

PRESENTED AT

2016 The Car Crash Seminar

July 28-29, 2016

Austin, Texas

**Storytelling/Themes
in
Opening and Closing Arguments**

Guy D. Choate

Author Contact Information:

Guy D. Choate

Webb, Stokes & Sparks, L.L.P.

San Angelo, Texas

gdchoate@webbstokessparks.com

325.653.6866

GUY D. CHOATE

PERSONAL

Office Location: 314 W. Harris Avenue, San Angelo, Texas 76903

Mailing Address: P.O. Box 1271, San Angelo, Texas 76902

e-mail: gdchoate@webbstokessparks.com

website: www.webbstokessparks.com

phone: (325) 653-6866

facsimile: (325) 655-1250

- Frequent speaker and author at Trial Lawyer events nationwide
- Frequent speaker and author at State Bar of Texas Seminars
- Participation in various areas of the community

EDUCATION

University of Houston (J.D., 1978)

Angelo State University (B.A., Cum Laude, 1975)

PRACTICE

Webb, Stokes & Sparks, L.L.P., Partner (October 1982 – Present)

Smith, Davis, Rose, Finley & Hofmann, San Angelo, Texas (March 1979 – October 1982)

CERTIFICATIONS and ADMISSIONS

- Personal Injury Trial Law, Texas Board of Legal Specialization (1985)
Re-certified (1990, 1995, 2000, 2005, 2010)
- Supreme Court of the State of Texas (May 1979)
- Court of Appeals for the Fifth Circuit
- United States District Court for the Northern, Eastern and Western Districts of Texas
- Supreme Court of the United States of America

ASSOCIATIONS, SECTIONS, and PROFESSIONAL OFFICES

- Texas Bar Foundation, Life Fellow (2003-present)
- American Association for Justice (*formerly American Trial Lawyers Association*), Sustaining Member
- State Bar of Texas
- Texas American Board of Trial Advocates (ABOTA), *President* (2016)
- Texas Trial Lawyers Association (TTLA), *President* 2005
- Texas Board of Legal Specialization: Personal Injury Section
- Tom Green County Bar Association, *President* (1994-1995)
- Tom Green County Young Lawyers Association, *President* (1987)

Storytelling/Themes

I.	Tell me a story:	1
II.	RULE 265. Order of proceedings on trial by jury.....	2
III.	RULE 269. Argument	2
IV.	What are things to avoid in Opening and Closing Arguments?	3
V.	Argument is just that, argument.	4
VI.	What are the elements required to tell your story?	5
VII.	NARRATIVE is the key!.....	6
VIII.	Constructing the Basic Narrative Will Require Answering the Questions of Who, What, When, Where, How, and Possibly, Why.....	6
IX.	KNOW YOUR ROOM:.....	7
X.	What is most effective opening? Should I begin at the beginning?	9
XI.	Search for the perfect words and use them.....	10
XII.	SPEAK WITH CONVICTION:	10

I. Tell me a story:

"I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel."

-Maya Angelou

Are there any words sweeter to the ears than these words from a small child, **"Tell me a story"**?

Stories are how humans explain the world to other humans. We convey the hopes, desires, fears, dreams, beliefs, cultures and history of who we are through stories, and have done so for as long as humans have gathered around campfires and lived as a social order. Stories, and the feelings they invoke are deeply imbedded in our DNA and are as much a part of who we are as human beings as "fight or flight".

The Bible undoubtedly began as oral tradition and stories that came down from one generation to the next until they were reduced to the written word and come to us today in a form that many believe is inerrant. At any rate, they are undoubtedly compilations of the recollections and insights of people sometimes long dead before the scrivener sat down to put them to paper. **The Word, began as stories. And make no mistake, they are crafted and created to not only inform, but to convince.**

Stories may or may not be completely accurate but they must be undeniably true in order to impart their magical qualities on the human heart and mind.

Stories, properly constructed, and artfully told, make us feel the way the storyteller wants us to feel.

Should we be angry; should we be outraged; should we be frightened; should we be inspired; should we be sad; should we be happy; just how should we feel? The good storyteller answers all of those questions for us.

How do I make a lawsuit tell my client's story and entertain a jury, and more to the point, engage, inspire and empower them?

Can a story inspire a jury to **ACT**?

Will the Court allow me to tell my client's story?

II. RULE 265. Order of proceedings on trial by jury

The trial of cases before a jury shall proceed in the following order unless the court should, for good cause stated in the record, otherwise direct:

- A. The party upon whom rests the burden of proof on the whole case shall state to the jury briefly the nature of his claim or defense and what said party expects to prove and the relief sought. Immediately thereafter, the adverse party may make a similar statement, and intervenors and other parties will be accorded similar rights in the order determined by the court.

III. RULE 269. Argument

- A. After the evidence is concluded and the charge is read, the parties may argue the case to the jury. The party having the burden of proof on the whole case, or on all matters which are submitted by the charge, shall be entitled to open and conclude the argument; where there are several parties having separate claims or defenses, the court shall prescribe the order of argument between them.
- B. In all arguments, and especially in arguments on the trial of the case, the counsel opening shall present his whole case as he relies on it, both of law and facts, and shall be heard in the concluding argument only in reply to the counsel on the other side.
- C. Counsel for an intervenor shall occupy the position in the argument assigned by the court according to the nature of the claim.
- D. Arguments on questions of law shall be addressed to the court, and counsel should state the substance of the authorities referred to without reading more from books than may be necessary to verify the statement. On a question on motions, exceptions to the evidence, and other incidental matters, the counsel will be allowed only such argument as may be necessary to present clearly the question raised, and refer to authorities on it, unless further discussion is invited by the court.
- E. Arguments on the facts should be addressed to the jury, when one is impaneled in a case that is being tried, under the supervision of the court. Counsel shall be required to confine the argument strictly to the evidence and to the arguments of opposing counsel. Mere personal criticism by counsel upon each other shall be avoided, and when indulged in shall be

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Storytelling/Themes in Opening and Closing Arguments

Also available as part of the eCourse

[2016 The Car Crash eConference](#)

First appeared as part of the conference materials for the
2016 The Car Crash Seminar session
"Storytelling and Themes"