

PRESENTED AT
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**Developing a Trial Story:
Using the Techniques of the Storyteller**

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DEVELOPING A TRIAL STORY

USING THE TECHNIQUES OF THE STORYTELLER

I realize quite early in my practice, that I was talking to jurors, but I was not talking with them. I asked myself one question when I first started practicing law; why were some trial lawyers more effective in the courtroom than others? But that simple question lead me on a journey or quest for an answer. The answer turned out to be as simple as the question; the better trial lawyers were those who were master *storytellers*. Why were the storytellers the better trial lawyers? Why were stories so impactful? It turns out that the answer to those questions were not so simple. The answer to those questions was like asking someone to describe how it feels to be in love or describe the feeling you get if you saw the sun rise over ice capped mountains or that your child was named the valedictorian of his or her high school class.

You can feel it; but you cannot describe it. There are parts of my presentation; I must admit that cannot be described, but I know that lawyers are trained to analyze. This paper is my attempt to analyze the methods of the master storyteller's and how we can use those methods in our presentations.

Without a doubt, one of the most important inventions of western civilization was *Johannes Gutenberg's Press*. The mass production of the bible allowed people to read for themselves, and thus stimulated the greatest power in the world, according to Einstein, the human imagination. The *use of words* and how they stir the imagination is the real theme of this paper. Storytelling is a critical tool for trial lawyers and it's the use of this tool that's critical.

I've traced the use of words by history's master storytellers. In an attempt to see how we as trial lawyers can use words, to create drama, to set scenes, connect viscerally with jurors, and place jurors in a trance state. How can we tell our clients story better?

Every trial lawyer knows the importance of primacy and recency, what a jury first hears and last hears are critical to persuasion. Let's analyze how some of the master storytellers use primacy to set scenes.

Let's analyze the opening words of history's greatest stories to see how scenes are set immediately:

"...He has successfully avoided meeting his landlady on the staircase. His garret was under the roof of a high, five storied house, and was more like a cupboard than a room. The landlady, who provided him with garret, dinners, and attendance lived on the floor below, and every time he went out he was obliged to pass her kitchen, the door of which invariably stood open. And each time he passed, the young man had a sick, frightened feeling, which made him scowl and feel ashamed. He was hopelessly in debt to his landlady and was afraid of meeting here."

Fyodor Dostoevsky,
Crime and Punishment, 1866

The gripping opening of Edgar Allan Poe in The Tell-Tale Heart:

"True! --Nervous -- very, very dreadfully nervous I had been and am! But why will you say that I am mad? The disease had sharpened my senses --- not dulled them. Above all was the sense of hearing acute. I heard all things in the heavens and earth. I heard many things in hell. How, then am I mad. Hearken! And observe how healthily --- how calmly I can tell you the whole story."

Edgar Allan Poe,
The Tell-Tale Heart, 1843

"It was the best of times, it as
the worst of times, it was the
age of wisdom, it was the age
of foolishness
it was the epoch of belief, it
was the season of Light, it
was the season of Darkness,
it was the spring of hope,
it was the winter of despair, we
had everything before us,
we had nothing before us, we were all going direct to heaven, we were all going direct the
other way --- in short, the period was so like the present period, that some of its noisiest
authorities insisted on its being received, for good or for evil, in the superlative degree
comparison only. "

Charles Dickens,

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