

Being Less Boring

Trials can be pretty dreary affairs. Not for us lawyers of course – we think we are brilliant, our witnesses dynamic, and our exhibits compelling. But according to Marin County Superior Court’s Hon. Lynn Duryee, for judges and juries most trials are like Bill Murray’s *Groundhog Day* where he relives the worst day of his life over and over and over. Here are some tips to make your trials more interesting for everyone.

Cut to the Chase. Sometimes it’s effective to slowly build to a dramatic conclusion or lull a witness on cross-exam with a stream of seemingly trivial questions before hitting him with the million dollar baby. However, these things are hard to do and your fact finder is usually asleep by the time you get to your nugget. The best and safest approach is to focus the fact finder on the nugget right away. They’ll get the impression that they should pay attention to you and your witnesses, and they will get your point.

Avoid Repetition. The favorite objection of judges and juries is “Asked and Answered.” Repetition sends the message that the lawyer is boring and thinks her fact finder is stupid.

Think Visual. Psychologists tell us that most people learn best visually. The “ensions” – attention, comprehension, retention – are enhanced up to 500% by information presented visually rather than aurally. Use photos, demonstrations, videos, computer animation, PowerPoint, diagrams, etc. whenever you can. Think of them as your special effects. Visuals will make you a more effective communicator and a more interesting one.

Watch your Language. The courtroom makes all of us drift into legalese. It’s kind of fun to talk like that but way boring for regular folk and a communication barrier even to many judges. Cut down the length of your words and sentences. Talk like a real person. However, you don’t want to talk down to your judge and jury either. And sprinkle in some visual images – “The train roared down the track and slammed into the van.”

Tell Stories. People love stories and storytellers. The best movies are those with great scripts; the best trial lawyers are those who tell great stories. Recent neurological research using MRI brain scans confirms the commonsense notion that memories, even false memories, are more powerful when they have emotional content. As you present your information, describe the facts using storytelling techniques. But don’t call your version of the truth a “story.”

Be Yourself Plus. Bing Crosby became the most popular singer and movie star of his era because he was the first to learn how to use the microphone. Before that invention, people couldn’t use a natural, conversational style when making presentations to audiences of any size. The most effective contemporary speakers, people like Bill Clinton, Oprah Winfrey, and Jon Stewart, have a relaxed, everyday delivery, as do great trial lawyers like Jim Brosnahan and Barbara Caulfield. So don’t check your personality at the courthouse door. Be yourself but also be better than yourself by concentrating on good eye contact and variation in your tone, volume, and pacing. The best way to be better than yourself is to practice, just like all good entertainers do.

Be Prepared. You can’t do any of the above without preparation. It’s the sloppy lawyers who usually ignore these guidelines to less boring advocacy. Be a good scout and you may win an Academy Award for trial advocacy, over and over and over again.