

# Trial Advocacy: A View from the Bench

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## Overview

- Trial lawyers are story tellers.
- Before there was T.V., a trial was the town's entertainment.
- The person with the best story wins.





## How to Tell a Good Story

- Arouse the listener's curiosity
- Use the active voice
- Tell the story in the present tense
- Use lay terminology
- Present compelling characters
- Employ evocative language which transforms the actions into memorable images
- Appeal to all of the senses



## The Picture Theory

- Selecting the right words to create a picture at trial will frame the story to the way you want the jury to see it.
- Create a picture in the courtroom without the use of demonstrative evidence, but instead with words.
- Using the right words can mean the difference of the jury remembering your story better or opposing counsel's.



## Theory and Theme

- Remember that your audience is the *jury*, not the judge or opposing counsel
- The jury wants a story that makes logical sense to them (theory) and appeals to their emotions and/or sense of right and wrong (theme)



## Theory

- “One central theory that organizes all facts, reasons, arguments, and furnishes the basic position from which one determines every action in the trial.”
- Theory must be:
  - Credible (consistent with bad facts and explain them)
  - Interesting/engaging
  - Consistent with common sense
  - Reveal true nature and character of major players
  - Be client-centered and jury-driven

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