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Applying the Wisdom of *Building a StoryBrand* to Jury-centric Advocacy

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In the brilliant book “*Building A StoryBrand*” (Harper Collins Publishers, Copywrite 2017) author Donald Miller explains how to use the seven basic elements of storytelling to create unforgettable brands for businesses. Viewed in the light of trial advocacy, the same elements can be used to create trial narratives that will stick with today’s e-overwhelmed, short-attention-span jurors. One need only to replace “customers” with “jurors” to harness the power of Mr. Miller’s thinking to the trial setting.

For years, leading jury and neuroscience researchers and cognitive psychologists have recognized that what jurors will accept and won’t accept is driven by both the genetic hardwiring of our brains, and the experiential software we have loaded into them since we took our first breaths. **Square pegs just don’t fit in a round hole; facts and evidence**

that jurors will understand and adopt.

Mr. Miller defines the elements of good stories as follows:

1. ***A Character/Hero***
 2. ***Has a Problem***
 3. ***And Meets a Guide***
 4. ***Who Gives Them a Plan***
 5. ***And Calls Them to Action***
 6. ***That Helps Them Avoid Failure***
 7. ***And Ends in a Success***
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Here's the most important point as applied to advocacy: neither you, the attorney, nor your client are the Character. ONLY the jury can be the Character/Hero. Plaintiffs lawyers have long been taught that a case "can't (just) be about your client," because the moral principles that are the foundation of the case must appeal to everyone. Your client's broken arm is her problem; the problem of increasing safety by holding bad drivers accountable is everyone's.

Jurors are not there to help you. Mr. Miller posits that the Problem is the hook of the story, "and if we don't identify our customer's problems, the story we are telling will fall flat." Your jurors are your customers; you want to make them the Hero. How is someone who got run over by a car in a crosswalk or who died because of a medication error a Hero? Because they are fighting back, not (only) for their rights, but for your rights: the right to cross the street without being run over, the right to count on their medical providers to do the right thing.

The Problem jurors face is crafting a result that will make them feel that they have done the right thing. **You need to accept the fact that an important question in jurors' heads is "Will I be better off if the plaintiff wins or if the defendant wins?"** It is your job to tell the story so that the answer that Avoids Failure and Ends in Success is that they will be better off if they vote for your client. "Better" means different things to different people. "Better" is about

Unique to jurors, however, is that they are involuntary customers. They didn't ask for this, and they can't go home until they make a decision. **If jurors see no direct benefit to them from the decision they will make, they will find the indirect benefit of making a decision that supports their beliefs about their world and themselves:** I'm a kind person, therefore I will make a kind decision; I see the world as a hard, dog-eat-dog place, and I see no reason to make a decision that makes anything easy for another; I'm a narcissist, and I'd rather blow it up than make this right for the other person.

Jurors aren't the only ones who see the world this way. We do it too. We all create a world that is comfortable and safe to us. That world is based upon beliefs that shore up that world. **We largely reject anything that challenges those beliefs, and we largely incorporate anything that supports those beliefs.** Facts are nice, but facts are a candle in the wind next to beliefs.

Obviously, you want the jurors to accept you as the Guide. As Mr. Miller notes "[c]ustomers want to know where you can take them. Unless you identify something they want, it is doubtful they will listen." What they want, as we hear over and over, is to do the right thing. **It is your job (actually, your opportunity), to give the jurors the Plan that will lead them, and your client, to Success.** We all have an innate desire to help, to problem solve, to make better, to see that life plays out in a way that comfortably fits into our way of believing how the world should be. Call the jurors to action along a path that leads both to your success and to theirs.



See Jeff at the AAJ Annual Convention in Washington, DC in July where he will be co-chairing the Jury Bias Seminar.