Use Language that Invokes Emotions

- Paint pictures
- Jurors remember feelings not words



Use the Your Senses

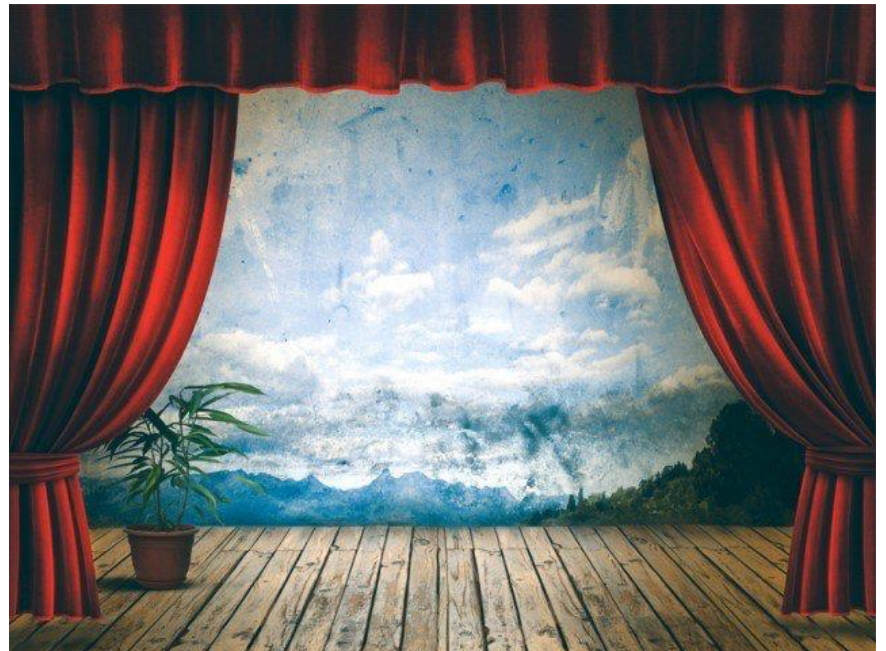


Use First Person Tense



Set the Scene

- What is going on when we start the story?
- Who is there?



Show the Story

- Put the scene in Action!!!



Opening

- Identify the Villain



Opening

- Trust and Betrayal



betrayal

Opening

- The damage to client – PRISON



Opening

- **Retribution and Justice – client deserves Freedom**



Direct-X

- **Remember the Story**
- **USE PRESENT TENSE**
- **USE ACTION**

Direct-X

- **Show Me – (Action)**
- Scene Setting
- Let the witness set the scene
- Role Reversal with the witness to show the story

Direct-X

- FOCUS IS ON THE WITNESS
- “(Witness), would it help you to give more accurate testimony for you to come down here and show me what happened”
- Put important things in Action

Cross-X

- Story - Know the story, tell the story
- Empathy
- You don't have to be in control
- Serve someone else other than yourself during cross
 - Serve the jury

Cross-X

- You have more control when you give up control
- Sometimes you have the most power when you are the most vulnerable
- It is not a competition of credibility with the jury
- You NEVER need to get angry
- Let the tension build

Cross-X

- Focus on the WHY, not the LIE
- Expose the Witnesses motivations
- Find a way to relate
- Show the jury, Don't tell

Closing

- Find the Trial Villain
- Identify the Villain's role in Betrayal

Closing

- Righteous Indignation/ Moral Outrage



Closing

- Associate betrayal to Universal truths or themes



Closing

- Know and ask for the Justice that you want
- Show how justice Benefits jurors
- Transfer responsibility to jurors

Closing

- Don't share closing with other lawyer
- One lawyer for Voir Dire, Opening, Closing

Closing

- Don't hold back things for closing
- Have a Call to Action



Closing

- Decision making is driven by emotions
- Stifling emotions are NOT calls to Action
- Best call for action is when the jurors feel a combination of Anger and Disgust

We might be the
master of our own thoughts,
still we are the
slaves of our own emotions.

