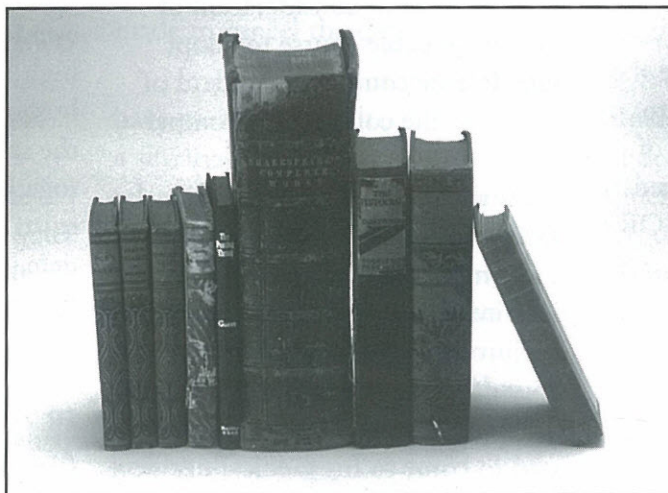


Don't Tell The Other Side of the Story... Tell Another Story

*It doesn't matter which side you represent,
you must tell a story.*



By Dr. Noelle Nelson

For plaintiffs, this is obvious: there's a wrong to be righted and always a story to tell. For defense, the need to tell a story is equally true, though not always acknowledged.

Telling the "Other Story"

Most often, defense attorneys think of storytelling as simply telling "the other side of the story," but that is not compelling. It places the control in the plaintiff's hands. The plaintiff still defines the terms of the game, the boundaries of play. Instead, winning a defense verdict requires telling "the other story" where the defense presents an entirely different scenario for jurors to experience.

Why does this matter? Because story, as an approach, is the single most effective way to engage juror emotions. Juror emotions are what move jurors to adopt your interpretation of the facts. Certainly, you must have sufficient evidence, facts and credible witnesses to satisfy the logical portion of juror brains, but it is not logic alone that will get you a verdict. It is the pairing of sound logic with persuasive emotion that will seal the deal.

The mistake we often make is to assume that emotion means dramatic histrionics. Not so. Emotion is simply "that which moves," that which sets in motion a decision, an action, a reaction. In the absence of emotion, defense will have greater difficulty moving the jurors to its point of view. Emotion is most easily generated through story, not overt emotional courtroom theatrics. The days of forceful oratory in the courtroom are long gone, but storytelling has taken on increased importance as our world becomes more complex.

Provide Context to Your Case

One of the primary functions of story is to provide a context within which to organize facts that facilitates understanding. Jurors require guidance to come to the conclusions you desire. Left to their own devices and with the plaintiff's only coherent story to retain, jurors will posit context that all too often will not organize information in a way that favors the defense.

In a medical malpractice case for example, the defense tells the jurors that the surgery was within the standard of care, that experts validated the defendant surgeon's decision, and that the surgeon had no further