inhisthoughts

Closing

- Stifling emotions vs. Empowering emotions



Closing

- Stifling emotions
- Sadness
- Sorrow
- Surprise
- Shame



Closing

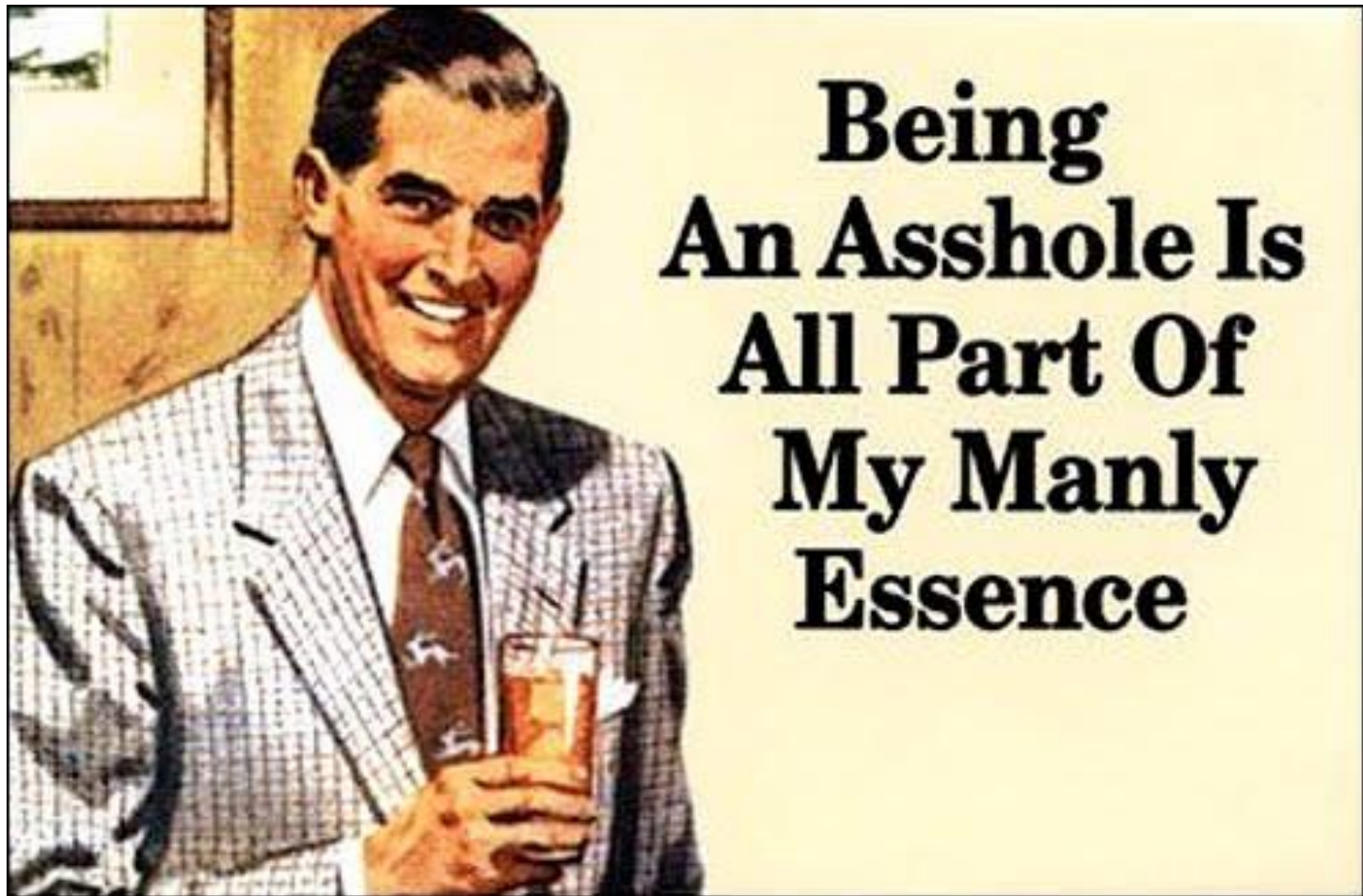
- Empowering emotions
- Anger
- Disgust
- Happiness
- Fear



Let the Prosecutor be the BAD GUY



Let them act like an ASS



It's Good to be the UNDERDOG



Concede the Obvious

- Don't argue over things that don't matter



Be Reasonable

- If you are reasonable you are credible



Let the Jury Rescue you

- The Jury will save you if you are being bullied



Mitigation Cases

- Sentencing after guilty
- Plea guilty to the Jury



Questions



**KEEP
CALM
AND
VICTORY
IS OUR'S**



Don Flanary

210-789-3181

don@flanarylawnfirm.com